

# Official Report (Hansard)

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# Northern Ireland Assembly

Monday 14 October 2013

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

*Members observed two minutes' silence.*

## Assembly Business

### Topical Questions

**Mr Campbell:** On a point of order, Mr Speaker. I have made enquiries and have been told that only the Speaker's Office can help me with this issue, which relates to topical questions. My understanding is that we are now on the sixth consecutive week in which there will be topical questions. I also understand that 10 names are drawn for each Department and that there are topical questions for two Departments each day, which, according to my maths, makes a total of 240.

So, I have two queries, and I am not suggesting any impropriety at all. Could your office tell me how many MLAs have submitted their names for consideration on each occasion that topical questions have been on the Order Paper and how many MLAs have yet to be on the Order Paper once for any of those 240 questions? Thank you.

**Mr Speaker:** I thank the Member for his point of order. I can supply those figures. The Business Office keeps the stats, whether they are for topical questions or questions for oral answer. This issue comes up from time to time. The Member will know that the system here is the same as that used in other institutions. Sometimes, the scientific nature of how this operates can be difficult to get your head around. I am happy to supply any Member with the stats that we have already compiled in the Business Office.

## Matter of the Day

### Murders and Security Alerts

**Mr Speaker:** Mr Tom Elliott has been given leave to make a statement on the recent murders and security alerts, which fulfils the criteria set out in Standing Order 24. If other Members wish to be called, they should rise in their places and continue to do so. I think that I probably repeat that statement more than any other in the House. Members must continually rise in their places if they want to be called. All other Members who are called will have up to three minutes to speak. I will take no points of order or interventions on this piece of business.

**Mr Elliott:** I thank the Business Office for approving the matter of the day and letting us make statements. It is unfortunate that we experienced two murders in 48 hours in Belfast and Londonderry in recent days.

The murder of Barry McCrory on Thursday was a huge setback for Londonderry, which, on the whole, has enjoyed a positive year, not least in its important role of hosting the United Kingdom City of Culture.

We also heard the awful news of the killing of Kevin Kearney in north Belfast. His body was found last Wednesday afternoon. The police described it as a "callous and cold-blooded murder". I and the Ulster Unionist Party wholeheartedly agree with that interpretation and definition. I and my party's sympathies and condolences go to the immediate and wider family of both men and, indeed, to the communities that they come from. Many of us have witnessed such cold-blooded murders since 1969.

We have also had a series of security alerts that have caused chaos across the country. Major traffic disruption followed a security alert this morning at the Blacks Road off-slip in west Belfast. I am sure that many in the House found difficulties with that disruption. I, for one, found it a difficult journey to Stormont. A

suspicious object, later described by police as an "elaborate hoax" was discovered on the M1 on Saturday and caused huge traffic disruption. Last Monday, another security alert caused traffic disruption.

We do not want to go back to the past. Violence is wrong: it was wrong in the past and is wrong now. It should be equally condemned now as it should have been in the past. I hope that the Assembly unites against the violence. I hope that it unites against the current violence, as it should have done against past violence and murders. Having spent three hours trying to get to Stormont today because of security alerts, and having listened to the news over the past week, I am no more convinced about a united Ireland than I was before.

**Mr Campbell:** On behalf of my party, I join Mr Elliott in expressing outright and unequivocal condemnation of the events over the past three or four days. It would appear that there are people who have not yet got the message. We have to send out that clear message. First, we have to say to the families of those who were brutally murdered that our sympathies, prayers and concerns are with them, their loved ones and their friends.

Those who perpetrated the acts in Belfast and Londonderry simply do not seem to understand that such activity not only does not advance any cause but makes no difference. The people of Northern Ireland's views will be the same today as they were four days ago. If anything, determination not to yield in the face of terror will increase as a result and not diminish. Therefore, whatever cause they purport to represent — be it dissident republicanism, stopping drug dealing or whatever other cause anyone may try to say was being furthered in the act of killing anyone — will simply not succeed.

There are two issues that must be brought to bear. The first is that the police need to do all that they can. If they need extra resources or extra manpower, they must get them to deal with the problem. We will support the police in endeavouring to get those resources. In addition, the wider community need not just condemn the attacks and murders, although we welcome universal condemnation. Condemnation is better than condoning and better than carrying it out. However, it needs to go beyond condemnation. Condemnation does not result in people being put in prison. Condemnation does not bring charges against those who have perpetrated this. What brings charges, and hopefully convictions, is the evidence. What leads to evidence is

information from the communities in which these people reside. That is why, hopefully, we will call, in a united and determined fashion, for the entire community to give all its information.

Further to that, I hope that all those who have any information whatsoever with respect to the Claudy bomb incident will supply it to the police in order to bring to justice those who carried out that atrocity, as well as more recent ones.

**Mr G Kelly:** Go raibh maith agat, a Cheann Comhairle. I think it important that messages go out from all the parties in the Assembly. The first message should be one of sympathy to the relatives, especially those of Kevin Kearney and Barry McCrory who were shot over the last number of days. I remember that, a year ago, in north Belfast, Danny McKay was killed. If I remember correctly, he was shot by the same group which is involved in the killing of Kevin Kearney; yet, we still have to bring to justice the killers of Danny McKay.

I am slightly disappointed in that there has also been violence against Jemma McGrath. It is worth mentioning that as a part of this matter.

Pseudo-republican groups use some sort of veneer to hide the fact that they are involved in drug dealing, extortion, and taking money or backhanders from drug dealers. They then decide that they should kill others whom they accuse of the same thing.

As Assistant Chief Constable Harris said to the Policing Board, criminality is endemic in the UVF in east Belfast. Indeed, it has been involved in violence and rape. It is worth mentioning that there must also be condemnation of the violence that we have been watching over the summer. Within the ranks of these people, there are those involved in criminality. Information should come forward and it should be given to the PSNI. There should be no equivocation on any on that.

There is a responsibility on all political parties to stand up and speak, when possible with one voice, on all of this. The security alerts may seem to people to sit at a different level, but it is the same people who are involved in anti-community activity. Whether they are loyalist or republican, they need to get off the backs of the whole community.

**Mr A Maginness:** North Belfast is no stranger to violence and, in particular, political violence. I come to the House straight from the funeral of Kevin Kearney. I was in his house last night and I witnessed, at first hand, the destructive impact of violence on a family. It tears apart the

family and the extended family. That grief and horror remain with me this morning in the aftermath of the funeral.

The IRA, whoever they are, have claimed Mr Kearney's death. They have no right to judge anybody, and they certainly have no right to kill anybody. One of the things that the family spoke to me of last night was their hurt, not just in relation to his death, but also in relation to the allegations associated with his life. The family believe that those allegations in the media and press generally are in some way an attempt to justify what happened to him. The family feels very hurt in this situation. We should take that into consideration and the media should take that into consideration.

I make no judgement on this man's life, but I do make a judgement on those who killed him. They have absolutely no right to take away any life. And no organisation, in the past or present, has any right to take away anybody's life.

That reminds us of our need to be constructive in our politics so that the destructive activities of these organisations, particularly this organisation, will not impact negatively on the stability of this institution, our politics and the sustaining of peace in this region. We should strengthen all our efforts to make our politics as constructive as possible in order to bring about the peace that the Kearney family deserve.

**12.15 pm**

**Mr Ford:** On behalf of my colleagues, I add our condemnation of the two murders that happened last week and express our sympathies to the families of Barry McCrory and Kevin Kearney. They were dreadful murders. Those who took their lives have no right to claim the right to do so. It is utterly bizarre that, last week, people claimed the right to carry out murders to deal with what they alleged were relatively minor crimes. The agencies of the state have the responsibility for dealing with such matters. No individual or small group has a right to take the law into their own hands in any such way.

As Mr Elliott highlighted, we have also witnessed a number of other serious events over the past week. We saw the attempted mortar attack on Strand Road police station in Londonderry. We saw a variety of attacks with hoax devices and devices of various sorts left in a way that caused disruption. One of those was targeted at my colleagues' East Belfast Alliance Party office, run by Naomi Long MP, Judith Cochrane and Chris Lyttle. All of those

are attacks on this society as a whole. The latter was very particularly an attack on the democratic process. That is why it is right that, this morning, we should be united in condemning such attacks.

As others have said, we also must encourage anyone who has any information that could assist the police to come forward and provide it. Whatever motivation is claimed by these thugs and terrorists, whether unionist or nationalist in background, they have no rights to take those actions. This Assembly is where the people of Northern Ireland decide their future; not thugs on the street. That has to be the message that goes out from all of us together. Let us ensure that that is the message, that we work together in a constructive way, and that we collectively provide the support that the police need. We should thank the Police Service and the army technical officers for the work that they have carried out in recent days. We should ensure that politics lives up to their work.

**Mr Givan:** It is right that the Assembly speaks with one voice and says very clearly that we stand for the rule of law, not the law of the jungle. That is what we have witnessed over the past week. Individuals have had their lives taken by those who are carrying out what is, in their mind, a form of vigilante summary justice. That is wrong. People should be brought before the courts. That is where judgement should be brought to bear, not at the barrel of a gun.

The disruption has been an attempt to take away from the good news for this community of the investment conference and the work that has been done. Obviously, there has been an attempt distract from that. I do not believe that it has but, nevertheless, it has provided a negative backdrop. This morning, people disrupted communities by leaving a vehicle, which led to a motorway being closed. Although some may think that that caused inconvenience to people, it causes more than that. In my constituency, where the traffic was blocked on the motorway in both directions, we have only a midwife-led unit; we do not have an acute A&E. When people need emergency treatment, they must go to Craigavon or the Royal. Therefore, lives are put in danger when motorways are closed. It is not something that people should take lightly.

It is right that we condemn violence from wherever it comes in our community, whether it is those who claim to be republicans, or those who disgrace the Union flag by carrying out any attack under the banner of loyalism. That is why I support last year's Lord Mayor of Belfast,

Gavin Robinson, when he made it clear that the UVF needs to be taken on, particularly in east Belfast, where it is doing damage to the community. So, wherever it comes from, the violence needs to be condemned, the information needs to be provided to the authorities and people need to be brought before the courts, where proper justice can be administered to those individuals, who care little about our society. Let this place show that, although there are difficulties, we will keep working together to try to resolve those difficulties. I caution Members who talk up crises in our institutions to not feed the individuals who want to try to bring this place down.

**Mr B McCrea:** I wish to start by expressing my condolences to the families of those who have lost their lives.

Moving on, there is a danger that we are drifting back into the 1970s. When you hear of the deaths of people and the universal condemnation and about traffic disruption, all of these things give a sense of an inevitable but unwelcome slide to the places where we do not want to go. Following on from the speech by my colleague Mr Givan, the issue is about more than platitudes. There is something of a danger of everyone uniting to condemn bad things when the real issue is about actions speaking louder than words. This Assembly, collectively, has a responsibility to defeat by its actions the men of violence and those who would drag us back. The most significant thing that I heard Mr Givan say, and I join with him, is that we have to take on paramilitaries from all sections, including specifically the UVF in east Belfast. There is no place for this type of organisation or this type of activity, because it will take Northern Ireland to a place that it does not want to go to. I join other Members in saying that we must unite against the threat of paramilitary violence from whatever corner.

**Mr Allister:** I join in condemning these recent horrendous murders. They, of course, are on a par with many such murders that we saw through the years, when those who thought that they were above the law, and, indeed, who asserted that they were the law in certain communities, thought that they could take unto themselves the right to summarily execute others. That was what we saw last week in this city and in the city of Londonderry. That was utterly wrong, just as it was utterly wrong when it happened in the past, under whatever aegis it happened.

It is quite clear that what was perpetrated in those two murders came right out of the Provo

template of how you suppress your own community and show yourself to be feared in that community. That, of course, is something that we lived with for decades, courtesy of the Provisional IRA. These murders, following identically that template, are, sadly, on a par with them. They are no better and no worse and are equally hideous in every respect. Wherever the terrorism comes from — under whatever flag, loyalist or republican — it is utterly, utterly wrong.

The disruption that we have seen today and last week is, of course, also part of the template that we saw in the past, where the hoax bomb was used to bring disruption, to bring economic hurt and to starve and to create a reputation in respect of this Province, all to do it economic damage. I wonder how much the disruption this morning will cost our economy. I hear how readily the PSNI trips figures off its tongue about how much peaceful protest costs at Twaddell Avenue. I would like to know how much the protest of today cost this economy. Some people seem to be disinterested in that but very interested in what lawful protest might cost, courtesy of the absurd decisions of the Parades Commission.

I deplore the murders and deplore the destruction brought to this Province by those who ape those who did it in the past.

**Mr McNarry:** I had the pleasure and privilege on Friday to be in the Great Hall to meet and talk to delegates from across the world who had come to Northern Ireland at our invitation. That is the message that we here collectively need to send out, support and back. The message that we have for those whom we are talking about is quite clear and has been said by every Member who has spoken so far: there is no place for you or your likes in our society. That is the message that we are able to give because we are here.

Within that message, surely we are also acknowledging the choice for the public to decide. Is it not better that, warts and all, and whatever disagreements we may have — I agree with Mr Givan that there is no crisis — we are able to be here and to stand up and speak against those who are trying to destroy what the people who came here on Friday were trying to contribute? That seems to me to be the best message. I am sure that during the day, as there have been over the weekend, there will be proper tributes to what happened on Friday and Thursday at those meetings about our economy and investment, and rightly so. The message has to be clear from here. No crocodile tears, Mr Speaker. Those people are

an evil and need to be brought to book and to jail.

I will finish on this. It never ceases to amaze me the amount of people who bring so-called intelligence into this House or on to the airwaves and tell us that they know who they are. If they know who they are, why do not they not tell the right people to go and get them?

**Mrs D Kelly:** I want to be associated with the majority of contributions made in the House this afternoon. It is very important that we speak with a united voice in condemning such acts of violence. As Mr McCrea said, how we act and give political leadership in moving this society forward is more important. I also want to be associated with Mr Givan's comments in relation to the brutal shooting of Jemma McGrath in east Belfast by the UVF. It is long past the time that the police and others tackled those organisations and told it like it is.

We need to see a concerted effort from the community to assist the police, because we all know that the community is best placed, working alongside the police, to bring those people to justice. Therefore, I want to be associated with those calls for anyone with information to assist the police in their inquiries.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. First of all, on behalf of Sinn Féin I send our condolences to the families of Kevin Kearney and Barry McCrory. Barry McCrory is a native of Derry city, and the family is known to me in city life. It is very important today that we are mindful that there are two families in the midst of a very grief-stricken situation. Kevin Kearney was interred this morning, and Barry McCrory's interment will take place in a short number of days.

It is very important that we bear that in mind. Too often, in these types of situation, the grief of families is relegated, as people run to microphones or the Assembly to indulge in "whataboutery".

### 12.30 pm

In Derry on Friday, when the people of the city stood together — I know that you were there, Mr Speaker — we sent a clear message. The underlying message was that there is no issue confronting our society that cannot be dealt with through peaceful and democratic means. Due process is in place, and, in the main, people value and adhere to that. It is very clear that people are cooperating with the PSNI on all aspects of crime that confront our community.

We should send out that message today. I caution people who would come here and use these tragic deaths and the grief of the families to score very crass political points.

## Ministerial Statement

### Consumer Representation: Public Consultation

**Mrs Foster (The Minister of Enterprise, Trade and Investment):** With your permission, Mr Speaker, I wish to inform Members of my intention to launch a public consultation on the future delivery of consumer representation in Northern Ireland following a review of the Consumer Council for Northern Ireland.

The Executive, in their 2011-15 Budget, committed to undertake a review of arm's-length bodies to ensure that ministerial priorities and statutory commitments continue to be delivered in the most cost-effective manner. The review of the Consumer Council and the consultation on the future delivery of consumer representation in Northern Ireland are a continuation of the process of ensuring value for money in the use of public funds and the delivery of services to the Northern Ireland public.

In October 2012, the Department of Enterprise, Trade and Investment (DETI) commissioned an independent review of the efficiency and effectiveness of the Consumer Council for Northern Ireland. The purpose of the review was to ensure that the council's consumer advocacy role in Northern Ireland is delivered by the most appropriate body or bodies, structured and positioned correctly within government or otherwise, operating efficiently and effectively, and fit for purpose in moving forward with the Executive's consumer and wider economic aims. The review took account of the changing consumer landscape in Great Britain and the views of a wide range of stakeholders. I am now in receipt of the report setting out the review's conclusions and its recommendations for the exercise of the consumer representation function in Northern Ireland.

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

The report recognises that the council has been responsive to consumers and effective as an organisation. However, it concludes that the political and consumer landscape has changed significantly since the General Consumer Council was created in 1985. The council was last reviewed in 1999. It is important that we periodically review public sector organisations to ensure that they continue to fulfil a need and that we take account of changed circumstances. We now have locally accountable government in Northern Ireland, post-devolution; the existence of numerous

local and regional advice bodies; a Utility Regulator to protect consumer interests in the energy and water sectors; an effective Trading Standards Service for Northern Ireland; and much greater retail competition on the high street. In that context, the report concludes that the continued existence of the Consumer Council might no longer be essential to consumers or the most cost-effective mechanism for consumer representation in Northern Ireland. However, the report recognises that the council provides certain functions in relation to the regulated industries that are not currently exercised by another body but must continue to be exercised.

I have considered the report findings and now wish to consult on the most appropriate model for the delivery of consumer representation in Northern Ireland, recognising the very different political and consumer context that we now enjoy. I am seeking views specifically on the following options: the continuation of the current Consumer Council model of an arm's-length body to represent consumers; the establishment of an independent consumer representative body outside government; or the abolition of the council and transfer of the consumer representation role, including the regulated industries role, to an existing non-government advice body or bodies. Consultees may, of course, identify other potential options for consideration by my Department. Members can access a copy of the consultation document and the review report on the DETI website. A copy has been made available in the Assembly Library.

I commend the statement to the Assembly.

**Mr McGlone (The Chairperson of the Committee for Enterprise, Trade and Investment):** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire chomh maith. I wish to place on record that the Committee for Enterprise, Trade and Investment provided a written response to the review on 31 May, and it is included in the Simpson report. In its response, the Committee said that it was content that the Consumer Council provides an effective and efficient service and that, to date, no concerns had been raised regarding the council's remit and structure. Essentially, it if ain't broke, why fix it?

In relation to the changed circumstances that the Minister referred to, there is one major changed circumstance that is affecting virtually all our constituents, and that is the recession, and I have to pay tribute to the role of the Consumer Council in regard to its work on many consumer-related issues ranging from

banking and fuel to the most basic, and that is food. Mr Simpson's report, which was commissioned by her Department, recommends the virtual role of the Consumer Council being handed over to Citizens Advice. Will the Minister give us an assurance as to how much credence she will give to that report, and how much weight her Department will give in relation to the consultation exercise; in other words, that we are not going through a charade of a consultation and that the main driving agenda is the Simpson report?

**Mrs Foster:** I thank the Chair for his comments. The Committee engaged in writing with the Simpson review, and I am sure that that was taken into account in his work. As the Chair will know, and we have had the opportunity to briefly discuss the matter this morning, all the arm's-length bodies are subject to periodic efficiency and effectiveness reviews. As I said, the last one on the Consumer Council was carried out in 1999, so I felt that there was a need to have this review take place, and it will form part of my consideration — only part of my consideration — of where we go next. I am putting this out to as wide a consultation as possible. I look forward to hearing from consumer groups. I look forward to hearing from all the different stakeholders right across Northern Ireland as to not just how they interact with the Consumer Council, but in relation to effectiveness and efficiency, taking into account the changed political landscape and the changes that have occurred in the rest of the United Kingdom. So all those issues will have to be considered when I look at the final issues, which, I hope, will be around January 2014.

**Mr Dunne:** I thank the Minister for her statement. How does the Minister see the consultative role of the Consumer Council on issues such as energy costs and water regulation being managed in the future?

**Mrs Foster:** That was one of the issues pointed out by Mr Simpson. He said that although there are now quite a few bodies dealing with consumer issues — the Chair has already mentioned Citizens Advice, and there are other bodies — the statutory role of the Consumer Council will have to continue in some manner or another. I would be very interested to hear from people who use the Consumer Council, particularly in relation to the statutory role on water or energy, to come forward with ideas as to whether they are happy with the way in which it is done at present, and if they are not, what other ways can we look at performing that statutory role. No matter what model is picked after the consultation, we still have to have that

regulatory role fulfilled. Therefore, that is something that will continue regardless of what model we go for.

**Mr Flanagan:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her statement and for providing the Chair and me with an advance copy of the report and for briefing us this morning on her statement. I agree with some of the findings of the consultant's report, particularly with regard to the lack of technical expertise in the Consumer Council, but does the Minister agree that there is a role for a government-funded body to challenge and scrutinise the Executive and the Assembly's policies on regulated affairs such as energy policy and fuel poverty?

**Mrs Foster:** The Consumer Council has often challenged not just my Department but the Department for Regional Development about those regulatory functions. That will continue, regardless of what model we choose after the consultation has finished. That must continue. We must have a body to bring forward complaints, particularly in relation to regulated industries. That is a legislative commitment, and, therefore, it has to continue. The big question for me, and indeed for the consultation, is whether the Consumer Council is the right body to take that forward into the future, given the changed landscape and all the other issues in the Simpson report.

**Mr Cree:** I also thank the Minister for her statement. She refers to certain functions being carried out by the Consumer Council that need to be continued. How will that happen? Will she identify those functions?

**Mrs Foster:** Those are the functions that we have been talking about. In particular, there still needs to be regulatory functions for Northern Ireland Water. There still needs to be a regulatory function for all the energy matters that the Consumer Council has been dealing with to date. Those functions will have to continue, regardless of whether the Consumer Council is here.

The Chair, I think, made reference to the fact that Mr Simpson sees Citizens Advice as maybe being able to deal with those issues. I cannot be as dogmatic as that because, obviously, there will be procurement issues involved with anybody coming forward to provide those services. That is what the consultation is about. It is about identifying alternative models or whether the model that we have is doing the job well enough to continue with that job. I have been very clear

that I am not recommending one option or the other. I am simply asking for views from the wider public not just on Mr Simpson's report but all the other issues that have been identified in the consultation.

**Mr Lunn:** I have not had the benefit of seeing the review report yet because, as of an hour ago, it was not available on the DETI website or in the Library. However, from the Minister's statement, I can see the general direction of travel. Is the Minister aware that the Scottish Parliament has done a similar and possibly more wide-ranging review and that its conclusion appears to be that a model very similar to the Consumer Council for Northern Ireland might be the way to go for Scotland?

**Mrs Foster:** I am aware of the work that has been undertaken by the Scottish Parliament. That consultation happened during the summer, so it was carried out concurrently with, or towards the end of, Mr Simpson's piece of work. That review is also in the context of an independent Scotland, so, as you can imagine, it is very heavily weighted in a particular way. It also goes much wider than the work of the current Consumer Council. It looks at the work that is carried out by other advice agencies in Northern Ireland. So although I am aware of that Scottish work, and I am sure that some consultees will want to draw it to my attention, we should be aware of the context in which it was carried out.

**Mr Frew:** I thank the Minister for her statement. Given that the review took account of the changing consumer landscape in the rest of the UK, will there be an opportunity for her Department to scrutinise and investigate best practice models throughout Europe and the world?

