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Northern Ireland Assembly

Tuesday 1 October 2013

The Assembly met at 10.30 am (Mr Principal Deputy Speaker [Mr Mitchel McLaughlin] in the Chair).

Members observed two minutes' silence.

Assembly Business

Committee Membership

Mr Principal Deputy Speaker: As with similar motions, the motion on Committee membership will be treated as a business motion. Therefore, there will be no debate.

Resolved:

That Mr Kieran McCarthy replace Mr Stewart Dickson as a member of the Committee for Regional Development; that Mr Stewart Dickson replace Mrs Judith Cochrane as a member of the Committee for Social Development; that Mr Trevor Lunn replace Mr Kieran McCarthy as a member of the Committee for Agriculture and Rural Development; that Mr Trevor Lunn replace Mr Stewart Dickson as a member of the Assembly and Executive Review Committee; and that Mr Kieran McCarthy replace Mr Chris Lyttle as a member of the Committee on Procedures. — [Mr McCarthy.]

Executive Committee Business

Local Government Bill: Second Stage

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

That the Second Stage of the Local Government Bill [NIA 28/11-15] be agreed.

Go raibh maith agat, a Phríomh-LeasCheann Comhairle. First, I would like to thank my Executive colleagues for their support in bringing this Bill to the Assembly. We have a once-in-a-political-lifetime opportunity to shape the future of local government so that it delivers improved outcomes for everyone. My key priority is to continue the important work that was taken forward by my predecessor Alex Attwood, which built on the extensive programme started in the previous Assembly mandate.

I want to acknowledge the commitment of everyone, including elected representatives, local government officers and departmental officials, whose direct involvement has enabled us to reach this significant stage. In addition to developing the policies to be given effect by this Bill, a major reform programme is being delivered through the structures that were put in place by my predecessor.

Councils and councillors have a key role to play in addressing issues that affect the lives and the life experiences of all our people. The Executive's vision is one of strong, dynamic local government, creating communities that are vibrant, health, prosperous, safe and sustainable and that have the needs of all their citizens at their core. Councillors play a unique role in delivering that vision by linking the delivery of services with local people's needs and ambitions. Working together, they have a clear role in providing strong civic leadership

and acting as a consistent advocate for their area.

The Local Government Bill provides the legislative framework necessary to give effect to the Executive's decisions on the future shape and function of local government. The provisions are comprehensive and will impact on all aspects of the operations of the new councils. Taken together, they represent the most significant shake-up of our system of local government in over 40 years.

Before I go into some detail on the Bill's provisions, I want to say a few words about what is not included. The Bill does not provide for the operation and functions of the new councils during the shadow period. That will be provided by way of a programme of subordinate legislation using enabling provisions of the Local Government (Boundaries) Act (Northern Ireland) 2008 and the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010, and the power to make supplementary and transitional provision conferred by clause 123 of this Bill. It is my intention that all the necessary regulations will be made before the local government elections take place in May 2014. Elections are an excepted matter, so the Secretary of State will make the necessary legislation to provide for the terms of office of existing councillors to be extended until 1 April 2015 and for cooption arrangements to continue until 1 January in that year.

The Local Government Bill has 128 clauses, 16 Parts and 12 schedules. It introduces strong, modern statutory governance arrangements that will provide for proportionality in the allocation of positions of responsibility and protections for the interests of minority communities, and it will improve the transparency in the operation of councils and their business. It will establish an ethical standards regime, which is to include a mandatory local government code of conduct for councillors and others appointed to take part in council business. The code will be supported by mechanisms for the investigation and adjudication of alleged breaches of the code. A bar will be placed on those holding a publicly elected representative position from being elected or acting as a councillor, in order to end the dual mandate.

The Bill will also introduce council-led community planning to provide a statutory framework for councils to work in conjunction with other public sector service providers to deliver on our objective of improving outcomes for everyone. The delivery of community

planning will be supported at council level by the introduction of an updated performance improvement framework that focuses on the delivery of continuous improvement in service delivery against more strategic aspects. It will also be supported by the introduction of a general power of competence for councils, which will enable them to act more innovatively in addressing issues. Recognising that the various Departments will continue to have responsibility for the delivery of a wide range of services and retain the overall policy responsibility for functions and responsibilities transferring to councils, the Bill will establish a partnership panel between Executive Ministers and elected representatives for the new councils.

The reorganisation of the councils and the transfer of functions from Departments to councils will result in the transfer of staff, assets and liabilities to the new councils from existing councils, from other local government bodies, and from Departments and other organisations that are transferring functions to the new councils. The Bill makes provision for the development of schemes to effect those transfers. Those relating to staff will provide for the protection of contractual employment rights and of terms and conditions of service and pensions, and will apply statutory protections, including those enshrined in the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).

Linked to the transfer of functions from Departments, the Bill will extend to all Departments the supervision powers that are available to my Department.

The opportunity is taken in the Bill to address a small number of technical issues, including those necessary to reflect the current organisational structure of the Northern Ireland Audit Office.

Part 1 deals with councils as entities, specifying how the names are to be formed, and provides a mechanism for the name of a council to be altered. It also introduces the first aspect of the arrangements to enhance openness and transparency in the operation of councils by requiring each to publish a constitution. A council's constitution will set out how it operates in terms of its political governance structure and organisational structure and how decisions are reached, including details of those decisions devolved to council officers. It will also provide a single reference source for the range of procedures and codes of practice that govern a council's operation.

Councils are, of course, made up of elected representatives, and Part 2 and schedules 1 and 2 set out the requirements for an individual to be elected or to be a councillor, unless they are disqualified by virtue of specified conditions. In relation to the disqualification conditions, I am taking the opportunity in the Bill, with the agreement of my Executive colleagues, to place a bar on MLAs, MPs and MEPs from being councillors. I am also removing, for human rights purposes, the blanket bar on council employees being councillors. The ban will continue to apply to those officers who are in positions in which they work directly with and provide advice to a council or one of its committees.

As I stated, there will be a mandatory Northern Ireland local government code of conduct for councillors as part of the new ethical standards regime. Currently, councillors are required to sign a declaration of acceptance of office before sitting as a councillor. The Bill will amend that declaration to state also that they have read and:

"will observe the Northern Ireland Local Government Code of Conduct for Councillors in the performance of their functions".

A similar declaration will be required to be made by others appointed to take part in council business — for example, members of committees of councils — prior to sitting on that committee.

Although a number of councils have arrangements for the sharing of power, I am committed to ensuring that the sharing of power and responsibility is the cornerstone of the new councils. Recent experience in the formation of some statutory transition committees highlighted and reinforced the absolute need for these new arrangements. Through Part 3 and schedule 3, the new councils will have a choice of methods to achieve that. Those include the d'Hondt process, with which we are all familiar; the Sainte-Laguë approach, which is similar to d'Hondt in that it uses a formula to allocate positions to political parties based on their level of representation on a council and the number of positions already allocated to a party; and the single transferable vote.

The d'Hondt process is the default position if the parties on a council cannot agree a method. To ensure consistency in the application of the alternatives, the operation of each is specified in the Bill. I am indebted to, and wish to thank, the members of the policy development panel who formulated the proposals. The panel

comprised representatives of the five political parties represented in the Executive, and the provisions we will debate today are a testament to their work.

Some Members will say that the use of a formula-based approach favours political parties with higher levels of representation on a council to the disadvantage of those with lower levels of representation, and independents. I acknowledge that, which is why the method selected by a council will be applied at the start of a council term, following a local government election, for all the positions to which it will apply. The selection of a position of responsibility, and the year for which it will be held, will be a matter for the selecting political party to determine. In other words, as the process is being run, a political party may, if the position has not already been taken, select the position of a particular committee in year 3 of the council's term. The adoption of this approach should provide the opportunity for elected representatives from all political parties and independents to hold a chairperson or vice-chairperson position, whether that is of the council or one of its committees. I believe that that will go a significant way towards mitigating the drawbacks of a formula-based approach.

10.45 am

Members who serve or have served on a council will know that its range of responsibilities and functions is such that it is unrealistic to expect it to discharge all of them at its monthly meetings. Part 4 enables a council to arrange for its functions, other than the making of the district rate or the borrowing, acquiring or disposing of land, to be carried out by a committee, subcommittee or officer of the council. Councils are also able to establish a committee jointly with one or more councils to discharge a function if they consider that to be appropriate and beneficial. The provisions are a re-enactment of those contained in the Local Government Act (Northern Ireland) 1972, with the modifications necessary to cater for the alternative new political governance arrangements that are to be available to the new councils.

Part 4 and schedule 5 also add to my commitment to the sharing of power and responsibility by putting in place arrangements to ensure that the membership of council committees reflects, as far as is practicable, the political make-up of a council, as the House does for its Committees.

The reorganisation of local government, the transfer of functions and responsibilities to the

new councils from Departments and the provision of brand new powers and responsibilities will have a significant impact on the work of councils. As I have just indicated, to support the councils in the delivery of their responsibilities and respond to changing circumstances as effectively as possible, I am introducing a small number of alternative political governance arrangements. They are set out in Part 5 and include the committee system, which is currently operated by all but one of the councils, and executive arrangements under which certain functions of the council will be devolved to the executive, which will be responsible for decisions on the delivery of those functions within a policy and budgetary framework agreed by the council. I am also including a mechanism to enable a council, at any stage, to propose an alternative to the methods specified for consideration.

A council that chooses to adopt executive arrangements may establish a single committee or more than one committee of the council to be responsible for the devolved functions. The latter option would allow a council to share direct responsibility for decision-making across a wider range of members. The introduction of executive arrangements does not do away with a council's need to form committees to discharge functions because a range of functions, including those of a regulatory nature, such as licensing, will remain the responsibility of the council. Part 6 provides the enabling power for my Department to specify which functions will or may be the responsibility of an executive. It also sets out the arrangements that an executive may put in place to discharge its functions, including by a subcommittee, an officer, or jointly with one or more other councils.

Some Members may question devolving decision-making to a small number of councillors without the requirement for ratification by the council and the opportunity that this would provide for further consideration of a matter. That is why Part 6, in addition to setting out how an executive will operate, requires a council that adopts executive arrangements to establish one or more overview and scrutiny committees. Those committees will have the power to review or scrutinise decisions made or actions taken under executive arrangements or otherwise. They, therefore, provide part of the system of checks and balances that I am putting in place to protect the interests of minority communities.

As is the position in the House, it is normal for a publicly elected body to have in place standing orders for the conduct of proceedings and

meetings. Although each existing council has standing orders in place voluntarily, I am making that a mandatory requirement in Part 7. I am also taking a power for my Department to specify matters that must be included in the standing orders. I am taking that action to provide the mechanism that is necessary to set out the practical operation of the two further aspects of the checks and balances that this Part also introduces.

The first of those aspects is qualified majority voting, where the support of 80% of the members of a council present and voting at a meeting will be required for a specified decision or resolution to be agreed. The decisions, to be specified by my Department, will include the permitted form of governance to be adopted and the method to be used for allocating positions of responsibility.

The other aspect is the provision of a call-in procedure. That will enable 15% of the members of a council to request that a decision of a non-regulatory nature is reconsidered. The procedure can be used if the members consider that the decision either was not arrived at after a proper consideration of all the relevant information or that it would disproportionately affect adversely any community in the district.

As I indicated, the new councils need to be open and transparent in their operation and in the transaction of their business. In addition to the publication of a constitution, Part 8 updates the statutory framework for access to meetings and documents of a council. The presumption will always be that a meeting of the council or a committee must be open to the public except in certain limited circumstances. The circumstances under which the public must be excluded and those under which the council may exclude the public are more clearly specified in the Bill.

This Part also expands on the extent of the information to be made available to the public in advance of a meeting of a council and subsequently on request, including the report and any associated background material for any item that is on the agenda for discussion at the meeting. I know that a large number of councils, particularly in response to the requirements of the Freedom of Information Act, currently publish the minutes of meetings on their websites. That will become a statutory requirement for the new councils. I am also taking the opportunity to clarify the information that must be available to members of a council.

Part 9 will address the conduct of councillors. It will establish an ethical standards regime to include a mandatory local government code of

conduct for councillors and others who are appointed to take part in council business. The code will be supported by mechanisms for the investigation and adjudication of alleged breaches of the code, which will be the responsibility of the Northern Ireland Commissioner for Complaints.

The Bill makes provision for the investigation and adjudication processes that should be undertaken by the commissioner, and it applies relevant provisions of the Commissioner for Complaints (Northern Ireland) Order 1996 to the ethical framework. Where, following an investigation, it is found that a person has failed to comply with the code of conduct, the commissioner may decide to censure, partially suspend, suspend or disqualify the person. In addition, the commissioner may make recommendations to a council about any matter relating to the exercise of a council's functions.

The mandatory code of conduct will be consistent with the seven Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as well as the four additional principles of equality, promoting good relations, respect and good working relationships that are already adopted by the Northern Ireland Assembly code. The code will detail the standards of conduct that are expected when acting as a councillor and conducting council business, including, very importantly, the discharge of the council's new planning functions. A draft of the code must be laid before and approved by resolution of the Assembly before it can come into force.

It is intended that the ethical standards framework should be reviewed after three to four years to assess how it is working and to consider whether any modifications are needed, such as the setting up of standards committees in councils.

Critical to the delivery of services that respond to local people's needs and ambitions will be an effective, statute-based community planning process that the new councils will lead and facilitate. Effective collaboration between service providers is in everybody's interest, and that is what Part 10 of the Bill sets out to achieve. Community planning is not about overriding or circumventing the existing responsibilities of those service providers; it is simply about local partners determining the broad and strategic context in which their responsibilities can best be exercised to deliver an agreed vision for the economic, social and environmental well-being of a district. Ensuring the successful implementation of community

planning will be on the basis of joint working between a range of organisations and effective engagement with the community and the organisations that represent it.

The statutory framework is, of necessity, high level and considers the key principles to provide appropriate flexibility for individual councils that are likely to face different circumstances. However, my Department will be publishing statutory guidance for councils and others in a wide range of areas to ensure the proper implementation of community planning. The guidance will provide practical advice on using the framework to best regional and local advantage. The guidance will expand on the detail of the arrangements in the Bill.

In fulfilling its role as a champion for the district and responding to local people's needs, a council may want to take action on issues that arise but may be unable to do so within its statutory framework. I am sure that Members could point to occasions in the past when they have been advised by a council's legal experts that an action they are proposing is outside their legal vires. In broad terms, that may not be the situation in the future, as I am introducing, in Part 11, a general power of competence for councils. That power will fundamentally change the way a council behaves. Instead of having to find a statute that would allow them to act, councils would be required to satisfy themselves that there was nothing to prevent them using the power. In broad terms, it would enable a council to act with similar freedom to an individual unless there is a law to prevent it from doing so. That will expand the breadth of actions that a council can take and broaden the power base of local government. It is intended to deliver increased confidence, enable innovation and unlock creativity. In turn, that should lead to greater efficiencies, improved partnership working and the ability to help communities, which was previously outside a council's remit.

To support the delivery of high-quality services, Part 12 overhauls the statutory provision for council service improvement. It aims to introduce an effective performance improvement regime that is better coordinated and more responsive to local needs and circumstances. It creates opportunities for councils to serve citizens better, which is vital if we are to secure sustainable improvements in our public services.

I accept that the provisions are detailed and, in places, complex. The subject itself is fairly complex, and many of the areas that I am striving to deal with have never been dealt with

in legislation here. However, every effort has been made to ensure that it is not overly prescriptive. It introduces and confers on councils substantial flexibilities in the way in which they define, monitor and account for improvements. A power is included for Departments to specify performance indicators. My intention is that any such indicators would be developed in partnership with local government.

The Bill provides for an external assurance that a council, in preparing its improvement plan, has complied with the requirements of the performance improvement framework. That role will be undertaken by the local government auditor. The role of the local government auditor will also be strengthened to enable the auditor to make recommendations on performance improvement in councils both individually and collectively, if appropriate.

Recognising that the aim is to deliver improved services, a power is provided for Ministers, individually, to intervene in the operation of a council if it is shown that the council is failing to deliver its services, or a specific service, as required, to meet appropriate standards within that Minister's area of responsibility.

That is particularly relevant where a Department has transferred a function to the new councils but retains overall responsibility for the overarching policy.

11.00 am

Delivering the Executive's vision for local government and improved outcomes for everybody will best be supported by partnership working between Ministers and their Departments and councils. That is why, in Part 13, I am establishing a partnership panel that will consist of Ministers and an elected representative from each of the new councils to formalise the relationship between Departments and councils at a political level. The panel will provide a forum for discussion of matters of mutual interest and concern.

Sections 127 to 129 of the Local Government Act (Northern Ireland) 1972 contain powers enabling the Department of the Environment to supervise councils in the exercise of their functions. In recognition that other Departments currently have a responsibility for functions delivered by councils and that this will increase following the transfer of functions as part of the local government reform programme, Part 14 of the Bill extends the supervision

powers to enable any Department to make use of them.

As I highlighted in my opening remarks, the Bill addresses a technical issue in relation to the structure of the Northern Ireland Audit Office. At the request of the Chief Local Government Auditor, with the agreement of the Comptroller and Auditor General, Part 15 amends the audit provisions in the Local Government (Northern Ireland) Order 2005 to facilitate proposed changes to the structure of the local government audit section of the NIAO, which will bring it into line with arrangements for audit in the NIAO as a whole.

In addition to addressing a number of technical issues, the final part of the Bill — Part 16 — makes provision in two important areas connected with local government reorganisation. The first of these relates to expenditure by the existing councils in the run-up to the establishment of the new councils. Concerns have been voiced that the existing councils may act irresponsibly in their use of ratepayers' money during this period. By existing councils entering into sizeable or long-term contracts or loan arrangements, the new councils could be burdened with financial commitments that were not of their making. The Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 provided the statutory transition committees with controls over the existing councils' land disposals and capital and non-capital contracts. Provisions in Part 16 will extend those controls to cover the incoming councils during the shadow period and ensure that the existing councils act in a responsible and prudent manner in that period. Controls will also be introduced during the statutory transition committee period and the shadow period in relation to the treatment of council reserves and borrowings.

The reorganisation of the councils and the transfer of functions from Departments to councils will result in the transfer of staff, assets and liabilities to the new councils from existing councils, from other local government bodies and from Departments that are transferring functions to the new councils. Provision for the development of schemes to effect these transfers is included in Part 16. This approach is consistent with that adopted for previous large-scale reorganisation in public administration; for example, in the health sector.

The schemes relating to staff will provide for the protection of contractual employment rights, terms and conditions of service and pensions

and will apply statutory protections, including those enshrined in the TUPE regulations. Those relating to assets and liabilities will ensure the smooth transfer of the legal title of the assets and the liabilities associated with those assets to the new local government structure, without incurring any costs to existing or new councils. Provision is also made in Part 16 in relation to the payment of compensation to an individual who loses employment or has a reduction in remuneration as a direct result of the reorganisation programme.

In summary, I believe the Bill has numerous benefits for local government as it provides considerable opportunities for councils to actively engage with their community to shape their district and provide improved services for the community that they serve. It also provides the opportunity to invigorate local democracy by involving all sections of the community. The Bill will ensure that councils operate within a statutory governance framework with the high standard of behaviours that the public expect from their elected representatives.

I see the Bill as a necessary and highly desirable step in developing the capacity of local government. The greater freedom that councils will have under the Bill will, of course, place additional responsibilities on elected members and officers in local government regarding sound and accountable forward planning and decision-making as they work with the community in shaping their district for the coming years and beyond.

Ms Lo (The Chairperson of the Committee for the Environment): As Chairperson of the Committee for the Environment, I welcome the next stage in the Assembly's scrutiny of the Local Government Bill. The Committee has been kept updated by the Department on the progress of the policy underlying the Bill. Members received a synopsis of the responses to the public consultation in June 2011 and the final synopsis, together with the Department's response, in July 2012. At its most recent meeting last week, departmental officials briefed the Committee on the Bill, which has been amended from the original proposals to reflect the responses to the consultation, representations from stakeholders and developments in other jurisdictions.

Members understand that the Bill will provide the legislative basis for the reform of local government. That will include statutory governance arrangements to provide for proportionality in the allocation of positions of responsibility; an ethical standards regime, to include a mandatory local government code of

conduct for councillors; council-led community planning and a general power of competence for councils; an updated performance improvement regime; the extension to all Northern Ireland Departments of the supervision powers currently available to the Department; the establishment of a partnership panel between Ministers and elected representatives from councils; and the transfer of staff, assets and liabilities as part of the reorganisation programme. These are comprehensive reforms that will impact on every aspect of the operation of councils, and the Department has informed the Committee that, as well as the large Bill in front of us today, there will be a raft of subordinate legislation and guidance to follow.

There are aspects of the Bill on which the Committee will require further information, particularly where these will represent a radical change from existing practice. An example is the removal of a bar on council staff being councillors as a result of a European Court of Human Rights ruling that such a blanket ban is unlawful. The Department proposes that council officials who work directly with and provide advice to councillors, such as chief executives or directors, will still be banned from standing for election, but members asked which other staff should also be debarred. The Department was unable to clarify that but indicated that it plans to go out to consultation to determine the appropriate level at which staff could not stand for election. On behalf of the Committee, I look forward to scrutinising the outcome of the consultation.

Departmental officials outlined the new ethical standards framework that will form an integral part of the Bill and explained that it had been amended significantly following stakeholder consultation. The Committee welcomed the requirement for the new mandatory code of conduct to be laid before the Assembly but was concerned to hear that there would be no appeals mechanism following a decision by the Commissioner for Complaints. The only recourse for a councillor affected by such a decision will be by way of judicial review. Members expressed reservations because a judicial review can be conducted only on limited grounds that relate mainly to procedural issues. Departmental officials have agreed to consult the Ombudsman and Commissioner for Complaints on how appeals are handled in other jurisdictions, and we look forward to hearing more about that at Committee Stage. Members also inquired about the costs of handling complaints. We were informed that costs will be met by local government and will

probably be apportioned on the basis of council size, which seems fair.

The Bill introduces a new system of checks and balances in council decision-making through the use of a call-in procedure to provide a review mechanism and qualified majority voting to determine the number of votes to be cast in favour of specified proposals. Members queried the level of support required to trigger a call-in: 15% of the council's membership. We asked officials which other options had been explored by the Department, but we are content that various aspects of the call-in procedure will be specified under standing orders and will be subject to the affirmative resolution procedure.

The Local Government Bill will also introduce community planning. Although that has been in operation in England and Wales for some time, it will be a totally new concept to Northern Ireland. Members requested further information on how the list of those involved in community planning will be drawn up. We await the guidance and subordinate legislation that will identify the organisations eligible to engage in the process.

Members also raised the issue of capacity building to ensure that community planning is delivered effectively. Departmental officials indicated that a working group had been set up to deliver a programme with an initial focus on councillors and staff. Community planning is a new concept so it is vital that there is active and informed participation not just from other Departments and statutory bodies but from voluntary and community organisations.

As I mentioned, the Committee is well aware of the quantity and complexity of the regulations and guidance on which the Bill will rely. Much of the Bill might even be considered enabling legislation. Accordingly, departmental officials have given an assurance that they will endeavour to provide the Committee with draft guidance and related subordinate legislation as soon as possible so that members can carry out well-informed and timely scrutiny.

When the House refers the Bill to the Committee, we will immediately issue a call for evidence. Members will welcome the views of interested organisations and individuals. We also look forward to maintaining an effective working relationship with departmental officials to bring the next stage of the Bill to a successful conclusion. On behalf of the Committee, I support the principles of the Bill.

With your indulgence, Mr Principal Deputy Speaker, I will now say a few words as an MLA

for South Belfast. I am glad to see the Bill finally before the House. We have waited for some time for it, having been promised it almost weekly since April. That has left us with a timescale that is workable but very tight.

11.15 am

Mrs D Kelly: Will the Member give way?

Ms Lo: Yes.

Mrs D Kelly: I share the Member's concerns about the timescale, but I am sure that she will agree and indeed confirm that the delay has been a direct consequence of the chaos in the Executive and the fact that the Bill has lain on the desk of OFMDFM since April. That has not been the fault of the Environment Minister or his predecessor.

Ms Lo: I thank the Member for her contribution. Yes, I am aware of the delay in the Executive. We must all now work together with the best interests of local government reform at heart and not narrow party political interest.

From a departmental briefing to the Committee, I know that the Department hopes to have the Bill's Final Stage completed by the end of March. That would allow for a formal handover of functions to shadow councils in May. I am aware that elections to the shadow councils can take place without the Bill being finalised, but I think that we would all agree that that would be far from ideal. I would also like to hear from the Minister clarification of the proposed date of the election to shadow councils.

The Alliance Party strongly supports the formal entrenchment of proportionality for the allocation of civic posts such as chairs, vice-chairs and so on. I am relieved to see that the Bill clearly sets out the process to be undertaken for nominations to positions of authority. Expressly setting out how a system of proportionality should be applied will ensure that we do not see any of the undemocratic appointments similar to what we have seen in appointments to the statutory transition committees, particularly in Castlereagh, where my party colleagues have been denied a seat on the STC that is rightfully theirs. However, d'Hondt brings with it its own problems. It is inherently inflexible and may well unintentionally institutionalise the dominance of particular sections of the community in certain areas. The Alliance Party's preference, where local agreement cannot be reached, would be for the use of a different mechanism such as the single transferable vote or Sainte-Laguë.

D'Hondt is a blunt form of proportionality; it skews outcomes in favour of bigger parties and favours sections of the community that have a less fragmented number of political parties. The single transferable vote system would overcome that fragmentation. For instance, if we were to use d'Hondt to allocate the post of mayor, we could see in Lisburn and Castlereagh unionists holding the post for all four years of the electoral cycle, despite being less than 70% of the population there.

Mr Weir: I thank the Member for giving way. I appreciate the point that the Member makes, and I suppose that that is why there are options for allocation and, in that sense, the Bill is not prescriptive. STV is mentioned as one option for allocation. The issue was looked at fairly extensively in the policy development panel, and people were sympathetic to that being included as an option. If you ring-fence the use of a system purely for the allocation of the position of mayor, for example, and you are allocating four positions over a four-year period, d'Hondt is reasonably workable. The problem is that, to have a fair allocation across the board for all positions in the initial round of the allocations from the list, you may well be dealing with up to 100 positions. At that point, d'Hondt massively breaks down and is not really applicable. It is very hard to work. Furthermore, in those circumstances, with d'Hondt and other means, whatever quirks there are at the very top end tend to level out with proportionality at that point. There is a specific problem with applying STV when you have, in most cases, an electorate of 40, which is the number of councillors, and you are electing to perhaps 100 positions. STV kind of breaks down and is fairly unworkable at that point.

Ms Lo: I thank the Member for his contribution. I know that Mr Weir has been a long-term councillor, and I certainly look forward to hearing his input during Committee Stage. In response to what he said about STV, I say that I have never been a councillor myself, but I still think that locally agreed positions would be the best among councillors. That would be the most democratic way of dealing with issues.

I have lost my place now. Similarly, no unionist would hold office top office in Derry, Strabane or Newry, despite making up a significant minority of the electorate. I believe that those outcomes run contrary to the spirit of proportionality, which is critical in what continues to be a deeply divided society.

I note the opportunity in the Bill for councils to reach local agreement. I recognise that that

happens well already in a number of councils, although, sadly, as with appointments to STCs, there are examples of councils where the political maturity to reach fair and equitable decisions based on the will of the electorate, clearly demonstrated at the ballot box, is lacking. Unsurprisingly, again in Castlereagh, my party has been denied positions of authority unfairly, and the same has happened in Ards. For the Alliance Party, what would be delivered if the single transferable vote mechanism were applied would be the minimum that we would settle for under local agreement. Where councils seek to give greater representation to parties that have smaller numbers, we may support that; where those with large numbers seek to dominate and bully, we will not. Local agreements and the numbers necessary to agree to them are parts of the legislation that will need much greater scrutiny in Committee, and I commit to doing that.

I strongly welcome the commitment in the Bill to a statutory code of conduct for councillors, something that we could have done with in the not-so-recent past. Currently, unlike for MLAs, there is no one a councillor can be referred to if they do not act as one would expect them to. I am glad to see that anomaly being changed by the legislation. There are several things that the code of conduct must cover. In my view, it must include councillors' behaviour both inside and outside the council chamber. I would like to see a commitment to goodwill included in any code of conduct — councillors working with each other in a way that introduces goodwill to the council setting. Unlike many others who will speak in the debate, I have never been a local councillor, as I said. However, viewed from the outside and according to examples I have heard from party colleagues, goodwill can often seem to be sadly lacking in council chambers across Northern Ireland, perhaps particularly in recent times. If councillors can form that with each other and set a positive example in that respect, it can flow from there and enable communities and individuals to engage in thinking and behaving that cultivates goodwill and positive relationships in various forms and scenarios. There should be a commitment to dignity in how councillors work with each other and everyone in their constituencies.

A third thing that, I believe, is essential in any code of conduct is a commitment to civic leadership. I accept that councillors will undertake a declaration in which they commit to fulfilling the duties of the office to the best of their judgement and ability. However, I believe that, if the code of conduct were to contain a commitment to civic leadership, that would go one step further, affirming councillors' roles as

civic leaders with a common purpose to improve our city and the lives of those within it.

In discussions at Committee level, we have already noted that there is no appeal mechanism in the Bill for when councillors are reported to the commissioner. That is something that we may need to return to. There are also a few issues around the sanctions that may be applied to councillors who are found to have breached the code which will require greater scrutiny at Committee Stage.

