

# Official Report (Hansard)

Tuesday 1 April 2014  
Volume 94, No 2



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

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# Northern Ireland Assembly

Tuesday 1 April 2014

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

*Members observed two minutes' silence.*

## Executive Committee Business

### Local Government Bill: Further Consideration Stage

**Mr Speaker:** I call the Minister of the Environment, Mr Durkan, to move the Further Consideration Stage of the Local Government Bill.

*Moved. — [Mr Durkan (The Minister of the Environment).]*

**Mr Speaker:** Members will have a copy of the Marshalled List of amendments, detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list.

There are four groups of amendments. We will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 4, 18, 23 and 28, which deal with appointments, disqualifications and the code of conduct. The second debate will be on financial and technical issues, and it will address amendment Nos 5, 22, 24 to 27 and 30 to 34. The group 3 debate will be on amendment Nos 6 to 13 and 29, which deal with governance and decision-making. The fourth debate will be on amendment Nos 14 to 17 and 19 to 21, which deal with access to information and good relations. Members will note that a valid petition of concern has been tabled in relation to amendment No 19. Therefore, the vote on that amendment will be on a cross-community basis. Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. If that is clear, we shall proceed.

#### **Clause 3 (Disqualifications for being councillors)**

**Mr Speaker:** We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 4, 18, 23 and 28, which deal with appointments to committees, disqualifications and appeals relating to a breach of the code of conduct.

**Mr Allister:** I beg to move amendment No 1: In page 2, line 8, at end insert "(d) the House of Lords;".

*The following amendments stood on the Marshalled List:*

No 2: In page 2, line 8, at end insert

"(e) the legislature of any other country,".— [Mr Allister.]

No 3: After clause 3 insert

#### **"Disqualification of councillors for being independent members of policing and community safety partnerships**

**3A.—(1) The Justice Act (Northern Ireland) 2011 is amended as follows.**

*(2) In Schedule 1, in paragraph 9 (disqualifications) after sub-paragraph (2) insert—*

*'(2A) A person is disqualified for being an independent member of a PCSP if that person is a councillor.'*

*(3) In Schedule 2, in paragraph 9 (disqualifications), after sub-paragraph (2) insert—*

*'(2A) A person is disqualified for being an independent member of a DPCSP if that person is a councillor.'*— [Mr Elliott.]

No 4: In clause 4, page 2, line 14, at end insert

"(2) In section 4 of that Act, after subsection (1) insert

'(1A) The Department must by 30 September 2014 make an order under subsection (1)(a).'"— [Mr B McCrea.]

No 18: In clause 59, page 35, line 39, at end insert

"(10) An appeal under subsection (9) may be made—

(a) against the suspension (or partial suspension);

(b) against the length of the suspension (or partial suspension)."— [Mr Durkan (The Minister of the Environment).]

No 23: After clause 117 insert

"Public bodies to support employees seeking election to council

**Public bodies to support employees seeking election to council**

**117A.** A public body, other than a council, must to the extent that it is reasonably practicable, support and facilitate any employee, other than its chief executive or directors, in seeking election as a councillor including—

(a) offering unpaid leave for the three-week period prior to local government elections;

(b) actively seeking to overcome perceived conflicts of interest."— [Mr B McCrea.]

No 28: In schedule 2, page 80, line 5, leave out "Regulations" and insert "Standing orders".— [Mr Durkan (The Minister of the Environment).]

**Mr Allister:** In what is said to be a new start in local government, it is appropriate that we look at the qualifications required to sit as a councillor in the new arrangements. The Bill already makes a conscious and deliberate effort to deal with what has long been termed double-jobbing. It deals with it on the basis of prohibiting someone who is a Member of this House, the House of Commons or the European Parliament from also sitting as a councillor. I agree with that. I think that that is right. Whether double-jobbing actually created problems from time to time or whether it was indefensible in perception as well as reality, it is right that the House moved to deal with it. Of

course, it is also in a wider context of dealing with double-jobbing in other fora.

The common denominator of the current exclusions in the Bill — MLAs, MPs and MEPs — is that all are members of a legislature. If that is the common justifying denominator, it raises the question of why we are not being all-inclusive in respect of the legislatures to which people can belong. That is why amendment No 1 raises the issue of extending the exclusion to the part of the legislature that is the House of Lords and why amendment No 2, on the same premise that it is undesirable to be part of a legislature and part of local government, would extend it to someone who might be or could be a member of a legislature outside of this country.

I do not think that there will or would be any great rush for peers to wish to enter local government, although we have had some notable peers who have given long service. One is Lord Morrow, who is not just a Member of this House and the House of Lords but a member of his council for many, many years. In truth, I do not think that there is likely to be a great rush of people wishing to be councillors and peers, but, if there is a principle involved, it is right to legislate consistently on that principle.

There may not be any great rush of, for example, members of the Southern Parliament who might be eligible to be councillors in Northern Ireland wishing to be councillors in Northern Ireland, but who can say? Theoretically, the TD for Louth Mr Adams, if he owns property in west Belfast — one appreciates that, on a working man's wage, it is, no doubt, difficult; it seems easier to own property in Donegal, but it might be difficult also to own property in west Belfast, who knows? — and was thereby eligible to be a councillor on Belfast City Council or was eligible by virtue of continuing to live in west Belfast, it would seem rather incongruous and, indeed, wrong that we would say to Members of this House, "You cannot be a member of your local council; you are prohibited from being a councillor", while someone who is a TD in another place in another country could be a councillor in the city of Belfast, for example. Therefore, it seems right and necessary that that anomaly is dealt with on the consistent and principled basis of disallowing dual mandates wherever they might be. If it is wrong that someone can be a Member of Parliament and a councillor, it equally would be wrong for them to be a TD and a councillor in Northern Ireland. You cannot logically rationalise all that, other than primarily on the basis that one should not have dual membership of a legislature and a local

council. The same logic applies to the House of Lords, and that is the essential thrust that lies behind these two amendments.

**Mr Weir:** I thank the Member for giving way. I completely agree with him on the logic of comparing the MP with the TD, for instance. There would be a bizarre loophole if you had a situation where one could be a Member of Parliament and be barred from being a councillor but that was allowable if you were a TD. I want to ask his opinion on what could be one slight flaw with the logic of including the House of Lords. Rightly, he talks about dual mandates, but membership of the House of Lords is not a mandate. Members are not elected by anybody, and membership is through appointment. Similarly, from the point of view of double-jobbing, in the strictest sense, it is not a salaried position; only expenses are given. Does that mean that there is a slight difference between membership of the House of Lords and of the House of Commons, in respect of which there is, rightly, a bar?

**Mr Allister:** I do not think that, in truth, there is anything other than a marginal difference. The key issue is membership of a legislature and membership of a district council. Whether you are paid for the privilege of being a Member of the legislature or whether, as some might have said in times past, you have paid for the privilege of being a Member of the legislature, I do not think that it really matters. I think that what matters it is the fact that you are a Member of a legislature. That then throws up the spectre of the impossibility of being in two places at the one time. Yes, of course, there are dormant Members of the House of Lords, but there are some very active Members of the House of Lords. You cannot, on the one hand, say of a Member who appears only by name and does not go there, "Why can't they be a councillor?" and, on the other hand, say of an active Member of the House of the Lords, "They do not appear to have the time, and it would throw up a conflict". There has to be one rule for all. I do not think that the fact that they are not elected makes any difference. The fact that they are a Member of a legislature with time demands and other demands throws up the difficulty that the whole essence of the argument about double-jobbing was addressing. I do not think that it matters whether they are paid or unpaid. The common thread of all these propositions is that they are a Member, somewhere, of another legislature.

**Mr B McCrea:** I thank the Member for giving way. I invite him to perhaps take an even stronger line than that which he has taken.

That is because the sole source of legitimacy for people who were considering double-jobbing at one stage was that they had received a mandate from the people. So, had you been elected to a council, the Assembly or as a Member of Parliament, you could have said that the people had spoken and that that was the case. That argument does not hold for the House of Lords, where people are appointed, so they do not even have that legitimacy to fall back on. However, perhaps the Member might consider that they are part of the entire legislative framework in which they have oversight or different positions. That is a key point: we do not want the same person to have multiple roles. I will finish by saying that there is deep disquiet among the population about people who are apparently paid twice for doing the same job. That would be the case if you were in the House of Lords. I invite the Member to respond to that. My position, which I will put on record, is that I am strongly of the opinion that being in the House of Lords and being a councillor is not an acceptable proposition.

**10.45 am**

**Mr Allister:** I thank the Member for his intervention. I suspect that he and I — certainly I — will never have to make that choice, but there we are.

I think that we have moved on from the argument about "Oh, I'm mandated to be in both". I think that that phoney argument has been put to bed. We have now arrived at a position that it is a matter for the House to examine whether the current position of banning MLAs, MEPs and MPs from holding dual mandates is sufficient and logically compatible with them being able to continue to be a member of a legislature in another guise, be it the House of Lords or a legislature in another country. If you define the principle as preventing dual membership of a legislature and local government, you will have drawn the right conclusion, and the ultimate outworking of that conclusion is these two amendments, which will copper-fasten that position. It is on that basis that I bring the amendments to the House.

I want to apologise to the House, in case this eventuality arises: for some time, I have had a meeting arranged with the roads Minister and some constituents at 12.00 noon today. It may be that I will not be able to stay until the end of the debate or will not be present for the anticipated winding-up speech. I apologise for that, but I feel that I have to fulfil the other obligation, given that people are travelling some

distance to meet the Minister. Subject to that, I look forward to hearing out the debate.

**Ms Lo (The Chairperson of the Committee for the Environment):** As Chair of the Environment Committee, I welcome the Further Consideration Stage of the Local Government Bill. I wish to comment on only two of the amendments in this group — amendment Nos 18 and 28 — as those were the only two policy areas where the Committee expressed a view in its report.

Amendment No 18 to clause 59 introduces grounds for a High Court appeal on interim decisions made by the Commissioner for Complaints. The Committee tabled an amendment on the issue, which was agreed by the Assembly at Consideration Stage, to introduce a provision for such an appeal. The Department has now advised the Committee that our original amendment did not specify the grounds for appeal, and amendment No 18 has been tabled to provide an appropriate level of consistency in that part of the Bill. On behalf of the Committee, I welcome the clarification provided by amendment No 18.

The Minister has written to the Committee to indicate his intention of revisiting the constitutional position of the Commissioner for Complaints. As he has stated in the House, no other ombudsman or commissioner for complaints in these islands is subject to appeal by the High Court, and, at Consideration Stage, he suggested that the adjudication function might be removed from the Commissioner for Complaints and become the responsibility of another body. The Committee accepts that it has not been possible to develop an alternative adjudication method in the period between Consideration Stage and Further Consideration Stage, but I ask the Minister to give that due consideration as early as possible and to keep the Committee informed of progress on the issue.

I now wish to comment on amendment No 28. The Committee tabled an amendment, which was carried at Consideration Stage, to ensure that the formula for appointment to committees may be run for all committee positions at once for the duration of the council term, on the basis of the number of seats that each party has immediately after an election. That amendment aimed to enable a fairer allocation of seats on committees to smaller parties and independent councillors, who otherwise might be excluded by the use of the quota greatest remainder process for each committee on an annual basis only. The Committee originally proposed to move an amendment to include the mechanism

for implementing that in the Bill in the previous schedule 4 but agreed that it was content for the details to be included in subordinate legislation. The Department has now indicated to the Committee that it believes that amendment No 28 will provide greater flexibility to address issues connected with such an approach and that the arrangements would be specified as a mandatory element of a council's standing orders in regulations using the enabling power provided by clause 37.

On behalf of the Committee, I ask the Minister to clarify what type of issues he envisages will require flexibility in determining how committee places in a council are allocated, particularly since he has not proposed that for dealing with joint committees, and why he does not support the greater control provided by subordinate legislation. Without a full and detailed explanation, I do not feel that the Committee can support the amendment, and members may prefer to proceed with the requirement for regulations, as specified by our original amendment.

With your indulgence, Mr Speaker, I will speak briefly as a member of the Alliance Party. Alliance opposes double-jobbing and is content to support the amendments in the group, which are sensible extensions to Parliaments otherwise excluded. It is correct that it would not be appropriate to ban MPs from being councillors while allowing Members of the House of Lords and even TDs to double-job. The amendments, therefore, are sensible.

I will oppose amendment Nos 23 and 28. Amendment No 23 places a burden on the public sector that I do not think is reasonable and is open to abuse, such as paper candidates standing so that they can get the time off suggested in the amendment to help out other candidates from their party or to do general party work. I also feel that it places an unfair disadvantage on candidates who work in the private sector and would not have access to the same protections. Amendment No 28 —

**Mr B McCrea:** Will the Member give way?

**Ms Lo:** Yes, of course.

**Mr B McCrea:** I will pick up a point about amendment No 23, which the Member has just mentioned. Is she aware of the Supreme Court's ruling on article 3 of the first protocol of the European Convention, which states that the phrasing of that article:

*"was intended to give greater solemnity to the Contracting States' commitment and to emphasise that this was an area where they were required to take positive measures as opposed to merely refraining from interference".*

That is a ruling from the Supreme Court, based on the European Convention on Human Rights, so I am surprised that the Member will oppose such a clause.

**Ms Lo:** I thank the Member for his intervention. We know that the Department is already considering allowing staff at certain grades in a council to stand for council elections, but we think that that may have gone too far. Amendment No 28 —

**Mr A Maginness:** I am grateful to the Member for giving way. Amendment No 23 deals with public bodies. It states:

*"Public bodies to support employees seeking election to council".*

It does not name the public bodies; it is public bodies at large. It is my view that that is over and beyond the remit of the Bill and certainly over and beyond the reach of the Department of the Environment, which is sponsoring the Bill. Therefore, it goes against the power of the Department in relation to this. If it was specifying bodies that came under the remit of the Department of the Environment, it might be different, but it is public bodies at large. Therefore, I submit that this is inappropriate in the context of the Bill.

**Mr B McCrea:** On a point of order, Mr Speaker. Could you clarify that the legislation before us is not legislation pertaining to the Department of the Environment but legislation in general that the Northern Ireland Assembly is considering and that there should be no restriction to the detail that we put in the Bill?

**Mr Speaker:** As the Member will know, there is limited scope to any Bill. However, it is up to the House to decide this morning, this afternoon or whenever what positions parties may take towards any amendment to the Bill. Yes, let us work within the scope of the Bill, but this is actually a local government Bill.

**Mr B McCrea:** On a point of order, Mr Speaker. Just for clarification, I agree that this is the Local Government Bill and that matters pertaining to local government and the appointment of councillors are within its remit.

**Mr Speaker:** The answer to that is yes. The Member is correct.

**Mr B McCrea:** Thank you, Mr Speaker.

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

**Ms Lo:** Yes.

**Mr Dickson:** Thank you.

**Mr Speaker:** Anna Lo. Sorry —

**Mr Dickson:** She has given way, Mr Speaker. Thank you very much.

**Mr Speaker:** Yes, sorry.

**Mr Dickson:** Apologies, Mr Speaker. In presenting the opposition to this argument, would Ms Lo agree with me, however, that the law deals generously with those who are elected? Whether you are an employee of a public body or any employee in the United Kingdom, you have a legal right to time off to conduct public duties. In fact, those in the public sector are at a distinct advantage in that the trade unions have negotiated regularly that those in the public sector not only have the appropriate time off, which is generally more than what is set down in law, but in many circumstances have time off with pay. We are approaching this from a perspective where public sector employees are at quite an advantage once they are elected. There is no reason to suggest that we should create an uneven playing field as between the public and private sectors when standing for election.

**Ms Lo:** I thank Mr Alban Maginness and my colleague Mr Dickson for further clarification on the issue.

Amendment No 28 from the Minister tries to place the method for nominating more than one committee into the standing orders of a council rather than regulation from the Minister. As much of the Bill is dedicated to the nomination and appointments procedure, it seems incongruous that the Minister should now seek to place responsibility for some procedures into councils' standing orders. We feel that it would be more appropriate to keep this in the hands of the Minister acting as a supervisor rather than of the councils themselves, so we will oppose it.

**11.00 am**

**Mrs Cameron:** I welcome the opportunity this morning to further consider the Local

Government Bill. I intend to comment briefly on the amendments before us.

Amendment No 1 includes membership of the House of Lords on the list of disqualifications from being a councillor. It would be highly unusual for that situation to arise, but it would not be impossible. On balance, given that being a member of the House of Lords is not an elected or salaried position, I have some reservations about the amendment. However, I am not minded to divide on it.

Amendment No 2 is also from Mr Allister. I am content to support the inclusion of, "the legislature of any other country", as that supports the principle of devolution while adding to the overall intention of the Bill regarding double-jobbing and better local government by focusing on local and domestic governance matters.

Amendment No 3 is that a new clause be inserted after clause 3. The amendment is from the UUP, which wants to add,

*"Disqualification of councillors for being independent members of policing and community safety partnerships".*

I am happy to support that as it seems to be a sensible amendment that will cover an existing loophole in the legislation.

I am content to support amendment No 4 as clear guidelines will need to be in place for those employed by councils who wish to stand for election. While it is vital to encourage more people to become involved in local politics, it is important to properly recognise a potential conflict of interest.

I am content to support amendment No 18, which is from the Minister, as it simply adds more detail about the appeal that can be made to a suspension or partial suspension and the length of that suspension.

Amendment No 23 seeks to insert a new clause after clause 117. Although I understand the intention of the amendment, which seems to aim to support further those who are employed by public bodies and are seeking election, the measure appears to be overly prescriptive, and I suspect that it would place a burden on public bodies and on employees who may not be able to afford a three-week period of unpaid leave in the current economic climate.

I am not minded to support amendment No 28 as it seems to me that a single draft of the regulations would provide more consistent

governance than each council coming up with its own proposals and guidelines. Those are my comments on the group 1 amendments.

**Mr Milne:** Go raibh maith agat, a Cheann Comhairle. I welcome the opportunity to speak in the Further Consideration Stage of the Local Government Bill. I will be brief and will get directly to the points.

Sinn Féin supports amendment Nos 1 and 2, as outlined by their proposer. As a party, we have had a long-standing view that there should be no double-jobbing, and these amendments close a gap in the legislation.

Amendment No 3 introduces a new clause to disqualify councillors from being independent members of the PCSPs. Given that PCSPs were constituted on the basis of elected and independent groupings that were distinct and separate, I believe that, if we were to examine the make-up of some existing PCSPs, we could find potential conflicts of interest. The amendment will ensure that the independent integrity of such bodies is protected, so we support it.

We are also happy to support amendment Nos 4 and 18. We have some reservations about amendment No 23. I understand the rationale of the sponsors of this amendment, but its introduction could create inequalities by giving preferential treatment to those who work in the public sector, which would lead to unfair advantage. For that reason, we do not support the amendment.

We are still in listening mode about the amendments that I have not touched on.

**Mr Eastwood:** I am glad to be able to take part in the debate, and I am glad to see us at this stage. Some of the speeches so far bode well for the length of time it will take us to get through this stage. Harmony has broken out, although I am not sure how long it will last. We can get through this a lot more quickly than the last time and with a bit less blood on the floor.

This is a very important piece of legislation, and I intend to focus my remarks on amendment Nos 1 and 2 from Mr Allister in this group. I am happy to support both amendments. There is good reason for the House of Lords not being included, and the arguments about its members not being elected or paid were made. However, I am convinced that there is no good reason to exclude the House of Lords from the effort to end double-jobbing. It has to be said that Mr Attwood, when he was Minister of the Environment, moved quickly to end any

financial reward for people who sit as councillors and MLAs. That was the right thing to do. We in this House all have enough to do, and, if we were councillors, would have to do two jobs at the same time. I think that the public very clearly understand that we are put here to do a job and should be fully focused on it. Minister Durkan has moved in this Bill to enshrine the principle that we should end double-jobbing. By 2015, we will be fully there. Therefore, the amendment makes a lot of sense to me. Some people will say that people in the Lords are not paid. However, we found out recently that some of them travel quite a distance, go into work for two minutes and then go home again, with their expenses in their pocket. Clearly, people are gaining financial benefit and reward from being a Member of the House of Lords. Being a councillor is a difficult enough job, as anyone who has been a councillor understands. If you are doing your job properly, it is more than a full-time job. Those responsibilities will increase in the coming months, with the new legislation. We want to ensure that councillors, many of whom will have other jobs as well, are focused as much as possible on their job as a local representative.

Equally, I see no reason why we would oppose amendment No 2. Although we have, in the past, had members of local councils in the North sit as Members of Seanad Éireann, the authorities in the Republic have moved to ensure that Members of the Oireachtas can no longer be members of a local authority. Therefore, it makes perfect sense for us to bring in the same legislation. However, as part of us accepting that, we are very glad to see that the Irish people in the Twenty-six Counties have rejected the referendum proposal that Seanad Éireann be abolished. We would far rather see it be reformed. We would far rather see the people on this side of the border who regard themselves as Irish citizens have an opportunity to play a fuller role in the democratic life of the island. We would love to see a situation where there was a more democratic and open opportunity for Northern Irish citizens to play their part, at least in the Seanad. That is a position that we continue to hold. We would love those people to play their full part in Seanad Éireann, and not have a role as a councillor in a Northern council at the same time. The argument has been well made by Mr Allister. It is not often that we agree on many amendments — sometimes — but this makes perfect sense, and we are happy to support it.

**Mr Elliott:** I suppose that Mr Eastwood set the scene by saying that we do not want to get into

any serious conflict, and I would dare any of us to do that.

The first two amendments, from Mr Allister, are on an issue that has exercised Members, not only of this House but of other places. The issue is not just dual mandates but, at times, multiple mandates. We have discussed that on several occasions, and I fully support the principle and ethos behind those proposed amendments. It is important that elected representatives to any House or Chamber give it their full commitment. People often question the commitment of some people in this House and some people in the Houses of Parliament at Westminster, whether it is the Commons or the Lords. They question whether they are giving their full commitment or whether they have too many other attractions that divert them from giving that commitment. A realisation is coming quickly, particularly in this House, that people need to give their full commitment.

It would be remiss of me not to point out to the proposer of the amendment that amendment No 1 would mark a significant move away from the rest of the United Kingdom. There is no harm in that; I do not disagree with that, but it is right to point out that in no other area in the United Kingdom will a Member of the House of Lords be banned from being a councillor; therefore, we are moving away. The NIO recently rejected the opportunity to stop Members of the House of Lords also being Members of the Assembly. Indeed, Members of the House of Lords can be Members of the European Parliament, but, if this goes through, they will not be permitted to be members of a local council in Northern Ireland. I am not saying that there is anything wrong with that, but we just need to be mindful of it. Maybe there is a responsibility on us in the Assembly to bring forward further legislation to stop that happening between the Lords and the Assembly. I do not know whether that is within our remit, but it is an issue that we can look at further.

Turning to amendment No 3, the Ulster Unionist Party's amendment, we have witnessed in recent months that a number of independent members of policing and community safety partnerships have become councillors. I believe that that is a significant issue. Mr Milne indicated that, if you dig down into the independent members, there may be a number who have a conflict of interest. That not only applies to independent members but elected members. We need to be mindful of that. You are never going to mitigate that totally, but we need to move as far away as possible from that conflict of interest. We want to provide

separation so that independent members are, as far as possible, independent. I welcome the support that we have had for that proposal.

I move to amendment No 28 from the Minister and the Department, which changes "Regulations" to "Standing orders" on the appointment of more committees. Obviously, we are attracted to that to some degree, simply because we feel that each council may want to put forward its own committees and it allows the flexibility to do that without having to make regulations and do it for all councils. However, we are still open and will listen to the debate on that. I heard other Members discuss the issue. Therefore, we will judge that as it comes forward. I am interested to hear what the Minister has to say on it.

Turning to amendment No 23 from NI21, we have concerns about it giving a distinct advantage to people who run for office and who work in the public sector. I have some concerns with the wording of the amendment, which states:

*"A public body, other than a council, must to the extent that it is reasonably practicable, support and facilitate any employee".*

I am concerned that it would give those employees support, whereas others who are running for office may not have that support.

**Mr Agnew:** I thank the Member for giving way. I intend to listen to the debate on this amendment, although I certainly support the spirit of it and would be minded to support it. Does the Member recognise that, currently, the disadvantage lies with workers in the public sector and that this is a positive action to try to overcome that? At this point, there is not the same barrier to standing for election in the private sector as exists in the public sector. Therefore, positive action is required.

**Mr Elliott:** I thank the Member for that intervention. However, I am sure that he will appreciate that I do not accept his argument. Indeed, some in the private sector do not allow their employees to run for local councils or any elected office, sometimes because there is a conflict of interest.

Obviously, I do not accept that argument per se. I understand the spirit of the proposal, but I am concerned that it would give a distinct advantage to people in the public sector. I know a number of councillors who work in the public sector, and they certainly do not say to me that they feel at a disadvantage at any

stage, either when contesting an election or when elected. They just do not feel that they are at any disadvantage. Indeed, I know that, in some areas of the public sector, there is quite a bit of flexibility and time off to allow them to carry out their duties. I do not feel that there is such a disadvantage.

**11.15 am**

**Mr B McCrea:** I am grateful to the Member for giving way. It is slightly strange that people are responding to our amendment before we have had a chance to make the case for it. Does Mr Elliott think that it is a good idea, in principle, that all who wish to put themselves forward for local council should be permitted to do so? That is my first question.

My second question relates to the point brought up by Mr Agnew. Surely, given the significant number of councillors and others looking to stand for council in the forthcoming elections, there will be some, to his knowledge, with whom someone has had a word and said that there are potential conflicts of interest because they are in the public sector. Surely, there will have been some instances when people have been advised, "I would not do that if I were you." Surely that is reprehensible, and that is the disadvantage that, I believe, Mr Agnew is talking about, and I concur with him. I will develop that point later in my contribution. Does Mr Elliott recognise that there is some potential in that argument?

**Mr Elliott:** I thank Mr McCrea for that. There is disadvantage in both the private and public sectors at times. I have been aware — more so in the private sector than the public sector — of when there has been a whisper in somebody's ear, "We would prefer that you did not run for council or indeed for the Assembly because there may be a conflict of interest." I have not been as aware of it in the public sector, but I will take his word that it happens.

**Mr Weir:** I thank the Member for giving way. I take on board what has been said by Mr McCrea and others. I agree with Mr Elliott that, at times, there appear to be conflicts of interest and indeed barriers. Sometimes, they are higher in the private sector than in the public sector. Say, for example, someone works for a firm that has a contractual relationship with the council or hopes to become, at some stage, a supplier to the council. There would be a lot of pressure in that firm for that person not to sit on the council because it could be seen as a conflict of interest or even a bar.

In a previous life, the Enterprise Minister would have been ruled out automatically. Also, a former chairman of the Ulster Unionist Party, Mr Cooper, would have been completely ruled out of being a member of Fermanagh District Council because his private firm was the council solicitors. That direct conflict of interest meant that he was barred from even running for council. In many ways, therefore, the barriers of conflicts of interest are for private firms. Certainly, the opportunity for an employee to have additional time off is, if anything, much greater in the private sector than in the public sector.

**Mr Elliott:** I accept the points made by Mr Weir. What we are trying to do is get a balance. I am sure that Mr McCrea is trying to do so as well, but I do not believe that the amendment provides that balance. I welcome the debate and discussion because I think that it is important that, where possible, people should be allowed the freedom to exercise their right to run for elected office. However, we must realise that we live in a very close-knit society, and it must be accepted that there will be conflicts of interest. On some occasions, it will not be possible for people to run for office. I hope that those occasions will be very limited. In some cases, in the private and public sectors, that opportunity will not be there for some people. That is very unfortunate, but it is just a part of life.

**Mr B McCrea:** I appreciate the Member's giving way. I will talk about the issue in more detail later, but I want to put it to Mr Elliott, and on the record, that I am aware of an employee of Invest NI who would like to stand for council. He has told his superiors in the line of command that he would like to stand. He has been advised not to stand — not that they could stop him — because, the minute that he puts his name forward, there will be all sorts of conflicts of interest. He has said, "I am quite happy to manage conflicts of interest, because conflicts of interest are something that I have", but he has been spoken to. Surely that is not a good idea, given that his role does not in any way impinge on local government and would be below the threshold of what is proscribed. That is but one example, and I will quote several more. Surely that situation goes against the Supreme Court ruling that you can stop people's democratic right to stand for election. I just wondered how we might deal with that.

**Mr Elliott:** Clearly, I appreciate the information that Mr McCrea gave, but he will understand that I will not comment without knowing the exact case. What I will say, however, is that I

am aware of people who have been told or advised, or to whom it has been suggested, that they should not stand. In some cases, they accepted that advice, but, in other cases, they did not, and, after going ahead with standing for council, they got elected. I know that it has not been any inhibitor whatsoever to one person in particular. I am not saying that they defied the suggestions, because they were only suggestions. They said that, on balance, they were going to contest the election, which they did, and they won a seat. I have never heard of it being an inhibitor to them. In fact, what they bring to the table is, quite often, very helpful and useful. There does not appear to be a huge conflict of interest. On occasion, those people will have to sit out of meetings, but that is accepted by us all. Indeed, from being on a council, I know, as will anybody else here who has been on a council, that, on occasion, such people had to sit out of meetings.

That is where we are on those amendments.

**Lord Morrow:** At the outset, I apologise for missing the first part of the debate. That was due to the fact that I had to attend an appointment with the education authorities in Armagh at 9.30 am. I understand that I missed some contributions in which my name was directly mentioned, but I do not take offence at that at all, because I am too long in public life now to get offended.

First, I will deal with Mr Allister's amendment, which absolutely amazes me, to say the least. For a long, long time, Sinn Féin has agitated that Northern Ireland must be a different place from any other region of the United Kingdom and that, if you sit in a House in the United Kingdom, you cannot sit on a council. They did not table such an amendment, so I suspect that they will be ever grateful to Mr Allister, because he has done that for them.

It is strange that the House wants to ensure that the legislation that we put through to govern our councils is different from the legislation in England, Scotland and Wales. In England, Scotland and Wales, you can be a member of a council, but if you are in the one other region of the United Kingdom, you are different, and you will not be allowed to sit on a council.

**Mr B McCrea:** Will the Member give way?

**Lord Morrow:** Yes.

**Mr B McCrea:** Does the Member accept that we are already different from England, Scotland and Wales? I have here Electoral Commission

guidance for candidates and agents in local elections in Scotland. The guidance outlines that the second disqualification concerns politically restricted posts. So, Scotland, Wales and England have politically restricted posts, yet Northern Ireland has no such thing. So, we are already different from other parts of the United Kingdom.

**Lord Morrow:** Yes, but the point that I am trying to make is that you can become a member of a council in England, Scotland and Wales, but, if this is passed today, you could not do so in Northern Ireland.

**Mr Weir:** Thanks for giving way. Without having the particular guidance that Mr McCrea has in front of him, I do not know whether there is going to be a swathe of NI21 councillors across Scotland to look forward to — perhaps Mr McCrea aims to get the boat from Larne to stand there — but he referred to the issue of politically sensitive posts. That is one of the things where we have a difference, as mentioned in this legislation, which is that we have a blanket ban on any council employees becoming councillors. As part of the legislation, we are adjusting that to allow for a change to take place. However, there will, in effect, still be a ban on those in what may be described as "politically sensitive" posts becoming councillors; ie, those at a high enough level in the council. So, on that point, we are, arguably, moving towards the rest of the United Kingdom. As the Member indicated, though, on the issue of disqualification of the House of Lords, we are actually moving away from the practice in the rest of the United Kingdom.

**Lord Morrow:** The Member makes an excellent point, and for me to say anything further on it might just detract from it. So, I thank him for making that point.

I ask the House to give due consideration before following Mr Allister's line on this and give some thought as to why. I know that Sinn Féin — and the SDLP, maybe to a lesser extent, but certainly Sinn Féin — will be absolutely delighted with this amendment. Is it any wonder that they were full of praise for it? I suppose that, in a way, they are kicking themselves for missing it, but they depended on Mr Allister picking it up and he has succeeded in doing so.

In relation to amendment No 2, I understand where he is coming from. I certainly feel that we, as a party, will and should support it.

Let me be very clear in relation to Mr Eastwood. The DUP has led on the phasing out of what has now become known as double-jobbing. I have never heard as subtle an attack on a party leader. He attacked his own party leader in the most subtle way. We always were told that Mr Eastwood had aspirations to one day be the SDLP leader. It may be that he is making his bid early and saying, "Look, this is the time to get rid of Dr Alasdair McDonnell".