**Mrs Foster:** In the terms of reference, we very much wanted Mr Simpson to look at the current operating context. Given the changing political atmosphere in the devolved region of Northern Ireland, we also wanted him to look at the other UK Government agencies, the other devolved Administrations and what was happening generally. There is a requirement for us to take that framework into account when we are looking at our consumer protection and consumer advocacy; that is what Mr Simpson has done in his report. As I said, other developments, particularly the Scottish Parliament's piece of work, will, no doubt, come up in the consultation responses. We will consider those as well.

**Mr Anderson:** I thank the Minister for her statement. Can she tell us the difference that she sees between options 1 and 2, which are mentioned in her statement?

**12.45 pm**

**Mrs Foster:** I will go back to my statement because I need to make sure that I am saying the right thing. Option 1 is the continuation of the current Consumer Council, which is an arm's-length body of my Department and, therefore, accountable to my Department. It gets its funding from my Department. Option 2 is the establishment of an independent consumer representative body, which would be completely outside of government. It might get government funding and it might be able to access other funding outside of government, which would, of course, be an advantage for that organisation. It would, of course, be completely independent from government and, therefore, not open to the allegation of being influenced by the fact that it is a departmental arm's-length body.

**Mr McKinney:** I note that the Minister's statement refers to how the Consumer Council has been responsive and effective. My colleague and Chair of the Committee also referred to how it was viewed as an efficient organisation. I am sure that that passes some tests. I also understand that the organisation has helped to put £300,000 directly back into consumers' pockets in the past year. Is this really not about silencing the Consumer Council and, by extension, the consumer voice? In these times, should we not have a greater, rather than a diminished, consumer voice?

**Mrs Foster:** It is absolutely not about that. I explained the context for the review. The organisation has not been reviewed since 1999. It is incumbent upon Ministers to review their arm's-length bodies not only because it was pointed out in the 2011-15 Budget that it is something that every Minister should do but for very good practical reasons, such as testing their efficiency, effectiveness and value for money, and the changed political landscapes. So I completely and absolutely dispute that allegation.

**Mr Elliott:** I thank the Minister for that. Are there any financial implications in the consultation's remit?

**Mrs Foster:** I think that the work that Mr Simpson carried out cost in the region of £20,000. Obviously, costs will be associated with the consultation, because it may well be

the case that we will go out and have workshops in connection with the consultation to engage with the wider public. Of course, officials will be engaged in that work as well. So there will be financial implications, but, as I have tried to make sure is the case throughout the review process, those will be kept to a minimum.

**Mr Douglas:** I thank the Minister for her statement. The Minister said that she is seeking views on a body outside of government for the new role. Will, or should, that include a social enterprise model? Are there other social enterprise models of that character anywhere else in the world?

**Mrs Foster:** We are not being prescriptive about what will come along in the Consumer Council's place, if we decide to replace it. It may well be the case that we will want to look into the social enterprise model. Again, I am not being prescriptive in the consultation. I think that it is important that we are as open as we possibly can be. Obviously, there is the Simpson report, which people will want to consider, and they will also want to consider the overall changing consumer landscape in the United Kingdom. I think that it would be wrong for me to say, one way or the other, which I think is the best model moving forward.

**Mr A Maginness:** I thank the Minister for her statement. I have not read the report yet, but I look forward to reading it. The Minister's reaction to Mr McKinney's question suggested to me that she was protesting too much. I know that the Minister might find this hard to take, but is she, in fact, adopting a neutral role in this? Is she awaiting a genuine consultation or is there a fixed view in the Department that the Consumer Council should go and that Citizens Advice should take its functions?

**Mrs Foster:** The reason why I threw my arms in the air, Mr Deputy Speaker, was because it is very difficult to win in this circumstance. If I had been lukewarm in response to Mr McKinney's question, I would have been told that I had an answer that I was keeping back. Given that I was robust in saying that this was not politically motivated, I am told that I have been over-robust in the answer. The Member knows that I am a pretty straightforward kind of person. If I had had a choice as to what I preferred, I would have said it in the consultation. I am being as open as I possibly can be on this consultation, and I can say no more.

**Mr Allister:** How will oversight of the Utility Regulator evolve? At present, it seems that

there are no structures to allow the regulator to report to the Minister's Department. Therefore, we have difficulties with, for example, who oversees the overseer when it comes to whether NIE and the system operator for Northern Ireland are keeping their licence conditions. Where is the oversight of the Utility Regulator going?

**Mrs Foster:** The Member has raised the issue with me on a number of occasions. To be clear, the Utility Regulator is funded by the Department of Finance and Personnel but is not an arm's-length body; it is entirely independent and is responsible not to a Department but to the Assembly only. The Assembly is the only place that holds the Utility Regulator to account. That is right, because the regulator should not be open to influence by any Department or, indeed, any Minister, because it deals with issues that should be completely independent.

If the Member wishes me to look at the matter along with the Minister of Finance and Personnel, I am quite content to do so. However, it is really a matter for him, because he funds the Utility Regulator, not me.

## Executive Committee Business

### Intellectual Property Bill: Legislative Consent Motion

**Mrs Foster (The Minister of Enterprise,  
Trade and Investment):** I beg to move

*That this Assembly agrees that the provisions in clause 13 of the Intellectual Property Bill, as introduced in the House of Lords on 9 May 2013, dealing with the offence of unauthorised copying etc, of design in the course of business, should be considered by the UK Parliament.*

The motion deals with the proposed enforcement arrangements in Northern Ireland for two new offences to be introduced by the Intellectual Property Bill. The offences concern the deliberate copying in the course of business of a registered design. The subject of intellectual property is a reserved matter. However, the Bill's proposed enforcement regime for Northern Ireland involves a change to the functions of my Department, which is a devolution matter under Assembly Standing Orders.

The purpose of the Intellectual Property Bill is to strengthen the protection afforded to the owners of intellectual property. One of the statutes amended by the Bill is the Registered Designs Act 1949. The proposed amendments to that Act would create a new criminal offence for the deliberate copying of a UK- or European Union-registered design and a related offence for anyone dealing in such products in the course of business.

The new offences will augment the existing protection for owners of registered designs that is available through the civil courts. They will also align the protection regime for such owners with that for owners of other types of intellectual property — namely, copyright and patent owners — where criminal sanctions already exist.

Under the Bill, it is proposed that in Great Britain, local weights and measures authorities will have powers to take enforcement action against those suspected of having committed either offence. The proposed enforcement powers for local authorities in GB are in line with the powers that they already have for existing intellectual property offences.

In Northern Ireland, my Department, through the Trading Standards Service, has the enforcement role for the criminal offences for copyright and patent infringement, mirroring the role of its counterparts in Great Britain. Given my Department's existing role in protecting intellectual property rights, it is appropriate that it should take on the proposed powers in the Intellectual Property Bill. The powers to investigate alleged offences under the Bill are those contained in sections 27 and 28 of the Trade Descriptions Act 1968. Those are the same powers that are already in use for copyright and patent infringement.

It is important for Northern Ireland that the Assembly pass the legislative consent motion (LCM), as it will allow my Department to help to protect the rights of existing registered design owners and ensure that such owners will have the same level of protection as elsewhere in the United Kingdom. This strengthening of the protection for registered design owners will help to encourage businesses to innovate in the design field, in the knowledge that they are more likely to be able to protect their rights to such designs.

In the consultation that led to the Bill, design-owning businesses confirmed that enforcing their rights could be very time-consuming and costly and that it diverted resources that could otherwise be put towards business development. That can deter them from pursuing legitimate claims and can affect their willingness or ability to innovate.

The majority of respondents to the consultation agreed with the introduction of criminal sanctions for the deliberate copying of registered designs. It received support from small businesses, independent designers and the legal profession. Respondents said that it was rare to experience inadvertent copying and felt certain that design infringement was blatant and deliberate. It was felt that criminal sanctions would level the playing field between small and large organisations.

My officials in the Trading Standards Service consider that they will be able to take on the enforcement role of the new offences without the need for extra staffing resources or any other costs. I commend the motion to the Assembly.

**Mr McGlone (The Chairperson of the  
Committee for Enterprise, Trade and  
Investment):** Go raibh maith agat, a  
LeasCheann Comhairle. Gabhaim buíochas  
leis an Aire chomh maith. Thanks very much,  
Mr Deputy Speaker, and I thank the Minister for

the introduction of the Intellectual Property Bill LCM.

The Committee for Enterprise, Trade and Investment considered correspondence from the Minister, which outlined the proposals and the need for a legislative consent motion, at its meeting on 20 June. Initially, there seemed to be some confusion over whether a legislative consent motion was required. The Westminster Minister's position was that, as intellectual property is a reserved matter, the LCM would not be required.

The Committee considered further correspondence on the matter at its meeting on 4 July, which outlined in greater detail the reasons why the Department considered an LCM necessary. The Committee agreed with the Department's view that, as the proposal will change the enforcement functions of the Department under the Registered Designs Act 1949, a legislative consent motion is required.

The Committee further considered the proposals at its meeting on 19 September. Some concerns were expressed that there may be scope within the Intellectual Property Bill for some large multinational companies to avoid corporation tax. However, the Committee received assurances from the Department and Assembly's Research and Information Service that there is no evidence that that might be the case. On that basis, the Committee agreed to support the proposals.

**Mr Dunne:** I support the legislative consent motion that is before us. It is imperative that we do all in our power to support and protect the interests of businesses. Intellectual property is an important matter and this will allow the system to operate more effectively and efficiently with increased legal certainty.

During the consultation, the majority of respondents agreed that enforcing their rights can be a very costly exercise, and the enforcement measure proposed in the Bill will provide them with more support and protection. I welcome the motion and trust that it will be of assistance to the business community.

**Mr Kinahan:** We have heard from the Minister and others that the purpose of the legislative consent motion is to ensure that the new pre-publication freedom of information exemption is extended to Northern Ireland. I congratulate the Minister for doing so. We know that freedom of information is a reserved matter, and because this issue has been taken forward in the Intellectual Property Bill in Westminster, an LCM is necessary.

It is fundamental that we offer sufficient protection to research information. Although the Freedom of information Act provides for a number of exemptions, this further exemption closes a loophole and is to be welcomed.

We must take all reasonable steps to ensure that we create the right environment for international research to take place. We must also ensure that we do not fall further behind the rest of the UK. We all want to see Northern Ireland as the leading part of the UK and, in fact, leading in Europe. Northern Ireland had the lowest number of patents applied for and granted of any UK region in 2010 and 2011. Those are worrying statistics, as they are important indicators of how well our economy is innovating. So there is much work still to be done in that area.

The Ulster Unionist Party supports the legislative consent motion and trusts that the Minister will take further action to improve Northern Ireland's performance regarding intellectual property.

**1.00 pm**

**Mrs Foster:** I thank the Members who contributed. Enforcement is not a reserved matter, which is why this issue came forward. It is right that we should air the issues in Committee and on the Floor of the House. Therefore, I thank members of the Executive and of the Committee for considering the matter positively.

Questions were asked about corporation tax and the possibility of avoidance, but the provisions of the Bill are not aimed at addressing any taxation issues. The Bill seeks to raise the level of protection, particularly for small businesses. I commend Mr Kinahan's comments on the need to send out a very positive message that Northern Ireland is open for business and that, if people have design rights, they will not be abused. Knowing that rights will be better protected in the UK framework will make the economy more likely to innovate and create new designs. I commend the motion to the Assembly and thank Members for their support.

*Question put and agreed to.*

*Resolved:*

*That this Assembly agrees that the provisions in clause 13 of the Intellectual Property Bill, as introduced in the House of Lords on 9 May 2013, dealing with the offence of unauthorised*

*copying etc, of design in the course of business, should be considered by the UK Parliament.*

**Mr Deputy Speaker:** I ask Members to take their ease for a moment while we wait for the Minister of Health, Social Services and Public Safety.

**Mr Wells:** On a point of order, Mr Deputy Speaker. As you know, the Minister is on his way to the Building. I think that, given the incredible pressure that the Minister has been under with business over this past week and the many and various difficult issues that he is facing as we speak —

**Mr Deputy Speaker:** Order. I do not believe that that is a point of order. It is more to do with filibustering.

The Minister of Health is not in his place. I propose to suspend the sitting by leave of the Assembly for five minutes.

*The sitting was suspended at 1.06 pm and resumed at 1.08 pm.*

## Committee Business

### Local Government Bill: Extension of Committee Stage

**Ms Lo (The Chairperson of the Committee for the Environment):** I beg to move

*That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended to 20 February 2014, in relation to the Committee Stage of the Local Government Bill [NIA Bill 28/11-15].*

On Tuesday 1 October 2013, the Assembly referred the Local Government Bill to the Committee for the Environment for scrutiny. The Bill will provide the legislative basis for the reform of local government, including statutory governance arrangements, an ethical standards regime, council-led community planning, and the transfer of staff, assets and liabilities to the new councils.

The Committee has already agreed to call for written submissions from interested organisations and individuals and, in addition to signposting notices in the local press, stakeholders have been contacted directly. A number have already indicated their intention to respond to the Committee's request for evidence.

The Environment Committee firmly believes that it is essential that all stakeholders are given the opportunity to comment on this Bill. It is a huge Bill, not just in terms of the number of its clauses and schedules, but in its enormous significance for local government. We need to give it the scrutiny that it deserves.

The Committee's public call for evidence does not close until 12 November 2013, and we anticipate a high volume of submissions. After considering these, the Committee plans to invite respondents to take part in a stakeholder event so that members have a wide opportunity to explore the views that are expressed. The Committee will also wish to bring its concerns to the Department for its response.

Mr Deputy Speaker, the Committee believes that it is essential that it is afforded the time to fully exercise its scrutiny powers in relation to this lengthy and highly significant piece of legislation. I ask, therefore, that the House supports the motion to extend the Committee Stage of the Local Government Bill to 20 February 2014. I can assure Members, following discussions with the Department, that

this extended date will not delay the progress of the legislation.

*Question put and agreed to.*

*Resolved:*

*That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended to 20 February 2014, in relation to the Committee Stage of the Local Government Bill [NIA Bill 28/11-15].*

## Private Members' Business

### Public Consultation

**Mr Deputy Speaker:** Order. The next item on the Order Paper is a motion on public consultation. The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer of the motion will have 10 minutes to propose and 10 minutes to make a winding-up speech. All other speakers will have five minutes.

**Mr Nesbitt:** I beg to move

*That this Assembly notes that public consultation is an important component of government policy formulation and decision-making; recognises that it can strengthen links between government and the public and, particularly, the community and voluntary sector; expresses concern at the disparity in costs associated with consultation across government Departments; and calls on the First Minister and deputy First Minister to define best practice.*

It is my pleasure to move the motion. Let me begin by declaring, I suppose, a form of interest in public consultations because, in a previous career, I profited from them. On a number of occasions, a Department or, more likely, an arm's-length body — or a quango or non-departmental public body (NDPB), if you prefer — would contract my services as a facilitator of public meetings. In my world, it was a very profitable little line of work. However, there came a moment when I concluded that it could not possibly be deemed a profitable way to consult people. That moment came at the end of a consultation process that had been run by a government agency. I will not name it, because that would not be fair. What it did was all done in good faith, was very well organised and followed all published guidelines. However, at the final meeting in the series, which was in a fairly rurally based hotel, around halfway through our by now well-oiled presentation and consultation process, two women in the front row, who had arrived together, glanced at each other and left together. At that point, there were more of us consulting than there were members of the public being consulted.

The costs simply do not add up. There was not just the fee for the likes of me, but the hire of the room in the hotel, advertising in the local press, PR, marketing, mileage and £2.50 per cup of hotel tea and coffee. It just does not

make economic sense. Yet the Government continue to do it.

### 1.15 pm

Of all the public consultations over the past six years since devolution was restored in 2007, one of the most expensive was on the proposal for a programme on cohesion, sharing and integration (CSI). Again, I have no grumble with the idea that proportionate resources should be devoted to a proposal that is designed to impact on every citizen in the country. The problem is that almost nobody — well under 1% of the population — turned up for the public consultation meetings.

Worse than that, the sponsor Department, the Office of the First Minister and deputy First Minister (OFMDFM), employed a consultant in the role of a peer reviewer to review other consultants employed by OFMDFM, and the peer reviewer came to the conclusion that the document that was sent out was not fit for purpose. In fact, she said that if it had been down to her, she would not have allowed it out of her office, yet it was allowed out to consultation with a cost to the taxpayer of £93,185.70. Money well spent? I suggest not, not least because CSI is now gone and has been replaced by Together: Building a United Community.

On the question of costs, I turn to the concern articulated in the motion regarding the disparity in the costs of consultation. I offer one example of that disparity. Having reviewed the published lists of consultations since 2007, I think that there is one glaring example. I admit to a little bias in this because I am passionate about education, so I make no apology for highlighting two consultation processes run by the Department of Education.

In the same year — 2008 — the Department consulted on two important areas: Irish-medium education and a review of literacy and numeracy. Irish-medium education may not mean much to me, but the 1998 Belfast Agreement states that it is important and gives certain assurances on it. I have no difficulty with the Education Minister consulting on its future, but if Irish-medium education is important to some, how much more are literacy and numeracy key issues for others?

I offer you two quotes from as recently as last Friday. Speaking at Titanic Belfast during the investment conference, Prime Minister David Cameron, in his salesman mode, praised the fact that we use:

*"English as the global language of business".*

At the same event, our First Minister, Peter Robinson, reminded the audience that our Executive put the economy as their primary concern.

So clearly, numeracy and literacy in the English language are key to our economic development. Why is it, then, that the Department of Education spent over twice as much — £46,447 against £22,827 — consulting on Irish-medium education as it did on numeracy and literacy? I know, and Members will recall, that the Minister of Education commented in a news release on that disparity in spending, but frankly, he protested too much. He claimed that it was flawed logic to suggest that he was not focusing enough on literacy and numeracy. Of course, that was before last week's revelation from the Organisation for Economic Co-operation and Development (OECD), which, unfortunately for him, reviewed literacy and numeracy in the industrialised world and found that, for numeracy, our young rank eighteenth out of 24. I suspect that we are probably in the top two for Irish-medium education.

There must be a better way. I am sure that there are Members who are waiting for their chance to point out to me that, in calling for the First Minister and deputy First Minister to define best practice, I am in some way ignorant of the fact that there are several documents on that very subject, some published by OFMDFM. I say to those Members that I am well aware of the guidelines. In fact, I am taken with 'A Practical Guide to Policy Making in Northern Ireland'. I will make two specific points and then a general point about that.

My first specific point is that there is no mention of the use of the internet and social media as a means of consulting the public. Yet all of us, or at least many of us, are aware of the power of Twitter, Facebook and all the rest to reach citizens who do not watch, listen to or read about politics.

My second point is that the document makes it clear:

*"The Civic Forum is keen to engage with the administration".*

I suggest that an update to the practical guide might be useful.

My general point is that guidelines are not rules, and neither guidelines nor rules necessarily define best practice. Experience is the missing element. Guidelines or rules plus experience make best practice. So, I call on the First Minister and deputy First Minister to consider what represents best practice.

We can all agree that consultation is a good thing in principle, and we can all agree, if we are being honest, that there are things that we do not know. So, we should all agree that there is a huge value in reaching out to those who know the things that we do not. But what is the best way? On a case-by-case basis, how do we identify the people with the legitimacy to help us do what, I hope, all of us in this Chamber want to do, which is to make life better for our citizens? However, that is glib, because there is no tension there, and we need the tension between the politician whose desire is to make changes and, if I may say so, the instincts of the officials who 'Yes Minister'-like may pull in the other direction. It is representative democracy versus consultative democracy.

I hope that Members will join me in supporting the motion because I believe passionately that consultation is critical. Listening must be the foundation of a good democracy. Consultation can do great good by opening the door to those who know what we do not know to make life better, but it can also do great harm if the public suspect that we are simply using them.

A little while after the announcement of Together: Building a United Community, the son of CSI, I attended a public meeting in north Belfast. The 10-year plan for removing peace walls was the hot and heavy topic of conversation and, specifically, the fear of those in the shadows of the walls that the consultation process would be used to achieve the ends OFMDFM wanted. In other words, those citizens were deeply sceptical of the consultation process. That cannot be right, it cannot be good for democracy, and it cannot be a proper way forward.

I will finish with this thought. I attended an invitation-only dinner some months ago. The guest speaker was a very senior member of the current Executive, who spoke in praise of a lobby group and said that it knew to get in early with its views because it understood that if you wait until the consultation process begins, it is too late to have any real influence. Too late once consultation begins.

Let us commit today to making consultation real, relevant and a resource that helps to

rebuild a connection between this Chamber, which is currently so remote on the hill, and the people we serve. I commend the motion to the House. At this point, I would normally say that I look forward to the ministerial response, but, as I understand it, although there are four Ministers in OFMDFM, none will respond. I take that as a sign of what they feel about consultation, and that saddens me greatly.

**Mr G Robinson:** My apologies for not being here for the start of the debate.

This debate deals with a modern-day idea and how it can be best used to inform legislation and to ensure that it is most effective in all the right places. It is a useful tool, as the motions states, to strengthen ties with the public and with the voluntary and community sectors. As a tool, consultation is of use only if it is carried out in such a way that it does not prejudice issues or work towards a desired outcome of those carrying out the consultation. Whether consultation is done by questionnaire, focus groups or online means, it must provide accurate and useful information.

The current Department of Education consultation on funding seeks yes or no answers and is not the best informative use, in my belief. A quantity of information is not always better than quality information. It is essential that the Assembly and Departments involve the public in consultations to prevent allegations of the Assembly ignoring public wishes. However, that must be done in a manner that results in accurate, balanced and useful information. I believe that there is much knowledge to be gained from the voluntary and community sectors, especially since they are increasingly becoming the delivery agent for some services. They know best the information required to legislate, and so consultation with them is vital. It is advisable, therefore, that enforceable guidelines are developed and put in place, but it must be an Executive-agreed decision.

I also feel that, as a result of the various forms of consultation, guidelines for each form should be agreed so that everyone is clear about how each form of consultation process is carried out. Perhaps outside input from our universities can help produce guidelines for high standards. I also urge that a cost-benefit-analysis factor is included in the guidelines so that costs, which are very important, can be controlled and finance is not wasted in what is an important process for informing government.

**Ms McGahan:** Go raibh maith agat. Sinn Féin will not formally oppose the motion.

Public consultation, under section 75, is a legal requirement in developing policy and legislation, along with other statutory obligations and instruments. At the heart of the Executive's commitment to openness and inclusivity is consultation.

While concerns have been raised about the cost of consultation, having little or none will not serve the needs of the people. In fact, policies having to be put right because they do not work due to a lack of consultation will only cost the Government more.

Democracy means the strength of the power of the people. A democratic society is one in which ordinary people have a say in how it is run. We have to ensure equality and fairness for all our citizens, regardless of race, religion, gender, political opinion etc. Human rights must be protected for all our citizens, and Sinn Féin is committed to efficient government that is cost-effective. However, equality and representative safeguards cannot be diluted in any fashion.

Consultation is an important action that we can take to make our society more inclusive. It is important that we are socially aware, are of the people and understand the problems and issues that are faced by community groups, NGOs and other groups that we are not part of. That is crucial.

In my constituency, I attended a recent consultation on the rural development programme. The people who were there represented a network or consortium of groups. For example, the umbrella group COSTA represents playgroups, regeneration partnerships, farmers, development groups, golf clubs, culture clubs, faith groups and disability groups. Those networks effectively represent hundreds — arguably thousands — of people in our community. But, not all will attend a consultation event. In that context, it is worth bearing in mind that an organisation, like COSTA, that attends a consultation event will have had a series of pre-consultations at which the main umbrella group elicits the views of the networks and articulates those views at the main consultation event. A consultation such as that will allow all stakeholders to have an input and to help shape the future of all aspects of rural life, from the provision of basic services, such as the lack of broadband in rural areas, bus routes, farming issues, right through to educational and health facilities.