It is no secret that my party policy in respect of the national flag at council buildings is that the flag should be flown on designated days at all councils. We firmly believe, in line with the majority of councils in England, Scotland and Wales, that that is the most appropriate mechanism to represent the constitutional position of Northern Ireland and the special circumstances that we have here. I realise that the ongoing Haass talks seek to deal with issues like that. I am hopeful for an outcome. However, I seek assurances from the Minister today that, if that turns out not to be the case, he will consider including it at a further stage. Without placing this on a statutory footing, I am sure that we could all predict the first agenda item on many of the new councils. We would see trouble ahead. Proving, perhaps, that not a lot has changed from the old days would not be a good way to start. There are merits in a standard approach across Northern Ireland. It would show that all space is truly shared and operates within the framework of regulation. However, perhaps more importantly than the merits, I believe that this is too divisive an issue to be taken on by each council on its own on 11 separate occasions. It is up to us in this Chamber to show some real leadership.

The inclusion of community planning in the Bill is very welcome. The system works well elsewhere. I am hugely in favour of the community being involved in shaping health and well-being provisions in their area. Coming from many years in the voluntary sector, I certainly think that it has a great role to play in this area. Much work is needed on capacity building for local community and voluntary groups, as well as councillors, to enable everyone to take part in the process, to fulfill their potential to the best of their abilities and to be meaningful. People spend a lot of time and effort thinking ahead about what they want for the community. It is important that their efforts come to fruition and they feel that they have the power and participation to shape the future. Efforts must be made to engage communities in the process at every available opportunity.

Councils and councillors must facilitate and encourage this. It cannot be allowed to be a power grab by councils because they believe that they know best.

In closing, I reaffirm my support for the Bill. I look forward to scrutinising it closely and thoroughly with my Committee colleagues. I commit to working with each of them in an open manner, and hope for similar in return. I also look forward to working closely with the Minister and the departmental officials. I support the Bill moving to Committee Stage.

Ms Brown: As Deputy Chair of the Environment Committee, I support the Bill in its Second Reading.

At the outset, I declare an interest as an elected member of Antrim Borough Council. I declare that, as a newly appointed member of the Environment Committee, there is much in the Bill that I am still familiarising myself with. I, perhaps more than most, am looking forward to the Committee Stage, when we will be able to scrutinise fully many aspects of the Bill. As a further brief opening comment, as Deputy Chair of the Committee, I formally welcome the Minister to his new role and wish him every success in carrying out his duties.

11.30 am

I do not think that anyone in the House will argue that, at 26 councils, Northern Ireland's local government is overdue for reform and streamlining. During my time as an elected member of Antrim Borough Council, I have been lucky enough to work with the chief executive, senior management teams and council officers, who have consistently delivered the highest levels of service to all members of the community. I pay tribute to them. In my opinion, they have set the standard to which newly reconstituted councils must live up to.

A key benefit of devolution is empowering local people to have a voice in the decisions that impact on their lives. I believe that it is right that the Bill is seen as a further stage of the devolution process, which should see not only more local accountability but greater community involvement in decisions on funding, planning, roads, housing, regeneration and community development.

Sometimes, in Northern Ireland, using the words "residents" or "community" has negative connotations, given our troubled past and recent difficulties, but for all the negative

headlines, there are dozens upon dozens of hard-working community groups and dedicated individuals who never make the headlines but nevertheless make an incredibly positive contribution in their areas. I hope that the new frameworks for local government, as outlined in the Bill, particularly with community planning, will allow those in the community to have a greater say in how their council delivers for them and the entire community.

Given the scale of reform that we are undertaking, it is only natural that there may be more questions than answers at this stage in the process. However, I will make one or two observations before leaving the Floor open to other Members who wish to speak.

Although transitional committee meetings have been taking place across the Province in preparation for the changes, I wonder whether the Department has fully considered how to maximise the opportunities that the reform provides. Let me give one example. The establishment of the improvement, collaboration and efficiency (ICE) programme seems to be a very sensible initiative that aims to identify opportunities for collaboration and efficiency across local government. However, at present, it appears that a council can choose whether or not to be part of the programme. I am happy to be corrected if that is not the case, but it strikes me as one area in which it might be better to have everyone on the same page from the outset, identifying shared systems and savings at the outset rather than managing several different systems for, for example, our payroll systems. Surely encouraging that degree of coordination can lead only to uniform best practice across all council areas rather than just some of them.

One aspect of the Bill that I particularly welcome is the transferring of a number of functions from Departments to the new councils. It is a common criticism or perception that the Assembly does not do enough to deliver on the ground. Therefore, this measure should go some way to ensure that local people can have a real say in many areas of policy that were previously centralised — in particular, local planning, especially in relation to town centres, community relations, rural development and tourism. To fully realise the potential of those possibilities, it is essential that councils carry out their functions openly and transparently, recognising that their duty is to deliver for everyone in the community.

Sadly, in our past, we have seen times when councils have taken decisions that have been divisive and not in any way beneficial to wider

community relations. I hope that the new arrangements for scrutiny and decision-making will ensure that no one section of a council can act in a way that damages the good work that goes on in the communities that I referred to.

I believe that the Bill constitutes the most significant set of reforms that we have seen in recent times. It recognises the role that councils play in the community and empowers them to deliver social, economic and environmental change. That can be only a good thing for Northern Ireland, as we strive to build on devolution and deliver real change for all our constituents.

Mr Boylan: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Fáiltim roimh an fhaill labhairt ar an Bhille. I welcome the opportunity to say a few words on the Bill. Although mindful that we will go through a long period — in fact, a relatively short period — of dealing with this 138-clause Bill over the next couple of months, I welcome the opportunity to do that.

I would like to pay tribute to the people on the policy panels, who put a lot of work into this. I see the previous Minister here today. Through the reference groups and everything else, he, too, put a lot of work into it, so I want to pay tribute to him as well. I wish the new Minister every success with his first legislation.

We, as a party, have always been very supportive of reforming, improving and delivering more responsive services to the needs of local ratepayers and, in general terms, making local government more democratic and accountable to the citizens whom we represent.

This is one of the most important pieces of legislation that will ever be introduced in the Assembly. It will facilitate the establishment of 11 new councils, the biggest change in local government in over 40 years. In this mandate, more functions will transfer from the control of Departments to local government. In many cases, local government will be best placed to deliver and roll out those services at ground level.

In this part of the island, local authority is responsible for administering only approximately 4p or 5p in the tax pound. Common sense suggests that that needs to change. We are significantly out of kilter with many EU states that see localism as best. We, as a party, are also strong supporters of the principle of subsidiarity, in that, where possible, certain functions can and should be delivered most effectively at local level.

All that said, from an historical perspective, my party has been reluctant to load on to local government any significant additional responsibilities until it can demonstrate that it can deliver such responsibilities in a fair and equitable manner. Unfortunately, one does not have to delve too deep into the recent past to see how some councils failed to exercise in a fair and equitable manner the powers given to them.

Ms J McCann: I thank the Member for giving way. On that point about fairness and equality, does the Member agree that Lisburn City Council has refused to use any method of proportionality to ensure that two Sinn Féin councillors would sit on the statutory transition committees? Despite the Minister having written to the council on two occasions, it still refuses to use the d'Hondt system.

Mr Boylan: I thank the Member for the intervention. I agree with her, and I will touch on that later. Guidance has been issued, and guidance has not been followed. The Minister is well aware of it, and Members will discuss it. If it is the case that some will not follow the guidance, we need to look at regulation and legislative powers to ensure that such things do not happen again and that there is proper representation. I was just about to mention that very point. There has been abuse of housing powers in the past, and we see problems with the likes of the STCs at the minute.

I am keen to ensure that, in the transfer of additional functions and responsibilities, we establish a firm bedrock of checks and balances to ensure effective scrutiny and accountability of the decision-making process and the decisions made therein. The key to providing greater democratic accountability in the workings of local government is providing it in the construct and make-up of the administrative body itself.

Mr Givan: I appreciate the Member's giving way. I am sure that he would want it clarified that Lisburn City Council made clear that, if Sinn Féin wanted to take up a position on the statutory transition committee, we would support it in taking one of those positions. I am sure that the Member would want to make sure that the minority unionist community of Dunmurry also has representation, which is secured through the locally elected DUP councillor for the area. The first situation has now been addressed because the SDLP's John Drake — maybe he is not a member of the SDLP any more — has taken up the position.

We have ensured that there is a nationalist representative on that committee.

Mr Boylan: I thank the Member for the intervention, but to my knowledge he does not represent the people of a certain area over there. However, the key element in all this — *[Interruption.]*

Mr Principal Deputy Speaker: Order. I think that putting this debate into its proper context is useful; however, describing in minute detail issues that are in the immediate past is not. The Bill will deal with a new beginning, if you like, and I think that it is correct to indicate where improvements can be made. However, there is no purpose and benefit in going into the entrails of decisions that were made elsewhere and under different legislation. So, can we just stick to the purpose of this debate, which is about the new beginning for local government and the legislative basis on which it will be delivered?

Mr Boylan: I will take your guidance on that, Mr Principal Deputy Speaker. My point is that we need to deal with things through regulation. I think that that is the key element. It is a new start, and I think that we have an opportunity in this Bill to do that. However, I will take your advice and concentrate on the principles of the Bill on the protections for minority groupings. I would like the Minister to expand a wee bit on the call-in procedure, which is set at 15%. I believe that that will provide an opportunity for the reconsideration of certain decisions. Will the Minister indicate whether, if the percentage were to be changed, that decision would go back to the Executive or whether councils would deal with it?

I welcome the introduction of community planning. The new function will, for the first time, compel many of the local statutory agencies to work in tandem with local councils and representatives from the community and voluntary sectors. I would wish to see the final community plan legislation sufficiently strong to ensure that the statutory partners fully engage with the new council authorities. I hope that those partners will provide senior officials to attend meetings and resources and expertise to assist in the effective delivery of programmes that must have at their heart the genuine intention to improve the social, economic and environmental well-being of our citizens.

That should go a long way to putting local communities at the heart of the agenda. There cannot, and should not, be any ceiling to the remit, scope, partnership opportunities and

potential of effective community planning to deliver for our communities. The key to good community planning is building on partnership arrangements and building trust among participants.

I ask the Minister to comment on the role of the border corridor groups. Is there a role for them in ensuring the well-being of people in the border areas? Clause 77(3) says that a council and its community planning partners "must have regard to" guidance. Does the Minister consider that language strong enough? Perhaps he will comment on that in his response.

I also welcome the councils' general power of competence. That is an important departure and an improvement on the earlier, muted power of well-being. The general power of competence will empower councils to carry out functions that fall outside the responsibilities of the other statutory bodies. I hope that that will go some way to bridge gaps where issues in the past have been passed between Departments with no one Department wishing to take responsibility. That said, there also needs to be clear regulations — I mentioned guidelines — to determine the extent of such a power and to mitigate any potential issues. As I mentioned, it is important that proper partnerships take effect between the citizens and those bodies that are charged with delivering services, whether they are for central or local government. Equally, there needs to be strong partnership between central and local government.

I ask the Minister to expand a wee bit on what will trigger the 80% qualified majority and how he sees it working in the decision-making process.

11.45 am

I want to talk a wee bit about the subordinate legislation that is coming forward in relation to the Bill. Will the Minister expand on some of the subordinate legislation that we will need to bring forward, because, clearly, we are going through the process of bringing forward the Bill? Does he feel that the subordinate legislation needs to run in tandem with the Bill? Perhaps, he could touch on some of that.

I want to raise a couple of other points. I have general concerns about the transfer of functions, obviously. There has always been a concern within local councils about the costs and funding of that. Perhaps the Minister could touch on what other issues have come forward with regard to what is needed for the transfer of

functions and how he believes he will see that being funded.

I am aware that some of my colleagues will pick up on some of the other principles in the Bill, but I have a final point. I want to talk about the transfer of assets and liabilities and what proposals are in place to ensure that we maximise the assets of the council areas for the benefit of the whole area.

Sin a bhfuil le rá agam. That is all that I have to say for now. I support the principles of the Bill, and I look forward to the scrutiny in Committee. Go raibh míle maith agat.

Mrs D Kelly: On behalf of the SDLP, I too welcome the Second Stage of the Local Government Bill and support it, in the main. However, there are a number of points on which I seek further information and on which I wish to make comment.

There are a few issues in relation to ending the dual mandate, and I think that that is important. There is, of course, an issue in which some Members are also members of the House of Lords, and the issue of whether that would bar an individual from being a councillor has not been referred to. The Minister might want to reflect on that.

It is an important Bill, and I think that we all know the importance of service delivery to the local ratepayer and the role that local councils have.

In his comments, Mr Boylan said that localism is the best. Given that, I have been somewhat puzzled when, in the past, Sinn Féin insisted on there being seven super councils and finally settled for 11, when other parties wanted to see a reduction to 15. However, we are used to having contradictory messages coming from Sinn Féin on the matter.

There are issues that I have been concerned about for a long time in relation to local councils, not least protection and safeguards for minority communities. I have also been concerned about the power and function of the local government auditor. Over many years, I know that the auditor has issued management letters to local councils, and, year on year, we see the same recommendations not being complied with by them. In other words, lack of regulation and authority has been given to the local government auditor in the past, and he or she has largely been ignored by local councils across a wide range of recommendations. I therefore seek further clarification on the suggested increase in powers and authority for

the local government auditor and I will be scrutinising the Bill more closely when we see its progress through Committee.

It is also important that there is greater openness and transparency, and I welcome the Minister's commitment to put that into statute. In the past, the SDLP in some councils called for the press to be allowed to attend committee meetings, but that was voted down by our unionist colleagues in Craigavon. I can speak with some authority on that happening in the past. It is a sad reflection on the members of that time. I believe that ratepayers should have full access to information, and that it is provided to them, by those who are making decisions on their behalf. Therefore, I welcome the improvements in those matters that are promised in this Bill.

I welcome the suggestion of delegated authority. I am somewhat concerned, however, about the executive function. In my experience, some chief executives, though not all, tend to restrict information going to all members of councils and all elected representatives. I hope that those councils that choose to have the executive power and Cabinet-style control will share the widest possible range of information among all elected representatives. After all, they all have the same mandate.

I also welcome the greater ethical standards that are to be required of local councillors through the code of conduct. I note the appointment of a commissioner; it would be interesting to hear how that commissioner's office is going to be funded. It might be useful to require local elected representatives to have some mandatory training in line with the good relations commitments. It would be useful, in the interests of transparency, to require each elected representative to sign a register of interests rather than having a voluntary system. That helps with the wider public's perception that it is an open, transparent and accountable form of governance.

I want now to refer to a case in which I was involved in the past in Craigavon Borough Council. Mr Gardiner was also involved in it. The council's management was making certain decisions and was disbaring aggrieved employees of that council from seeking representation from their local representatives. We felt very strongly about that, particularly where there was a closed atmosphere of decision-making and some employees were adversely affected.

I can understand how, from a management point of view, employees cannot go running to

public representatives at the drop of a hat on every issue, but nonetheless, I feel strongly that people who have genuine grievances should be able to have representation and to have their case heard. I know that there are instances currently in some councils across the North where employees have been very clearly told that they are not allowed to seek representation. Despite that, this Bill allows some employees to put themselves forward for election. There seems to be some level of disconnect between those two sorts of rulings, so I would be interested to hear the Minister's views on that particular scenario.

I welcome the qualified majority voting and the safeguards and protections. The SDLP has been exercised about that for quite some considerable time. I welcome the methodology and the powers that the Minister is introducing in the Bill.

I want now to refer to comments that have been made by other contributors about the experience thus far of the statutory transition committees. The previous Minister introduced guidance because there was a greater sense of partnership, power sharing and representation in the voluntary transition committees than is proving to be the case in the statutory transition committees. In Craigavon, Banbridge and Armagh councils, for example, the SDLP has only one representative on the statutory transition committees but had three on the voluntary transition committees. That does not send out the right message if all the parties in this Chamber are signing up to a better Northern Ireland with a shared future and partnership and power sharing. The STCs thus far do not exemplify the best of that ethos of partnership and power sharing.

I do not know whether the Minister has any power to redress some of the imbalances that were highlighted by Ms Lo and Ms McCann in their contributions.

I take with a pinch of salt the Alliance Party decrying d'Hondt when it has served it more than well. It was not too worried about d'Hondt when it came to the selection of Ministers to sit around the Executive table. Our party lost out on an additional Minister, and the Ulster Unionists lost out. So, I take with a pinch of salt some of those comments from the Alliance Party.

I welcome the community planning aspect of the Bill, though it is something that we require further information about. Community planning offers real and exciting opportunities for local people and for local partnerships to work and

deliver in the best interests of the citizens they serve. Like Mr Boylan, I have some concerns that although it might start out with the right people around the table — the decision-makers — as we saw in the past, with the peace and reconciliation partnerships and the community safety partnerships, what happens is that the other agencies quite often send staff who are not the decision-makers, which dilutes the power and authority of a partnership.

Neighbourhood renewal in my area is something that I am concerned about. Some community organisations are represented around the table and others are not. Neighbourhood renewal is one partnership that needs to be examined, but I recognise that that falls under the Social Development Minister's functions. There have been some good practices in neighbourhood renewal, but we need the right people around the table, and they are the decision-makers. If people are signing up for community planning, that ought to be the case.

I also welcome the general power of competence. It is right and proper that local authorities can mix and take what some might refer to as brave decisions in the best interests of the people. If we do not take a risk sometimes, we fail our people. We have to weigh up that decision. It is also about people being confident in their professional judgement and in their ability to deliver. The power of general competence is something that all parties have largely welcomed.

I congratulate the Minister on trying to promote the idea of greater flexibilities in councils in some of their decision-making processes and the relationship between Departments, Ministers and councils, which is important to get right. We need a lot of clarification, and some Ministers have rolled back on some of the previous commitments on the powers and functions to be transferred. This whole reform process was about strengthening the power and function of local councils and, regrettably, some Ministers have rolled back on some of their commitments.

The expenditure of existing councils is a matter of concern for many existing councils, local businesses and ratepayers. That the oversight of expenditure power can fall to the new shadow councils is to be welcomed. There is evidence to suggest that some local councils are disposing of some of their income to make the decisions. I can understand why some of that happens, particularly if a council looks over the road and sees another council that is engaged in high spending, has little in reserve

and is going to ask the ratepayer in the new district to pick up the tab. So, we need to settle people's anxieties around all that. This is one method that will hopefully resolve some of the difficulties that some are experiencing.

The Deputy Chair of the Environment Committee made an important contribution on the ICE programme and its voluntary nature. There have been far too many individual fiefdoms created amongst some but not all officers in local councils. They have been reticent in picking up the challenge and the opportunity that the ICE programme offered. If there is a way to force their hands, so that they go much faster and further than has been the experience to date, that ought to be welcomed. However, the message from the House to individuals who are blocking progress on these matters should be that political parties will be watching very closely when they fail to pick up those opportunities, and I am sure that they will not forget those contributions.

12.00 noon

It is important that the majority of front line service deliverers know that their terms of employment will be honoured. There is a lot of low morale and concern, particularly among staff who are employed in middle management and on the front line. They are valued workers and have been valued workers for many years. Indeed, they have been valued workers over many difficult years, and some had to go out to areas and provide a service through the worst of times. I think that it is right and proper that their contribution to public service is recognised and that their concerns and worries about their jobs are allayed. I believe that the Bill will do that for the vast majority of staff.

Finally, on behalf of the SDLP, I welcome the Bill and look forward to its progress through Committee.

Mr Elliott: At the outset, I would say that there are aspects of the Bill that I obviously agree with. However, there are others that I and, I am sure, most other people do not agree with. One of the difficulties is that elements of the Bill will be hugely difficult to implement and control.

Also at the outset, I want to say that local government needs the recognition it deserves. For many years throughout the Troubles, it was the only form of government in Northern Ireland — the Assembly and Parliament Buildings did not operate, we did not have a Government and there was nothing between the local councils and Westminster. I think that it needs that

recognition and credit. That is particularly the case for many people who served through those very difficult times. Indeed, some of them gave their lives for it. I do not just mean that they gave all their work commitment to it; they gave their lives. A number of people were murdered, and I think that that needs to go on record.

Today, we are talking about the principle of the Bill and taking it forward to its next stages. First, I want to deal with the bar on existing Members of Parliament, Members of the European Parliament and Members of the Assembly from standing as councillors, or rather, I should say, from serving as councillors. That provision is contained in schedule 1. I put on record our support for that principle, and parties should have been big enough to have accepted that some time ago and should have carried it out voluntarily instead of requiring legislation. However, that is where we are at the moment.

When the Minister gets to his feet, I would like him to clarify the timing of the Bill. My understanding is that the Bill is not required to be in law before next year's proposed local government elections on 22 May. That being the case, if it is not in law at that stage, I assume that that provision will not apply, and MLAs, Members of Parliament and Members of the European Parliament will be permitted to contest that election and serve as councillors until the legislation comes into being. I ask him for some clarification on that.

Part 5 of the Bill is on permitted forms of governance. Again, I would like clarification on that. Different governance arrangements are set out in that part of the Bill. One of those is the committee structure, which, as the Minister indicated, most councils utilise at the moment. However, the executive structure is also mentioned, and I would be grateful if the Minister would go into a little more detail on that. I know that there is a section on that. However, I would like him to explain how he sees that operating and working in different councils and which councils would operate it. Would it be the bigger ones? Would it be better for the larger councils, such as Belfast or the causeway grouping, or would it be better for the smaller council groups? I note that the chair and vice chair of councils would not be permitted to sit on that executive committee. That is like saying that we have the Executive Committee of the Assembly, and we would not have the First Minister and the deputy First Minister on that Executive Committee. Some people might say that it would work much better. I do not know. However, some people

might take that view, although I am not for one minute suggesting that. I am only asking whether that is how it would work — that the two main people on the council would not be permitted to sit on the executive committee.

Mr Weir: I thank the Member for giving way. There are two points to that, and it might truncate what the Minister has to say later. With regard to the formation of an executive, if there were an executive, I suspect that it would be more like the model used in England, for example. I suspect that relatively few, if any, of the councils would embrace a full executive model, certainly at the start. However, there would be an opportunity for any council to set the parameters with regard to who would sit on that, and that could involve a mayor or a deputy mayor. The distinction to be drawn, and where the differences tend to be between what happens in England and an executive situation here, is that the mayor and deputy mayor become ceremonial positions and the political leadership of the council form the executive. I think that that is what is intended to be the case here. That is where the circle could be squared. However, there would not be any bar on a mayor or deputy mayor sitting on an executive, if that route were chosen. That is where the distinction lies.

Mr Elliott: I thank Mr Weir for that. When we do not have the civil servants on the Floor of the House to explain something, we can always be sure that Mr Weir will give us a reasonable Civil Service explanation of those points. We appreciate the expertise that he brings to the House. I accept what he said, and I know that he has put that point over before. However, the legislation clearly says that the chairs and vice chairs would not be part of the executive. I am wondering whether there are certain aspects of each council that could be run by the executive, and other aspects by committees and the full council.

Mrs D Kelly: I thank the Member for giving way. A further concern that was raised with me recently involved the Minister's council area of Derry, where the chief executive believes that she has to deal only with party leaders. The message has to go from this House and from the parties on council that the chief executives report to all members of council. Does the Member agree with that?

Mr Elliott: I certainly do agree. I am surprised to hear that the chief executive or any council official would suggest that they have to deal only with party leaders or group leaders on council. Every councillor should get the

recognition that they deserve; every councillor is elected to their position and should be given that recognition by the officials. Again, I am throwing out some of the queries that the Minister might pick up, or we might pick up at a later stage.

I move on to clauses 44 and 45, which deal with the qualified majority and the power to require decisions to be reconsidered. Clause 44 states:

"Standing orders must specify decisions which are to be taken by a qualified majority."

Will direction be given in subordinate legislation, or will it just be guidance as to what those decisions will be, or is it entirely up to the councils to take that decision? At the Committee last week, officials indicated that we would have sight of all the draft secondary and subordinate legislation before we get through the final stages of the Bill and that we would also see all the guidance that will come forward. If we got that, I would welcome it, as it would be extremely helpful to the Committee and to the entire House. However, there is a question around how the decision will be reached where that 80% qualified majority is needed. If it is left to councils alone, those decisions will be made only on the basis of what the majority of councillors decide. They could decide not to bring in some of those aspects under the qualified majority. That is why I am keen to hear the outworkings of that. The legislation also states that the regulations may amend those percentages, so we might not end up with 80%. We might end up with 60% or 70%, so, again, the regulations will be vital. Why would that change from 80%?

With regard to the powers that require decisions to be reconsidered — or, as I call it, the call-in of 15% of members of the council — the Bill states that a barrister or solicitor would be consulted. What direction would be given by the Department or the councils to a barrister or solicitor for that legal opinion? Where would the direction, guidance and legislation come from that he or she would be required to look at? Will it be only section 75 equality issues or will it be much broader? There are so many unanswered issues in the legislation. It is a large Bill with a lot of information so it throws up far more questions than answers.

In Part 9, which relates to the conduct of councillors, clause 56(3), for example, states that the principles "may be", and clause 56(4) states that the code of conduct "may include". Again, it is very woolly. As other Members said,

there have already been issues around the appointment of statutory transition committees. I also see specific issues with the appointment of selection panels for the new chief executives. That is a major hurdle for you, Minister, and members of councils in the not-too-distant future. Positions will be divvied up and carved up between certain parties so that they have huge numbers or a vast majority on one side or the other. It is unfortunate that we have that carve-up at the moment.

Mrs D Kelly: I appreciate the Member giving way. We heard contributions about Lisburn and Belfast and the representation on that statutory transition committee. Would the Member be surprised to learn that in the new council of Derry and Strabane, Sinn Féin opted to take the chair and vice-chair of the statutory transition committee? That also breaches the spirit of voluntary power sharing.

Mr Elliott: Sinn Féin opted to do that in not only the Londonderry/Strabane statutory transition committee. I understand that Sinn Féin opted to do that in other areas and, indeed, has taken the chair and vice-chair of the Fermanagh/Omagh statutory transition committee, so, again, there is a lack of a reasonable sharing out of power and positions. I note in the code of conduct that it is up to the Department to issue guidance on that rather than the councils themselves. It will be interesting to see what guidance it comes up with and what will be in the legislation that they are required to adhere to.

In Part 11, clause 82 relates to a council's general power of competence. I heard a ringing endorsement of that from some Members. I have to tell you, friends, that I am afraid that it is not coming from this side because I do not believe that that is a good part of the Bill. It will be open to huge levels of gerrymandering and a lot of people putting their own perspective on it. You have only to read the first line of clause 82:

"A council has power to do anything that individuals generally may do."

That will be open to huge abuse from those who have the majority on a council. At some stage, they will say that something does not require a call-in or a qualified majority. That aspect needs quite a lot of scrutiny. It needs to be amended. Actually, it needs to be withdrawn. I am concerned that it will be open to significant abuse. I heard the Minister say that it will give greater flexibility; I accept that point, but, with that, comes a balance. You can give too much flexibility, and you can give too

much power, which is then abused. Dear help us — over recent weeks and months, have we not been very aware of the abuse of such powers?

12.15 pm

Part 16 deals with transitional rate relief. I welcome the provision for rate relief, but I do not believe that it will mitigate totally the overall financial shortfall from council reorganisation. Previously, Members have heard me mention the PricewaterhouseCoopers (PwC) figure of £118 million. On several occasions since, I have asked whether there was any update on that figure. No one has been able to give me any update at all, nor have I been told whether the money could have been saved in a different 15-, 18- or 26-council model. Nobody has come up with a satisfactory resolution.

Members need to hear about some of the difficulties with rate convergence. How far the Bill can go with transitional rate relief will, obviously, be dictated by the amount of finance that the Minister can direct to it. I know that the Minister of Finance recently said that £30 million might be available, and I have to say that that is very welcome. However, look at Fermanagh and Omagh: in Omagh, local council rates — I am talking strictly about local council rates — are 50% higher than Fermanagh for domestic rates and 28% higher for non-domestic. The convergence of those rates will mean a huge imbalance for Fermanagh people compared with those in Omagh. We need to ensure a satisfactory resolution to that.

That brings me on to the other aspect. I talked to the previous Minister about it several times, and I am sure that I will have the same conversation with the current Minister. It is about the transfer of functions, the finance that follows that, how that finance will be derived and how to ensure that councils are not short-changed. Ratepayers could start to pay for functions that have come back to local councils without being followed by any central funding, so we need to be absolutely sure that the finance will follow from central government.

I suppose that many will be concerned and disappointed at the number of functions and powers that will be devolved to local councils, with planning, obviously, being the main one. How planning will be delivered by local government also presents a challenge.

I have already had a discussion with the Minister of Enterprise, Trade and Investment about trying to devolve some finances to local

government for tourism marketing in particular. Local councils and tourism marketing authorities could do a much better job of using that spend to market their area than NITB can do regionally.

A huge number of questions are unanswered, and I look forward to further debate.

Mr Principal Deputy Speaker: Before I call Lord Morrow, I just want to say that the Business Committee has agreed to meet at 12.30 pm. Therefore, I regret that I may need to interrupt you, Lord Morrow. However, if so, you will be the first Member called to speak when the debate resumes after Question Time, which will allow you to complete your contribution.

Lord Morrow: Thank you, Mr Principal Deputy Speaker. It may well be that even I will finish my comments before that. We will have to wait and see.

First, I welcome the fact that we are at the stage that we are with what is deemed to be very hefty legislation. It seems a long time since we started this journey. I know that there has been an attempt to blame one person after another, but I am not going to go down that road today, because it has been well covered. Some blame the Executive, some blame past Ministers, some blame present Ministers, and, I suspect, some will blame future Ministers. However, as the saying goes, we are where we are.

At the outset, I make it clear that I am a member of a council, namely Dungannon and South Tyrone Borough Council. One of the many good things that can be said about that council is that it seems to be able to achieve what no other council is capable of achieving, which is not increasing rates in four years. I ask all those who are members of councils to take note of that. It seems that every council automatically increases its rates every year, year on year, and some use a clever tactic of not increasing the rates in the year of an election, which, to me, is a wee bit deceptive. So, we do not do rate increases in Dungannon, and, if you want to know how that works, speak to me privately after the debate, and I will go through the whole thing with you.