He was very critical — absolutely scathing — of those who are double-jobbing, and he obviously had his own leader in mind when he was doing that. Who else could he have had in mind? However, that is an internal fight that the SDLP has to sort out at its next party conference or something, and maybe it will put Mr Eastwood in as leader now that he has taken on that mantle.

In relation to the other clause that —

**Mr Elliott:** I thank the Member for giving way before he leaves amendment Nos 1 and 2. Given that he also sits in the House of Lords, has the Member any indication as to why the NIO did not take on the matter of Members of the House of Lords not being allowed to sit in other Parliaments and, for example, in the Assembly here? I understand that it was raised but the Government indicated that, for some reason, it was not appropriate to do it. I wonder whether he has any information.

**Lord Morrow:** No, I am sorry that I cannot assist the Member on that because the NIO works in mysterious ways its wonders sometimes to perform. Anyone who can get to the bottom of the NIO will be an absolute genius, because the mandarins in the NIO work in a way that is totally alien to what any of the rest of us does. So, I am sorry, Mr Elliott; I do not say it disrespectfully to you but respectfully that you should go direct to them and ask for an answer in relation to that.

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

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

**Lord Morrow:** Right, OK.

**Mr Elliott:** I thank the Member for his patience. As a follow-up, is the Member aware of councillors of other jurisdictions who sit in the House of Lords? If so, can he give us any indication of how many?

**Lord Morrow:** No. I think that the House of Lords has almost 1,000 Members or thereabouts. It is a disparate House. Your colleagues may have the time to go into all of that and size that out for you, Mr Elliott. However, in relation to this amendment that has been put down today, I am not appealing from a selfish point of view. I no longer sit on a council, although I did so for nearly 40 years.

Who put me there? We were elected. Some of us still believe in the democratic process. Some of us believe that people being elected should not be dictated by legislation. Let the people have their say. Let democracy reign. Let it run. We have had enough of democracy being stifled in Northern Ireland. Here is another attempt to do it, which is regrettable. That is why my party will oppose the amendment, not because I am a member of the House of Lords. I am not now a member of any local council, but, given its position, the House of Lords is an unpaid, unsalaried position, and it is ironic that —

**11.30 am**

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

**Lord Morrow:** I will in a moment or two.

It is ironic that this matter should now be the subject of an amendment by no less a person than Mr Allister.

**Mrs McKevitt:** I do not know what happened in Armagh, but when the Member's party colleague spoke earlier, she indicated that the DUP would not cause a Division on this amendment.

**Lord Morrow:** I am sorry, I did not hear the Member say that, but our party will oppose this amendment. We have made that quite clear from day one.

Mr McCrea and Mr McCallister tabled amendment No 23, and there is an inequality in it. We hear much about equality. Everybody has become possessed and obsessed with equality, and here is an amendment that runs contrary to that. However, I am sure that Mr McCrea will, in his own lucid way, explain it in great detail so that nobody will be in any doubt that it should not be adopted. His proposed amendment No 23 suggests a new clause 117A:

*"(a) offering unpaid leave for the three-week period prior to local government elections;*

*(b) actively seeking to overcome perceived conflicts of interest."*

Will Mr McCrea clarify whether he would extend that to everybody, or whether it is just for the privileged few who will, on one day, be gamekeeper and, on the next day, be poacher? As a party, we have a problem with that, and it needs to be thought out very clearly.

I was in council for a number of years, and, for some of those years, I was also self-employed, I was a Member of this House, and I was a member of the House of Lords. I know, to some extent, the stresses and strains that that can put on you. However, I want Mr McCrea to be explicit: why is he singling out those who are to be offered unpaid leave for the three-week period prior to local government elections? Would that extend to others who are in paid employment and are employees? Will that regulation also apply to them? I do not think that that will be helpful. I believe that that will act as a deterrent as to who would go forward for local government elections because employers will have a problem and will say, "This will cost me money, interfere with and interrupt my business, and it may be difficult".

I think that what should happen is what does happen. Most people in public life — I am talking particularly about councillors — were there in their spare time, and, for many years, it was an unpaid position. I recognise that there are calls on your time that are not always possible to manage, but the greater percentage of councillors — I am talking about people from all the political parties and not singling out or leaving out any one party — were there for one motive and reason, which was to provide a service to the community that they represented.

**Mr B McCrea:** Will the Member give way?

**Lord Morrow:** Right, OK.

**Mr B McCrea:** Is the Member aware of the Supreme Court judgement in the case of Ahmed and others, which deals with people who were councillors in other areas who wanted to challenge the law? The outcome — this is the scope of the matter — was that Mr Ahmed was unable to stand for elected office. Mr Perrin and Mr Bentley had to resign their respective positions and could no longer canvass for their wives in local elections, and Mr Brough could no longer act as chairman of his political party. The issue is not that it is a simple thing; it is about the knock-on effects on people who stand for election. Surely that requires some form of protection in that you

may say that the individual has some responsibility, but we all have families and we would all like to support them.

**Lord Morrow:** I think that the Member is missing the point that I am trying to make. Does he not understand that this will be a deterrent to people standing for local government elections rather than an encouragement to them? That is the point that I am trying to make, and it is one of the reasons why we will not support this amendment. We cannot because we want people in local government who are there for the right reason: to serve their communities. I have said before that I believe that most, if not all, parties are doing that. Their members put themselves forward to serve their local communities, to work on community issues and to drive forward their communities and make them better.

No one will take the chance if the legislation says that their employee must do x, y and z. That is fine, Mr McCrea, but the real world tells us something different. People are not going to go into an environment or scenario where, potentially, their job is at stake and they cannot give their full commitment to their job. I will reinforce the point: council members worked mostly in their spare time. It was never envisaged, I believe, that being a councillor would be a full-time job. That is what brought very good people forward who represented their communities for many years.

I will be interested to hear what Mr McCrea has to say. As I have given way to him, I am sure that he will be gracious enough to me as he normally is, in fairness to him.

**Mr Weir:** Today's debate will, hopefully, be a little bit shorter than the two days that we spent on the Bill's Consideration Stage. There are seven amendments in this group, three of which have some level of controversy. I will deal with the other four amendments first.

The Minister's amendment, amendment No 18, seems to be a relatively sensible consequential amendment off the back of the amendments that were proposed by the Committee and accepted by the House. Therefore, I have no problem with amendment No 18.

Similarly, with amendment No 2, which was tabled by Mr Allister, I can see the logic in what he is saying about creating a certain level of level playing field between nations. It would seem a little odd, to use his example, that if Mr Adams was to become a councillor here he could not do so in the Republic of Ireland. Indeed, while he was an MLA he could not

become a councillor. The analogy slightly breaks down because Mr Adams did not show a great deal of interest in this House when he was an MLA; I cannot imagine that he would be particularly keen on lowering himself to being a councillor. Nevertheless, the general principle of amendment No 2 is one that we would find acceptable.

I will wait to hear what will be said about amendment No 4, which was tabled by NI21, but it seems, on the face of it, to be a reasonably sensible amendment. I will wait until Mr McCrea has spoken because I may well change my mind and go against it on that basis. Certainly, however, on the basis of what has been put forward, which is to do with producing an order, it is a follow-through on intentions indicated by the Department, which seems to be relatively sensible.

Similarly, although there has been a little bit of discussion on it, amendment No 3, tabled by the Ulster Unionists, seems to be a reasonably sensible amendment. We have seen in a number of places, even in my constituency and council area — and the individuals have done no wrong — people who have been members of district policing partnerships (DPPs) and PCSPs who then, because a vacancy has arisen, have become a councillor. There should not be any bar on that person becoming a councillor. However, it does slightly undermine the principle that an independent can be somebody who is linked with a political party but has no links at all, but that there is a differentiation when that person becomes a councillor. With applications, that happened in the past, but I am not sure if anybody actually held the post.

Previously, in DPPs, there was nothing to stop a councillor who had not been selected by their council as a council representative from applying as an independent, and, on at least one occasion, that person was appointed. So, it actually happened the other way round. That seems to me to very much go against the spirit of the intention of setting up a mixture —

**Mr Elliott:** I thank the Member for giving way. He is absolutely right in the points that he is making. The guidance for application to the policing and community safety partnerships goes some way, but not the entire way, to prohibiting this. The spirit is there but the rules are not there to stop it, and that is what we are trying to do.

**Mr Weir:** Possibly in light of what has happened in the past, the door is starting to be closed but has been left ajar at present. That

clearly is an anomaly, and, for example, if someone who is a member of a PCSP becomes a councillor because of a vacancy, it seems to me reasonably sensible for that person to then vacate their post as a member of the PCSP.

I was involved a long time ago in selections of people for local policing partnerships through the DPP. I assume that the general selection process is the same. Normally, when selections are made in various areas, there are then categories of substitutes that are willing. In north Down, when a couple of vacancies occurred, substitutes were put on to the DPP and, presumably, could also be put on to the PCSP. It would not leave the PCSP at a disadvantage because someone of a similar background can fill that post. So, amendment No 3 seems relatively sensible in closing an anomaly that is there.

I will turn to the other amendments. Lord Morrow has given great detail on amendment No 1, and I do not want to add a great deal to that. The slightly wider issue is Members of the House of Lords being Members of the Assembly, and, to the best of my knowledge, that has happened in Wales and Scotland, where Members of the House of Lords have also been Assembly Members and MSPs. So, a further level of extension would simply take us further away from the United Kingdom.

There is an argument about anomalies with the issue of disqualification on dual mandate, and a certain amount of anomalies are there at present. The argument made some time ago was that, if we are effectively barring people from the idea of getting two wages or salaries, should we almost go to the far end of Basil McCrea's amendment and say that it would also be wrong for anybody who is working for the public sector? There is arguably a direct conflict of interest there.

When I was on North Down Borough Council, because of the somewhat unusual seating arrangements at that stage, I sat with a member from another party who worked for the public sector and was a highly paid consultant. I suspect that that person largely made their money from the private sector but may well have been on a five- or six-figure salary from the public purse. There seemed to be no problem with double wages in that case, yet there was with the idea of a dual mandate. I perfectly accept that, and I think that that is an anomaly.

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

**Mr Weir:** I will give way in a moment. I see Mr Agnew looking to intervene.

I perfectly accept that there should not be a bar on anybody from the public sector in that regard. Therefore, if you are to have a bar on the basis of dual mandate and somebody being elected to two positions and salaried from that point of view, you have to recognise that that is not the case with the House of Lords. It is a slightly grey area, and I appreciate the logic, from a legislative point of view, that Mr Allister outlined. I am not particularly persuaded by that argument.

**11.45 am**

**Mr Agnew:** I thank Mr Weir for giving way. On his point about sitting beside a member on the council who may have had other interests, does the Member agree that, at least, those interests would be transparent? We could have the situation where a member is sitting on a council judging on a planning decision and his party is receiving donations, and we would not know about that, but, with other job appointments, at least, we have transparency.

**Mr Weir:** It is good to see that Mr Agnew is sticking to the point on this issue and dragging in a certain level of irrelevancies. The reality is that the interests of the person who was sitting beside me were not necessarily transparent. He was a highly paid consultant, and his wage was, presumably, part private and part public. I did not know what level of wage it was. It is a fair assumption that if someone is a senior consultant, they will be in receipt of a fairly substantial wage, but his wage was not transparent. *[Interruption.]* I hear references behind me to legal aid barristers. I hope that is not a subtle dig at me, Mr Givan. I will give way to Mr McCrea.

**Mr B McCrea:** I take the point that Mr Weir has said, but he will be aware that there are provisions for people who have conflicts of interests in a wide area of local government to declare them openly and transparently and to absent themselves if they are dealing with any particular issue. So, I have sympathy with the point that he raises, if there is no transparency.

However, let us say that they could deal with the transparency by ensuring that people had to declare an interest. Could he take the opposite argument that many people would have an interest in government, as is their right as a citizen under article 10, and they would wish to get involved in the democratic process, but because they are seeking to win business from

a local authority, the public purse or some other way, they would be deterred from doing that for fear that that might influence the award of such a grant?

**Mr Weir:** I take on board that point, which, to be fair, is a very good argument against amendment No 23, because he is saying that there are strong bars to somebody in the private sector potentially becoming a councillor, and that is to say that we need to shift the playing field to make it a lot easier for those in the public sector to get involved in it while doing nothing about the private sector.

**Mr B McCrea:** Will the Member give way?

**Mr Weir:** I will give way in a moment. He makes the argument very persuasively against amendment No 23, and I thank him for that contribution. The point that I am making about council representation is that there is a degree of logical inconsistency as to where we draw the line on disqualification. However, there is a logical, defensible position where someone has a mandate that they should not have a dual mandate where, as part of that mandate, they are in receipt of two salaries from the public purse. That is not the case with the House of Lords. That is where there is a flaw.

**Mr B McCrea:** I thank the Member for giving way. Many people have spoken, including the Member, about the fact that there is an acknowledgement that there are at least some anomalies — I think that was the word that people used — and different levels of disadvantage. The principal argument seems to be, "Well, there is disadvantage, but there is more disadvantage over here." Would the Member be supportive of a proposition to increase the democratic remit of this place and others to have a general encouragement? In other words, if we were able to overcome the issues in the private sector that he raised, would he be supportive of such an amendment?

**Mr Weir:** No. Putting forward parts of legislation that talk about a general encouragement does not strike me as being the appropriate way to use law. We had a debate yesterday — there can be different views on different aspects of this — on the issue of trying to ensure that there are more females in the Senior Civil Service. One issue raised, which I agreed with and highlighted in my speech — I think that it was Ms Fearon who raised it — was that mentoring is useful for that. Mentoring is a form of encouragement. It is a particular action that can be taken.

General encouragement is not something that you legislate for. We seem to have moved from amendment No 1 to amendment No 23, which strikes me as a poor amendment. It is not particularly sensible to say, "We have a poor amendment aimed at encouraging people from public bodies. If we balance it out with another poor amendment encouraging people from private bodies, it will create some level of balance."

To finish on amendment No 1, the point I am making is that, if you apply a purely logical point of view, it is difficult to draw an entirely logical and consistent position on who should be disqualified in respect of mandates and who should not. If the best logical definition concerns those with a direct dual mandate who have been elected by the people and receive two salaries as a result, and if that is the dividing line, the House of Lords would fall outside it. That is why I am not entirely persuaded by what Mr Allister has said, notwithstanding his eloquent words about the definition of a legislature.

I move to amendment No 23 and the points that Mr Elliott and Lord Morrow made. Mr McCrea mentioned the legal cases and the bar in England. That issue is being dealt with elsewhere. Amendment No 23 is not about a bar on people being elected. There will not be a single person qualified or disqualified from standing for election as a result of this amendment because it does not go to the issue of disqualification. The Minister is tackling those issues in other ways in the Bill and, to some extent, amendment No 4 also deals with it.

There is a point of view that, if this does not pass, it will leave us legally vulnerable. I contest that and take the opposite view, because this does not go to the issue of disqualification. It does not prevent anybody from running. Indeed, one might make the argument that, because it gives particular provision and additional help to those employed by public bodies, but does not afford similar provision to private employers in actively seeking to overcome perceived conflicts of interest or offering three-week periods of leave, it creates a certain level of advantage for somebody in a public body who is running, as opposed to someone from a private body. It accentuates that difference.

If the amendment were equality-proofed, I suspect that it would not pass muster on the grounds that it gives an advantage to a particular group. As has been mentioned, there are already some provisions by which public

bodies seek to accommodate their employees, but the idea that the onus is placed on the public sector body to actively seek to overcome perceived conflicts of interest is going a step too far. From that point of view, I am not sure that amendment No 23 is good law.

Finally, I turn to amendment No 28, which proposes to leave out "Regulations" and insert "Standing orders". Essentially, that arose from a Committee amendment. I think that it had been acknowledged that the Department had not really given proper consideration to the grouping of committees to produce a fair result. In effect, the wording of the legislation would have been interpreted to mean that it would be open to councils to simply repeat the exercise again and again, with the result that various parties would be excluded or, in some cases, over-represented. It would not simply have been the case that larger parties would have been over-represented. Because of the quirks of the quota greatest remainder process, you could have a situation in which some smaller parties would be over-represented, with the slightly larger parties not being given their fair share.

I think that it was opposed by the Minister, but the House passed the amendment that provided for regulations. Although quite technical, regulations of a common form could deal with that problem. This is an issue that, from a practical point of view, is dealt with in the Assembly; we have a formula that allows a distribution of Committee seats among the parties. That is, essentially, what is envisaged here. That might run to one or two pages in regulations. It will require a certain level of technical work, but I have to say that that situation is massively preferable to one in which that highly technical work is effectively devolved to 11 individual councils. We would be asking 11 councils to look at the issue separately and try to reinvent the wheel. Indeed, putting slightly different provisions in place runs the risk of having different interpretations of how that is done.

It is accepted that one of the issues with the local government legislation is the balance between what is prescribed by the Assembly and what is left to local government. We always try to strike a balance. However, it strikes me that, on those sorts of issues, we have consistently taken the view that the Assembly should set the rules. In the schedules, for example, we have a specific formula for how the d'Hondt mechanism should be applied across all the councils. I appreciate that, for various reasons, not everyone in the House is a fan of d'Hondt. However, it strikes

me as perfectly sensible that, if we have d'Hondt, it is applied consistently and to the same formula across all the councils.

Similarly, even if the quota greatest remainder system in schedule 2 were to be applied to just one committee, it would be done on the basis of an exact formula that is applied across all 11 councils. So, other than simply ensuring that the Department of the Environment is spared a little bit of work, it seems ludicrous that we create a third leg in the tripod by saying that the formula, which distributes across a range of committees how we apply the quota greatest remainder mechanism, should simply be left to the standing orders to be individually drafted by each of the 11 councils. Even if councils were all of the same mind, the same task would be done 11 times by at least 11 different people. That would run the risk of having variations on the formula, which could suit one area or another and could be used for particular purposes, as opposed to having a common formula approved in regulations by the House. That seems to me to be very much in the spirit of what was proposed by the Committee and, indeed, eminently sensible. I see no good reason for amendment No 28, and I urge the House to reject it.

**Mr A Maginness:** I intend to be brief in relation to the first group of amendments.

My colleague Mr Eastwood referred to amendment Nos 1 and 2 and our support for them. We see those amendments as a logical outworking of our previous decisions on double-jobbing in councils and, indeed, consistent with the decision by Dáil Éireann to outlaw it in the Republic. Therefore, supporting amendment Nos 1 and 2 is a consistent political position, and I reiterate what Mr Eastwood said about them.

Amendment No 3 was tabled by the Ulster Unionists. As a party, the SDLP has sympathy for that amendment and supports the aim of that provision. However, as Members may know, there is a review of the membership of the policing and community safety partnerships. I respectfully put forward the view that it is inappropriate for us to be dealing with that proposition in the context of this Bill. It is primarily a justice issue and more properly addressed by the Department of Justice and, incidentally, the Justice Committee.

Therefore, for that reason, we are unable to support the Ulster Unionist amendment, despite the fact that we have sympathy with its aim and objective.

## 12.00 noon

The Minister tabled amendment No 18, and we are happily supportive of it. It is a logical outworking of the amendment that the Justice Committee previously tabled. So, we are supportive of this consequential amendment. However, I repeat the criticisms that I made at Consideration Stage about the amendments of the Justice Committee and other colleagues when I said that the position of the ombudsman is constitutional. It should be recognised in law, and we should be supportive of it. I believe that the way in which the House has chosen to deal with the proposition on the ombudsman undermines the constitutional position of the ombudsman. There may well have to be — I think that the Minister indicated this — a separation of the investigative power of the ombudsman from the adjudication function. That may have to be made by way of regulation or —

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

**Mr A Maginness:** Yes, indeed.

**Mr Weir:** I have some sympathy, although I have expressed the view that, at times, the ombudsman is being a little bit precious. Given the concerns that were raised and that the way of dealing with this was a separation of the powers — this is more directed towards the Minister than to you, Mr Maginness — why were amendments not tabled to separate them at Further Consideration Stage? Presumably, that would have been the neater way of doing it, rather than, at some future date, looking at whether some form of regulations will be needed.

**Mr A Maginness:** With respect to my colleague Mr Weir, I think that that is a matter that is more appropriately addressed by the Minister than me. I claim many things in the House but I do not claim ministerial status. It would be totally inappropriate for me to comment on that interesting point. I am sure that the Minister will address that issue in due course.

We are supportive of the ministerial amendment. It is a logical outworking of the House's decision at Consideration Stage.

Amendment No 23, which NI21's Mr McCrea and his colleague Mr McCallister tabled, is problematical. I think that we are dealing here with public bodies that are outside the remit of the Department of the Environment. I do not

think that it is not appropriate for this provision to be in the Bill.

**Mr B McCrea:** On a point of order, Mr Principal Deputy Speaker. The Speaker has already ruled that this is the Local Government Bill and that it is entirely appropriate for me to raise these points. So, the Member is not correct in saying that it is outside the remit of the Department of the Environment.

**Mr A Maginness:** I hear Mr McCrea's point. I, as a Member of the House, do not believe that it is appropriate. I accept Mr McCrea's point, but my personal opinion is that it is not appropriate for us to deal with this issue in the context of the Bill when it applies to public bodies at large. Quite apart from that, there is evident disagreement in the House on the merits of this proposition. I am not saying whether I agree with this or not, but one of the arguments put forward is that it creates inequality for people who are not employed in the public sector.

**Mr Eastwood:** I thank the Member for giving way. On Mr McCrea's point, far be it from me to speak for the Speaker, but I think that the Speaker said that Members are, of course, entitled to put down any amendment in the House and Members are then entitled to vote on it. That does not equate to meaning that this is the best place for that amendment. That is the difference between the Speaker and Mr McCrea on this matter.

**Mr B McCrea:** On a point of order, Mr Principal Deputy Speaker. Perhaps you need to rule on this. The Speaker has already given an indication that this is the Local Government Bill. When I asked him, he responded with clarity that I was, in fact, correct, as the official record will show.

**Mr Principal Deputy Speaker:** Let me say this: I do not think that either your first point or the latter point were new points of order. The Speaker stated the situation as it is. The Member who is currently speaking has made it clear that he was expressing his own perspective, and, within that, there is no valid cause for concern for any Member. Let us stick to the debate. There was no challenge or anyone stepping outside the guidance given by the Speaker in the first instance. Any Member, as the Member who is currently speaking is doing, is free to express their own views about what is more suitable or more applicable in these matters.

**Mr A Maginness:** I emphasise the point that I am not saying that it is unconstitutional in some way. Of course it is a matter that can be brought to the House and dealt with by the House. What I am saying is that that is not the appropriate manner in which to deal with it, particularly when it deals with public bodies at large rather than public bodies that come under the remit of the Department of the Environment. I repeat that point, and I simply disagree with Mr McCrea's point.

My other point is that there is, in fact, a division of opinion here on the actual merits of this amendment. In the minds of some Members, it would create an inequality between those employed in the public sector and those employed in the private sector. I was employed in the private sector for many years, so I know the problems and difficulties for a self-employed person. I did not enjoy the support of the working environment of the public sector. The public sector gives more support to workers than self-employed people or other people in the private sector get. We have to look at the issues of equality, particularly in relation to elections. That is a very important point to bear in mind.

I am not giving a definitive view on the merits of this proposition. All I am saying is that it needs careful consideration and that, because it goes over and beyond public bodies within the remit of the Department of the Environment, it should, in fact, be more appropriately dealt with elsewhere in a legislative process.

**Mr Elliott:** I thank the Member for giving way. Does he agree that, wherever the legislative base for it is, it needs to be fair and equal, that we cannot give an advantage to one sector above the other, and that, in particular, we cannot be seen to give an unfair advantage to people just because they work in the public sector?

**Mr A Maginness:** That is a very reasonable point. Mr Stewart Dickson's point was about elections at large and people's right to obtain leave from their employers. He quite properly raised that issue, and perhaps it would have been better to look at all that rather than singling out one aspect and dealing with it separately. The provision lacks symmetry. I am not saying that it is not well intentioned — of course it is. I am not saying that I do not have sympathy with the ideas that are being proposed, but we have to be very careful about how we enact provisions in the House. That is all that I am saying. You have to apply a precautionary principle to the provision.

Mr Weir spoke about the final amendment in this group and the argument between regulations and standing orders. With amendment No 28, the Minister is attempting to devolve to councils, through the mechanism of standing orders, an opportunity to create a bespoke approach to the problem.

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

**Mr A Maginness:** Yes.

**Mr Weir:** On the creation of a bespoke solution, that seems to be inconsistent with the way in which we dealt with similar situations in the same legislation. I appreciate that the Member may be getting a briefing from someone sitting to his right. We prescribed how d'Hondt will be used and the range of offices on which it will be used. We prescribed the timescale, which is over the duration of the Assembly, because d'Hondt has been used in councils in different ways. We prescribed the formula for quota greatest remainder and how that would operate if there were a single committee. Why is there an exception that this suddenly becomes an opportunity for it to be bespoke in councils when it is simply being grouped together? That seems to run against another five or six decisions that we made on this area.

**Mr A Maginness:** I repeat: I am not the Minister. It is probably more appropriate for the Minister to deal specifically with the matter. The intention is to be flexible on what can be difficult issues at local council level. In any event, I assume that these matters will be set out in the regulations as mandatory elements of standing orders. In a sense, there is a synthesis between the regulations and standing orders.

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

**Mr A Maginness:** I will certainly.

**Mr Weir:** You are saying that the regulations will spell out what will be in standing orders but that we cannot have that in the regulations. That seems to be a fairly weak logical position. I appreciate that it is for the Minister to respond to many of these matters. By the same token, you are advocating amendment No 28, so one would hope that you can make a good argument, independent of the Minister.

**Mr A Maginness:** I say again that I am not the Minister, but I am presenting a view that I hope sheds light on the amendment.

The amendment provides the necessary flexibility. Yes, there will be a framework established in the context of the regulations that will inform how standing orders will be made by councils. I know that the Member is amused by my interpretation, but the amendment will permit councils a flexibility that I think is desirable. One size does not fit all, as we well know from our political experience, particularly in councils. Flexibility is necessary and desirable, and I would have thought that the Member would see it as desirable.

**12.15 pm**

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

**Mr A Maginness:** Well, yes. I will.

**Mr Weir:** Time is unlimited, so, to be fair, at least my intervention will not eat into the Member's time. Beyond what sounds a little bit like a cliché of flexibility being desirable, will you give us any level of a worked example of how a difference between councils could be applied in practice?

**Mr A Maginness:** Let me say this to you: I will not give you concrete examples, but we are dealing with the principles that surround the amendment, which has been created to provide flexibility. We discussed those matters ad nauseam in the Committee and came to a collective view that it is better to have flexibility, and this is one way of importing flexibility in order to resolve what can be difficult problems for councils.

We should be sympathetic to the amendment that the Minister has tabled. He presents a bona fide approach to resolve difficult problems. He deserves our support on that, and I am sure that the Member recognises the fact that the Minister has gone out of his way to try to reflect, as much as possible, the political consensus that exists on those matters.

**Mr Weir:** I am not in any way questioning the Minister's bona fides. However, precisely in the same way as with your and Mr McCrea's good intentions, I think that they are equally wrong in their actions. When discussing bona fides, one remembers what Dante said about the road to hell being paved with good intentions or, in this case, ministerial bona fides.

There appears to have been a desire by the Department to shuffle the issue out of its remit and kick the can down the road. You mentioned the consensus that was reached in the Committee, but the Committee saw that

there was a problem with the grouping together of committees not being considered in the legislation and raised it with the Department several weeks before we reached Consideration Stage. Indeed, I and, I suspect, most Committee members would have been more than happy if there had been a departmental amendment to deal with that, but none was tabled, and the Committee was forced to table an amendment that linked it to regulations.

For whatever reason, there seems to have been a reluctance to tackle the issue. That was maybe because of its complexity or for some other reason, such as the Department being so enamoured with the idea of flexibility on this one occasion. However, we have a situation in which no amendment was tabled despite the fact that the issue was raised. The Committee's amendment was then opposed by the Minister in the House and, when it passed, there was an attempt to water it down and shove it outside the remit of the Department by putting it in standing orders. While I do not doubt the Minister's bona fides, the willingness to take action in this area has been somewhat weak.

**Mr A Maginness:** I take the Member's point. However, the one thing that I am certain of is that the Minister does not avoid or evade political responsibilities. I know that there would be no attempt on the part of the Minister — he would certainly not encourage the Department — to evade or avoid dealing with difficult political issues. I think that that particular interpretation of what has happened is incorrect. I am quite happy to say that the Minister is dealing with it in a forthright and, I think, appropriate manner. I make that point to you and the House at large. That concludes my contribution on the amendments that I wanted to address.

**Mr B McCrea:** The two Members who previously spoke are, I believe, barristers, and therefore have some cognisance of the legal profession, I suspect. I want to address the two amendments in my name and that of Mr McCallister. Amendment No 4 deals with a date that we want to put into the regulations. I will explain to the Assembly why it is important that we do so. The link between our two amendments is this: the very reason why we need to bring in amendment No 4 is that the principles in that amendment actually pertain to the second amendment.

Just for clarity, because I think Mr Weir mentioned that it was a UK judgement, it was not a UK judgement but a judgement of the European Court of Human Rights in the case of

Ahmed and others v the United Kingdom. There are a couple of legal points that my learned friends may wish to consider.

The applicants in that case relied on article 10 of the convention, which provides that everybody has the right to freedom of expression. I will not go through the details, because they are in the judgement, but the Commission agreed with the applicants' arguments. The UK Government did not dispute that the applicants could rely on the guarantees contained in article 10, nor did they deny that the application of the regulations interfered with the exercise of their rights under that article.

People say that this gives the public sector an unfair advantage over the private sector. Let me make it quite clear that the Bill is subject to challenge under article 10 of the human rights convention. The court, for its part — not just the Commission — considered that there had been interference with the applicants' rights to freedom of expression and it accepted the Commission's summary of the situation.

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

**Mr B McCrea:** I will give way in a moment. I just want to set out the points, and then I will be interested to hear what the Member has to say. One of the key points in the judgement is that the court observed:

*"the local government system of the ... State has long rested on a bond of trust between elected members and a permanent corps of local government officers who both advise them on policy and assume responsibility for the implementation of the policies adopted."*

However, here is the real issue:

*"The Commission agreed with the applicants that the Regulations imposed far-reaching, inflexible and disproportionate restrictions on senior officers such as the applicants, even allowing for the duties and responsibilities which they owed to their respective local authorities and the margin of appreciation of the respondent State in the sector at issue."*

The Government responded:

*"the proportionality of the restrictions had to be assessed in the light of the following considerations: firstly, they only applied to at most 2% of an estimated 2,300,000 officers; secondly, the categories of officers*

*subject to the restrictions were clearly defined in accordance with the duties which they performed and where both the fact and appearance of political impartiality were of paramount importance; thirdly, the duties-based approach meant that the restrictions were applied as narrowly as possible"*

— that is a key point —

*"and exemptions given on as wide a basis as possible."*

I see none of these issues in the amendment. I will go through the legal judgement to show why the Bill is at risk, but, if Mr Weir wants to come in at this point, I am happy for him to do so.

**Mr Weir:** I do not disagree with anything said about the judgement. However, the problem is that amendment No 23 misses the point. The judgement essentially stated that there cannot be a blanket ban on council employees becoming councillors. That part of the legislation, albeit that it is coming a little late in the day, is being addressed. The judgement was that you can have disqualification provided that it is very limited and specific.

I have no problem with amendment No 4, which deals specifically with the situation of council employees. If amendment No 23 had addressed the issue of disqualification, I would have had no problem supporting it, but it does not. It addresses the ease or otherwise with which people can take up post. It is, more or less, about the removal of hurdles, which is not the same as disqualification.

Consequently, the law being proposed is compatible with European law. Amendment No 23 is largely an irrelevance. If anything, because it places additional provisions on the public sector that do not apply to the private sector, it is potentially discriminatory against people in the private sector and could be challenged on equality grounds.

**Mr B McCrea:** I thank the Member for his contribution. I have not yet moved on to amendment No 4, and I will deal with the issues raised in that. I accept that he has indicated a level of support for that amendment.