It is important to note that every consultation will be different. Every case should be based on its own merits. Appropriate guidance on taking the correct steps should be taken in each case to ensure that people are given a chance to put forward their views.

The Equality Commission has set out seven guiding principles for consultation. It states that the consultation should begin as early as possible with affected individuals and representatives; consideration should be given to whether face-to-face meetings, small-group meetings, focus groups, discussion papers with the opportunity to comment in writing, questionnaires or internet discussions are best; consideration should also be given to the accessibility of the language; and the format of information must be considered to ensure that there are no barriers to the consultation process.

The Equality Commission also recommends that specific consideration be given on how to communicate information to children and young people, people with learning disabilities and ethnic minority groups. Finally, consultation must be a meaningful and genuine attempt to give people their voices; it should not be a tick-box exercise. Consultations must all meet their statutory and equality obligations, not least those in section 75. It is hard to understand why the motion highlights the community and voluntary sector, because all sector stakeholders on a relevant issue are equally important.

**Mr Attwood:** Features of life in this part of Ireland, which are now embedded in the law, are the practices and approaches that create a more inclusive society. Whilst the practice of consultation is a way to hear what people have to say, the objective and ambition has to be to create a more inclusive society. Consultation and the legal and other requirements for it are only an expression of that.

### 1.30 pm

I remember that, after the negotiations on the Good Friday Agreement in 1998, there were further negotiations to put the ambitions of the Good Friday Agreement into law through the Northern Ireland Act 1998. That was particularly the case with negotiations on clause 75 in what was then the Northern Ireland Bill. That was all done to bring about this ambition and aspiration of having an inclusive society.

I welcome the motion, because I think that it creates an opportunity to put on the record in

the House examples of where consultation — whatever the cost of consultation, Mr Nesbitt — is badly needed and where it is not living up to the desired requirements. Let me give you these examples. In his speech, Mr Nesbitt referred to the Civic Forum. Given that the Civic Forum is still referred to in the practical guidelines, Mr Nesbitt hinted that those guidelines should be updated in some way so that material can be redacted from them. Maybe not; you can come to me on that point.

The reason that I raised that point is that we are in the early stages of a process involving Richard Haass and Meghan O'Sullivan, whereby those who are being consulted are in dedicated and substantial ways inputting into the Haass/O'Sullivan process. Three weeks ago, there were already 100 e-mail submissions to the talks process for Haass and O'Sullivan to hear and through which to consult wider society about where those talks might go. It is my view, given that Mr Nesbitt referred to the Civic Forum, that it should be convened and convened now to further capture wider society's views on the critical issues of flags, emblems, symbols, shared space, dealing with the past and parading.

If we believe in the spirit of the motion on the importance of consultation, we should express that in substance by reconvening the Civic Forum to further capture wider society's views on the critical issues of how that society is shaped.

Secondly, a statutory obligation falls to bodies as part of life in Northern Ireland. Mr Nesbitt will be very aware of that. It applies, in particular, to the role of the Victims' Commissioner in her advice to government arising from consultation with the Victims and Survivors Service (VSS). Mr Nesbitt was not able to chair the Committee for the First Minister and deputy First Minister last week, but the Victims' Commissioner gave withering evidence about the level of consultation that is ongoing between her and the VSS and the quality of that consultation to inform the Victims' Commissioner about what was going on in the funding of victims' services.

So, here we have a requirement laid down in law, under statute, for the Victims' Commissioner to take advice from others on how victims' issues are being addressed. Yet, she was withering in her evidence to the Committee about the meetings that she has had and the information that the VSS conveys to her in order that she fulfil her statutory function. Her concern was such to the point that, in the middle of September, the Victims'

Commissioner went to "formally alert" — her words, not mine — the VSS about concerns that some had about the relationship and flow of information. If we are to truly value consultation —

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

**Mr Attwood:** I will give way to the Member. If we are truly to value consultation, let us see proper consultation between the VSS and the Victims' Commissioner so that the concerns about which she — rightly, in my view — formally alerts the VSS are not repeated.

**Mr Nesbitt:** I thank the Member for giving way. I assure him that I was listening to the evidence from my sickbed on my laptop. In terms of proper communication, in his previous guise as a Minister, when there was the much-faulted OFMDFM power grab of planning powers in the Planning Bill, was he consulted? Have the public been consulted? Are that proposal and those amendments consistent with the consultation generally in the Planning Bill?

**Mr Attwood:** To answer the question, the First Minister and deputy First Minister told me what they might do, then they did it without any consultation with the Executive or further consultation with me. As I understand it, there was not even consultation with Sinn Féin and the DUP before the First Minister and the deputy First Minister decided that somehow planning would be best served if two people, unfit to fulfil planning functions in the North, took responsibility for it. That proves a point.

The Sinn Féin Member who spoke previously referred to the requirements for consultation and how those should look and be shaped. Perhaps the Minister of Education will take that on board when it comes to consultation with the community on the common funding formula. It was announced in June, and since then, last week and this, two consultation exercises are being carried out in the community, one in Omagh and the other in Belfast. Is that consultation, Ms McGahan, or is it not?

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

**Ms Lo:** I support the motion. I share Mr Nesbitt's disappointment at not seeing a Minister from OFMDFM here to respond to Members.

Public consultations are essential to show openness and inclusivity; to promote democracy, by involving the public in the decision-making process; and to ensure that we

make the best policy possible. I accept that there will be a range of cost across consultations, dependent on the level of public interest and the need to hold public consultation meetings.

However, if we are to ask the public for opinions, the very least that we can do in return is listen to what they say. We cannot allow consultations to be mere tick-box exercises. The prime example of that from my Committee, the Committee for the Environment, is the Planning Bill. I am afraid that Mr Nesbitt has taken my thunder in that respect. Around 98% of the responses to specific clauses of the Bill were against their introduction. What did the House do in response? Did it delete the clauses or amend them to better reflect public opinion? No. Instead, we voted to speed up their introduction.

Another issue that I constantly bring to the Chamber is the sexual orientation strategy. Consultation on that document ended in 2006. It received many responses, and what has happened since? Nothing. On 18 June 2012, in response to a question for oral answer, junior Minister Bell assured the House that it was OFMDFM's:

*"intention to bring forward proposals for a revised sexual orientation strategy, including a full public consultation, by the end of 2012." — [Official Report, Bound Volume 75, p320, col 1].*

We are now at the end of 2013 and are still no further on. I learned from my colleague Chris Lyttle that the Committee for OFMDFM has been waiting for a departmental briefing on the matter since February.

Those are just two examples of when we have asked the public for opinions through consultation and then subsequently ignored them. Is it really any wonder that public confidence in politics and politicians is so low? It is worse still when we do not bother to ask for opinions at all. Again, I refer to the Planning Bill. Two major amendments were made, designed to take powers from one Department and rights to appeal decisions from the public. Those were dropped in at the last moment, without any public consultation whatsoever. I commend the many thousands of people who took the time to tell us what they thought of the Planning Bill through the Amend the Bill campaign. Again, however, their views were not taken on board by the House.

I would welcome guidance from OFMDFM on best practice for running a consultation. I would

welcome it even more if we could have any confidence that that Department would follow it. Can we really believe that a Department that failed even to consult with its colleagues around the Executive table about a strategy as important and cross-cutting as Together: Building a United Community will properly consult with the general public?

Consultations are not about just transparency; they help Departments and us, in our role as legislators, to identify gaps in policy. They give experts in their field the opportunity to voice opinions and advise on potential solutions that we could very well have overlooked. I recognise that a consultation is not necessarily an end in itself; however, it offers a chance for voices not always heard to have their say on matters that will affect their lives.

I support the motion. I welcome any definition of best practice forthcoming from the Department, but only if it is genuine and will be followed and implemented as it should be.

**Mrs Hale:** I welcome the opportunity to speak on the motion. I state at the outset that the DUP is committed to ensuring that meaningful and purposeful consultation is a key component in gauging the views of all sectors and, importantly, members of the public.

I have no doubt that some consultation is not meaningful or purposeful and that it fails to connect with the very people from whom various Departments need critical feedback. This draws a question about whether the actual consultation process needs to be better at providing shorter time frames for a response, documentation that is simpler and easier to read and earlier engagement with key stakeholders, which has been stated, especially during the policy planning process.

It is fair to say that, if you look at the expenditure and the method of consultation across various Departments, we have moved on greatly from the days of just having a paper-based exercise. OFMDFM has already published a practical guide to policymaking, which was created in consultation with businesses, trade unions and the community and voluntary sector. The guide clearly lays out best practice and new methods for helping to bring forward policy initiatives and consultation in line with various sectors and industries. That is also backed by the concordat between the community and voluntary sector and government, which recognises the sector as a valued partner in contributing to policy development.

The motion brought by the Ulster Unionist Party today calls on OFMDFM to define best practice. I am uncertain about whether that will have any impact on the cost of consultation, or whether it will create similar levels of costs across all Departments. As I have stated, government already has a number of consultation guides, strategies and processes in place that give unequivocal roles in best practice when it comes to consultation.

The biggest complaint coming from many sectors is that they are suffering from consultation fatigue. That reinforces my earlier point that we must try to target the key stakeholders at the earliest juncture. The problem is that consultation costs money, but it is money worth spending if the process is meaningful and purposeful, with beneficial outcomes in policy development. It is not helpful to compare costs in different Departments and the differing number of consultations. Most people accept that certain Departments can have more policy initiatives in any given year. That is underlined when you witness that the Department of Finance and Personnel has the fewest number of consultations and spent no finance during 2010-11 due to the small amount of policies that can be developed from that Department.

Introducing more policies and best practice guides, as well as creating a standing advisory panel on consultations, which was called for by Mr Nesbitt, would go against what the people want to see on the streets. It would create further layers of needless bureaucracy and introduce —

**Mr Nesbitt:** I thank the Member for giving way. I do not recall recommending a standing advisory committee.

**Mrs Hale:** My apologies, Mr Nesbitt.

It would create layers of needless bureaucracy and introduce more governing documents. That is out of touch with what the public and private sectors are looking for from consultation. It just shows how we can easily lose touch with various sectors.

I strongly believe that the consultation process can be improved, but it does not require more guiding documentation. The consultation process could be quicker, but creating a further level of bureaucracy will certainly not help to speed up the consultation process. Consultation will cost money, and various Departments will be required to spend more amounts than others due to the number of new

policies and key stakeholders that they must consult.

More consultation on policy development work could be done at Committee Stage. I am sure that all parties have a view on that. It seems that more could be done during that stage in the process to engage with more stakeholders, thus creating a better outcome for all concerned. It also means that, if there are concerns about the money, cost, and, importantly, the strategic direction of consultations from a Department or Minister, the Committee is there to hold to account those who have responsibility for those matters.

#### 1.45 pm

**Mr McCallister:** Several things strike me about the motion. One difficulty with it is that, effectively, it criticises the way in which the parties in the Government consult. Every Member who has spoken so far belongs to one of those parties, so you are, effectively, criticising yourselves for the way that you carry out public consultations. The motion refers to costs, but the important question is not about costs but value for money, and whether consultations provide information that will shape public policy and decisions, and make a real difference. The frustration that I hear on the ground about public consultations is the suspicion among the public that the policy has already been decided and that the consultation is mainly designed to fit it; not the other way around. We are not using our public consultations to shape policy and inform the Assembly, Departments and Committees. That is the problem.

Cost should not be the issue, but value for money. We could name, as many Members have, various consultations, some of which have proven very worthwhile and others that have not. We are at the stage where we are consulting on everything, so we have to look at value for money and effectiveness. Do we need to consult on absolutely everything? When do we listen to consultations? That takes us back to the old chestnut that people keep feeling that they have been ignored. We have only to look at the news in the past few days about the ban on blood donations from gay men. When you look at the responses to any of the relevant consultations, what the Assembly has said on the issue and what the Health Committee has said, you see that there is no correlation with that policy. When you look at what the court has said on the issue, you see that there seems to be no correlation with the response of the Minister.

All those things feed into the problem that, sometimes, we are consulting for the sake of consulting, and paying no real or meaningful attention to the responses. It is unfortunate that the motion is not better worded to take account of the importance of the value-for-money aspect or consideration of whether a consultation is necessary. A Department that carries out public consultations does not always get it right and has had decisions overturned by the courts.

It is, of course, disappointing that, to cap it all off, there is no ministerial response to the debate to say whether we are improving the system, whether we can change it, or what we can do. There is a complete lack of interest from OFMDFM in the issue.

**Mr Kinahan:** I thank my colleague and party leader for proposing the motion. Consultation is one of the key areas of our work in this institution, and it is very disappointing that we have no ministerial response, no junior ministerial response, and that very little interest has been shown in the debate. Consultation is vital. I am concerned about the fact that the Sinn Féin Member who spoke thought of opposing the motion, and I am also concerned that it will become clear that the DUP does not feel that there is any need to review the motion. As DUP Members listen to what I say, they will see why we feel that there is a need for a review and why there is a need to keep the cost element of the motion in mind when doing so.

We are meant to be listening to the electorate all the time, and consultation is one of the best ways of doing that. As has been said, if you wait for a consultation, in many cases you are too late because the Government will already have decided what is going to happen. The Belfast Agreement gave us consensus government, opposition through Committees, and policymaking and consultation through those same Committees. However, the actions of the two main parties have, in time, as good as neutered this institution and its ability to be in touch with the public and, in many cases, to take action. I think today's lack of ministerial response proves that to be so.

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

**Mr Kinahan:** No, I would like to keep going, thank you.

My party leader has clearly put the case for a clearly defined best practice, so today we call on OFMDFM to do so as soon as possible. Those of you who have read your packs will

see that you have a Cabinet Office set of guidelines, NI Direct government services tips, and seven consultation criteria produced by the business, enterprise and regulatory reform body, so there is plenty of advice there. We even have guidelines produced by OFMDFM in its 'Practical Guide to Policy Making in Northern Ireland', yet we still do not seem to follow it all. The concordat between the voluntary and community sector and the Northern Ireland Government, which is also in your packs, hardly mentions or hints at consultation at all.

We need best practice and we need it to be defined. We then need to see it turned into action, not just by Ministers and their Departments but by Committees and councils, as everybody adopts and puts those principles into practice. I hope, Mr Deputy Speaker, you will ensure that OFMDFM will see today's debate and respond.

I am sure that all of you, when in council or in other businesses, have been to consultation meetings where council staff have sat in a community hall and nobody has turned up. They have ticked the box and done the advertising, but nobody bothers coming. That is what we want to avoid. We should look at who we consult with. The Committees do well, but they need to regularly refresh their lists and call for different input. That is something that all of us here should continually do. I suggest that we should try to think outside the box as to who we are not remembering. Maybe we should do that twice a year.

It will be no surprise that I will concentrate on education. We have already had good examples of how poor consultation has been on planning and the sexual orientation strategy, but there are many cases that have gone wrong or that show that consultation is not done right in education. If we look at how we send out the message, we must use all forms of media, including digital, snail mail, advertising, newspapers and everything. The common funding consultation is about the only thing that the Minister and his Department have got right, although the questions that they ask, both of youths and of children, are all designed to get a set answer.

If we are thinking of whom you consult with, whether it is teachers, parents, parents-to-be, youths or children, as I have already mentioned, we do not bother with businesses. In fact, we have not bothered with all the other people who will be involved, like the grandparents. We must think of who we are consulting with. When involved in the debates on absenteeism, it became very clear from the

brief that Departments and boards, if they do have good lists of governors and schools, do not have a good mechanism for consulting with them. There was certainly no evidence of any system of consulting properly with parents. Every Department must look at how it has its communication system set up so that it can consult properly.

We must also look at the message itself. The message must be intelligible and should be put out in such a way that we can all understand it. Think of the bulk of paper that we all get and must understand in our Committees and how hard it is. Look at all the acronyms. We need good grounding. So when it comes to a consultation, it needs to be done in such a way that those whom you are consulting understand what they are being asked.

Look at the common funding consultation that is ongoing. At the moment, the home page no longer even refers to the consultation. The consultation does not have a direct link to the common funding formula report from Sir Robert Salisbury, which is the absolute key to that consultation. If you look at how that consultation was done and its timing, you will see that it was announced just as the school holidays started, after everybody had left their school. I sent an e-mail to every single school raising the concerns around the common funding formula suggestion of how cuts should be put in place in 670 schools. I got 10 replies by the end of the summer, to a nice short e-mail; they are now rolling in daily. That absolutely proves that timing is essential. We must not put out consultations when everybody is on holiday. We must make sure that the guidelines show when people are able to consult and respond.

We all know that the Education Minister has said that consultation clogs up the system, and we will keep repeating it. However, it is because it is treated in such a way that, of course, it clogs up the system. If it was done properly, quickly and flexibly, and if the systems were in place, we could actually listen to the electorate. We must not be too rigid; flexibility must be built in to consultation. It might be that, in some cases, you want to consult only for one or two weeks, because decisions might be needed that would save the electorate the cost of the closure of a school or of trying to keep it running for longer than is necessary.

If you talk to people in various Departments, they will tell you that they do not want quantity in responses but quality. So questions must be designed in such a way that we get a good, clear answer that helps us make better

decisions. If you look at the common funding formula consultation, for children and for youths, you will see that they are loaded. That is the sort of thing that we should avoid.

On the Education and Skills Authority, we had a consultation on an entirely different Bill. When the new one came here, which we quite rightly opposed, I wrote to every school. I got 159 replies — well over the 10% needed. Of those, 88% said that they were not content with the level of consultation, and the 12% that were content were all from CCMS. I think that that tells us something.

If you talk to the public, you will find that most of them see consultation as being run by government as a tick-box exercise, as many have said, used by the Department or the body to justify what they have already decided they are going to do. No one feels that government are actually interested in hearing their views, taking into account their concerns or varying the policies that they are meant to be consulting on.

We need a sea change in how we consult. We need OFMDFM to review the consultation system. Use the guidelines that are there, make them better, get them to the Departments so that people actually follow them, monitor the process and make it happen. Let us ensure that this House actually listens to the people.

I support the motion.

*Question put and agreed to.*

*Resolved:*

*That this Assembly notes that public consultation is an important component of government policy formulation and decision-making; recognises that it can strengthen links between government and the public and, particularly, the community and voluntary sector; expresses concern at the disparity in costs associated with consultation across government Departments; and calls on the First Minister and deputy First Minister to define best practice.*

**Mr Deputy Speaker:** Perhaps Members can take their ease until Question Time at 2.00 pm.

*(Mr Speaker in the Chair)*

2.00 pm

## Oral Answers to Questions

### Office of the First Minister and deputy First Minister

#### Treacy Judgement

1. **Mr Milne** asked the First Minister and deputy First Minister, in light of Mr Justice Treacy's judgement on Friday that said that Minister Poots's decision to ban blood donations from gay men was "irrational" and in breach of the ministerial code, what steps the First Minister, as the DUP nominating officer, will take on the matter. (AQT 201/11-15)

**Mr P Robinson (The First Minister):** Unlike a lot of people who commented on the issue, I read the judgement several times. He does not say that a decision to ban blood from men who have sex with men (MSM) is irrational. He said that the irrationality came from banning it in Northern Ireland but allowing a small quantity to come in from outside Northern Ireland. That could be rectified if the Minister so chose. He had, however, two other grounds, both of which the Executive will have to look at. The first relates to the constitutionality issue and whether the Minister had the power to take such a decision. I suspect that, no matter what the Department might ultimately decide and whether it appeals, the Department of Health in Great Britain might appeal the issue because there are devolution issues at stake as to whether the powers that are given to the member country can be devolved to the devolved regions, which was assumed to be the case. That is a separate issue that has to be considered.

With regard to the decision being in breach of the ministerial code, the provisions were included during my party's negotiations. They have been discussed on a number of occasions at Executive meetings, and we have taken advice from time to time from the Attorney General. There has been a general Executive view that if we were to carry it to the level to which Mr Justice Treacy carried it, everything would come to the Executive. There would be no spending or individual decisions by Ministers, and everything would have to come to the Executive Committee.

**Mr Speaker:** The First Minister's time has almost gone.

**Mr P Robinson:** There would be major difficulties in doing that, and the Executive will have to look at the issue. However, it is clear that any significant major decision that is controversial should come to the Executive Committee, but no member of the Executive Committee asked for that to be discussed.

**Mr Milne:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. Does he accept and agree with Judge Treacy's ruling on the matter?

**Mr P Robinson:** Are you trying to get me into trouble? Those matters can be considered by people from a legal background. If a Department does not agree with the judgement, it can appeal.

With the ministerial code, I was more content and felt that the Lord Chief Justice's ruling on that matter was sensible, in that he said that if there were a controversial or significant matter, it would be raised at the Executive Committee. That meant that only nuclear issues would come to the Executive rather than every single issue. If every single issue were brought to the Executive, no Minister would be able to take a decision on his or her own. Before people start cheering from the rafters, they should think about the ramifications of the judgement.

#### Twaddell Avenue Protest

2. **Mr Byrne** asked the First Minister and deputy First Minister whether they agree that the ongoing protest camp at Twaddell Avenue is causing major concern and what they hope jointly to do to resolve the situation for the people in that neighbourhood. (AQT 202/11-15)

**Mr P Robinson:** I have no doubt that there is disruption to people in the neighbourhood and additional pressure on the PSNI because of the extra work. However, in this country, we defend people's right to protest peacefully and lawfully. As long as protests are carried out peacefully and lawfully, those of us who are part of a democratic institution should be content to support people's right to protest.

As regards what we are doing about it, the deputy First Minister and I brought in colleagues, namely the leaders of other parties. We recognised that there are some outstanding issues in relation to parades, flags and the past that need to be resolved. We, therefore, came together and agreed that Dr Richard Haass

should facilitate and chair an all-party group that would look at those outstanding issues. Those are the very issues that are at the heart of the protest campaign at Twaddell. I urge everybody to remember that they have to uphold the rule of law. They have to cooperate with the PSNI, and they have to abide by the conditions that are laid down. However, I protect people's right to protest, providing that they do it lawfully and peacefully.

**Mr Byrne:** I thank the First Minister for his answer. The Haass talks process has started. However, the business community in Belfast is very concerned that there might be more protest parades in the city coming up to the festive season. What words of encouragement can he give that protests will not end in disruption and cause havoc for shoppers and retailers?

**Mr P Robinson:** I sympathise with the traders in Belfast, in particular, who had a very bad period around Christmas last year. We talk about rights. There are, of course, competing rights. There is the right of people to carry out their daily business, whether that is in businesses or carrying out commercial activity in the centre of Belfast. People carrying out protest activities have to take into account the rights of others and of the wider society. I have heard of some proposals to hold protests leading up to the Christmas period. I hope that people will reflect on the damage that that would cause to Northern Ireland and to traders in Belfast. It would potentially lead to a loss of jobs. The protest in Twaddell Avenue will not have that impact, but it is a possible outcome if protests were brought into the centre of Belfast.

## Investment Conference

3. **Mr G Robinson** asked the First Minister and deputy First Minister to update the House on the highly successful investment conference that was held in Belfast last week. (AQT 203/11-15)

**Mr P Robinson:** The Member has used the two words that sum it up: highly successful. Of course, the ultimate success will be measured in outcomes and our ability to tie down jobs and investment in Northern Ireland.