As I said, the Bill is hefty legislation, and I look forward to when it comes to the Environment Committee, of which I am a member. It is in that Committee that the real scrutiny will take place.

It is proper and right — Tom Elliott touched on this — that we pay tribute today to councils and local government, because, during the worst of the Troubles in the history of this Province, it was local government that had to stand tall and it was councillors who had to put their head above the parapet when it was unpopular and, at times, extremely dangerous to do so. However, there were those in our society who felt that they had something to offer their community, so they put their name forward and stood for election. As a member of Dungannon and South Tyrone Borough Council since autumn 1973, I know the difficulties that that entailed and brought to many families. As Mr Elliott has said, some even paid the ultimate sacrifice when their life was taken. That was scandalous: when democracy is attacked, everybody in society and in our communities is attacked. We are moving on, so, hopefully, we have seen the worst of it and will not go back to those days. The Bill and the reform of local government are an attempt to take society to a new place and to move forward.

I will not go through the Bill clause by clause today — the Minister gave a good overview of it — because, as I said, the real work will start when it comes to the Committee. I suspect that we will take our time there. I have concerns, however, about the timing of the whole operation. I am concerned that we will not be in a position to have the Bill in statute by the time that the reform of local government is scheduled to be complete. I am sure that the Committee Chair will give due diligence to that, because we as a Committee have some responsibility to ensure that the Bill is treated in a way that means that it can go through as quickly as possible but not, I add, in haste. That would be the wrong way to go. We would be better to go slow and get it right than to go quickly and get it wrong, because there are big issues at stake for the future of local government.

There are a number of issues, and Dolores Kelly touched on one that I, too, have some real concerns about. That issue is the powers of the auditor. We will want to look very closely at that when the Bill comes to the Committee. That is paramount, particularly when we bear in mind that we will go into a different scenario altogether from that whence we have come. The auditor's powers should be very powerful, because there could be issues that would leave councillors or chief executives vulnerable. Our chief executives will have a big task here. They are responsible people who bring professional action to their post, but they will also welcome the auditor having strong powers.

I have a concern about the present debt in local government. That has been touched on by some Members. If my figures and memory are right, the present debt of local government runs at somewhere in the region of half a billion pounds. When I look at the debt in the new mid-Ulster councils of Cookstown, Magherafelt and Dungannon, I discover that it is minimal. For instance, one council shows no debt, and two of the other councils show very little debt. Those three councils attribute, I think, about 1.3% or 1.4% of the total debt in local government. When I look across the spectrum of local government, I see that other councils have considerable debt, but, by the same token, it is a valid point when they say, "We have considerable assets to set beside that debt". I want to see if, in fact, the two do sit beside each other and how one council's debt sits in relation to its assets and how that will all work out. Furthermore, I want the Minister to tell us today whether there is a statutory obligation on a council to have a certain amount of reserves. I have heard both arguments. I have heard it said that there are guidelines to say that you should have certain reserves but no statutory obligation to have x pounds in your reserves. Some councils work consciously on that and are particular about having reserves. I am not saying that there is anything wrong with what other councils do, but I would like to see the logic behind it when they say, "No, we do not have any reserves or a statutory obligation to have any and, therefore, we will carry on merrily". I have concerns about that, and I want the Minister to tell us, either today or on another date, the legal position on that.

I also find it slightly contradictory that the Minister has told us today that council employees will now be able to stand for election. This is not a straightforward one, no matter what way you look at it. I listened carefully when he said why that was the case. In the very next breath, he spoke about those who are MPs and MLAs. I want to make it clear that I am not speaking from a selfish point of view; it is no secret that my days on Dungannon council are in the yellow leaf, and, therefore, it will not apply to me. However, I fail to understand how you can say that it is all about equality and we must give equality, when someone who is an MLA or MP might feel that there is not much equality for them. I am not trying to put up the argument for it; I am simply trying to put forward the equality issue that we seem to always want to concentrate on when we legislate, understandably so. Those are some of the issues that I want the Minister to tackle and give more clarity on.

12.30 pm

I also have concerns about the community involvement provided for in clause 76. There is now a tendency in society as a whole and when we legislate that we sometimes run the risk of bypassing those who are elected and go for strong community involvement. I am not opposed to a strong community, but the best representatives of a community are those elected by the community. There seems to be an attempt to say, "Well, we have the elected representatives sitting there, but we will have another tier who will be as much consulted or have the same degree of influence". That needs to be carefully looked at.

I also think that other parts of the Bill will take quite a bit of scrutiny. Clause 45 relates to the power to require decisions to be reconsidered. I am not sure that it comes out clearly here how that will go forward. The clause states:

"Standing orders must make provision requiring reconsideration of a decision if 15 per cent. of the members of the council (rounded up to the next highest whole number if necessary) present to the clerk of the council a requisition on either or both of the following grounds".

The "following grounds" are not clear to me. The clause states:

"(a) that the decision was not arrived at after a proper consideration of the relevant facts and issues;"

and:

"(b) that the decision would disproportionately affect adversely any section of the inhabitants of the district."

It goes on to state that the clerk of the council shall or may — I am not sure which it says — consult a lawyer.

I mean no disrespect — we have plenty of lawyers in this place and very able ones too — but, at the end of the day, a lawyer's view is but one man's opinion. You could go to another eminent and skilled lawyer and he would give you a totally different point of view. This has to be a bit clearer as to what exactly this is and what we are trying to say here. I believe that it is not clear and is open to interpretation. However, I suspect that most legislation is open to interpretation.

Part 8 makes provision for access to meetings and documents. Clause 46 states:

"A meeting of a council must be open to the public except to the extent that they are excluded".

Now, that is clear to a layman, but it continues:

"(whether during the whole or part of the proceedings) under subsection (2) or by resolution under subsection (4)."

It then goes on to give the reason why it would be like that. Those of us who serve on a council often know the reasons that will be given. It may be that there are some sensitivities around a business transaction, which sounds fair enough. Sometimes, councillors are a wee bit sceptical; I would not be among the sceptics. They feel that that is abused and that it is a euphemism for saying, "No, you can't have the answer because it doesn't suit". Therefore, there has to be real clarity around that, and I hope that the Minister will perhaps also take on board and deal with that issue when he sums up today or in Committee, where I suspect that he will be with us at some stage. Clause 128 —

Mr Principal Deputy Speaker: Lord Morrow, I must interrupt you at this point, with regard to the Business Committee. You will be the first Member to speak when we resume the debate. The Business Committee has arranged to meet immediately after 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 12.34 pm.

2.00 pm

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

Oral Answers to Questions

Social Development

Housing Executive: Chief Executive

1. **Mrs Overend** asked the Minister for Social Development to detail what discussions he had with John McPeake before, during and after his resignation from the post of chief executive in the Housing Executive. (AQT 141/11-15)

Mr McCausland (The Minister for Social Development): I have had no discussions with Mr McPeake on that matter. Mr McPeake is employed by the Housing Executive and, as the Member is well aware, the Housing Executive has its own board, its own chairman and its own chief executive. Therefore, his resignation was tendered to his employer, the Housing Executive. I was made aware of the fact that he was resigning, and the matter rests there. The chairman indicated to me that Mr McPeake will probably step down at the end of the financial year or, possibly, at the end of the calendar year. That matter is somewhat unclear.

Mrs Overend: Will the Minister detail whether his much-vaunted overspend figure of £18 million, which now looks decidedly inaccurate and for which this House and the companies concerned might eventually be owed an apology, played any role in any discussions that he had or that others may have had on his behalf with Mr McPeake prior to his resignation?

Mr McCausland: I find the supplementary question somewhat surprising in so far as I said that there were no discussions with Mr McPeake. Therefore, the supplementary is somewhat irrelevant.

Help-to-buy Scheme

2. **Mr Hilditch** asked the Minister for Social Development to outline the help-to-buy scheme, which the Prime Minister announced at the weekend, to state whether he believes it will work and whether it will be available in Northern Ireland. (AQT 142/11-15)

Mr McCausland: Next week, the help-to-buy mortgage guarantee scheme, originally announced by the Chancellor in Budget 2013, will be open to applications. That scheme will operate right across the United Kingdom and will see the Government and lenders guaranteeing up to 15% of a property's value. It will allow potential buyers to purchase a home with a 5% deposit, with the balance covered by a mortgage.

Several high street banks will be offering the new help-to-buy mortgages to customers. So far, RBS and Lloyds have confirmed that they will participate. The mortgages will range from 80% to 95% of the property's value and will be on a repayment basis. Borrowers will be subject to the usual affordability and income-verification checks normally conducted by lenders to ensure that they can afford the mortgage that they are applying for.

Mr Hilditch: A number of commentators suggested that the scheme could lead to a house price bubble. How will the Government ensure that that does not happen?

Mr McCausland: Some of those concerns have been more directed towards the situation in the London area and the south-east of England as opposed to the north of England or Northern Ireland. Every September, the Government and the Bank of England's financial policy committee will be reviewing the impact of the scheme and examining whether the fees or the price cap should be adjusted. So, at the United Kingdom level, there will be that safeguard to ensure that you do not get a house price bubble. In the Northern Ireland situation, it would be very unlikely anyway.

UN Special Rapporteur

3. **Mrs Hale** asked the Minister for Social Development for his assessment of the recent visit by the UN special rapporteur Ms Rolnik. (AQT 143/11-15)

Mr McCausland: The visit by the UN special rapporteur to the United Kingdom as a whole generated a large amount of newspaper coverage, a large portion of which was extremely uncomplimentary about Ms Rolnik. I think it was the 'Daily Express' that described her as the 'Brazil nut'. Other newspapers followed a similar line. Her Marxist pedigree seemed to have influenced some of her comments.

A lot of detailed comment was made after her visit to Northern Ireland, but on the basis of a

very short visit, and having seen her preliminary comments — her final report will not appear until March 2014 — some of her views seem extremely ill-informed. I think that someone from a country where there are tens of millions of people living in shanty towns is in a poor position to comment on the housing situation here in Northern Ireland. She might have been better spending some time sorting problems out in Brazil, where tens of millions of people live in appalling conditions.

Mrs Hale: I thank the Minister for his answer. Will he confirm that Ms Rolnik's programme was organised in collaboration with the Participation and the Practice of Rights group (PPR) and that she only visited social housing on one side of the community?

Mr McCausland: I thank the Member for her supplementary question as it raises a significant issue. The Participation and the Practice of Rights project, which is a lobby organisation, seems to have had a key role in organising her visit. It was noticeable that, in the one day that she spent here, she spent longer with that group than she did with officials in the Department for Social Development or the Housing Executive. It was also significant that, during that visit, she spent two and a half hours in the afternoon touring the New Lodge, Seven Towers and Sailortown areas. She was here to look at the whole of Northern Ireland, yet she devoted two and a half hours to one specific area.

I was also interested to note, when I spoke to community organisations in adjacent unionist communities, that none of them had been informed by PPR about the visit, they had not been invited to any of the meetings and she was not invited to their communities. I think the fact that PPR excluded unionist communities and only took her to a nationalist community says a lot about that group and its operation. If we are dealing with housing issues, we need to deal with the whole community: unionist, nationalist and other. Everybody deserves a fair deal, although not in the eyes of some people. People are dealing in human rights issues, yet I thought that one human rights issue was the right to equality of treatment. That certainly does not seem to be the case in this instance.

Social Housing

4. **Ms Fearon** asked the Minister for Social Development, given his comments about the help-to-buy scheme and the potential for a second housing bubble, whether he plans to

increase the number of social housing units to meet the demand. (AQT 144/11-15)

Mr McCausland: The Member raises the question of increasing the amount of social housing, which is a matter that is very near to my heart. It is something that I have put a lot of effort into, but the problem that we face is that the people who are meant to be delivering social housing in Northern Ireland, the housing associations, have not really stepped up to the mark. I dealt with this in the Chamber recently; we have around 30 housing associations in Northern Ireland, and only around half a dozen of them are really building. Some, in fact many of them, do not build at all. A small number are building, and an even smaller number do the overwhelming majority of the newbuild. We need a situation where housing associations are stepping up to the mark.

I think that they have a lot to learn from some of the housing associations in Great Britain that are much more creative, imaginative and innovative. If that were the case with housing associations here, I think that we would be in a much better position to deliver social housing. It has been disappointing to me, and I will meet housing associations again in the not-too-distant future to press them on this. I have met them and I have met the Housing Executive and pressed them on this issue in the past. The housing associations and the Housing Executive need to deliver more if we are to achieve the sort of targets that the Member and I would want to see delivered.

It is a sad situation when there is money there to be spent, but you are not able to spend it. In fact, quite often, there is a rush to buy off the shelf to make up numbers at the end of the year. That is not a good way of doing things. It is not a planned way, and it is not the proper way to do it. It is the best way in the circumstances, but the problem needs to be tackled at its heart: we need to get the housing associations building.

Ms Fearon: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answer. Given what he has just said and with a waiting list of approximately 40,000 people, does he think that enough social housing is being built? What key actions can we take forward to see results quickly?

Mr McCausland: In a sense, the answer that I gave to the first question has dealt with part of the second. There are 40,000 people on the waiting list, but I could own a house in Cultra worth £1 million and still be on the waiting list.

Mr Weir: You wish.

Mr McCausland: Yes, I do wish. *[Laughter.]*
There is not much chance of it.

A person could be the owner of a house worth £1 million or whatever in Cultra and could still put themselves down on the waiting list. Anybody can put themselves down. You could be on the waiting list with no points, but you are still on the waiting list. You are actually dealing with a smaller number than the number that has been mentioned when it comes to real need. That is why we deal with the issue of stress and people who are over 30 points, rather than people who are possibly sitting there with no points or are already homeowners. A person can be a homeowner in any situation and still put themselves onto the waiting list, so the figures that are often quoted can be somewhat misleading.

The real challenge is that we get a situation where housing associations are facing up to the challenge and really delivering. We have a higher level of housing association grant in Northern Ireland than in GB. Housing associations here are in a privileged position because of that, so we really need to see more delivery. I had a very useful visit across to Liverpool and Manchester not so long ago to see some of the work being done by housing associations there in not just their newbuilds but some of their other initiatives, which were very imaginative. I would like to see more of that here.

Shared Neighbourhood Projects

5. **Mr Lyttle** asked the Minister for Social Development, as the Minister responsible for delivering 10 shared neighbourhood projects as part of the OFMDFM Together: Building a United Community strategy, to update the House on what neighbourhoods have been identified, where those neighbourhoods are and a timescale for their delivery. (AQT 145/11-15)

Mr McCausland: The issue of shared communities is one that members of the Alliance Party often seek to raise.

Mr Lyttle: We certainly do.

Mr McCausland: Absolutely.

I make this point often when the issue is raised: segregation is not limited to social housing. There is as much segregation in private sector housing as there is in many areas of social housing. Secondly, social housing integration

can take place only where there is a desire and willingness to do it. In many places, that is not the case. For example, if I come through the Westlink, I see a block of flats with the names of hunger strikers on it and one with tricolours on the top of it. I do not think that people from the unionist community are going to feel very comfortable there. Quite clearly, certain communities have made a choice. The aim is to have more shared communities developed and supported during the next number of years, and that is being taken forward. However, it has been a challenge to fill up Springfarm in Antrim, for example, which was brought forward as a shared scheme. I am not absolutely sure that there is the huge appetite that is sometimes put forward for other schemes.

I am happy to come back to the Member with more details on where we are. I can give him details of 11 shared newbuild schemes. I am happy to come back to him with more details, but I am not as —

Mr Deputy Speaker: Minister, you are well over your time.

Mr McCausland: — confident that it will necessarily be delivered sometimes —

Mr Deputy Speaker: I am afraid, Mr Lyttle, that it will have to be a very quick supplementary.

Mr Lyttle: The Minister says that he is not sure that there is appetite for shared neighbourhoods. He seems to disagree with the First Minister and deputy First Minister, given that their strategy sets out the need for 10 new shared neighbourhoods. I would be grateful for the information on where they have been identified. What does the Minister think is a key feature of a shared neighbourhood scheme?

Mr Deputy Speaker: Very quickly, Minister.

Mr McCausland: One of the key things might be actually getting people from both communities to buy into it.

I point out the example of Springfarm to the Member. Invitations were sent out across the Province, and it was a very slow process to get people to buy into it. I am aware of some small schemes that have worked, but they were specialised and in particular locations. It is right that we should be aspirational, which is the First Minister and deputy First Minister's point. We should be aspirational, but the reality also needs to be kept in mind. I remind the Member again —

2.15 pm

Mr Deputy Speaker: Minister, your time is well up.

Mr McCausland: We see problems with segregation in private sector housing, so we should not be surprised that it also happens in social housing.

Mr Deputy Speaker: That ends the period for topical questions. We now move on to questions for oral answer that have been listed for the Minister. Question 4 has been withdrawn.

Public Realm Works: Bangor/Holywood

1. **Mr Agnew** asked the Minister for Social Development to detail the timeline for the Bangor and Holywood public realm works. (AQO 4675/11-15)

Mr McCausland: Over the past 18 months, my Department has been working with representatives from North Down Borough Council, town centre management and the local community to develop a major public realm scheme for Bangor and Holywood. Those works will address all aspects of street design, including paving, kerbstones, street furniture, lighting and planting. The total value of the works is estimated to be £10 million, with my Department investing £4 million and the council investing £6 million. The design work for each town was completed with the help of many different stakeholders, and the schemes will build on the individuality and unique attributes of each town. A contractor is due to be appointed in December 2013, and construction work in both towns will commence in late March or early April 2014. The Bangor scheme will take two years to complete, and the Holywood scheme will take 12 months. Throughout the construction phase, my Department will continue to work with local representatives and the wider community to keep them fully informed about the programme of works.

Mr Agnew: I thank the Minister for the information. Are he and his Department aware of the alternative plans that have been proposed by local architect Iain Halliday for Bangor town centre? If so, what consideration has been given to those plans?

Mr McCausland: I am aware that an alternative proposal was put forward. In fact, that proposal was considered at an earlier stage, but it would

have meant removing vehicle traffic from Main Street in Bangor. That was recognised as being inappropriate. I read the architect's article in the 'County Down Spectator', and, as I said, the project board considered his proposal. However, it was discounted because the removal of vehicle traffic from Main Street would have had a dramatically adverse impact on traffic flows. That is an important issue that I am sure local traders and residents will be concerned about.

Mr Weir: Will the same standard of materials and designs be used for the proposed Queen's Parade scheme that the Department is taking forward?

Mr McCausland: I thank the Member for the question. Yes; my Department will ensure that the specification for the Queen's Parade scheme ties in with the public realm works in Bangor. The Queen's Parade scheme represents a tremendous opportunity for Bangor. We are driving it forward as a scheme, and the two need to mesh so that Bangor gets the best outcome.

Mr Cree: I thank the Minister for outlining the timeline and costs. Will he advise when details about the scheme will be available — for example, the types of trees, the pavements, the decorations, the lights and all that infrastructure?

Mr McCausland: Let me run over the timeline that I gave in response to the question. I said that the contractor is due to be appointed in December 2013. Construction work starts in late March or early April 2014. I confirmed that there has been contact with local representatives and the wider public to keep them fully informed about the scheme. That will continue, so the fine detail about trees or what types of flower will be in a flower bed will be discussed at a local level. I am sure that the Member will be part of the wider consultation with those who are designing the scheme and taking it forward. I assume that the Member has already had some input and discussion with them, and I encourage him to continue that, because those things can naturally evolve even as the scheme is being taken forward.

Mr Deputy Speaker: I remind Members who wish to be called for a supplementary that they must continue rising in their place.

I call Mr Trevor Lunn. Sorry, Mr Trevor Lunn is not in his place. I call Mr Ian McCrea. Mr Ian McCrea is not in his place. Question 4 was

withdrawn. I call Ms Bronwyn McGahan, who is in her place.

Accommodation

5. **Ms McGahan** asked the Minister for Social Development whether he will encourage business people to convert the empty parts of their properties into living accommodation in towns and cities. (AQO 4679/11-15)

Mr McCausland: I thank the Member for the question. In 2012, I commissioned a high street task force to review the support provided by my Department to town and city centres to see whether that could be further strengthened. The task force report was published in February 2013 and contained seven recommendations for my Department.

The report commended the Living over the Shop (LOTS) scheme as an example of a programme that should, through my Department, be extended, with a focus on regeneration-led town centre living to bring after-hours vitality to the high street. My Department's new urban regeneration and community development policy framework establishes town and city centre regeneration as a policy priority, and the housing strategy sets out my intention to revitalise the Living over the Shops initiative and ensure synergy with our mainstream urban regeneration initiatives.

Housing can play an important role in helping to diversify and re-energise our town and city centres. The development of a regeneration-led approach will help to bring people back to town centre living and could have an added-value dimension by bringing vitality to Northern Ireland's high streets after normal trading hours to help to promote the evening economy. It was called the LOTS scheme, but I think that we will be looking for an alternative name, because we want a scheme that is broader than simply living over the shops.

Ms McGahan: Go raibh maith agat. I thank the Minister for his response. Has he considered the impact on commercial businesses when part of a business area is turned into a housing area?

Mr McCausland: I would be interested to know what concerns the Member has in that regard. The Member has not raised them with me in the past, but I would be happy to hear them. Across the British Isles, there are many town centres in which commercial and residential accommodation fit together. It depends very

much on the nature and style of the accommodation. I remember the difficulties in Belfast some years ago when there was a block of apartments above a hot food takeaway, which tended to attract people from a bar nearby in the early hours of the morning. The conflict there was between residents and the noise and disruption associated with the business. It is dependent on the type and the place, and that is why we have planning laws — to make sure that we get the right result, hopefully.

Mr Anderson: What grants are available to target derelict or vacant town centre properties to help to bring them back into productive use, or to enhance the commercial viability of existing properties?

Mr McCausland: I thank the Member for the question. The reference is to the urban development grant (UDG) scheme, which was developed to encourage private sector investment in towns and cities by offering financial assistance to bring into use vacant sites or buildings that were derelict or underused. UDG assistance can be up to 35% of grant-eligible costs for owner-occupier schemes, or up to 35% of total development costs for investment schemes. The applicant provides the remainder of the capital through private funds or bank loans. The regional development office has offered grant assistance on a number of UDG applications that included the creation of new accommodation in town centres.

Mrs D Kelly: I welcome the Minister's intent to improve upon the Living over the Shop initiative. If he has not already done so, will the Minister give a commitment to write to the Minister of Finance about the possibility of zero VAT or VAT refunds for those who renovate properties, particularly in town centres, so that that is made a more attractive proposition?

Mr McCausland: I have no doubt that the Finance Minister reads every last word of questions for oral answer every day. I am sure that he will take up the Member's point and that he will listen to it and give it consideration. I am also sure that he will be aware that she raised that point today.

Mr Dickson: Many properties above shops do not have separate entrances at street level. I am thinking of two areas in my constituency — Main Street in Larne, and High Street and West Street in Carrickfergus. Does the grant scheme extend to providing for that?

Mr McCausland: I said in an earlier answer that we are looking to develop a new scheme. If individual Members have issues that they want to raise, we would welcome those suggestions. I appreciate the Member's point. Quite often, shops that previously had a side entrance to upstairs have, over the years, removed that to extend the shop frontage. You can see examples of that in Royal Avenue in Belfast, where maybe six storeys above shops are virtually inaccessible other than from the rear. The right outcome depends on the location, but I welcome that the Member is generally supportive of the initiative. I will certainly take an interest in his point.

Housing Executive

6. **Mr Allister** asked the Minister for Social Development, given that contractors identified in connection with the alleged £18m overpayment on planned maintenance have been barred from receiving any new contracts, what action was taken in respect of the successive directors of design and property services who oversaw Northern Ireland Housing Executive contracts during the relevant time. (AQO 4680/11-15)

Mr McCausland: I thank the Member for his question. As I previously advised the House, the Housing Executive has appointed an external consultant to independently review the alleged overpayments. The Housing Executive is still awaiting their report. The chairman of the Housing Executive stated in June that the investigation would specifically review how the situation arose, the reliability of the information on overcharging and the actions that were taken to recover the overpayments. Since the report was commissioned not by me or my Department but by the board of the Housing Executive, I will, of course, expect to be briefed on the Housing Executive's findings in due course. The Housing Executive has advised that it is continuing to work with the contractors to reach an agreement on the quantum of any overpayment. When that work is complete, the Housing Executive will consider what further actions, if any, are required.

Mr Allister: I direct the Minister back to the question, which was: given that four contractors have been blocked from further contracts as a consequence of the alleged £18 million saga, what action was taken in respect of the Housing Executive directors who oversaw that alleged situation? How is it that one of the primary directors in charge went on, in fact, to become chief executive? The Minister, in collaboration with the chairman of the Housing Executive,

was able to secure a blockage on the four contractors getting further work. In collaboration with the Housing Executive —

Mr Deputy Speaker: Order.

Mr Allister: — did he take any steps to penalise the directors who were in charge?

Mr McCausland: I want to correct the Member. I did not stop contracts being taken forward. The Member is well aware that this is entirely a matter for the Housing Executive. So, I welcome the opportunity to correct Mr Allister and to set the record straight. I hope that he is now better informed about the situation.

As regards the people who are involved in this problem, whether on the contractor side or the Housing Executive side, the Member is aware — because I have just said it — that a report has been commissioned by the Housing Executive, and it is looking into the matter. The chairman of the Housing Executive took that matter forward, and the report will be with us fairly soon, or rather, it will be with the Housing Executive fairly soon. My expectation is that it will be with the chair of the Housing Executive within the next number of days. When the Housing Executive has had the opportunity to review that, it will take whatever action it thinks, as a board, is appropriate in due course. It is important that we distinguish between the role of the Department and the role of the Housing Executive; so, I truly welcome the opportunity to set the record straight and to correct the Member.

2.30 pm

Mr Copeland: Given the fact that a number of companies are disbarred from applying for contracts due to overcharging or overspending, depending on how you look at it, and should the scale of the alleged activities prove to be less than previously anticipated, does the Minister accept that there is a likelihood, at some stage, that companies who found themselves disbarred on that basis will feel slightly unjustly treated and seek recourse in law, and challenge contracts that might be issued during the period of their disbarment? Does he feel that there are any necessary contingencies in the Executive or the Department to deal with that?

Mr Deputy Speaker: Order, please. I remind all Members that supplementary questions have to be brief and have to relate to the original question.

Mr McCausland: I think that it is important to repeat again that the Housing Executive commissioned external consultants — Campbell Tickell — to produce a report and take forward that piece of work. In advance of the receipt and examination of that report, it is premature for anyone to set out all sorts of potential eventualities. It was stated at the time that the initial figure produced and given out publicly by the chair of the Housing Executive, and which I then reported to the House, was estimated, by means of an extrapolation from samples taken, to be in the region of £18 million. I said at the time that it may be a bit less than that, but it does not matter to me whether it is £2 million, £5 million, £10 million or £18 million: it should not happen.

Mr D Bradley: When does the Minister expect the report to be published, so that we will know the actual accurate figure?

Mr McCausland: I have said already, in answer to a previous question, that we anticipate, from information provided by the Housing Executive, that it will have the report within a matter of days. It will then want to take that to its board. We are into the month of October, and the board meeting is normally towards the end of this month; but if the report raises very substantial issues — and it may well do so — the Housing Executive will want its board to meet earlier in the month, because this is a matter of concern to the general public, politicians, contractors, and the Housing Executive. Therefore, it will be a matter of the Housing Executive bringing the report to its board as soon as possible. I have not seen the report yet, but I expect to be briefed in due course on the findings and on what action will be taken, and I assure the Member that, whatever the outcome, it will be relayed to this House.

Ms P Bradley: Will the Minister tell us the position regarding the letting of new maintenance contracts?

Mr McCausland: The Housing Executive has advised that a number of planned schemes were let under the current arrangements prior to 27 January 2013.

Those schemes are ongoing, and it is hoped that they will be complete by the end of the year. Once procurement procedures are completed, new contracts will be let.

Work Capability Assessment

7. **Mr Milne** asked the Minister for Social Development for his assessment of the independent review of the work capability assessment carried out by Dr Paul Litchfield. (AQO 4681/11-15)

Mr McCausland: Dr Litchfield's fourth independent review of the work capability assessment has not yet been completed. He is at the evidence-gathering stage of his review, which includes considering whether more can be done to ensure that the assessment process is effective and perceived as objective by all stakeholders. As part of that process, I launched a call for evidence in Northern Ireland on 10 July 2013. That gave everyone with an interest in how the work capability assessment process operates the opportunity to submit their views and comments on how it could be improved. There were a total of 48 responses from interested parties in Northern Ireland. That evidence has now been collated and passed to Dr Litchfield for consideration.

I met Dr Litchfield during his visit to Northern Ireland on 18 and 19 September as part of his evidence gathering. He advised that Northern Ireland's operational processes appeared to operate better than those in Great Britain. I found it encouraging that his assessment was that we were doing it better in Northern Ireland than the folks in Great Britain. In addition to meeting me, he met members of the Social Development Committee, Social Security Agency staff, Atos Healthcare and customer representative groups. His independent report will be laid before the Assembly by the end of the year.

Mr Milne: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answer. As the Minister is aware, there is a lot of concern regarding the assessment process. Can he reassure us that protections have been put in place to ensure that people are treated properly during and after the assessment?

Mr McCausland: I thank the Member for the point that he raises. One of the key things to bear in mind is that Dr Litchfield's report is the fourth. There were three prior to that taken forward by Malcolm Harrington, who is also an occupational health specialist. All the recommendations made by Professor Harrington have been implemented. It is because of the implementation of those recommendations and the initiatives taken forward internally in the Department that we in Northern Ireland have a better arrangement than across in GB. Whatever emerges from Dr Litchfield's report will also be taken forward. I

want this to be done in a way that ensures that we have an appropriate and empathetic system in Northern Ireland that is right for our circumstances.

Mr Eastwood: Has the Minister communicated the very specific details and circumstances of Northern Ireland compared with GB, given that we have so many people who suffered horrendous injuries as a result of the Troubles?