Let me just make the point to the Minister, and, through him, to the Department, that here is where I have an issue with the Bill as it stands: at Consideration Stage, we amended the Bill to say that a person shall be disqualified from being elected or being a councillor if he holds any paid office or other employment:

*"appointments to which are made by a council if it is a prescribed office or employment".*

The issue is that there is no definition of prescribed. Furthermore, the court in its judgement accepted there was interference under article 10 but states that such interference must be "prescribed by law". I am not sure whether putting one such line in the Bill prescribes it by law.

Time will beat me, I suspect, but I will look at the next point in the judgement, which is about the legitimate aim of any interference. I see nothing stating what legitimate aim you are trying to achieve by prescribing certain people. So the Bill, as it stands, is subject to challenge under article 10.

Look also at whether interference is necessary in a democratic society. The court looked at general principles, and stated:

*"Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress".*

The amendment that we tabled seeks to ensure that we deal with a deficiency. As drafted, the Bill is deficient, and this clause will not stand. I accept, because the Minister mentioned it previously, that even if we got Royal Assent, we would not be able to deal with the elections on 22 May. However, I will deal with the issue by looking at the court's general principles. This is where we look to see what we are trying to do with the Bill. This is important, and it is why we need to place immediacy on amendment No 4: if we do not get these regulations in place, we will lose the Bill.

**12.30 pm**

The court's assessment was that article 3 of protocol 1:

*"guarantees individual rights, including the right to vote and to stand for election. Indeed, it was considered that the unique phrasing was intended to give greater solemnity to the Contracting States' commitment and to emphasise that this was an area where they were required to take positive measures as opposed to merely refraining from interference."*

It is at that point that, in linking the two amendments together, people have made

arguments in the House that we have to do down one side because the public sector will get more rights than the private sector. Actually, we need to ensure that we all get sufficient rights. It is an article 10 obligation that people are permitted to stand for election. The Bill, in its current form, does not deal with that.

When I was looking at words in the Bill —

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

**Mr B McCrea:** I will.

**Mr Wilson:** Does the Member not find some contradiction between what he is saying now and what he has said on other occasions in the Assembly? For example, in the past he has argued that the more regulations we introduce to allow flexibility in the labour market etc, the more damage and disruption there is to employers. If he is saying that yet another introduction should be the right to three weeks off work for someone who decides to stand for election, how does he think that will go down with the private sector? Or, is he saying that only the public sector can afford to do that and that it should, therefore, be allowed to?

**Mr Principal Deputy Speaker:** Before you respond, let me say that I was very reluctant to interrupt the continuity of your argument, so can you indicate whether you are about to bring it to a close, because we are now infringing on the time that is allocated for the Business Committee?

**Mr B McCrea:** I have more to say, so please do whatever you have to.

**Mr Principal Deputy Speaker:** You will be the first Member to speak when we resume the debate.

The Business Committee has arranged to meet immediately on the lunchtime suspension. I propose, therefore, by leave of the Assembly to suspend the sitting until 2.00 pm. The first item of business when we return will be Question Time.

*The debate stood suspended.*

*The sitting was suspended at 12.31 pm.*

*On resuming —*

2.00 pm

## Oral Answers to Questions

### Environment

**Mr Principal Deputy Speaker:** It is time for Question Time, and the Minister of the Environment is just on time. I inform Members that questions 2 and 8 have been withdrawn.

### Minority Rights

1. **Ms McGahan** asked the Minister of the Environment how the rights of minorities will be protected in the 11 new councils following the implementation of the Local Government Bill (NIA 28/11-15). (AQO 5903/11-15)

**Mr Durkan (The Minister of the Environment):** Go raibh maith agat, a Phríomh-LeasCheann Comhairle.

As I have stated on a number of occasions in the Assembly, I am committed to ensuring that the 11 new councils will work within a governance framework that provides for fair, transparent and efficient decision-making and protects the rights and interests of all people. Members will know from the Consideration Stage debate on the Local Government Bill on 18 and 19 March that the Bill includes the provisions required to give legislative effect to my commitment. Proportionality in the allocation of positions of responsibility across all the political parties represented on a council will be ensured through the council's use of one of the methods specified in the Bill. The Member will be aware that the methods that I am making available are the d'Hondt or Sainte-Laguë divisor methods or the single transferable voting system. As agreed by the Assembly at Consideration Stage, the d'Hondt method is specified as the default approach if a council is unable to agree the method to be used.

Provision is also made in the Bill to ensure that the membership of committees reflects, as far as is practicable, the political balance on the council. I have also introduced a call-in procedure to allow a number of councillors to join together to request that a decision under executive arrangements or a recommendation for ratification by the council under a committee system is reviewed. The call-in procedure would enable 15% of the membership of a council to request the review of a decision in

specified circumstances. A further protection for the interests of minority communities in council decision-making is the introduction of qualified majority voting for a range of strategic council decisions that will be specified in regulations and in response to a valid call-in request on the grounds of a disproportionate adverse impact on a section of the community in the council's district. The support of 80% of members present and voting will be required for such decisions to be agreed.

**Ms McGahan:** Go raibh maith agat. I thank the Minister for his response. He has touched on my supplementary question. Will the Minister give assurances that the issue will be monitored very closely?

**Mr Durkan:** Go raibh maith agat as an cheist. Gabh mo leithscéal, a Phríomh-LeasCheann Comhairle; bhí mé mall. Excuse me, Mr Principal Deputy Speaker; I am sorry for being late.

I certainly assure the Member that it will be monitored very closely, not just by my Department but, one would imagine, by the Assembly as a whole. It is evident through the debates today and at Consideration Stage that the House is receptive to the measures that have been brought forward and the safeguards that come with them to ensure that what is here to protect minorities is not then used to block progress unnecessarily in the work of councils. It will be closely monitored and subject to close scrutiny.

**Mr Campbell:** The Minister talked about the default position and minority protection. How will he safeguard issues, particularly around the border, where some communities may feel that they could be disadvantaged because they are in a minority position? They may find that d'Hondt is actually not the preferred method to safeguard their position but will find themselves being blocked by others who insist on trying to go another route, knowing that they will have the default position of d'Hondt to fall back on.

**Mr Durkan:** I thank the Member for that supplementary question. The Bill contains safeguards, one of which we are talking about and another about which the Member raises a valid question. It is incumbent on all of us, as elected representatives and leaders, if you like, to allay the concerns of communities and to work with councillors from our own parties and from all parties to ensure that they operate as fairly as possible so that the views not just of their citizens but of their elected representatives of all hues are reflected in the make-up of

committees and in positions of responsibility in the new councils.

**Mr P Ramsey:** With regard to d'Hondt and the mathematical formula, what protection is in the Bill to ensure that power sharing is enshrined for responsibilities and positions in each council?

**Mr Durkan:** The importance of sharing power and giving smaller parties and independent members the opportunity to hold positions of responsibility that they are not, unfortunately, afforded in the current system was the subject of some debate at Consideration Stage. One method of doing that, which is enshrined in the Bill, is to allocate positions of special responsibility at the start of a council's four-year term. D'Hondt is the default for the allocation of those positions, and it will be run for the four years. That will give opportunities to smaller parties and independents that they do not currently have.

**Ms Lo:** As the Minister knows, at Consideration Stage, the Alliance Party put forward STV as the default position rather than d'Hondt. Does he not agree that STV is a better mechanism for sharing power?

**Mr Durkan:** I thank the Chair of the Committee for her question. Unfortunately, I do not agree with her, as I did not agree with her and as the Assembly did not agree with her at Consideration Stage. As, I think, Mr Weir clearly illustrated, d'Hondt is the method that is more favourable to smaller parties as the new mechanism to allocate positions of responsibility at the start of the four-year term.

**Mr Elliott:** Minister, given the potential for gridlock with the call-in and qualified majority processes, how do you feel that both of those will impact on the day-to-day running and decision-making of councils?

**Mr Durkan:** Local government reform is about making local government more effective and efficient, so the last thing that we want to do is create a tool that will lead to gridlock, as the Member puts it. Regulations will be made under clause 37 to specify mandatory elements that must be in a council's standing orders. One of those elements will be the process to be followed for the practical operation of the call-in procedure. The regulations will also specify the decisions of a council that will not be subject to the call-in procedure. Those will be decisions connected with the regulatory or quasi-judicial functions and responsibilities of a council — for example, licensing decisions or decisions

relating to development control. My officials have worked in partnership with senior officers from local government to develop the detail of the proposed process, including details on the time frames for receipt of a call-in request after a decision or a recommendation has been notified to the councillors, the administrative procedures to be followed by officers and the role of councillors in that process. The draft standing orders regulations will be issued for consultation later this week.

## Hydraulic Fracturing

3. **Mr Flanagan** asked the Minister of the Environment for his assessment of the risks of hydraulic fracturing to the environment. (AQO 5905/11-15)

6. **Mr Eastwood** asked the Minister of the Environment to outline his position on hydraulic fracturing. (AQO 5908/11-15)

**Mr Durkan:** With your permission, a Phríomh-LeasCheann Comhairle, I will take questions 3 and 6 together. As I am doing so, I would be grateful to get a wee bit of extra time.

As the Northern Ireland Minister responsible for the environment, I have made my position clear. Granting permissions relating to fracking operations will take place only when it has been supported by very strong evidence that indicates that fracking is safe for public health and the environment. Given the scale of ongoing worldwide research, it would be reckless and irresponsible to do otherwise.

I have directed my officials in the Northern Ireland Environment Agency (NIEA) to work with the Environmental Protection Agency (EPA) in Ireland to take forward a major programme of research to help to establish the facts and safety issues associated with fracking. This programme of research is at the tender evaluation stage.

I want to highlight that no decisions have been taken in relation to permitting fracking. No planning applications or applications for environmental permissions have yet been received by my Department. My Department will consider any applications that may come forward in future very robustly.

The hydraulic fracturing process has generated much debate here and around the world because of the potential detriment to the environment, particularly with regard to water quality, air emission issues and seismic impacts, as well as the general personal and

public health concerns raised by communities. In an attempt to allay those concerns, specific divisions in my Department, primarily Planning NI and NIEA, are actively working to enhance their knowledge of the fracking process by assessing emerging research, which includes case studies from other parts of the world, and liaising with colleagues in other environment agencies in Britain and Ireland and other countries where fracking is proposed or is taking place.

I emphasise to the Member that I have a longer answer here. I am conscious that I have been given a wee bit more time, but I would need a lot more time to get through the answer. I emphasise my position to the Member once again: in the absence of evidence that fracking is safe and sustainable, I would not approve any application to do it.

**Mr Flanagan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Minister. Surely, there is enough evidence now to allow him to make a decision that fracking is not in our best interests, either economically or environmentally. The report that he talks about from the EPA does not even look at the health aspects of fracking. If he were to give financial advice to people around the world who are considering investing in Tamboran, does he think that investing money in that company would be a prudent financial investment or would those people be better to keep their money in their pocket?

**Mr Durkan:** I think you would be better asking the Finance Minister that question; he might be better placed to give financial advice than I am. I also have to inform the Member that I cannot predetermine the outcome of any application, so I am not in a position today to say that any fracking application will be refused point-blank. It will, however, be refused in the absence of the evidence to which I referred. As yet, that evidence does not exist. You believe that there is sufficient evidence to the contrary to allow me to make a decision on fracking now, but it is up to the applicant in such an application, as with any application, to demonstrate that it is safe.

**Mr Eastwood:** Given that fracking has been of huge interest across the world, particularly in America, can the Minister outline what meetings he has had with groups here and in the States?

**Mr Durkan:** I thank the Member for the question. The issue has generated massive public interest and quite a degree of controversy. I have had several meetings and requests for meetings. I have done my best to

meet anyone who has requested to meet me on the issue. Many of them have been constituents of Mr Flanagan, although not solely. This stirs passion in people and not just in the immediate area that is being mooted as a potential site for fracking. I have had meetings with constituents of Mr Flanagan, such as Dr Carroll O'Dolan and a representative group from the area — a cross section of the community, I have to say, and a cross section of interests. More recently, I met a group of six ladies, including Marilyn Trimble, from different areas and constituencies right across the North, all of whom had a common concern: fracking.

The Member referred to the United States. When I was in America a fortnight ago, I met the EPA there about the issue. It has spent millions upon millions of dollars on research, but its evidence is, in my opinion, inconclusive. I am not sure that the evidence will ever be conclusive or that the EPA wishes it to be conclusive. I have also spoken to quite a number of politicians from different areas, some of whom have different views. I am always open to hearing other points of view. I have heard from those who believe that fracking is a good thing. It is important that we take on board all views in any consideration or when making any decision.

**2.15 pm**

**Lord Morrow:** I listened with interested to what the Minister had to say in reply to Mr Flanagan's question. If it transpires, after all these reports — I suspect there will be many — that this is a cheaper and safer source of energy, what would your position be then, Minister?

**Mr Durkan:** If.

**Mr Agnew:** The Minister referred to what would happen if evidence came forward that fracking was safe. I ask him to outline what he means by "safe". Given the recent IPCC report and the research from the University of Ulster that says that, if we are to avoid the most serious consequences of climate change, gas must stay in the ground, does he agree that, in respect of climate impact, fracking can never be safe?

**Mr Durkan:** When I refer to "safe", "safety" or "safeness", I refer to a range of issues, including personal and public health and, obviously, the danger or risk to the planet and the environment to which Mr Agnew referred. Those are all issues that I consider when I speak of safety and the need to ensure that any

application for any such venture demonstrates that it is safe.

**Mr Cree:** The Minister will be aware of all the anecdotal information and misinformation. He mentioned that his officials were looking at this. When do you think you will have best international practice on fracking?

**Mr Durkan:** I thank the Member for his supplementary question. Yes, my officials are looking at this. They are doing so in partnership with the EPA in the Republic. When will we be in a position to make a judgement? I am not entirely sure. Next year, I or whoever is Environment Minister will get a report on that. As I outlined in answer to Mr Flanagan and Mr Eastwood, I recently met the Environmental Protection Agency in the United States. It has spent many years and many millions carrying out research on the subject and, in my opinion, still seems far from a conclusion.

## Coastal Communities Fund

4. **Mr Campbell** asked the Minister of the Environment what assistance and advice is available to organisations in coastal communities seeking to apply for the third round of the coastal communities fund. (AQO 5906/11-15)

**Mr Durkan:** On 7 March 2014, I announced the launch of round 3 of the coastal communities fund. The Big Lottery Fund administers the fund on behalf of my Department. Organisations seeking to apply are advised to check the coastal communities fund page on the Big Lottery Fund website, where they will be able to access stage 1 and stage 2 application forms, help notes, questions and answers, as well as various other guidance documents, such as guidance on measuring economic outcomes and state aid guidance. Applicants can also contact the Big Lottery Fund by telephone or email to find out if their project is eligible. In addition, in the case of capital projects, applicants can arrange a telephone interview before applying.

The Big Lottery Fund organised an application workshop online seminar on 18 March, with a focus on key requirements for capital projects involving land and buildings or other construction-related work. Nine local organisations attended the webinar, and the Big Lottery Fund has so far received 18 queries from 16 organisations seeking information and advice on round 3 of the fund, which closes at midday on 30 April.

**Mr Campbell:** I thank the Minister for his response. He will be aware that we have one of the most beautiful coastlines in western Europe. Not only do we need to defend, improve and promote it but the communities who live there and commute from and to there must be enhanced and promoted in their attempt to defend the coastline and heritage. Will his Department canvass the Big Lottery on the Northern Ireland coastline so that the applications that are in stand a good chance of success?

**Mr Durkan:** I thank the Member for that supplementary. The Department, along with the Big Lottery Fund, which runs the process with and for us, will, as I outlined, actively engage with coastal communities across the North. I concur with the Member's assessment of our coastline's beauty and the need to preserve, protect and promote it. That is why, in this one year, I have allocated three years' budget to attract bids that will, I hope, display more ambition than would be the case for one year's funding. I hope to get more ambitious projects and give those responsible for them more time to ensure that they are carried out to their full potential.

**Mr McCarthy:** I welcome the Minister's response, particularly his "preserve, protect and promote" message. My village of Kircubbin is a small coastal community, and its harbour is disappearing into Strangford lough. In the interest of the environment, will the Minister indicate his support for money from the coastal communities fund to protect my village's small harbour?

**Mr Durkan:** I thank the Member for his question. I have received written correspondence on the issue from Members of this House and, indeed, the House of Commons. Projects aimed at preventing flood risk or at repair after floods are eligible, if they support the coastal communities fund outcome, which is sustainable economic growth through the creation and safeguarding of jobs. So I would certainly not say no. However, any application to carry out such repair and maintenance would need, I believe, to be quite creative about by whom and how it was to be carried out.

**Mr A Maginness:** I do not know whether the Minister is particularly happy with the level of applications. Can he suggest any way to improve awareness of the fund?

**Mr Durkan:** I thank the Member for the question. Although I said that we had a bigger

budget this time round, we have plenty of applications as well. The door is open for applications until 30 April, and I look forward to a wide and varied selection of applications. In January, I announced that the fund would open. On 7 March, I opened it and referred potential applicants to the coastal communities fund website. In my opinion, there is wide awareness of the fund, as demonstrated by the 65 applications received from all coastal council areas from Derry to Kilkeel since the fund opened in 2012. They include proposals from Limavady, Coleraine, the Causeway Coast, Larne, Carrickfergus, the Ards peninsula — you will be glad to hear — and Newcastle.

## Local Government Reform: Costs

5. **Mr McGimpsey** asked the Minister of the Environment for the latest estimated costs for the reform of local government. (AQO 5907/11-15)

**Mr Durkan:** In 2009, PricewaterhouseCoopers (PwC) estimated that the cost of local government reform would be in the region of £118 million over five years. Further work has been undertaken since then. In 2013, my predecessor secured Executive agreement to provide councils with a reform funding package of £17.8 million over the 2013-15 period. Based on the estimated costs of some elements of the reform programme, the package will cover: £5.2 million for new councils in the shadow period; £4 million for systems convergence; £3.5 million for councillor severance; £3 million for capacity building; £1 million for change management; £0.6 million for staff induction; and £0.5 million for winding up existing councils. A commitment was given for an additional £30 million for rates convergence post 2015.

Over recent months, senior local government officers have undertaken a detailed financial assessment of the additional transitional work streams that are unavoidable and are not covered by the funding package provided by the Executive. The four transitional work streams identified that fall to councils to fund over the 2014-18 period are staff severance; alignment of services; councils operating in shadow form; and other transition costs. A total upper limit for those costs likely to be incurred during the transition period, excluding the Executive funding package, has been estimated at around £33 million. These costs have been calculated at a regional level and are based on the transition cost data capture exercise completed by the local government sector.

**Mr McGimpsey:** I thank the Minister for that comprehensive answer. Given the large investment that is going into reform, is the Minister confident that, when they are established, councils will have the necessary resources available to them? Will he have the resources available to him to invest in councils to ensure that they can enforce the regulations and responsibilities that fall to them, particularly environmental protection, which we talked about earlier? Will he ensure that normal council business will not suffer as a result of such large demands on cash and revenue coming from him and from the ratepayer?

**Mr Durkan:** The Member rightly identifies that this is a huge investment. The reform of local government is not just about doing things differently; it is about doing things better. I assure the Member that I am committed to ensuring that councils are equipped to do things better and that my Department and the Assembly are equipped to ensure that councils do things better as well.

**Mr Milne:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Will the DOE allow councils permissible forms of borrowing to fund local government reform?

**Mr Durkan:** Go raibh maith agat as an cheist sin. We have been approached by some of the statutory transition committees about what scope will exist for the new councils when it comes to borrowing and how they can best meet the transition costs. I am determined that we do everything that we can to make this as easy as possible for the councils, and, to that end, we have permitted councils to have any borrowings they make in order to meet the cost of reform capitalised, which is something that was asked for by the local government sector.

**Mr Dallat:** The Minister has taken some time to tell us about the costs. Bearing it in mind that the 11-council model was not his preferred choice, can he tell the Assembly whether there will be any savings from it?

## 2.30 pm

**Mr Durkan:** I would like to think that this is an investment to save. In my original answer I outlined PwC's appraisal, which suggested that the cost of reform would be £118 million over five years. The same study suggested that we can achieve savings of £438 million over 25 years, which is a huge saving indeed. As I said, it is not just about cutting costs and doing things more efficiently; local government reform

is about doing things better and bringing power closer to people.

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

## Area Plans

1. **Mr Buchanan** asked the Minister of the Environment what action his Department has taken to ensure the area plans are brought up to speed in line with the new super-council areas. (AQT 961/11-15)

**Mr Durkan:** I thank the Member for that question. Area plans are extremely important documents. We usually talk about one in particular in this House, so I will be glad to speak about area plans more generally. Local government reform offers a tremendous opportunity to new councils to sit down with my planning officials to draw up their new area plans.

Indeed, work has already commenced on area plans in the 11 new council clusters. A grade 6 planning manager has been appointed to lead the work programme across the Province, and principal planning officers have also been appointed in each area office. The teams will be supported by five or six staff per council cluster. The Department had hoped the teams would be fully staffed at this stage; there has been some delay, but staff are currently being appointed to take part in this process.

The development plan staff have already met most of the council transition management teams to discuss council priorities and agree a forward work programme for this year. This work, importantly, is being taken forward adopting a collaborative approach with planning staff, local councils and DSD. The preparation of the area plan will provide the future framework for councils to shape their areas and inform their planning decisions in future, so it is an extremely important piece of work.

**Mr Buchanan:** I note that the Minister says that the area plans are important documents. Given that the area plan for Omagh has been out of date for the past 14 years, in that it was up in 2002, will the Minister indicate when the new area plan for the Omagh and Fermanagh council will be in place? How many years are we going to have to wait until we get that document?

**Mr Durkan:** I would like to think that the dates on the current area plans are "best before"

dates rather than "use by" dates. I have assured the House that work is already under way on the preparation of these plans. Obviously, the timescale for the finalisation of these plans will be determined by the new councils and their determination to get them done.

I imagine it is something that the councils will be keen to get done as quickly as possible. Many of them will be commencing work very soon in their shadow period on this very important piece of work, given the importance it has for future housing provision, economic development and retention of areas of special scientific interest and natural beauty. It is extremely important work, and I am sure that the new councils will agree with that and treat it accordingly.

## Coastal Communities Fund: Rathlin Island

2. **Mr Storey** asked the Minister of the Environment, following his earlier answer, to give an assurance that Rathlin Island will be fully engaged with the coastal communities fund process, and, given its strategic importance to many elements of the tourist industry, particularly to the people who live on the island, will he give an update on how the fund will be of benefit to that community. (AQT 962/11-15)

I have taken the Minister from the wilds of Fermanagh and Tyrone to the north Antrim coast, but I am sure it is a journey that he would enjoy.

**Mr Durkan:** I am not entirely sure how Rathlin Island has been engaged in the process, although I imagine that it has been. I will check that as soon as I leave the Chamber tonight, or it may be tomorrow morning by the time we get through the Local Government Bill.

The Member quite rightly outlines the importance of Rathlin to tourism in the North, and, counter to that, I fully appreciate the importance of tourism to Rathlin. I know that there are issues with the construction of new paths there and the fear that that could be detrimental to the ornithological tourism that the island depends on so greatly. I am keen to see an application from the area for the fund.

**Mr Storey:** I thank the Minister for that. As my colleague Mr Campbell asked earlier, will his Department be actively involved in ensuring that communities such as Rathlin engage in the process? Given the prevailing issues and the concerns of some on the island, will everything be done to ensure that Rathlin maintains its

status and is built on as one of the most idyllic parts of the United Kingdom and as somewhere that every Member should visit, including the Minister? I invite him to join me on a visit to Rathlin Island.

**Mr Durkan:** I will certainly go to Rathlin. I do not know if I will go with Mervyn. *[Laughter.]* I assure the Member that my staff will follow up that option with those charged with tourism development on Rathlin. I also assure him that NIEA staff are liaising and working closely with people on Rathlin Island on that very issue, and I have quite a bit of correspondence to prove it.

## Exploris

3. **Mr McCarthy** asked the Minister of the Environment to advise what progress has been made to date to keep Exploris in Portaferry open, given that he, his staff, Ards Borough Council, Friends of Exploris and many other people have been working extremely hard to secure the future of this wonderful regional aquarium. (AQT 963/11-15)

**Mr Durkan:** I thank the Member for the question and commend him for his determination to see Exploris saved. Like me and, hopefully, many in the House, he recognises the importance of Exploris to our tourism product in the North, particularly in the Member's constituency. Indeed, I referred earlier to the fact that, when I was in the United States a few weeks ago, I came across a brochure promoting Northern Ireland, and Exploris had pride of place on, I think, page 7.

Progress has been made despite people thinking that it has not, and a lot of work has been done. I appreciate that the Member recognises that, although progress has, unfortunately, been slower than we would like. My officials have liaised closely and laboriously with council officials and with Friends of Exploris, particularly on the business case that I have asked for. In turn, I can then take that business case to the Executive to seek financial assistance. There are still a couple of outstanding questions about the business case, and, when I bring it to my colleagues, I want it to be as robust as possible. Following a meeting with the Member and some councillors from the area last week, I am confident that those questions will be answered and that the gaps will be filled in the coming days.

**Mr McCarthy:** I sincerely thank the Minister for his update and welcome his determination to see Exploris flourish into the future. When the business case comes to the Executive table,

will the Minister encourage the Minister of Enterprise, Trade and Investment to recognise Exploris as a premier tourist destination and attraction and seek assistance from her Department to promote Exploris well into the future?

**Mr Durkan:** Exploris is a tremendous facility; it is tremendous for tourism and education, and it has a fine environmental aspect. That is why, outside the business case process, I have given a commitment to fund all reasonable costs associated with the seal sanctuary at Exploris. When I present the business case, I will raise the points that the Member iterated in the House today. I believe that it has tremendous tourism potential. I believe that the Minister responsible for tourism must believe that as well; otherwise it would not be adorning glossy brochures in other parts of the world promoting Northern Ireland as a tourism destination. Therefore, I believe that it is worthy of her, and other Ministers', support.

**Mr Principal Deputy Speaker:** Mr Paul Girvan is not in his place for his question.

## DVA: Staff Redeployment

5. **Mr G Robinson** asked the Minister of the Environment whether he will support Driver and Vehicle Agency (DVA) staff being given local priority in redeployment within the Northern Ireland Civil Service. (AQT 965/11-15)

**Mr Durkan:** I thank the Member for the question. I will support DVA staff in any way that I possibly can. I have written to all Executive colleagues asking them to look for any opportunities that might exist for the redeployment of the staff, but, more importantly, the relocation of work to Coleraine, given the immobility of many of the grades employed there. I have also prepared, in advance of our next Executive meeting, a paper with my colleague the Minister of Finance and Personnel, outlining the situation throughout the DVA, most notably in Coleraine, and the need for us as an Executive to take action to assist those affected immediately.

**Mr G Robinson:** If the worst comes to the worst, can the Minister let us know what will happen to the DVA building in Coleraine?

**Mr Durkan:** I am not sure that I am in a position to answer that. What has happened is nearly the worst thus far, but, as yet, I have no future plans for that building. However, I will fight for

the workers to stay in that building for as long as possible.

## **DVA: Transfer of Responsibilities**

6. **Mr Ó hOisín** asked the Minister of the Environment whether he has made any preparations for a potential transfer of DVA responsibilities to his Department. (AQT 966/11-15)

**Mr Durkan:** I will answer that question by saying yes. My predecessor and I both made representations — and have correspondence to prove it — with our counterparts in Westminster. However, it seems that we are hitting a brick wall. There is no appetite there to devolve it, and I am not sure of the appetite here — I am not talking about right here where I am standing — in this Assembly and in Northern Ireland to have it devolved.

**Mr Ó hOisín:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas don Aire as ucht an fhreagra sin. I thank the Minister for his answer. Does the Minister agree that, in order to save the jobs, he must pursue this continually with the British Government? Will he commit to doing that?

**Mr Durkan:** For some time now, my predecessor and I have been trying everything that we can to save those jobs. That has been recognised and applauded by the staff there. It is an option that I will continue to pursue. However, what the staff do not want to see is people playing politics with the issue.

2.45 pm

## **Finance and Personnel**

**Mr Principal Deputy Speaker:** Question 6 has been withdrawn.

## **Health: Additional Resources**

1. **Mr Beggs** asked the Minister of Finance and Personnel what level of additional resources were allocated to address pressures within the Department of Health, Social Services and Public Safety as an out-turn of the headroom within the 2013-14 budget. (AQO 5918/11-15)

**Mr Hamilton (The Minister of Finance and Personnel):** The Department of Health, Social Services and Public Safety was allocated an additional £57 million in resource departmental expenditure limit (DEL) during the 2013-14

monitoring round process. I can confirm that there has been no further allocation to the Department since the January monitoring round. I expect that the Health Minister should be able to manage his financial pressures to ensure that he stays within the budget control totals set by the Executive.

**Mr Beggs:** I welcome the belated recognition by the Minister of the considerable financial pressures that exist in our health service. However, the Minister indicated this morning that he might be proposing to remove £68 million from the current year. Have the Minister and the Executive considered what the cost would be to patients if £68 million were removed from the health service?

**Mr Hamilton:** If we have to proceed down the route that I have suggested, which is that reductions of 1.5% will have to be made to every Department's budget — every Department having to take a 1.5% cut — that will equate to a reduction of close to £70 million in the health budget. Ultimately, if the Executive agree to go down that route because of non-progress on welfare reform, the exact and precise handling of that would be a matter for the Health Minister.

I am pretty sure that, whatever way the Health Minister would deal with in-year reductions of £70 million in a budget that, as the Member acknowledges, is already under pressure, the cuts could be devastating. For patient care, a reduction of £68 million next year is the equivalent of nearly 12,000 knee procedures, the equivalent of just over 10,000 hip procedures and the equivalent of just over 115,000 weeks in nursing home care for the elderly. I could go on and on because, as I am sure the Member will appreciate, whatever way you dice and slice up £68 million of reductions in the health budget, it is vulnerable people who will suffer, be they elderly people, people who are waiting for hip or knee replacements or people who are getting domiciliary care. Whatever the service, there will be an impact of not progressing with welfare reform. If we get those penalties and have to make those adjustments to the health budget, the impact could be devastating for very vulnerable people here in Northern Ireland.

**Mr I McCrea:** I commend the Minister for going on the radio this morning and outlining the difficulties that will come about as a result of the House not agreeing welfare reform. Will he outline whether he expects any money to be surrendered to Her Majesty's Treasury at the year end?

**Mr Hamilton:** In the context of the issue that Mr Beggs raised and which the Member has touched on, we, obviously, lost around £15 million of our ability to spend in the past financial year, which ended yesterday. A new financial year starts today. That is £15 million that could have been spent on services, including health and social care, and right across the Executive's Budget. That has gone; it will be taken off our Budget. Beyond that, however, I do not expect that any other money will be lost to the Treasury. As the Member will appreciate, and as the House will know from previous updates, over the past year, since the introduction of the Budget exchange scheme, which replaced the old in-year flexibility scheme, we have some flexibility in our ability to roll forward 0.6% in resource expenditure and 1.5% of in-year capital expenditure into the following year, and we have not lost any money to the Treasury. Of course, however, the inaction and lack of leadership of others in the House has already seen us lose £15 million and risks us losing close to £100 million next year and, indeed, close to £1 billion over the next five years.

## Driver and Vehicle Agency

2. **Mr McKinney** asked the Minister of Finance and Personnel to outline any discussions he has had concerning the redeployment of the Coleraine Driver and Vehicle Agency staff within the public sector. (AQO 5919/11-15)

**Mr Hamilton:** This matter was the subject of discussion at a recent Executive meeting, and I, along with my colleague the Minister of the Environment and the head of the Civil Service, have been asked to prepare a report to the Executive on the Driver and Vehicle Agency (DVA) jobs. I have also discussed the situation on a number of occasions with the MP for the area, Mr Gregory Campbell.

I can also confirm that my officials are working closely with DOE to establish the details of staff affected by the decision and are collaborating with other Departments across the Northern Ireland Civil Service to ensure the effective operation of the policy and procedures to manage staff surpluses, redeploy staff to other duties and avoid the need for compulsory redundancies.

**Mr McKinney:** Is the Minister confident that all staff will be redeployed within a reasonable travel-to-work area?

**Mr Hamilton:** I was able to catch some of the responses of my colleague the Minister of the

Environment to similar topical questions that he was asked before my questions started. I echo what I heard him say. We need to be exceptionally careful that we do not build up hopes. People who work in Coleraine and right around Northern Ireland — we must not forget that there are other offices from which DVA operates right across Northern Ireland — have had such a bad experience over the past number of weeks that it is important that my colleagues and I do not overhype the situation and build up expectation needlessly.