The deputy First Minister and I have now been involved in three investment conferences. There was one back in 2008, then the Washington investment conference, which was kindly organised by the United States Administration under then Secretary of State, Hillary Clinton, and now this one. We are both

agreed that, in the context that we have had with investors, this was by far the most successful conference that we have had.

The response was very positive from those whom we spoke to at the dinner at Hillsborough Castle on Thursday evening. I noticed that the BBC talked about wine and dining, and so forth. I have to say that it is that kind of networking that really gets a connection with businesspeople. It is an opportunity to find out what projects various companies are looking at and, therefore, how we might fit into their needs and requirements. At that dinner, we spoke to a number of people — the deputy First Minister at his table, and me at mine — who are looking at Northern Ireland as a possible place for investment. It was encouraging to find out the next day that a lot of companies that had Northern Ireland on their shortlist were indicating that Northern Ireland had now leapfrogged to the top of their shortlist. That indicates how successful the investment conference was.

The deputy First Minister and I went down to Invest Northern Ireland's offices this morning to thank the team who worked so hard. We gave due recognition to Alastair Hamilton —

**Mr Speaker:** The Minister's time is almost gone.

**Mr P Robinson:** — and his team for the preparation and work that they carried out.

**Mr G Robinson:** I thank the First Minister for his answer. During the Prime Minister's visit, did the First Minister have an opportunity to raise with him the issue of the much-needed DVA jobs in Coleraine?

**Mr P Robinson:** Yes. When I was down in Coleraine to meet the workers, I gave them an assurance that I would raise it with the Prime Minister.

The deputy First Minister and I spoke to the Prime Minister about that in the private meeting that we had with him. We presented him with an aide-memoire that gave background details of the case. He indicated that, while there is a consultation going on, he cannot make any definitive remarks but will make contact with us closer to the time when a decision is being taken.

## Victims and Survivors

4. **Ms Boyle** asked the First Minister and deputy First Minister what measures they have in place to ensure the appropriate level of cooperation between the Victims and Survivors Service and the Victims' Commissioner to ensure full compliance with all statutory requirements. (AQT 204/11-15)

**Mr P Robinson:** I am grateful for that question, because I have noted that some remarks have been made more recently on that subject, as, no doubt, the Member has. In the Department, we have arranged to bring together the victims' service and the Victims' Commissioner with some of our own people, and we will talk over those issues. Hopefully, we will get them resolved. Action, therefore, is under way.

**Ms Boyle:** I thank the Minister for his answer. Are the Department and the Minister satisfied that the needs of victims and survivors will be acknowledged and addressed as a result of the measures adopted by the Department?

**Mr P Robinson:** These are the issues that must be constantly under review. None of us should be complacent on these matters. If there are specific issues that the Victims' Commissioner wants to raise — I understand that she made some comments during a Committee hearing — we will want to hear about the areas in which the commissioner feels that the service has fallen short, and we will be happy to talk with the service about how those needs can be met, if there are shortcomings. We are in no way complacent. We do not believe that we have yet reached the level of perfection that would allow us to sit back. Constructive criticism is something that none of us should run away from. Let us see what the issues are, and let us see how we might resolve them.

## Treacy Judgement

5. **Mr Storey** asked the First Minister and deputy First Minister, following the First Minister's comments at the beginning of topical questions, to indicate to the House what implications Mr Justice Treacy's judgement could have on Executive business. (AQT 205/11-15)

**Mr P Robinson:** I noticed that one comment that was made was that, on the foot of Mr Justice Treacy's judgement, everything that is in the in tray of any Minister will have to be transferred to the departmental in tray of the

deputy First Minister and me. That is not a position that we want to find ourselves in. Obviously, we have to work out where the bottom line is with regard to what it is important for the Executive to deal with. Any other Executive will deal with major issues. On the basis of Mr Justice Treacy's judgement, we would have to deal with every funding application and the decisions that the Education Minister, the roads Minister or the housing Minister might make on where they will have schools, hospitals, houses, roads etc. Those are issues that we have left at departmental level. Of course, even lower-level issues would have to be decided by the Executive Committee, so it would be a considerable burden on the Executive if we were to go down that route.

Of course, we always knew — the law is very clear on it — that decisions that are controversial, significant or cross-cutting should come to the Executive. I thought that we had an understanding that, if any of the Executive members believed that something fell within those categories, they should ask for those matters to be brought to the Executive. Of course, it is not just the Executive who will have a role in these circumstances: not only do we now find that the public, through the courts, would have a role, but, of course, the Assembly has a role. Any 30 Members can require an issue that they believe to be controversial, significant or cross-cutting to come to the Executive as well.

**Mr Storey:** I thank the First Minister for his reply. I will tease that out a little bit further: is the First Minister indicating that there are implications following the Treacy judgement specifically about issues of concern in education, which are very rife in the community at this time, around the future of the Dickson plan and the common funding formula?

**Mr P Robinson:** I do not believe that the Treacy judgement has any additional impact on those issues, because I think that was already required under previous judgements. Several judgements have been given in and around the ministerial code and the requirement to bring material to the Executive. The Treacy judgement goes beyond anything that we have had to date, and that is why the Executive have to look at the issue. Clearly, whether it is the common funding formula or the Dickson plan, those issues are controversial. There is no doubt about their controversy. They are also cross-cutting and, therefore, would have to come to the Executive anyway.

**2.15 pm**

**Mr Speaker:** That ends the period for topical questions. We will move on to questions for oral answer to the Office of the First Minister and deputy First Minister.

## **Attorney General**

1. **Ms Boyle** asked the First Minister and deputy First Minister for an update on the review of the Office of the Attorney General. (AQO 4764/11-15)

**Mr P Robinson:** The Member is getting a double dose today.

In 2010, the Executive agreed that, in addition to his wider constitutional and legal functions, the newly appointed Attorney General should act as chief legal adviser to the Executive and Departments. At that time, it was also decided that aspects of his legal adviser role could be reviewed after a period of operation.

In 2012, in our capacity as joint chairmen of the Executive, the deputy First Minister and I invited the Rt Hon Dame Elish Angiolini, who had particular relevant experience as a law officer in a devolved Administration, to carry out a limited review. The review was to examine the arrangements for Ministers and Departments seeking and handling legal advice, as well as the balance between the Attorney General's role as a chief legal adviser to the Executive and his various statutory responsibilities. Dame Elish conducted her review over the summer and autumn of last year, and her report was delivered to us within the agreed timescale in October 2012. We have since sought the views of our main legal officers, including the Attorney General, on the report and its recommendations. We are now considering policy options arising from the report and from our legal officers' views.

**Ms Boyle:** Go raibh maith agat. I thank the First Minister for that detailed response. Given that the Attorney General's appointment is for a four-year term that will end in 2014, what arrangements have been put in place for either the reappointment of the current Attorney General or the recruitment of a new Attorney General?

**Mr P Robinson:** The deputy First Minister and I have already had discussions about the matter. I think that we have a fairly settled view, but we have procedures to go through before such an outcome is announced. The procedures are

under way, and we hope to be able to make an announcement within weeks.

**Mr B McCrea:** Given that the Attorney General questioned the legitimacy of the challenge to Justice Treacy, which we have been talking about, and felt that there was no need to bring the issue to the Executive, is there some sort of schism between the Executive and the High Court?

**Mr P Robinson:** I do not think that there is any schism between the Executive and the High Court. The Executive and the Assembly have to act within the law. That is a requirement that is placed on us all. Of course, as the Member will know, the law is often open to interpretation. I suspect that another judge on another day might have given a different view on some of the issues in the Treacy judgement. Such is the legal system. That is why barristers have grown so rich in the past. The reality for us is that we have to deal with the judgements as they come down, and, of course, the Executive will comply with any judgement from the courts.

**Mr Attwood:** Given the current Attorney General's inclination to join in Supreme Court cases, European Court cases and, indeed, cases involving the alleged scandalising of a judge, do you think that, in retrospect and given the review that you referred to, the role that the Executive gave to the Attorney General in July 2010 was too generous and now needs to be constrained?

**Mr P Robinson:** I think that the Member has put his finger on one of the key issues: there is the difficulty with, at one and the same time, the Attorney General being the adviser to the Executive and, on the other hand, having the role independently. His independent role has on occasions required him to take actions against the Executive. We will not deal with what the outcome of that may have been, but it is clearly one of the issues that Dame Elish has looked at, that we are looking at and that will form part of any proposals that we bring to Executive colleagues.

## **Investment**

2. **Mr Storey** asked the First Minister and deputy First Minister what investment opportunities and benefits have been identified during their programme of international engagement. (AQO 4765/11-15)

**Mr P Robinson:** Our international engagement has initiated a number of potential opportunities

that we hope to announce over the coming months. More generally, our direct intervention has helped open new trade markets for local companies in China and secure the participation of a number of Chinese companies in the hugely successful investment conference last week. We were also delighted to see that our meetings in China with key stakeholders have resulted in the expansion of the Confucius Institute to a number of classrooms throughout Northern Ireland. We continue to engage with officials from the Chinese Government on a number of projects, and, as was publicly revealed last Thursday, the Executive are advancing plans to establish a new office in the Chinese capital, Beijing. We hope to be in a position to provide more details on that in due course.

Our visit to New York last month provided an opportunity to strengthen relationships with existing investors and to seek to begin new relationships with potential ones. We also extended an invitation to the investment conference to a wide range of business executives. Our visits to North America over a number of years have produced real and tangible benefits. We have consolidated relationships with some globally recognised brand names, including, for example, Universal Studios and HBO, which continue to invest in the Paint Hall and the Titanic Studios in Belfast. More specifically, our meetings with the senior board of United Airlines directly helped to address its concerns over UK air passenger duty (APD) in Belfast. By securing the devolution of APD to the Assembly, we helped to maintain the long-term commitment of United to its hugely important transatlantic flight. It is the only direct route from Belfast to the US, and it is of significant strategic importance to us in realising our foreign direct investment (FDI) potential. Our meetings with the top management teams in the Chicago Mercantile Exchange and senior executives at Cowen International Ltd, on the —

**Mr Speaker:** The First Minister's time is almost gone.

**Mr P Robinson:** — back of much hard work by officials from Invest Northern Ireland and the Northern Ireland Bureau in Washington, culminated in both companies committing significant investment packages in Northern Ireland.

**Mr Storey:** I thank the First Minister for his detailed reply. In my constituency, we have seen the outworkings of some of the benefit of that, given the ongoing filming that is taking

place in places such as Ballintoy and the Dark Hedges. I am glad that the Chancellor of the Exchequer is following the lead of the Executive —

**Mr Speaker:** Do I detect a question?

**Mr Storey:** — in going to China. Indeed, he is in China this week. Will the First Minister indicate to the House what future investment trips the Executive are planning to expand on the success already achieved?

**Mr P Robinson:** As far as the Executive as a whole is concerned, I know that the Minister of Enterprise, Trade and Investment has just returned from South Africa and had a very successful trip there. Next week, the deputy First Minister and I will be in Boston and Chicago, and in December we will be in Japan.

**Mr Allister:** I am sure that the First Minister sees himself as the First Minister of all of Northern Ireland. With that in mind, does he have any concerns that, in the past year — 2012-13 — 80% of the FDI visits to Northern Ireland were to the Belfast constituencies? For example, 54 visits were made to East Belfast and a mere four to North Antrim. How does the First Minister see a more level playing field for foreign direct investment being created across Northern Ireland?

**Mr P Robinson:** I am glad that some of the job announcements over the past number of days have been for areas west of the Bann. There were two announcements in Omagh, and, at the round-table meeting with the Prime Minister and a number of potential investors, people to my right and my left were talking about bringing jobs to the Londonderry area.

Attempts are being made by Invest Northern Ireland to spread the jobs, but these are private sector employers that will make their own decisions about where it is best for them to be on the basis of a lot of logistical issues. We are dealing with financial and business services, and it is unquestionably the case that many of them are gravitating to the Belfast area. That is one of the issues that has led the Executive to look at, for instance, where public sector jobs that are perhaps more mobile should be situated.

There is no reluctance on the part of Invest Northern Ireland to encourage businesses to go to where the people are. Ultimately, the labour force is an essential part of it. If the skills and the people are there and the rest of the logistics

are in place, Invest Northern Ireland can put forward a much more credible case.

**Mr Byrne:** I thank the First Minister for his answers thus far. I totally agree that the jobs announced last week for Omagh by Telesack and Terex Powerscreen were very welcome. Given that the Canadian commissioner to London said recently that direct flights from Belfast to Canada were crucial and given that Bombardier has announced increased jobs, what are the prospects for having those direct flights reinstated?

**Mr P Robinson:** Ultimately, those are matters for the airlines and the airports. When we have been asked to speak to an airline company, we have done so. I know that the Minister of Enterprise, Trade and Investment has spoken to airlines in North America, and the deputy First Minister and I spoke to airlines during trips to the Middle East. We will continue to do that, but, ultimately, the package has to be put together by the airport to bring them in, and the airline has to be satisfied that the customer base will be there for that purpose.

Like the Member, I am delighted that Bombardier has announced another 250 skilled jobs, and that is first-class in terms of getting jobs that go beyond the income medium. During a recent trip to Montreal, the deputy First Minister and I visited Bombardier and met many people from Northern Ireland who were working out there. When I spoke to Pierre Beaudoin, the chief executive of Bombardier, during the conference, he indicated that there was real desire on the part of people from Northern Ireland who have gone to Canada to come back to Northern Ireland, now that the jobs are in Northern Ireland. You will see that trend occurring much more over the coming days.

## Crumlin Road Gaol

3. **Ms McCorley** asked the First Minister and deputy First Minister what plans they have for the further development of the Crumlin Road Gaol, Belfast. (AQO 4766/11-15)

**Mr P Robinson:** The Crumlin Road Gaol has proven to be a significant success, attracting 85,000 visitors in less than a year. The next phase of the development is the boutique distillery and restaurant, and work will start on that project later this year. We continue to consider options for other parts of the jail, including B wing, D wing and the wardens' cottages. The jail's development and its success in creating local employment opportunities and enhancing community

confidence are practical examples of the Executive's commitment to the regeneration of north Belfast.

**Ms McCorley:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra sin. I thank the Minister for that answer. Will he outline the job opportunities for young people from deprived areas?

**Mr P Robinson:** As I understand it, there is already a close relationship between the community organisations in the area and the management of the jail regeneration. I think that regular meetings take place. I think that about 30 jobs have been created through the tours and the conference element of the jail, and there is the potential, I believe, for about 60 jobs for the boutique distillery. All those jobs are capable of being filled by local people. Obviously, employers will remember employment law and do it on the basis of merit, but I suspect that there are jobs that will easily fit the abilities of people in the local community.

**Mr Nesbitt:** I thank the First Minister. Given the successes that he celebrates with regard to the jail, does he have any regrets — personal or professional — over the sale of the courthouse for £1?

**Mr P Robinson:** The two are connected underground, and one could see a strong case being made for how they could have been combined into one project. For that reason, I understand that a task force is looking at what might be done to regenerate the courthouse, and I believe that DSD officials and others are looking into that issue. Major investment will be needed to carry out the work, and I suspect that the longer it is left derelict, the costlier it will become. It is owned by the private sector, albeit at what one might describe as a giveaway price. However, I was not involved in that and, therefore, I cannot comment on how sensible the sale was. I will comment if it ends up being sold back to the Executive at a much higher price.

2.30 pm

**Mr Spratt:** I thank the First Minister for his answers. What is his evaluation of the success of the Crumlin Road Gaol in its first year of operation as a tourist attraction?

**Mr P Robinson:** I have visited the jail on several occasions for conferences and, for instance, a 'Game of Thrones' event. People who are not from Northern Ireland went around the jail and were blown away by its potential.

As I indicated, 85,000 people have gone through the jail during its time as a tourist attraction — probably many more before that. That indicates that we are probably ahead of the target. I think we had a target of 90,000 for the first year; at 85,000 with two months to go, I think that we will exceed the target. Those numbers speak for themselves.

**Mr A Maginness:** I welcome the First Minister's supportive comments. In fact, I have seen him many times in the jail. *[Laughter.]* Does he believe that enough effort is being put into publicising this tourist project? Will he give further backing to raising its profile?

**Mr P Robinson:** Clearly, with the statistics that I outlined, the targets are being met and, therefore, they must be doing something right. I was shocked when one of my special advisers told me that Crumlin Road Gaol was the number one tourist destination on TripAdvisor on a list that included Titanic Belfast. I do not know whether that says something about the people who use TripAdvisor, but it indicates that a large number of people feel that the jail is a good attraction and worth going to see. I hope that this question will gain coverage that will give the jail additional advertising.

## Child Poverty

4. **Mr D Bradley** asked the First Minister and deputy First Minister to outline the reasons for the delay in producing the next action plan for the 'Ten year strategy for children and young people in Northern Ireland 2006-2016', given that the 2008-2011 action plan has expired. (AQO 4767/11-15)

**Mr P Robinson:** With your permission, Mr Speaker, I will ask junior Minister Jonathan Bell to answer the question.

**Mr Bell (Junior Minister, Office of the First Minister and deputy First Minister):** The current 10-year strategy will continue until 2016. Work to further the aims of the strategy is being taken forward through the Delivering Social Change framework, which seeks to address the linked issues of poverty and improving children's lives.

Through Delivering Social Change, we are moving away from long lists of existing activities towards smaller numbers of cross-cutting and more strategic objectives. Those are additional to existing work across government. In support of that development, the 'Children and Young Persons Early Action' document, published on 14 November 2012, takes full account of the

principles of the 10-year strategy for children and young people, including the high-level outcomes. It identifies the key priorities for children and families over the remaining years of the 10-year strategy. The document identifies five priority work programmes and has been developed to assist key stakeholders in delivering programmes and initiatives.

**Mr D Bradley:** Go raibh míle maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire sóisearach as ucht a fhreagra. I thank the junior Minister for his answer. Will he outline the five priorities in the new action plan?

**Mr Bell:** I could go through each of the priorities in turn, but the critical thing for us is to directly improve the lives of individual children.

We are looking at improving children's educational outcomes and health. What we are looking at in a broader sense is to ensure that children have the best opportunity to raise themselves out of poverty.

I will give one example of that because I cannot break down each of the five priorities in detail in two minutes. One thing that we know — and, as a teacher, the Member will appreciate this — is that children with five good GCSEs can raise themselves and, in many cases, their families out of poverty. One of the most strategic actions that we have taken is to ensure that children who are sitting on D or E grades in literacy and numeracy can get the additional support that can transport them to a position where they get a GCSE pass and, thereby, to where the educational evidence is leading, which is to a future that allows them to have sustainable jobs with reasonable pay.

I understand that we have some 250-plus additional teachers coming in to support children. They will be in place by December. That, in essence, encapsulates what we are doing in the Delivering Social Change project.

**Mr Speaker:** The junior Minister's time is almost up.

**Mr Bell:** I could talk about transitions, integrated delivery and joined-up planning and commissioning. However, we can have those conversations at a later stage.

**Mrs Hale:** I thank the junior Minister for his very detailed answer. In fact, he is now getting the chance to expand on what he was just talking about. Can he expand on the actions that have been taken on children and young people in the Delivering Social Change project?

**Mr Bell:** Well, you have early years and early intervention. You have literacy and numeracy. You have the transitions. You have the need for integrated delivery and joined-up planning and commissioning. In recent days, the most significant of those was the OFMDFM launch of Bright Start, which is the Executive's project to deliver affordable and integrated childcare. It sets out the broad direction for the childcare strategy and names, through 15 key first actions, the main priorities that were identified during the research. The importance of that is that it is a £10 million investment by OFMDFM directly into early years and childcare. That is the bright start. What does that mean? It means that hundreds of jobs will be created through social enterprises and that work will be made available in the childcare sector. It aims for 8,000 young people to have either a new or existing affordable childcare place. I say "new". The vast majority of those 8,000 childcare places — some 7,000-plus — will be new. That will allow many parents to re-engage with the employment market. We have also looked at the quality of the childcare. It will allow many children to get that hand up as they proceed into their future education. The Bright Start project is, probably, in my view, one of the most exciting initiatives that we have taken. It is cutting edge in leading the way in social enterprise and childcare practice.

**Mr Kinahan:** I note that two people have asked a question of the Minister. We got very little detail on what the policy will actually do to improve the education and health of children or parents' re-engagement. Could we have more detail, not just on Bright Start but on how things will work over the next 10 years to actually help children?

**Mr Bell:** I am not sure that the question is a fair reflection of the level of detail that I have gone into specifically. Delivering Social Change focuses on where need actually exists. I have given two specific examples. The first related to literacy and numeracy. We were told to ensure that children had a foundation in literacy and numeracy in primary school and, then, that those children got the opportunity to obtain a pass at GCSE level, which would, in effect, be a passport for them to a better educational future.

The second key point that I outlined was on the issue of childcare. That £10 million will create hundreds of extra jobs and, critically, allow social enterprises to look at how those childcare places can be facilitated, specifically by providing flexibility, ensuring affordability and ensuring that placements are in areas that families can directly access. Those are the details of new policies that are directed to meet

the need that the research base has shown us and that friends and families who are in direct need of childcare have asked us to provide. Seven thousand opportunities for new childcare is a level of detail that we have not had before. This new and exciting initiative is the pinnacle of the whole Delivering Social Change framework.

## Sexual Orientation Strategy

5. **Ms Ruane** asked the First Minister and deputy First Minister for an update on the sexual orientation strategy. (AQO 4768/11-15)

**Mr P Robinson:** With your permission, Mr Speaker, I will ask junior Minister Jonathan Bell to answer this question.

**Mr Bell:** As outlined in Together: Building a United Community, we are committed to publishing a sexual orientation strategy. A consultation document that will inform public consultation on the strategy is under consideration in the Department. That strategy will be published once the consultation process has been completed.

**Ms Ruane:** Go raibh maith agat, a Cheann Comhairle. I note that the First Minister did not answer the supplementary question posed by my colleague Ian Milne and that he attempted to divert away from the key issue of equality for the gay community. I wonder whether the junior Minister will share with us why, given the delays in bringing forward this strategy, the DUP is so resistant to rights for the gay community.

**Mr Bell:** I think that the premise of the Member's question is somewhat significantly flawed because she is asking questions of the Office of the First Minister and deputy First Minister, and the last time I looked, the deputy First Minister was from your political party, not the Democratic Unionist Party. Let me be very clear: the Office of the First Minister and deputy First Minister is committed to respecting the human dignity and worth of every one of our citizens.

**Mr McGimpsey:** In light of the junior Minister's answer, how does he feel that fits with having an Executive of 11 Departments that are headed up by 11 permanent secretaries, all of whom are male? There is not a single female amongst them.

**Mr Bell:** I can look in particular to my colleague Arlene Foster, who has done an outstanding job

in her role. Her work and that of the First Minister and deputy First Minister in recent times, and the profile that she has taken forward, just show what can be achieved in Northern Ireland when we work together. In recent times, somewhere in the region of 2,000 new jobs have been created in Northern Ireland. Without breaking any commercial confidentiality, I know from listening carefully to what the Enterprise, Trade and Investment Minister and the First Minister have said that there are many companies, that the confidence is there, and that, in addition to those 2,000 jobs, we are confidently looking at hundreds, going into thousands, of new jobs being created.

Of course, the obvious point from the Member about the number of Departments is that it is a question of "Physician, heal thyself", because your party created that number of Departments. At that time — the record is clear — the Democratic Unionist Party looked to have more efficient government, but it was your party that created it. Can you tell me who your party's female Minister was then? Oh, that is right — you did not have one. Is that right? OK. In this current position, you still do not have a female Minister. So, on that question, it really is a case, sir, of "Physician, heal thyself".