Mr McCausland: There are circumstances that are particular to Northern Ireland and different, to some extent, from GB. We have higher levels of mental illness than Great Britain. There are areas in England that have a similar profile to Northern Ireland, such as heavily industrialised areas in the north of England, but, nevertheless, the Member is right: we have a legacy in Northern Ireland of people who were the victim of terrorist violence down through the years. It is important that their interests are safeguarded.

In a different context, when Lord Freud was over and we were discussing welfare reform generally, I made a point of bringing the Victims' Commissioner and several victims to meet him. That meeting was very productive and was well received by those who had been a victim of terrorist violence and the commissioner. So, we have a very good relationship there. It was interesting because two victims came: one who had suffered in the Abercorn bombing way back in the early part of the Troubles and another who had been injured in a bombing much later on in the Troubles. That meeting was very helpful. We will have the particular circumstances of Northern Ireland, whether in respect of mental health or the Troubles, very much in mind.

Mr Campbell: Will the Minister outline the training undertaken by the health professionals who conduct the medical assessments?

Mr McCausland: I thank the Member for his question. Once recruited, healthcare professionals undergo training targeted to the benefit areas they work in. They are then subject to audit and only have their appointment confirmed when they have consistently achieved four A-grade reports. Ongoing monthly national audits are carried out using an agreed sample size that has been approved by the Department. New entrants are provided with a personal training plan within three months of their formal approval, and they receive anti-discrimination and mental health training in their first year. Atos Healthcare is obliged to develop and deliver a professional

training programme for continuing professional development as part of its contract, and that programme is developed, delivered and evaluated annually. A training needs analysis is carried out to identify training needs and priorities and is provided to the Social Security Agency by 1 April each year. Once the outcome of that has been agreed with the agency, an outline training plan is produced by 1 June, giving an overview of the training programme for the coming year. Atos is also required to audit areas relevant to training modules undertaken to ensure that the principles of training have translated into good practice — there is no point in having had the training unless it is worked through in practice — and to summarise those results in an annual report.

Social Housing

8. **Mr Craig** asked the Minister for Social Development whether he is aware that MLAs are not informed about social housing building projects until it is contractually too late to have any meaningful input to the decision-making process. (AQO 4682/11-15)

Mr McCausland: I thank the Member for his question because I absolutely agree with him. It is disgraceful that certain housing associations do not properly consult MLAs and locally elected representatives. The concern that the Member has raised has been raised by other elected representatives, and it is one that I can well appreciate. It is imperative that housing associations consult MLAs and locally elected representatives before any scheme is finalised.

Housing associations are required by the 'Housing Association Guide' to ensure that adequate structures are in place to consult all appropriate stakeholders, including prospective neighbours, when considering new projects and purchases of property or land, irrespective of how those purchases are funded. The consultation exercise must be appropriate to the type and scale of the scheme proposal and conducted in a time frame that allows for real engagement and the resolution of issues. The 'Housing Association Guide' suggests that that should be a minimum of six weeks. Furthermore, consultation is a prerequisite for scheme and grant approval by the Housing Executive.

Typically, associations may choose to write to MLAs, councillors and neighbours to advise of development proposals. However, I am not happy with that, and I plan to do some work on

the 'Housing Association Guide' as to whom housing associations must consult when they consider a scheme for development. There are some examples of housing association good practice in this, but I want to ensure that there is consistency of approach across the sector. They may, if appropriate, follow up with public meetings, and that would be useful as well.

Genuine and earlier consultation is critical to the success of social housing schemes. If the Member has specific evidence of housing associations not undertaking consultation as required in the guide, I ask that he provides that information to my officials, who will investigate it.

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

Mr Craig: I thank the Minister for his detailed answer. I can give him good and bad examples of consultation by housing associations. Who approves the consultation process with housing associations?

Mr McCausland: The consultation policies and procedures used by housing associations are approved by the board of each of the housing associations. Housing association staff are required to advise their organisation's development committee of the outcome of each consultation exercise. However, as I indicated in the initial answer, it is a matter that I have taken a particular interest in because of issues that have been raised. We are determined to take forward some work in that regard to ensure that, when a grant is being given out, it is in response to the needs of a scheme that has been well consulted on. One of the points here is that local elected representatives bring a breadth and knowledge of the local situation that people in a housing association that may well be based many, many miles away do not have. The MLA or councillor will be working in that area day by day, week by week, year after year. They will have built up a body of knowledge about the area, and they know the local communities. That advice should be sought. It is wrong if a housing association does not seek that local knowledge in order to benefit from it.

2.45 pm

Agriculture and Rural Development

Rural Development Programme

1. **Mr Hilditch** asked the Minister of Agriculture and Rural Development, given that the next rural development programme is due to start in January 2014, whether she agrees that to minimise delay, reduce delivery delay, make for a smooth transition and get money on the ground speedily, it is imperative that the current clusters and local actions groups are retained. (AQT 151/11-15)

Mrs O'Neill (The Minister of Agriculture and Rural Development): Obviously, it will be our intention to make sure that we are able to spend when we have our new allocation of funding. We do not have the final amount yet, but obviously, when we do and we have our systems and programmes in place, we will want to get that spend out as quickly as possible. You will be aware that the new programme is currently out to consultation. As part of that, we have to look at the current structures, how they have worked and whether they have been effective in the past and, obviously, learn from any examples that we can take from that. That is the job of work over the next number of months. It will certainly be my intention to make sure that we spend effectively and quickly and to ensure that we have systems in place, in practice, to be able to go as early as possible.

Mr Hilditch: I thank the Minister for her answer. Further to the rural development programme 2014-2020, will the Department of Agriculture and Rural Development (DARD) place more emphasis on the LEADER initiative to ensure that we take advantage of the higher co-financing rate and, thus, reduce the finance required through our national funds?

Mrs O'Neill: As I said, we are out to consultation, and everything is up there. I am very open-minded about taking cognisance of all of the feedback that we get as part of the consultation. There are very clear examples and lessons to be learned from the current programme, and there are ways in which we can improve things, but I am very much wedded to the LEADER approach. It is the best method, but, as I said, I am happy to listen to all the views as part of the consultation.

Farming: Financial Assistance

2. **Dr McDonnell** asked the Minister of Agriculture and Rural Development whether, given the financial difficulties that arose in the farming community as a result of the bad weather last spring and the fodder crisis that ran alongside it, she has any plans to bring forward various farm payments, such as the single farm payment and others, to ease the financial circumstances faced by farmers; and whether she can confirm that all hardship and fodder crisis payments have been made. (AQT 152/11-15)

Mrs O'Neill: Absolutely. The start of the year, with the snow, was a particularly bad time for the farming community. Then we had the issue with fodder and the fodder crisis, and we had to establish the fodder task force, which, in my opinion, has worked very effectively. At the time, we dealt with the initial problems and were able to get hauliers and transport in fodder that we were able to distribute to the farming community. That task force has met four times and has agreed that it will meet as and when required over the next number of months. It has very much been involved in planning for the winter ahead. We have had a good summer with a good growing season, and we are in a positive position at this moment, but who knows what the winter will bring? We are very open. We have been working with farmers in preparing for the winter ahead, and that is a key area of work, given the winter that we have just come through.

Mr Deputy Speaker: I call Dr McDonnell for a supplementary question. I remind Members that it is one question only.

Dr McDonnell: Sorry. Can the Minister confirm whether all hardship payments have been made and whether future payments or payments due shortly will be brought forward?

Mrs O'Neill: The majority of hardship payments have been paid. There are a very, very small number — I am talking single figures — who, for some technical reasons or bank reasons, have not been paid. The majority — 99.9% — have been paid. With regard to getting support out to farmers, I was happy yesterday to announce that, because of the exchange rate advantage that we were able to avail ourselves of this year, we have been able to add an extra £16 million to the single farm payments for this year. That is real money in the pocket of the farmer, so it has been very much welcomed. It is my aim to get the maximum number of payments out in December.

Mr Deputy Speaker: I remind Members not to talk unnecessarily and to allow the Minister to answer the questions.

Snow Crisis: Cost

3. **Mr McKay** asked the Minister of Agriculture and Rural Development whether she can confirm the cost of the support, including British and Irish helicopter assistance, received during the snow crisis at the beginning of the year, which affected much of the North, and in particular my constituency of North Antrim. (AQT 153/11-15)

Mrs O'Neill: As the Member has rightly said, we needed the assistance of the British Ministry of Defence (MoD) and the Irish Air Corps during the heavy snow. At my request, they provided helicopter support that allowed us to get much-needed fodder onto the hills and into hard-to-reach areas. I am pleased that they were both happy to come forward with that support. At this point, I am pleased to confirm that the Irish Government have said that they will not ask for any reimbursement for the cost of their helicopters. However, the Department has received a bill of around £640,000 from the British MoD.

Mr McKay: Go raibh maith agat, a LeasCheann Comhairle. That is a significant cost to the DARD budget. Given that the British MoD charges in such circumstances, would the Minister, for future planning, consider availing herself only of resources for which costs are waived, especially in humanitarian circumstances such as this?

Mrs O'Neill: It was an emergency situation, and the use of the helicopters was an absolute must. It was positively welcomed by the farming community and was a necessary lifeline to get feed to livestock. Obviously, it costs money to run a helicopter, but the fact that the Department has a bill for £640,000 would make me think about where I would look for support if I needed to ask for it in future. I am happy to confirm that I am challenging the bill with the British MoD. I have written to the MoD asking it to waive the bill, given that it was an emergency situation. If we found ourselves in that situation in future — I hope that we will not — costs would be a factor in the services that we would deploy.

Rural Development Programme

4. **Mr McAleer** asked the Minister of Agriculture and Rural Development what the implications

are for the rural development programme of the British Government's decision not to seek additional EU funding for pillar 2. (AQT 154/11-15)

Mrs O'Neill: From the start, I always said that I was disappointed that, when it came to the overall EU budget, the British Government went to the negotiating table with a negative view, calling for a reduced budget. That was discussed at Westminster, and the parties on the opposite Benches agreed with that position. That said, we do not yet have a final settlement for the rural development budget, but we are of the view that it will be a reduced budget. We face a reduction of about 22%. That will be an issue for us in the time ahead. The implications of that are that we will have to be very effective in how we design the new programme and how we spend the reduced budget. Obviously, there are needs in the industry, we have environmental needs, and rural communities have needs. As I said, we are out to consultation and want to hear views from as many people as possible who have had experience of the rural development programme, know the benefits of it and the areas in which things can be improved. I am happy to look at all that in the round.

Mr McAleer: Go raibh maith agat. Does the Minister envisage that rural community-based organisations that provide basic services will be included in the new programme?

Mrs O'Neill: Yes. To date, the bottom-up approach has been very good, and communities have come forward with their ideas. The best way to do business and to spend the rural development programme's budget effectively is for them to ask for support for their ideas. In moving forward, I welcome some of the priorities that the EU has identified, particularly around tackling poverty. I am keen to make sure that we are able to bring something forward in that area and in new areas of support such as R&D. Research and development and innovation funding are very helpful, particularly if we are looking towards a more competitive and balanced food chain. We need to work on a number of areas. As I said, we are out to consultation, and I want to hear people's views.

We can point to excellent successes, particularly the strategic projects. I visited some excellent projects, particularly over the summer when I had a chance to get out and about. If we are serious about sustaining rural communities and creating thriving rural communities, the rural development programme

has to deliver for the rural community in its entirety.

China Visit

5. **Ms McGahan** asked the Minister of Agriculture and Rural Development how successful she believes her recent trip to China to have been. (AQT 155/11-15)

Mrs O'Neill: I returned on Saturday evening. I was there last week at the invitation of the Chinese People's Association for Friendship with Foreign Countries, and it was a very effective visit. I was guest speaker at the fourth Sino-European Agricultural Conference, and that was my primary reason for the visit. When I was there, I took the opportunity to secure meetings with those in government charged with processing export certificates. It was important to get that meeting, particularly in relation to pork. My visit also afforded me the opportunity to enhance the links that we have created with China, so I have to say that it was very useful.

Ms McGahan: Go raibh maith agat. I thank the Minister for her response. Does she think that these trips and the contacts that she makes while there are useful?

Mrs O'Neill: I absolutely do. At the recent Balmoral show, one of the things that the industry was calling for was for the Executive to get involved in these trips — to go out and seek business, build relationships and enhance existing relationships. This trip was another part of that. One of the most successful aspects of the trip was that the Chinese Government will now prioritise our export certificates for pork. The pork industry has been calling for that, so that was a very effective outcome.

I made my keynote speech to over 100 delegates from across Europe, so we were able to create relationships across Europe and with the Chinese Government. I was able to clearly put out the message that we have high standards of traceability, fantastic food safety and a wholesome agrifood industry. That was all very beneficial and helped us to build on the links that OFMDFM commenced last year on its visit to China. The Chinese are very much into building and enhancing relationships. That is how they do business, and that is how we will get into that market.

Mr Deputy Speaker: Mr Jonathan Craig is not in his place.

Single Farm Payments

7. **Mr Byrne** asked the Minister of Agriculture and Rural Development what the ramifications for the agricultural community are if 50% upfront single farm payment grants are not paid in October, and what she believes can be done to rectify the problem. (AQT 157/11-15)

Mrs O'Neill: The Member refers to part payments. As I have said previously to the House and the Committee for Agriculture and Rural Development, my objective is to finalise and pay as many single farm payments as we can in December. Last year, we paid over 82% in December, and I want to improve on that figure this year.

I recognise the importance of trying to get as big a payment to farmers as quickly as possible, and I want to be in the position to make advance payments in the future. Unfortunately, we are not in that position at the moment because of the difficulties that we have had with Europe over our mapping system. That is where the priority work has been over the past wee while, but we have made improvements that will allow us, as quickly as possible, to get to the position in which we can make advance payments. In particular, we will increase the number of inspections carried out using remote sensing. We went from 250 last year to 1,140 this year, so that is quite an improvement. We are also encouraging more online applications, which allows us to process applications quickly. A combination of all those things will get us to the position in which we are able to make advance payments as quickly as possible. I assure the Member that my priority for this year is to process the maximum number of payments and get the maximum amount of money into farmers' pockets by December.

Mr Byrne: Is the Minister content that officials are doing everything in their power to make sure that the mapping problem is solved?

Mrs O'Neill: I am content that I am putting enough pressure on officials so that they know that I want the mapping system to be completely up to speed, up to scratch and acceptable to Europe. I am content that I am fulfilling my role in making sure that that pressure is applied. I am also content that they are working very hard. Remapping 750,000 fields is a massive piece of work, and we have to accept that.

We have made progress, although there is a way to go. The Department continues to work with Land and Property Services on field

parcels, and we are working our way through that. I think that you will see even more improved maps this year. When our maps are right, when we continue to increase the number of inspections by remote-control sensing and when we have more people coming forward with online applications, we will be in a position, very quickly, to bring forward advanced payment.

3.00 pm

Mr Deputy Speaker: That ends topical questions. We will move on now to questions for oral answer. I advise Members that questions 2, 11 and 15 have been withdrawn.

Land Parcel Identification System

1. **Mr Girvan** asked the Minister of Agriculture and Rural Development, given the number of errors within the new mapping system, whether these errors have been satisfactorily rectified. (AQO 4690/11-15)

Mrs O'Neill: Yes. I am now confident that I have in place a mapping system that, first and foremost, is compliant with the European Commission's regulatory requirements on providing a maximum eligible area for each field parcel. More detailed work is now under way on some key areas requiring attention, such as the mapping of common land parcels and the updating of older orthophotography. Early difficulties with missing fields have been resolved, although it is always the case that there can be individual instances where inaccuracies have to be resolved. It remains the claimant's responsibility to bring those inaccuracies or other changes to the Department's attention. A significant update to maps will occur at the beginning of 2014, but it will always be important for farmers to remain vigilant, to check their maps and to ensure that they are updated. I have always said that this is a two-way partnership between the Department and the farmer.

Mr Girvan: I thank the Minister for her answer. Does that mean that payments can and will be processed and out any way early and that this process has been successful? We are aware that, in the past, it has dragged on for some time before some farmers received their single farm payment.

Mrs O'Neill: As I said, I intend to make sure that we pay out the maximum amount of money and pay the maximum number of farmers in December. That is the target for this year. A

lot of work is going on in the Department, particularly on the mapping exercise and making sure that it is fit for purpose, appropriate and acceptable to Europe. We have made a lot of progress on that. My priority for this year is to get the payments out as early as possible. We made 82% well within the target for December last year. However, I would like to go even further this year and to have more money out and more farmers paid in December.

Mr McAleer: Will the Minister elaborate slightly on the single farm payment and the claims?

Mrs O'Neill: Of the 37,585 single farm payment claims submitted in 2012, 98.6% were finalised by 30 June last year. A total of £243.4 million had been paid out, and that was 99% of the total estimated value of the 2012 claims. The Commission requirement to pay at least 95.24% of the 2012 budget by 30 June was met in early April 2013. I intend to publish the payment timetable for this year in November. It will clearly set out the targets for this year, which will be the targets for December, January, February and right through. As I said, my aim is to pay the maximum number of farmers the maximum amount of money as quickly as possible in December and to improve on the percentage that we achieved last year.

Fuel Poverty: Rural Areas

3. **Mr F McCann** asked the Minister of Agriculture and Rural Development whether her Department will take additional measures to tackle fuel poverty in rural areas. (AQO 4692/11-15)

Mrs O'Neill: I am concerned about the impact of rising fuel costs, particularly on the vulnerable in rural areas, who are limited in the choice of fuel that they can avail themselves of and do not have access to cheaper alternatives such as mains gas. Addressing fuel poverty is, therefore, a key objective in the financial poverty priority area for intervention, which is detailed in DARD's Tackling Rural Poverty and Social Isolation framework.

The warm homes scheme is DSD and the Government's primary tool in tackling fuel poverty. My Department has collaborated effectively with DSD in the past and has provided supplementary funding to the warm homes scheme, ensuring that many vulnerable rural households that otherwise would not have been supported received much needed home energy efficiency measures such as insulation and central heating systems. I am committed to continuing that support for the incoming winter.

My Department has also provided supplementary funding support to the Power NI free insulation scheme, which also installs insulation packages to low-income rural households.

I remain committed to taking action to address the challenges facing people who live in rural areas and to improving their quality of life. I will continue to work with key stakeholders to ensure that action is taken to target fuel poverty in rural areas.

Mr F McCann: I thank the Minister for her answer thus far, but will she provide more detail of the outcomes of her work in tackling fuel poverty in rural areas?

Mrs O'Neill: We have been successful in the work done to date under the previous anti-poverty framework. In 2008-09, 700 rural homes received insulation and central heating systems through DARD providing £380,000 of top-up to the Department for Social Development's warm homes scheme. That ensured £3 million of the DSD spend that would not otherwise have occurred.

During 2009-2010, DARD collaborated with the DSD and NIE Energy, providing £250,000 to fund the insulation of 300 low-income rural homes that could not be supported through the warm homes scheme. During 2010-11, DARD worked with the DSD and the warm homes scheme implementation agents to assist the targeting of hard-to-reach rural dwellers. DARD also increased the number of rural referrals to the DSD warm homes and insulation schemes through the maximising access to grants, benefits and services project.

Building on the success of the previous anti-poverty framework, DARD provided £23,000 of top-up to the DSD warm homes-plus scheme and grants for four hard-to-treat rural properties in 2011-12 through the current tackling poverty framework. DARD also provided £390,000 in 2011-12 to supplement the Power NI free insulation scheme, which was also supported through the sustainable energy programme. DARD funding resulted in an extra 578 vulnerable dwellers benefiting from the loft and cavity wall insulation scheme. Last year, DARD provided £224,000 to supplement the Power NI free insulation scheme again. That intervention resulted in an extra 323 vulnerable rural dwellers benefiting from the scheme. There has been a lot of positive work, and I want to continue to do more of it.

Mr Campbell: The warm homes scheme is excellent, and many people have benefited from it. However, will the Minister outline what she is doing on supplementary assistance to the scheme to ensure that people, particularly those in rural areas who do not have broadband access, have knowledge of the scheme and access to it?

Mrs O'Neill: That is a valid idea: if people do not know about it, they cannot benefit from it. For me, the benefit of the money was that it was mainly leverage money. We are able to attract more money from DSD because DARD is putting forward something to enhance DSD's scheme. The cost of insulating a rural property with solid walls because of its age is usually more than the maximum £6,500 that DSD can provide. For me, this is a key and necessary area of support, but I will certainly look at how we advertise this and get the message out. That is key. I know that we use rural community centres and GP surgeries, but I will take another look to make sure that we get that message out effectively.

Mr McNarry: The Minister said that she is concerned about fuel poverty, and I do not doubt her. Why, then, is she taking an ideological stand on something that could ease fuel poverty for all of us in Northern Ireland, namely fracking? Is that an indication that she will be more content to release departmental land for wind turbines?

Mrs O'Neill: It is fair to say that the process of fracking has not been proved to be safe. If the Member has information to suggest otherwise, he should come forward with it. What I said in the media this week was that there is considerable potential for DARD lands to provide sustainable and environmental benefits and to look at renewables. I am totally committed to looking at all those things and assisting rural communities where possible regarding the add-on benefits that those can give to them. In my opinion, fracking poses —

Mr McNarry: That is your opinion.

Mrs O'Neill: It is my opinion that counts. In my opinion, fracking causes a real risk to farming and rural communities. I will make sure that that is the ethos that is carried through during my term at the Department. I think that, if fracking were to go ahead in any part of this island, it would cause international damage to the reputation of Ireland as a whole, to our environmental practices and to the clean and green image that we have. That is the position that I have adopted.

Mr McNarry: Shame.

Mr Deputy Speaker: Whatever you feel about fracking, I am not happy about people shouting from a sedentary position.

Mr McNarry: I am sorry, Mr Deputy Speaker.

Ash Dieback

4. **Mr Hilditch** asked the Minister of Agriculture and Rural Development for an update on ash dieback disease. (AQO 4693/11-15)

Mrs O'Neill: By 25 September this year, inspectors had visited 887 sites and found only nine new cases of Chalara infection. Together with the 77 cases found during 2012, 86 sites have been declared infected. In all cases, the source of infection was young trees planted since 2006. Scientists advise that there is a significant risk that the disease may spread from young ash trees to older trees and hedgerows through the release of spores from infected leaves that have fallen to the ground. Although inspectors found that only a small proportion of trees showed symptoms, they ordered the destruction of over 70,000 associated young planted trees and leaf debris because the disease may be present without obvious symptoms. Scientists also advise that, once the disease begins to circulate in the wider environment through the release of spores, control will become very difficult. Affected ash trees were also destroyed at three trade premises.

In July this year, I jointly launched the all-Ireland Chalara control strategy with Minister Tom Hayes in Dublin. The strategy provides a framework for the implementation of our policy of identification, control and eradication of the causal agents of ash dieback in Ireland.

The EU Standing Committee on Plant Health is considering the legislative action that has been taken by us, the South and Britain and has asked us to show that our control programme is effective and that we make an application for protected zone status against the disease. Consequently, we will continue our surveillance into the autumn until after leaf fall, because scientific understanding suggests that the conditions for spread in the wider environment probably exist on the island of Ireland.

Mr Hilditch: I appreciate the Minister's answer. It was established that the supplier of the diseased trees to forestry projects in Northern Ireland was traced to certain premises in the

Irish Republic. Has any action been taken against those premises or legal advice sought?

Mrs O'Neill: It is not for me to comment on that. As I said, the biggest risk to us with regard to ash dieback is via trade. There are no barriers to trade right across Europe. However, at present, we are looking actively at bringing forward statutory pre-notification. I intend to talk to the Committee for Agriculture and Rural Development about that over the coming weeks because we need to look at the potential risks. Some of those risks relate to four particular species that we are concentrating on for pre-notification status: ash, oak, sweet chestnut and plane trees.

I have very much taken an all-island approach because we are one island. We need to cooperate. With regard to the efforts that Britain has been involved in, it was at a very different disease stage. It would not have made any sense simply to do what Britain is doing. You have to look at plant health in the same way as animal health: on an all-island basis, with regard to trade and benefits to the island. That is why I launched the all-island strategy with Minister Tom Hayes. The good thing about that strategy is that it can easily be adapted to changing circumstances, so, if we find ourselves with a change in disease risk status, we will be able to adapt it. I keep in regular contact with Minister Hayes on the issue.

Mr Rogers: With regard to the all-island approach, will the Minister detail what discussions she has had with Agriculture Minister, Simon Coveney, on the matter?

Mrs O'Neill: In plant health, the way in which the system works in the Dáil means that Tom Hayes is the Minister who is responsible. I engage regularly with Mr Hayes, and I have done so over the past number of months. As for conversations with Simon Coveney, we have discussed the issue at North/South Ministerial Council level. Currently, because of ash dieback, overall plant health is, obviously, one of the main topics of conversation. We are actively working towards an all-island plant health strategy because the island is one epidemiological unit. We need to work effectively together. In the past, the fortress Ireland approach served us very well.

Fodder Task Force

5. **Mr Ross** asked the Minister of Agriculture and Rural Development for an update on the fodder task force that was launched in spring 2013. (AQO 4694/11-15)

Mrs O'Neill: In May, I established a fodder task force to consider the issues facing the livestock industry in the following 12 months and to produce an action plan to mitigate the effects of any potential problems. The fodder task force brought together representatives of ancillary agrifood industries, including feed suppliers, banks and food processors, together with stakeholder organisations and DARD officials.

In July, task force members agreed an action plan that was published on the DARD website. Over the summer, they have been working together to implement it. They have met four times. Although they do not intend to meet as a group until midwinter, they will get together in the interim if a situation develops and new actions are required.

On 18 September, I met stakeholder organisations representing livestock farmers to listen to their assessment of how well farmers were prepared for the months ahead. It was good to hear that the favourable grass-growing conditions during the summer, coupled with the advice that DARD has been involved in delivering, have ensured that farmers are now better placed to mitigate or avoid a fodder situation in the winter ahead. There are still actions that farmers can take to plan for the winter, and DARD will continue to provide advice and support to ensure that farmers are well prepared. A comprehensive programme of workshops, advisory events and publications will be produced by CAFRE to help farmers stocktake their individual fodder supplies and make the most efficient use of the fodder available. In the longer term, I am actively considering the potential of a land improvement scheme. I believe that the joint approach of government and the agrifood industry, by taking responsibility and dealing collectively with the problems facing the industry, is the most effective approach to ensure that another fodder crisis is averted in the winter ahead.

3.15 pm

Mr Ross: Does the Minister agree that the success of the scheme was largely down to a number of haulage contractors who imported feed into Northern Ireland? Will she ensure that any outstanding money is paid to those contractors without further delay?

Mrs O'Neill: I absolutely agree that the scheme's success was because of the partnership approach. All the stakeholders came together, and we were able to establish the task force. I am assured that very close to 100% of the hauliers have been paid. The

Department is working through the issues with anybody whose payment is outstanding. We obviously want to pay them as quickly as possible for the vital service that they provided over the past number of months.

Mr Boylan: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as ucht a freagra. Will the Minister indicate to the House what organisations are represented on the task force?

Mrs O'Neill: The success of the task force has been down to the fact that all the key players came together, including the banks, the Ulster Farmers' Union, NIAPA, the Grain Trade Association, the Meat Exporters Association, Dairy UK, NIFDA and Rural Support. I have said in the House before that this has been a difficult time for the farming industry, and we need to put a lot of emphasis on the fact that farmers need a lot of emotional support. Rural Support's involvement was key, and we were delighted that it was also at the table. Part of the discussions were around what assistance it can provide to rural communities and farmers who are struggling financially and practically because of all the problems presented to them over the past, I suppose, 18 to 24 months.

Mrs D Kelly: Will the Minister indicate whether she has given any consideration to examining the amount of land in public or, indeed, private ownership that might be used for fodder? I am sure that, like me, she has noticed that huge swathes of land have gone to waste over many years. Will she bring that matter to the attention of the task force for some innovative thinking?

Mrs O'Neill: That is not an area that the task force looked at, but that it is an innovative way to look at things. I am happy to relay it to the task force. We do not want to see any wastage, so, if we can make hay while the sun shines, that is what we should do.

Mr Lyttle: Will the Minister set out her reasons for deciding against extending the fertiliser season beyond 15 September, unlike her counterparts in the Republic, as a way to increase fodder stocks?

Mrs O'Neill: We have two very different nitrates action plans in place, and ours is a lot more generous all year round. That is the distinct difference between what the South is doing and what we can do. Ultimately, it is a Department of the Environment decision. That having been said, it is something that I discuss with the DOE. There is not the evidence to suggest that there is enough financial benefit derived to

extend the period. The farmer would not get enough growth for the amount that it would cost to spread. We take decisions based very much on scientific evidence, and the fact is that the scientific evidence was not there to support extending the season. Even if we were able to extend the date, it would affect only a relatively small number of farmers. As I said, I will base my decisions on the evidence, and the evidence suggests that there would be no real economic benefit for the farmer.

Mr Deputy Speaker: The Member has indicated that he wishes to withdraw question 6 because it was covered during topical questions. However, I remind Members that questions must be withdrawn by noon. For the record, the Member is not in his place.

Jim Wells is not in his place for question 7, but I assure — *[Interruption.]* Order, please. I assure Members that there is a perfectly good reason for that.

Antibiotics

8. **Ms Brown** asked the Minister of Agriculture and Rural Development for her assessment of the use of antibiotics in livestock and poultry production. (AQO 4697/11-15)

Mrs O'Neill: Antibiotics have been widely used in the livestock and poultry industries across the globe since their discovery more than 50 years ago. They are an important tool in treating animal diseases and thereby aiding in the production of animal products such as milk, meat and eggs. It is important, however, that farmers use antibiotics only when they are needed; keep good records of all antibiotics used and the identity of animals treated; and abide by the recommended withdrawal periods. That, of course, applies to the use of all veterinary medicines.