Every effort will be made to redeploy staff elsewhere in the Department of the Environment or in other Departments where work might be available. As the Minister suggested, perhaps we could move work to Coleraine. The Member makes a very salient point about staff mobility, which will become a crucial issue in dealing with this. He will appreciate that some members of staff are considered mobile within the system, others non-mobile. A survey is being carried out by DOE to examine the attitudes of the staff in Coleraine. However, I understand that the vast majority fall into the non-mobile category. Clearly, that complicates things much more than if they were mobile.

**Mr Campbell:** I agree with the Minister about not raising expectations unnecessarily. In the discussions that he will have about what can be done, will he take account of the fact that 70% of the existing staff are female and many of them have caring responsibilities that restrict their mobility? Will he also step up the campaign to try to get other Civil Service jobs relocated to Coleraine?

**Mr Hamilton:** I agree with the Member. I commend him for the swiftness of the contact that he made with me in the aftermath of the very bad news a couple of weeks ago. Indeed, I commend other representatives from the East Londonderry area for their efforts as well.

The complexion of staff mobility is being analysed by DOE. Even if we consider staff members, officially and technically, to be non-mobile, just exactly how mobile they are is a matter for DOE to take forward in what it considers to be an acceptable travel-to-work area for staff based in Coleraine, in the Member's constituency. As a considerate employer, we have to be mindful of people's caring responsibilities. Without trying to build up expectations or deliver false hope, in the Department of the Environment, my Department and right across the Executive, we will make every effort to see whether there are posts available elsewhere, or whether work that

is being done elsewhere in Northern Ireland could be done in Coleraine by DVA staff.

**Mrs Overend:** If it is not possible to redeploy the personnel in the public sector, will he confirm whether the current compensation scheme, which has the highest benefits, would apply?

**Mr Hamilton:** The compensation scheme is subject to passage through the House. My understanding is that it does not apply until its various regulations go through. However, we should not, at this stage, be contemplating the worst case for redundancies. Every effort will be made on my part, that of the Environment Minister and other Executive colleagues to ensure that we do not get to the situation that the Member talks about, or, at the very least, that we minimise the redundancies that might have to take place.

**Mr Allister:** In order that it is clear to the House and the workers in Coleraine, Minister, have the Executive given up the battle to save the DVA office in Coleraine? Is that the conclusion that we should reach? If that is so, are there any barriers to giving priority to the Coleraine workers in redeployment in the Civil Service?

**Mr Hamilton:** On the first point, we have to be somewhat realistic. I commend the staff, trade union representatives, local political representatives and community representatives in the East Londonderry area and further afield who made very sterling representations to make the case to the Transport Minister that, although the people in Coleraine wanted to centralise and modernise the service — that is something that I have been supportive of in the past — there was a distinction to be made between the service improvement and where the service is carried out. A very robust case was made to the Department for Transport that that work could be carried out in Coleraine. Unfortunately, that argument fell on deaf ears in the Department for Transport. One has to be somewhat realistic in looking at the prospects of it rowing back from the decision that has been made. If I thought that there were a chink of light that would allow the Department for Transport to re-examine the situation and us to make a robust case for work to be redeployed to or kept in Coleraine, I would certainly want to seize that. However, there is no indication at this stage that that is the case.

In giving priority to DVA staff, although we are clearly sympathetic to the situation in which people find themselves, we have to be mindful of the law and procedures in place. At the

minute, disabled staff with requirements under the Disability Discrimination Act would be top of any priority list for redeployment. It is then staff who have been declared surplus. That might be a bracket into which the staff in Coleraine and the other offices might fall, but not until DOE takes a decision to declare them surplus. I do not think that that is anticipated for another couple of months.

## Capital Budget

3. **Mr Weir** asked the Minister of Finance and Personnel to outline the Executive's capital budget for the 2014-15 financial year. (AQO 5920/11-15)

**Mr Hamilton:** I am pleased to say that, for the first time since 2010-11, the Executive will start a financial year with a capital budget in excess of £1 billion. Following the recent Budget announcement by the Chancellor, our capital DEL budget now stands at £1.04 billion. When we take into consideration planned capital receipts and reinvestment and reform initiative (RRI) borrowing, the Northern Ireland Departments are now planning to spend nearly £1.6 billion next year. That will provide a huge boost for our construction sector and will mean that we can invest in our economy to promote faster long-term growth.

**Mr Weir:** I thank the Minister for his response and the good news contained in it. Will he give us some detail of his recent meeting with the European Investment Bank (EIB)? Could its funding assist in our capital spend?

**Mr Hamilton:** I thank the Member for his supplementary question. I had a very productive engagement last week with senior officials from the European Investment Bank. It is fair to say that they are incredibly keen to do more business in Northern Ireland to build on the very successful loan that it gave to the University of Ulster to allow it to relocate the bulk of its Jordanstown campus to the centre of Belfast. A loan of some £150 million was given for that. It is very keen to build on that.

There are other opportunities across a range of infrastructure areas for which that we might be able to avail ourselves of funding from the European Investment Bank. A note of caution, however, is required: there may be a perception that we can put that sort of money into road, hospital or schools infrastructure, for example. We certainly could, but there would be ramifications elsewhere in the Budget of getting European Investment Bank funding, such as having to pay back a loan. I think that I

have mentioned this in response to Mr Cree in the past: the money that we would raise via a loan would have to score on our Budget. We would see a commensurate drop in our capital budget coming from Treasury, and we would also have interest to repay on any loan. We have to be incredibly careful about where we would deploy any finance we were to get from the European Investment Bank. However, I am very keen to follow up on the positive engagement last week and to scope out what other opportunities might be there.

**Mr McKay:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Minister for his answer, particularly his comments about the European Investment Bank. Does he see anything in the delivery of possible projects coming out of the EIB that will, in the short to medium term, impact on our economic recovery? Also, what opportunities does he see in working with the new councils to try to draw down some of those funds from the EIB?

### 3.00 pm

**Mr Hamilton:** There are some. We had a good discussion about some projects that are already working their way through the early stages of the pipeline and that would have a very positive impact on the economy in Northern Ireland. A lot of energy infrastructure projects are already being discussed between network and grid companies and directly with the EIB. That underscores the point that it is not just central government trying to raise money, perhaps using the European Investment Bank. This is money that is also available to the private or non-public sector. I very much encourage the energy companies to try to take up the opportunity that might well be there. Obviously, there is a huge range of experience elsewhere in Ireland and the United Kingdom and right across the European Union. There are opportunities for energy that can be availed of quite quickly through the European Investment Bank.

The Member is right to highlight the opportunity that is presented by our local councils, particularly after reorganisation and the RPA, which will, of course, create much bigger councils with bigger rate bases. There will also be a change towards better borrowing powers and, importantly, more powers, including a power of regeneration. I held a seminar in the Department a couple of weeks ago with senior officials, chief executives and finance directors from a large number of the local councils. I am keen to continue that type of engagement to try to make them aware of the opportunities that

EIB funding and financial transactions capital funding potentially present. Into the future, our councils, given their greater powers post-RPA, should be an increasing driver of infrastructure investment in Northern Ireland. I am keen, at these early stages, to use the good offices of the Department of Finance and Personnel to encourage them down that path.

**Mr Dallat:** I listened carefully to the Minister. One billion pounds is a lot of money — enough to make the Minister as popular as Santa Claus. Does this mean that there might be some additional funding for new schools, which are badly needed?

**Mr Hamilton:** To reiterate the point that was made to Mr Weir: we could certainly use the money from the European Investment Bank or other sources in the private markets to invest in schools infrastructure, just as we could use it to invest in roads or health. The complicating factor is that schools projects, for example, are taken forward by our Education Minister. The way that those are treated in our budget means that they would have to be done in a private finance initiative-type format, which is actually quite expensive at the minute and would require the expenditure of current resource expenditure to pay back the interest over 20 or 25 years or whatever the term might be. As the Member will appreciate, our budget is tight because of cuts coming from London that are particularly focused on our expenditure budget. So, given the price and the reducing current expenditure budget, it is not as attractive an option now as it might have been 10, 15 or 20 years ago. That does not mean that it might not come back in vogue in the longer term.

The benefit of accessing funding from the European Investment Bank or others is that, if we can fund some of the projects that we might have done ourselves through central government funds and capital funds, and that is done perhaps through local government — to pick up on the point from the previous Member who spoke — that might release some funds in our conventional capital budget that could instead be spent on new schools, hospitals, healthcare centres or road infrastructure. It might free up resources elsewhere that we could deploy for some of the projects that the Member talks about.

**Mr Copeland:** What provision, if any, has been built into the capital budgets so that, should a major project not be in a position to proceed, a further range of projects are at an advanced stage and may proceed?

**Mr Hamilton:** The Member makes a very good point that I am increasingly mindful of. We have had the recent experience of the A5 not moving forward. The A5 was probably the biggest road project that we have ever undertaken in Northern Ireland, and its not proceeding saw over £200 million suddenly released that had to be spent on capital projects. Thankfully, through a trawl that was undertaken with other Departments last year, we have some good projects to spend that money on. I think primarily of the A26 extension. That is a very good project, and I see that it is under way. The new regional children's hospital at the Royal Victoria Hospital site in Belfast was able to spend some of the money. There are other projects, but those are two of the biggest. We were fortunate to have those projects to spend it on, and they were sufficiently advanced so that the money could be spent in the time that we wanted it to be spent in.

The Member is right to highlight the fact that, if there were such an eventuality again, and the Executive did not have other such projects that were down the line and could be hastened up and progressed, we could be in a position whereby capital money might be at risk of being lost and going back to the Treasury. With that in mind, I have asked the subgroup of the procurement board to look at a whole range of issues for the delivery of major capital projects. On this issue, I favour an approach whereby the Executive as a whole take a decision to prioritise certain projects. That will be difficult, and I am sure that it will create some political difficulties, but I think that, to address the type of problem that the Member identifies, we absolutely need projects that are down the line or are procurement-ready. If such an eventuality arises or we get more money from the Treasury, we can start to spend the money and get good projects on the ground.

## NAMA Loan Book

4. **Mr Milne** asked the Minister of Finance and Personnel for an update on any proposed sales from the National Asset Management Agency loan book. (AQO 5921/11-15)

**Mr Hamilton:** I have no responsibility for NAMA's activities and cannot account for or report on its activities.

**Mr Milne:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire go dtí seo. I hear what the Minister said. Will he have regular contact with NAMA in the months ahead to insure against the risk

of a fire sale or any decisions that might adversely affect the economy in the North or to minimise those effects?

**Mr Hamilton:** The Member makes a good point. I am not responsible for the day-to-day operations or, indeed, any operations for NAMA. It is perhaps a question that is best put by one of his colleagues in Dáil Éireann to the relevant Minister down there. Obviously, I have a continual interest in NAMA and what it is doing in Northern Ireland. I agree with the Secretary of State's comments today that we have to avoid the possibility of a fire sale. Many of us had that big fear when NAMA was created a number of years ago. Thankfully, that has not materialised, although I think that there is a danger that, as NAMA's mandate starts to run out towards the end of the decade, we may see less benign situations over the next couple of years. I absolutely assure the Member and the House that I will keep in regular contact, as I do, with the chairman of NAMA and the Northern Ireland advisory committee to ensure that the very situation that the Member outlined does not happen.

**Mr McGlone:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. As the custodian of the public purse, what efforts has the Minister made to nurture links between not only his Department and NAMA but DSD and NAMA to ensure that, when there are reasonably priced sites for social housing development, those opportunities are availed of?

**Mr Hamilton:** It is my understanding that part of NAMA's remit or constitution — however one would describe it properly — is that its work must have a social aspect or conscience. In the conversations that I have had with NAMA, its chairman said that it is very keen to look at a range of sites in Northern Ireland on which social housing could be developed. I think that there is one in north Belfast that it has already taken forward. It has also developed some private housing, and it has put around £140 million into its assets in Northern Ireland to build on them or to start construction so that value is added to the sites. Obviously, that could also include social housing. The Clanmil Housing Association today announced a £120 million loan from Danske Bank and Barclays, so that sector is quite buoyant and is attracting investment from the private market from banks and financial institutions. I am sure that NAMA will be conscious of that and see it as an opportunity not only to tick that box in its constitution but to get a good return for it.

**Lord Morrow:** I listened carefully to what the Minister said and would like to take him a wee bit further. Will he explain the relationship between NAMA and the Department of Finance here to the House?

**Mr Hamilton:** I thank Lord Morrow for his question. As I pointed out to the Member who asked the original question, I am not responsible for NAMA, nor do I want to be. I think that that is well understood, and I do not envy anybody who is. However, it is essential for me, or for anybody who holds this post, to have a very good relationship with NAMA.

My predecessor was the Minister when NAMA was created, and he certainly used his good relationship with the late Brian Lenihan, who was then Finance Minister in the Irish Republic, to ensure that Northern Ireland's interests were at the forefront of what it was doing. As a result, our initial fears of a fire sale were not realised. Many of us feared that that would be the case because that organisation was in another jurisdiction and had no particular concern — I hear a phone ringing; maybe that is somebody from NAMA with a bit of news, or maybe somebody has just bought or sold something — and the risk was that, because it had no say in this jurisdiction, it would just sell the assets here and make a fast buck. That has not been the case because of that good relationship.

As I said, I meet the chair of NAMA and the Northern Ireland advisory committee regularly. I think that the engagement that we have developed over the past couple of years will be vital in the future.

As I said earlier, I think that we are getting towards what could be described as the business end of what NAMA does. It has, perhaps, been scoping out possibilities over the first couple of years, and we are now getting into a phase when it will have to start to realise the value of some of its assets. Although we have not had the horror stories that we feared, as that starts to happen over the next number of years, I am concerned that we might start to hear some. NAMA will have to do its job and wind down its operations by the end of the decade.

It is important that nothing is done with Northern Ireland, with individuals or with the overall Northern Ireland portfolio to upset that hard-earned, positive relationship that we have developed over the past number of years. I think that that view is shared right around the House.

**Mr Principal Deputy Speaker:** I know that that was a very important topic, but the two-minute rule does apply.

**Mr McNarry:** Will the Minister share any concerns that he may have about the possibility of hedge funders taking over the NAMA properties in Northern Ireland? Will he also tell the House whether those concerns would lead him to be worried about a fire sale, which we have all been very anxious should not happen?

**Mr Hamilton:** There is a well-publicised process under way, and NAMA has gone to the market to test the overall Northern Ireland portfolio. I have seen the name of only one potential buyer attached to that process. I am not aware of what other buyers may be interested or whether they are, as the Member described it, hedge funders.

The one firm that I saw associated with NAMA in the public domain was an insurance firm. If that insurance firm, another insurance firm or a pension fund investor was successful, I think that the result would be quite the opposite of what the Member and the rest of us are concerned about. Instead of what might happen over the next number of years, which is NAMA starting to try to crystallise those assets and trying to get them out the door much more quickly than the market might be ready for them, an insurance firm or the investment arm of an insurance company or a pension fund might take a much longer view. As the Member will appreciate, they tend to take a longer-term view and invest the proceeds of pensions or insurance to get a return over a much longer period. They are not in it for a fast buck. In fact, it may be quite a positive thing if the portfolio was sold to such a company.

However, I appreciate that there could be less desirable buyers, either because they want to flip things very quickly or do not have the quantum of assets in their own balance sheet to add value to the assets in Northern Ireland.

**Mr Principal Deputy Speaker:** That brings us to the end of the period for oral questions. We now move on to topical questions.

## **Economic Data: Treasury Challenge**

1. **Mr Boylan** asked the Minister of Finance and Personnel why his party seems to be holding back on challenging the Treasury on economic data, which would definitely benefit the local economy, given that the Government in Scotland are not afraid to make such a challenge. (AQT 971/11-15)

**3.15 pm**

**Mr Hamilton:** I begin by sympathising with the Member. I think this is about the third or fourth time that he has been drawn for a topical question to me. I am sure that he cringes every time his name is drawn.

I know that there has been some conversation over the past number of days about the quality of the economic data that we produce in Northern Ireland. I think it is fair and true to say that both the timeliness and the quality of the economic data that we produce in Northern Ireland is similar to if not actually better than that produced in most of the other jurisdictions and regions within the United Kingdom. A wide range of official economic statistics from Northern Ireland have been independently assessed and designated as national statistics.

We produce a broad range of publications and we always try to make those as accurate as we possibly can. Although the Treasury, which is ultimately responsible for taxation, does not routinely publish actual regional tax data, my Department produces estimates of regional tax revenues as part of the net fiscal balance report. It is only us and the Scots who produce that. The methodology that we use to produce our net fiscal balance report is very similar to the Scottish equivalent. Wales does not do that and nor does any English region, so, in many respects, rather than catching up with the Scots, we are absolutely in tune with what they are doing.

**Mr Boylan:** Go raibh maith agat. I do not mind getting up to ask the Finance Minister any question. Given that you continue to abuse the fiscal balance report, is it not about time that we got proper economic data, Minister? When are you going to push to get proper economic data?

**Mr Hamilton:** I do not accept the premise that we do not have proper economic data. We are not responsible for a lot of the data that is out there, particularly the tax data, as I mentioned. That point was acknowledged by Mr McKay, the Chairman of the Finance Committee, who was in a slightly mysterious situation last week when he put a press statement out that attacked DFP initially, and then that was replaced on his party's website by one that was principally attacking the Treasury.

**Mr McKay:** I am happy with both.

**Mr Hamilton:** They are not both there. If the Member wants to check, he will see that one has been replaced by the other, which was an

interesting U-turn over a 24-hour period by the Member.

He is right to turn his attention principally towards the Treasury, which, at the end of the day, given the national Government, is the recipient of most of that data, so we are reliant on it to produce some of that data. However, we make the best efforts that we possibly can in a way that is consistent with, for example, what the Scottish do.

I point out to the Member and his party colleagues that it is the same data on which his party, my party and other parties are content to pursue the devolution of corporation tax to this place. So, it is good enough to pursue that policy, yet sometimes, when it does not suit Sinn Féin's agenda, it does not seem suitable.

## **Vacant Properties: Dungannon District**

2. **Ms McGahan** asked the Minister of Finance and Personnel whether he has had any discussions with other Ministers, including the Minister for Social Development, about the figures from Land and Property Services (LPS) that show that there are 1,520 vacant domestic properties in the Dungannon district and whether any of these properties might be retrofitted to address the area's housing shortage. (AQT 972/11-15)

**Mr Hamilton:** I have not had any direct discussions with any other Minister about the point that the Member raises, but I am content to do so. I do not accept that all of those 1,520 properties will require some degree of work to make them accessible. The Member is right that it is probably primarily a DSD issue in relation to housing allocations, but I am more than happy to do whatever we can through LPS, if required, to work with DSD to highlight the opportunities for the owners of those properties to get them let and into operation, which is obviously potentially of financial benefit to them.

**Ms McGahan:** Go raibh maith agat. I thank the Minister for his response. Is he aware of the scale of the problem of vacant domestic properties right across the North?

**Mr Hamilton:** I am. I do not have the precise figures in front of me, but I can certainly furnish the Member and, indeed, the whole House with those. I recall an exercise being done a few years ago in advance of the rating of empty domestic properties to identify the precise number. It was an issue that DSD was involved

in and it was sort of a movable feast. The number fluctuated up and down.

One ramification of the downturn and recession and the pressure that they have placed on people is that there are many more vacant properties. That is not just because people are vacating them; buy-to-let properties in some areas are not as attractive as they were. Given the potential for those houses to be let, perhaps to social housing tenants, we do not want them to lie empty and not be maximised. The Minister for Social Development is looking at that carefully as part of his housing strategy.

**Mr Principal Deputy Speaker:** I call Mr Michael Copeland.

**Mr Copeland:** Thank you very much, Mr Principal Deputy Speaker. Question 3. *[Interruption.]* After last week, I most profoundly and sincerely apologise.

### Civil Service Pay

3. **Mr Copeland** asked the Minister of Finance and Personnel whether there are any provisions in the Budget that will affect Civil Service pay in Northern Ireland. (AQT 973/11-15)

**Mr Hamilton:** I was just going to say yes to the first one. Guidance has been issued by the Treasury on the 2014-15 financial year pay restraint for civil servants. I understand that the advice is a 1% rise for public servants. Although we do not have to follow that strictly, we have previously mirrored what has been done in the rest of the UK. I have still to consider the issue in discussion with officials.

**Mr Principal Deputy Speaker:** I call Mr Copeland to ask a supplementary to question 3.

**Mr Copeland:** Thank you very much, Mr Principal Deputy Speaker. Given the Minister's comment on mirroring events in GB and the fact that there is chatter there about consideration being given to removing progression pay, is that under consideration here as well?

**Mr Hamilton:** I have heard the Chancellor at this a couple of times. This is not the first time that it has been talked about; I think that, in last year's Budget statement, he also talked about looking at progression. Progression is where, in addition to whatever pay increase there is, civil servants move up various stages within their current grade. That happens as a matter of course, and their pay goes up accordingly.

The coalition Government are keen to look at it, obviously driven by an agenda of reducing costs across the board. It would have ramifications for Northern Ireland, but it has been discussed at Finance Minister quadrilaterals with our Scottish and Welsh counterparts. The legal advice that my Department has received, which was similar, I think, to that in Scotland and Wales, suggests that progression pay is part of the contractual obligations that we have to civil servants and is therefore not as easy to get rid of as the Chancellor might think.

### Banks: Recent Discussions

4. **Miss M McIlveen** asked the Minister of Finance and Personnel what discussions he has had with local banks in recent weeks. (AQT 974/11-15)

**Mr Hamilton:** I meet local banks regularly, formally and informally. Even this morning, I was informally chatting to officials from Danske Bank and Barclays at the announcement of their £120 million loan to Clanmil Housing Association. Minister Foster and I recently concluded our latest round of meetings with the big four local banks, as well as Santander, Barclays and HSBC. As recently as last Wednesday, as part of the latest meeting of the joint ministerial task force in London, Minister Foster, the Secretary of State, business Minister Matthew Hancock, Treasury Minister Sajid Javid and I met officials from the British Bankers' Association (BBA).

**Miss M McIlveen:** I thank the Minister for his answer. I am aware that he has been pressing local banks to provide him with better lending data. Has any recent progress been made on acquiring that?

**Mr Hamilton:** This has been a long-standing problem, Mr Deputy Speaker, that you will recall from the Finance Committee. The problem in the past was that we had absolutely no sight of any data on lending in Northern Ireland. More recently, the British Bankers' Association, with which I had a conversation last week, provided to the Executive, on a confidential basis, high-level data on new lending, average loan values and approval rates. Although I am not allowed to divulge the precise figures, all the data has started to move in a positive direction over the past quarter, which is a sign that the banking system is at least starting to work better.

We have been pushing in more recent times, and I have reported this to the House, for sectoral data on lending to various sectors of

the economy in Northern Ireland. I was concerned that very slow progress was being made in that regard, but I am happy to confirm to the Member and the House that BBA presented to the joint ministerial task force last week an enhanced data set — an improved set of statistics — which included sectoral lending.

It also extended the figures, which had just been for the four main local banks, to include lending by Barclays, HSBC and Santander in Northern Ireland. I am glad to be able to say that it is BBA's intention, after some refinement, to publish that data before the summer. That will be most helpful to us, as an Executive, in directing policy and interventions that we might want to make to increase small and medium-sized enterprises lending. It will also give us all a better sign of how well the banking system in Northern Ireland is doing.

**Mr Principal Deputy Speaker:** Mr Paul Girvan is not in his place, so I call Mr Daithí McKay.

### **Air Passenger Duty**

6. **Mr McKay** asked the Minister of Finance and Personnel whether, to prevent other airports on this island continuing to have an unfair tourism advantage over airports in the North and its tourism operators, he will now seek the transfer of air passenger duty powers, given that, in the recent Budget announcement, the British Government again failed to deliver what we need. (AQT 976/11-15)

**Mr Hamilton:** As the Member well knows, an air connectivity study has been undertaken between my Department and the Department of Enterprise, Trade and Investment. The point of conducting studies like this is to scope out the range of options that might be available, the possible way forward and the Budget consequences of doing it, showing where there is a downside and where there are some benefits. In advance of seeing that report, I do not want to commit myself to a position one way or the other.

**Mr McKay:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Minister for his answer. The review has been ongoing for a considerable period of time. It seems to be one of those reviews that takes place just to put off making a decision. Does the Minister not recognise that we in the North will continue to lag behind while he and the Minister of Enterprise, Trade and Investment fiddle their fingers rather than deal with the issue of air passenger duty? While this is not in place, we

do not get the tourism revenue that would come in if we had a single policy across this island.

**Mr Hamilton:** As the Member well knows, far from fiddling our fingers, we have already devolved air passenger duty (APD) powers for direct long-haul flights into Northern Ireland. By doing that, we have secured a route that is not just a tourist route direct to north America but is critically important for business investment in Northern Ireland. That is one of the many factors that explain why firms like Citi, Allstate and the New York Stock Exchange have not just a presence but a growing presence in Northern Ireland.

I am sure some of the Member's party colleagues in Dublin will be less than complimentary about the language that he has chosen in talking about competitor airports south of the border. It is easy for him to sit and say, "Just devolve this, and to hell with it." There are consequences of devolving the power, which people in my position and the Enterprise Minister's position have to consider very carefully. One of my primary considerations as Finance Minister is the fact that devolving air passenger duty for band A flights, which are short-haul flights, comes at a price: it is not a pain-free or price-free option. It would come at an initial price of £60 million, rising over the next number of years to £90 million.

We have already lost £15 million from our Budget because of Sinn Féin fiddling its fingers in respect of welfare reform. We face reductions of close to £100 million this year because of non-progress on welfare reform because Sinn Féin is fiddling its fingers. Where would the Member find the additional £60 million reduction in our Budget because we have devolved APD powers? It is easy for the Member to ask for these things but it is much more difficult for him to come up with the answers for how we are going to pay for them.

**3.30 pm**

## Executive Committee Business

### Local Government Bill: Further Consideration Stage

#### Clause 3 (Disqualifications for being councillors)

Debate resumed on amendment Nos 1, 2, 3, 4,  
18, 23 and 28, which amendments were:

No 1: In page 2, line 8, at end insert

"(d) the House of Lords;"— [Mr Allister.]

No 2: In page 2, line 8, at end insert

"(e) the legislature of any other country,"— [Mr  
Allister.]

No 3: After clause 3 insert

#### "Disqualification of councillors for being independent members of policing and community safety partnerships

**3A.—(1)** The Justice Act (Northern Ireland)  
2011 is amended as follows.

(2) In Schedule 1, in paragraph 9  
(disqualifications) after sub-paragraph (2)  
insert—

'(2A) A person is disqualified for being an  
independent member of a PCSP if that person  
is a councillor.'

(3) In Schedule 2, in paragraph 9  
(disqualifications), after sub-paragraph (2)  
insert—

'(2A) A person is disqualified for being an  
independent member of a DPCSP if that person  
is a councillor.'— [Mr Elliott.]

No 4: In clause 4, page 2, line 14, at end insert

"(2) In section 4 of that Act, after subsection (1)  
insert

'(1A) The Department must by 30 September  
2014 make an order under subsection  
(1)(a).'— [Mr B McCrea.]

No 18: In clause 59, page 35, line 39, at end  
insert

"(10) An appeal under subsection (9) may be  
made—

(a) against the suspension (or partial  
suspension);

(b) against the length of the suspension (or  
partial suspension)." — [Mr Durkan (The  
Minister of the Environment).]

No 23: After clause 117 insert

"Public bodies to support employees seeking  
election to council

#### Public bodies to support employees seeking election to council

**117A.** A public body, other than a council, must  
to the extent that it is reasonably practicable,  
support and facilitate any employee, other than  
its chief executive or directors, in seeking  
election as a councillor including—

(a) offering unpaid leave for the three-week  
period prior to local government elections;

(b) actively seeking to overcome perceived  
conflicts of interest." — [Mr B McCrea.]

No 28: In schedule 2, page 80, line 5, leave out  
"Regulations" and insert "Standing orders".—  
[Mr Durkan (The Minister of the Environment).]

**Mr B McCrea:** I got a chance to say a few  
words before the break. I will attempt to be  
fairly concise in my points, hoping to make  
people actually think about the amendments  
that we put forward.

(Mr Speaker in the Chair)

If I can deal first, Mr Speaker —

**Mr McCallister:** Large crowd from the DUP.

**Mr Allister:** They are boycotting you, Basil.

**Mr B McCrea:** It is a little disappointing that my  
best audience is the back of Ms Lo's head. The  
Benches on the other side are strangely silent.  
So, let me say to Peter Weir what I really  
wanted to say to Peter Weir.

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

**Mr B McCrea:** I will indeed give way.

**Mr McCallister:** Should we go, Mr Speaker, to the vote straight away? [*Laughter.*]

**Mr B McCrea:** I have two amendments that I wish to address. I will try to proceed fairly briskly on my points on amendment No 4, because the DUP Members did say that they were happy to support it, and I think I got indications from other sides of the House that they thought it a reasonable idea.

The position, as it stands, is that the Bill was amended at Consideration Stage, creating an enabling clause to allow the Minister, via subsequent regulations under the 1972 Act, to define "prescribed offices". Amendment No 4 will mean that the Minister would have to make said regulations by September 2014; that is to say, very quickly, and to clear up what I have to say is a pretty significant mess. Unless we get some form of regulations, as I understand it — perhaps the Minister will clarify — no one is going to be excluded from running for council, because we have put in the amendment to the Act that it is only if it is a prescribed role. Since we have no prescribed roles, there will be no exemptions. It really is important that we sort that out.

I also say to the Minister that I remain particularly concerned about the election on 22 May. Regardless of what happens, and the Minister talked about this at Consideration Stage, the Bill will not reach Royal Assent before the close of nominations for council candidates for the forthcoming elections. With the law maintaining its current position, there will be a blanket ban on any council employee running for office. That is really serious.

I personally know of people who want to run for council who are employees of a council. Those people and those parties are being discriminated against in a way that has already been found to be unlawful by the Supreme Court under article 10 of the Human Rights Act. I really do wonder, and perhaps the Minister will explain, why he cannot use the powers that he has under the '72 Act to make some form of regulation that would attempt to sort the situation out. Surely there must be something that we can do. If not, I do not know what the implications are. Perhaps the Minister will tell us what the implications are if somebody does decide to run and is debarred because they are a council employee, even though the Supreme Court has found in their favour.

I have read the official record on the issue, and I know that the Minister is sympathetic to the situation and has admitted that a major mistake

has been made. I would like him to tell me why that happened, because maybe we can resolve the matter. It is not just that we have had late legal advice; I got that bit from the previous conversation. It is this: why has it taken us so long to amend the Act in the first place? Scotland, Wales and England have been able to do it. I have quoted examples of how the prescribed situation works in Scotland. I just do not understand why it took so long. Perhaps the Minister will explain why he was let down so badly by the Department. Was it previous Ministers, or what was the issue? We are in a really serious issue.

In bringing forward the amendments, and if the House finds favour with our amendment, I would like an undertaking from the Minister, because it is in the judgement by the court, that he needs to properly set out the aims of the amendments. Why are we going to prescribe people getting involved in council elections, because it is a very serious curtailment of their rights? Therefore, we need to set out the case. It is not that we do not know it, but we do need to set out the case that we wish to maintain the highest level of impartiality at the highest levels of local government. However, I think that we need to make that case. Perhaps he would give an undertaking that, instead of just doing it by some order, which is the minimum that we asked, we will get the opportunity to discuss the matter on the Floor of the House.

Will he also give an undertaking to talk about what appeal procedure there would be? If your job were to be prescribed, you may wish to say that you would like that to be amended. Perhaps we could discuss how that might happen.

Finally, with regard to the role of democracy, I would like him to reiterate his earlier statement:

*"I think that it is incumbent on all of us, and really on me as Minister, to encourage people from every background and as many different professions as possible to participate in local democracy." [Official Report, Vol 93, No 3, Part 2, p2, col 2].*

I would like to know from the Minister, obviously not in this Bill, how we might see that coming forward in the future in some way that we can debate the matter. Those things, Minister, would go a long way to deal with some of the concerns that people have. Nevertheless, I think that amendment No 4 is finding favour with the House, and I will, therefore, leave it at that point.