2.45 pm

## Environment

### Statutory Transition Committees

1. **Mr Lunn** asked the Minister of the Environment for an update on the establishment of the statutory transition committees. (AQT 211/11-15)

**Mr Speaker:** Order.

**Mr Durkan (The Minister of the Environment):** Fortunately, I am sitting close enough to Mr Lunn to hear the question. He is looking for an update on the situation with the establishment of statutory transition committees (STCs). My predecessor issued guidance on the formation and nominations to the new STCs at the start of July, and the recommendation was to select nominees through either d'Hondt, Sainte-Laguë or single transferable vote. Importantly, that was to be based on the 2011 council election results and, therefore, reflect the democratic will of the communities that they were supposed to represent. It was deemed that guidelines would be more appropriate than regulations at this stage as some of the

voluntary transition committees went beyond the three methods that I outlined to accommodate power sharing and to encourage good practice and fair representation. However, the guidelines have subsequently been ignored by a few councils. The vast majority have complied, but the offending councils are Lisburn, Castlereagh, Ballymoney, Coleraine and Strabane, and they have also dismissed subsequent correspondence from me on the issue.

**Mr Lunn:** I thank the Minister for his answer. It seems incredible that the body that produced the legislation — namely, this body — to set up the new councils could not enforce a decent system of representation for the transition committees, but I understand that the Minister does not have the specific power to do that through any of the three systems that he mentioned. Does he have any other way of putting pressure on those errant councils to do the decent thing and produce proper representation?

**Mr Durkan:** Thank you, Mr Lunn. I have sought further advice from officials and, indeed, legal advice on how we can resolve those irregularities, if you wish to call them that, and ensure that all councils comply so that STCs can be properly constituted and get on with the important business that they ought to be doing. I have also written to political party leaders urging them to speak to their colleagues on councils to emphasise to them the importance of displaying political maturity and putting the needs and democratic wishes of the electorate ahead of selfish party political needs.

### Councils: Chief Executive Posts

2. **Mr A Maginness** asked the Minister of the Environment whether he has received any correspondence from the statutory transition committees in relation to open competition for chief executives. (AQT 212/11-15)

I take this opportunity to congratulate the Minister on his appointment to the Department of the Environment.

**Mr Durkan:** Thank you, Mr Maginness. That is handy because the question is on the same subject.

I received correspondence from two STCs and a number of councils on the matter, so I have written to all statutory transition committees and all councils to clarify the position and address their concerns. My predecessor took the decision to use open competition to fill the new

chief executive posts, taking account of employment law, 'A Compendium of the RPA Guiding Principles, Code of Practice and Guidance Notes' published by the Public Service Commission and OFMDFM, and legal advice that indicated that these were new posts. Some statutory transition committees and councils have concerns that current chief executives could claim for unfair dismissal if they are made redundant because of the decision on open competition. Legal advice confirmed that the current chief executives do not have a legal right to be considered for those posts in a closed pool. Therefore, a claim of unfair dismissal as a result of this decision is not defensible. Indeed, the position is quite the contrary. The new chief executive posts must be filled by open competition, in accordance with statute, as that is now legislated for in the statutory transition regulations that the Assembly passed on 2 July.

**Mr A Maginness:** I thank the Minister for his answer. He has given certain legal reassurance to councils and statutory transition committees but can he assure the House that the advice that he has received and has given to councils will be upheld?

**Mr Durkan:** The open recruitment for the new posts must proceed in accordance with statute. The statutory transition committee regulations set in law that the recruitment has to be by open competition. As I said, it would be unlawful to use any other method.

The only potential for legal challenge would be as a result of a failure to adhere to the recruitment process. That process will be overseen by the Local Government Staff Commission and will meet all employment best practice and legal requirements. Independent assessors have also been appointed to ensure that the process meets these requirements.

All STCs will be made aware of their responsibilities in relation to recruitment, and panel members must partake in compulsory training prior to sitting on any selection panels.

## Environment Policy Priorities

3. **Mr Sheehan** asked the Minister of the Environment, in light of last week's environment forum, whether he can identify his key policy priorities for the time ahead. (AQT 213/11-15)

**Mr Durkan:** Go raibh maith agat as an cheist; déanfaidh mé mo dhícheall freagra a thabhairt uirthi anois. I thank the Member for his question and will try my best to answer it.

Regrettably, I was unable to attend the environment forum last week; I was at a prearranged conference in Scotland on climate change, which was very important. While there, I met with my Scottish counterpart, Paul Wheelhouse MSP.

**Mr Wilson:** How big was your carbon footprint?

**Mr Durkan:** My footprints are big enough — [*Laughter.*] — as are the footsteps I have to follow in.

I have particular policies. I have had feedback from that forum. The forum is a very important way of drawing on experience, knowledge and opinion from across the North on a range of issues. My policies centre on different things: I have a very wide remit, as you are aware. I am keen to increase further the speed at which planning applications are processed and, hopefully, approved. I look forward to working with businesses and communities to achieve those results. I would like to reduce the amount of litter on our streets and, by increasing recycling, the amount of waste we are sending to landfill.

To do those things, we have to increase our engagement with the public in order to get them to have more respect for, and to play a greater role in, their immediate environment and, therefore, the wider environment. The conference that I was at in Scotland was on climate change. Obviously, that issue presents us with huge problems —

**Mr Speaker:** The Minister's time is almost gone.

**Mr Durkan:** — and is also a key priority of mine.

**Mr Sheehan:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answer. I am glad to hear that one of his key priorities is the speeding up of planning approval. That has to be a key priority, particularly with strategic projects. Will he update the House on the state of play on planning approval for the three stadia in Belfast?

**Mr Durkan:** Go raibh maith agat as an cheist eile. It is very important that we speed up the planning process. I said that I would like to speed up the process for approvals, but, hopefully, we can create a system where consensus is reached before an application is even submitted. That method was applied to the stadia application in Belfast, and it yielded

differing results. On the one hand, there is Windsor Park, where the pre-application community consultation flushed out quite a few problems and resulted in no objections when the application was made; on the other hand, Casement Park has been quite publicly subjected to other objections. I have met with objectors to that project and, in the coming weeks, I will meet with the Ulster Council, which is the proposer of that project. I am very hopeful of getting an outcome that will be acceptable to both parties, and I would like to do so quickly.

## Shale Gas

4. **Mr B McCrea** asked the Minister of the Environment whether he accepts that any decision on shale gas extraction should be based on the best possible scientific evidence and that if the evidence were satisfactory, it could have an extremely positive impact on our limited energy supply and might help us to reduce fuel poverty. (AQT 214/11-15)

**Mr Durkan:** I agree entirely that any decision has to be fully based on evidence and science. That is why I am determined to gather all the information and evidence that I can on hydraulic fracturing before making a decision on any application. I must restate that, currently, there are no applications for fracking in the North.

My officials in the NIEA are working with their counterparts in the Republic of Ireland in an attempt to gather as much information as possible, not just from this island but across the world where we can look at the experiences of other countries. Obviously, some of those tell positive stories about the alleviation of fuel poverty. However, I am concerned that some of those victories are very short term, and we do not have any evidence of the long-term effects of hydraulic fracturing, either on the environment and countryside or on people's health.

**Mr Speaker:** Order. I am very sympathetic to the Member. However, if he looks at the list of questions for oral answer, he will see that the question that he asked in topical questions is very similar to one on that. *[Interruption.]* Order. I will allow the supplementary question, and I will listen.

**Mr B McCrea:** I appreciate that direction from the Speaker. I will pick up on the point. In his response, the Minister agreed that scientific evidence would be the basis of his decision. I just wondered, given that we have a lot of scientists at Stormont today in the Long Gallery,

when the Minister will have gathered such scientific evidence and when he might be minded to come to tell us his conclusions?

**Mr Durkan:** Unfortunately, I am not in a position to give an answer to that question. I will go back to my officials at the NIEA and see how their research is going. As I said, there is no application on my desk or that of anyone else, I hope, for hydraulic fracturing. When an application comes in, it will be subject to the full and rigorous planning process.

## Councils: Recruitment

5. **Ms Ruane** asked the Minister of the Environment what reassurance he can give to councils and statutory transition committees that DOE-driven recruitment for senior officers will not result in legal action being taken against them. (AQT 215/11-15)

**Mr Durkan:** I would probably give the same assurances that I gave to Mr Maginness a few minutes ago on the same topic. The position is quite the contrary. The only posts that we are talking about here are the new chief executive posts. I have given a directive that posts below chief executive level will not be subject to open competition, but the new chief executive posts must be filled by open competition in accordance with statute, as this is now legislated for in the statutory transition regulations, which the Assembly passed on 2 July.

There is a further concern about the failure to consult current chief executives on the method of recruitment and the potential for redundancy. As the current chief executives have no automatic right to the new posts, there was no requirement to consult them about the appointment procedure. There also seems to be the view that chief executives are being treated differently from other staff, as I outlined: that is not the case. The current chief executives will have the same statutory TUPE-type protections as all other local government staff.

3.00 pm

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

## Symbols and Emblems

1. **Mr F McCann** asked the Minister of the Environment whether his Department has the

power to issue guidelines to district councils on achieving equality or neutrality in relation to symbols and emblems. (AQO 4779/11-15)

**Mr Durkan:** Decisions on symbols and emblems are a matter for each council taking account of its duty under section 75 of the Northern Ireland Act 1998 and the council's own equality scheme. My Department has no legislative power to issue guidance on the matter, as it does not have responsibility for the policy on equality of opportunity. The major modernisation programme that will be implemented over the coming months to deliver our vision for strong, modern community-focused local government provides a significant opportunity for elected representatives to address the issue, respecting all sections of the community. The reorganisation of councils represents a new beginning for local government here. The new councils and the councillors need to provide civic leadership for the whole community in the local government district.

**Mr F McCann:** I thank the Minister for his response. Does he not see a role for the proposed Commissioner for Complaints in dealing with many of the issues?

**Mr Durkan:** I think that that would be a very busy role indeed. There is to be a Commissioner for Complaints; that was covered when we debated the Local Government Bill on 1 October. The Committee Stage of the Bill has been extended. I think that there will be quite a few amendments at that stage, and that will possibly be one. However, it will be done more through regulation than primary legislation. The issue of emblems is very sensitive and incendiary, and, whoever handles it, it must be handled as such.

**Mr Storey:** Given the concern that many seem to have about equality and how everybody is treated fairly, will the Minister tell the House, on the current practice in local authorities and councils, how many of the councils that are controlled by nationalists adhere to even designated days on the flying of the national flag in Northern Ireland?

**Mr Durkan:** Unfortunately, I do not have that information to hand, but I undertake to get back to the Member in writing with specifics. This is precisely the kind of debate that I do not want the Local Government Bill to get bogged down in and why I think, therefore, that it is not the best vehicle through which we can deal with the flags issue. Other fora have been set up to deal with such matters. There is the political

reference group that my predecessor, Alex Attwood, set up, and there are the proposals from the First Minister and deputy First Minister, which are now the ongoing Haass talks and from which I am hopeful of a positive outcome.

**Mrs D Kelly:** I thank the Minister for his answer, particularly given that his home patch is where leadership was shown through power sharing in Derry City Council generations ago. What protections will minorities be entitled to under the reform of local government?

**Mr Durkan:** I thank the Member for her question, which I did not write, despite the reference to Derry. The Local Government Bill, which I introduced in the Assembly on 23 September and which passed Second Stage on 1 October, will introduce a system of checks and balances to protect the interests of minority communities in council decision-making. The proposed governance arrangements will provide for the introduction of a call-in procedure that will enable 15% of the membership of a council — that is, any six people in a 40-member council — to request the review of a decision in certain circumstances. It is proposed that a call-in will be used where the procedures used in reaching a decision are questioned or where there is an issue concerning the protection of political minorities in the local government district.

A further safeguard will be provided through the introduction of qualified majority voting, or weighted majority voting, for specific strategic council decisions, including decisions that have been the subject of a legitimate call-in. The support of 80% of council members present and voting will be required for a decision to be agreed. The decisions that will require a qualified majority vote will again be specified in regulations, and those will be subject to the draft affirmative procedure in the Assembly.

**Mr McGimpsey:** Does the Minister agree that, under the Belfast Agreement, Northern Ireland is a part of the kingdom for as long as the people of Northern Ireland so determine, that the only legitimate flag under the constitutional settlement is the Union flag and that that flag should therefore take precedence over all other flags?

**Mr Durkan:** Mr Speaker, I am not particularly sure of the relevance of that question to the original question. As Minister of the Environment, I am much more concerned about raising standards than raising flags.

## Hydraulic Fracturing

2. **Mr Elliott** asked the Minister of the Environment whether any discussions are taking place between his Department and the developers proposing hydraulic fracturing. (AQO 4780/11-15)

**Mr Durkan:** My officials in both Department of the Environment (DOE) Planning Service and the Northern Ireland Environment Agency have previously met representatives from Tamboran and its consultants. The most recent meeting took place on 26 June 2013. At that meeting, Tamboran's plans to drill a deep bore hole to approximately 1,500 metres to obtain a core sample of the shale were outlined. It is my understanding that the purpose of the core sample is to determine the quantities of recoverable gas in the shale and that that will inform the commercial viability of Tamboran's project. As with previous meetings with Tamboran, my officials used the opportunity to reiterate that the Department of the Environment has a stringent suite of legislative, procedural and policy requirements that apply to such activities and that those will be robustly applied in the assessment of any planning or environment-related matters.

On the company's current exploration process, it was explained to Tamboran that there are certain permitted development rights not requiring planning permission for limited activity such as drilling bore holes or carrying out seismic surveys for a period of up to four months. However, it was explained that, if the exploration works are considered to require an environmental impact assessment, the current legislation makes it clear that, in such circumstances, permitted development rights do not apply.

My Department has not yet received any applications related to this proposed project. However, it is my understanding that hydraulic fracturing will not form part of any initial proposal. Any future proposals involving hydraulic fracturing will be required to carry out an environmental impact assessment.

**Mr Elliott:** I thank the Minister for that. I note your direction earlier, Mr Speaker, to Mr McCrea about trying to steal my question. I suppose that it is nothing new for Mr McCrea to try to steal something from me.

Has either the Minister or his officials had any discussions with the Public Health Agency (PHA) on hydraulic fracturing?

**Mr Durkan:** Discussions are ongoing with a range of people, groups and organisations on hydraulic fracturing. To date, I have not met the PHA. As I said, I have met quite a few groups, some of which are opposed to and one or two of which are in support of hydraulic fracturing. I thank the Member for the idea of meeting the Public Health Agency and undertake to do so in the coming months.

**Ms Lo:** Does the Minister agree that, although the US economy has received a huge boost through fracking, we in Ireland and the UK are very different from the USA, which has a huge hinterland in which to explore fracking? Here, any site that we explore will be very close to urban areas.

**Mr Durkan:** Thank you, Ms Lo. I agree entirely with what Ms Lo said. There have been benefits — albeit, in my opinion, short-term benefits — derived from hydraulic fracturing in the USA, but we are not blessed with the same geographical expanse. There is a distinct difference between the USA and Europe, and the way in which fracking is viewed in both continents highlights that perfectly. There is already huge opposition to fracking here in the North, despite the fact that, as I have said, there is currently no application. I assure Ms Lo that any application that comes will be fully scrutinised and rigorously upheld against planning policy. It will have to satisfy me or, I presume, whoever is the Environment Minister that it is 100% safe, both to people and, extremely importantly, to the planet.

**Mr Wilson:** When the Minister took up his post he is on record as saying that fracking would not happen on his watch. Given that some of the applications are likely to be article 31 applications, is he saying that he has already made his mind up, or might some of them happen on his watch, causing his green friends to see red at the promise he has broken?

**Mr Durkan:** Thank you, Mr Wilson. I think what I said was that it would not happen on my watch easily, and I mean that well and truly. Any decision will require full scientific evidence. In my opinion, that scientific evidence is not there now, and I cannot see it being there in the foreseeable future. Therefore, I cannot see fracking happening on my watch.

**Mr Flanagan:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. Can I turn the question around? Will the Minister give us a categorical assurance that, in the absence of full scientific evidence proving that hydraulic fracturing is safe for animals,

people and the wider environment, he will not allow it to take place anywhere in the North of Ireland?

**Mr Durkan:** In the absence of such evidence, I can categorically give the Member that assurance now.

## Road Fatalities

3. **Mr Givan** asked the Minister of the Environment how many road fatalities have occurred this year compared to the same period last year. (AQO 4781/11-15)

**Mr Durkan:** The Police Service of Northern Ireland is responsible for the collection, recording and compilation of road casualty statistics, and a daily road traffic fatality update is published on the PSNI's website. There have been 40 fatalities so far this year, compared with 32 at the same point last year and 44 at the same point in 2011.

The most recent published factors that cause road deaths and serious injuries are for 2012. They were as follows: excessive speed having regard to the conditions, which resulted in eight deaths and 92 serious injuries; inattention or attention diverted, which resulted in five deaths and 73 serious injuries; and driver or rider impaired by alcohol or drugs, which resulted in eight deaths and 59 serious injuries. Those are typically the key causation factors every year. My Department, within the framework of the Road to Zero campaign on road deaths, is taking actions to address all those issues, including, recently, the launch of a road safety campaign concerning the dangers of not wearing a seat belt.

### 3.15 pm

**Mr Givan:** Clearly, every fatality is something to be hugely regretted, as is the heartache that it brings to the families concerned. Compared with this time five years ago, we have made tremendous progress, but, obviously, it will concern the Minister that, compared with this time last year, the number of fatalities has increased. What assurances can he give the House that there will be a review of the communication strategy to ensure that it is effective and that the PSNI will target its resources in the areas where fatalities most often occur, which are rural roads as opposed to motorways?

**Mr Durkan:** I thank the Member for his supplementary question. He hit the nail on the

head: when we speak about statistics, it is easy to forget that we are talking about people who have lost their life and families who have lost their young ones. I take the issue of road safety extremely seriously and aim to build on the excellent work of successive previous Ministers in bringing down road deaths. There are many ways in which we can do that. Unfortunately, we have seen an increase this year. I am concerned that we have seen an increase in the number of cyclists who have lost their life this year. Therefore, I have instructed officials and we are looking at having a cyclist-specific ad or information campaign to increase awareness and reduce the likelihood of further accidents and fatalities. Last week, I launched an advertising campaign on seat belt wearing. That was based on evidence that, despite a huge improvement in recent years in the number of people in the North wearing a seat belt, over the past year or so we have seen more people not wearing them all the time. The advertising, education and information campaign run by DOE has proven statistically to be extremely effective: it gets into people's heads and stays in people's heads. I have no doubt that it has played and continues to play a major role in reducing the number of people losing their life on our roads.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. Is the Minister aware of research carried out by the health-based organisation Cooperation and Working Together (CAWT) that points to a higher incidence of road traffic accidents in border areas? If so, will the Minister undertake to take a careful look at that research to inform the strategy for border areas?

**Mr Durkan:** Gabhaim buíochas leis an chomhalta as a cheist. I thank the Member for his question. I was not aware of that research. However, work is ongoing between my officials and our counterparts in the Republic of Ireland on the issue. One such piece of work will manifest itself in the coming months when I bring forward a Road Traffic (Amendment) Bill that will involve looking at the mutual recognition of penalty points and the equalisation of drink-driving limits in both jurisdictions. Those initiatives will play an important role in reducing the number of deaths on both sides of the border.

**Mr Dallat:** I am aware that this subject is difficult for the Minister. He understands perhaps better than most the impact that such fatalities have on families. Is he satisfied that the cooperation between Northern Ireland and

the Republic of Ireland — the Road Safety Authority in particular — is being maximised?

**Mr Durkan:** I thank the Member for his question. I am content that the work being done between authorities on both sides of the border is good. I am content that it is beneficial. However, I am perhaps not content that it has been maximised. I bring to this job a determination that the benefit of such collaborative work is maximised, and I will do everything in my power to ensure that it is. The environment knows no borders. We share our air, we share our water and we share our roads, and I think that collaboration between me and my counterparts in the Republic is extremely important and is something that I will work hard on.

## Eco-Schools

4. **Mr Rogers** asked the Minister of the Environment to detail the uptake of the Eco-Schools programme. (AQO 4782/11-15)

**Mr Durkan:** In Northern Ireland, the Eco-Schools programme is operated by Tidy Northern Ireland, which is an environmental charity. It has grown from a baseline of 96 schools participating in April 2007 to 1,021 as at Friday 11 October 2013. That represents 85% of all schools in Northern Ireland.

Eco-Schools is a pupil-led initiative and involves a whole-school approach. Eco-Schools work through a simple seven-step approach as they implement behavioural change in the school and continually reduce their environmental impact. There are three levels of Eco-Schools award that schools can work towards. The awards criteria are closely linked to the seven steps. Schools can apply for bronze and silver award certificates, and the highest award takes the form of the internationally recognised Eco-Schools green flag. The Eco-Schools programme is one of continual reduction of the school's environmental impact, therefore, the green flag award requires renewal every two years.

There are 10 topics for Eco-Schools to choose from: litter, waste, energy, transport, healthy living, school grounds, biodiversity, water, climate change and global perspectives. Schools are not expected to address all 10 topics but would identify topics to be studied according to their own requirements. In order to achieve the green flag, schools are required to study one major and two minor topics.

I recently wrote to the 180 schools in the North still not involved in the Eco-Schools programme to encourage them to join. 2014 will be the twentieth anniversary of Eco-Schools, and I hope that we can achieve 100% take-up during the year. I encourage all MLAs to look at the uptake of Eco-Schools in their area.

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

**Mr Rogers:** Thank you, Minister. You have written to the schools, but what else can be done by your Department to ensure that there is 100% uptake?

**Mr Durkan:** I have written to the schools that have not taken part in the Eco-Schools programme so far. Eco-Schools is the world's largest education programme, operating in 55 countries and involving 13 million schoolchildren. More importantly, Eco-Schools demonstrates actively that economic benefits can result from improved environmental behaviours. For example, there are now two schools in Northern Ireland — Ulidia Integrated College in Carrickfergus and Fairview Primary School in Ballyclare — that send no waste to landfill. That has come about as a direct outcome of work done through Eco-Schools. To that effect, DOE communications has developed a marketing communications plan to encourage the remaining 191 schools to join the programme. That is in tandem with work being done by the national operator Tidy Northern Ireland and its delivery partners.

I was about to say, before I ran out of time at the end of the last question, that I will take this opportunity to encourage all MLAs to look at uptake in their constituency and see whether they can help somehow and encourage schools to take part. I will certainly be to the fore in doing that, as, I think, Foyle has the worst uptake so far.

**Ms Brown:** I thank the Minister for his answers thus far. The Eco-Schools programme presents a good opportunity for education and to promote environmental issues to young people. I believe that the programme will work very well as we work toward the EU's revised waste framework directive on the prevention and reduction of waste. On that basis, will the Minister outline whether his Department will make additional funding available to further enhance the programme?

**Mr Durkan:** I thank Ms Brown for her question. This programme is extremely important in educating young people, which, itself, is extremely important. However, the real value is

not only that it educates young people but that those young people go home and educate their parents. I am sure that those of us with children have been lectured by a child at some stage over what bin we should put what rubbish into. That is the beauty of this scheme, and that is why it is yielding such good results.