My Department, along with the Department of Health, Social Services and Public Safety, is responsible for implementing controls on the use of veterinary medicines, including residue surveillance and inspection of establishments that produce and market animal feeds and feed ingredients.

The Department is funding a three-year Agri-Food and Biosciences Institute research project on the use of antimicrobials, which, coincidentally, begins today. The project will provide an increased understanding of the issues surrounding antimicrobial resistance and the current use of veterinary antimicrobials here.

In collaboration with DEFRA, the devolved Administrations and the Department of Health, Social Services and Public Safety, I recently endorsed the five-year resistance strategy, which was published last month. The strategy aims to improve the knowledge and understanding of resistance; conserve and steward the effectiveness of existing treatments; and stimulate the development of new antibiotics, diagnostics and novel therapies. My officials are considering the associated action plan.

Ms Brown: I thank the Minister for her answer. She will be aware of the public concern about antibiotics given to animals that are in the food chain. Is she aware of any instances when antibiotics have been added at low doses to the feed of otherwise healthy animals to control growth and disease?

Mrs O'Neill: It is not an issue that is on my desk, but I absolutely agree with your first point about concerns. There is a consumer confidence issue. People want to be assured that there have been very tight controls on what they are eating and want to know exactly what they are getting. The recent issues with horse meat have further knocked confidence in our supply chain. So, whilst we have very effective traceability in place, including the management of antibiotics and their administration in animals, and while farmers are, in the main, very responsible with their use of antibiotics, I want to see a more proactive approach to animal disease and animal health. As opposed to always just treating sickness, we should look at production diseases, and there is more of an effort towards that now around BVD. We also need to make sure that there is no underhand use of antibiotics. If the Member is aware of anything in particular, I would be happy to talk to her outside of Question Time.

Round the World Clipper Race

9. **Mr McCartney** asked the Minister of Agriculture and Rural Development whether the Loughs Agency is involved in the preparations for the return of the round the world clipper race next year. (AQO 4698/11-15)

Mrs O'Neill: The Loughs Agency was a key member of the steering committee for the Clipper Round the World Yacht Race in 2012 and has offered its services to Derry City Council in that respect for Clipper 2014. For the Clipper event in 2012, the agency provided sailing taster sessions and facilitated the experience of sail for those who may not otherwise have that opportunity. Other activity

included a full moon paddle by canoe along the River Foyle and a seafood festival. The Loughs Agency is exploring opportunities to similarly animate the Foyle with marine tourism activity during Clipper 2014. The marine event platform — or the pontoon — that was constructed in 2012 through the agency's EU INTERREG programme remains a key piece of infrastructure for the Clipper race. Indeed, the Clipper organisers praised that facility as being the best they had availed themselves of anywhere on their voyages around the world. That is positive, and we can be very proud of that.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as ucht a freagra. I thank the Minister for her answer. Everybody in Derry understands the importance of Clipper and, indeed, understands the great work that the Loughs Agency does. Can you outline any other programmes that the Loughs Agency will roll out in the next couple of years?

Mrs O'Neill: The Loughs Agency is very much involved in looking at the whole tourism aspect and what it can do to promote tourism. Aquaculture is another area that it is very interested in, and I am delighted to see that. We should exploit the natural resource that we have, which, in Derry, is very much valued. So, it is involved in doing a lot of that work. It is also engaged very much with the City of Culture, and the agency brings any aspects that it can to make that even more of a success. In addition, the agency had a key role in supporting the angling element to the World Police and Fire Games, so it has been effective in, I suppose, thinking outside the box and engaging with other agencies on how it can best promote the Foyle and surrounding area.

Bovine TB

10. **Mr McKinney** asked the Minister of Agriculture and Rural Development what discussions have taken place with the Minister for Agriculture, Food and the Marine about tackling bovine tuberculosis on an all-island basis. (AQO 4699/11-15)

Mrs O'Neill: I regularly meet Minister Coveney both in the context of the North/South Ministerial Council and separately, as necessary, to discuss a range of issues, including matters that relate to animal health on the island of Ireland. Under the North/South Ministerial Council arrangements, there is a TB and brucellosis working group comprising key veterinary and policy officials from across the

island. It meets two or three times a year to exchange information relevant to the control and eradication of TB, including possible areas of cooperation. In addition, my officials and Minister Coveney's are in regular contact to discuss all aspects of bovine TB.

My Department has a rigorous EU Commission-approved bovine TB eradication plan, which is vital in safeguarding our export-dependent trade in livestock and livestock products, which is valued at over £1 billion each year. The South has similar EU Commission approval for its TB eradication plan. The TB herd and animal testing programmes right across the island comply with the EU trade directive.

Mr McKinney: I thank the Minister for her reply. Are the Minister and DARD committed to a joint North/South approach to tackling bovine TB?

Mrs O'Neill: Yes, I have an all-island animal health and welfare strategy in place that looks at the whole gamut of animal disease. It is primarily aimed at how we can remove all the barriers to trade, and disease is one of the biggest barriers that we have. We have officials across the island working on that strategy, and Minister Coveney and I regularly engage on it. We also have the upcoming EU animal health and welfare law, which, we believe, will give us the vehicle that will allow us to facilitate the free movement of cattle across the island. To me, the potential benefits of that will be phenomenal to the whole industry on the island, particularly as we attempt to grow that industry.

Mr Elliott: Has the Minister or the Department considered changing the on-farm testing method to trace bovine TB?

Mrs O'Neill: The Member may be aware that I announced on 17 September that I would establish a government/industry partnership to look at the whole area of TB. I said at the time that we needed to look at the whole range of issues again. We have effective work ongoing with our TB eradication plan, which is approved by Europe and allows us to draw down £4 million in funding to help us eradicate TB. I am also going to have the strategic partnership look at the entire issue. We need to look at compensation, the eradication plan that we have in place and the results of the test, vaccinate or remove (TVR) practices that we have, going forward. I am open-minded about looking at everything again to make sure that we do everything that we can. We want to drive out this disease. We want to have a strategy in place, and we need to be open-minded in looking at all aspects of it, including, as I said,

compensation, the badger and all the issues in regard to TB. It is a complex disease. There is no quick fix, but, strategically, we have to look at it from that angle.

Mr Deputy Speaker: Question 11 has been withdrawn.

Rural Development Programme

12. **Mr Sheehan** asked the Minister of Agriculture and Rural Development whether the new council structures, following the review of public administration, will be taken into account in the rural development programme 2014-2020. (AQO 4701/11-15)

Mrs O'Neill: My Department's proposals for the next rural development programme are currently out for public consultation. As part of that consultation, we are seeking views on the options for delivery of a future programme. The EU proposals for rural development require a minimum of 5% to be delivered using the LEADER approach. Although seven local action groups were established in the current programme, the review of public administration (RPA) will mean that the LEADER local action groups will be reformed, in line with the new council areas and boundaries.

There would still be an option to cluster councils together in line with the new boundaries, if it was felt that fewer than 11 local action groups would be more cost-effective, easier to administer and there might be greater impact of the funds in the combined area. As I said, these are some of the areas that are out to consultation at the moment and on which I am seeking views.

My Department is not transferring any functions to councils as a result of the RPA. However, I am considering how local government will be involved in the next programme, through the LEADER approach and directly with my Department.

3.30 pm

Mr I McCrea: On a point of order, Mr Deputy Speaker. I apologise for not being in my place for Social Development questions. I was in another meeting, and when I got to the back door I heard that I was not in my place. I thought it better not to come in late. I apologise to the House and the Minister for missing the question. *[Interruption.]*

Mr Deputy Speaker: Order, please. The law about shouting across the Chamber still applies.

Executive Committee Business

Local Government Bill: Second Stage

Debate resumed on motion:

That the Second Stage of the Local Government Bill [NIA 28/11-15] be agreed. — [Mr Durkan (The Minister of the Environment).]

Lord Morrow: When we stopped, I was nearly finished but just not quite. Therefore, I will not detain the House too long. However, there are a couple of issues about the Bill that I would like to bring to the House's attention.

There are not many, no matter what form of society or walk of life they are in, who like change. Somehow, we do not adapt to change very quickly; or at least, at the beginning, we resist it. I think that one of the biggest challenges, or one of the great concerns, for the new administrations when they come into place — others may have touched on it, but I cannot recall who it was — will be the potential disappearance of localism. The existing structures were formed under the Macrory report in 1972 and 1973. When those reforms came into place, there was little lead-in time; it was one way today, and it seemed to be that the new system just appeared and everybody got on with it. However, that is not proposed in this Bill. There will be a time for everybody to get acclimatised, as it were, to the new system. Not everybody fully understands that. Indeed, a lot of people — I would be one of them — feel that it is hardly necessary either, but that is by the way. Maybe it is easy for me to say that since I will not be part of it, but then I came in from the cold to the new system and it was not part of anything.

In their contributions, Anna Lo and Dolores Kelly made great play of the fact that they felt that their parties were, at times, discriminated against and that they did not get their fair share of mayoral positions. Well, let us —

Mr McCarthy: Will the Member give way?

Lord Morrow: I will in a second, after I tell you my story. *[Laughter.]* Does it take them as long to get round to sharing in Mr McCarthy's council as it does in Dungannon? I tell you, it took 36 years for the DUP, which had representation for all those years in the council, to get its shared bit. I do not know whether your council moves

as quickly or as slowly as that, but I did say that I would give way, and I will.

Mr McCarthy: Lord Morrow, I am grateful to you for giving way. I was not going to contribute, but I was listening. How would you consider it if a member served on a council for, in my case, 28 years and had applied for a position of deputy mayor and mayor on eight occasions and was never given that opportunity? Yet, I can remember quite clearly one occasion when a DUP man came in following an election and was elected deputy mayor after one year. Do you not think that what is proposed today will eradicate that for the future? I will not be part of it, and you will not be part of it, but at least we will be making progress.

Lord Morrow: You did not do so badly at 28 years. As I said, it took me 36 years to get Dungannon council round to the way that maybe others should be given consideration. If it takes 36 years to make it happen in Dungannon, and it took 28 — I do not think that the Alliance was held out of post for 28 years in your council.

Mr McCarthy: I was.

Lord Morrow: Well now, here we go, you see.

Mr Campbell: I thank the Member for giving way. Does he agree with me that sometimes when we are talking about these issues a perception emerges, particularly from those who are of a nationalist disposition serving on unionist-controlled councils, that they have, in some way, been frozen out for a long time, and they are looking for some comfort that that will not happen again? This is a two-way street. This morning, Mrs Kelly referred to the Londonderry/Strabane area, where Sinn Féin has taken both the chairman and vice-chairman positions on the transition committee. In addition, if there is a situation in which unionists are 20% of the voters but get 10% of the posts on the transition committee, it is a two-way process. People should not have the perception that it is nationalists who have been disadvantaged from the 1970s until now and that they are looking for a nirvana or promised land. It is a two-way process.

Lord Morrow: I thank the Member for that point.

Mr Eastwood: I thank the Member very much for giving way. I am sure that he and Mr Campbell will join me in congratulating Derry City Council for its efforts over the years to

involve unionists. Over a term, there are four mayors and four deputy mayors in Derry. Unionists get one mayor and three deputy mayors over the four years, which equates to 50% of the posts.

Lord Morrow: I think that —

Mr Campbell: Will the Member give way?

Lord Morrow: Yes.

Mr Campbell: I cannot let that intervention go. I do not know how to describe it, but it is not accurate. We have to go back only to the mid-1980s, and we all know what happened then when there was a nationalist-controlled council headed by the SDLP. It took decisions that not only marginalised unionists but isolated them for decades. That cannot be covered by saying, "We let you have a mayor the odd year."

Mr Deputy Speaker: Order. I am sure that Members will agree that we really need to get back to the Bill.

Lord Morrow: Mr Deputy Speaker, you pre-empted what I was going to say, which is very similar. Everybody has had the opportunity to air their grievances and points of view on the issue. However, maybe there are lessons to be learned by us all. It strikes me, as I listen to the debate going back and forth across the Chamber, that no side is blameless.

I am sorry to hear of Mr McCarthy's personal tragedy. As you once were, so was I, I can assure you. The only thing is that I had to wait 36 years and you had to wait only 28.

With the changeover, we need to pay particular attention to the part of the Bill that deals with community planning, which will be testing. I can speak with better knowledge about the new council in my area of mid-Ulster, because I have a greater understanding of that area than of others. The mid-Ulster council will take in Dungannon, Cookstown, Magherafelt and their hinter parts, which is a very big geographical area. Within that area, there will be sparse populations and big rural hinterlands. If we are going to do anything in the future, new local government will have to be seen to do what it says. I have a real concern about localism and rural communities feeling somewhat isolated.

(Mr Speaker in the Chair)

In the past, there was debate about whether to have 11, seven or 14 councils. The debate would have been similar, irrespective of the numbers that we arrived at, so it was never going to be easy. However, I suspect and hope that we will be up for the challenge. I do not envy the task of the new councillors who will be in charge of all this and taking it forward, because it will be a difficult circle to square. It will be difficult to deal with community planning because what might work in a rural area will not work in an urban area. The challenge, therefore, will be how the whole thing dovetails. The Committee will have another opportunity to go into greater depth and make sure that, where humanly possible, all the issues are covered.

Finally, we have paid tribute to local government and to councillors who stood up back in the 1970s during the worst excesses of the Troubles. I would also like to pay tribute to the staff in local government because they, too, were, to a certain extent, on the front line and provided an excellent service. I know that many will not go along with the change. They will probably retire, and we wish them well. Some will go across to the new system, so we have to be sensitive about those changes, too. We should not take staff, who have shown a very professional approach over the years, for granted.

Mr Milne: Go raibh maith agat, a Cheann Comhairle. I welcome the opportunity to speak on this very important legislation. The Bill will lead to the transformation and restructuring of local government. It will enable the creation of the 11 new district councils and introduce new governance arrangements, which will protect the rights of all people and provide fair, transparent and effective decision-making. It will allow for a new council-led community plan, a general power of competence and the transfer of a range of functions from central to local government. It will also cater for better partnership arrangements between councils, Departments and the Executive.

Being a public representative on Magherafelt Council for some years, I have experienced at first hand communities' frustrations at the lack of delivery and support for citizens. The Bill is the start of a process that Sinn Féin believes will bring long-term benefits for our people, but that will be done only by ensuring that the proper checks, balances and protections are in place.

I intend to concentrate on some specific aspects of the Bill. Clause 10 covers positions of responsibility. The allocation of internal and

external council positions will be through d'Hondt or a similar method, which is to be welcomed. We need a proportionate and fair way of allocating council positions — mayors, chairs and committee memberships — that is accepted by all elected representatives and political parties.

Clause 65 details a code of conduct. With the transfer of the challenging function of planning to councils, there needs to be a clearly defined set of ethical standards to ensure that relationships and interactions between councillors, constituents, applicants, planning officials and other officers and agents are clear and transparent. That is required as much to protect the interests of councillors and officials as it is to ensure probity from the general public.

I welcome clauses 57 to 59 on the commissioner's role and responsibilities in regard to breaches, and I ask the Minister to expand on the cost of the role in his response. I would also like to know whether there will be an appeals mechanism.

I welcome the formalisation of the partnership panel as stipulated in clause 106. I urge that we examine partnership arrangements and methods that are best practice in other jurisdictions in order to learn what is the most effective system with which to achieve the greatest outcomes. It is important, I believe, in addition to giving the 11 new local authorities a voice at the partnership table, that we allow local government to collectively lobby and present their suggestions to the panel through local government associations, as happens in other jurisdictions. A facility or mechanism is needed to allow that to happen on the partnership panel.

I also welcome aspects of the Department's supervisory powers, although there is sometimes a thin line between the potential for departmental interference and the autonomous rights of a local authority to carry on its duties unhindered. We have to be careful to scrutinise these aspects of the Bill to ensure that the correct balance is struck.

I support the principles of the Bill and look forward to Committee Stage.

3.45 pm

Mr I McCrea: I welcome the opportunity to speak to the Bill. Like my colleague the Deputy Chair of the Committee, I am new to the Committee in the sense of only just getting sight of a lot of the work that it has been dealing with

over the past few years. Nonetheless, I look forward to the Committee's work in scrutinising the legislation — if it gets past today, that is, which I cannot see it not. The Bill is quite large, and there is no doubt that a lot of time will be spent scrutinising it. I certainly look forward to working alongside the Minister and his Department in doing so.

I need to declare an interest as a member of Cookstown District Council. I am proud to say that I am a member of that council. No doubt the Minister has a different opinion on that and is looking to change it, but we will deal with that when we have to. The difficulty of being down the list of Members to speak when you are dealing with a matter such as this is that a lot of Members have referred to similar issues, so it is just a case of rehearsing those. However, like other Members, I will get a chance to do so at Committee when we properly scrutinise the Bill.

I think that all Members are trying their best to ensure that the 10.00 pm finish time is not realised. I will certainly not play any part in getting us anywhere near that. Nonetheless, I think that it is important that we deal with a few issues. My colleague Lord Morrow referred to councils' debts. That issue is very important as we move forward in the process. He was right to refer to the new mid-Ulster council having little debt. Although that new council will have debt of about £2.5 million in comparison with other councils that have debts of £10 million, £20 million, £30 million or £40 million, I do not think that we are in a bad place. It is important that, when we consider the whole process, the ratepayers of the new Cookstown, Magherafelt and Dungannon, or mid-Ulster, council will not have to take on any burden from other councils. That is certainly an important issue for the ratepayers of our new council area. Although we have low debt, it is not for the want of projects that we have delivered, whether they are capital or other projects. I think that all three councils can certainly beat their chests because of the delivery that we have done on behalf of our ratepayers while keeping a low debt and a low rate base. I think that that is something that we all should be proud of.

A number of functions will be transferred to councils. The important aspect in all that is that there is very little, if any, cost to councils. As other Members said, it needs to be cost neutral. Although many would think that it certainly should not be in year 1, the issue is more that that remains the case in years 2, 3 and 4.

My colleague Lord Morrow referred to community planning, as did other Members. Community planning is no stranger to

Cookstown District Council and other councils in mid-Ulster. The challenge for Departments is that they must ensure that they are committed to not only shaping the model but to bringing the finances to the table where needed. That is a very important part of this. Although functions can be transferred, I think that it is very important that Departments send representatives. Mention was made of the possibility of having a chief executive at the first couple of meetings and then having just whoever they can get to go thereafter. That needs to be looked at seriously to ensure that the highest level of representation from Departments, and so on, is in attendance.

It needs to be a bottom-up approach, shaped by councils and the local area, not driven by central government priorities. Councils and people know the issues in their areas. As Lord Morrow referred to, there are issues regarding identity; where the identity in one part of the proposed mid-Ulster council area has nothing in common with that in another part of the council area. If you look at the stretch from Swatragh to Fivemiletown, you will see that, due to the large geographical nature of the proposed council area, there is very little in common between those localities. It is important that, when we deal with community planning, no area gets left out.

The mechanism used to bring partners to the table is also important, and I can think of an example in which our council was able to bring the Department into the council chamber to debate Westlands care home. As a council, we have no real say in how that moves forward.

There is a lot of work to be done in scrutinising the Bill in Committee. I look forward to that. As I said, I will not waste a lot of time debating it today. As we move forward, there will be a lot of work for the Committee to do, and I hope that the Bill passes to the next stage.

Dr McDonnell: On behalf of the SDLP, I support the Local Government Bill. We warmly welcome the work of the Department in getting the Bill to this stage, and I thank our current Minister, Mark H Durkan, and our former Minister, Alex Attwood, for the work that they have done in bringing the Bill before the House.

There are many complex issues involved in the legislation, and we support the Bill, not without some reservations which some of my colleagues will outline as we go through the debate. I emphasise that to have the confidence of local people the new councils must fully reflect and respect their interests.

We welcome the provisions of the Bill that, in law and in practice, require power sharing and proportionality to be applied. Our local politics was once defined by one tradition imposing its will on others. Future politics here must be defined by a legal duty to ensure that bad history does not repeat itself. That, hopefully, will be the order of things in local government in about 600 days from now. That is why those who try to cling to the old and flawed ways of the past are so out of order.

There are some councils where some parties use their weight of numbers to exclude others from proper input in the run down to 2015. Those are councils in which Sinn Féin and the DUP have the weight of numbers, confirming why this problem is not only a lesson of our bad history but is part of the current everyday experience. They use their voting strength to get their way. That is why power sharing, proportionality and fair play must be legislated for.

The SDLP strongly urges those councils that are guilty of bad practice to stop now, rewind, and pull back towards adopting a better practice. To do that will greatly help council reform, build community confidence and help settle our politics a little at this difficult time, when politics generally is so unsettled.

The SDLP recognises that at the heart of this Bill are the efforts to make local government more efficient and more effective in delivering good services for people. Local government is at the heart of every community across Northern Ireland. It is, very often, the first place where people make contact with elected representatives when they try to access local services or raise issues that are affecting them in their everyday lives. That is why it is so important that local government has the capacity to do the best job and provide the best possible service, ensuring the best possible outcome for all the people in a district or community.

However, regrettably, the best possible outcome is not always the result, even when the best of intentions are present. Last December, in Newry, our SDLP councillors, in good faith, joined with their colleagues in voting to reaffirm the name of a play park after an IRA hunger striker. That play park had been named 10 years previously by a vote in Newry council, supported by a broad cross-section of councillors, unionist and nationalist. The play park had been known as McCreech park for 10 years. The council was satisfied, following the consultation process, which included written responses and a public meeting, that it had

carried out an effective equality impact assessment. One of the council's recommendations was the retention of the name. The only material difference from what had been the case for 10 years was to place a new official sign in the place of an old one. I can assure you that the intention of our councillors was sensible and reasonable because, in continuing with the existing name of the park, no other public spaces would be named as such in future.

Lord Morrow: Will the Member give way?

Dr McDonnell: No; I am not giving way. I am in the middle of this. In local terms, the decision was understandable but, in wider terms, it was not understood. Our representatives acted entirely in good faith. It was not their thinking or intention to cause any hurt or distress to anyone, yet hurt and distress were caused, and the SDLP — myself in particular — deeply regret that. I know every one of our members on Newry council. I have grown up in the SDLP with them. They have, for years, been on the right side of decisions on multiple issues of life and politics in Northern Ireland. The SDLP has always stood for what is right, even when some others, brutally and ruthlessly, kept doing what is wrong, again and again.

The SDLP opposes the naming of public spaces and places after people, whatever their background or —

Mr Speaker: Order. I am trying to help the Member. It might be important if the Member could link whatever he might be saying to the Second Stage of the Bill. I am trying to be helpful and to guide the Member, because we are dealing with the principles of the Bill.

Dr McDonnell: Thank you for your comments, Mr Speaker. There is a particular reason why I am mentioning the approach of the SDLP today. Across the 11 new councils, going forward, and in the 26 councils that exist today, there is a multitude of challenges facing us around flags, memorabilia, emblems and the past. We have to accept that good people with the best of intentions can, sometimes, do things that appear to be wrong with hindsight.

Lord Morrow: Will the Member give way?

Dr McDonnell: The Member is in full flow here, and I am not in a position to give way. What the SDLP is trying to do is, quite frankly, to draw attention to a mistake that could be made, unintentionally and unwittingly, and to the fact

that there were good people doing it, without any intention to cause offence. We will deal with that at our upcoming party conference. We also intend, in the Haass talks process, to attempt to reach a comprehensive outcome, addressing all matters based on respect, equality and parity of esteem, because we feel that it is very important to our local government that, as we approach our new councils, there must be standard laws so that there is not one set of laws for him and one set of laws for her. We should all have a standard set of laws and a standard benchmark, if you like, of quality going into the councils. We ask others to give us what we would expect us to give them.

4.00 pm

Lord Morrow: I thank the Member for giving way. I suppose that there is a lesson in all this for me and others: be persistent.

I listened intently to what Mr McDonnell has said. I do not know whether he is in contrition, denial or confirmation mode. He tells us today that there was no intention to cause offence to anyone. I will take him at his word on that. However, now that you have caused the offence, do you recognise that that was the wrong road to go down, the wrong thing to do and a big mistake to make? Will you rectify the mistake? That is all that I want to ask.

Dr McDonnell: Mr Speaker, I am sorry, but I will give Lord Morrow the Hansard report, because that is exactly what I said. I have no doubt that if he reads my remarks, he will get exactly that from them.

Mr Weir: Will the Member give way?

Dr McDonnell: No, I am sorry. I am dealing with serious issues and want to get on with them.

Mr Weir: It is a serious issue.

Mr Speaker: Order. Members should not persist.

Dr McDonnell: The opportunity provided by the Haass talks addresses the legacy of the past. Our party will argue for the primacy of the interests and needs of victims and survivors. That shall guide us in the talks.

There is much more that I could say about the conduct of others and of other parties and about how they dishonour victims and survivors and fly in the face of respect, equality and parity

of esteem. They say one thing and do the opposite.

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

The points that I am making are not just about McCreesh park in Newry but about how we as a society move forward through the reform of local government and develop the respect that people are entitled to and respect for each other. This is about how we reflect our people and their views, and reflect what they expect from local government. There is a certain disillusionment out there with politics and with how we have conducted business in the recent past. For me, it is all about how we need to reach out genuinely and honestly to each other, embrace reconciliation and create a genuinely shared future for all our children and grandchildren. To me, that should be the purpose of all that we do in our political life.

Mr B McCrea: I suppose, at this stage of the proceedings, it is for us to comment on the general principles of the Bill. Before doing that, perhaps I should respond to the comments of the Member who spoke previously. To those Members who wish to intervene, they are more than welcome to do so, if they want to.

What the Member said outlines many of the concerns over how we are going to do local government. There is the challenge that people will say and do things that are misinterpreted or looked at in a different light by others. I welcome the fact that the leader of the SDLP has addressed the issue in Newry. It is somewhat disappointing that it has taken this time for that to be said, but, nevertheless, in a spirit of reconciliation, I think that the fact that it has been said and an undertaking given that it will be rectified deserves a positive response. I will give him such a response. It is a magnanimous thing to say when you have made a mistake and to come forward and say that you will try to make amends. How those amends are made is, of course, something that we will want to scrutinise. It may well be something that we need to work together on, because different people will have different opinions on it.

Mr Weir: I thank the Member for giving way. My slight concern is that there was a lack of clarity. Will the Member join me in saying that, when it comes to making amends, there should be a clear statement from the SDLP, from the leader or any other Member, to say that it will be bringing forward a notice of motion seeking to change the name of the play park? I did not get —

Mr Deputy Speaker: Order, Members. I remind everyone that we are here to debate the Second Stage of the legislation; we are not here to debate a particular play park. So, I ask Members to put their comments in the context of the legislation.

Mr Weir: In the context of providing parity of esteem and ensuring that there is the feeling of power sharing in the Bill, which the previous Member who spoke made reference to, does the Member agree that a concrete step would be a clear, unambiguous indication that a notice of motion will be brought by the SDLP seeking to change the name of that play park? It would not rectify what happened in the past, but it would at least show that there is a willingness to change. Rather than simply using words to say there is regret, there would be actual concrete action. Does the Member agree that that is the positive action that is required to rectify this matter?

Mr B McCrea: Following on from that intervention, and with reference to Part 9 of the Bill on the conduct of councillors and Part 10 on community planning, I will respond to the intervention and say that it is my understanding that the leader of the SDLP has given an undertaking that he is not just acknowledging that there was some misunderstanding, which led to offence, but that he intends to address the issue. How he addresses the issue is a matter for the SDLP, but we will look at that, and I take on board the points that the Member opposite made. Nevertheless, the point having been made and counterpoints having been put forward, I think that it is a significant development and one that deserves some sort of proper scrutiny and, at this stage, a positive response from this Bench.

On the general point of the Bill, the question that we have to ask is: why are we bringing this Bill forward at all? This is about the general principles. If the Assembly were overburdened with work, and if it were anxious to clear the decks so that it could do more work, bring forward more legislation and tackle more issues that are properly associated with it, you might have some argument about trying to move some work to the councils. I have to say that that is not the case in this House at the moment. We appear to be trying to devolve dysfunctionality. We appear to be trying to take things that we cannot deal with or issues that we cannot resolve and move them to another area, and I have some concerns about that.

The naming of the park is but one issue, and the flying of the Union flag at all Northern Ireland councils on designated days is another

issue that might cause some discussion. I have heard Members here mention the difficulties with the selection of a chief executive, who will be selected and how. There were discussions earlier about how we might allocate offices, whether we should use d'Hondt, and there was an exchange between various councils about how that might work. Those are all significant issues. Underlining them all, and I think that this was the point that Mr McDonnell was making at the start of his speech, is that there is a fear about an abuse of power by a majority, whatever that majority happens to be, and there is some concern from my position about the fact that we are devolving powers to organisations that will be less able to handle those difficult subjects than this body here. Were it the case that this Assembly was working really well, meaning that we were really functional and could say, "here is good practice", there might be an argument to see whether we could do something different in another place.

The key question facing us in the legislation is: if we were to start again, if we were to remove Northern Ireland's orange and green politics from the equation, would we come up with this particular model for reforming councils? When we talked about the number of councils — certainly in my sphere of influence — the discussion was about whether 15, 11 or six was right. The discussion was not to do with purpose or function. It was to do with who would have majority control and whether these would be orange councils, green councils or whatever. Unfortunately, this entire project — from the 11-council model, to the governance framework, to the financial models and projected savings — has orange and green politics running through it. It is, therefore, policy by negotiation, not policy by evidence. It is policy by barter, not outcomes. It is policy with little focus on the common good.

We are going through the motions rather than trying to do what is best, and that approach provides lowest common denominator policy. At this stage of the Bill, not one Member has made a good, strong case that, under this model of reform, the public will be significantly better off in outcomes, finance or representation.