I move on to address amendment No 23. One of the issues about politics in Northern Ireland — perhaps I do not need to say this in the House — is that it is particularly divisive. I can understand why employers are reluctant to let employees get involved in politics. It is a particular problem for those in the public sector where impartiality must be demonstrated. Every single person knows that they go around saying, "We are not showing favour to one side or the other." Therefore, that runs against the grain where individuals are entitled, under article 10, to express a political opinion and to have freedom of expression. I think we have a serious issue here.

It is even more problematic for those engaged in trying to do business with the public sector. We are all aware, and we have all said it in the Chamber today, of the whispers about, "Oh, I would not do that if I were you", or, "It is important that you do not get too involved in things". That is not good for democracy, and it is not good for our institutions. We should be addressing the matter.

In preparing the case for amendment No 23, I was struck by a document called 'Democracy Max', which is from the Scottish Executive and talks about how they would increase voter participation. It had this rather telling comment, which is why we want to introduce amendment No 23:

*"It is increasingly evident that falling turnout in elections is not an apathetic response of a disinterested public. To many it is a very rational response to their increasing distrust in and alienation from traditional politics. For the political elites"*

— that is us, I guess —

*"For the political elites declining turnout is a rare glimpse of the hopelessness many feel about the democratic process."*

In bringing forward amendment No 23, I concur with the sentiments expressed by the Minister in the previous debate on the issue when he said:

*"I think that it is incumbent on all of us, and really on me as Minister, to encourage people from every background and as many different professions as possible to participate in local democracy." [Official Report, Vol 93, No 3, Part 2, p2, col 2].*

That is why I am surprised that Mr Maginness and other members of the SDLP were opposed to this amendment. Some people brought

forward concerns that, I gathered, were along the lines that we cannot be unduly supportive of the public sector because we will not be able to do the same thing for the private sector. Let me say to all and sundry here that just because I bring forward an amendment does not mean that it is a bad idea. There is merit in our trying to work out how we encourage more people into the democratic process. It is an issue that we must address collectively as a political body.

Therefore, when we look at why I suggested the public sector only as opposed to the public and private sectors, we see that it is because it is eminently doable in the public sector: we can do it now. It is not that I do not want to address the private sector — I do. However, I recognise that there are different levels of scale, it would require more work and there are other issues. We can do it in the public sector now.

**Mr Wilson:** Will the Member give way on that point?

**Mr B McCrea:** I will certainly give way.

**Mr Wilson:** What is doable in the public sector is equally doable in the private sector. For example, we have paternity leave in the public sector, and we extend it to the private sector. We have maternity leave in the public sector, and we extend it to the private sector. It is eminently doable if that is what the Member believes should be done. However, first of all, we have to ask whether it is a reasonable burden to place upon employers, whether they are in the public sector or the private sector. If it is done only for one sector, there is the issue of equality for people who work in that sector as opposed to people who work in the other sector and the opportunities that are available to them.

**Mr B McCrea:** I thank the Member for his intervention. I am surprised that he is actually asking the question about whether we would want to increase democratic participation. I would have thought that it was something that all elected Members would want to support and that we would all want to ensure that the democratic mandate that we all hold was as legitimate as possible. I can tell you that there is a problem in the falling turnouts that we have. If they go below 50%, which seems likely in the next elections, that will start to undermine democracy as a whole.

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

**Mr B McCrea:** Just hold on. I will develop the point and Mr Wilson can come back in if he wants.

The reason why I think that we should start with the public sector is that there is an issue of scale. Certainly, maternity leave, trade union time off, magistrates and all of the provisions that we have are more problematic for small and medium-sized enterprises (SMEs) than for larger public sector organisations. Although I would encourage all public sector and private sector employers to facilitate people's taking part in the democratic process, provided that there is no conflict of partiality, I think that we can make a statement now and show the direction that we would like to go down. That would send a very strong signal.

Let me tell you why I think that the public sector has to be dealt with in particular. First of all, as Mr Wilson will know, it is a particularly large sector. It is 27.6% of our entire workforce, which is nearly 215,000 people. It is the biggest single employer. It is the sector that we can influence and have control over. I have less concern about the deleterious effect that it might have on those individual businesses because of their scale. As regards the argument that was put to me just before we broke for lunch, I am completely convinced that it is really important that we support democracy and encourage democratic participation and that that is a trade-off worth making.

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

**Mr B McCrea:** I will give one last set of figures. Then, I will let the Member in.

I will also say that it is not just about the direct workforce that is employed: 65% of our GDP is public sector spending. Therefore, you can take the direct workforce and double it — maybe even triple it — for people who are involved in public sector procurement, supplying services, providing contracts and those sorts of things.

All those people will feel that they are under pressure of being disenfranchised not only to vote but to stand for council. That is why we need to deal with this issue. I give way to Mr Wilson.

**3.45 pm**

**Mr Wilson:** The Member has made two arguments. The first was that this would encourage turnout. I do not know how giving candidates three weeks off before an election would encourage turnout. That is certainly not an argument that you can make. His second argument was that, since the public sector is so

large, it can absorb this. He knows full well that, if this were to be introduced in the public sector, there would be huge pressure to introduce it in the private sector. Since he is the champion of business or claims to be the champion of business in the Assembly, I want to know whether he believes that the private sector would welcome that burden. Indeed, has he even considered how small and medium-sized employers could facilitate it?

**Mr B McCrea:** I am grateful for Mr Wilson's intervention, because it makes the argument for amendment No 23. I absolutely think that there is a burden on any employer who says to employees, "If you wish to get involved in democracy, we will assist you". However, I think that that is a price worth paying. Every business that I talk to is dissatisfied with the progress that this place is making. I say to businesses all the time — no more recently than at last night's Northern Ireland Assembly and Business Trust meeting — "You must get involved in the democratic process. It is not sufficient to look on from the side, wring your hands and say, 'Those people on the hill are not doing a very good job'", which, regrettably, is what they say. They are wrong: they must get involved and have a fair share in providing for a democratic society, because that is to the benefit of us all.

**Ms Lo:** Thank you for giving way. Members have talked about the private sector and public bodies: what about the voluntary sector, which is very large? Would the Member think of extending similar support to the voluntary sector? When I stood for the Assembly in 2007, I remember going out every night after work at 5.30 pm to knock on doors, and nobody gave me any leave. I just want to remind Members that there is a third sector here as well.

**Mr B McCrea:** I am grateful to the Member for her contribution because it reminds me to address one of the issues that Mr Wilson brought up. There is evidence that you can increase voter participation through more active campaigning. That is the result that came back from Democracy Max in Scotland. Although some Members such as Ms Lo may be prepared to go out in the evenings, there will be others who want to do so during the day. What we are trying to do here is to send a signal of encouragement that this is a good thing. I feel that Members here do not understand how much disdain there is for the political classes among the general public and businesses. That makes it extremely difficult to make the decisions that we all know are important. The

amendment is designed to increase democratic participation by particularly encouraging those in the sector that we have direct control over — the public sector — to come forward. I hope that the Minister, in following up on his earlier words, will consider that. Some consultation and work will be needed to see how we spread that to the private sector.

I will answer Ms Lo's question. It is particularly important that the third sector is fully involved. She may not be aware of this, but I know of an employee working for a third sector employer who wishes to stand for council in Northern Ireland. The employer is the NSPCC. They have had difficulties in the past, notably with Esther Rantzen's campaign and other issues, because they do not know whether, as a charity, they should be involved in politics in any shape or form. However, people at a certain level are entitled — we made the same argument on amendment No 4 — to protection under article 10 of the European Convention on Human Rights. We have to find a balance between the rights of individual citizens and concerns about impartiality. That is what the amendment would do.

I say clearly to everybody here that there are difficulties, not just with Invest NI, the NSPCC or councils. I hold here a newspaper clipping about a teacher who is a Sinn Féin councillor who was forced from her job at the Boys' Model School. Despite the fact that she had the support of the pupils and the school, she regrettably had to leave her job. That is the divisive nature of the politics in which we in Northern Ireland live. If we want more people to stand for council — we do — if we want more new faces in our political establishment — we must — we will have to find a way of encouraging others to stand. It does not matter, because, as, I think, Members on the Benches opposite said, a councillor's role is part-time. People should be facilitated to do their civic duty, if that is what they want, and employers, be they public, private or third sector that can facilitate them to do so should be encouraged to do that. I will conclude on the issue —

**Lord Morrow:** Will the Member give way?

**Mr B McCrea:** I give way to Lord Morrow

**Lord Morrow:** I want the Member to clarify a point that he made. He referred to a Sinn Féin councillor: was that person a councillor at that time, or did she become a councillor after that event?

**Mr B McCrea:** The issue here, which I am just taking from the newspaper, is that she was a Sinn Féin councillor representing Lurgan on Craigavon Borough Council. The issue is that her political affiliations became known because being a councillor is very public, and she suffered a disincentive through that, as other members of other parties will have done. It has caused her a problem. What I really want to convey to everybody and to every party here is that we should protect people who want to be a councillor. We should protect people who want to get involved in the democratic process. It is not easy in our society, as you will know only too well, Mr Speaker, to try to do the right thing, to come forward. Yet, if we are to normalise politics, we will need to have more people —

**Lord Morrow:** I thank the Member for giving way. Whatever faults he has, refusing to give way is not one of them; he normally tries to accommodate those who want to intervene. Does he not see that his amendment will make some more equal than others? In paragraph (a), he is calling for:

*"offering unpaid leave for the three-week period prior to local government elections".*

What about those not in the privileged position of saying, "Legislation states that I am entitled to three weeks' unpaid leave here, while my running mate will do what Anna Lo did: they will work in the evenings or on a Saturday and they will go out and canvass"? Does Mr McCrea not acknowledge that there would be an uneven playing field here? He is a man who makes much dance about equality; there would be no equality with the introduction of that legislation.

**Mr B McCrea:** I am not sure how you can charge equality at me, Lord Morrow. I prefer equity and fairness, which are what I am really after. It may be that you do not recognise the argument that I am putting in respect of your area, but I know that, when you were a councillor in what was a fairly tight area, there were some difficult and onerous responsibilities. It was a time when being a councillor was not such a great career prospect because of the unwarranted and unwanted attention that it brought. Above all else, Lord Morrow will be aware of that issue, as, indeed, will some of his colleagues on the council. My point is that two wrongs do not make a right: if we want to increase democratic participation and if we have the ability, as we do, to influence public bodies, we should take that opportunity now. I would be more than happy, at a future stage, hopefully led by the Minister, to discuss ways in

which we might increase democratic participation across our entire society.

I do not know whether I am the only person in the Chamber who recognises it, but it seems to me that politicians and politics are not terribly well regarded at the moment. Years of sleaze, years of poor performance and years of talking but not doing have brought our political institutions to the brink. This Bill is an opportunity, as I had it set out to me, to increase democratic participation, make democracy and politics more relevant and get new faces in. I thought that was the point of changing the requirements for eligibility. I thought that was what the whole structure was about. Why stop there? Why not just expand it and say that the more people we have involved in politics, the more they will realise that there are difficult decisions to be made; that it is not easy; that we do not just sit up here on the hill doing nothing; that there is some really hard work being done; and that some really hard decisions are being taken? If we are to normalise politics, we need to encourage people who are no longer engaged in the political process to become involved.

I hope that people will look kindly on the amendment. Many Members have said that they understand the motive behind it and that it is a good idea. It is worth supporting, and we can address other issues in the fullness of time, hopefully led by the Minister.

**Mr McCallister:** I will start by addressing Mr Allister's amendment about membership of the House of Lords. I noticed during the debate that there seemed to be some confusion on the DUP Benches about what the position was and whether they would challenge or accept the amendment. Maybe that is why there is a larger than usual turnout.

The argument that Lord Morrow put forward was that membership of the House of Lords, being unpaid and unelected, was separate. It is still the upper House in our system of government and, from NI21's perspective, Mr Allister's amendment is sensible. Lord Morrow's argument was that we would be out of step with the rest of the UK, but he is happy to be out of step with the UK on other issues. I note that we are probably the only part of the UK that will not have equal marriage. We pride ourselves at the minute that we will do something slightly different on welfare reform — we are not going to break parity, but we will make changes. The argument for that is that it is devolution working, but here we dare not challenge the idea that we would stop a peer of the realm becoming a councillor. I think that

those should be separate roles. You cannot be in two places at once.

Lord Morrow congratulated himself and his party for addressing the issue of double-jobbing or, as Mr Elliott said, triple-jobbing or multiple-jobbing, as it sometimes went further than double-jobbing. However, we must remember that that party was the main practitioner of it. On the Benches, we still have Mr Wilson MP, MLA and former Minister. Indeed, Lord Morrow admitted that, for a good while, he has been a Member of this House, he has been in the Lords and he has been a councillor. Jeffrey Donaldson, when he was a Member of this House, was a junior Minister, an MP, a councillor and some thought he maybe drove a taxi at the weekend.

**Lord Morrow:** I thank the Member for giving way. Lord Morrow does not have to admit to anything. It is a known fact. I did not hide anything. I want to put that to you very clearly.

I did not admit anything. Deal in facts.

**4.00 pm**

**Mr McCallister:** I point out to the noble Lord that he is not in a police station, so he does not need to be quite so defensive. Yes, it is a matter of public record that he was a councillor, an MLA and a peer all at the same time. That is the point: being in three places at once is not easy. Being in Dungannon —

**Lord Morrow:** Were you a farmer at the same time, too?

**Mr McCallister:** I am sorry; I missed that point. *[Interruption.]*

**Mr Speaker:** Order.

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

**Mr McCallister:** Yes, certainly.

**Mr Wilson:** Is the Member saying that while he is a Member, his farm is being neglected? Should we send the inspectors to make sure that his animals are not being neglected, or is he capable of being in the fields and in the Chamber?

**Mr McCallister:** I am glad that Mr Wilson brought that up. It would probably be quite easy for him to find out that I sold my dairy herd to facilitate my being a full-time Member of this House. I look forward to him doing the same

and either resigning from here or taking up an unpaid office to facilitate his leaving Westminster.

**Lord Morrow:** Will the Member give way? Did you sell your farmland too?

**Mr McCallister:** No, of course I did not. Were I to sell my farmland, I am sure that I would have the DUP making the sort of allegations that it made, in a rather difficult way, against Mr Allister. It is a matter of — *[Interruption.]*

**Mr Speaker:** Order.

**Mr McCallister:** Mr Speaker, the Members opposite seem to think that it is wrong for me to own land and put it in the declaration of interests, to enter a share farming agreement or to have any other interests outside the House, so do they have any property interests to declare? Do they own any other property? Have they any other incomes that they would like to divest themselves of? I am sitting listening to that from a peer and an MLA; and from an MP and MLA who only recently stepped down as a Minister. That is why this amendment is important.

Everyone else in the House will see the hypocrisy of the DUP when it resorts to the tactics of asking whether people still own land, whether they sold their farm or did this or that. The DUP does that while its Members own property and have incomes from other sources. They sit in other places and pretend to be interested in the issue while voting for it in the House of Commons and still insisting that the House of Lords would want to do it.

**Lord Morrow:** I thank the Member for giving way. I think that he protests too much. After all, he was the one who raised the issue, but now it transpires that he owns land — I do not know how many acres — and he is quite happy with that. I suspect that it has to be looked after. Did he buy any livestock recently, for instance, or in the past 12 months? He might want to answer that.

**Mr Speaker:** Order. I am afraid that we are well outside the amendments that we need to be discussing. It would be very difficult to tie in Members' interests, whether farms, property or whatever, so let us please get back to the amendments.

**Mr McCallister:** Thank you for that direction, Mr Speaker. That is why amendment No 1 makes sense: we are getting into a debate about who owns what, who is the director of

certain property companies, who is taking on different outside interests and so on. That is why it should be clear and why the amendment should be included.

Amendment No 2 is primarily about members of the Oireachtas. It seems rather bizarre that a member of the Oireachtas could be a councillor in Northern Ireland but would be barred from being a councillor in the Republic of Ireland. Therefore, the amendment is eminently sensible and should have been included in the Bill.

I think that amendment No 3, which stands in Mr Elliott's name, has garnered widespread support, and many Members will be fit to cite examples of where the lines have been blurred between those bodies. Therefore, that amendment is getting much support.

I am pleased to say that amendment No 4, which stands in my name and that of Mr McCrea, seems to be gaining support. It is gaining support because, quite frankly, as Mr McCrea highlighted, we have known about some of these problems. We have had the court cases and the changes in legislation in other parts of the UK, and we have looked at this. We have also had elections since that court case and since changes were made in other parts of the country. I am not directly blaming this Minister, because he is not in post that long, but I think that he should be asking tough questions of officials about how we got into this position. He might even direct some of that to, dare I say it, his predecessor and maybe even to some of his predecessor's predecessors and ask how we got into that position.

He might also ask why, since we have restored devolution, we have been doing reform of public administration for what now seems like forever and why, even though the election is seven weeks and a couple of days away, we have arrived at this point and do not have complete clarity on what we are doing. The Minister is asking us to pass legislation that could be challenged and that might well be challenged by people who will not be able to stand because it will not be passed. Amendment No 4 at least puts the pressure on the Department to sort this mess.

It is worth warning other Departments that they should look at the issues, take cognisance of judgements that come through and of actions from other parts of the UK and other places in the European Union. They should not get into a place where, at the eleventh hour, the Assembly is in such a place that it has to put

the legislation through, even though the Minister, in the previous debate, admitted that it was a very unsatisfactory place to be. I think that it puts the Assembly in a bad place and in a bad light when we cannot get our house in order. I am pleased that amendment No 4 is gaining that level of support, because it is necessary to do that and to move on.

The next amendment that I want to speak about is amendment No 23. Most of the arguments that I hear against it are about the differences in the public and private sectors and whether we can do that. Mr McCrea quite rightly talked about equity and fairness. Is it fair for someone to be in a position where they cannot stand for local government? What support should we give to facilitate that? Should our public sector not aim to be an exemplar of employers? Should we not be raising the standard higher?

The arguments that I have heard are about the public and private sectors and the community and voluntary sectors. It is about choice and about giving the electorate —

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

**Mr McCallister:** Just one second.

It is about giving the electorate choice and giving those who want to serve the opportunity to do so. I will give way to Mr Wilson.

**Mr Wilson:** We now have a new twist in the argument. First of all, Mr McCrea said that this would increase turnout. We are now told that, if we do not do this, people "cannot stand". Those are the words; I noted them down. They are saying that, if we do not do this, people could not stand.

I stood for election to Belfast City Council for 28 years while being a teacher. Most people who stand for councils are in other jobs. So, do not present it as an argument that if we do not have this amendment to the Bill, people will not be able to stand for local councils. They are quite able to stand for local councils. Indeed, as Ms Lo indicated, she was working and was still able to stand for the Assembly. She simply had to do it in the evenings. By the way, if people are going to take on what is essentially a part-time job, they will have to get used to balancing their full-time job with their public representative commitment.

**Mr McCallister:** I am glad that Mr Wilson brought that up. I am sure that it is no surprise that the First Minister probably wishes that he had stayed in teaching.

The point that he makes is the very point that Mr McCrea and I have been making. Not everyone has the opportunity that was afforded to him. That is the very essence of this amendment. He was able to do that from a teacher's perspective. He stood for council, was successful and got elected. He was able to balance the two. The point of this is that not everyone is allowed to do that, because we are effectively banning certain categories of people from doing that. Also, the point that Mr McCrea was talking about that was that we are quietly telling people —

**Lord Morrow:** Will the Member give way?

**Mr McCallister:** In a minute, Lord Morrow. We are quietly telling people, "Look, I understand that, but it really would not be great. We would prefer that you did not do that." That sort of nod and a wink and closed shop scenario is a danger for our democracy. That is the argument: that we cannot be surprised when people get disillusioned with this Chamber and our councils when we do not give people who want to stand that choice to stand.

**Lord Morrow:** You nearly nailed it at the end there — do not give people the choice to stand. However, if you are a member of the House of Lords, you are not going to give them that choice.

**Mr McCallister:** Yes, because you are a member of the legislative Parliament of the United Kingdom. You are a member of the upper House. I notice that you support the ban on members of the Oireachtas standing. Are you in favour of that? Are you in favour of an elected second Chamber?

**Mr Speaker:** Order. Let us have remarks through the Chair. Let us not have a debate across the Chamber.

**Mr McCallister:** I remind the Member that, as an MLA, I am also banning myself from standing for council. I am talking about members of other public bodies. I think that the whole House will agree that that is significantly different from people who already hold an elected office or a non-elected appointment in a legislative Assembly or Parliament. Everyone accepts that, when we get into the term about double-jobbing, dual mandates or triple mandates, that is what is meant. This is completely different, as Lord Morrow well knows. If the DUP is so driven by this sudden, great, new-found urge for equality that it has

discovered today between the public and private sector, you have to ask why then, when Mr Wilson was Finance Minister, he did not try to do something to level up private sector pensions with the public sector, instead of probably dumbing down public sector pensions. Why do we have different levels of sick pay?

When Mr Elliott and I first stood for election, we were self-employed farmers. We were not entitled to any holiday pay at any point. We were entitled to statutory sick pay of about £60 a week or something. If a Member of the Assembly is sick, they get six months' full pay and six months' half pay. Suddenly, I am not hearing huge chants from the DUP about equality. There are differences between the public and private sector and the community and voluntary sector.

I will go back to Ms Lo's point. I happen to know, because I also served in that office, that Mr Swann resigned as president of the Young Farmers' Clubs of Ulster to facilitate standing as a candidate in North Antrim in the 2007 election. People make different choices, and it was his choice to do that.

#### 4.15 pm

What we are proposing with this amendment is to get out of the place we are in. It is a case of, "We're not sure you want to do that; we're not sure you want to get involved in politics. We might know privately how you vote, or your political affiliations, but we don't want somebody talking about it out loud. We don't want to see you in the local paper every week as a councillor or a council candidate." That is effectively what we are saying, and many people are being disenfranchised.

**Mr B McCrea:** Will the Member give way?

**Mr McCallister:** Yes.

**Mr B McCrea:** Does the Member agree that we are looking for an open, transparent system in which everybody knows where they stand, and one that encourages democratic participation, enhances the reputation of the political classes and tries to address the absolute cynicism in the public about this place, these politicians and the political body? If you do not do something, you will not have to worry about who is going to stand for politics, because there will be no politics in this place.

**Mr McCallister:** My colleague makes a valid point. That is the position we are heading to. Politics are not held in high regard. We want to

encourage people to take up the civic mantle, the part-time job that is not overly glamorous, well remunerated or any of those things. We are encouraging people to have a civic responsibility. I think that to say, somehow, that we should not let public bodies try to encourage that is wrong.

I support doing it for other things. If the question today was, "Should councils and public bodies support members of the Territorial Army getting time off to train and serve?", I would say, "Absolutely", and I know some private sector employers who facilitate that. That is a good thing. It is good for society, and it is good for democracy.

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

**Mr McCallister:** Yes.

**Mr Dickson:** I join the list of Members in the Chamber who were employed by a public body. When I sought permission from that public body to stand for election as a councillor, and it considered the matter, I was delighted that it allowed me to do so.

Equally, I know that questions were written and freedom of information requests were made about my paid status during my time as a councillor. I was entitled to time off. I had to seek permission from my employer to stand for election. The very thought that I should then be given unpaid leave — which actually has a value to it, because my employer was not getting any work out of me during that time — in order to campaign for a political party would have meant that the Members of Parliament, who were writing questions about Stewart Dickson's employment in the Labour Relations Agency and about whether he was getting any benefit by being a local councillor, would have gone through the roof.

I had a right to stand for election, and many civil and public servants, quite simply, in accordance with their contracts of employment, do not have that right. Traditionally, members of the Civil Service have had to resign their positions in order to stand for election, and they have no guarantee of re-employment if they are not elected.

**Mr B McCrea:** Is that not wrong?

**Mr Dickson:** No, it is not wrong. It is absolutely not wrong. It very clearly demonstrates that if I wish to stand for a political party, my employer has to give consent for that, and I have to do the campaigning in my own time. If I get

elected to a local council, I will work out the arrangements for the appropriate time — paid and unpaid leave — with my employer, in accordance with my contract of employment. Many employers in the private sector simply refuse to allow people to stand.

This is a nonsensical argument. It is perfectly reasonable to put strong argument to allow people in the public sector and elsewhere who are elected representatives in a part-time capacity to have appropriate resources to do the job, and for employers to be flexible in the amount of time that that person is contributing to their community, but it is highly biased and highly suspect to allow someone time off to campaign for a political party.

**Mr McCallister:** The real question that that raises is this: what would Mr Dickson's response have been if his employer had said no? Therein lies the problem that faces the Assembly today. What do we do with that? I will give way if Mr Dickson wants to respond.

**Mr Dickson:** I am happy to answer that question. The simple answer is this: I would have had to resign myself to the situation that I did not have their consent to stand for election, and I could not have done so; or I would have had to resign my position and look for a job somewhere else. *[Interruption.]* Yes. That is exactly what would have happened.

**Mr B McCrea:** Will the Member give way?

**Mr McCallister:** Yes.

**Mr B McCrea:** Will the Member allow me to educate Mr Dickson about the judgement in Ahmed and others versus the United Kingdom? It stated:

*"The Commission agreed with the applicants that the Regulations imposed far-reaching, inflexible and disproportionate restrictions on senior officers"*

despite allowing for the duties and responsibilities that they carried out. The only defence that was offered against article 10 of the European Convention on Human Rights is that the Government stressed the proportionality of the restrictions.

You cannot have a blanket ban. It is not correct to say that every civil servant should not be allowed to do it. That is absolutely wrong, and the Member misses the point of the argument on that issue.

What we are arguing for here is that we should make sure that it is open to all and everybody; it should not be at the whim of people. We want to encourage democratic participation. Where would we be, in this House, without the contribution of Mr Dickson? That is what we need to have, and we need more of it.

**Mr Speaker:** Let me just remind the House that Mr McCallister has the Floor. He decides whether he wants to give way.

**Mr McCallister:** I just want to back up my colleague's point. Had Mr Dickson not entered public life, it would have been a huge loss to the Assembly. I give way to Mr Dickson.

**Mr Dickson:** If Mr McCrea and Mr McCallister were making this argument with regard to the right of a public servant to stand for election in virtually all circumstances — I can think of certain circumstances where it would be totally inappropriate for senior civil servants to stand — and if they were arguing that public sector employers should allow people to stand for election, I would have no difficulty with it, and, indeed, in broadening that in accordance with what they are saying. However, that is not what is in front of us. What is in front of us is, "Can you have a holiday to stand for election?". I am not prepared to support allowing a holiday for a candidate to stand for election for a political party.

**Mr McCallister:** I am at least pleased that Mr Dickson accepts the principle. It is very important that at least some Members accept the principle that it is not wholly right and proper that there are people who are ineligible to stand for election. Certainly senior grades, and I understand that, in the Republic of Ireland, they tend to allow it according to pay grades.

However, the principle that, as a democratic society, we should encourage and facilitate as many people as possible to stand for election is good. It is a good thing that, in the case of Mr Dickson, he sought and got that permission. However, that goes to the very nub of the problem. Had Mr Dickson not been given permission, he would have been faced with a very difficult choice, of giving up a career or position with no great certainty about the future. That is difficult for people to do. That is why my party ended up supporting this amendment.

I accept that we do not appear to be garnering huge support in the House for the amendment, but it is important to place on record that we believe firmly that election and:

*"government of the people, by the people, for the people"*

is an important part of our democracy and that we should limit, where possible, the exclusions that we place on people from holding office.

We should get into a position where we are encouraging people to get into politics. As we try to drive politics into a normal place, we should encourage people to take up politics and civic responsibilities and to want to be on councils. We should facilitate that. I worry that, if we do not adopt this amendment, we will send out the very negative message that, "Because we cannot do this for you, we will stop it for everybody." It will end up with politics going, where it very often does in this place, into a zero-sum game.

**Mr Agnew:** For the sake of relative brevity, I state at the outset that, given that amendment Nos 2, 3, 4 and 18 seem to have consensus, I will not deviate from that. I note that the SDLP expressed some concerns about amendment No 3. My understanding is that they are about whether it is an issue for an environment Bill or a justice Bill. I think that I am right in saying that the Minister's party is happy with amendment No 3. I do not see any problem with it, so I will be happy to lend my support to those amendments.

Considerable concern has been raised, seemingly from across the Chamber, about amendment No 28. We have yet to hear the Minister's response, so I will await it before I decide which side of the fence I come down on.

I will speak on amendment Nos 1 and 23, which are the two that seem to have caused the most debate. Amendment No 1 is about whether it is appropriate for a peer also to be a councillor. There are three aspects, two of which have largely been discussed and one that has not. There is the question of remuneration and whether it is appropriate for someone to receive allowances as a councillor as well as the allowances that can be claimed as a peer, and whether that is the best use of public money. That ties in with the second issue, which is time: can you adequately fulfil both roles to the best of your ability? There is certainly an issue.

The point was raised about the differing levels of activity of our peers. I think that Lord Morrow said that there were some 1,000 peers, and there is no doubt that some will be more active than others. That will also be true of our councillors, even with their new increased role. In my experience, it has always been the case that there are those who treat their council role

as almost being full-time and, in some cases, more than full-time hours. There will be those who, because of other commitments, give less time to it, the nature of it being part-time.

A third issue has not been discussed, which goes to the heart of Green Party principles: power in the hands of the many versus power in the hands of the few. I do not want to make judgements on any individual in the House or on previous Members, but there have been cases of people holding multiple mandates. There is no doubt that, in the past, we had councillors who were MLAs or MPs, or MLAs who were MEPs and whatever else. It is about the concentration of power. It also touches on amendment No 23.

I very much believe that it is a good principle to work towards power in the hands of the many, which can happen through making this a genuine participative democracy. It can also be through ensuring that we entitle as many people as possible to participate in our democracy. I react against people holding multiple political mandates. I accept some of the arguments, such as councillors holding other jobs. In some cases, those will be full-time, quite onerous and high-level positions that will undoubtedly impact on the amount of time they can give as a councillor. However, the difference is that the House of Lords is a legislature and a political decision-making body; that perhaps goes back to Mr Allister's contribution. That is why I believe that you decide the level at which you work, and you should not work in a number of political institutions with different levels of power.

I wanted to make that point, because, although it had been alluded to by others, it had not been made explicitly. It is for that reason that I support Mr Allister's amendment No 1. It adds to the Bill along with amendment No 2 about public representatives in other jurisdictions. It completes the intent of the original Bill by ensuring that we put an end to double-jobbing in the political sphere.

#### 4.30 pm

There have been a number of different aspects to the debate on amendment No 23. I go back to Mr Maginness's point about whether this is the right place for this amendment given that this is a Bill that has come from the Environment Minister. Mr Maginness is more experienced in the political realm than me and, as a barrister, has plenty of understanding of the law. So, I may be incorrect, but my understanding is that, although the Bill was originally brought by the Minister of the

Environment, once it comes to this House, it is a Bill of the Northern Ireland Assembly and it is for us to legislate for amendments to be brought forward.

I agree that it would be wholly inappropriate for the Minister of the Environment to legislate for public bodies outside his Department without agreement from Executive colleagues. However, my understanding is that this House, as a legislative body, is perfectly entitled and empowered to legislate for a number of Departments regardless of the origin of the Bill. It will never remain on statute as a Department of the Environment Bill. That is its origin, but it will be an Act of the Northern Ireland Assembly and a piece of Northern Ireland law. In that respect, I believe that this is the appropriate place for the amendment. This is the Bill that we are discussing. It may not be the only vehicle or the most suitable vehicle, but it is the vehicle that we have to address a current issue. In that regard, it is a suitable vehicle.

As regards the principle of the amendment, we have to recognise that we have a problem. Mr McCrea gave a more exact figure, but we have close to 30% of people employed in the public sector. Another aspect that has not been mentioned is that women are more likely to be in the public sector. My experience, since I have been a member of the Green Party, is that a number of people whom we have approached, or who have approached us, about standing for election have been restricted because of their role in the public sector.

The first thing that we have to recognise is that we have a problem. It is possibly a historical problem. Politics was very divisive, and someone standing for election could be seen to be making a statement that could cause division in the workplace and affect the perception of an organisation, whether public or private. If you stood for a particular party, your organisation might be dubbed a unionist or nationalist organisation. Although those are legitimate political positions, in the past, given the level of violence that we had, it may have been undesirable for your organisation, whether public or private, to have those associations.