The current grant paid to Tidy Northern Ireland to deliver Eco-Schools is £85,000, which equates to 28p per pupil. That is considerably lower than in other jurisdictions. In Scotland, it is 60p; in Wales, it is 93p; and in the Republic of Ireland, it is £2.16. I will look at how more funding can be secured for this project, particularly as we go into the twentieth anniversary year, to try to push for more schools to take it up. I see using the money generated by the carrier bag levy as a possible way of doing that.

**Mr McNarry:** I welcome the Minister's comments on funding. If that comes about, it will be richly deserved. I also welcome his obvious enthusiasm for the scheme. To take it a step further, is his Department considering anything that might give schools additional incentives to participate and invest in this? Might any greater rewards be offered to schools that are already involved — for example, a super prize for the super school? I am not usually all that keen on green flags, but in this case I am; maybe there could be a super green flag.

**Mr Durkan:** I thank Mr McNarry for his question. What we should do, and are doing, is to get teachers, principals and children from schools that are in the programme to speak to those that are not. There are benefits for schools; not just environmental benefits but economic benefits. Schools have seen their energy bills go down as a direct result. I have pointed out two schools that now send no waste to landfill and are, therefore, seeing savings.

I am interested in looking at how we can incentivise this. I believe in good, healthy competition, whether it is in respect of tidy schools, tidy streets or something else. Those are the kind of things that we need to restore civic pride in society and get our streets cleaned up again.

## Planning Bill

5. **Mr Nesbitt** asked the Minister of the Environment for an update on the passage of the Planning Bill. (AQO 4783/11-15)

**Mr Durkan:** I am taking stock of the Planning Bill and the amendments made at Consideration Stage. As Members will be aware, there were two significant, complex and late amendments, which introduced new clauses 4 and 15 to the Planning Bill. Those clauses allow OFMDFM to designate economically significant planning zones and limit the right to take a judicial review against a planning decision taken by OFMDFM, the Department or, in future, councils.

Those amendments were the subject of concern for many Members when we debated them in June. Like my predecessor, I am particularly concerned that the amendments are not within the legislative competence of the Assembly. The legal advice obtained by the previous Minister from one of the top QCs in the UK, who specialises in planning, environmental and public law, states that the amendment curtailing the rights to judicial review is not compatible with article 6 of the European Convention on Human Rights.

The amendment removes the right to seek judicial review in cases where decisions are made outside of legal powers or where the decision was plainly unreasonable. It is a long-standing legal convention that judicial review is an appropriate mechanism to challenge such decisions. Additionally, the economically significant planning zone amendment does not contain exceptions for designated sites, such as those under the habitats directive, which could lead to infraction proceedings being taken against the UK.

I also have a number of other concerns, and in taking stock, it is important to listen to those parties that have an interest in the planning system. This is an important issue, and we need to get the legislation right.

**Mr Speaker:** The Minister's time has almost gone again.

**Mr Durkan:** To that end, I have met and received representations from a range of key stakeholders. I have further meetings planned in the near future.

**Mr Speaker:** I will let the Member in for a very quick supplementary.

3.30 pm

**Mr Nesbitt:** I appreciate that, Mr Speaker. The Minister's predecessor in the House said that there had been no consultation whatsoever on

those amendments. Can the Bill go forward on that basis?

**Mr Durkan:** I believe that the amendments that we are talking about are significant and should be subject to a full and rigorous public consultation to gauge the views of the public and key stakeholders. I am also concerned that the Environment Committee was not given the opportunity to scrutinise the amendments properly. I find that fact extremely disappointing, especially as they were not drafted overnight, and the Members who tabled them at the last minute sit on the Committee and had ample opportunity to bring them forward for discussion with their colleagues.

## Question for Urgent Oral Answer

### Health, Social Services and Public Safety

#### Blood Donations: Judicial Review

**Mr Speaker:** Mr Kieran McCarthy has given notice of a question for urgent oral answer to the Minister of Health, Social Services and Public Safety. Before I ask the Clerk to read the question, I remind Members that if they wish to ask a supplementary question, they should rise continually in their place. I found some difficulty during Question Time with Members rising continually in their place. They seem to believe that it is enough if the Speaker looks down at them. Members need to rise continually in their place, irrespective of what area of the Chamber I may look at. I am reminding Members of what they should be doing to try to get in with a contribution. The Member who tabled the question will be called automatically to ask a supplementary question. I will then call other Members who are on their feet to ask a supplementary. Of course, I will very much take account of the balance of parties within the Chamber.

**Mr McCarthy** asked the Minister of Health, Social Services and Public Safety to report on the outcome of the judicial review regarding his ban on blood donation by gay men.

**Mr Poots (The Minister of Health, Social Services and Public Safety):** There is no ban on blood donation by gay men per se. The lifetime ban is based on sexual behaviour, not sexual orientation. In the application for a judicial review on the matter, the judge took the view that it was unlikely that there was bias on my part. The judge has ruled that the decision on whether to maintain the lifetime ban is a matter for the Secretary of State for Health acting as the competent authority for the whole of the UK. The Secretary of State for Health will need to consider the ruling. The judge also ruled that it was a reserved matter by virtue of section 24(1) of the Northern Ireland Act 1998.

The judge also took the view that the matter was controversial and cross-cutting and, therefore, should have been referred to the Executive for consideration. Contrary to inaccurate commentary, the judge did not take the view that maintaining a higher threshold in Northern Ireland itself was Wednesbury irrational. He did, however, find that Northern

Ireland continuing to import tiny quantities of blood from Great Britain, which could contain some blood from men who sleep with men (MSM), was irrational in this context. That finding needs to be viewed in context, in light of the very small amounts of blood that we import and what additional risk that represents for recipients of blood in Northern Ireland.

I am considering the full judgement and its implications. For the present, the lifetime deferral on men who have sex with men donating blood remains in place in Northern Ireland. My priority as Health Minister is the safety of blood, continuity in the supply of safe blood and public confidence in the safety of blood.

**Mr McCarthy:** The judgement states that the Minister's decision was irrational and that he breached the ministerial code. Surely our Minister will acknowledge that this is a very serious case of discrimination against a section of our population. Will the Minister apologise? Will he lift the ban and stop taking idiotic judicial challenges, costing large sums of money —

**Mr Speaker:** Order.

**Mr McCarthy:** — that he knows he cannot win.

**Mr Speaker:** Order. Can we have the question, not further statements, from the Member?

**Mr McCarthy:** Will the Minister give the Assembly and, indeed, the Northern Irish people an assurance that he is approaching all social issues in a rational, objective and evidence-based manner, rather than imposing his personal religious views on others? Surely, Mr Speaker, if the decision on the blood ban is today a matter for Jeremy Hunt across the water, why —

**Mr Speaker:** The Member should now finish.

**Mr McCarthy:** —was that not the case last week?

**Mr Poots:** I will respond to Mr McCarthy's speech, Mr Speaker. I am not sure what questions were in there. I will quote from the judge because I doubt whether the Member has read the ruling. *[Interruption.]*

**Mr Speaker:** Order. The Minister must be allowed to answer.

**Mr Poots:** I will assist the Member by reading the ruling to him.

**Mr McCarthy:** You are wasting your time.

**Mr Speaker:** Order.

**Mr Poots:** Item 136 in the ruling says:

*"Given these two options, and considering the reported difference in infection rates above, there are two reasonable responses and the one selected by the Minister is not Wednesday unreasonable on these grounds."*

Let us deal with that issue in a very calm and dignified way. The commentary that was put out this morning is wrong. That commentary, which has been put out by other Members in this House, is wrong. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Poots:** The irrationality that the judge was applying was the fact that we took any blood from the UK with the possibility that it could contain MSM blood. So I did not go far enough for the judge. If I had banned blood coming in from GB, the judge would have found the decision rational. Perhaps the Member would do himself a favour before he asks a question by reading the judgement and then he might understand the question that someone has asked him to put in.

**Mr McCarthy:** Apologise.

**Mr Speaker:** Order. Let us have questions to the Minister, not further statements.

**Ms Maeve McLaughlin:** Go raibh maith agat. I have read the judgement. Following the Minister's statement just over an hour ago that the issue is now effectively in the hands of Jeremy Hunt and the fact that, whether it is a tiny piece of blood or a large supply of blood, the decision was found to be irrational and in breach of the ministerial code, will he now directly join the rest of us and the rest of society in ensuring and supporting that the ban is lifted?

**Mr Poots:** The Member may have read the judgement but it would appear that she clearly does not understand it. The judge has taken that decision out of my hands and has indicated that it is a decision for the United Kingdom Minister; the United Kingdom that Sinn Féin is very happy to belong to in this instance. It wants to defer to the British Minister to make the decision because it does not trust someone from Northern Ireland to carry it out.

I want to deal with the issue of prejudice.

**Ms Ruane:** You are prejudiced.

**Mr Poots:** Ms Ruane just claimed that I am prejudiced. The same legislation that applies today in Northern Ireland applies in the USA, Canada, Singapore, Hong Kong, Germany, France, the Netherlands, Belgium, Luxembourg, Norway, Sweden, Finland and Denmark. I will pose a question. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Poots:** The vast majority of countries apply that legislation. So are all those people prejudiced or is the question that is being posed by others that I am prejudiced just a stupid one?

**Mr Speaker:** Once again, Members must rise in their place. I do not know what I need to do to get Members continually to rise in their place.

**Mr Wells:** The Minister has read a list of modern democracies where there is a ban on this particular form of blood being used. What contact has he had with the authorities in the Irish Republic, which have a similar view on the matter? It is ironical that the Members on the opposite Benches are asking us to ignore the views of those in the Irish Republic and to accept the views of the rest of the UK. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Poots:** Shortly after this issue came up, I wrote to the Minister in the Irish Republic who indicated that their position was the same as ours, that it was their intention to maintain that position and that they were not going to consider changing it. *[Interruption.]*

**Mr Speaker:** Order.

**Mr Poots:** In this instance, Sinn Féin is anything but a united Ireland party. *[Interruption.]*

**Mr Speaker:** Order. I call Fearghal McKinney.

**Mr McKinney:** Mr Speaker — *[Interruption.]*

**Mr Speaker:** Order. The Member must be heard.

**Mr McKinney:** Mr Speaker, thank you. The judgment has been made, and the Minister has

made a statement. He has been asked to apologise to the House; will he now take the opportunity to do so?

**Mr Poots:** I think that I have dealt with a number of the issues that Members raised, the number of nonsensical issues that Members raised and the inaccuracy of information that Members have been putting out. Perhaps it is for those Members who have been putting out inaccurate information to the public to apologise to the House.

**Mr Beggs:** To address public concern that he might be allowing his personal views to cloud scientific advice, will the Minister publish the legal advice the Attorney General gave to him prior to losing the court case?

**Mr Poots:** Let us be quite frank about it: this is not an issue of religiosity or moral views; it is one of public safety. Indeed, the learned judge identified that it was an issue of public safety, and, again, I would encourage people to read the judgement. In paragraph 131, the learned judge states:

*"It is clear from the SaBTO report that anal/oral male homosexual acts do increase the risk of acquiring blood borne disease. For example, in relation to HIV the report notes at page 68 in Appendix 5:*

*'UAPMP data from 2008 for previously undiagnosed HIV infections ... shows that the prevalence was higher in MSM (3.1% ... ) compared with heterosexual attendees (0.35% ... )'"*

That, Members, is a 900% increase in infection rates. Some Members might want to dismiss that or ignore safety issues, but I am responsible for people's health and well-being. People who receive blood need to be assured that it is safe.

In paragraph 132 — I am glad to be of assistance to Members in reading this to them — the judge went on to state:

*"Later on the same page it continues to note that the Gay Mens Sexual Health Survey notes the prevalence of HIV between 8.6% and 13.7% which are much higher percentages than in other populations which were tested."*

I rest my case.

**Mr McCallister:** The judge stated that the Minister's decision and actions were irrational

and that he broke the ministerial code. Does the Minister think that that is an endorsement of his policy, a policy that, it turns out, he did not have the power to make?

**Mr Poots:** At that rate of going, neither did the Ministers in Scotland and Wales. The judge very clearly disagrees with the Department of Health on this issue, and it is a matter for others how they might wish to respond. Constitutional issues certainly arise.

If I broke the ministerial code, I did so unwittingly, but I suspect that every other Minister in the House has unwittingly broken the code —

**Mr McCarthy:** You broke it.

**Mr Speaker:** Order.

**Mr Poots:** — if it is as was designated by Lord Justice Treacy in this instance. I want to be absolutely clear and unequivocal about this. When Alex Attwood did not want to bring the Belfast metropolitan area plan to the Executive, I believe that that would have quite clearly broken the code. I look at issues that are in front of Mr O'Dowd, such as the common funding formula and the Dickson plan, and, under this ruling, Mr O'Dowd will break the ministerial code unless he brings those issues to the Executive first.

**Mr McCartney:** How do you know?

**Mr Speaker:** Order. Do not let us start a debate across the Chamber.

**Mr Poots:** Minister Ford wanted to change the insignia on Northern Ireland Prison Service uniforms, and our First Minister intervened to stop that happening. That would also have been a breach of the ministerial code. According to this judgement, there have been numerous breaches of the ministerial code that have applied. [*Interruption.*]

**Mr Speaker:** Order.

**Mr Poots:** What the judge believes to be the appropriate ministerial code has come as news to us.

**Ms Lo:** Will the Minister leave behind his religious dogma and act in the best interests of our society to increase the volume of blood that is donated for all our patients?

**Mr Poots:** I am not sure whether the Member has ever met anyone who has received something in good faith that has gone wrong. Very sadly, one of our representatives passed away as a consequence of a health intervention that involved receiving contaminated material.

Let us be very clear: we are here to look after people's healthcare and we want to do that as safely as possible. If the Member was not listening to what the judge quoted in his ruling or to the fact that he did not identify bias, perhaps she would do herself a favour and read the actual judgement that has been passed, instead of passing judgement without reading it.

**Some Members:** Hear, hear.

**3.45 pm**

**Mr Givan:** I welcome paragraph 141, which makes it clear that there was no discriminatory practice in Northern Ireland as the policy applies to Northern Ireland. With regard to paragraph 150 of the judgement, will the Minister comment, in respect of the ministerial code, on the learned judge's opinion that because it generated a lot of publicity, it should, therefore, have been brought —

**Mr Speaker:** I encourage the Member to finish.

**Mr Givan:** — to the Executive? What does that mean, particularly for the smaller parties in the Executive when it comes to how they conduct their business when they do not take decisions and retain the status quo?

**Mr Speaker:** Order. I must insist. Minister, please continue.

**Mr Poots:** That element of the judgement makes it very attractive to us not to challenge it. It may be a very interesting place for smaller parties in the Executive thereafter, based on the Treacy ruling. I suspect that most of the material in the in tray would, at some point, have to be brought before the Executive. Therefore, the independent decision-making that many Ministers have applied heretofore may be lost. I suspect that many of the people who are baying and crowing might be those who have most to lose as a consequence of Mr Justice Treacy's judgement on the issue.

**Ms Ruane:** Go raibh maith agat, a Cheann Comhairle. Does the Minister agree with me that screening, and not discriminating against our gay community, is the way to deal with making sure that our blood is safe?

**Mr Poots:** No; I agree with the Lord Justice. If he had not recommended that Jeremy Hunt had to make the decision, I could have fulfilled quite easily the issue that he thought was irrational. So, I intend to agree with the judge, as opposed to Ms Ruane, in this instance. I agree that putting safety right at the top of the agenda is something that we should always do as opposed to introducing some sort of equality agenda over and above the safety of the people whom we serve. It must always be a priority to have safety first, long before we introduce the equality issues.

**Mr B McCrea:** Does the Minister accept or reject the High Court judge's ruling that his decision was irrational? Does he agree with that or does he reject it?

**Mr Poots:** The Member, quite clearly, is not challenging whether this is irrational on the basis of the decision that was taken. I am not sure whether the Member actually supports the concept of banning the blood coming in from Britain because that would be the basis of the irrational element. Perhaps the Member is endorsing the banning of blood coming in from Britain because it might contain some MSM blood, as that is what the judge was saying.

**Mr Speaker:** Order, Members. That concludes this item of business.

## Speaker's Business

**Mr Speaker:** Before Members leave the Chamber, I have a number of issues on Question Time to discuss. We need to get away from Members reading out supplementary questions. They end up almost like statements. I do not mind if Members want to keep notes, but reading out supplementary questions needs to stop.

Also, Members should not accuse other Members of stealing. I am referring to Mr Elliott. Members need to be careful of the terminology that they use in the Chamber when referring to stealing topical questions. That is wrong, and the terminology is also wrong. We need to be careful of the language that we use against other Members.

Topical questions are a new convention. I have always said that I will give some easement to Members as we bed down topical questions. That is why I allowed Mr McCrea to ask a supplementary question to his topical question. I did understand that a similar question was on the list of questions for oral answer, but I still allowed the supplementary to be asked. We have to be careful with the language that we use in the House.

**Mr I McCrea:** On a point of order, Mr Speaker. In line with what you just said, when an assessment of topical questions is carried out, will you consider putting them after questions for oral answer rather than before to ensure that that issue does not arise at all?

**Mr Speaker:** Yes, and I have some sympathy with what the Member says. I assure him that we will be looking to make changes to a number of aspects of topical questions. We are also happy to take feedback from Members and parties — *[Interruption.]* Order. We are also happy to take feedback from Members and parties on how we should deal with topical questions.

**Mr Poots:** On a point of order, Mr Speaker. Will you clarify the language used in Mr McCarthy's initial statement and in comments made by Ms Ruane from a sedentary position? *[Interruption.]*

**Mr Speaker:** Order. Yes, I will certainly read the Hansard report and come back to the Member directly. Members should be careful of the language that they use in the House against other Members. *[Interruption.]* Order.

**Mr McCartney:** On a point of order, Mr Speaker. On a separate matter —  
*[Interruption.]*

**Mr Speaker:** Order.

**Mr McCartney:** — what role does the Assembly and the Speaker's Office have to play when a High Court judge deems that a Minister is in breach of the code?

**Mr Speaker:** I can say this to the Member directly: absolutely no role. We looked at the matter this morning with our legal team and the Business Office, and there is no role whatsoever.

**Mr Elliott:** On a point of order, Mr Speaker. I accept your ruling around the language issue. I was never implying that Mr McCrea or anyone else was stealing property from me whatsoever.

**Mr Speaker:** I appreciate what the Member said, and he now has it on the record.

I ask the House to take its ease as we move to the next item of business.

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

## Private Members' Business

### Bowel Cancer

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

**Mr Spratt:** I beg to move

*That this Assembly recognises the importance of early diagnosis of bowel cancer in saving lives; commends the success of the existing screening programme; and calls on the Minister of Health, Social Services and Public Safety to consider extending the age range that can access screening to incorporate a larger proportion of the population.*

It gives me pleasure to introduce the motion to the House. If I have an interest to declare, it is that, just 20 months ago, I was diagnosed with bowel cancer. I thank the Minister for being in the Chamber. I express my deep personal gratitude to the surgeons who have treated me over the past 20 months and to the fantastic staff in Belfast City Hospital, the Mater Hospital and the cancer centre at the City Hospital.

I also declare an interest and make no apology for supporting the work of Bowel Cancer UK in Northern Ireland. I think it is the only bowel cancer charity here; I am not aware of any others. Certainly, it has upped the ante in its work in Northern Ireland. I am deeply grateful for the support of all parties around the Chamber on that. Bowel cancer is the second most common cancer in Northern Ireland. I have been working closely, as I said, with Bowel Cancer UK to increase awareness of the disease. I sincerely hope that more people will go to their doctor if they suspect that they have symptoms.

I would like to begin by saying that, as with all cancers, early diagnosis is critical. Everyone needs to be made aware of the symptoms to look out for and encouraged to seek advice and treatment from their GP. At this point, I would like to list the symptoms in order to increase awareness. It must be remembered that the symptoms do not automatically mean that a person has bowel cancer; they are common to many other illnesses. However, it is important to consult a doctor if any or all of the symptoms are present. They include bleeding from the

rectum; a change in bowel habit lasting three weeks or more; unexplained weight loss; extreme tiredness for no obvious reason; or a pain or lump in the stomach.

Many people are embarrassed to go to their GP and talk to them about bowel health in particular. I have to say that it is really tragic that so many people lose their life every year simply because they are too embarrassed to broach the subject. In many cases, it is men who find themselves in that position. It is so important to realise that doctors are professional and deal with all aspects of health. They will not think any differently of a patient with bowel problems from how they would with any other problem or condition that might be presented to them. I urge anyone who thinks that they might have bowel cancer to see their GP immediately and not to leave it until it is too late.

I commend the Department, through the Minister, for the roll-out of the screening programme. As many Members will know, a test kit is currently sent to the home address of everyone in the 60 to 74 age bracket. Although, the test takes only a few minutes, it can certainly save your life. Often, there are no symptoms in the early stages of the disease. Many people are diagnosed purely as a result of taking part in the screening programme. I am sure that many lives have been saved as a result of early diagnosis through the programme.

It is highly regrettable that the uptake is low and is not as high as it should be. There is strong evidence to suggest that bowel cancer screening can reduce mortality. It is a shame, as bowel cancer is very treatable if detected in its early stages. To be able to reduce bowel cancer mortality by 16%, an uptake rate of 60% is required. Currently, England, Scotland, Wales and Northern Ireland do not meet that target. In Northern Ireland, the rate of uptake is 40% for men and 47% for women. There is evidence to show that that figure is considerably lower for young people, those who live in deprived areas and ethnic minority communities.

How do we tackle the issue? The active involvement of GPs and primary care is integral to improving the uptake of screening. Currently, primary care practitioners are not involved in the bowel care or cancer screening programmes but will receive a copy of the results and are notified of those who do not deal with the screening process. GPs are perfectly positioned to encourage individuals of screening age to look out for the kit and to

instigate conversations about bowel cancer and the importance of early detection.

#### 4.00 pm

Studies have demonstrated the difference that GP involvement can make in improving screening uptake. The current arm's-length approach, whereby eligible individuals are sent a standard invitation letter and, subsequently, a reminder letter if they have not returned the kit within four weeks, is not sufficient in itself to ensure the uptake of screening. Bowel cancer screening programmes require a dual and joined-up approach. I suggest that, if GPs were to send out letters of endorsement to patients, it would reinforce the importance of returning the testing kits.

I call on the Department, via the Public Health Agency, to encourage greater participation in the screening programme by building on last year's public awareness campaign. Public awareness of the benefits and importance of screening is crucial in increasing participation rates and assisting individuals to make informed choices. So far, the Be Clear on Cancer campaign and the Detect Cancer Early campaign in England and Scotland respectively have demonstrated some success, but there is still a lack of awareness about bowel cancer screening. Such campaigns must be regularly sustained until participation rates have increased and are maintained. Targeted and tailored interventions aimed at low-uptake groups to meet specific needs are also required. A one-size-fits-all approach cannot be taken, if the 60% target is to be reached.

According to figures released by Bowel Cancer UK, 95% of diagnoses relate to people over 50. As I said, the current screening programme targets the 60 to 74 age group. In my view, it would be worth looking at lowering the target age to 50, because that would allow more cases to be detected and treated. In my view, the early detection of more cases of bowel cancer will not only save lives but mean a lot to the National Health Service's financial resources.