Why should we devolve the dysfunctionality of this Executive and Assembly to more powerful councils? Perhaps we should put our own house in order first. There is a question to be asked when you look at the functionality of the body politic. In the past, some people have said that we have too many MLAs and that we should look at reducing their number. This question could also be asked: why do we need

two tiers of government? Other Members have, quite properly, made the case that, during the Troubles, councils were one of the main democratic institutions left to us. We did not have a devolved Administration. We had MPs, MEPs and councillors. However, we are not there now. We are now in a devolved institution. When you look —

Lord Morrow: Will the Member give way?

Mr B McCrea: I am always minded to give way to the Lord Morrow. I trust that he will give way to me at future opportunities.

Lord Morrow: I recall only one occasion on which I did not give way, and I must have had a very good reason. Normally, I do give way.

The Member has asked why we need local government. I remind him that when local government was reorganised in 1973 under the Macrory report, Macrory envisaged an Assembly here. To be fair to the Macrory report, local government would have been much more effective, although it was quite effective, and I am not taking away from it in any way. I remind the Member that, under the Macrory report, it was always envisaged that there would be the tier of local government that exists now. It was envisaged that there would be an Assembly here. We now have both, and that was always part of the plan, Mr McCrea. Thank you for giving way.

Mr B McCrea: I am grateful to Lord Morrow for his intervention. I had purpose in bringing in Lord Morrow. He made an interesting contribution earlier, which I want to address, not in a confrontational way but to pick up on some of the points that he made.

Look at other council models. Birmingham City Council, for example, looks after almost one million people. Some councils in England and Wales have powers over and above what our councils have, including powers over education, social services, planning, waste disposal, recycling and collecting, trading standards, emergency planning, roads, highways and transportation, housing, environmental health, parks, open spaces and countryside, and markets and fairs. Those councils have to deal with a real amount of work. A Member from the Sinn Féin Benches said that district councils and local councils currently spend only about 5p in the tax-raised pound and that that is wrong.

The counterargument to the principle behind the Bill is: are we really doing this because,

some time ago, someone told us that it is something that we should do? All that I hear from around the House are fairly guarded comments from Members who are not really sure that this is the right way forward, that we are doing this because it is a train in motion, and that we have to do it at some stage. I am in concert with Lord Morrow in that I would rather take my time and do it properly than rush it unnecessarily and get it wrong. If there is a proper function to be done, let us address that and see what happens.

4.15 pm

Mr Weir: I thank the Member for giving way. Having been in this place since the beginning, I think that I am right in saying that the original announcement of the review of public administration (RPA) was made in the year 2000. By the time all this is put in place, that will be a 15-year time frame. As the Member considers that we are rushing it, I wonder how long he feels it would take to give it proper consideration?

Mr B McCrea: I was quoting the Member's colleague Lord Morrow, who said that it was better to get it right than to rush it. So there might be an issue for that to be taken up. For my part, heaven forbid that there would be a split in the DUP —

Lord Morrow: Will the Member give way?

Mr B McCrea: Quickly, Maurice. A leadership bid?

Lord Morrow: Thank you for giving way. It is good to keep everything in context. I said what you said I said. However, I said it in the context that some criticism was flowing against Ministers past and present that this took a long time coming. So I said, at that stage, better far to take our time and get it right. I hope that we are getting it right, and it was in that context that I said that.

Mr B McCrea: I am grateful to Lord Morrow for confirming that he said what I said he said, and, of course, we all know that it is very important not to fall out with the Chief Whip. So we have that sorted.

There are some issues that I would like to bring forward about devolving dysfunctionality. We appear to have dysfunctional boundaries. I know that that is not the particular focus of this Bill, but I want to touch on it briefly before I move on. There are difficulties, and we appear to have constructs that do not fit the natural

local environment. The 11-council model creates boundaries that, seemingly, have not taken into consideration current community identity, civic activity or even journeys and routes of travel for the majority of people in different constituencies. There is an example between Castlereagh and Lisburn, and another around south Down. The issue is intensified when we consider one of the key aspects of the Bill, community planning, which is in Part 10, clauses 69 to 86. According to the Local Government Task Force's planning subgroup recommendation paper:

"The aim of community planning is to make sure that people and communities are genuinely engaged in decisions made about the public services which affect them."

and:

"the idea of developing a jointly owned vision for a locality"

seems to be something of a challenge when people are geographically dispersed, not part of one particular community but of several, which reflects some of the difficulties that we have raised. So I have to say that new electoral boundaries, combined with Assembly and parliamentary boundaries, will likely confuse voters at a time of unprecedented political disenchantment. That is an issue.

Mr Dickson: I thank the Member for giving way. I have some sympathy and understanding for what he says in relation to what might be perceived as a disconnect between the boundaries and the new local authorities. However, I am, sadly, old enough to remember 1977, when I joined Carrickfergus Borough Council. Essentially, the same argument was made then. We drew Greenisland, which was part of the former Larne Rural District Council, and Whitehead, which had its own council, into a new borough council, that of Carrickfergus. The description that Mr McCrea has just given was the description that was given then. However, the task for local government was to draw the community out of those areas that were put together as a result of the Macrory report. That is exactly what we were being asked to do some 40 years ago and it is what we are being asked to do today. I think it a good thing, not a bad thing.

Mr B McCrea: I am grateful to the Member for his intervention. Unfortunately, I do not have his years to be able to remember from 1977 in that regard. However, there is no doubt that there is a challenge in front of us. I am not sure

— and this is the purpose of the debate on the Bill — that we are actually ready and able to resolve the issues that are put forward and that the Bill is trying to achieve.

The second area of devolving dysfunctionality is dysfunctional finance. The PwC report of October 2009, referred to already by Members, indicates that there will be expenditure of £118 million over five years and that that will achieve savings of £438 million over 25 years.

It indicates that the operational costs will break even in 2017-18 and that it will take until 2020-21 to get a return on the initial investment. I notice that there were a number of Assembly questions in from Anna Lo about the amount of money that was going to be available to do these things. The problem is that we can be pretty sure that there is going to be an increase in cost, but it is not certain that we will see a reduction in expenditure or efficiencies. That is substantially dealt with in the reporting section of the Bill — I think it is Part 12 — which deals with how we will see whether we will see benefits. I am particularly concerned about that matter.

I will return to some of the points that Lord Morrow brought up when he was talking about debt, which, I think, was a key point. He helpfully produced some statistics about how well certain councils have done. I think that he said that £0.5 billion was the total cost of this. The figure that I have is £459,525,000, so £0.5 billion is correct. I was also drawn to the figure that Newtownabbey Borough Council has produced. I will also talk a little bit about Lisburn, just to show that there is no unintended bias on the issue.

Lord Morrow: Will you talk about Dungannon, too?

Mr B McCrea: I will talk about Dungannon because I think that the Member has a very fair point.

I looked at the figures for Newtownabbey's current debt. Members who are members of Newtownabbey council will be able to tell me that it is £46,836,936. I stand to be corrected, but I think that that is the figure. What is interesting about that figure is that I looked to see how much the council actually raises in rates and found that the figure is half that; it is £25 million. This is a colossal burden. Lord Morrow made the point that you could offset that with the assets and said that that was, maybe, the right way to do it. The annual general report helpfully states that the council has long-term assets of £85.2 million, but it is

not clear that those are actually realisable, because they are land and buildings.

With regard to the audit powers that we are looking at in the Bill, one of the things that is most interesting is that the audit was not qualified, but noted. The report states that one area of difficulty arose during the audit, and it states that the council is required to disclose its fixed assets at fair value. It then states that fixed assets were overstated and that the council had amended its accounts to correct that. The result is a net book value of land and buildings being reduced by £8.1 million.

Mr Deputy Speaker: I have allowed the Member some latitude, but can I draw you back to the main principles of the Bill, please?

Mr B McCrea: Mr Deputy Speaker, sir, I am dealing with Part 12, as I indicated to you, which deals with performance improvement and how we might deal with these issues.

I will put the comparison about the sort of audit support that we need because this is a very important issue. I looked at two points on this because this is a serious issue. I looked at the cost of servicing that debt. Newtownabbey finances that sum of money at £5.5 million per annum. That is a fairly significant sum. Interestingly, when we look at Lisburn, which has a mere £25 million of debt, we see that it has to spend only £2.5 million on servicing debt. When you take that as a percentage of the amount of rates that you bring in, it is a significant proportion. The point about this moving across and whether we should do it is: if we consolidate these issues, there will be, in my opinion, an increase in rates in the longer term. The biggest single problem that we have with this is that we will be devolving activity and responsibility without taking care of the financial issues. Even if there is short-term funding to get us over the hiccup, there will be —

Mr Weir: I thank the Member for giving way. I am trying to be careful because I appreciate what the Member is saying about the funding issue and about performance management. I am sure that the Minister will address this point in his remarks — the previous Minister spoke about it as well — but the intention from a funding point of view is not to give one-off grants for a year or two but to embrace a fundamental shift in the balance between the local and regional rates.

That means that, at the end of the day, the same functions are being provided and the same amount of money is required for them,

but the balance between them is shifted. The idea that this will create a shift in the balance that will add to the burden on the ratepayer is erroneous. To be fair, had the Member listened to what Minister Attwood said on a number of occasions — it is what I suspect Minister Durkan will say — he would know that this will not impose an additional burden because it is, effectively, the equivalent of an internal shift.

Mr B McCrea: I hear the words, but political expediency will sometimes come to the fore in the years ahead, and we know that no Assembly can bind the following one. I suspect that there will be a movement of responsibility without the commensurate level of funding.

On that issue, I would also point to the rates league table. Much was made of the fact that Dungannon and South Tyrone Borough Council did not increase its rates. It is interesting to note that Lisburn, Fermanagh, Dungannon and South Tyrone and Castlereagh councils all have a domestic rate of about 25p in the pound, whereas Derry City Council has a rate of 41p. So when we talk about where we can get some equality in the amount of money that is being spent in those areas, what recourse do we have for the ratepayers to make sure that the money is spent appropriately?

I have an issue with the way that this is going. It requires a lot more interrogation and thought. I am still not convinced that councils will be enabled to deal with difficult issues such as flags and emblems, the protection of minorities and respect. All those important community planning issues are not going to be dealt with in this Bill. It is an abdication of responsibility by this Assembly, which, unable to get its own house in order, is seeking to devolve its own dysfunctionality to other places.

On that basis, we should think again. I am not with those who say that we have to get through this because we have been talking about it for so long now that it will be embarrassing if we do not do something. This Bill is wrong in principle and it will not improve things for the people of Northern Ireland. It will not tackle the proper issues. It is not the right way forward.

I say to all those in this Assembly who have raised their concerns that they will not be able to fix this in Committee. There is simply too much to do. We should tackle something a little less ambitious.

People have spoken to me about getting proper representation. There is a challenge to make sure that our electorate know who it is that they are talking to. Is it councillors, or is it Assembly

Members, Members of Parliament or Members of the European Parliament? There may well be a situation where there is not clarity, and in my opinion that does not make for good governance.

Mr Weir: I support the Bill. The new Minister is, to some degree, facing a baptism of fire. He has a fairly lengthy Bill in front of him. Those of us who have served on the Committee for the Environment know that it is typical that legislation from the Department of the Environment is quite often, by necessity, weighty in nature and has to cover a wide range of issues.

I should declare a number of interests at the start. I am a member of North Down Borough Council — there is tutting from at least one Member on the opposite Benches — and a member of the transition committee and the Northern Ireland Local Government Association. I was previously a member of the policy development panel, which has given me a degree of insight into this Bill.

I pay tribute to all those who were involved in the strategic leadership board and policy development panel. Although there will be issues that I and others will query and that we will need to examine at Consideration Stage, I think that many issues have been gone into and teased out in great detail. So, this has not simply been thrown together by the Department or anyone else.

4.30 pm

At the broadest level of the RPA debate, many issues were addressed, particularly by the Members who spoke previously, that are not directly relevant to the Bill. Beyond community planning, the Bill does not deal with the transfer of functions or the exact balance between the Assembly and local government. I have to say that the level of functions that we operate in local government in Northern Ireland tends to be a lot less than in other parts of the world. To shift some of that additional work and responsibility into local government is, I think, a good thing, as it will bring local government closer to the people. However, I do not want to dwell too much on that, because at the end of the day, the Bill is not about the transfer of functions. Largely speaking, the Bill also does not pay a great deal of attention to the financial position, although it touches on it. Again, however, there seems to be a bit of misunderstanding about that.

Another issue was mentioned that is not in the Bill, but, to be fair, it was suggested that it should be put into it. That is the issue of flags. I have read the Bill, and I know that it deals with a wide range of issues, but it does not impact on the flag situation. It may be another matter if something emerges from the Haass talks. However, those areas that fly the flag at present will continue to do so, and nobody is going to be in a position to effectively compel it to be flown in those areas where it is not. I appreciate that a Member may try to scaremonger on this later in the day, but, as with a lot of things, the scaremongering — *[Interruption.]* What? Sorry?

A Member has already briefed that he will try to scaremonger on the issue, and the reality is that, like many previous attempts at scaremongering, it does not add up. To some extent, the Alliance Party has recognised that, although I disagree with its position. Members from that party realise that the Bill does not deal with the flags issue, so they are proposing changes to it. I have to say that I am not particularly convinced about that. I will look at any amendment that is tabled, but I am not particularly convinced that introducing flag issues to the Bill is a particularly wise way forward. With respect to those in the Alliance Party who would propose that, their previous intervention on flags in local government last year did not work out particularly well. Consequently, I think that that is an exercise that is maybe not to be repeated.

I want to deal with a range of the issues that are in the Bill. First, when the officials briefed the Committee — a large amount of work will have to be done — they mentioned that, between the consultation stage and now, two substantive changes were made to the Bill. I think that both those changes are to be welcomed. The first change, which I think Mr Elliott mentioned, is the shift towards the power of general competence. That is not to be feared. It will give councils a degree of opportunity, and it has been pushed for some time, for example, by the Local Government Association. Indeed, I know that the incoming president of the Local Government Association, Alderman Hatch, who is Mr Elliott's party colleague, has pushed for the power of general competence. That is an opportunity to give a certain level of freedom to councils. It will be circumscribed, so, councils will not be able to do something that is illegal or unlawful, for example — it will cover a range of things. However, it will give a greater degree of power to the councils, and I welcome that.

The code of conduct and the complaints procedure was another issue that was raised. I

think that there has been a considerable improvement on that, but at least one Member raised a concern about it. There is widespread acceptance of a mandatory code of conduct. The shift away from investigations being handled internally by councils to their being handled externally by a commissioner of complaints is to be welcomed from a financial and a practical point of view.

Previously, concerns were raised about internal scrutiny investigations, and having a scrutiny officer in a council was fraught with difficulties. It led to one of two scenarios. The first is that that officer would have been in that post and would have dealt purely with the scrutiny of complaints. We would hope that there would be a very limited number of complaints with local government and that that person would be used fairly rarely. However, they would have a full-time job, costing a large amount of money and would be largely twiddling his or her thumbs and maybe almost looking for complaints. I think that there would be a danger in that.

The more likely scenario raised at an earlier stage with regard to the investigation side and the code of conduct would be that that officer would take that on as part of their portfolio duties. That would place that council officer in a fairly invidious position, because they would be dealing with complaints against councillors one day and then working with them on human resource issues, or whatever other portfolio, on other days. That would lead to a massive conflict of interest. The process of having an independent complaints procedure taken at arm's length is a change to be welcomed.

One area is slightly lacking and needs to be dealt with in Committee. At present, if a sanction is made against a councillor under the legislation, the only right of appeal appears to be by way of judicial review, which seems to be on fairly narrow grounds. For example, if someone is being disqualified from council or is being suspended or fined, we need to build into the process a way of challenging that through a right of appeal.

With regard to governance issues, which play a fairly significant part in the Bill, there have been various allegations against various councils. Some parties and some individuals who have been throwing this about seem to be polishing their halos. There have been various problems with different parties in different councils throughout the years.

With regard to the issue of handing out positions, it is right that mechanisms are put in

place. I share the view that there is a range of options. I tried to explain this less from a political point of view and more from a mathematical point of view. For example, a formula involving single transferable vote does not really work if you have a large number of positions. I come from a council where, for many years, we have tried to work it out by formal or informal arrangements and not according to a formula, and that has worked fairly well. Therefore, from that point of view, I would not be doctrinaire and say that there has to be a one size fits all. However, having examined those issues in previous policy panels, there needs to be a default position. It seems to be accepted by most parties that the default position is likely to be d'Hondt and what is controlled within that.

From a technical point of view, I welcome the fact that the Department has outlined the precise procedures for d'Hondt in the schedules. One of the complications that I have seen in local government — sometimes through innocent explanation and sometimes because it has particularly suited one party or another — is that a particular format of d'Hondt has been used over a small number of positions that would suit particular parties. When d'Hondt is being run for positions once over the lifetime of the council, it would, to some extent, start to deal with some of the issues of representation for smaller parties. If you are appointing a wide number of positions, possibly up to 50 or 100, it tends to level out. Where d'Hondt is being used, it is being used consistently and, if it is used by each of the councils in a similar way, that is an advantage.

Mr Elliott referred to the arrangement of functions and, from a governance point of view, whether we would move to a Cabinet-style situation that is permitted within the legislation or use what is akin to what is there at present, which is to have committees. I suspect that, initially, it would be highly unlikely that any of the councils would move directly towards a Cabinet-style system. However, with the experience of functions and the scale of the area to be covered, the current model of committees may not suit either. It is wrong to see this entirely as an either/or situation; it is a spectrum.

We have seen that in a number of councils. In Belfast, a leaders' group sets a degree of strategic direction. I think that is also done on Armagh City and District Council, where representatives from each party form an overarching strategy committee. Those are all means to try to square the circle between a pure committee system and a Cabinet-style

system, so we are likely to settle somewhere on that spectrum.

We need to tackle a couple of important issues in the legislation on qualified majority voting, the aim of which is to provide protection to minorities. It is important that the correct balance is struck. Consequently, we will have to examine what may impact adversely on a particular community. It is a matter of protecting minorities while not having a mechanism that is so easy to trigger that it simply creates gridlock in councils. It is about getting that balance right. Some of those issues may have to be dealt with in subordinate legislation, but they need to be looked at. The key to qualified majority voting is the determination of the legitimacy of a call-in, which is an issue that Lord Morrow raised. Which individual or grouping will give a thumbs up or thumbs down to the legitimacy of a call-in is a difficult circle to square. I am not convinced that chief executives simply referring an issue to a barrister or solicitor of their choice is the best way forward. We will need to examine the best way forward in Committee.

Like others, I welcome the idea of community planning. There is quite often a tendency with RPA to look at the problems. Community planning has the potential to give communities and councils a much greater opportunity to have a debate about shaping their area. As Ian McCrea indicated, elements of that have been done in the past. However, the legislation puts it on a clearer statutory footing. As Ian and others indicated, however, when we are examining community planning, we need to ensure that its methodology is sufficiently robust. We must not start with the chief executive on day one, and work our way down the staff so that, by the sixth meeting, the office junior is representing the council with Roads Service, the local health trust or the Housing Executive. It is important that everybody buys into the benefits of community planning. We need to make sure that that is done correctly.

The partnership panel is to be strongly welcomed. The wording of the legislation may need to be looked at slightly. Although we have assurances from officials, it would be useful if the Minister gave us an assurance on that. The current wording refers to councillors being nominated or more or less appointed by the Department. If that is simply a technical device, with the Minister signing off on names that come from local government, nobody will have a problem. However, if the Minister, as in a medieval royal court, were picking and choosing which of his subjects are best placed to do the job — I do not know how many of his

colleagues would make it onto that list, but that is another matter — that would be fundamentally wrong. I suspect that that is not the case, and I assume that it is the former rather than the latter. It would be useful if the Minister dealt with that in his remarks at the end of the debate.

It will be useful to have a reasonably uniform system for performance management. Although I have not been able to get to the bottom of some of the detail, I think that local government has raised concerns about whether that side of things has been got entirely right. Although I appreciate the desire to ensure that transferred functions in particular are carried out correctly, an overly onerous intervention regime from Departments would, I think, backfire. That should happen only in extreme circumstances.

4.45 pm

One other aspect that was touched on — I may seek clarification as to whether it was, but I know that it was raised in Committee — is that we are now in a situation in which pretty much every council in Northern Ireland has an audit committee. I think that the bulk of those committees have at least one representative who is independently appointed. One thing that we may need to look at in the detail of the legislation is trying to ensure that that independent element is made compulsory for all audit committees. Again, that is something to be looked at by the Committee.

In conclusion, the Bill is another major piece of the jigsaw of moving forward with RPA. It has actually been a particularly long process. If the Bill does not come out of the Committee by February, it will not be through any want of the Committee that that target is not reached. We will need to deal with a wide range of issues. I have to say that I suspect that, even with the passing of the Second Stage today, we will hear some in local government tell us very earnestly that, despite whatever assurances the Assembly, the previous Minister or the current Minister has given, they have heard that this is not going to happen. That seems to be the one almost inevitability in local government. I think that, with the passage of the legislation, a very clear signal will be sent out that RPA is on track. It is happening. It will be there to benefit all citizens. Ultimately, that is what this should be about.

With others on the Committee for the Environment, I look forward to going through the detail of the legislation to ensure that it is correct. We have a big job of work to do on a

very large piece of legislation. In the past, the Committee has worked hard on it. We can get this right and ensure that we move forward in a way that benefits all Northern Ireland's citizens. Therefore, I support the Bill.

Mr Dickson: As I have already mentioned to the House, my local government experience goes back over 30 years. I joined Carrickfergus Borough Council in 1977, some four years after the last reorganisation. As others have mentioned, reorganisation of local government has served Northern Ireland well in a number of ways. In other ways, it has been part of Northern Ireland's problem. However, we have to pay tribute to those councillors and others for, really, the only democratic light that was switched on anywhere across the Province during some very dark days was in our 26 town halls and civic buildings. That is not to suggest that many rows and very difficult situations did not also happen inside those buildings during that period. They did, however, provide stability in the community and society when there was a great deal of instability.

Sharing responsibility in those councils was highly problematic. Some councils were prepared to embrace some forms of sharing responsibility. However, the vast majority decided that if they were in the majority, that was the end of the story. I was fortunate enough to be mayor of Carrickfergus in the early 1990s, not because my colleagues from other political parties were prepared to share responsibility with me and my party but because they were, in effect, squabbling among themselves and had broken into various factions, which resulted in various little deals being done rather than there being any cohesive and responsible policy that allowed for recognition of people being able to deliver for the whole community.

The key part of my contribution to the debate concerns the code of conduct for members. I could not agree more that we need that code of conduct, because, sadly, over the years we have seen various members of councils get up to things and do things that were not appropriate but that could not be dealt with by the local authority or that members or political parties were not prepared to deal with themselves. We need a very clear mandatory code of conduct for members. However, as others have said, if somebody has transgressed and is called before the conduct committee of a local authority, that person needs to have the right of appeal.

That is as important as the protection for the public of knowing that there is a code of

conduct and a standard against which members will be called to account.

The other side of that coin is protection for the employees of local authorities. In addition to the normal employee-employer relationship, which is, of course, full of rules and regulations, employees in local government can be and sometimes are exposed to pressure from political groups or, indeed, individual members who seem to think that they own a fiefdom rather than have a democratic responsibility in a local authority. Therefore, we need to give consideration to protecting employees from the overbearing and ill-advised activities of council members and to ensure that council employees themselves do not effectively go native and become de facto supporters of a particular grouping or, indeed, a campaign for something to be built or delivered in a particular community. So, we need to ensure that the legislation deals with that area of responsibility as well.

I note that the Bill requires annual improvement reports, but I am disappointed that they are primarily financial improvement reports. Although such reports are absolutely necessary, these improvement reports need to go substantially beyond the financial activities and financial probity of a local authority. In improving local government, we need to ensure that we also improve the efficiency, delivery and business of the new local authorities for ratepayers and citizens. I would, therefore, like to see the whole clause on annual improvement reports changed so that they are delivered by a much wider spectrum of inspection than just financial inspections by the local government auditor. Simply put, we need to have what are, in effect, school-type reports, indicating how a council is performing against a set of parameters, which are then matched against other local authorities.

After some 15 years of debating this legislation to get to where we are, we have to wake up and realise that the existing 26 councils are tired and are no longer fit for purpose. They may have done a good job, but we now need to deliver a modern, efficient and appropriate local government system for the citizens of Northern Ireland that will last for the next 40 years. It needs to be a system that, I have to say, is not bogged down by the failures of this establishment, as others have said. We have to rise above that. We have to recognise the issues that are problems for us and put in place mechanisms that allow local government to deliver in a modern and effective way for all our citizens. If that means that we have to deal with the contentious issues of flags, shared

responsibility and weighted majorities, we need to put down those rules in the regulations and in the Bill to ensure that, when the new ship of local government sets sail, it does so with a fair wind to deliver for everyone.

Mr A Maginness: I am pleased to speak in favour of the Second Stage of the Local Government Bill, which is truly a milestone in the history of local government. This is the first serious reform of local government in about 40 years. The Bill, if enacted in its present form, will make some interesting improvements to local government, in particular the recognition of the need to share responsibility in councils. That is a very important aspect of local government. In order to attract the confidence and support of local communities, responsibility needs to be shared. Although that has been done on an arbitrary, ad hoc basis right across Northern Ireland, it is right and proper that it should have some sort of legislative form, and this represents a step towards achieving that. All of us in the Chamber long for a shared future, and I believe that we can have a shared future at local government level through this Local Government Bill.

I was a councillor, like many others who have spoken during the debate, for 24 years. I am only a junior in comparison with Mr Dickson or the Lord Morrow. If you count up the years that Members of the House have served in local government, it would come to perhaps a century or two or even a millennium. When I served on Belfast City Council, we had a committee system that worked reasonably well, but there have been other experiences in local government, particularly across the water, of the development of Cabinet-style executives. The Bill permits that type of governance arrangement, and it is right and proper that councils should be given an opportunity to at least try to develop that form of governance. It has to be done, of course, in accordance with fairness and on the basis of power sharing, but it would be of assistance in streamlining decision making in local government, which can, at times, become very slow and cumbersome. This option should be welcomed, and I believe that it could change the culture of local government. Alongside the executive in local government, you would have councillors whose function would be to scrutinise the decision-making of the executive. I am not absolutely certain whether there is sufficient power among those who scrutinise the decisions of the executive — that is, the councillors who are not involved in the executive — to have what they might regard as bad decision-making reversed. We have to look at that in the legislation, and it might be

useful if the Minister were to express a view on that. Nonetheless, if the scrutiny function is developed by councillors, it will mean having a different role from other councillors who are engaged in executive decision making, and that will create a political tension in the council — a healthy one in my view — that will create a healthier political environment.

I also welcome the concept of community planning. That is important for councils, and the council would have a wide brief on community planning. I am not sure how it would work out in practice, because councils are engaged in quite a number of functions now that are much wider than first envisaged by our traditional councils. The widening of their scope and function is, in my view, a good thing. The discipline that will be imposed on councils for continuous improvement in performance will also be a good thing. It will be an incentive for better performance management of councils, and, whilst councils try to improve their performance, that duty, which will be imposed on councils, will be very important.

I notice that the Bill refers to the control of councils, but I wonder what that means in practice. I would be a bit wary of Departments behaving towards councils in a Big Brother fashion. Councils should be given a degree of flexibility, unencumbered by central government interference. One of the beauties of councils is that they can take local decisions to deal with local problems and circumstances which they are better acquainted with than central government is. I would not like to see councils constrained or restrained in that way by Departments.

5.00 pm

The partnership panel is an interesting concept. I am not absolutely certain what it will mean in practice, but if there is a partnership idea — I put the emphasis on partnership rather than having a top-down position by central government to councils — I hope that that can develop. I am not certain what it will actually mean in practice. Perhaps the Minister can outline what he believes that would mean.

I also welcome the fact that the conduct of councillors will be put on a stronger statutory footing and that there will be a commissioner looking at the conduct of councillors. That is helpful and will create a better political and administrative discipline within which councillors will operate. That will help to raise standards of conduct and behaviour in councils, but it is important that there be that authority.

On that note, I conclude. I wish the Bill well. There will be a lot of work to be done in Committee, but I believe that there is general goodwill towards the Bill from all parties and that we can make good legislation that adds to the general welfare of all our citizens.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. Tugaim moladh don Aire as ucht an Bille a thabhairt os ár gcomhair inniu. Full marks to the Minister for bringing the Bill before us.

Local government has given us some of the worst and some of the best: some of the worst in our past that led us through discrimination in housing, jobs, planning and all; and some of the best in circumstances where our councils have worked together on the basis of sharing power, respect, trust and getting to know one another. It is that grass-roots working that I trust will be embryonic in the Bill — building trust and reconciliation and working our way towards what should be our shared future of local communities and councillors engaging one another and building trust in each other step by step.

I welcome the Local Government Bill and the potential to debate this important reform and opportunities for our local democratic system of government. It has taken a long time to reach this stage, but it is important that we get it right. We face a tight schedule if the Bill is to complete its passage through the Assembly in time for the elections to the new councils, which are hopefully expected on 22 May next year. I hope and trust that there will be no further unnecessary delay.

The SDLP has consistently argued that the principle of equality must be the cornerstone of any reform of local government and that equality of treatment must be enshrined in legislation. I trust and hope that the measures in the Bill will achieve that aim.

Some that are noteworthy have already come to our attention in their nominations to the various shadow and transition committees. Lisburn and Castlereagh councils have come to our attention as potentially not doing things in the way that they should do: to be inclusive, to be respectful and to have members included on the basis of the mandate that they have sought and on the basis of equality, fairness and respect for their respective mandate.

Mr Elliott: I thank the Member for giving way. Would he include in that list one in his patch: Magherafelt council?

Mr McGlone: Thank you very much, Tom, you have stolen my thunder. The next one that I was coming to mention was Magherafelt District Council, in which Sinn Féin, with 48.4% of the previous mandate, took 80% of the representation on the statutory committee for that area. Out of five, it took four. Those are the sorts of things that we hoped had been left in the past. They do not bid us well for the future.