As part of the process of normalisation, we need to start challenging that mindset. There is no doubt that it exists in our public sector, our NGO sector and our private sector. The fact that this amendment might not do everything that we would want it to do is no reason not to support what it seeks to do. Opening up the ability to stand for election to more people is welcome. I see the amendment as having identified a problem. It is not the whole solution

but it might be part of the solution. For that reason, I welcome it.

There has been criticism — I do not know whether it comes simply from political commentators or extends to a considerable number of members of the public — of a kind of political class and that the way that you get elected is that you work for a political party and then you stand for election. I have gone through that process, so I do not want to say that that in itself is a bad thing, but I certainly do not think that it should be the only route to getting elected. I do not think that we want it to dominate our politics. As I said, it is not inherently bad, but we need diversity. We need people in our Assembly Chamber and our council chambers and each of our Parliaments from different backgrounds, and it should not be the only or the main route into political life that you have to go through the employment of politicians to some day become a politician. There are societal benefits in seeking to open up who can stand for election.

Undoubtedly, in some jobs, there will be a conflict of interest. I cannot speak for the proposers of the amendment, but perhaps that was part of the motivation for the three-week period of unpaid leave, which asks of the employer but also asks of the employee, who gives up a wage for that period. I think, to some extent, that could help to address perceived conflicts of interest. If you are not currently receiving money from a public body while you are campaigning, to some extent you are a step removed from the organisation. If you are receiving money from a public body and are seen to be standing for election, that might raise questions. Either way, I think that it raises problems because the alternative, of course, is that you can take paid holidays, but you are still tied to your employer. A three-week unpaid leave period could be seen as a career break, giving you a degree of separation from your employer.

I said at the outset that I am minded to support this amendment, and nothing has changed my mind. Perhaps we need legislation to achieve culture change. For me, it highlights the fact that we need to move towards a situation where it is assumed that, in any organisation, whether public, private or an NGO, you can stand for election and the burden of proof is on the employer to show that there is good cause for you not to have that freedom and that right, which, as Mr McCrea outlined, is afforded to us by article 10. The burden should be with the employer. No matter what job you are in, the assumption should be that you can stand for election unless the employer can meet the

burden of proof that there is a genuine rather than simply a perceived conflict of interest.

If we are going to deny such a democratic right, we should not do so without good grounds. It should not be on the basis of maybe a quiet word in the ear or the kind of pressure that can be applied by an employer. As I said, employees and workers should have that freedom unless their employer can prove that there is a good reason why that right should be withdrawn.

**Mr Wilson:** I was not going to speak in this debate at all until I drifted into the Chamber. It seems to be a trait in the Assembly that, if there are corny ideas to be put forward, we can be absolutely sure that that corner of the House will supply them. In fact, the more that I listened to the arguments, which were contradictory and flimsy, the more that I was convinced that I had to say something about this. If I am staying here this afternoon, at least I will have participated in some way.

The central argument from NI21 was that politics is not held in high regard, which was the reason for amendment No 23. I will not mention amendment No 1, because people know my attitude to it. I do not believe that it is impossible to do more than one job. In fact, as I have mentioned, for nearly all the time that I have spent in public life, I have had one, two or three jobs. As far as I know, it has not had any effect, although when I listen to Mr Agnew, I sometimes wonder whether it affected my teaching and whether any of the economics that I tried to teach him ever got through.

Even the proposer of the amendment admitted that he has two jobs. He sits here and he has a farm. Presumably, he has animals on that land. The USPCA has not yet been on to him about the neglect of those animals, so obviously —

**Mr Allister:** Me?

**Mr Wilson:** No, sorry. Before Mr Allister has a heart attack, I was talking about the proposer of amendment No 23.

The USPCA has not been on to him for neglect, so I presume that he looks after the farm and is capable of looking after the animals on it. I also presume that he is capable of coming in here, albeit that he does not do his homework too well because he is too busy looking after the calves that he has on the farm. Hence the kind of arguments that we have had today.

The argument for amendment No 23 is this —

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

**Mr Wilson:** Of course I will.

**Mr McCallister:** I was going to suggest that he should perhaps get himself some sort of pet. It would be very therapeutic for him.

**Mr Wilson:** He is encouraging me to take on another job. He criticises me for having two jobs and then says that I should get something else to look after.

The argument for amendment No 23 is that politics is not held in high regard and that, by supporting the amendment, that will be transformed. Turnout will go up, regard for public representatives will soar and public confidence in the political class will improve. If there was some justification in the arguments put forward, maybe the amendment would have been worthy of some note, but there has not been one shred of evidence given for any of that.

I note that everybody, apart from the chief executive or the directors of a public body, ought to be allowed to stand for election. Does that mean that the higher grades in Departments — people who are, for example, involved in drafting policy — should be permitted to stand? Should those who interface with politicians daily be permitted to stand? There does not seem to be any curtailment at all. In fact, even the language used — "chief executive or directors" — seems more relevant to councils than to many public bodies, certainly Departments. There does not seem to be any restriction.

There are good reasons for restrictions on the higher levels of the Civil Service standing for election. That is because of the kind of positions they hold, their daily interfaces with politicians and the work that they are involved in, whether it is drafting policies, proposing policies or putting forward ideas for policies. There is a good reason why there is that separation, yet this sloppy amendment does not appear to give any cognisance to that.

The second thing is that, if we make the changes proposed in the amendment, such as "offering unpaid leave" or:

*"actively seeking to overcome perceived conflicts of interest"*

somehow or other, that will magically transform people's view of politics. My contention is that

conferring further privileges on those who seek political office will do the exact opposite of increasing people's regard for politics; it will persuade them that there is a group of people who stand for political office and want to be cosseted and have privileges that would not be afforded to others.

#### 4.45 pm

For example, there are people who give just as much time in a voluntary capacity. I can think of people in the church that I attend who give as much time as any councillor would give doing good for their community, yet they would not be cosseted in the same way as the amendment proposes. So, I think that, leaving aside the cost, we have to be very careful when we ask for additional privileges. I know that Mr McCrea and Mr McCallister made much play about my argument about whether this should be extended across all sectors. Leaving aside the difficulties of extending it across all sectors, I believe that additional privileges will undermine the very things that Mr McCrea and Mr McCallister said would be improved as a result of this.

The connection between voter turnout and people being able to take time off at election time, whether paid or unpaid, seems to me to be rather tenuous, if it exists at all. Those of us who canvass will know very well that, when you canvass during the day — in the morning and the afternoon — it is often difficult even to find people in the house. You are canvassing empty houses.

**Mr Nesbitt:** They are just hiding from you.

**Mr Wilson:** It may well be. The leader of the Ulster Unionist Party has suggested that maybe people are hiding from you. Maybe that is what they do when he goes around the doors; I do not know. *[Laughter.]* However, the truth of the matter is that canvassing during the day is not really going to increase voter turnout and get more people flooding into the polling booths at election time.

The Member's second argument was that it would help those who are not engaged to become engaged. I have to say that, if people who do not participate or who are not engaged in elections can be pushed over the edge by having three weeks unpaid holiday coming up to the election, I would ask what their commitment to public representation is. Anybody who has been a public representative, especially at council level, will know — despite the image that might be portrayed, councillors

do work hard on the ground — that it requires being out almost every evening at residents' meetings, community meetings and all those kinds of things. If those who are disengaged from politics at present can be engaged only by —

**Mr Speaker:** I apologise for interrupting the Member, but I have been told that he is not being picked up on the broadcast, so perhaps he could bring his mic closer. *[Interruption.]* I have to say that Mr Wilson is normally picked up, no matter where he is.

**Mr Wilson:** That might be an advantage for the people who are listening to the broadcast.

**Mr McCallister:** Are you going to go back to the start?

**Mr B McCrea:** Will the Member give way?

**Mr Wilson:** Yes, I will give way.

**Mr B McCrea:** I just want to know whether you are going to start again because we missed the beginning of the contribution, and I am sure that it is really worth listening to.

**Mr Wilson:** Given that, like a pair of bad schoolboys, they have been sitting chatting at the back of the room the whole time that I have been speaking, I doubt that they are too worried about what they have missed or what they are going to miss in the remarks that I have to make.

If those who are disengaged from politics can somehow or other be engaged simply by having three weeks off coming up to the election, the truth of the matter is that, once they get down to the hard work of being a councillor and public representative, when they will not have time off but will have to do it in conjunction with their current job, they are not going to make very good public representatives and are not going to stay the course for too long. Mr Agnew said that at least they would not be getting paid during that period, and that that might, in some way or other, enable them to make a justification to the public that, "I am not doing this just for the free holiday or whatever". The important point is that, if that is what people need as an incentive, I do not believe that they will stay the course.

The other point made in defence of this is that it would attract people who currently cannot be attracted to be public representatives. Mr Dickson made the point for me anyway, but I have to say that in most cases — apart from the

higher echelons of the public sector, where we probably would not, for very good reasons, want to permit those people to stand for election anyway — there are no restrictions that are insurmountable, at present anyhow, for those who wish to stand for public election, whether they work in the public sector or the private sector.

The argument made was that sometimes employers will not like people standing for election because of the adverse publicity that it might attract and the stigma attached to it. If that is the reason why an employer would not be happy with somebody standing, the added disadvantage that anyone who wishes to stand for election will not be presenting themselves at work for three weeks makes it even more difficult and presents yet another barrier as to why employers might not wish people to stand. Anyway, it is not the election campaign that may put employers off. It is what comes afterwards, when those employees who become public representatives perhaps find themselves embroiled in whatever controversies people may be embroiled in once they get into a public forum.

I do not believe that this amendment even addresses the problems that the Members who put it forward suggested. If anything, it would make the situation even worse. It would once again reinforce the minds of those who believe that all of us are involved in politics for selfish reasons — that people who stand for election do it only because it confers special privileges on them. Within the workforce, it would cause resentment — and I am not even going to deal with the argument about the inequality of not having this extended across all sections of employment or whether it should initially be kept to the public sector.

I do not think it is a good or well-thought-out amendment. It is certainly not an amendment that any argument has been put forward in defence of. Mr Agnew, talking about the first part of the amendment and the double-jobbing, as he referred to it, said that he did not like to see the concentration of power in fewer and fewer hands. He made a distinction between people holding more than one position of public office and people who had other jobs. An even more toxic concentration of power would be the one that he appears to support, in which people in the higher echelons of the public sector are permitted to stand for election. If elected, those people would be in charge of, and working in, Departments where they would be drafting laws and doing all of those kind of things. At the same time, they would be public representatives and would be voting on those

things and making representations on what those laws should look like. That is a much more toxic concentration of power than the one that he condemned. He advocates a situation where Lord Morrow, who is a member of one of the most exclusive retirement homes in London, is not allowed to stand for the local council. I am sure that Lord Morrow would contest that, though I notice that he has not so far. The situation that I described is a much more toxic concentration of power than the one that exists when people hold two positions of elected office. That is why I cannot understand the logic behind his support for that part of the amendment.

I have no doubt that the amendment will be overturned, as it properly should be. If the proposers of this amendment have some respect for the House, and the kind of issues put forward in it, they ought to think a bit more before putting forward the kind of nonsense that we have heard here today, and for which they have given very little defence.

**Mr Durkan (The Minister of the Environment):** Before I offer my view on the proposed amendments to the Bill tabled by the other parties, with your permission, I will deal with my amendments in this group. Some specifically address issues that have arisen as a consequence of the amendments agreed at Consideration Stage.

At Consideration Stage, the three amendments relating to the provision of an appeal mechanism in the ethical standards framework, as proposed by the Environment Committee, were accepted. They included a provision for an appeal to the High Court for persons who are censured, suspended or disqualified as a result of a report by the commissioner and a provision that identifies the grounds upon which an appeal can be made.

An amendment was also made to provide for an appeal to the High Court for those persons who are suspended, or partially suspended, by notice as a result of an interim report. However, the grounds for an appeal were not specified. Therefore, amendment No 18 will provide the grounds for an appeal. The amendment will specify that such an appeal, following an interim report, can be made by a person against their suspension or partial suspension or against the length of that suspension or partial suspension.

The Bill, when introduced, stated that the new ethical standards framework, relating to the investigation and adjudication, was to be the responsibility of the Northern Ireland

Commissioner for Complaints. With the provision of an appeal to the High Court now included as part of the ethical standards framework, the constitutional position of the commissioner is called into question. That issue was raised and discussed at length at Consideration Stage.

I am committed to the early establishment of the ethical standards framework, but I am also mindful of how the current provisions affect the constitutional position of the commissioner. Mr Weir asked why amendments were not just brought forward at this stage to separate the investigation and adjudication elements of the ethical standards framework. Unfortunately, this is not just a simple matter of adding an enabling power or substituting the words "Commissioner for Complaints" with "adjudication panel" on the face of the Bill. We are talking about substituting a fundamental element of the new ethical framework.

Setting up an alternative adjudication framework will require further policy development and consideration of how the adjudication will be carried out, including the setting up of an adjudication panel and case tribunals to deal with individual cases; how an adjudication panel would be set up, including such issues as recruitment, membership, qualifications; and the additional costs of a new framework and how it will be funded. I will also need to liaise with the Courts Service and the Department of Justice, particularly on the interface between the adjudication panel and the High Court and the arrangements for appeals. I will need to consult on the new framework, and, of course, all that will be subject to the consideration of the Executive.

#### 5.00 pm

This is an important part of the ethical framework, and it is essential that we get it right. It was not possible, between Consideration Stage and Further Consideration Stage, to fully scope out all the issues to ensure that any amendments were appropriate and comprehensive. Therefore, Mr Speaker, I intend to bring forward a further Bill — a much shorter Bill — to provide for a separate adjudication process within the ethical standards framework, which will be outside the remit of the Commissioner for Complaints. The commissioner will still retain responsibility for receiving all complaints and undertaking all investigations. Subject to Executive agreement, the new Bill will establish an independent body with responsibility for adjudications within the ethical standards framework. It will make provision for the

appointment, terms of office and qualifications of members. It will specify the manner in which the adjudication process will be undertaken. The additional costs to set up and operate the new body will also be addressed. I remind Members that, as I stated at Second Stage, the ethical standards framework was to be reviewed in three to four years' time. Following the proposed introduction of a separate adjudication provision, I would still intend to review the framework.

I turn now to amendment No 28. At Consideration Stage, the House accepted an amendment brought forward by the Committee for the Environment to make provision for regulations to provide for the procedures for the allocation of membership of a committee specified in schedule 2 to apply in the circumstances where a council decides to appoint more than one committee. I reiterate the support that I expressed during Consideration Stage for the principle underpinning that provision standing part of the Bill. However, again, as I stated during that debate, I consider that it would be more appropriate to provide for the necessary arrangements to be specified in a council's standing orders, just as the provisions relating to the membership of Committees of the Assembly are specified in our Standing Orders. That is the purpose behind my tabling the amendment. In my view, the use of standing orders provides for greater flexibility in specifying the detail of the arrangements. I assure Members that, in adopting that approach, I do not intend leaving it as a matter for individual councils, as I am aware of the potential that that would create for the development of an inconsistent application across councils. The provisions will be specified in regulations as a mandatory element of a council's standing orders using the power provided for my Department in that regard by clause 37.

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

**Mr Durkan:** Certainly.

**Mr Weir:** I listened to the Minister on that point and I am a little confused. The Minister seems to accept that we need to have something that is standardised on this issue. If the idea is that regulations are going to be put through, which would then make it mandatory in a particular prescribed form in standing orders, I wonder why there is a need to amend in the first place. Surely, the regulations could permit that in standing orders. It seems to me, at best, a meaningless amendment or, at worst,

something that opens up the opportunity for a wide range of diverse applications. It seems to me to be almost trying to avoid making the regulations specific, for no good reason.

**Mr Durkan:** I am not doing it for the craic. I thank the Member for his intervention. The rationale behind the amendment is to provide for all the issues that are to be mandatory elements of a council's standing orders, most of which relate to governance, to be covered in a single set of regulations, which would be clearer for councils. It will be part of the mandatory standing orders. My colleague Mr Maginness spoke earlier of councils then having flexibility. They will be able to add to what is mandatory. However, they will not be able to take away anything that is. I appeal to Members to support my amendments.

I move on to the amendments proposed by other political parties. Amendment Nos 1 and 2, tabled by Mr Allister, seek to add to the list of legislatures of which membership would disqualify a Member from being a councillor. Amendment No 1 seeks to add the position of a member of the House of Lords to the list. The House of Lords, as the second Chamber of the UK Parliament, clearly has a significant role to play in the scrutiny and passage of legislation that could and does apply to Northern Ireland and, in certain circumstances, to the operation of councils here. The Bill will disqualify councillors from holding the position of MLA, MP or MEP to address the conflicts of interest that could arise if those institutions were considering matters that would impact on the operation of councils. Therefore, I see no major difference in the position of members of the House of Lords and, in principle, I certainly support amendment No 1.

**Lord Morrow:** Will the Minister give way?

**Mr Durkan:** Certainly.

**Lord Morrow:** Does the Minister see the significance of keeping Northern Ireland, which is a region of the United Kingdom, on the same par as the rest of the United Kingdom on this issue? Why should this part of the United Kingdom be fundamentally different to the other regions of the United Kingdom? Can he give the rationale behind that?

**Mr Durkan:** I thank the Member for his intervention. I wonder whether the Member can tell us why this part of the United Kingdom, as he puts it, should be fundamentally different from the other parts on other issues as well,

one of which — equal marriage — was referred to earlier by a Member sitting behind me.

There could be less obvious conflicts of interest from being a member of a legislature that has no jurisdiction over councils in Northern Ireland. The awarding of a significant contract, for example, in one jurisdiction could bring benefits to a council in another jurisdiction. For that reason, I also support, in principle, amendment No 2, tabled by Mr Allister.

Amendment No 3, tabled by Mr Elliott and Mr Kinahan, seeks to effect a change to the Justice Act (Northern Ireland) 2011 on membership of a policing and community safety partnership. The amendment would disqualify a councillor from putting his or her name forward to be an independent member of such a partnership. I understand the rationale behind the amendment, and Mr Elliott pointed out a few recent examples whereby, rather than a councillor becoming an independent member, independent members were being co-opted onto councils. However, that would lead one to question how independent those members were in the first place. This latest amendment seeks a change, not to the Bill but to an Act introduced by the Minister of Justice and agreed by the Assembly. The proposed change, through the amendment tabled by Mr Elliott, would take place without proper consultation with the Justice Committee and other stakeholders. Therefore, I urge Members not to support this amendment. However, I sympathise with the rationale behind it. It is a worthy proposal, but just not here.

To some degree, I can understand the rationale for amendment No 4, tabled by Mr McCallister and Mr McCrea, on the specification of those offices and employments in a council that would continue to act as a disqualification condition for an employee being elected or being a councillor. Although the provisions removing the blanket prohibition on council employees being councillors in the Bill will not come into effect until after the forthcoming elections, the provision of early clarity for employees and political parties will be important. My officials are preparing advice for my consideration on the offices and employments to be specified in the relevant order.

The proposed amendment, however, does not recognise the time frame needed for the making of an order, particularly one that is to be subject to the draft affirmative procedure in the Assembly. Following my consideration of the advice provided by officials, a full public consultation on the draft order will be required prior to scrutiny by the Committee for the

Environment. It will be only at that stage that the draft order can be scheduled for debate in the House. More than six months is needed to ensure proper consultation and Assembly scrutiny. For those reasons, I urge Members not to support the amendment.

**Mr B McCrea:** Will the Minister give way?

**Mr Durkan:** Certainly.

**Mr B McCrea:** I did say that a lot of issues need to be considered in the discussion. Perhaps, if there were some indication on that point about the breadth of that, it might go some way to ensuring that we could have a proper discussion. In particular, I am interested that the Minister is saying that there will be affirmative rather than negative resolution. After consultation, does he plan to bring those matters to the Floor of the House for debate because not all of us are on the Committee?

**Mr Durkan:** I am happy to have as wide a debate as possible. As regards discussion — I was going to come to that when I address a further amendment — it is very important that we have it. Earlier, during his speech or one of his few interventions, Mr McCrea mentioned the need for such a wide discussion on how we move that issue forward. Mr McCrea quoted me from the debate on the previous stage of the Bill when I emphasised the importance with which I view maximising participation in elected politics and democracy in general. I think that we all share that view in the House. I suggest perhaps even setting up a working group on that very issue.

I am afraid that I cannot recommend support for amendment No 23 either, which was tabled by Mr McCallister and Mr McCrea, on placing a duty on a public body other than a council to support employees who seek election to council. That is clearly a matter for each public body to consider in its own terms and conditions for employees. The introduction of such a duty would need to be the subject of consultation. However, I reiterate that we need to look at how we can maximise participation in that process. It is important that we talk to employers from the public, private and voluntary sectors about how they do that. We need to make politics attractive to people. We might have a more difficult job making politicians attractive to people, but we have to make politics attractive. That is some of the rationale that informed my consideration of councillors' remuneration. There is also work to be done with the media on that issue because

they are determined to scare people away from public office.

**Mr B McCrea:** Will the Minister give way on that point?

**Mr Durkan:** Certainly.

**Mr B McCrea:** My colleague, Mr McCallister, indicated that we understand that there is not universal support for amendment No 23. However, I think that there is general support for the discussion and the principles. Will the Minister consider a working group or some other way to deal with the issue? I think that it would be good for a cross-party group to take that on board. I agree with the Minister that we need to explain certain facts to the media. We need to engage in that area because it is important. Perhaps the Minister could clarify how we might take forward something on which we appear to be in agreement. That would be helpful.

**Mr Durkan:** One issue that we need to be mindful of while doing that is our competence: what we can do within the competence of the Assembly. I know that one of my colleagues, and perhaps another, who contributed earlier questioned whether it was in my remit as Minister of the Environment to specify what other public bodies can do.

What I can tell the Member is that I have received legal advice —

**Mr B McCrea:** You have?

**Mr Durkan:** Yes. The advice is that the amendment relates to elections and is therefore not a matter that falls within the competence of the Assembly.

**Mr B McCrea:** Will the Minister give way on that issue?

**Mr Durkan:** Yes.

**Mr B McCrea:** We keep hearing about this legal advice. When will we challenge that legal advice? Some faceless person comes along and says, "I think this, that and the other." Surely to goodness this is a legislative Assembly. Whatever it is, why do we not occasionally take a risk and just legislate and see what happens?

**Mr Durkan:** I thank the Member for that further intervention. *[Interruption.]* I think, however — *[Interruption.]*

I think that I have demonstrated previously that I do not always take the legal advice that I receive.

In the short term, Mr McCrea specifically raised the issue of an Invest NI employee who had been told that he or she could not run for council because there might be potential conflicts of interest. One way round that might be if you get him or her to run for election in the north-west, because Invest NI has little or no interest there. *[Laughter.]* In fact, there are some areas of my constituency, Mr Wilson, where you can canvass during the day and get everyone in. *[Laughter.]* Given the legal advice that I have received and the other issues that I and other Members have outlined, I cannot support that amendment either.

**5.15 pm**

**Mr Allister:** I am grateful for the relative support across the House for amendment Nos 1 and 2. As I said this morning, there is an intrinsic link between the two. The link is that, like the list already in the Bill of MLA, MP and MEP, it completes the circle of the common denominator of exclusion, as a qualification, in regard to being a member of a legislature. That is the fundamental logic of excluding an MLA, an MP or an MEP. The same logic inevitably applies to the other legislatures in the nation and other legislatures of which people could be a Member, yet, under present law, be qualified to be a councillor. There is an intrinsic link.

The only serious voice of dissent on the matter came from Lord Morrow. He lamented the fact that this is some significant departure from how things are done in the United Kingdom. I have to say this to Lord Morrow: where has he been? Has he ever looked at this House when it comes to departing from how things are done in the rest of the United Kingdom? We only have to look at the fact that, in this House, we are not even allowed an opposition and, in this House, we have a mandatory coalition, so the people do not have the right to even vote a party out of government, to discover just how distant we are from the standards in the rest of the United Kingdom.

Sometimes, it reminds one of the ease with which some swallow the camel but strain at the gnat. Here is Lord Morrow, chairman of a party that swallowed the camel of mandatory coalition and a guaranteed place for Sinn Féin in government, yet he tries to make this an issue, as if he is a great defender —

**Lord Morrow:** Will the Member give way?

**Mr Allister:** In a moment.

He spoke as if he is a great defender of fundamental constitutional arrangements in Northern Ireland, when he has played his part in subverting them, as is evident in the perversion of democracy that we have in this House.

**Lord Morrow:** I thank the Member for giving way. I think the point that Mr Allister is trying to make here today is that two wrongs make a right. What he is actually saying is that this House has departed from fundamental values and no longer cherishes its position within the United Kingdom. He is saying, "Since this House has done those things, I will go further now. I will further alienate Northern Ireland from the United Kingdom by ensuring that no one can sit in the House of Lords and sit on a council at the same time". If all the issues that he raised are right, why is he bent on taking it further? I would have thought that he would be the last person in the Assembly to go down that road. As I said, I would have expected that from Sinn Féin, but I certainly did not expect it from Mr Allister.

**Mr Allister:** I am saying none of the things that the noble Lord seeks to ascribe to me. I am saying that it is a bit late for Lord Morrow to worry about preserving the integrity of governmental arrangements in this part of the United Kingdom when he has been a party to subverting those arrangements, as evidenced in this House. What I say to the House is that we need to extend the inevitable logic of saying that you cannot be a councillor and a legislator in another place. It has nothing to do with constitutional arrangements; it is to do with double-jobbing, and that is the mischief that is being addressed.

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

**Mr Allister:** Just a moment. That is the mischief that is being addressed. I know that Lord Morrow has been, in his time, a triple-jobber: two legislatures and a council. However, I think that even he recognises that the time has arrived in politics when that is no longer tolerated by the public and that we need to bring this matter into line, as the amendments will do through extending what the Bill already seeks to do.

**Mr Wilson:** I thank the Member for giving way. May I take him back to when he was swallowing camels a moment ago? Does he not accept

that he is just as much part of this establishment, which has Sinn Féin Ministers in the Executive? He questions Sinn Féin Ministers; he sits in Committee with Sinn Féin Members; he talks to those Sinn Féin Members in Committees when he has to discuss the issues; and he is here discussing legislation with Sinn Féin Members present. When it comes to swallowing camels, he already has both humps down his throat.

**Mr Allister:** I have seldom heard a more fatuous point. Here I am, a Member of the House elected on a mandate to oppose and not facilitate Sinn Féin, unlike some who made a career out of attacking others who had facilitated Sinn Féin. They were going to be the tough guys who would never accept mandatory coalition and never facilitate Sinn Féin. Yet it is courtesy of them that Sinn Féin sits and is sustained in government in Northern Ireland. The people of Northern Ireland know that, when Jim Allister stands in the House, he is not a facilitator of Sinn Féin; he is an opposer of Sinn Féin. The key determinant is who sits in government with Sinn Féin, not who sits and practises opposition to Sinn Féin.

**Mr Speaker:** Order. We are well outside what is to be discussed this afternoon — the amendments. That goes even for interventions, from wherever they may come. Interventions must be close to the Bill and particularly the amendments.

**Mr Allister:** I am sorry, Mr Speaker. It is not the first time that I have been misled by the DUP. *[Laughter.]*

**Mr Wilson:** I take it that such will be the Member's disdain for Sinn Féin that, when it comes to support for his amendment No 1, he will tell Sinn Féin that he does not wish to walk through the Lobby with them.

**Mr Allister:** I thought that the last intervention was fatuous. Whatever the next extension of fatuous is, that was this one. It is an absolutely absurd proposition, and it is really scraping the bottom of the barrel of attempted argument to say that, because Sinn Féin says that the sky is blue — maybe not today — I should say that it is red. Let us be real: I will vote according to my conscience. The interesting thing will be how the DUP votes on amendment No1. Mrs Cameron told us that she had reservations about it but the DUP was not for dividing the House on it. Then, Lord Morrow, after whatever trouble he had in Armagh this morning, comes into the House and furiously tells us that he will divide the House. We will see, but I will

certainly walk through the Lobby as I always do: not dictated to by a party Whip or to facilitate colleagues in government but according to my conscience.

**Mr McCallister:** I thank the Member for giving way. I thought it important to clarify that the camels that the DUP is now swallowing were never on my farm. *[Laughter.]*

**Mr Allister:** I will return directly to the issues. I commend amendment Nos 1 and 2 to the House. They are complementary in presentation and logic. Just as I would not suggest for one minute that the DUP wants to allow TDs to be councillors because it did not table an amendment to prevent that, as I have done, I think that it is disingenuous for Lord Morrow to suggest that, by tabling an amendment to complete the circle of logic on the basis of not having double-jobbing in the House of Lords and the council, I am in some way selling the pass. I think that anyone inside or outside the House knows who has sold the pass.

*Question put, That amendment No 1 be made.*

*The Assembly divided:*

*Ayes 59; Noes 31.*

## AYES

*Mr Agnew, Mr Allister, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mrs Cochrane, Mr Copeland, Mr Cree, Mr Dickson, Mrs Dobson, Mr Durkan, Mr Eastwood, Mr Elliott, Dr Farry, Ms Fearon, Mr Flanagan, Mr Gardiner, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Kennedy, Mr Kinahan, Ms Lo, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr McCallister, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Ms McCorley, Mr B McCrea, Dr McDonnell, Ms McGahan, Mr McGimpsey, Mr McGlone, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Milne, Mr Nesbitt, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mrs Overend, Mr P Ramsey, Mr Rogers, Ms Ruane, Mr Sheehan, Mr Swann.*

*Tellers for the Ayes: Mr Allister and Mr McCallister.*

## NOES

*Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Campbell, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Mr*

Easton, Mr Frew, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr McCausland, Mr I McCrea, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wilson.

Tellers for the Noes: Mr McQuillan and Mr G Robinson.

Question accordingly agreed to.

Amendment No 2 made: In page 2, line 8, at end insert

"(e) the legislature of any other country,".— [Mr Allister.]

### **New Clause**

Amendment No 3 made: After clause 3 insert

### **"Disqualification of councillors for being independent members of policing and community safety partnerships**

**3A.**—(1) *The Justice Act (Northern Ireland) 2011 is amended as follows.*

(2) *In Schedule 1, in paragraph 9 (disqualifications) after sub-paragraph (2) insert—*

"(2A) *A person is disqualified for being an independent member of a PCSP if that person is a councillor.*"

(3) *In Schedule 2, in paragraph 9 (disqualifications), after sub-paragraph (2) insert—*

"(2A) *A person is disqualified for being an independent member of a DPCSP if that person is a councillor.*".— [Mr Elliott.]

*New clause ordered to stand part of the Bill.*

### **Clause 4 (Power to exempt offices and employments from disqualification)**

Amendment No 4 made: In page 2, line 14, at end insert

"(2) *In section 4 of that Act, after subsection (1) insert*

"(1A) *The Department must by 30 September 2014 make an order under subsection (1)(a).*".— [Mr B McCrea.]

### **Clause 14 (Disqualification for membership of committees)**

**Mr Speaker:** We now move to the second group of amendments for debate. With amendment No 5, it will be convenient to debate — [Interruption.] Order, Members, Order — amendment Nos 22, 24 to 27 and 30 to 34. I call the Minister of the Environment to move amendment No 5 and to speak to the other amendments in the group.

**Mr Durkan:** I beg to move amendment No 5: In page 6, line 11, after "Section" insert

"6 of the Local Government Act (Northern Ireland) 1972".

*The following amendments stood on the Marshalled List:*

No 22: In clause 111, page 63, line 17, at end insert

"(2C) *The Department must within two years of the making of an order under paragraph (2A) lay before the Assembly a report on the operation of any transitional rate relief scheme under that paragraph including—*

(a) *the Department's assessment of the likely or actual percentage increase in district rates payable by ratepayers in each affected district as a consequence of the termination of the scheme; and*

(b) *consideration of possible further mitigating measures.*" — [Mr Elliott.]

No 24: In clause 125, page 70, line 17, leave out "and 123" and insert ", 123 and 126".— [Mr Durkan (The Minister of the Environment).]

No 25: In schedule 1, page 78, line 22, leave out "nomination is made" and insert

"*member is nominated or elected, as the case may be,*".— [Mr Durkan (The Minister of the Environment).]

No 26: In schedule 1, page 78, line 26, after "nominated" insert "or elected".— [Mr Durkan (The Minister of the Environment).]