I want, again, to make some personal comments about the treatment that is available. I have to say to the Minister that, when the critical chips are down — I have had three serious critical operations over the past 20 months — our Northern Ireland hospitals and health service are second to none. I urge the Minister — I know that there are financial restraints — to bring the screening age down to 50, to raise awareness and to sustain an awareness campaign, because that will pay

dividends in the long term by helping to decrease the number of people with bowel cancer. I compliment the Minister for having conversations with Bowel Cancer UK and, indeed, other organisations. I know that he has given serious attention to this. I commend the motion to the House and hope that there will be support right around the Chamber.

**Ms Maeve McLaughlin:** Go raibh maith agat. I welcome this important debate. I commend the proposer for tabling the motion and thank him for his honesty on the issue.

As has been stated, bowel cancer is the third most common cancer. Every year, approximately 1,000 people are diagnosed with the disease and 400 people die from it. Over 80% of people with bowel cancer are over 60. As has been pointed out, men and women from 60 to 69 years of age were eligible for bowel cancer screening, and that was extended in April 2012 to people up to 71 years of age. The Minister has stated his intention that, by 2014-15, the screening programme will be extended to the age of 74 for men and women. As the proposer rightly pointed out, a testing kit is available to test at home, and it is my understanding that the budget for bowel cancer in 2010-11 was £3.5 million.

All that having been said, there is evidence that bowel cancer in particular can run in families, and around 20% of people who develop bowel cancer have a close relative or a second-degree relative who has also had bowel cancer. It is estimated that, if you have a close relative with bowel cancer, your risk of getting bowel cancer is doubled. So, as well as the home test kit — or the FOBt kit as it is called — an additional screening test will be rolled out in 2016. We understand that that includes inviting people at age 55 to have a one-off flexible test to examine the lower bowel with a camera. We have looked at other models. For example, the Scottish screening programme is available for those aged between 50 and 74 years. In Wales, it is between 60 and 74 years. In England, it is available from the ages of 60 to 69, and screening programmes are to be extended to those aged 70 to 75.

As the proposer rightly said, Bowel Cancer UK presented a shocking picture of delays in diagnosis and failures in screening, especially among younger bowel cancer patients. Bowel cancer screening, as the proposer said, should be, as a responsibility, subject to ongoing performance management and audit. The number of people aged under 50 who are diagnosed with bowel cancer is slowly rising, and we cannot or should not lose sight of that

figure. Younger patients are not aware of the symptoms, and that is becoming very apparent. Women experience longer delays in diagnosis, and it is estimated that 42% of women diagnosed had been to their doctor more than five times before being referred to a specialist. That, in itself, is a figure that we cannot lose sight of. A number of recommendations came out of the Bowel Cancer UK report. They were that we needed a bowel disease decision toolkit, if you like, a revision of the clinical guidance that exists and adequate screening and surveillance and that we needed to target younger bowel cancer patients and give them better access to services. We need to take those recommendations seriously, particularly when we see the rising levels of bowel cancer across our society. I suggest that we consider the recommendations that have come out of the report. I commend and support the motion.

**Mr McKinney:** As health spokesperson for the SDLP, I support the motion. Bowel cancer is a major cause of morbidity and mortality in Northern Ireland, and I commend the proposer of the motion for bringing this important issue to the attention of the House. We have heard and will hear further of the personal journey of colleagues, and I thank them for being prepared to discuss so publicly such a personal issue and, in doing so, help to raise awareness of the disease.

There can be few things as traumatic as learning of a cancer diagnosis. It is seldom a sudden diagnosis, with people, as Mr Spratt identified, potentially being aware for some time of feeling ill but even then delaying taking action. As we have heard, there is also the added waiting time between seeking a doctor's appointment and getting one and the subsequent delay in getting further tests and, eventually, a result. Accompanying that is angst and worry, sleepless nights and, often, despair that can extend beyond the individual to family and friends. However, thanks to major developments in science and testing, we are in a position to welcome particular advances in the detection of bowel cancer.

It is worth repeating the statistics. Bowel cancer is the third most common cancer in Northern Ireland after lung and breast cancers, with over 80% of cases occurring in people over 60. Importantly, treatment is most effective when delivered early, so a robust screening programme is an appropriate method to ensure early detection and the associated positive outcomes. Indeed, regular bowel cancer screening has been shown to reduce the risk of bowel cancer mortality by 16%. I would

endorse any move that would make the uptake more effective.

The UK National Screening Committee, which advises the four UK Health Departments on screening programmes, has recommended that bowel cancer screening is offered to all men and women over 50. Since April 2012, men and women in Northern Ireland up to the age of 71 have been eligible for bowel cancer screening programmes, and we know that screening will be extended to include all eligible men and women aged 50 to 74 from January 2014. I welcome the plan to increase those eligible for screening. With annual recorded cases of bowel cancer in excess of 1,000, the expansion of screening should be a priority for the Department. I am mindful that the increased number of people being screened will increase the pressure on the services treating and caring for those who have received a bowel cancer diagnosis. Therefore, I specifically ask the Minister what processes and procedures have been put in place to facilitate the expansion of this screening programme.

As increased numbers of people seek access to the services offered by our expert medical facilities, we must ensure that the resources needed to offer necessary treatments are in place. My constituency of South Belfast has a world-class cancer centre staffed by highly trained and dedicated people. I join my party colleague in paying tribute to the excellent services that they provide. As we raise awareness of this disease, we must increase the provision of services offered by the NHS in this regard.

Worryingly, Belfast's rates of bowel cancer are above the Northern Ireland average. In conjunction with raising awareness, I acknowledge that lifestyle factors can contribute significantly. Diet, exercise and weight can play a role in the prevalence of the disease. To that end, there is a need for the creation of clear public health messages, and I encourage the Minister in that regard. The public must be educated in ways that they can reduce their personal risk factors and be able to readily access robust information to allow them to make informed choices about their lifestyle and the services available to them.

We must seek to provide a holistic approach to the treatment of bowel cancer; an approach that focuses on prevention and cure. I commend those behind the motion, which I support.

**Mr Beggs:** I, too, thank Mr Spratt for bringing the matter to the Floor and for sharing his

personal experience so that others may benefit. We must all thank him for that.

Bowel cancer is indeed the third most common cancer after breast cancer and lung cancer. It affects a large number of people — 1,000 patients a year in Northern Ireland, with 400 people a year dying from the disease. Of the cases identified, 80% are in the older population — 65-plus. One of the aspects of the disease that makes it particularly difficult to treat and diagnose early is that the symptoms develop late. When those late symptoms develop, it limits the treatment that may yet be possible. That is why screening is so important, so that earlier diagnosis can be possible in more cases. Some 20% of cases are below the age of 60, and I will come to that issue later.

On 22 April 2010, the Northern Ireland bowel cancer screening programme began. It was launched by the then Minister Michael McGimpsey for people aged 60 to 69, and, as others have said, that has now been extended. However, the early detection of the disease can result in a 90% success rate, whereas, if the disease is detected in its latter stages, only 6% survive for five-plus years. It is important for everyone to use that chance to have the disease detected early. As was said, unfortunately, only 40% of males and 47% of females in Northern Ireland take up the offer that is available free through the health service. More people must take up that option.

#### 4.15 pm

In June 2009, the acting Chief Medical Officer said that, from January 2014, the programme would be further extended to include all eligible men and women aged 50 to 74. I hope that that will be the case shortly and that we will be able to widen out that age bracket. It would be helpful if the Minister could indicate the schedule for widening the planned detection programme.

I have looked at the number of cases, incidence rates and average number of cases a year in the figures published for 2007-2011, and I notice that the peak age falls within the age bracket 75 to 97. It would be helpful to know why that age group is not being tested and whether there is a hope that, by testing earlier, all cases will be caught and later incidence of the disease will not happen.

As others have said, the symptoms are not commonly talked about, but it is important to put them on the record and to make the public aware of them: bleeding from the rectum; a change in bowel habits lasting three weeks or

more; unexplained weight loss; extreme tiredness; and perhaps a lump or pain in your tummy. If you are concerned about any of those symptoms, go and see your GP and be tested. The earlier you go, the better the outcomes.

Bowel Cancer UK's Never Too Young campaign states that testing should be widened to include people under 50 years of age. It said that people with a high risk of bowel cancer frequently got the appropriate test to rule out bowel cancer as a later possibility rather than an earlier one. It wants bowel cancer to be ruled out first, not last. It also wants adequate screening and surveillance to be put in place, particularly with families that have a higher risk and there is a strong family history of the disease. Therefore, we must concentrate on those high-risk factors.

The majority of the younger population is unaware of bowel cancer and the fact that it could affect them. We must increase their awareness so that younger people under the age of 50 or 60 who have the symptoms seek help. It is concerning that 20% of females and 10% of men had to wait more than a year before being diagnosed by a specialist. It is important that there is early diagnosis and speedy referral through the health system so that early treatment can occur.

As others have said, diet can be a problem. That is under our control, and we can lessen the likelihood of difficulties. Being overweight, lack of exercise, inappropriate diet, high alcohol intake and smoking all increase the likelihood of the disease.

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

**Mr Beggs:** It is important that we use the screening and adopt a lifestyle or improve our lifestyle to lessen the risk of the disease.

**Mr McCarthy:** My party fully supports the motion. I take the opportunity to congratulate Jimmy Spratt and his colleagues for tabling it. I thank Mr Spratt in particular for describing the suffering that he has had to endure. We are delighted and thank God that Jimmy is with us and continues to improve. We hope that you continue to improve and will be with us for as long as possible.

The debate may be about the specific matter of bowel cancer and the associated challenges of anticipating and dealing with it, but, in having it, we highlight more general issues of further

investment in prevention and, in particular, good public health and early intervention.

As has been said, bowel cancer is the third most common form of cancer in Northern Ireland behind lung and breast cancer. That is also the pattern in many other societies. Again, as was said earlier, around 1,000 people are diagnosed with bowel cancer in Northern Ireland every year. As I understand it, some 80% of those people are over 60 years of age, so there was logic in introducing screening first for men and women between 60 and 70 and then subsequently extending that to some over 70. In some other societies, screening is offered to those under 60, particularly those who may be assessed as being at higher risk. In Scotland, testing is available for those between 50 and 74. It is generally accepted that screening should be linked to risk and that resources should be most effectively and efficiently targeted. However, in the case of bowel cancer, the potential for saving lives through early detection is so significant that there is evidence for a more general approach.

It should be stressed that screening is not clear-cut diagnosis. It can rule out bowel cancer but it shortlists only those who require further tests. Consequently, there is a need for rapid follow-up, for waiting lists and times to be short, and for sufficient resources to be deployed.

I stress that prevention is much more than early detection. The public can take action to reduce any undue risks through, for instance, an intake of less alcohol, stopping smoking, improving diet and promoting greater exercise etc. Public health prevention and early intervention should be common themes across the health service. They hold considerable potential for making better use of scarce resources, allowing greater investments in healthcare and improving health outcomes more generally. It would be useful if the Minister could update the House on his progress in rebalancing the health service in that regard.

It is a matter of concern that there are significant variances in outcomes and speed of intervention in different parts of Northern Ireland. My colleague the MP for East Belfast Naomi Long wrote to the Minister recently to highlight that the one-year cancer survival rate in the Belfast Trust, which is 59%, is lower than the Northern Ireland average of 63%. Those lie considerably behind the best rates in Europe. Time frames for those waiting for diagnostic tests in Belfast are well below the average, at 85% compared with the rest of Northern Ireland at 93%. Also, only 73% of patients treated in Belfast receive their first treatment for cancer

within 62 days of an urgent GP referral, compared with the Northern Ireland average of 81%. The percentage of people who receive their first treatment within 31 days of a decision to treat is also lower in east Belfast, at 95%, compared with the rest of Northern Ireland as a whole at 97%. As Members will appreciate, the speed with which patients receive their first treatment —

**Mr Principal Deputy Speaker:** I remind the Member of his time.

**Mr McCarthy:** — is critical.

I commend all the health professionals for the excellent work that they do on cancer. I hope that that good work continues. Hopefully, we can eradicate the disease altogether sooner rather than later.

**Mr Dunne:** I, too, welcome the opportunity to speak on this important motion. I put on record our thanks to my colleague Jimmy Spratt for opening the debate. I think that we all welcome him back to work. It is great to see him looking so well as he fights that terrible disease and continues to represent his constituents. We wish him well for the work that he carries out on their behalf.

Cancer continues to be a very real problem across our country today. The motion is a useful opportunity to highlight the condition and actively explore ways in which we can try to reduce the numbers of sufferers and, importantly, support those who have bowel cancer. I know that a lot of good work is ongoing in support of people with cancer, and I know that Minister Edwin Poots has taken an active interest in this issue. We need to ensure that the provision of services is of the highest quality for people diagnosed with cancer, and we need to ensure that early detection is always to the fore in our communities.

Although bowel cancer mortality rates have decreased overall in the UK since the 1970s, largely due to earlier detection and better diagnosis, there is still room for improvement in helping to bring these figures even lower. Everyone in this House will, sadly, have known someone who has suffered and has passed away due to cancer, and it is imperative that we all as individuals and elected representatives play our part in raising awareness of bowel cancer through encouraging early detection as well as prevention measures. Support is important not only for people who directly suffer from the condition but equally as important is to ensure that support is in place for the families

and carers of those sufferers. It is essential that respite care is in place for people who are dealing with the sufferers right across Northern Ireland, and I pay tribute and commend the many charities and, indeed, many of the volunteers in those charity organisations who work with cancer sufferers and their families daily in providing practical, medical and emotional support at such a serious time for everyone with this terrible condition.

As with many areas in health, I feel that education could be improved and targeted better in our communities through public awareness campaigns and outreach programmes to raise awareness of this condition, of its symptoms and of measures to decrease the chances of cancer developing. Health promotion and public awareness campaigns to encourage healthier living all have a key role to play in helping to tackle bowel cancer. Encouraging a healthier lifestyle, better diets and exercise, reducing smoking and alcohol consumption are all measures that should be worked on and fully encouraged. I, therefore, call upon the Minister to continue to explore ways of extending the age range of people who access screening for this condition. My constituency of North Down has a relatively high level of cancer diagnosis. I, therefore, fully encourage the extension of the screening programme throughout Northern Ireland. I support the motion.

**Mr Brady:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I, too, commend Mr Spratt and his colleagues for bringing this motion to the House. Mr Spratt very eloquently talked about his personal journey with bowel cancer and he has certainly raised awareness in this House and with the wider public. He is to be commended for that.

At this stage in the debate, most of what can be said has been said, but it is important to reiterate some of those points. As has been stated, bowel cancer is one of the biggest and most common cancers in the North. One thousand people are diagnosed a year with it, and 400 people die from it. The effectiveness of screening and the early detection of this illness cannot be overemphasised. It is very important that the Public Health Agency, the Health and Social Care Board, the Business Services Organisation and the trusts continue to work together to ensure that appropriate arrangements are in place to offer bowel cancer screening. Regular screening has been shown to reduce the risk of dying from bowel cancer by 16%. A screening test cannot tell whether a person has bowel cancer, but it does sort people into two groups: those who do not need

any more tests; and those who have further tests. Bowel cancer is also strongly related to age, and it has been stated that 80% of people who get bowel cancer are over 60. One of the main purposes of the motion, apart from raising awareness, is to ensure that the age range is extended to include more people, and I think that that is very important. There is a real need to increase the uptake of screening. The 50 to 74 age group has been mentioned, and I think that it is important that that age range is included.

#### 4.30 pm

The uptake is low, as Mr Spratt stated — 40% of men and 47% of women. There are preventative measures, which have been mentioned, such as a healthy diet, exercise and maintaining a healthy weight. Smoking and alcohol can cause particular problems that can lead to instances of bowel cancer. In my constituency, the incidence of bowel cancer is quite high. For instance, in 2009, 60 cases of bowel cancer were diagnosed.

I will talk about the effectiveness of screening. I received a phone call last week from a very good friend of mine who lives on the Isle of Lewis. As a direct result of the screening programme in Scotland, he has just been diagnosed with bowel cancer. He started his treatment last Tuesday, so I wish him well. I think that it is important that if screening is to be extended, there is an education process that goes with it to ensure that people are very much aware that it continues.

**Ms Brown:** I also support the motion. Due to the serious nature of the topic that my colleague Jimmy Spratt has brought to the House, I do not apologise for repeating many of the statistics that have been mentioned. Statistics tell us that one in 20 people in Northern Ireland will be diagnosed with bowel cancer in their lifetime. In fact, over 1,000 people on average are diagnosed with bowel cancer every year, with 400 people dying. Although that figure is particularly startling, the situation is perhaps worse, given that bowel cancer is a treatable disease and that many people go on to live normal lives after treatment. That means that the advantages of extending the programme to include a larger section of the population than is included at present are significant.

Bowel cancer is one of the most common types of cancer in Northern Ireland, along with lung and breast cancer. Although I welcome the success of the screening programme to date, I

feel that perhaps there is an opportunity to further fight cancer by extending the existing age limits of the current screening programme. I am aware that the current programme is available to those who are aged between 60 and 71 and that, by April 2014, it will be increased to include those who are aged 74. However, on the advice of the UK National Screening Committee, it was recommended that a screening programme be put in place for all those who are aged 50 and over. I would like to see that recommendation become policy as soon as possible. It is a small step that has potentially great benefits.

As with many forms of cancer, the chances of successfully treating the disease increase dramatically with early detection. Given that, in many cases, there are no evident symptoms, it is understandable that many people are completely unaware that they are carrying or developing this deadly disease in their bodies. That is why I am a great supporter of regular screening programmes, and I believe that we should be doing more to educate all age groups on the benefits of availing themselves of a screening service. Awareness is very powerful. I know of one gentleman in particular who confessed to me that he eventually gave way to his wife's nagging — that was his word, not mine — and completed the test, which then led to treatment for bowel cancer. In that case, there were no symptoms, so I think that there is a very powerful message out there. I encourage families to talk about the subject and to take the test, as it could save lives.

The five-year survival rate for people who are diagnosed at the earliest stage of the disease is over 90%, yet fewer than 10% of people are diagnosed at that stage. Research has shown that screening can reduce the risk of bowel cancer by 16%. In addition, a higher percentage — 35% — of bowel cancers detected through screening are more likely to be found at the earlier Dukes A stage than those that are not detected through screening. Individuals who are diagnosed at that early stage of bowel cancer are more responsive to treatment and have more chance of surviving than those who are diagnosed later. Effective screening is therefore crucial to preventing individuals from dying prematurely from bowel cancer. I fully support the motion.

**Mr Rogers:** I support the motion and commend the Member who proposed it. I, like you, Mr Spratt, know exactly what it means when you are told that you have been diagnosed with cancer. Your life goes into fast forward. It flashes in front of you. At times, you are planning your funeral. Then you hit the pause

button and say, "I am going to fight this. I am too young. My family is too important to me." Until you get your head around it, that is it.

For too long, cancer was one of those diseases that was not talked about. In the country, they talked about "the big C", and "the big C" was hush-hush. This debate helps to stamp out the stigma by talking about it. On such a day, I think of my many friends who are on that cancer journey. My thoughts and prayers are with them. It is a difficult journey, but stay positive and keep fighting. Today is about getting that message out. With access to screening, early detection can be made, resulting in many cancer survivors and positive stories.

Cancer is a very common disease and has visited the majority of families in my area. South Down has a high incidence of cancer. As other Members said, bowel cancer is the third most common cancer in Northern Ireland, with over 400 people every year losing their life to it and over 1,000 cases annually. The Chamber needs to send out a clear message to the public today. We need to encourage people to come forward and get tested, as early diagnosis saves lives. When got in time, treatment for bowel cancer can be 90% successful and can increase life expectancy by five years. The screening programme is open to people between the ages of 60 and 69, who are the most vulnerable group. I urge everyone who is eligible for screening to avail themselves of that service. I call on Minister Poots to review our various screening programmes. In the case of bowel cancer, the screening programme needs to be extended to everyone between the ages of 50 and 74. That would bring us very much in line with what is happening in Scotland. We are all aware of the challenges associated with Transforming Your Care, but we must cut through the bureaucracy to ensure that everyone gets the same chance that I got when I was diagnosed.

I understand how distressing and life-changing a cancer diagnosis can be. The impact is felt by the person concerned and his or her family. The Member who spoke previously said that we need to talk about it. I do not know whether it is a man thing, but men are not good at talking about their health. Hopefully, today will be another chance for men to pluck up the courage and go and get that test. My test was a simple blood test. We must provide services that support the patient and the family circle. The family, as caregivers, need to feel that they can access services that provide information that can help them to help the patient on his or her cancer journey. Time is of the essence.

Having been diagnosed quickly, it is important that treatment follow quickly. No matter where the cancer begins, it can travel through the body in a short time.

I pay tribute to the National Health Service for the expert care that our family received. I have to thank Dr Dempsey and his team for the treatment that our daughter received in the children's haematology unit, some 20 years ago. I am thankful for my treatment, which I received at Craigavon Area Hospital and the cancer centre at the City Hospital. The dedicated and well-trained staff in those hospitals played a major role in the successful outcomes for our family. I acknowledge all those who help people on their cancer journey, especially those who care for those who are in their final days. That level of care should be available to all faced with a diagnosis of bowel cancer. We must ensure that cancer units receive the support that they need to continue to provide vital care to patients.

In conclusion, my hope is that today's debate not only highlights the issue of bowel cancer and helps increase awareness of the disease in Northern Ireland but gets the message out that people can survive cancer with an early diagnosis and good medical care, and go on to live for many years.

**Mr Gardiner:** At the outset, I thank Mr Spratt for bringing the motion to the House. I welcome it, because my mother and two sisters died from cancer. We know as a family what it is like to live with that.

Bowel cancer incidence is strongly related to age. More than 23,000 men and women between the ages of 60 and 80 are diagnosed with the illness each year in the United Kingdom. The highest incidence rates are among older men and women. In the United Kingdom between 2008 and 2010, 73% of bowel cancer cases were diagnosed in people aged 65 and over. Age-specific incidence rates increase sharply from the age of 50, with the highest rate in the 85-plus age group.

The variation between the incidence of bowel cancer in men and women is widest between the ages of 67 and 74 when, for every 10 women diagnosed with bowel cancer, there are 17 men diagnosed with the disease. The differential narrows as age increases. At the age of 85, for every 10 women diagnosed with the disease, there are 15 men diagnosed. Between 2008 and 2010, 26% of bowel cancer cases occurred in the 60 to 69 age group.

In England, men and women are offered bowel cancer screening at two-year intervals between the ages of 60 and 69, though that is gradually being extended to include people aged 70 to 74. In Scotland, men and women are offered screening from the ages of 50 to 74. In Wales, men and women are offered screening from the ages of 60 to 74. In Northern Ireland, men and women aged 60 to 71 are offered screening every two years.

The most recent data for 2000-04 shows that across Europe, the incidence rates for bowel cancer are around 11% higher for men living in more deprived areas compared with the least deprived, though no significant differences are reported for women. I would be interested to hear the Minister's views on any evidence in Northern Ireland for bowel cancer rates being higher in socially deprived areas.

There is one interesting blip in the statistics. Between 1998 and 2003, the European incidence rates for bowel cancer decreased by 4% in men and 6% in women. I would be interested in hearing the Minister's views on that blip. Is it explained partly by bowel cancer screening programmes developing after that date and more cases being picked up? However, it does not explain the rate being lower than in the period before.

In conclusion, I support the motion, and I encourage the Minister to make a commitment to replicate the situation in Scotland where men and women are offered screening from the age of 50 to 74. I welcome the motion being brought before the House.