Of course, in those examples, I have disregarded what is being done with good faith in many other district council areas. They did not need legislation to do it. They knew that it was the right thing to do: to be inclusive and embrace the membership of —

Mr Givan: I appreciate the Member giving way. He makes the point about Lisburn, and I think that he unfairly represents something that is not the case. In Dunmurry Cross, there are six nationalist councillors and one unionist. Does he not believe that that minority community, which was told that it needs to be part of the shared future, should have a representative on the statutory transition committee? Sinn Féin has chosen to boycott its opportunity to take up the position. We have now put forward, in fulfilling our duty, the SDLP member of the council, John Drake. *[Interruption.]* At least he was up until —

Mr McGlone: The good Member has got his facts wrong. It is maybe catching around this place, from the top down in his party. I will clarify that Mr Drake is obviously an independent member. In making the case earlier, I was not making the case for anyone else. Indeed, I think that Alliance has been dropped off the end at that council. I hope that that clarifies it for the Member. I do not know whether he is a member of the council. I am sure that somebody there can put him right, so that he can get his facts right, just like his leader.

I will get back to the Bill. We trust that the measures included in the Bill will achieve that aim. As a party, we felt that it was the wrong number of councils. That is because there was a concern that the smaller the number of councils, the less the connection with local communities and the grass roots. With a greater number of councils, there would be more connection with those grass-roots communities. However, the new councils will have a greater role and powers that are more wide-ranging than before, including a new lead role in community planning. It is vital that those powers are exercised with great responsibility. One of the most significant measures in that

regard is the enshrinement in law for the first time of the sharing of council positions across political parties. The introduction of a mandatory code of conduct for all councillors and increased transparency of council proceedings will help to generate a culture of greater accountability to the public. The Bill also includes important measures designed to protect the interests of minority groups in the new council areas.

In the past, we have seen examples where political interference has prevailed rather than the primacy of equality and good practice. That has led to bad decisions and downright discrimination in housing, employment and planning. The qualified majority clause and the call-in procedure for contentious decisions should, I hope, enable local representatives to prevent the kind of abuses of power that have, unfortunately, characterised our past; indeed, some of our recent past.

The subordinate legislation that is to follow, further defining the new measures, will be carefully examined to ensure that there is no dilution of the commitment to equality intended in the Bill. My party is most definitely committed to ensuring that these equality measures remain at the heart of the new legislation that reforms our local government, so that civil rights and civil liberties are at the heart of the decision-making process at local government level.

It is essential that the principle of equality is the cornerstone of reform of local government and that equality of treatment is kept enshrined in the Bill as it passes through this Assembly. That is for all our people, be they unionist or nationalist, or from different backgrounds or other minority communities, or indeed, other individuals. Only then will we have truly the best from local government for all our people. That is the motivation behind the Bill, I trust, and that is the new society, we hope, it will help to bring us to — a shared and respectful future, respecting and catering for all difference. Go raibh maith agat, a LeasCheann Comhairle.

Mr McCallister: Reflecting on the debate so far, one might ask how we have got to this point. How have we achieved this? How have we ended up with an 11-council model? Are we trying to make this fit because it has always seemed to have some agreement on it? Different Members have commented on it.

I would urge tremendous caution on the Bill and the changes to local government, simply because we will be stuck with this for a very long time, given that the last reorganisation of

local government was in 1973. It will have lasted more than 40 years by the time this Bill, if it is successful, goes through.

It is also strange that one of the arguments for doing this, which Lord Morrow progressed, was that, in the 1973 reorganisation, it was always envisaged that there would be an Assembly here as well as a tier of local government. Bizarrely, now that we have an Assembly, one of the first things it decided was to reorganise local government, even though we went through the past number of years without an Assembly, and local government, as many Members said, was the one part of our democratic system that had some form of function. All this leads me to the obvious conclusion that the case has simply not been made as to why we would reorganise local government or, indeed, whether this is the right model for that reorganisation.

Look at the various Parts of the Bill, such as community identity and how you would build that. I take Stewart Dickson's point that some people felt that way in 1973 or in 1977 and that there was no identity. Take places such as Ballynahinch, where the population probably naturally looks more towards Lisburn, but its parliamentary constituency is Strangford, and its new council will be Newry City, Mourne and Down District. Where are the linkages there? Where are the common community identities in that model?

It seems that we have decided, pretty much, on a carve-up deal. We could not get agreement on what it was going to be; the original number of councils was seven, and then we moved to 11 as a sort of compromise. So, now, we have got to the point where this Bill is trying to make all that fit into the model that we have already decided upon. The Bill is effectively trying to put a round pin into a square hole; it is not going to fit, and it is not going to work well.

That is why I, along with my colleague Mr McCrea, argue that you cannot devolve the dysfunctionality of this Assembly to local government and expect it to work and expect that, by some miracle, it will function and actually achieve a solution to some of the cases and deal with the difficult issues that it will have to deal with. We cannot even agree on what the flag-flying policy at times should be here. How are we going to get councils to agree on and deal with those issues?

5.15 pm

The financial case, I have to say — the Minister, I am sure, will want to tackle this —

the financial case, of all things, certainly does not stack up. Councils that have lower rate burdens and lower debt burdens are merging with councils with much higher debt burdens. I just do not see how that — how this Bill — is going to be in the interests of ratepayers in those areas. You come back to looking right across the board: where is the joined-up government? The model in the Bill, which we are debating, does not fit in with anything that we already have out there. It does not fit with our parliamentary and Assembly constituencies. It ploughs through many of the district councils that we already have. It does not fit with any health trusts, education boards — anything that we have out there. So there is no sense of any coterminosity with anything on any of these issues.

Then we come to the point of why we think that some of our voter numbers are going down. Why do we think people are disconnected from the political system when they see no relevance in this Bill to what they will pay in their rates and what services they might get? That is why I just do not think that this Bill is worth any merit. We have designed a system with no strategic vision of what we are going to do, and we have just said, "That is the system." Now, effectively, to the Minister we are saying, "Write a Bill to make it fit". I do not think that is an acceptable way of doing business.

That is before we even look at planning. Does anyone here truly believe that councils are going to be one of the best places to deal with planning? We already have a very difficult planning system. Do people think that devolving that system to councils will improve it, speed it up or bring any type of strategic vision? Of course, the Minister might get a lucky break on that, and OFMDFM might just take the planning system off him altogether and not devolve it to councils. I do not think that councils are fit or have the capacity, quite frankly, to deal with planning issues.

Most of our council functions at the minute are dealing with waste. I can certainly tell you, Deputy Speaker, as a rural dweller, that I do not particularly feel a great linkage between what I pay in rates and what I get in the delivery of council services. I get my bin emptied, and that is about the height of it. I think that when we merge councils together and look at what is going to happen on the finance in this Bill, we begin to question how that is going to make for even more disillusionment for ratepayers and voters, who will wonder why there are no linkages there.

Look at all this dysfunctionality that we are proposing to devolve to councils. We are also wanting to devolve, effectively, a petition of concern mechanism to councils. I have to say that that has really served us well in here. Look at the number of times that the DUP has used a petition of concern — on some strange pieces of legislation, on clauses and on different things that it just objects to, it says, "We will use a petition of concern." That is something that we are proposing to put out to councils. I see Mr Campbell pointing. He has to know that no other party can actually sign a petition of concern on its own, so at least you have a safeguard there of needing a second party.

Mr Campbell: I thank the Member for giving way. I was pointing because Mr McCallister was referring to the fact that the DUP has used the petition of concern mechanism, which is true. I was pointing to indicate that many people have used a petition of concern, but he chose only to mention the DUP.

Mr McCallister: I think it is obvious why I chose only to mention the DUP. The DUP is the only party that can sign a petition of concern on its own. Sinn Féin needs —

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

Mr McCallister: Yes. Thank you, Deputy Speaker. That is the point in the Bill. Why would you devolve that type of mechanism to councils, considering the chaos that, quite frankly, it sometimes causes in this Assembly? I am not sure that the arguments are there for it. So, at every turn, we look at that dysfunctionality; we look at the carve-up of orange and green politics that infects this place — the sectarianism that infects this place — and we put that out to local government. That is exactly why we have come up with an 11-council model and drafted the Bill to say that that is what will happen. There is no light yet on whether we are devolving the financial wherewithal to do some of this or whether we are simply devolving the powers without the financial responsibility. All of that paints a very grim picture of how good the model is for moving forward the reorganisation of local government.

I come back to the point that the case has not been made. Not one Member today has made a case beyond saying that it is about time that local government was reorganised. The most convincing case probably came from Stewart Dickson who said that our councils are old and tired: that is about all we have. We are doing

something that might set up a council structure for the next 40 years, and that is the only basis for it. What are the great arguments from the DUP or Sinn Féin for doing this? We are devolving areas of responsibility, and there are questions over whether our councils would be capable and whether there are linkages between voters and ratepayers and how they link into that. On every single issue, we are asking the Assembly to devolve our dysfunctionality to councils, and we somehow think that it will all work and end happily.

We look at the state of the Chamber and we think, "Why do we not replicate this across Northern Ireland and have the relationships that we have here across local government?" There will be the same parties across local government.

Mr Givan: Some parties will not —

Mr McCallister: I hear him shout. Hopefully, there will be a sense of fresh politics in some councils to add a touch of sanity to the proceedings.

That is why we will be opposing the Bill. It has not been well thought through. No one has made the case. In doing this, we are very much trying to make a silk purse out of a sow's ear. It is wrong, it is bad legislation, and the model has not been proven. The projected savings are very much in doubt, and the ability of councils to deliver some of these things, particularly planning, is also in doubt. We are devolving our failings to the councils, and that is not a good way forward. That is why I will be opposing the Bill.

Mr Allister: No doubt, there are some who would like the general public to believe that what we are engaged in today is a coherent, structured process of reforming local government in a manner that is cogent and logical; that we have taken to redrafting boundaries on a sensible and rational basis and not, which, of course, is the reality, on the basis of a carve-up settlement between the DUP/Sinn Féin axis, so that we have produced such ludicrous twinnings as Ballybeen with Moira or Ballynahinch with Newry and we, in the process, have sold out and abandoned the unionist position in Belfast.

This is from a starting point where, of course, there were some who said that the logical outcome was 15 councils. If 15 was right then, it is right today. The reason we do not have 15 is because of that squalid deal between the DUP and Sinn Féin to produce 11 councils,

and, in the process, do the things that I have said.

Along the way, we did have some sham fights. We had the Health Minister, when he was Environment Minister, go through the great process of a sham fight about Dunmurry. What about Dunmurry now?

Mr Campbell: Shadow boxing.

Mr Allister: Yes. Shadow boxing, sham fight — whatever you like, Mr Campbell — no doubt all those designations would fit. Of course, in traditional DUP fashion, it all faded away — another rollover.

Mr Deputy Speaker: May I draw the Member back to the Bill? He will be aware that some of the issues that he is speaking about are not dealt with in the Bill.

Mr Allister: I will come back to the content of the Bill. I thought, Mr Deputy Speaker, that you were rising to protect me, shrinking violet that I am, from Mr Campbell's sedentary interruptions. *[Interruption.]*

Mr Deputy Speaker: Order.

Mr Allister: I will try to deal with those in my own way.

Here comes Mr Poots, the man of whom I spoke, the Dunmurry sham fighter.

It has been suggested that this is a cogent, coherent approach to the reform of local government, which we will consummate with the elections on 22 May. The reality, however, is that we are discussing a Bill about how local government should function in the reformed system, without knowing whether it has any chance of being in law by 22 May. I suspect that it probably will not be. So we will elect new shadow councils on 22 May, with none of the Bill's content likely to be in law by that date. It is not beyond the bounds of possibility that, considering the snail pace of the House, come April 2015, when the new councils are supposed to take over, this legislation will not even be in place. What happens then? Will the Minister have to come in with an extension order for the 26 councils?

Mr McCallister: I am grateful to the Member for giving way. I do not think that it will worry the DUP too much, considering that the Education and Skills Authority (ESA) has been in shadow form for years.

Mr Allister: I think that somebody should put ESA out of its misery, and that would solve that problem.

My point is this: we are involved in a process that lacks the structure and cogency to assure that it can deliver workable, functioning local government. We are so late in the process that, come those elections, the legislation might still be in draft form rather than being an Act of the Assembly. Perhaps it suits some to be able to say, "When we get into the new councils, wait till you see what we will do. We will deal with the flags issue and all sorts of issues" — happy in the knowledge that they can say that because there is nothing binding in the legislation. They do not then have to face up to what they have sold out to in the legislation. They can beat their chests in traditional fashion, knowing that they can put off the evil day of facing up to the realities that will be effected should the legislation come into play.

I say to the Minister: what happens on 22 May if the Bill is not in place? What is being said to the people of Northern Ireland about the future shape of their local government? What happens to the councils if it is not even in place in 2015?

5.30 pm

I find the Bill excessively prescriptive. Many of the arrangements are stifling and prescriptive in the restraints that they place on councils, no more so than the governmental arrangements. What we have in the Bill is an institutionalising of d'Hondt. There are some in the House who, for years, have told us how hostile they are to d'Hondt and how their political ambition is to rid the House of it. I know that their actions defy their words, but those are their words. Yet here we have them supporting the very institutionalising of d'Hondt in local government. It has worked really well here, has it not? Now, we will institutionalise it in local government and expect that doing so will provide working local government. Did we learn nothing from the experiences of recent times?

When I say that the legislation is highly prescriptive, I am thinking of the fact that one of the governmental arrangements is an executive of the council. You might have a 40-man council, you might have a 60-man council, but you will have an executive of between four and 10 running it. What the other 30-odd or 50-odd are meant to do is not very clear. Maybe we could give them a little scrutiny role — that should keep them happy. That should make

them sound and seem important. However, when it comes to running the council, let us give it to the big carve-up, the four to 10 members. That proposition is not about sharing power; it is about concentrating power in the hands of the few.

Indeed, there are some remarkable things in the Bill. In clause 26, there is a presumption that all power in those circumstances will be vested not in the council that is elected but in the executive that is selected. Likewise —

Mr Weir: I thank the Member for giving way. Does he not recognise that the executive is one of a range of governance options? The executive is exactly the system that operates in the vast bulk of councils in England, Scotland and Wales. Portraying it as sinister when it is simply one option on the table and replicates what exists elsewhere seems slightly ludicrous.

Mr Allister: The Member says that it is one option; it is the first option stated in the Bill. It is an option and is, I suppose, one of two main options. However, the clause is predicated upon acceptance of that option. Clause 27(3), for example, states:

"(3) Accordingly, any function which is the responsibility of an executive of a council under executive arrangements -

(a) may not be discharged by the council".

So the corporate action, the right and responsibility of the council itself, is removed and vested exclusively in the dictating cabal that is the executive, and there is no accountability of any meaningful nature back from that. So I will say this again: you elect 40 people, maybe six get to exercise real power. The rest are observers of and passengers in the process. Robbing councils of their corporate power does not improve the democratisation of local government.

It is interesting that an individual councillor who seeks information under the Bill can be denied it. Clause 37 (3) states:

"(3) The overview and scrutiny committee or the council, in providing a copy of the document to a councillor, may exclude any confidential information or relevant exempt information."

The council can keep information from that councillor.

Clause 37(4)(a) states:

"Where information is excluded ... the overview and scrutiny committee or the council, in publishing, or providing a copy of, the document may replace so much of the document as discloses the information with a summary which does not disclose that information".

Clause 37(6) has this classic line:

"The overview and scrutiny committee is nevertheless to be taken for the purposes of section 36(3)(c) or (d) to have published or provided a copy of the report or recommendations."

So you can conceal, but there is a statutory presumption that whatever you provide is the full story. Where in this proposal is the openness and transparency that some boast about?

(Mr Speaker in the Chair)

Let me come to something that Mr Weir sought to preview for me. It is interesting that the DUP Chief Whip has time to follow my tweets. I do not know whether I should be flattered or otherwise, but there you are. I come to the issue of weighted majorities — qualified majorities — in the Bill and where that sits and how it plays with the important issue of symbols and flags for councils. We all know from recent experience just how pertinent and far-reaching the impact of councils flying or not flying a flag can be. What does the Bill state about that? It states some very interesting things. It states that some decisions according to standing orders will be taken by qualified majority. A council might well decide of its own volition what will and what will not be decided by a qualified majority, which is 80%. The key statutory provision is in clause 42(2)(c), which gives the power to the Minister to make regulations that:

"require that a vote with respect to a matter falling to be decided by the council ... is to be taken in a particular manner."

Mr Weir: Will the Member give way?

Mr Allister: When I have finished the point.

The Minister reserves for himself the right by regulation to override a council, to dictate and determine that a vote on a particular matter is to be taken in a particular manner, which incorporates a qualified majority. The first question that arises is this: is the Minister minded to make a regulation pertaining to flag-

flying in councils? The Alliance Party has suggested, for example, designated days across the Province in all councils. Others suggested sitting days, and others more than that. The first question is this: is the Minister minded to make such a regulation? I suspect that he is not. If he is not, that matter then falls to the individual councils. The starting point for any new council is a clean sheet of paper. New councils do not inherit the flag policy of their previous constituent parts.

They start with a clean sheet of paper. Say the Minister decided, in those circumstances — foolishly, I would say — that he was going to make a regulation that required a vote on such a matter to be by a qualified majority, then a proposition that, for example, the Union flag shall fly from Ballymena Town Hall, Carrickfergus Town Hall or Larne Town Hall would, in those circumstances, need 80% of the elected councillors to support it.

Mr Weir: Will the Member give way?

Mr Allister: In a moment. The exercise starts with a blank piece of paper.

Mr Weir: The Member has obviously read clauses 41, 42 and 43 assiduously, but it is a pity that he did not read further in the legislation. The Member refers to regulations, specifically in clauses 42 and 44, which deal with standing orders, and clause 125 states:

"(3) Regulations and orders to which this subsection applies must not be made unless a draft of the regulations or order has been laid before, and approved by a resolution of, the Assembly."

The Minister does not have a free hand. Should he want to take action to compel a council to make the flying of a flag subject to a qualified majority vote, he would have to bring that to the House as a regulation that would then require the approval of the House. We have read the clause, and it is a pity that the Member has not read it quite so well. I am sorry to burst his bubble.

Mr Allister: I assure you that I did read it. Is it meant to give me comfort that the flying of the Union flag relies on the DUP having the bottle and the courage to see off a regulation? On the basis of past performance, I take no confidence from that whatsoever. What I see there is a classic playing out of a trade-off, whereby one regulation is blocked, another is blocked, and eventually there is a mishmash of a compromise. If Mr Weir is saying that I should

sleep well tonight because the Union flag is safe in his and his party's hands, I am sorry, but, from past experience, it is not. On past experience of stopping what Sinn Féin wants to do in government, it is a miserable record of failure. Look at education and at how Sinn Féin have rampaged through that. Despite all the supposed vetoes, there has not been a whimper to stop them. *[Interruption.]* Not a single attempt to stop them —

Mr Speaker: Order. The Member should take his seat. I am trying to help the Member and steer him back to the Bill. The Second Stage debate should be on the principles of the Bill. I am trying to be helpful to the Member.

Mr Allister: I come back to my point and the fact that the Minister can bring forward a regulation to force the hand of a council. I ask the Minister — let him answer in his response — whether he is minded to bring forward regulations touching on flags if he is not bringing forward a regulation dictating the policy on the flying of flags across the councils. Is he likely to do what I have suggested? He owes us an answer that is straightforward and honest, as I am sure it would be.

I will pick up on Mr Weir's comment. If the Minister brings forward a regulation that is blocked, what happens then? If you are starting with a blank sheet of paper, as you will be with these councils, and there is a proposition that the Union flag should fly from council premises 365 days a year, does Mr Weir really think that, because of the way in which the Bill is worded, the Minister cannot do anything about that? I hope that he is right, but does he really think that? I suspect that he knows he is not right. The difficulty is that you are not inheriting the policies of the constituent bodies that make up the new councils; you are starting from a fresh position in which, if the hurdles are laid as they can be laid in the Bill by the Minister, the prospects of the flag being able to fly where it should fly are in severe jeopardy. I say to Members who care about those things that they need to think cautiously and carefully about that. We could get ourselves into a situation in which our latter position is worse than our first.

5.45 pm

Mr Campbell: I thank the Member for giving way. He used the euphemism of thinking carefully and cautiously. I ask him to think carefully and cautiously and tell us whether his opposition, as one imagines is what he meant by that, means that he would prefer the current

26-council make-up and all that flows therefrom to their reconstitution under the Bill.

Mr Allister: On matters of acting cautiously and carefully, I wish that Mr Campbell would give that advice to his party leader. Let us be clear: I wanted a 15-council model, as Mr Campbell did.

Mr Campbell: That was not the question.

Mr Speaker: Order. There should not be debate across the Chamber.

Mr Allister: Mr Campbell, once more, rolled over on that. Do I want 11 councils of this amalgam as opposed to 26? Frankly, I think that the 26 is probably marginally preferable to the 11 but not as good as the 15, which we could have had if Mr Campbell, not for the first time —

Mr Campbell: That will do — "marginally preferable".

Mr Speaker: Order.

Mr Allister: — had not been a rollover unionist.

Mr Nesbitt (The Chairperson of the Committee for the Office of the First Minister and deputy First Minister): I want to say a few words as Chair to inform Members about the Committee's interest in the arrangements specific to Part 9, which deals with the conduct of councillors. The Committee is interested in these arrangements because it envisages that complaints about breaches of the code of conduct for councillors will be policed by the Northern Ireland Commissioner for Complaints. Members may recall that, on 16 September, we debated and approved in the Chamber the Committee's proposals for a Bill to reform the office of Commissioner for Complaints and merge it with that of the Assembly Ombudsman, thus creating a new public services ombudsman's office.

The then Minister of the Environment, in his contribution to the OFMDFM response to the Committee's proposals, referred to the consultation on a new ethical standards framework for the new councils. That consultation envisaged a central role for the Commissioner for Complaints, who would investigate and adjudicate on complaints. The Minister concluded by indicating that he would advise the Committee of the final policy proposals that he intended to introduce once they were agreed by Executive colleagues.

The Committee was briefed on the proposals by the current Commissioner for Complaints, Dr Tom Frawley, on 22 May this year. He said that the envisaged arrangements would resemble those operating in Wales and cost considerably less than other options under consideration. I refer Members to his testimony on that day. He said that, if we were to adopt or transcribe what happened in Wales, he envisaged six-figure savings.

Dr Frawley also emphasised the potential for extended hearings to deal with complaints, with all parties legally represented, resulting in a correspondingly expensive process. Tom Frawley advised that the Welsh Government had indemnified councillors, which had encouraged the use of lawyers. He went on to highlight the need for a process designed to limit and, indeed, eliminate the potential for the cost of the process to escalate. Dr Frawley felt that the remit was a reasonable fit with the current role of the Commissioner for Complaints but raised a concern that the additional responsibilities be properly funded. He felt that the Department of the Environment should be central in making the necessary resources available and that it should not be left to him or his successors to:

"go and negotiate the funds for it".

From looking at the arrangements in clause 67, it seems that the commissioner will have to issue bills to the new councils for their apportioned share of the costs of operating the new system. Councillors "must pay" their share to the commissioner, and, if they do not, it is deemed to be a debt recoverable by the commissioner. That is set out in clause 67(4) and (5). I am not sure that that type of billing arrangement is what Dr Frawley had in mind when he told the Committee that those who ask the commissioner to take on these responsibilities:

"should also have a critical role in agreeing and taking on the costs, and in making funds available to fulfil the roles."

It would be helpful if the Minister could indicate whether Dr Frawley is content with the proposed funding mechanisms and with the other arrangements that are set out in Part 9.

I believe that Committee members will wish to be assured that that new remit will be properly funded and that its delivery for the Department of the Environment will not dilute the commissioner's ability to deal with citizens' complaints about public services. Dr Frawley

also emphasised the need for a commitment to review the new arrangements in three to four years and to make any changes that may be deemed necessary. The Committee will keep the proposals under review and will liaise with the Committee for the Environment as more detail becomes available. As indicated in the Committee's report, we will wish to ensure that the proposals are developed in a manner consistent with the model for establishing and holding the proposed new public services ombudsman to account through an enhanced relationship with the Assembly.

Mr Speaker, thank you for your indulgence. I will now say a few words in my capacity as a Member. As you would expect, I am fully in favour of a properly funded and resourced regime to police complaints concerning breaches of the code of conduct for councillors. Beyond that, I will not rehearse the points that my colleague Mr Elliott made when he highlighted what we think is right and what we think is wrong about the proposals. Suffice it to say that, as we come towards the end of the debate, the Ulster Unionist Party will do what is right for Northern Ireland.

Mr Durkan (The Minister of the

Environment): I am grateful to the Chair of the Environment Committee and to Members from all sides of the House for their consideration of the Bill and their largely measured and positive contributions. Their comments, even those that were maybe not so measured and positive, have all been valuable.

I will now respond to the issues that were raised, and I assure Members that I will also read over the Hansard report covering the debate to ensure that I have not missed any issues. If I find that I have, I will write to the Members concerned. There was quite a degree of repetition throughout the debate. That is not in any way a criticism of the debate or the debaters but, indeed, an indication of the common questions and concerns that Members have.

The first contributor was Ms Anna Lo, the Chairperson of the Environment Committee. She spoke in some detail about the impact that the legislation would have on all levels of a council's performance. She spoke of the raft of subordinate legislation and regulations to follow. I look forward to working with her and the rest of the Environment Committee on that. I will depend heavily on guidance, help and cooperation from the Environment Committee as we attempt to progress the legislation. Ms Lo asked several pertinent questions and raised several pertinent points, all of which I will

address now. At least, I hope that I will address all of them, and, if I do not, I am sure that she will come back to me.

First, Ms Lo was keen to explore the issue of capacity building for community planning. My Department has established a pilot and community planning working group in partnership with local government to prepare for the introduction of community planning. The working group has developed a foundation programme to help statutory transition committees and transition management teams in each new council cluster to make preparations. The programme sets out advice on key building blocks that councils can put in place in the interim, and that is due to be rolled out at the end of this month. My Department will also provide capacity building to support councils in preparing for the community planning duty that they will receive in April 2015.

Ms Lo then asked if we could specify the bodies that will be required to participate in the support of community planning and guidance for the operation of community planning. The answer is that those bodies will be specified in regulations. I can confirm that my officials will engage fully with the Committee on the list of bodies that will be included. Officials will also engage with local government and the Committee in drafting the community planning guidance.

There were issues around positions of responsibility. Ms Lo was of the opinion that a locally agreed approach to allocating positions would be the most appropriate way forward. I agree, but, in the absence of any political maturity in councils — sadly, we have seen evidence of a lack of political maturity lately — I consider it more appropriate to define d'Hondt as the default method of allocating positions. The manner in which the process will operate will help to mitigate the drawbacks associated with the formula approach.

There was a question around the level of membership required for call-in and qualified majority voting. I am satisfied that the level of membership of a council required to request that a decision is reconsidered and required for a decision or resolution to be agreed by a qualified majority strikes the appropriate balance between providing protection and enabling council business to proceed. Those levels were agreed by political parties through the strategic leadership board as part of a policy development process.

A point raised by Ms Lo and echoed by Mr Elliott and Lord Morrow was around the role of a solicitor or barrister through or during the call-in process. The individual concerned will have no role in the decision-making process. Their role will be to confirm whether the members requesting the reconsideration of a decision have articulated a case for the disproportionate adverse impact that would arise if the decision was implemented and that the community would be affected. Ultimately, it will be for members of the council to make the decision on the matter under consideration. The details of how the process will operate will be specified, once again, in regulations that will be subject to the affirmative procedure.

Ms Lo asked why we were removing the blanket prohibition on council employees becoming councillors and whether that might create conflicts of interest. The inclusion of the provision is in direct response to a judgement of the European Court of Human Rights in a case taken against the UK Government by a group of senior local authority officers that the prohibition then in force violated their rights under article 10 of the European Convention on Human Rights. My Department sought legal advice, which indicated that failure to remove the blanket prohibition here could leave my Department open to a similar challenge. The Department will engage with appropriate stakeholders, including the Environment Committee, prior to a public consultation on the proposal about which officers will be subject to the bar.

The date of the election is another question that Ms Lo raised. My Department has been working closely with the Northern Ireland Office in relation to arrangements for the next local government election, including the proposal to bring the date of the election forward to 2014. Moving the date of the election will allow for a transitional period — a shadow period — in advance of the 11 new councils taking up their full range of powers and responsibilities. I understand that an Order in Council is to be laid at Westminster early this month that will include provision for the election to take place on 22 May 2014, subject to Parliament's approval of the legislation.

There were questions, not just from Ms Lo but from other Members, around the code of conduct and what might be included in that.

It is proposed that the mandatory code of conduct be consistent with the seven Nolan principles with which we are all familiar — at least, we should be — of selflessness, integrity, objectivity, accountability, openness, honesty

and leadership. It will include the four additional principles adopted in the code of conduct of the Northern Ireland Assembly: equality; promoting good relations; respect; and good working relationships. The document will provide information on the background to the code; outline its legislative basis; identify and provide clarification on the principles that underpin the code; outline the standards of conduct expected of councillors when acting as a councillor and/or conducting council business; outline the behaviours expected of councillors when dealing with fellow members and officers of councils; and, very importantly, clarify what is expected of councillors with regard to planning matters.

6.00 pm

Ms Lo expressed a concern, which was reiterated by Mr Elliott, Mr Milne and Mr Dickson, that there was no appeals mechanism relating to complaints. As with any decisions made by public bodies, the judicial review process is available to any person who feels that an injustice has occurred. Prior to a decision being made, a person who is alleged to have breached the code will be given the opportunity to refute that allegation, in person, through the commissioner's office. I have asked officials to bring forward for consideration a paper on options for a possible appeals mechanism. If necessary, I will table an amendment on that at the next stage.