No 27: In schedule 2, page 79, line 21, at end insert

"(6) If the figures given by sub-paragraph (5) in relation to two or more parties are equal, the nominating officer of whichever of those parties is the party for which the greatest number of first preference votes was cast at the last local general election is to be treated as the nominating officer of the party with the greatest remainder for the purposes of sub-paragraph (4), then the nominating officer of whichever of those parties is the party for which the next greatest number of first preference votes was cast at the last local general election and so on."— [Mr Durkan (The Minister of the Environment).]

No 30: In schedule 9, page 93, line 8, after "6" insert

"of the Local Government Act (Northern Ireland) 2014".— [Mr Durkan (The Minister of the Environment).]

No 31: In schedule 10, page 93, line 27, leave out "Schedules 1 and" and insert "Schedule".— [Mr Durkan (The Minister of the Environment).]

No 32: In schedule 10, page 93, line 29, leave out "6,".— [Mr Durkan (The Minister of the Environment).]

No 33: In schedule 10, page 94, line 6, leave out "and (3)".— [Mr Durkan (The Minister of the Environment).]

No 34: In schedule 10, page 94, leave out line 29.— [Mr Durkan (The Minister of the Environment).]

**Mr Speaker:** I ask Members to leave the Chamber quietly. [Interruption.] Order. The Minister must be heard.

**Mr Durkan:** The amendments in this group are mainly technical. However, there is one financial amendment in the group, tabled by Mr Elliott and Mr Kinahan, which I will speak to first and which I urge Members to oppose.

As part of the Executive's funding package of £47.8 million, which was agreed in 2013, a commitment was given of up to £30 million to cover the cost of rates convergence following the creation of the 11 new councils in 2015. Clause 111 amends the Rates (Northern Ireland) Order 1977 to provide, by subordinate legislation, a transition scheme for rates convergence that distributes that funding to ratepayers who otherwise would face sudden and excessive increases as a direct consequence of local government reform.

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

Amendment No 22 would place a duty on the Department of Finance and Personnel to lay a report, two years after subordinate legislation is made, that should include that Department's assessment of the likely or actual percentage increase in district rates payable by ratepayers and considerations of possible further mitigating measures. In my opinion, the amendment is ill advised. It requires DFP to assess the likely or actual increase in district rates once the rates relief scheme has terminated. There are varying factors that determine the level at which councils set their rates, including the budget required to deliver on the business plans agreed by elected members, efficiencies —

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

**Mr Durkan:** Certainly.

**Mr Wilson:** Does the Minister agree that, if amendment No 22 were passed, it could allow for very lax financial management in councils, and the excuse could then be given that these are transition costs rather than lax management of the budget by councils? It would remove any kind of financial discipline from councils, if the amendment were to be allowed to go through.

**Mr Durkan:** I thank the Member for that intervention. I certainly agree with him. That is one of the fears that we have and one of the reasons why I urge Members to oppose the amendment.

Other considerations or factors that account for the rates set by councils are efficiencies that they, hopefully, will have found and the potential that they have to use their resources, reserves and borrowings to finance plans. The rates relief scheme will not be one of those factors. It should have no impact on the setting of the district rate, as any relief will be paid not to councils but directly to ratepayers.

The commitment of £30 million by the Executive was made on the basis that this would provide a period for the new councils to bed in and start to make the real savings that the reform of local government can and should bring. The amendment proposes that further mitigating measures should be considered. I believe that that is the wrong direction of travel. Local government reform is about giving councils greater powers and independence. With that comes greater responsibility and accountability. Councils need to take responsibility for their spending decisions and be accountable to their

ratepayers for those decisions. Further intervention from central government would not encourage that, and it will be for local government to consider what measures it needs to take to mitigate unacceptable increases in the district rate.

Furthermore, the amendment assumes that the ratepayer should be protected at the expense of the taxpayer, as if taxpayers' money is somehow free. The Executive face further challenges, with ever greater demands from a reducing Budget, and expecting yet more subvention for local government would be a tall order. I, therefore, urge Members to oppose this amendment.

As I have stated, the remaining amendments in the group are minor technical amendments required mainly as a result of changes following Consideration Stage. I shall, therefore, be brief. At Consideration Stage, amendments were agreed in relation to appointments to a cabinet-style executive or, as a representative on an external body, being excluded from the annual selection.

However, the Consideration Stage amendment would apply only if the d'Hondt or Sainte-Laguë methods are used to allocate positions of responsibility. Amendment Nos 25 and 26 ensure that those arrangements will also extend to the single transferable vote (STV) method, should it be adopted by a council for the sharing of positions.

#### 5.45 pm

Schedule 2 specifies the procedures to be followed for the allocation of committee places across the political parties on a council. Amendment No 27 seeks to provide clarity by providing the means of determining the order of selection for the filling of any unfilled committee places, if the remainders for two or more political parties are equal and the number of unfilled places is less than the number of such parties. The order of selection will be on the basis of the number of first preference votes cast for each of the relevant parties at the last election.

Those are the group 2 amendments.

**Mrs Cameron:** I will speak on the financial and technical amendments in group 2, and I will be brief. I am content to support amendment No 5 proposed to clause 14 by the Minister, as it is a technical amendment by the Department and is required as a consequence of clause 5, the penalties for acting as a councillor while

disqualified, having been opposed at Consideration Stage.

I am not minded to support amendment No 22, as I believe that the arrangements for managing rates convergence are transitional, and to hold out a promise of further measures and considerations might give false hope to ratepayers and councils alike. I would rather that the responsible bodies would address the matter promptly without the need for further considerations to be given.

I am happy to support the technical amendment Nos 24 to 27 and also amendment Nos 30 to 34.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom labhairt i bhfabhar na leasuithe sa ghrúpa seo, agus ba mhaith liom cúpla focal a rá. I will speak in favour of the amendments in group 2. Most of them are technical, but I want to say a few words on amendment No 22. The Minister has asked us not to support it. Members are speaking on the amendment without having heard the debate or the rationale behind it. Clearly, you can read the wording of the amendment and understand what it expresses. I will listen to the proposers of the amendment when the time comes for them to speak and argue for it.

We are moving into a new dispensation. There has been a lot of discussion about rates and rates convergence, and this also happened in Committee. The amendment places an onus on the Finance Minister to prepare a report and a scheme. I will listen to the arguments against that, but, at the minute, my party proposes to support it. Given that we are moving into new local government arrangements, there are concerns about rates convergence, and, at this point, we have no opposition to the amendment.

**Mr Wilson:** First, does the Member accept that this is a transition scheme? To have it perpetuated for longer than the transition period seems a bit odd. Secondly, if councils do not take decisions to make the savings that are available to them as a result of the amalgamation of councils and new council structures being set up, that cost should not then fall on the Executive's Budget. Councils should bear the consequence of that. The amendment encourages councils to decide not to make the savings that the new councils are capable of because they know that there is a safety net. At the end of the period, they will come back and look for more money from the

Executive rather than make the decisions that they should make during the transition period.

**Mr Boylan:** I thank the Member for raising the point, and I agree with him. I want to listen to the arguments. We have an initial view on it. The Bill is about empowering local government. If you are saying that its premise is that it is a get-out clause for them, questions certainly have to be asked about going down that route in the first place.

We heard arguments earlier about camels, animals and selling land. I am glad that the Speaker brought it back to the Local Government Bill. The Bill is about empowering local authority. You asked me a question. I will listen to the rationale from the Members pushing the amendment forward, and we will see then. As I said, however, my initial thought is to oppose it. I do not see any harm in the Minister having to bring forward a report. The issue was discussed over a long period at Committee Stage. The rates convergence issue is a major one for some local councils. I will certainly listen to the arguments.

That is the only issue that I see in this group of amendments. I am supportive of all the technical amendments and those that are a consequence of the previous stage of the Bill.

**Mr Eastwood:** I said in the debate on the previous group, somewhat optimistically it turns out, that we could be moving through this a lot more quickly than some had suggested. That does not seem to have materialised. In this group, we will be supporting the ministerial amendments. I do not think that I am allowed to say anything different. They are largely technical.

The issue that has been discussed is to do with amendment No 22. It is clearly well meaning, but it may have an effect that was not envisaged when it was written. The Minister and Mr Wilson have made the case very well that support for the amendment would be ill advised. The report has been talked about. I do not see a problem with anybody bringing forward a report. The difficulty is with clause 111(2C)(b), which talks about "possible further mitigating measures".

Local government reform is about empowering councils. When you get new powers, you have to take new responsibilities. There will be a substantial transitional fund for councils to ensure that people are not hit with the difficulties that will be created around rates convergence. However, as has been pointed out, there is no excuse for that to continue;

there is no excuse for taxpayers to be forced to bail out ratepayers. Councils need to take responsibility for their own finances.

The rate relief scheme was mentioned, but that is paid directly to householders and ratepayers. It is not paid to councils, so I do not quite understand how that would have any impact on the finances of councils. As the Minister said, budgets need to be set. When councils decide on what kind of priorities they have, they have to be mindful of their capital reserves and borrowing situation.

There are so many situations around this, but the bottom line is that councils have to continue to become responsible for their own financial situations. Saying, "You might get it wrong here, but we're just going to come in and bail you out" would be a bad legacy to leave them. It would be a mistake. We need to encourage and empower councils and hold them to that responsibility. I think that councils will be well capable of doing that.

**Mr Elliott:** Most of the discussion so far has been on the Ulster Unionist Party amendment No 22. I am quite happy to discuss that. The other amendments are quite technical from the Department.

I listened to the arguments mainly against amendment No 22. I appreciate that Mr Boylan said that he wanted to hear both sides of the argument. I totally accept that. If people study the amendment, it should become clear. Even Mr Eastwood, who is not in his place now, indicated that there is no problem with bringing back a report. That is exactly what this amendment is saying: bring back a report on the progress of the rate convergence after two years. Can anybody tell me what the difficulty with that is?

I listened to Mr Wilson, who said that it would encourage councils not to be efficient and not to put in place the measures that are required to bring efficiencies to those councils. The report could highlight that. The report could flag up where those councils have not made efficiencies — where, in the words of Mr Wilson, they have been "lax", need to be brought into line and told, "Look, you are not doing your job efficiently here." I do not see the problem.

Mr Eastwood referred to subsection (b) in the amendment, which refers to:

*"consideration of possible further mitigating measures".*

What is wrong with considering them? That does not say that we will put anything further in place. All that it is saying is that the report will give consideration to further mitigating measures. There will probably be no further mitigating measures required. There may even be councils flagged up as not having put in place reasonable efficiency mechanisms. That is what the report should be about.

We must be clear that there are a number of councils and ratepayers who will be hit very dramatically during this transition period. There is a significant difference between the rates in some councils that are merging. Once you have a 25% rate differential, that will create a significant problem in the first number of years for councils that are currently on the lower rate. At some stage, their rate will have to rise significantly to meet that of the other councils. The other councils' rates may come down to some extent, but I assume that they will not come down dramatically enough to meet the lower rate base. By and large, the direction of those rates will be up. Those ratepayers will be significantly hit.

I do not see the taxpayer v ratepayer issue that the Minister highlights. We are talking about the ratepayer being hit at the moment. Why should ratepayers in the council areas that have been very efficient up to now be significantly penalised because they are merging with other councils? That should certainly not happen in the initial years. Fair enough, at some stage, their rate bases will have to merge totally. However, all that we are saying is that a report needs to come back to give the Assembly the detail of where the councils have gone to great lengths to make the efficiencies; how well some councils are doing; and how badly other councils are doing in not meeting those efficiencies and savings and keeping their rate base down.

All that this amendment is aimed at is to have a report brought back. We are not being definitive about that report. We are not making any judgement on the content of the report. We are not making a judgement that more finances will be required from central government after two years. What we are saying is that consideration should be given to all those aspects. All that we are asking for is a report.

I can tell you that there are many councils out there that believe that their ratepayers are going to find a significant difference in their rate base in the initial years, compared with what they are used to. We even have some councils merging where there is not a significant differential. They are asking, "What is in the

convergence rates for us?" I point to the example of Dungannon, Cookstown and Magherafelt, where there is not a huge differential in the rate bases at the moment. They are saying, "It is possible that we will get no benefit out of this rate convergence money." There is not a huge difference in the rate bases there. Some councils that have been efficient for years and kept their rate base very low are now merging with councils that have a very high rate base. Those ratepayers are the people who need protected at this time.

## 6.00 pm

**Mr Wilson:** If the previous amendment on which we had an extensive discussion was silly, this one is particularly dangerous. The more I listened to the proposer's speech, the more I was convinced that it is dangerous, for a number of reasons. First, we are introducing a transition scheme that will cost the Executive a substantial amount because of the differences in rates between councils that are merging. The transition period was chosen because it was believed that, during that period, sufficient savings could be made and sufficient action taken to gradually merge the rates burden of councils that would be joined.

I listened carefully to what the proposer said, but let us look at the amendment. His interpretation of it is very different from the wording, which is very heavily loaded towards believing that the transition scheme will not work, as a result of which an extension will be required. The amendment states:

*"The Department must within two years of the making of an order under paragraph (2A) lay before the Assembly a report ... including—*

*(a) the Department's assessment of the likely or actual percentage increase in district rates payable by ratepayers in each affected district as a consequence of the termination of the scheme".*

Immediately, in the first part of the amendment, there is almost an assumption that there will be some consequences —

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

**Mr Wilson:** I will give way in a moment or two.

There is an assumption that there will be financial consequences for ratepayers as a result of the amalgamations and there being no more support after the transition period.

**Mr Eastwood:** I thank the Member for giving way. Will the Member agree that all councils — and some of them have been — should have been working together before now? They have known for a long time what the make-up of the new councils will be, and we had the ICE scheme and everything else. Councils should have been doing a lot of this work before now. Thankfully, some have, but I do not think that that has been the case across the 26 councils.

**Mr Wilson:** No, it has not, and he brings me to a point that I want to make in a moment or two when I finish looking at the wording of the amendment. The first part of the amendment makes an assumption that this report is likely to identify, as a result of the termination of the transition scheme, that there will be consequences for ratepayers. It is then quite explicit in going on to propose "mitigating measures". The point has been very well made that some councils, and some councillors, have been dragged kicking towards the new arrangement. I know that, even with transition committees being set up etc, some still resist it. Until the Assembly passed the legislation, a large body of councillors still believed that, somehow or other, this was not going to happen. It is against the background of resistance to council reform that we have to judge this amendment.

**Mr Elliott:** I thank the Member for giving way. Does he accept that, although the amendment states:

*"including—*

*(a) the Department's assessment of the likely or actual percentage increase in district rates payable by ratepayers",*

the report is in fact quite open-ended? There is nothing to stop it identifying councils that have not been efficient or have not met the criteria expected of them in relation to better efficiencies and, indeed, keeping the rate base low?

**Mr Wilson:** I do not accept that, because nowhere in the amendment is that said. In fact, the amendment is very specific:

*"a report on the operation of any transitional rate relief scheme".*

He should read his own amendment. It is a report:

*"on the operation of any transitional rate relief scheme."*

What should it include? It should include the consequences for the ratepayers of the termination of the transitional arrangements. So, the amendment does not require an open-ended report; it is a very specific report about the transitional rate relief scheme, its termination, the consequences that it will have for ratepayers and, on top of that, any mitigation —

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

**Mr Wilson:** I will give way in a minute. The report will also include any mitigation that will be possible.

I have to say that this is a most loaded amendment with an assumption behind it. Indeed, even in his speech, the Member reinforced that assumption when he said that many people believe that, although there is support for the initial years, the consequences will run on for years afterwards. So, even in his speech, the Member accepted that there is reluctance, suspicion and concern about what will happen after the transitional rate relief period is over. I do not believe that those concerns are founded, by the way, but, nevertheless, that is the whole thrust of it and why I think that this is a very dangerous amendment. It is specific, narrow and puts forward certain expectations that it is not just a transitional relief scheme but that there may be something beyond the transition period. I will give way now.

**Mr Elliott:** Thank you for giving way, Mr Wilson. I am not sure where you are reading in the amendment that it precludes any aspect when the report is brought back. All that it says is that the report will be:

*"on the operation of any transitional rate relief scheme ... including—"*

It includes certain aspects, but it does not preclude any other aspect of the transitional rate relief scheme, including — I keep repeating this — an indication of where councils have not met what we believe to be efficiencies.

**Mr Wilson:** If that is what he means, it is not what the amendment says, because here is what —

**Mr Elliott:** It does. It is in there.

**Mr Wilson:** No. The word "including" is then defined. What does it include? What it includes is listed under paragraph (a) of the

amendment, and the only thing that it can include is the:

*"assessment of the likely or actual percentage increase in district rates payable by ratepayers ... as a consequence of the termination of the scheme".*

That is what it includes. It does not include the words "and anything else". It does not say that, and nor does it use the words, "how well the council has performed in the transition period". That is what the report will include, and, of course, the Member reinforced that point.

I know where this is coming from. It is because of the particular issues and concerns that there are in the Member's area.

If we pass this, when he comes to bring forward a report, the Minister will be bound by what is in the legislation. That would only be about the effectiveness of the rate relief scheme, the consequences of its termination and what mitigation measures might be taken.

That brings me to my second point. First, the danger is that there is a reluctance by some councils to enter fully into the spirit of the amalgamations of councils. Secondly — let us be blunt about it — there are some decisions that will have to be made to deliver the savings, which councillors will not like. There will be resistance. We have already seen it, and, indeed, Mr Eastwood referred to it. There is resistance in some places to entering into agreements on shared services, which are a way of making savings, and there will be resistance to cutting certain posts in councils, because that is not very popular. Of course, the easy way out is to simply say, "Let's not make those tough decisions, and let's not be inventive about how we might share services or make economies. Let's just keep on doing the old thing, because, after all, at the end of the transition period, there is going to be a report and it is going to be drastic, because some ratepayers are going to get a huge increase in their rates because we have not made the savings that we ought to have made, but, anyway, that will be borne, because the report cannot overlook that and is going to have to bring forward mitigating measures."

That is the real danger of it, or, indeed, it might not be a case of making savings or refusing to make savings. Councils might simply be profligate in spending in other ways and, at the end of the transition period, because they have been profligate in other ways and because of the way they have set their budgets, there will be a consequence of big rate increases. I know

that the Member could argue that it could be identified that those are not increases as a result of the ending of the transition relief scheme but as a result of the bad budgeting or bad spending by councils, but, nevertheless, all those things tend to get mixed up. What is the increase in the rates due to the amalgamation of the councils? What is the increase in the rates due to the fact that we did not make the savings that we ought to have made? What is the increase in the rates because we were profligate in our spending or made some unwise spending decisions?

If, at the end of the transition period, there are big rate increases, the danger is that, at least at local level, councillors can sell it to ratepayers on the basis that, "Stormont did this to us. Stormont made us amalgamate, and they gave us support for a year or two. They wiped our eye, but you are going to have to bear the consequences for the rest of the period". Although there is transparency and everything else, those things are not always easy to identify.

For all those reasons, I think the Minister is right that the amendment ought to be resisted because I believe that it will impose, first of all, financial discipline on councils. Secondly, it will ensure that councils get into the spirit of what is intended with local government reform; ie, that they look at new, more efficient structures that deliver the kind of long-term savings that we expect and that, at the end of the day, will benefit ratepayers. To continue with the idea that our transition scheme might become a transition-plus scheme is a bad notion, and, for those reasons, I believe that the amendment ought to be rejected.

**Mr McCallister:** Like colleagues, I will focus primarily on amendment No 22, as the others are largely technical in nature and do not seem to be causing much debate.

On amendment No 22, at Consideration Stage, I spoke about the dangers of the issues around rates convergence and the difficulties with an increase. I listened intently to Mr Wilson's argument there. On the one hand, he seemed to be saying that we need to make sure that councils are almost forced into, "Right, this is where you are now: the 11-council model." To be fair to Mr Elliott, I think it is fair to say that he has never been a supporter of the model of local government that we now have. It seems that, as I have warned before, we are devolving some of our dysfunctionality down to those councils.

Mr Wilson is right if his argument is that, if we make amendment No 22, it will somehow give councils an easy get-out and they will just say, "Oh, Stormont didn't do that." It almost reminds me of the arguments that you would hear in this place for not doing things and just handing them on — "Well, Westminster didn't give us the money", or, "The peace dividend didn't come through". One party here in particular is blocking welfare reform, and the Finance Minister has talked about the costs of that. We seem always to push the thing further up the line. If that is the worry about councils, I do not quite get from Mr Wilson's argument why a report, which Mr Elliott is suggesting in the amendment, would be so dangerous to have. In fact, from Mr Wilson's argument, I probably got that that might actually be a good thing to force so as to shine a light on whether councils are delivering on the savings agenda and what they have to do.

#### 6.15 pm

There are huge concerns in different council areas as to what way this is going to work. Mr Elliott's area is, maybe, one of the starker ones in Fermanagh and Omagh. This is where I have some sympathy with this amendment. We are probably at a stage, as I keep warning the Assembly, where we are devolving some of the dysfunction of this place and building in some of those concerns.

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

**Mr McCallister:** I will in a second. We are not entirely sure whether councils can make the projected savings that this entire project is meant to deliver.

**Mr Wilson:** This is not a case of devolving dysfunction. This is a case of introducing reform that should lead to the economies of scale and savings that have already been identified. All we are saying is this: let us make sure that those savings are realised. The safe and sure way of realising them is for councils to know that there is no safety net beyond the generous transition period. Beyond that, they will have to have made the decisions that will realise the kind of savings that will benefit ratepayers. This is not about devolving dysfunction. It is about giving opportunities to make real savings in the cost of administration.

**Mr McCallister:** I am grateful to Mr Wilson for that, but there does seem to be a certain nervousness and uncertainty, even from parties in the Executive, as to whether those projected savings are going to be delivered or whether

something is going to have to give. I hear people talking about whether the burden falls on ratepayers or taxpayers. Quite frankly, most of us fall into both categories. We may or may not be lucky, depending on which council area we happen to live in, as to whether this is a big issue.

I do not agree with Mr Wilson that it would be dangerous to have a report saying, "This is the reality of what is happening in various council areas". He has not quite made the case as to why it would be so dangerous to have that report laid before the Assembly and that uncertainty to be looked at. Councils will have a challenge to make the savings and to buy into this entire project. Some councils seem to be managing that in the transition and in getting geared up for that better than others.

However, huge issues remain over where rates will be in certain council areas when you get all the convergence and take all the existing debt into consideration, with no review mechanism. If I understand Mr Elliott's amendment properly, it is about laying a report in front of the Assembly. Mr Wilson's argument seemed to be against us having to extend the transition period that amendment No 22 would do. What it actually states at (b) is:

*"consideration of possible further mitigating measures."*

The Minister, or the Assembly, at that time might well give consideration to further mitigating measures and might well say, "No, it is up to councils to face that down". However, when there is a general nervousness around the Executive as to whether these savings are deliverable and about how rates and ratepayers will be affected in certain districts several years from now, surely it is sensible to build a report and review mechanism into this legislation that will say, "This is where we are. These are the councils that have delivered their part of the savings and these are the councils that are going to have to make changes".

It is not uncommon across other parts of the UK for central government to step in to direct local government or put a limit on what it can do. The Minister might have to do that at some point if some councils do not meet their obligation and deliver the very savings that Mr Wilson talked about.

**Mr Durkan:** I thank Members for the issues that they have raised in the debate on the second group of amendments. Fortunately, there have not been that many, but I will address in turn a few of the points that were made.

I am glad to say that Mrs Cameron concurred with my view on the amendments.

Mr Boylan said that he was supporting all the amendments, I think. He said that the jury was still out on amendment No 22: I just wonder whether it is now. I will speak about amendment No 22 as that is where all of the debate was focused.

In answer to the issues raised by Mr Boylan, I say that there are huge concerns about rates convergence, and they have been listened to. That is why the Executive have agreed to allocate £30 million to deal with that very issue. Councils are ultimately going to have to stand on their own feet, and this legislation is about empowering and enabling them to do so. Giving them stabilisers for another year will not assist them in the long term, assist us or, indeed, assist the ratepayers. This is also about ensuring the accountability of councils to ratepayers. I am not sure that the amendment does any of those things.

Mr Eastwood spoke of the need for councils to be responsible. That is very obvious, but it can very easily be missed. Councils will need to be more responsible: they are getting increased powers, and with those powers comes increased responsibility.

Mr Elliott asked where the difficulty was in bringing back a report. The difficulty is not so much with the tabling of a report. There is every likelihood that there will be a mid-term report or review carried out anyway: we will have to see how much of the £30 million has been spent and where the remainder of it will be left, because it is important that we do not go over the £30 million. So, the "report", as Mr Elliott calls it, will be taking place anyway. There will be increased scrutiny and auditing of the new councils in their formative years by all Departments, one would imagine. The difficulty is not, therefore, with bringing a report: the difficulty is, as pointed out by Mr Wilson and Mr Eastwood, more with the wording of the amendment.

Mr Elliott spoke of the difficulties caused by convergence. As I stated earlier, we accept that it will cause difficulties.

Mr Wilson warned of the danger of passing the amendment. The amendment does, as Mr Wilson pointed out, almost predetermine the failure of the approved transitional rate relief scheme. Mr Wilson and Mr Eastwood highlighted the fact that this process is not just coming out of the blue: councils have had

ample time and ample opportunity to prepare for the amalgamation and to collaborate.

Both Members said that there has been "resistance" — they used that term — in some areas and alluded to the ICE programme. In some areas, you could say that the speed of the ICE programme has been glacial. That is largely due to the voluntary nature of the ICE programme and such schemes. Some councils have demonstrated that, if they do not have to work together to achieve savings, they will not. We cannot perpetuate that. The last thing that we want to do is disincentivise a collaboration that will ultimately deliver the savings that local government reform is all about.

Mr McCallister spoke in favour of amendment No 22. The point that I was going to make to him is similar to that which I made to Mr Elliott about the actual report. A report will be done anyway, and there will be a review. We will have to see where the £30 million was spent. Hopefully it will not all have been spent by that time, but, if not, we will have to see where the remainder of it will go.

*Amendment No 5 agreed to.*

### **Clause 18 (Permitted forms of governance)**

**Mr Deputy Speaker:** We now come to the third group of amendments for debate. With amendment No 6, it will be convenient to debate amendment Nos 7 to 13 and amendment No 29. These amendments deal with the executive arrangements in councils, council structures and decision-making.

**Ms Lo:** I beg to move amendment No 6: In page 7, line 19, at end insert

*"(1A) A decision to operate executive arrangements or prescribed arrangements must be taken by a qualified majority."*

*The following amendments stood on the Marshalled List:*

No 7: In clause 26, page 13, line 23, at end insert

*"(2A) For the purpose of dealing with a matter of concern to more than one overview and scrutiny committee of the council, Standing Orders may provide for the council to appoint an ad hoc overview and scrutiny committee or for the relevant committees to sit concurrently."*  
— [Mr McCallister.]

No 8: In clause 27, page 13, line 40, after "may" insert "not".— [Mr McCallister.]

No 9: In clause 27, page 13, line 40, leave out from "only" to the end of line 3 on page 14.— [Mr McCallister.]

No 10: In clause 31, page 16, line 19, at end insert

*"unless, in accordance with Standing Orders, the overview and scrutiny committee deems the notice to require a prompt response in which case the notice must require the council or the executive to comply within one month".— [Mr McCallister.]*

No 11: After clause 38 insert

### **"Multi-option referendum**

**38A.***If more than two options have been proposed for a decision of the council, the council may take that decision by multi-option referendum in accordance with paragraph 9A of Schedule 5."— [Mr Agnew.]*

No 12: In clause 40, page 21, line 39, leave out from the beginning to the first "council".— [Mr Elliott.]

No 13: In clause 40, page 22, line 1, leave out paragraph (b).— [Mr Elliott.]

No 29: In schedule 5, page 83, line 39, at end insert

### *"Decision by multi-option referendum*

*9A.—(1) If a council decides to use a multi-option referendum to take a decision, the clerk will provide all members with a ballot paper setting out the options proposed.*

*(2) The chair will ask members to mark the ballot paper to rank the options in order of preference.*

*(3) In circumstances where there are n options and a councillor has ranked all options, preferences on a ballot papers are scored as follows—*

*(a) a first preference gets n points;*

*(b) a second preference gets n-1 points;*

*(c) a third preference gets n-2 points,*

*and so on.*

*(4) Where a councillor does not rank all options, preferences on a ballot paper are scored as follows—*

*(a) if a first preference only is indicated, this scores 1 point;*

*(b) if first and second preference are indicated, these score 2 points and 1 point respectively,*

*and so on.*

*(5) The chair will announce the scores for each option and the option which has scored the highest number of points shall be the decision of the council.*

*(6) In the event that two or more options score the same number of points the decision may be made between those options by simple majority.*

*(7) The Department may by order amend the procedures in this paragraph."— [Mr Agnew.]*

**Ms Lo:** Amendment No 6 follows on from the amendment passed a fortnight ago that makes the committee system the default system for operating a council. During that debate, I outlined the reasons why I felt that the committee system was a preferred model because it better represents the outcome of elections and ensures that smaller parties have a say in governance, ensuring that the whole community is involved. The decision to move to the executive or prescribed arrangement is so significant that we must ensure that it is not used to exclude smaller groups from the running of a council. That is why the qualified majority vote is appropriate for that decision. It is important that any such move is sanctioned by the council in a way that ensures that minority groups are not deliberately excluded from governance. It is therefore essential that an executive model should be subject to wider consensus across the council and reflected in a majority vote.

We will support the NI21 amendments relating to forbidding an executive member from sitting on a scrutiny committee to make sure that the executive is not involved in any way in the scrutiny process and stands apart from it.

An executive model poses difficulties for a council in a divided society such as ours. It is, in our view, essential to make sure that a move towards one is backed up by political

consensus and that the executive is not allowed to dominate scrutiny procedures.

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

**Ms Lo:** I have just finished, Sammy. You are a bit late.

**Mrs Cameron:** I will reserve judgement on amendment No 6 to clause 18 from the Alliance Party, which relates to permitted forms of governance. I will listen carefully to the debate on the amendment. Amendment Nos 7 to 10 on clauses 26, 27 and 31 offer enhancements to scrutiny and corporate governance. I will listen further to the debate on those amendments but suspect that there are no real issues with them.

I am afraid that I cannot support amendment Nos 11 and 29, which would, I think, be completely unworkable and would surely lead to complete confusion, if, indeed, anyone was ever capable of managing to conduct the process in reality. I have visions of councillors blinking in the daylight after two days of counting and eliminating, wondering what it was that they were actually voting for in the first place.

**6.30 pm**

**Mr Agnew:** I thank the Member for giving way. The difficulty with this type of issue is that you do not get to move your amendment before people discuss it. However, it is not a single transferable vote: preferendum is the shorthand for it. It is one, two, three, score: if you have three options, there are three points to be divided out. It is primary-school mathematics. It is really not as complex as it might look in the amendment, but I will explain it in more detail when I get to speak.

**Mrs Cameron:** I thank the Member for his intervention and look forward to the greater explanation. However, it seems to me to be incredibly and unnecessarily complicated. For that reason, I cannot support those amendments.

Amendment Nos 12 and 13 from the UUP would amend clause 40, and I am minded to support those amendments and look forward to hearing more detail on them. That is all I have, Deputy Speaker, on this group.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. I propose to speak for only a few minutes. Obviously, a number of the issues have been debated before.

I propose to support amendment Nos 6 and 7. Obviously, I will wait for clarification on some of the amendments, in particular the suggestion by Mr McCallister. I have some concerns with regard to the executive arrangements, because we agreed the last time that the mayor and deputy mayor would be able to sit in on scrutiny committees as the mayor is the first citizen of the council area. I do not think that a sitting-in and listening brief would cause any impact, but I await the narrative from the Member in relation to how he proposes to deal with that issue. We felt very strongly about that in Committee, because the first citizen could go out and explain to the community, and they were the first port of call. There may not be any issues with it, but I will seek clarification on the matter and the amendments associated with it.

Mr Agnew is completely right: bar I were to put myself last on the list to speak, I find myself speaking before I hear any of the rationale and debate in relation to some of the amendments, and maybe the Chamber will look at how we go about doing business in the future. However, I will certainly listen. On the face of it, it is about making decisions. I know that you explained that it may not be a complicated process with regard to ticking a box or whatever. However, I just wonder about the whole issue of being part of a decision-making process and whether we need to go down that route. I do not intend to support it at the minute, but I will certainly listen to the explanation from the Member on his amendments.