**Mr McCallister:** There is probably not a Member in the Chamber who has not been touched in some way by cancer, whether it is through a loved one or close friend who has been affected. Indeed, the very moving way that Mr Spratt detailed his own journey through it is to be commended, and it is good to have him back working away and fighting fit again. I think that it is a testament to his personality and to the marvellous treatment that he received.

Some of the key issues that I want to touch on during the debate are how we get our participation levels up and how we start pushing that. Other colleagues have set out the levels — 40% for men and 47% for women. How do we keep pushing those up year on year? Very importantly, how do we identify some of the higher risk groups? How do we identify some of the groups that are not even participating at the average level?

How do we engage with those groups and start to change the dynamic in the numbers who participate in screening?

**4.45 pm**

As other Members have said, in virtually everything that our health service does, there are huge advantages in early diagnosis. That is why it is key that we get the screening numbers up, that we get early and correct diagnosis and that we look at extending that to match best practice in other parts of the UK and Europe and, indeed, around the world. A key question is how we boost detection rates and extend participation levels at both ends of the age spectrum. I will be keen to hear whether the Minister will outline any plans and talk about availability, how much it would cost, and whether he thinks that it is an avenue worth pursuing. The message from this debate is that the Assembly is telling the Minister that we are very supportive of going down the road of looking at whether we can bring forward the age at which people are screened. It would be encouraging to hear that the Minister is sympathetic to that.

Screening has a huge part to play. Many people are unaware of the symptoms and they need to get that screening done. We have to look at the setting in which screening can be carried out and how we make contact. Members have raised the issue that, historically, men are very bad at linking into their health. We see that across a range of health issues, from cancers to mental health. On a variety of things, men are just not good at engaging at the required level.

We need to look at other factors, too. Our Public Health Agency has a huge role in tackling the challenges of lifestyle, diet, alcohol and lack of exercise. Those are all contributory factors that we have to look at improving to prevent illness and cancers, while keeping up screening participation and making sure that, when there is a problem, we diagnose it early.

There has been a literally unanimous message from around the House that this is a worthwhile debate on a motion that is very worthy of our support.

**Mr Easton:** The Northern Ireland bowel cancer screening programme was set up by the Public Health Agency in April 2010. The aim of the programme is to detect bowel cancer at an early stage, when there are better chances of treatment being effective. Bowel cancer is the second most common type of cancer found in

men and women in Northern Ireland. About one in 20 people will develop bowel cancer in their lifetime.

Bowel cancer is more common in older people, with around 80% of bowel cancers occurring in people over 60. Bowel cancer is the second most common cancer in both men and women in Northern Ireland. There are more than 1,000 new diagnoses and over 400 deaths in Northern Ireland each year. If bowel cancer is detected at an early stage, there is a much greater chance that treatment will be successful.

In England, bowel cancer is the third most common type of cancer. In 2009, 41,142 new cases of bowel cancer were registered in the UK. A total of 18,431 cases were diagnosed in women, making it the second most common cancer in women, after breast cancer. Some 22,711 cases were diagnosed in men, making it the third most common cancer in men, after prostate and lung cancer. Approximately 72% of bowel cancer cases develop in people who are over 65. Two thirds of bowel cancers develop in the colon, with the remaining one third developing in the rectum.

If bowel cancer is detected at a very early stage, treatment can be 90% successful. That means that around 90 deaths could be prevented across Northern Ireland each year. Screening can also pick up polyps, which are clumps of cells that are not cancerous but some of which may turn into cancer if they are not removed. If polyps are picked up at an early stage, they can be removed easily before that happens.

Exactly what causes cancer to develop inside the bowel is still unknown, but certain risk factors have been identified. They include: eating a high-fat diet; having a bowel condition such as Crohn's disease or ulcerative colitis; having a family history of bowel cancer; alcohol misuse; smoking; or obesity. The initial symptoms of bowel cancer include: blood in your stools or bleeding from the rectum; a change in your normal bowel habits, which persists for more than six weeks, such as diarrhoea, constipation or passing stools more frequently than usual; abdominal pains; and unexplained weight loss.

In some cases, bowel cancer can cause an obstruction in the bowel. Symptoms of bowel obstructions include a feeling of bloating, usually around the navel, abdominal pain, constipation or vomiting. As bowel cancer progresses, it can sometimes cause bleeding inside the bowel, which eventually will mean

that your body will not have enough red blood cells. That is known as anaemia and symptoms include fatigue and breathlessness.

It is becoming increasingly important that the very successful screening process continues and that we understand that bowel cancer can strike at any age. It is, therefore, vital that services continue, with access to screening for extended age ranges where a wider proportion of the population can avail themselves of the screening service, and that we can continue to save lives.

I commend the proposer of the motion for bringing this forward today and for telling us about his personal journey.

**Mr Poots (The Minister of Health, Social Services and Public Safety):** I welcome the opportunity to speak today about this very important issue, the importance of the early diagnosis of bowel cancer in saving lives and the plans that my Department has to extend the age range of the bowel cancer screening programme. I commend the Member for his introduction and for his bravery in fighting this awful illness.

It is vital for everyone to understand that early detection of cancer greatly increases the chances of successful treatment. We all need to be aware of the warning signs or symptoms of cancer and take prompt action to get anything that is suspicious checked out by a GP and referred for further assessment. Therefore lumps, whether breast lumps or testicular lumps, sores that fail to heal, abnormal bleeding, persistent indigestion and chronic hoarseness, or anything that feels or looks abnormal, needs to be checked out.

Population screening programmes are another important approach to early detection of cancer. There are three cancer screening programmes in Northern Ireland. The breast and cervical screening programmes have been in place for 25 years. Over 80 cervical cancers and around 300 breast cancers are detected through screening each year. That early detection has resulted in better outcomes for those women. The five-year survival rate for screen-detected breast cancer, for example, is 95%.

The UK National Screening Committee, which advises the four health Departments on screening programmes, recommended that bowel cancer screening, using faecal occult blood testing, should be offered to all men and women aged 50 to 74. In April 2010, the bowel cancer screening programme was introduced in Northern Ireland. It invited men and women

aged 60 to 69 to be screened. It was fully implemented across all health and social care trusts in January 2012. It is the first cancer screening programme to include men.

Research has shown that bowel cancer screening can reduce deaths by 15%. That means that around 60 lives could be saved here in Northern Ireland each year. All those who are eligible to participate in the programme are sent a screening test kit to their home address every two years. It is a simple test to detect tiny amounts of blood in the bowel motions, which can be an early warning sign of bowel cancer, before the person has any other signs or symptoms. If the test is positive, it does not mean that the person has bowel cancer, but that they need further investigation. They will be referred for a colonoscopy, which is an examination of the lining of the bowel from the inside.

For every 1,000 people screened, approximately 20 people will have a positive test for traces of blood in their bowel motion, but only two of those will subsequently be identified with bowel cancer.

In the year April 2012 to March 2013, 120,000 people were invited to participate in the programme. Since the programme started in April 2010, 270 cancers have been detected. I have met some of the people whose cancer was detected by the screening programme. They told me that their treatment was successful, and they testified that they owed their lives to the programme.

It is known that the incidence of bowel cancer increases with age. In Northern Ireland, eight out of 10 people who are diagnosed with bowel cancer are over 60. In April 2012, the Northern Ireland bowel cancer screening programme was extended to include all eligible men and women aged between 60 and 71. As detailed in the Programme for Government, I am pleased to confirm that, from April 2014, the programme will be further extended to include those aged up to 74. I will consider extending the age range for men and women down to 50 after this extension has been completed. Northern Ireland has adopted a phased approach to the introduction and extension of the bowel cancer screening programme, in line with the approach taken by the other UK countries.

The introduction of a new screening programme is a complex task that requires the establishment of the necessary and appropriate organisation and management, technology and services. There is a need to ensure that there

is sufficient endoscopy capacity for bowel screening, that endoscopy services meet national standards, and that a training programme is in place to increase the number of endoscopists so that the necessary follow-up services can be provided to those who are identified as being at risk through the screening programme.

In considering extending the age range down to 50, I will be interested to see the outcome of a pilot study using flexible sigmoidoscopy, which is being taken forward by the Bowel Screening Advisory Committee in England. Flexible sigmoidoscopy is used to examine the inside of the lower bowel. This is a one-off test that will be offered to men and women at the age of 55. The pilot study will evaluate staffing models for future roll-out, along with the acceptability of the screening test to the public. It will also test the IT system that will support the programme.

Previous studies have concluded that flexible sigmoidoscopy is a safe and practical test and, when offered only once between the ages of 55 and 64, confers a substantial and long-lasting benefit. Research has shown that using it as a screening test for bowel cancer can reduce mortality from the disease by 43% and reduce the incidence of bowel cancer by 33%. I will consider the implications for Northern Ireland when the evaluation of the pilot study is available.

One of the challenges faced by the bowel cancer screening programme is getting men and women to respond to their screening invitation and return their completed test kit. The target uptake for the screening programme is 55%, but we are falling slightly short of that figure. The uptake of screening for the year ending 31 March 2013 was 50%. That is an improvement on the previous year's figure of 47%. Hidden in the figures is the fact that men are less likely to take up their invitation to be screened, yet research has shown that bowel cancer is slightly more common in men than in women. The uptake rate for women is around 52%; for men, it is around 46%.

In the spring and winter of 2012, the Public Health Agency ran a public information campaign of TV and radio adverts. That had a very positive impact on uptake but it has not been sustained in the long term. A different approach to the campaign is being planned, focused on a lower intensity over a longer period.

As Members have pointed out, we have to recognise that bowel cancer rates are higher in deprived areas. People in deprived areas have

higher levels of ill health across a range of issues, and many of those will include cancers. They are more reluctant to seek medical advice earlier. The PHA has an action plan to target hard-to-reach groups and increase the screening uptake. Work will be done to try to encourage people in deprived areas to come forward for bowel cancer screening, among other things.

The Public Health Agency is also looking at a number of alternative ways to improve uptake, including working closely with the voluntary and community sector to raise awareness of bowel cancer screening, especially among those who work with men.

We all have responsibility for our health. Therefore, I end with a plea to all those who have received a test kit: use it, because it could save your life.

#### 5.00 pm

**Mr Wells:** We all congratulate Mr Spratt on his courage in coming forward and explaining the consequences of bowel cancer in his life and the very difficult journey that he has been through. I also congratulate Sean Rogers, who was also prepared to be so honest with the Assembly. I have seen an advert in connection with bowel cancer that says, "Don't die of embarrassment". There is absolutely no doubt that, when people such as Mr Spratt and Mr Rogers are prepared to come forward and tell the public what they have gone through, it will encourage others to face up to reality. One in four of us will get cancer, and it is absolutely vital that we take steps with our lifestyle and diagnosis to ensure that we do not end up as one of those statistics.

Mr Spratt said that bowel cancer was the second most common form of cancer in Northern Ireland, and it is definitely the second most common form of cancer in males. Early diagnosis is absolutely crucial, and every Member who spoke made that point. Mr Spratt also mentioned the issue of embarrassment. At the moment, screening is for 60- to 71-year-olds, but the uptake is low. The Minister was able to bring us more up-to-date statistics on the uptake of testing, but the figures quoted by Mr Spratt that only 40% of men and women return their kit are worrying. That is an issue of great concern, given that some of those individuals may have bowel cancer and may not realise it.

Mr Spratt made a very useful point when he said that it was important that GPs take

ownership of the screening campaign and make personal recommendations to their patients that they return the test. That was useful because, as the Minister said, there is a concern about uptake rates. Mr Spratt also said that 95% of those diagnosed with bowel cancer were over 50 and that we needed to target people from that age. It was encouraging to hear Mr Spratt pay tribute to the treatment that he received from our hospital service in Northern Ireland. We hear so much negative publicity about the performance of our health service that, every now and then, it is nice to hear from someone who has had a high level of treatment.

Maeve McLaughlin quoted the worrying statistic that, every year in Northern Ireland, 1,000 people are diagnosed with bowel cancer. Very sadly, 400 of those people die. She pointed out that there were great variations in diagnosis and survivorship in parts of the British Isles. That is an issue of concern. She made the worrying comment that there is a rise in the number of people under 50 who suffer from bowel cancer. That trend should certainly be addressed. She also said that younger people, in particular, were not aware of the symptoms. She made the useful comment that some people have to be diagnosed five times before they are referred to a specialist. Clearly, if people present with symptoms but are not referred for specialist treatment, the fault lies with the health service rather than the individual. It is clear that some of our GPs are not yet aware of the symptoms of bowel cancer.

Fearghal McKinney made an interesting comment about the great concern and angst that patients and their families feel. Of course, Sean Rogers and Mr Spratt graphically told us about the sheer intense feeling of, I suppose, horror when people hear that they have been diagnosed with any form of cancer. Mr McKinney agreed with other Members that everyone over 50 should be screened. He asked what the Minister was doing to roll out an expansion of the screening programme, and I hope that the Minister has answered that point. Mr McKinney paid tribute to the work of the Belfast cancer centre at the City Hospital, and he was absolutely right to do so. As an aside, I congratulate Paddy Johnston, the lead clinician in that facility, who has been made the vice chancellor of Queen's University. It is an indication of the work that he has performed for many years that he has been raised to that important position. Mr McKinney also emphasised the need for a holistic approach to the treatment of the condition.

Mr Beggs emphasised that symptoms develop late and that early diagnosis and detection can

lead to a 90% success rate. It is a sad indictment that so many people out there would have lived but did not because it was not detected in time. This is one of those cancers that is almost totally avoidable, and Mr Beggs emphasised that there needed to be more testing. He made the novel point that the highest rate of bowel cancer was in those aged between 75 and 97 but there was no testing at all for those individuals. He asked why that was the case. He emphasised the fact that people, particularly females, have to wait so long to be seen by a specialist.

It is sad that Kieran McCarthy was the first person to mention lifestyle. We know that there are genetic issues with bowel cancer and that you have a much greater chance of having it if it runs in the family. Also, those who smoke, those who drink and those who are obese and take little exercise have a far higher prevalence of bowel cancer than the average population. That comes up time and time again, and there are so many diseases in Northern Ireland where the same factors are so common. Therefore, the whole Public Health Agency agenda of making us take responsibility for our own life and not making lifestyle choices that endanger our health has to be emphasised. Other Members raised that issue subsequently, but Kieran McCarthy was the first to do so. He also made an interesting point about the variations in survival between the Belfast Trust area and the rest of Northern Ireland, and that is a worry. One of the advantages of having a unified health and social care system in Northern Ireland is that there should not be a postcode lottery and everyone should have the same opportunities. Yet, the statistics that he quoted from Naomi Long seem to indicate that, if you live in Belfast, you have a far higher risk of developing and dying from bowel cancer than those in the rest of the community.

Gordon Dunne said that mortality rates had fallen since the 1970s, which is good news, but there needs to be more support for families and carers. He paid tribute, as I do, to the work of the charities in the field. This is not a glamorous charity field to be in; people do not queue up at the doors to talk about and support bowel cancer charities. However, as we have seen today, it is a very important issue.

Mickey Brady raised the importance of regular screening. He said that that would reduce the chances of mortality by 16%, and that is important. We wish his friend on the Isle of Lewis all the best with his treatment. I hope that he was detected early.

Pam Brown raised a very worrying statistic that others, including the Minister, quoted. She said that one in 20 people in Northern Ireland will be diagnosed with bowel cancer. That means that several people — at least one person — in the Chamber today, in addition to Mr Spratt, may be diagnosed with the condition, and 20 people in the Assembly as a whole. She wanted the time limits for diagnosis extended, and she stated that there is little in the way of symptoms for bowel cancer until it is too late and, therefore, screening and detection is absolutely crucial. She said that those who were caught early have a 90% chance of survival, but only 10% of those who had bowel cancer were detected early.

In a very personal and courageous contribution, Sean Rogers outlined his journey with cancer. I suppose that I am undoing myself by saying this because he is a political opponent, but we are glad to see that he is so fit and healthy. Being serious about it, it is good to see someone who has had an early diagnosis, has had treatment and has come back looking as healthy as he does. He quoted the worrying statistic of the levels of cancer in south Down.

Sam Gardiner had personal experience of tragedy and emphasised the fact that 23,000 people are diagnosed in the UK each year. He stated that, in Wales, screening was for people aged between 60 and 74, but that, in Northern Ireland, it was for those between 60 and 71. Of course, Scotland has an even wider programme of screening. He, along with others, raised the fact that there is a higher level of bowel cancer in socially deprived areas. Again, we are back to the lifestyle choices of diet, obesity, exercise, smoking and alcohol. However, he encouraged us by telling us that, between 1998 and 2003, bowel cancer rates in Europe had decreased by 4%.

John McCallister emphasised the importance of early diagnosis and cooperation in the health service on this important issue. Alex Easton said that 90 deaths could be prevented in Northern Ireland every year if we had a more effective screening programme.

Edwin Poots, the Minister, added to the debate by telling us that 270 instances of bowel cancer were detected already in Northern Ireland as a result of the screening procedure. He said that many of those who had it detected said that they owed their life to the scheme. That is excellent. However, if only half the people came forward, I suspect that it was not detected in another 270, and they may well be in a serious condition. He indicated that there was a possibility of extending screening to those

who are 50 years old and above, and we hope that that happens as soon as possible.

*Question put and agreed to.*

*Resolved:*

*That this Assembly recognises the importance of early diagnosis of bowel cancer in saving lives; commends the success of the existing screening programme; and calls on the Minister of Health, Social Services and Public Safety to consider extending the age range that can access screening to incorporate a larger proportion of the population.*

*Adjourned at 5.10 pm.*

## WRITTEN MINISTERIAL STATEMENT

*The content of this ministerial statement is as received at the time from the Minister. It has not been subject to the Official Report (Hansard) process.*

### Environment

#### PUBLICATION OF REVISED DRAFT PPS 15 — PLANNING AND FLOOD RISK — FOR PUBLIC CONSULTATION

*Published at 1 pm on Thursday 10 October 2013*

**Mr Durkan (The Minister of the Environment):** I am pleased to inform Assembly members that the Executive, at its meeting on 3 October 2013, agreed to the publication of Revised Draft Planning Policy Statement (PPS) 15, titled 'Planning and Flood risk', which I am now issuing for 12 weeks public consultation.

Revised Draft PPS 15 sets out the Department's planning policies to minimise flood risk to people, property and the environment. Its primary aim is "to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere".

In June 2006, when PPS 15 was first issued, a commitment was given to review this important policy document within 5 years of its publication. The purpose of this commitment was to make sure planning policy on flood risk remains relevant and up to date taking into account evolving information on climate change as well as new evidence and experience of implementing flood risk policy.

Since 2006, there have been a number of important changes in the policy context that have underpinned this review of existing planning policy on flood risk. The European Directive on the Assessment and Management of Flood risks (the Floods Directive) came into force in November 2007 and was transposed into local legislation in 2009. This has led to significant improvements in regard to the quantity and quality of flood risk information now available through the ongoing implementation of the EU Floods Directive in Northern Ireland by DARD, as the competent authority.

Other significant developments include ongoing inter-departmental work aimed at promoting the use of sustainable drainage systems within Northern Ireland. Furthermore, a Reservoirs Bill is due to be enacted next year that will set out provisions for the management of this new source of flood risk highlighted by the Floods Directive.

The Review of this PPS is therefore well-timed and I am pleased to be issuing it today for public consultation.

The revised draft contains 5 operational policies. Four of these policies, FLD 1 to FLD4 are carried forward from the existing PPS 15. While the overall thrust of the policies remains the same, some amendments have been made to provide greater clarity or to take account of current best practice. There is one new policy, FLD 5, which sets out planning policy for development in proximity to reservoirs.

Policy FLD 1 continues the general presumption against development in the flood plains of rivers and the sea. The main features of the revised policy are as follows:

- Continued provision for the development of previously developed land protected by flood defences. However, due to the residual flood risk in these locations, the revised policy proposes to prevent certain types of development such as essential infrastructure and bespoke development for vulnerable groups such as the elderly, infirm and children.
- Continued presumption against most forms of development within the undefended flood plain. However, the original 'exception' for seasonal occupation of land by touring caravans etc has been withdrawn in the revised policy and other minor amendments to exceptions have been made. The revised policy also proposes a new exception allowing for development within the coastal flood plain where the land is raised through infilling to an acceptable level above the flood plain.
- The existing policy allows for development proposals of overriding regional importance and this is expanded to also allow for proposals of sub-regional economic importance. The policy requires developers to demonstrate the economic importance of such proposals and to justify why a location within the floodplain is considered necessary.
- The revised policy now allows for minor development, such as extensions to dwellings, within the flood plain.

- The revised policy lists certain flood protection and management measures that will not be considered acceptable, where proposed by private developers, in order to facilitate development within flood plains.

Policy FLD 2 seeks to prevent development that would hinder the operation and maintenance of existing flood defences and the revised policy extends such protection to cover drainage infrastructure, including watercourses.

Policy FLD 3 seeks to manage development in areas subject to surface water flood risk. The revised policy clarifies the circumstances in which a drainage assessment is required and confirms that planning permission will be granted where it is demonstrated through the drainage assessment that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and elsewhere. The revised policy also introduces an onus on developers to assess and mitigate the flood risk in circumstances where a formal drainage assessment is not required, such as smaller scale development in areas where there is potential for surface water flooding, as indicated for example by the DARD Strategic Flood Map.

Policy FLD 4 continues the existing policy in seeking to prevent the artificial modification of watercourses (including culverting and canalisation) in all but prescribed circumstances. The revised policy proposes to amend some of the existing exceptions so as to clarify more precisely the circumstances in which such works can be carried out. This will not only reduce flood risk but will also secure environmental benefits such as enhancement of biodiversity.

Policy FLD 5, is an entirely new policy which seeks to manage development in proximity to reservoirs with a capacity greater than 10,000 cubic metres. Reservoirs pose a particular flood risk because of the potential for sudden and deep inundation in the event of failure or overtopping of the impounding structure or the controlled release of water from the reservoir. Under Policy FLD 5 the onus will be on the applicant to provide assurance that the reservoir is safe and to provide a flood risk assessment along with the planning application. There will be a presumption against certain types of development, for example essential infrastructure and bespoke accommodation for vulnerable groups, within flood inundation areas. Development will also be prevented in specific areas where there is potential for sudden and deep inundation.

Revised Draft PPS 15 also incorporates 5 Annexes which provide updated guidance on various aspects of flood risk management such as sustainable storm water management and the assessment of flood risk and drainage impact. This includes new guidance on flood proofing of buildings, including flood resistant and resilient construction.

While flooding is a natural phenomenon that cannot be entirely eliminated, we in government need to do all we can to address this recurring problem which can have devastating impacts on the individuals and communities affected. I believe it is important to ensure that the planning system continues to manage new development so as to further reduce the risk of flooding to people and property.

I am delighted that there is much joined-up work in tackling flooding currently being progressed. Revised Draft PPS 15 is one important example of this. I would like to record my thanks to the Minister of Agriculture and Rural Development whose officials from DARD Rivers Agency have made an invaluable contribution to the review of the existing policy and in helping to bring forward this draft revised policy document.

My Executive colleagues have been consulted on Revised Draft PPS 15 and I am pleased that it has been broadly welcomed. Following the public consultation process, I intend to seek Executive approval before the publication of the final PPS.

Copies of this written statement have been placed in Assembly Member's pigeon holes. A copy of Draft Revised PPS15 is available to view or download from the Departmental website [planningni.gov.uk/draftrevisedPPS15](http://planningni.gov.uk/draftrevisedPPS15).





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