Ms Brown was the next contributor to the debate. I congratulate her on her elevation to Deputy Chair of the Environment Committee, and I look forward to working with her. Her contribution focused largely on existing collaboration — or what should be existing collaboration — between councils through the ICE programme. She asked how we could ensure that the ICE programme was inclusive of all councils, and not just an option. The ICE programme is, rightly, owned and delivered by the local government sector itself. That said, I and my predecessor have encouraged all councils to participate fully in driving savings through ICE. To support that, I am enshrining in legislation the requirement to fully and formally address performance improvement in local government.

The ICE programme has delivered savings. A considerable amount of work has been carried out in a number of ICE work streams, including customer-facing services, procurement, ICT, human resources and support services. That work has begun to deliver efficiencies, and I am encouraged by the fact that the chair of the Society of Local Authority Chief Executives

(SOLACE) recently indicated that local government has begun to develop a culture of collaboration. I strongly feel that that culture will need to be developed further to enable improved citizen-centric services while ensuring minimum rate increases. Furthermore, I strongly agree with my predecessor that all councils should be availing themselves of each and every opportunity to become more efficient and prudent with ratepayers' money. That may mean that councils' senior people, officials and elected members, will have to show leadership to ensure a more cohesive and consistent approach to embracing the principles of the ICE programme.

I understand that the ICE customer-facing services work stream produced a conservative estimate that the available savings over the next 25 years will be £200 million. I would like all ICE work streams to carefully identify what efficiencies they have already put in place and estimate what savings will be delivered in the future. I have asked the ICE leads to develop a matrix to capture that information and to provide me with it as a matter of urgency. I will be happy to share that with the Committee and the House. It is important that we learn from what ICE has achieved and build on that model. Hopefully, that will result in more shared services across local government, not just in the new clusters but across them.

Ms Brown questioned community involvement in the planning and delivery of services and had another question around community planning. The Bill places a clear statutory requirement on the new councils to engage effectively with the local community and its representative bodies.

Mr Boylan — he is awake — said that his party has always been supportive of reform and making local government more accountable. It is fair to say that everyone in the House wants to ensure that local government is as accountable as possible. He said that this is one of the most important pieces of legislation that we will deal with in this Assembly. I am not sure whether I would go that far, but I will say that it is the most important that I have dealt with so far.

He asked whether I could provide details of the subordinate legislation. The Bill contains a number of enabling powers for subordinate legislation, guidance and other statutory documents. Those will include regulations on standing orders for councils, which I will make; provisions for regulating proceedings and business; regulations to designate those employees who will still be prohibited from being councillors; regulations to provide more

detail on the new executive arrangements, including the functions that cannot be delegated to an executive; order on overview and scrutiny arrangements; regulations to specify the community planning partners; regulations on performance indicators and performance standards; and the mandatory code of conduct.

There will also be statutory guidance on executive arrangements, positions of responsibility, community planning, performance improvement and the schemes of transfer of assets, liabilities and staff. Mr Boylan emphasised the need to ensure that proportionality applies and the precise method of application of each of the alternative approaches to the sharing of positions as specified in schedule 3 to the Bill. That removes any potential for doubt or manipulation and ensures that each approach is applied consistently across all councils.

He was the first to raise the issue of the qualified vote, although many after him did so, and what council decisions might be subject to it. Building on my commitment to ensure that the interests of minority communities are protected, the following decisions will be specified as requiring a qualified majority vote: the political governance arrangements to be operated by the council; the method to be used for the sharing of positions of responsibility; the method to be used for ensuring that the membership of a committee reflects the political balance on a council; major capital projects; programmes that impact across a number of district electoral areas; and, in response to a legitimate call-in, on adverse impact grounds. He also asked about the change in the 15% level to the call-in. Any proposed changes to the percentage of Members required to request the consideration of a decision will be subject to agreement by the Executive and the draft affirmation process in the Assembly.

Mr Boylan also touched on community planning, with particular reference to planning in communities in border areas. The councils will be responsible for the delivery of services to the community in the local government district. There is nothing to prevent a council working on a voluntary basis with a local authority in the South, and there will not be. He wondered to what extent the new community planning powers will compel statutory bodies not only to participate but to deliver real outcomes. A duty is being placed on specified statutory bodies to participate and support community planning. Community planning is, however, about councils, as the locally elected body, building relationships with the other partner organisations to identify not just what should be

done but what can be done in the short term and over a longer time frame. In doing so, there needs to be recognition that statutory bodies are answerable to those who provide their funding and determine the priorities that that funding should be used to address.

Community planning is about how the partner organisations, in delivering their functions and responsibilities, can support the objectives identified in the community plan. It is also about the various partner organisations working to align, as far as is practicable, their short-term strategic objectives and targets.

Another point that was made, which was raised later by Dolores Kelly, was around the effective engagement of statutory partners. I have to re-emphasise that it is about building relationships between the elected representatives and officers of councils and the key individuals in the other organisations. It would not be appropriate for me to specify who should represent the interest of a body in the community planning process. I know that you said that it should be the chief executive or someone high up. It is not our place to specify that, but you would like to think that councils, councillors and council officers can develop relationships and get in people of that stature and authority.

Mr I McCrea: I thank the Minister for giving way. Experience in local government tells us that, when you try to bring other statutory bodies together, the normal process involves the chief executive or senior officer but, as one of my colleagues said, further into the process, you are dealing with a junior clerk. Surely there needs to be a process to ensure that that is not allowed to be the case. I know that it will be hard to legislate for that, but surely there has to be some process.

Mr Durkan: I thank the Member for the intervention. I agree with him. It is a frustration that I, too, experienced as a councillor, particularly in the neighbourhood renewal process when other agencies were not playing their part fully and often left the Department for Social Development to carry the can. There are mechanisms in place. Departments still have responsibility for those involved in community planning. So, for example, it could be up to the Education Minister to pull up someone who is not delivering in respect of education in the community planning process. That oversight still exists. I would like to think that, through the partnership panel, it could be raised at ministerial level if some agency is not pulling its weight and not coming up with solutions to problems.

The next contributor to the debate was my colleague Dolores Kelly, who spoke in support of the Bill. She spoke about the importance of safeguards for minorities. Those are essential and are at the core of the Bill, and they were in our thoughts in bringing it forward. She focused on capacity building and asked whether there would be mandatory training for councillors. All councillors will be encouraged to participate in the menu of training and capacity-building options that are being developed in conjunction with local government. There will be mandatory training for councillors in some specific areas of responsibility. For example, any councillor sitting on a planning committee will be required to undergo mandatory training in the legal framework on which planning decisions are made and in his or her role in the decision-making process. That measure is to protect councillors as much as it is to protect the council. There will also be mandatory training for statutory transition committees regarding the appointment of chief executives.

Mrs Kelly suggested that there should be a mandatory register of interests for councillors. Provision will be included in the mandatory code of conduct that interests must be registered by councillors. The register will be monitored by the clerk of the relevant council.

Mrs Kelly asked whether the bar on the dual mandate would extend to Members of the House of Lords. I can happily say that the Bill does not extend the bar on the dual mandate to Members of the House of Lords; this is not an elected position.

6.15 pm

Another question that was asked was how can the transfer of assets be maximised for the benefit of the whole district? I believe that the recoupling of planning regeneration and local economic development, together with the new power of community planning, will provide local government with a real opportunity to maximise benefit for all of its ratepayers. New councils will need to consider the important role that physical assets will play, not just those that they will inherit from their predecessor councils but those from central government. Community planning will provide the framework for that.

Mrs Kelly raised concerns about executive arrangements and governance. Regulations and standing orders will require that, where a council has chosen the executive model, the executive of the council is required to publish a forward work programme and a decision when it is taken. That will ensure that the other

members of the council will be aware of how the executive operates.

The next contributor was Mr Elliott. He, quite rightly, spoke of and paid tribute to the role of councils and councillors during our troubled past. I would like to acknowledge that and be associated with his remarks in that regard. Moving on from the last point about training being provided to STCs in the appointment of chief executives, Mr Elliott raised a concern about the selection panels for the appointment of chief executives. The remit of the Local Government Staff Commission has been expanded to cover STCs. Those committees must consult with the commission on the composition of the interview panels to ensure fair representation. Each panel will consist of: the chair of the STC; between four and seven members of the statutory transition committee; two representatives of the staff commission; and an independent assessor appointed by the staff commission. Those three final members will be there to ensure that the appointments process is fair and equitable, but they will not have any voting rights. Members of the interview panel and the full statutory transition committee will have mandatory training in the appointment process, so that they are fully aware of the requirements of employment law.

Finally, the decisions to seek ratification of the full statutory transition committee by a majority of 60% is designed to ensure that no one constituent council in the statutory transition committee can overly influence the outcome of the appointment process.

Like Lord Morrow after him, Mr Elliott raised concerns about the timing of the Bill, and whether it must be passed before the elections. If the Bill is not passed prior to the elections, could MLAs, MPs and MEPs, stand for election in the 2014 elections? As I mentioned earlier, elections are an excepted matter; however, the Secretary of State will bring forward legislation within the next few weeks to move the date of the election to 2014. It is not essential for this Bill to be in place prior to the elections to enable the elections to take place; however, it would be very desirable for the Bill to have received Royal Assent prior to the elections, so that the new governance arrangements and ethical standards framework will apply as soon as the new councils are elected. Whether the dual mandate provisions will apply will depend on when the Bill receives Royal Assent.

Mr Elliott asked how costs for transferring functions would be identified. Each Department will be responsible, both for the costs of transferring functions and for identifying the

basis on which the costs will be apportioned across each council area. The transfer of functions working group is commissioning a due diligence exercise to validate the information provided by each Department. That third-party verification of costs will provide reassurance that the settlement is fair and equitable.

Mr Elliott is of the opinion that some of the language in the Bill in relation to the code of conduct is permissive rather than mandatory. In relation to when the code will apply, the Bill specifies that the Department may issue a code. Yes, the Bill does state that the Department may issue a code. I can assure you that the Department intends to issue a code. The Bill also provides that the Department cannot issue a code unless a draft of it has been laid before, and approved by, the Assembly. The Department will bring the code to the Assembly after the Bill receives Royal Assent. The Bill also states that the code must specify the principles that will govern councillors' conduct.

The qualified majority vote was raised. Mr Elliott flagged up the provision in the legislation to amend the 80% and asked for what reasons that might change. The enabling power that I am taking to alter the percentage will be used only if there is clear evidence in the future that that level results in councils being unable to progress business effectively.

On governance, forms of governance and a permitted form of governance, it will be for each council and the parties represented on it to decide whether it wishes to use a committee system or the executive arrangements that we have already discussed. The regulation that will specify the function that may be the responsibility of the executive will be drafted on a uniform basis and will apply to all councils. The establishment of executive arrangements will not prevent a council from establishing committees for the discharge of other functions.

Mr Elliott and, again, Lord Morrow raised the question of why a chairperson or vice chairperson of a council could not be a member of an executive, if a council chooses to adopt that style of governance arrangement. The proposed executive of a council will be a significant aspect of the political decision-making structure. The chairman or mayor and the vice-chairperson are appointed annually as the most senior civic representative of the council as a whole. I do not consider that it would be appropriate for a councillor who holds that position also to be directly involved in the political decision-making structure. The operation of executive arrangements here will

be somewhat different from those in place in England, where there is provision for a directly elected mayor who acts as the chair of the new executive.

Lord Morrow made a very welcome contribution to the debate. He described this as a hefty piece of legislation and referred to the work that had been done in Dungannon and south Tyrone, where there has not been a rate increase in four years. I am sure that lots would like to learn from that and, indeed, replicate it. He, like Mr Elliott, paid tribute to the work of councils over the years. He asked whether there was a legal position and, if so, what it was, and whether there was a statutory obligation on councils to have reserves. The Department issued guidance on reserves, setting a recommended limit of between 5% and 7.5% of their operating budget. However, that is not a statutory requirement. The current level of reserves in local government is just over £84 million, of which around £28 million has been earmarked. It is for each council to determine its own level of debt. However, the local government auditor will consider debt levels in each council to ensure that no council goes beyond its ability to service its debts. I think that £0.5 billion was the amount mentioned for current debts in local government, but it amounts to approximately £495 million — so it was close.

Lord Morrow: I thank the Minister for giving way. On the point around reserves, there is some misunderstanding in relation to whether a council has a statutory obligation to have reserves in place. I am asking the Minister a question, but I am not demanding an answer here today. Does he agree that it would be advisable for councils to have reserves for contingency situations? It seems strange that there is no statutory obligation on a council to have those reserves. Does he agree that they should have?

Mr Durkan: I agree that it would be sensible and prudent for councils to have reserves for use in contingencies or emergencies.

Like others before and after him, Lord Morrow spoke about the importance of community planning and of avoiding the potential isolation of rural communities and the difficulties in planning for disparate communities within the new boundaries. The framework and the guidance will support the development of local area plans within a council's community plan. The community plan must take into account the needs of all areas of a new council. He also touched on the role of elected representatives in community planning. Councillors will be the

key drivers in the community planning process. I understand his point about other public representatives who were not necessarily elected having similar if not greater rights than councillors in some bodies at the moment. Lord Morrow asked why a bar was being placed on being a councillor if a person already holds the elected position of MLA, MP or MEP. I have been asking that question of my officials over the past week because there is a human rights argument for council employees. I thought that the idea was that we are not human; I do not know whether that means that we are superhuman or subhuman.

The dual mandate of a councillor who is also an MLA could cause potential conflicts of interest in decision-making whereby the Assembly might wish to set a policy direction that is at odds with the view of local government. The main political parties in Northern Ireland have either pledged to end the practice by 2015 or indicated that they will take a phased approach as the most suitable way to address the issue. Executive colleagues have given their support to a bar on dual mandates being included in the Bill. It would seem appropriate to resolve the issue of dual mandates in the context of the move to a reduced number of councils with additional roles and functions, as is planned for in the Bill. We have obtained legal advice on whether the bar on dual mandates breached human rights legislation, and it does not.

Lord Morrow also asked for some clarity on the circumstances under which the public and the press might be excluded from council meetings. The provisions that apply to councils are over 40 years old, and it is undoubtedly time that they were updated. There have been recent complaints in some areas that councils have misused the provisions of the Local Government Act (Northern Ireland) 1972 to exclude the public and the press. It is, of course, appropriate that the public and the press are excluded when confidential matters or matters of a certain nature, particularly those that relate to a specific individual, are being discussed. The new provisions set out more precisely the circumstances under which that can occur in the future. Those provisions can be looked at in detail during the Bill's Committee Stage to ensure that a robust framework is in place.

Mr Milne asked questions about the partnership panel. My officials will be working with NILGA to develop the procedures for the operation of the panel and to determine how partnership working can best be delivered. He also asked questions, as did other Members, about the new complaints framework, how much it would

cost, and who would pay for the work of the commissioner of complaints.

The October 2009 PwC economic appraisal of local government service delivery gave indicative costs for the proposed new ethical standards framework of £800,000: £50,000 for each of the new councils and £250,000 for additional resources and the commissioner's office.

It is estimated that the total cost of the revised framework will be £380,000. The Department has put in place arrangements to provide funding for the initial set-up costs, and I have included provisions that councils will pay for the yearly costs incurred by the commissioner's office.

6.30 pm

Ian McCrea spoke about community planning and the need for it to be focused at a local level. Community planning provides the opportunity to better link regional and local priorities, with councils, Departments and statutory bodies working together to deliver those priorities for people on the ground, which is the most important point. I think that I dealt with Mr McCrea's other points when dealing with points made by other Members.

Alasdair McDonnell spoke in support of the Bill, but not without reservation. He said that in order to have people's full confidence, councils must reflect and respect their wishes. That was a very true and very appropriate contribution. Importantly, Dr McDonnell said that bad history must not be allowed to repeat itself, and he was not the only person to say that. Members who spoke in opposition to the Bill also said that, and we all have a duty to ensure that that does not happen.

Basil McCrea asked why we were introducing the Bill and said that it appeared that we were trying to devolve dysfunctionality. I certainly hope that that is not the case, and it is definitely not my intention. I hope that we are devolving power and authority, and the ability to be creative, make solutions and better serve the needs of people on the ground. Local government does that better than the Assembly.

The same Member asked questions about flag flying — I will come to that later — and the selection of chief executives, which I think I addressed. Those are significant issues. There is a fear out there and in here — I heard it today, and where I did not hear it, I sensed it

— that an abuse of power by a majority, whatever majority that might be, will dictate those very important issues in the respective councils.

Basil McCrea also expressed concerns about the number of councils and asked what the rationale was for that number. The previous Executive settled on 11 councils because it was believed that 11 struck a measured and reasonable balance between minimising the range of variants that exists between councils, including population and rating income, while promoting and strengthening the links between councils and their communities. That decision was supported by the current Executive.

Basil and Ian McCrea raised concerns about some councils taking on the debt burden of others. On April 1 2015, all assets and liabilities of existing councils will move to the newly formed 11 councils. Those will include debts and reserves, and that is why I have introduced expenditure controls on existing councils, whereby significant spend will have to be agreed by the relevant STC. That is also why the Bill will strengthen controls on borrowing and the use of reserves by existing councils and the new councils operating in shadow mode.

Both Mr McCreas and Cathal Boylan sought detail on the functions that will transfer. The Executive, when agreeing the package of functions, also agreed that the relevant Ministers should provide details of the staff and resources that would transfer within that function. My Department has received baseline information from each Department that will transfer functions. The information submitted provides details of the resources, budgets, staff and assets attached to the package of functions that will transfer to local government. Work is under way to undertake a detailed due diligence review of the baseline information provided.

My Department is working closely with DFP to develop a mechanism to transfer the budgets relating to transferring functions to councils with minimum bureaucracy. It is not intended that that is done through a technical amendment to rating legislation, which will ensure that the commitment to transfer functions on a rates-neutral basis at point of transfer is met. I intend to propose an amendment at Consideration Stage to implement that.

Peter Weir made a very authoritative contribution and subsequent interventions. That is not surprising, given his experience on the Committee and on the various other panels and committees that he outlined he served on.

He welcomed the independent complaints procedure and spoke of the governance issues. Drawing again on his experience, he thought that it was right to have a choice and that one size does not fit all — different areas and different councils will propose different methods that they will be more comfortable with.

He also spoke about the need to protect minorities and said that the correct balance must be struck between the qualified majorities and protecting the minorities and allowing councils to do their business. He used the term, "gridlock" and said that it was vital that the proposed legislation, although it protects minorities, is not abused to the extent that it causes gridlock in councils and stops councils' good work being done. However, as Mr Weir suggested, we need to examine in Committee how best to move that forward. As I said to Ms Lo, I look forward to working with the Committee at and through the next stage of the Bill to improve it in any way that we can.

Mr Weir asked how we would ensure appropriate representation on the partnership panel. It will be for each council to nominate a member to represent its interests at partnership panel meetings. It is not for the Minister to determine that, although the Department will be responsible for confirming the appointment. Attendance at the meetings will be open to all Ministers. However, it is anticipated that actual attendance will depend on the items that are tabled for discussion. Provision is made for the First Minister and the deputy First Minister, acting jointly, to nominate Ministers or junior Ministers to attend particular meetings of the panel if they consider it appropriate.

Mr Weir also asked whether my Department would be able to block a council's nomination for its representation on the partnership panel. Again, however, it will be for the individual council and its members to decide who should represent their interests on the partnership panel. My Department's role is simply to confirm that nominated councillor's appointment.

Stewart Dickson spoke of past bad practice and of the hope that lessons had been learned. He spoke of the importance of the code of conduct and lamented the fact that he thought that annual improvement reports focused too much on financial performance and not enough on other aspects of a council's performance. The improvement plan will look at all aspects of improvement, not just at financial matters, and there is a clear link between community planning objectives and performance improvement in the delivery of services. He

expressed the concern that council officers might "go native". In addition to the code of conduct for councillors, there will be a code of conduct for officers to ensure that all those working in local government will be clear on their respective roles and responsibilities. The code of conduct for officers is being developed through the local government reform joint forum.

My party colleague Mr Maginness spoke of the proposed executive model, which is one of the choices that is available for the governance of the new councils.

He felt that the scrutiny role of the executive that would be given to councillors could lead to a healthier political environment. As regards the control of councils, he was wary of Departments acting in a Big Brother fashion. It is certainly not the intention of the Bill for this Department or any Department to constrain, but it is necessary that we have oversight if individual councils ignore government policy.

Mr McGlone spoke of the importance of building trust and reconciliation. Mr Maginness asked why the provisions relating to the control of councils were being extended to all Departments. With the new functions being transferred to local government, it was agreed with the transferring Departments that it would be helpful if the supervisory powers in the Local Government Act (Northern Ireland) 1972 were made available to all Northern Ireland Departments. It is intended that those powers will be used only in extreme circumstances. They are powers of last resort when a council is in default.

With reference to the partnership panel, Mr Maginness asked why, when we are meant to be streamlining public administration, we are creating a new body. The establishment of the partnership panel is about providing a structured forum to enable Ministers and elected representatives to work together at political level to identify how we can best deliver improved outcomes for our community. It will be a forum for discussion and will provide an opportunity for the exchange of advice in both directions. The elected representatives on the panel will report to the councils they represent. Ministers may wish to raise relevant issues with the Executive or, through their departmental officials, with the relevant Committee.

John McCallister expressed his opposition to the Bill and reiterated concerns raised by quite a few Members — even those in favour of the Bill — but particularly by his colleague, Mr McCrea. He queried the transfer of planning to

local government. The House has already confirmed its agreement to the transfer of planning to councils. The Planning Act (Northern Ireland) 2011, which was prepared by the Department and received Royal Assent on 4 May 2011, provides the legislative basis for the reform of the Northern Ireland planning system and its transfer to councils. The Act also gives effect to the transfer to councils of the majority of planning functions and decision-making responsibilities for local development plans, development management and planning enforcement. This will make planning more locally accountable, giving local politicians the opportunity to shape the areas in which they were elected. Decision-making processes will be improved by bringing in enhanced understanding of the needs and aspirations of local communities. Many provisions in the Act will commence on the transfer of planning functions to local councils in 2015.

Like others before him, Mr McCallister asked whether the 11-council model was the appropriate model. It is no secret to anyone in the House that it was not my party's preferred model. However, models for each of the seven-, 11- and 15-council configurations were consulted on.

Mr Flanagan: I thank the Member for giving way. Will he clarify what his party's position was in its 2011 manifesto?

Mr Speaker: Order. Let us not get into manifestos. Let us stay on the Second Stage of the Bill. *[Interruption.]* Order. Let us not have debate, wherever Members may be sitting in the Chamber. Allow the Minister to continue. Let us not get into a debate around manifestos.

6.45 pm

Mr McCallister: Will the Minister give way? It is not about manifestos. *[Laughter.]*

Mr Durkan: Yes.

Mr McCallister: I am grateful to the Minister. Does his point about not supporting the council model not reinforce our point that he is actually devolving functions when he is against the model for which he is legislating?

Mr Durkan: If I am not mistaken, I said that we had not been in favour of the 11-council model. The seven-, 11- and 15-council configurations were consulted on. The former Executive's decisions on the future shape of local government, which were announced in March 2008, included rationalising the 26 local

government districts to create 11 new districts, along the lines of model 11B. The alternative models, which would have created seven and 15 new councils — models 11A and 11C — were rejected by the former Executive. That decision is supported by the current Executive. The House, by agreeing the Local Government (Boundaries) Act 2008, agreed the 11-council model.

Mr A Maginness: I thank the Minister for giving way. On Fermanagh District Council, I know that there was considerable opposition from Sinn Féin members to it being fused with any other council —

Mr Speaker: Order. I must insist that the Member takes his seat. We really must not get into a discussion on individual councils, past or present. We really need to get back to the Second Stage of the Local Government Bill. I say that to all Members. Allow the Minister to continue.

Mr Durkan: Thank you for that, Mr Speaker. I thank Members for their attempted interventions. All day, we have tried to avoid getting into disputes in specific areas. I am content that I have come this far without doing that; I do not intend to do it now.

The House further confirmed its support for an 11-council model when it affirmed the Local Government (Boundaries) Order 2012.

John McCallister expressed concerns, as did some others, about the costs of reform. The PricewaterhouseCoopers economic appraisal of local government service delivery that was carried out on behalf of and published by the Department in October 2009 indicated that, under the preferred option — transformation with regional collaboration — implementation of the local government reform programme could cost up to £118 million over five years. That is against projected savings of £438 million over 25 years. One of the finance working group's key tasks is to develop an up-to-date and accurate analysis of the full costs and benefits of the reform implementation programme. To do that, local government has developed a template and accompanying guidelines for individual councils and transition committees to accurately establish the costs of reform. The returns are being examined and analysed to validate the data. That will provide an up-to-date estimate of the full cost of implementing reform of local government.

Mr Allister lamented the fact that we did not go with the 15-council model. I have addressed

how we arrived at the 11-council model. He conveyed an interesting theory for why that was the case. He queried the devolution of power to an executive in the new governance arrangements. Regulations will specify the functions that may be the responsibility of the executive. It will be for a council to determine which functions are devolved. There will also be a range of functions that will be discharged by committees. He asked which decisions would be subject to a qualified majority vote. Building on my commitment to ensure that the interests of minority communities are protected, the following decisions will be specified as requiring a qualified majority vote: the political governance arrangements to be operated by the council; the method to be used for the sharing of positions of responsibility; the method to be used for ensuring that the membership of a committee reflects the political balance on the council; major capital projects; programmes that impact across a number of district electoral areas; and, in response to a legitimate call-in, on adverse impact grounds.

Mr Allister asked me a direct question about whether I am minded to make regulations on flag-flying. No, I am not minded to make regulations on flag-flying. I am flagging now, unfortunately. *[Laughter.]* The Bill deals with improving services to local people and improving local government, and I do not see any merit in attaching regulations on flag-flying to do that. There are other forums where that can be discussed and, hopefully, resolved, one of which is the political reference group, to which I know that the Member has previously been invited, although I am led to believe that he has not attended. However, its next meeting is tomorrow, and I would be more than happy to see him and any Member from any party there.

Mr Allister: Will the Minister give way?

Mr Durkan: Certainly.

Mr Allister: I also asked the Minister whether he is minded, under clause 42, to make any regulations that would bring any council decisions on the issue of flags under the ambit of qualified majority. Can he answer that question?

Mr Durkan: I thank the Member for his question. At present, I am not minded to do so. I am happy to see how discussions go in other forums. I referred to the political reference group. We also have an ongoing process through the Haass talks, from which I am hopeful of an outcome. These are very serious issues, and the Member is right to raise them —

the issue of flags, that is, perhaps not the flags themselves. At Committee Stage, the Member will have an opportunity to bring amendments and suggestions to me on how we might progress the issue or otherwise.

Mr Wilson: Will the Minister give way?

Mr B McCrea: Will the Minister give way?

Mr Durkan: I am happy enough not to give way now, Mr Speaker. The finish line is in sight.

The final contributor this evening was Mr Nesbitt. He raised concerns about the costs of the commissioner for complaints post. The intention to ask local government to pay those costs was discussed and agreed with the commissioner's office. My officials are in ongoing discussions on the detail of the payment method. He asked other, more specific questions about Dr Frawley, and I will get back to him in writing on those.

In concluding, I again thank Members for their contributions to the debate and for comments made or concerns expressed regarding the Bill. I also take this opportunity to emphasise the benefits that the Bill will provide and the advantages that it will create for local government and the communities that it serves. It will provide our 11 new councils with the powers to be stronger, more creative and more effective in delivering services to their citizens. They will be able to imaginatively produce initiatives to boost their local economy and create jobs, protect the environment and enhance their citizens' well-being. Community planning will enable councils to work in partnership with other public service providers to develop and implement a vision for the economic, social and environmental well-being of the district. For the first time, sharing council positions of responsibility across political parties and independents will be enshrined in law. The public will now have more access to council meetings and documents. A mandatory code of conduct for councillors will be introduced that will promote high standards. Establishing a partnership panel made up of Executive Ministers and elected representatives from councils will enable the two tiers of government to discuss matters of mutual interest.

I see the Bill as a valuable and significant step in our journey to modernise local government. It will impact on every aspect of local government operation and provide the opportunity for councils to lead the improvements and the delivery of high-quality services that will benefit their communities. It will shape the future for strong, modern, community-focused local government in

Northern Ireland that will have the opportunity to deliver improved outcomes for everyone. I commend the Bill to you.

Question put.

The Assembly divided:

Ayes 64; Noes 12.

AYES

Mr Anderson, Mr Attwood, Mr Bell, Mr Boylan, Ms P Bradley, Ms Brown, Mr Buchanan, Mr Byrne, Mr Campbell, Mr Clarke, Mrs Cochrane, Mr Craig, Mr Dickson, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Eastwood, Dr Farry, Mr Flanagan, Mr Ford, Mrs Foster, Mr Frew, Mr Girvan, Mr Givan, Mrs Hale, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr G Kelly, Ms Lo, Mr Lynch, Mr McAleer, Ms J McCann, Mr McCausland, Ms McCorley, Mr I McCrea, Dr McDonnell, Mr McElduff, Ms McGahan, Mr McGlone, Mr D McIlveen, Miss M McIlveen, Mr McKinney, Mr A Maginness, Mr Milne, Lord Morrow, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr Ó hOisín, Mr Poots, Mr P Ramsey, Mr G Robinson, Mr Rogers, Mr Ross, Ms Ruane, Mr Sheehan, Mr Storey, Mr Weir, Mr Wells, Mr Wilson.

Tellers for the Ayes: Mr Boylan and Mr McKinney

NOES

Mr Allister, Mr Copeland, Mr Cree, Mr Elliott, Mr Gardiner, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr McGimpsey, Mr Nesbitt, Mrs Overend.

Tellers for the Noes: Mr Elliott and Mr Kinahan

Question accordingly agreed to.

Resolved:

That the Second Stage of the Local Government Bill [NIA 28/11-15] be agreed.

Adjourned at 7.09 pm.



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