With regard to the other amendments proposed by the Ulster Unionists, it seems that we have agreed some sections of the Bill already and, although these amendments are supposed to refine it, they may undermine what we are trying to do. At the minute, that is all that I have to say in relation to these —

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

**Mr Boylan:** OK. I was nearly finished, but go on ahead.

**Mr A Maginness:** My point relates to Mr Agnew's amendments and some of the other amendments. There is a general point that must be made here. The strategic leadership board is representative of all the parties involved in councils throughout Northern Ireland, and it made certain important decisions in relation to the basic political structure and framework in which the Bill has taken shape and form. Although one may be interested and find Mr Agnew's preferendum idea intriguing, it is not an idea that was tested in the strategic

leadership board. To bring that into the equation at this late stage would undo the good political work that was done and the political consensus that was arrived at.

**Mr Boylan:** I thank the Member for his intervention. I was nearly finished. I agree with him. However, I will give the Member a fair hearing, but I agree as to whether we need it for this decision-making process at this time. However, I certainly take on board the Member's intervention.

**Mr Eastwood:** For the purposes of the debate on this group, I intend to speak on amendment No 6 and Mr Agnew's amendments. Colleagues will deal with the other amendments.

On amendment No 6, I do not disagree that issues such as how we structure the political governance of local councils should be decided by qualified majority. The Minister has already committed — in this House, I believe — to that. It will be done via the mandatory element of standing orders. Therefore, our opposition to the amendment is really that it is kind of pointless. It has already been stated that it will be dealt with. I am satisfied that it will. I think that that is the best way to deal with it.

As for Mr Agnew's amendments, I, like others, would have preferred to have seen it tested. There has been a lot of discussion on all these types of issues. I do not doubt that it is probably a novel and interesting idea. I do not know enough about it to say that it is what we should do. It would have been far more sensible to have had it go through the motions and processes that exist. It strikes me that it is probably a complicated system that may be unnecessary.

Having sat on councils, one of my concerns is that, at times, when there is a very controversial issue that nobody really wants to take responsibility for, council officers will try their best to avoid making a firm recommendation. I think that could be the kind of thing that happens more often if that system were put in place. It is important that councillors take power and responsibility. However, council officers, who are the full-time professional people, also need to make firm recommendations and not give a list of choices every time there is a difficult issue.

Because we did not go through this at the Committee, or in any other Committee, we have not had the time or opportunity to go through it and test it. I do not think that it is a sensible way to go forward. The system that is provided

for will probably allow us to deal with the issues that we need to deal with. Thank you very much.

**Ms Lo:** Sorry; will the Member give way?

**Mr Eastwood:** Yes. I will try to think of something to say —

**Ms Lo:** I wanted to get in before you sat down. I did not want to stop you mid-flow.

On amendment No 6, you said that a qualified majority vote will already be dealt with by mandatory regulations. What do you mean? Can you remind us where we can find that?

**Mr Eastwood:** I think that the Minister stated during the previous stage of the Bill that that would clearly be part of the standing orders of councils. It would be part of the mandatory element of those standing orders. I am sure that the Minister will jump in if I cannot remember.

**Mr A Maginness:** It is dealt with in clause 39.

**Mr Eastwood:** Yes, and it will be subject to draft affirmative resolution. The Minister has already said that. My point is not that I oppose qualified majority voting for dealing with the political governance structures; it is that it is already being dealt with. That is where that sits. With that, I will finish.

**Mr Weir:** I want to address a number of aspects. There are probably two main areas and three amendments that are of interest or concern. Perhaps I will deal with the less controversial ones first. Certainly, subject to what is said by NI21, its amendment Nos 7 to 10 probably put in place what is likely to happen anyway. They seem to be reasonably sensible amendments. It is possible, however, that, when I have heard Mr McCallister speak — he may well be leading on them — I may change my mind. I will reserve my position.

Having a situation in which there is clear division between the executive and a scrutiny committee seems relatively sensible. Similarly, ensuring that, where decisions are being made, they are brought in fairly quickly also seems to be sensible. I am certainly minded to support amendment Nos 7 to 10 on that basis.

Similarly, although I note that no one from the Ulster Unionist Party seems to be here to explain amendment Nos 12 and 13, putting in place a call-in mechanism for an issue to go

straight back to the council seems a reasonable enough suggestion. Unless there are particularly contrary views, it is reasonable to argue that amendment Nos 12 and 13 should be supported

The amendments that will attract most attention are the Alliance Party amendment No 6 and the Green Party amendment Nos 11 and 29. Amendment No 29 is, in effect, consequential to amendment No 11.

I agree with the previous Member to speak, Mr Eastwood, that amendment No 6 is a little unnecessary. If memory serves me right, when this was discussed at Consideration Stage, the issue was raised of what would be put in guidance and regulations. At that stage, the question was whether the Minister would make any regulations on flags, and he indicated that he was minded not to. Indeed, he said that he saw a range of matters, including methods of governance, that would be part of mandatory regulations, so there is already a clear commitment there.

I have two qualifications about amendment No 6. In one sense, I am not sure that it is necessary and from the point of view of the signal that it sends out I doubt that any council will go, certainly in the foreseeable future, for executive arrangements. However, it suggests a mindset that the current committee system will simply be replicated in the new councils, which is naive and perhaps sends the wrong signal to councils. I think that, as things develop, it will be part of a spectrum or a continuum; it will not be just the system as is or an executive arrangement.

From the legislation and what has been said, I understand that there will be a need for council agreement on prescribed arrangements before getting agreement from the Department. Alliance Party Members have indicated that they regard this as a very good model, and one could argue that we have had what might be described as prescribed arrangements in North Down Borough Council for many years, under which the main parties have agreed a division of responsibility. That counts, effectively, as prescribed arrangements. It strikes me that having a barrier to that is perhaps a little ill-advised. Also, there is concern that this will in some way be used to exclude very small minorities.

The problem with qualified majority voting is that any fairly small minority could simply be excluded. So it does not, in that sense, provide a safeguard for everybody on the council anyway. Therefore, I am not sure that

amendment No 6 is necessary or, in many ways, desirable. I also think that it sends out the wrong signal, although I can at least understand the thinking behind it.

Amendment Nos 11 and 29 have been criticised for being a little late in the day. Generally, I have no particular problem with that because the purpose of Consideration Stage and Further Consideration Stage is to enable people to table amendments, so I make no criticism. I suspect that this is quite an old idea that has been resurrected. I may be corrected by Mr Agnew, but I suspect that its author may be Mr Peter Emerson from the de Borda Institute, because I remember his waxing lyrically about it in the mid-1990s. Older Members in the Chamber may have put forward preferendum options even before then.

I read on Twitter today about something on the UTV website suggesting that the Belfast Lord Mayor, Máirtín Ó Muilleoir, hoped to have some sort of superhero convention, at which he would potentially dress as Batman and be accompanied by Councillor Jim Rodgers, who had volunteered to dress up as Robin.

One assumes that that is an April Fool, although, given the individuals concerned, one cannot be entirely certain. However, as an April Fool, it has been somewhat trumped by amendment Nos 11 and 29, which seem to stand good governance on its head. Councils are about taking proper decisions. It is not some local variation of the Eurovision song contest, where we have points coming in. Perhaps in deciding on those three capital build options, we are waiting for the verdict from the Copenhagen jury to come in.

I agree with Mr Eastwood that, when you are taking decisions in council, it is useful that there is guidance and that officers make recommendations where possible. It is obviously up to the councillors, who take the ultimate responsibility for taking a decision for or against a particular proposal or making choices that, on many occasions, can be overturned or amended —

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

**Mr Weir:** I give way to Mr Agnew.

**6.45 pm**

**Mr Agnew:** I thank the Member for giving way. This is a way of ensuring that decisions can be made and that you can move on. With a simple "Yes"/"No" vote, you can get a tie or deadlock.

We see a lot of deadlock at the Assembly because of our mechanisms. This is a way of making a corporate decision through a consensus-based decision-making process. The decision gets made, and then you move on. To some extent, nobody can divorce themselves from that decision, because everybody who votes is effectively part of that decision.

**Mr Weir:** With respect, I suppose there are two aspects to this. I will come to the second aspect later. I agree with Mr Eastwood that this is an opportunity, in many ways, for officers to take the easy way out and not to make any recommendations or give any guidance to people. It would simply present councils with an à la carte menu of options. I do not think that that would be helpful for good decision-making.

With respect to Mr Agnew, he said that this was a way to avoid a tie. In any voting system, there is always the possibility of a tie. That is generally provided for, whether it is in standing orders or regulations. I presume that about half our councils have an even number of councillors, so it is perfectly possible that there have been occasions on which there has been a tie. That is generally dealt with by saying that, if there is a tie, the motion falls or, alternatively, the casting vote is given to the mayor. To suggest that tied votes would be a major problem seems to be setting up a straw man to be knocked down.

Where this also falls down is that councillors are there to take decisions and to give civic leadership. This is an ideal opportunity for people to hide behind decisions. If memory serves me right, it is done by a secret ballot, and, from the point of view of a council decision, that means that there is no particular attachment to or scrutiny of any individual position. Indeed, if there was a secret ballot, it would be perfectly possible for a councillor, if there were competing interest groups, to tell each group that they had backed a particular proposal. In this Chamber, it is recorded how people have voted in a Division, and it is important, both in central and local government, that that proper accountability exists. If decision-making at councils is done simply by secret ballot, this would seem to abrogate that. It would also be an easy way for people to get out of making a decision, because they would not have ownership of it.

You can have a formula system, but that can be manipulated, as you can throw options on the table to skew a result relatively easily. If that has been thought of in the few days between

the amendment being selected and today, one can imagine some of the contrivances that could be put in. You could throw in an additional option that would help to skew the votes. When decisions are made either by simple or qualified majority, we need decisions that, at the very least, councillors are willing to stand over. We do not want a situation where, if something goes wrong a couple of years down the line, a councillor can say, "This was not my preference; I was stuck with my second preference. I take no responsibility for this; I did not vote for it. It was not my first choice".

At the end of the day, government is about people standing up, taking decisions and standing over those decisions. This almost game-show formula of voting, in which we have points attributed as "n-1" or "n-2" seems to me to be a cocktail for poor decisions and for decisions ultimately being fudged for things on which councillors and officers take no responsibility. Indeed, there is no sense of accountability or ownership.

**Mr Agnew:** I thank the Member for giving way. Surely the present system, whereby everybody who objects simply says that the decision was nothing to do with them and that they opposed it, gives councillors the opportunity to simply opt out, meaning that there is no corporate decision-making by the body. In this decision, whereby everybody would vote, everybody would be implicated in the decision, and it is more likely that there will be corporate decision-making and corporate responsibility.

**Mr Weir:** It somewhat beggars naivety in that regard. Take a controversial example, without rehearsing the merits of it. If one takes, for example, the flying of the flag at Belfast City Council. Does that mean, for example, that councillors who say that the flag should fly 365 days a year are implicated in that decision because they have taken part in the ballot, even though they strongly oppose the final outcome? The same could apply on the opposite side. This idea that it implicates everybody in a decision, even if they voted completely the opposite way, seems to me to be perverse in the extreme.

I will give way to the Member.

**Mr Agnew:** To some extent, that is the thinking of a yes or no decision; you oppose or you support. The whole point of a multi-option system is that you give preference. You state your highest preference and your lowest preference, but what you are giving is preferences; you do not oppose and support,

you give preferences. It is a different way of thinking because it is a different system.

**Mr Weir:** I am sure that it is quite clearly a different way of thinking. It does not strike me as one that will produce good decisions or give a degree of ownership. Take the example of the City Hall vote: all it would take to skew the vote would be for one side or the other to throw in half a dozen other options that will, effectively, weight the thing in a particular direction.

At the end of the day, rightly or wrongly, people have to take decisions and they have to stand over them. Councils are not like a body corporate where, in a public body, you take a decision and you are bound by it. People are there on a democratic mandate; they reflect that mandate and vote according to what they believe to be the best possible outcome for their area.

Anyone should be able to turn round and say, "Well, actually, no. I opposed that decision. I did not believe that it was the best use of resources. I didn't believe that such-and-such a project should get the go-ahead." They are perfectly entitled to do so and to take their view to the electorate. Essentially, it will mean that people have taken a stand either for or against a particular decision. This manufactured fudge of decisions emerging that, to be honest, nobody particularly wants but which they dislike less than other decisions, strikes me as not a particularly productive way of having a multi-option referendum.

Local and central government are, and should be, ultimately about people taking decisions, standing over them, being accountable and being publicly tied in with a particular position. That is the proper way to offer leadership, rather than this element whereby councillors will, effectively, act a little bit like Pontius Pilate, wipe their hands of a decision and say, "Nothing to do with me, guv. I did not give that my first preference. I am stuck with whatever was their second or third preference on a particular thing." That does not strike me as a recipe for good governance, and I urge the House to reject amendment Nos 11 and 29.

**Mr A Maginness:** I want to, in some way, address some of the issues that were raised by Anna Lo when she spoke in support of the Alliance Party's amendment No 6. I think that Mr Eastwood captured the essence of this amendment, in that it is unnecessary, given the fact that if one looks at clause 39 and the related clause, which is clause 37, one can see that decisions will be specified as a mandatory

element of standing orders in the regulations being made by the Department, and that the Department will use the power provided by clause 37. So, in fact, you reach the same sort of decision through that mechanism. That is to be preferred, and that is the procedure that I believe the Committee for the Environment recognised and supported.

With regard to the proposition made by Mr Agnew in relation to amendment Nos 11 and 29, we have gone through a fairly intense period of political negotiation and scrutiny in relation to how councils are to be governed. I have referred to the strategic leadership board's policy development panel on governance and relationships. The panel's hard work in reaching consensus — and this was by no means an easy task — in relation to governance was very important. If we were to go in the direction of preferenda, we would be departing from something that has been achieved, and something that I believed could not be achieved; but we have achieved political consensus. I think that is very important, and Mr Agnew should take that on board.

Mr Agnew may be presenting these particular amendments in order to exhibit the preferendum idea and expose it politically in the Assembly. I accept that as a legitimate purpose, despite the fact that I have raised criticisms of the preferendum idea. It may well be that, in the future, we will start to experiment in relation to further types of decision-making, but I am persuaded by what Mr Weir said in relation to decision-making, that people will not buy into a decision that is so compromised and so far detached from their primary position that a decision made on that basis will be effectively worthless. It is very important to remember that in relation to the preferendum idea.

The preferendum idea is posited on the achievement of political consensus through that mechanism. I think that we have achieved political consensus through the strategic leadership panel. That is a major achievement, which, I believe, was difficult to achieve, and it is one that I did not believe could be achieved. If we have that sort of consensus, let us be supportive of it. To achieve consensus through preferendum is, I think, in present political circumstances, well-nigh impossible.

I will also look at amendment Nos 7, 8 and 9, tabled by Mr McCallister and Basil McCrea.

Again, I believe that amendment No 7 is unnecessary. We should await the development of guidance in relation to how the system has operated in England, Scotland and

Wales. I believe that there will be guidance forthcoming that will cover the role of overview and scrutiny and will outline aspects that a council will wish to consider. It is important, therefore, to await that. Essentially, the legislation, as currently presented to the House, gives some flexibility. It is important that we support that flexibility. You can see that in clause 27, which relates to the overview and scrutiny committees. It is important that that flexibility be maintained and supported.

If a person was a member of the executive, the legislation would permit that person also to be a member of an overview and scrutiny committee, but they could not be a member of an overview and scrutiny committee that is scrutinising decisions in which the member had a role. In other words, if the executive was subdivided into different responsibilities and functions —

**7.00 pm**

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

**Mr A Maginness:** Yes.

**Mr McCallister:** I am grateful to the Member. Does he not accept that it is much more desirable to have the complete separation of executive responsibility and scrutiny committee, as we have in this House? We are talking only about the executive model of council here, but it is a much more desirable place to be.

**Mr Deputy Speaker:** I ask all Members to ensure that they speak into a microphone, so that their comments can be picked up by Hansard.

**Mr A Maginness:** Sorry, yes. In an ideal world, that should be the position, but we will have councils that have 40 members. If you had that type of council, it could well be that, in a streamlined executive with four committees, for example, you could use so many members of the council that you would have a deficit in respect of those given over to scrutiny in the council. The legislation currently provides for flexibility in the membership of that council, and it is important to maintain that. I accept the Member's point on the desirability of the separation between an executive and a scrutinising role, but, given the political circumstances and the limited numbers, it is important that we provide that degree of flexibility. Amendment Nos 8 and 9 tabled by NI21 would preclude that arrangement being permissible, and they would present difficulties for the councils. It is important to make those points, and it is important that the Assembly

takes them on board when considering the amendments that have been put forward by NI21.

Amendment No 10 would amend clause 31 to make provision that an overview and scrutiny committee can, if it considers it appropriate, require the council to respond to issues that it has raised in a report in a shorter time frame. That is desirable, and therefore the SDLP will support that amendment.

Those are my views on the amendments. I conclude there.

**Mr McCallister:** Four amendments in this group stand in my name and that of my colleague Mr McCrea.

I turn first to the Alliance amendment on qualified majority voting. I do not have a major objection to it or to amendment No 11, in the name of Mr Agnew of the Green Party. I do not think that it is desperately dangerous or subversive to have a referendum or a choice. One of the big failings of this place is that it is much easier to stop things happening than to make things happen. We might want to look at that, particularly given what Mr Agnew spoke about. If you cannot have your first choice, you could still facilitate other choices. I am certainly open to Mr Agnew's arguments.

**Mr Agnew:** I thank the Member for giving way. He says that the amendment is not overly dangerous or subversive: it also says "may". It is a power that a council would have but would not have to use.

**Mr McCallister:** That is important. It could be another option for a council. It may be useful in the cases that I referred to if it were used to break a deadlock and get decisions through. All of us who have been Members for a number of years realise how easy it is, with petitions of concern, to stop things happening, and they are then just parked. We have not built in any great way of facilitating change. The original design was that we would set up an Ad Hoc Committee to work through the issues on which petitions of concern were used. At least the option in amendment No 11 might give that option to councils.

I turn to amendment Nos 7, 8, 9 and 10. I am grateful to colleagues for their consideration and indications of support, and I will certainly try not to put Mr Weir off his thinking that he will support the amendments and say only nice, charitable things about him. I will address some of the concerns that were expressed,

mainly, by Mr Maginness and Mr Boylan — he is not now in his place — who expressed some of Sinn Féin's concerns.

The amendments relate to councils that have opted for executive or cabinet-style governance. My difficulty with Mr Maginness's contribution is that he agreed with me that it was desirable to have that separation of powers. We just have to look at aspects of the way in which we do business here. I know that the SDLP ran into difficulties when Mr Eastwood was a member of the Environment Committee and was also Assembly Private Secretary to Minister Attwood. That is exactly the type of conflict that I am talking about and which we should separate out. Indeed, if we were following the Westminster model, private secretaries would not sit on any scrutiny Committees because they have access to Executive information. That is the type of separation that, as Mr Maginness acknowledged, is desirable. It leads directly into the arguments that I and others have put forward on the Bill at various stages. In the debate on membership of the Oireachtas or the House of Lords, it was argued that you are in another legislative body and a different Chamber, and it is not desirable that you should also sit in a council chamber. Once you get into that council chamber — this is what these amendments are about — it is not desirable that you should sit in judgement on a scrutiny committee. We would not do it here. Members of the Executive do not sit on scrutiny Committees.

I would like to see us going a lot further and changing to a government-and-opposition system. The nearest thing we have at the minute to an opposition is a scrutiny Committee, where the Chair has to be from a different party from the Minister. What if Executive members sat on scrutiny Committees? Even if they did not have direct Executive responsibility, as Mr Maginness pointed out, they would have access to a certain amount of information on an issue, or they may have had some discussion about it. It just muddies the water when you want a clear and distinct separation between the executive responsibility of a council and a scrutiny committee.

There is an argument about the number of members. If there were a 40-member council with a six-member executive and possibly the chair and deputy chair, that leaves 32 members. It is a little like the 12 Executive Ministers and two junior Ministers out of the 108 Members here. It leaves enough Members for everybody to be on a scrutiny Committee. I do

not quite accept Mr Maginness's argument when, basically, he tells us that he agrees with the principle of separation. It is desirable, and I am pleased that it seems to be gaining support.

I will address some of the concerns that Sinn Féin Members raised about the amendments. They expressed concern about the chair and deputy chair, because they were ex officio members of the executive, being excluded from a scrutiny committee. They would not be excluded from either having the report or having conversations with people. However, if you are in the executive, you are privy to the information. You might not have been involved in the decision, but it is desirable to have that separation. Given that the chair and deputy chair are representative of the civic embodiment of a district and have a role as first citizen of a district, I am not convinced that it would be desirable for them to have even a scrutiny committee role as they try to independently chair the full council and represent it through their civic responsibilities. I hope that that addresses some of the concerns of the Sinn Féin Members.

**Mr A Maginness:** I thank the Member for giving way. What I am saying is that division between the executive and scrutiny is desirable. However, in certain circumstances, that strict division may not be possible. By your amendment, you exclude that possibility altogether. That is all that I am saying. Ordinarily, in councils, if there is an executive type of governance, you will see that fairly strict division of labour, as it were, between the executive and the scrutiny function. There is nothing to worry about there, but it is important to allow some flexibility.

**Mr McCallister:** I am grateful to Mr Maginness for that intervention. With the greatest of respect, I say to him and his colleagues that flexibility in many areas is a good thing. When it comes to the standard of governance that we should all expect not only in this House but in our councils, we should not sell ourselves short. We should not accept the broad hope that it will all work itself out. We should not say, "You're probably right. That's the way it'll happen". I hope that that is the way in which it happens, but I have tabled the amendments to say that I do not think that that is good enough. This is the standard that we set ourselves in this House. It is a standard set in other parliaments, councils and legislatures around the country and around the world. Why should we expect and accept anything less in our councils? I do not have an issue with flexibility on certain things, but the standards of governance are just

too important not to set the standard very high. That is why we have tabled the amendments.

**7.15 pm**

**Mr Agnew:** I will speak primarily on the amendments in my name on behalf of the Green Party.

There will be some lack of understanding of any proposal around voting systems and electoral systems. I hold my hands up, having learned the lesson that it would have been beneficial to make more effort to let Members understand the amendment ahead of the debate. There are clearly some who understand the system and oppose it; that is fine. However, I will briefly explain the system for the benefit of those who feel that they cannot support it because they do not understand it.

It is a fairly simple system. On each of the amendments tonight, most of the votes will take the form of a simple "Aye" or "No". I will outline some examples where there are more than two options. Rather than simply having "Yes" or "No" on every option, allowing a system of preference can be, forgive me, preferable. We are used to voting 1, 2, 3 in Northern Ireland. I know that Mrs Cameron had concerns that we would have to transfer somehow. The difference is that the referendum or, to use Peter Emerson's preferred term, the modified Borda count — I do not want to complicate things any further by using the various names — is simply a points system whereby, if there are three options and you vote down your list 1, 2, 3, your first preference will get three points, your second preference will get two points, and your third preference will get one point. The system is designed, in part, to encourage you to vote down the ballot and thereby actively participate and take ownership of your vote. If you do not vote for all three options and vote for only one option, for example, your first preference will get only one point. There is an incentive to vote down the ballot and to give consideration to each proposal, whether it is from your party or an opposing party, and give your preferences accordingly.

I will give some examples of where that might be a desirable approach. It is a system that we have used in the Green Party. The first time that it came to my attention that it could be applicable to this House was when the Standards and Privileges Committee had to make a decision on how to sanction a Member. Given the nature of the Standards and Privileges Committee, I will not use a specific example but generalise the type of scenario that we could face. Three proposals could be

put to the Committee on how to sanction a Member who is found to have breached the code. The party that put in the complaint, assuming that it was a party, might first make the proposal that we should seek the ultimate sanction, whatever that might be. Exclusion from the Chamber for a week, for example, is seen as a serious sanction. The party whose Member is being reprimanded might say, "No, we think that the judgement that they broke the code is sufficient. We wish to go no further than report that there was a breach of the code". Someone who is more moderately minded might make a third proposal of something in between. That might be a letter of censure to recognise that an error has been made or to call for an apology — something that sits between the two extremes of doing nothing and doing the maximum.

If such a scenario arises in the Standards and Privileges Committee, we have to make a decision. You might think, "The Member deserves some form of censure. The moderate option is choice 3, and I do not want not to vote for the extreme, hard-line option because I definitely do not want the Member to be let off with a slap on the wrist". So the potential is there for people to vote for the more extreme option but perhaps not the best option and not the option that they prefer. However, a referendum would allow Committee members to state their preference.

**Mr Weir:** I thank the Member for giving way. I have to say that that example is not one that would come to pass particularly often in local government. Leaving that aside and using that worked example, when it came to option 3 in normal circumstances, one half of the Committee might say, "We think this is a ridiculous suggestion because it goes too far", and the other half of the Committee might say, "We regard this as not going far enough". I do not know whether the Standards and Privileges Committee is an 11-member Committee, but I assume that it is. In your referendum situation, 10 of its 11 members might regard a proposal as unacceptable, yet, with your referendum, that is what would pass because it was seen as the midway point between the two extremes. If that were writ large into a council situation, 90% of a council — 39 of its 40 members — might regard a proposition as unacceptable, but, because it was pitched between two other options that, objectively, may well be a lot better one way or the other, the option that pretty much everyone opposed would be adopted by the council. That does not seem to me to be particularly good decision-making.

**Mr Agnew:** I thank the Member for his intervention. Unless I misunderstand him, I think that he might misunderstand the system. If everyone across the council is opposed to a certain option, they will put that least-preferred option as their third choice, and it will get fewest votes. However, if the Member is saying that it is no one's first preference but the one that finds the greatest consensus, yes, that is the one that will be chosen.

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

**Mr Agnew:** Yes.

**Mr Weir:** I think that the Member misunderstands me. The middle option may not be the one on which there is consensus; it may be regarded as very marginally better than the worst possible option. Indeed, given the choice of yes or no, 38 of 40 members might oppose the middle option, with only the proposer and seconder in favour. The 38 members may say that they regard it as unacceptable but slightly less unacceptable than one of the other options. However, that means that what is put in place may well be something that the vast majority — virtually every member of the council — regards as something that should not have gone ahead. That has the potential to be, in certain circumstances, a recipe for passing almost the worst possible option or, at least, very poor decision-making.

**Mr Agnew:** I disagree with the Member. I do not think that it brings out the worst possible option. Sometimes, it might bring out what could be seen as the middle option between two extremes. I do not accept that, if there was objection on such an scale, the maths would work out that way.

At the start of my speech, I accepted that some Members might not fully understand the system or, as some have said, it may not have been sufficiently tested. I accept that criticism, but I think that the strongest objection to a system designed ultimately to bring compromise is coming from one of the parties that, historically and consistently, has failed to compromise. For that reason, it has failed to —

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

**Mr Agnew:** In one second.

That party in particular has ensured that deadlock would continue when presented with a system that would have allowed compromise decision-making.

**Mr A Maginness:** I thank the Member for giving way. His point is that his proposal is an attempt to achieve compromise by going through different options and, ultimately, achieving a compromise. My point is this: if there is not the appetite for consensus and compromise in a council or whatever political context you are operating in, you will not achieve it through a mechanism that is more or less imposed on people. It is desirable to reach political compromise and consensus, but they must be created through other political dynamics.

**Mr Agnew:** I accept the Member's point that a voting system alone does not create compromise, although it can create a compromise decision. I suppose the example of that is Belfast City Council. I do not think that I am arguing against my amendment by saying that, but I accept his point. If we had had that system during the flags debate, we would have reached an outcome that all parties had contributed to. However, it might not necessarily have meant that all parties were willing to compromise on the issue. If we had a situation in which people could have voted for flying the flag 365 days a year, designated days and no days, they could have given their preference, rather than the system we have in which a proposal and an amendment were tabled. There may have been other proposals that could have been included in that vote, and the whole broad range could have been explored. In that sense, it might have been beneficial had there been the possibility to consider and put forward other options. I do not think that we should fear choice in our democracy.

I will now come to some of the other objections that were raised. Mr Weir raised a point — I am trying to find it in my notes. Mr Maginness talked about the system being imposed. It is a "may", and it would give councils an option. Many, if not most, council decisions will be an either/or option, and the simple majority vote is there for that.

Mr Weir made the point that, somehow, it would be a dangerous form of decision-making. That was maybe Mr McCallister's term, but Mr Weir certainly felt that it was a bad road to go down. We could begin with the assumption that what we have is perfect, and I do not believe that the proposed voting system is any more perfect than any other. However, we cannot say that majority rule, with a 50%-plus-one system whereby 50%-plus-one want something and everybody else objects, is a good way to make decisions. Mr Maginness made the point about consensus. We are even less likely to get consensus in an oppositional system when you

are either for or against. Indeed, you could have a near 50:50 split in the council chamber and in the community. I do not think that that is a good system for achieving consensus. My proposal would be another option for councils, should it be needed and if other options need to be considered.

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

Mr Weir also said that the system could be used as a way of skewing votes. I would argue that the either/or or "Yes" or "No" majoritarian system does just that. If we look at the example of the Scottish referendum, we see that that is exactly what the Government did. It was the SNP's public preference to have the options of full independence, devo max, devo plus or whatever the options were called while retaining the status quo. The Government very much felt that a step in the direction of devo max, which was maybe a more likely outcome, would take Scotland a step closer to independence. They said no and that it was a case of being either in or out.

That was designed, I believe, to skew the vote the way the Prime Minister wanted it to go. Any system can be used by political parties to work in their favour, or they can attempt to skew it to work in their favour, but I think that giving options and preferences gives more debate. I think it gives more potential for different options to be considered and, at the very least, I think we should look at different systems.

### 7.30 pm

I do accept that there has been no opportunity to test this, but, in a system that may be used by council, I think that is something that could be done subsequently before it is used. Having used it myself, I can certainly stand over it as a system. Indeed, having counted the ballots, I know that it is a system that works, but I appreciate that there is no consensus on that issue. Maybe if we had a range of voting systems to vote by referendum we could get such a consensus, but we will not get consensus on that.

**Mr Weir:** The Member mentions the system. We may find that, on a straight yes-or-no vote, 90% plus of people may actually go against your proposal. We may find that, if there were a range of options, by some quirk it would actually emerge as the middle option, and we would have a situation in which 90% of the Assembly was hostile to it but it still became law. That seems to be the flaw in that.

The Member makes reference to the limitations of a majority vote, but, again, what could emerge in real-life examples of council is that what is seen and pitched as the middle option, because it is maybe disliked less than others by a number of people, but which perhaps only has the support of 5% or 10%, is approved. Whatever the limitations of something with only 51% of the council's support being approved, surely a situation in which 5% of a council approve something and it then being approved is far worse.

**Mr Agnew:** Again, I come back to what I said earlier. If you are in a mindset you either approve of something or oppose it, but the point is that it is a spectrum. There are many shades in between. The Member made the point that it is the option that people dislike least. I am not necessarily sure that it is a bad outcome if people do not get something that they dislike. If 90% of people do not dislike it, as opposed to 49% of people utterly opposing a decision that would be made under a majoritarian decision, I am not sure that that is a worse outcome.

The Assembly will obviously make its decision on this under the majoritarian system. I will respect the will of the Assembly, but I am glad to have had the opportunity to at least get Members to consider that there are different ways in which decisions can be made. I hope it is something that can be looked at again in the future, because where there is gridlock and failure to move because we have two diametrically opposed positions, between those two poles there is often a lot that could be considered and compromised on, which could help us move forward.

On the NI21 amendments, I accept the principle of separating responsibilities and making a clear distinction between executive and scrutiny powers. I think that is a sensible way forward. I have no objection to amendment No 6, proposed by the Alliance Party. On amendment Nos 12 and 13, I will listen to the debate further and hear from the Minister. Obviously, having proposed them, I support amendment Nos 11 and 29.

**Mr Elliott:** First, I apologise to the Minister and some of the earlier contributors for missing their contributions, but I had to go out to another meeting just briefly.

On Mr Agnew's amendments first, he indicated that maybe if his options were in the Belfast City Council when the flags vote was being taken, all parties could have contributed to it. My understanding is that all parties did contribute to it and that there still was no

agreement, so I am not so sure how he is making the case for his amendments on that particular point.

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

**Mr Elliott:** I still believe they made a contribution but did not agree. I am happy to give way.

**Mr Agnew:** Perhaps "contribution" was the wrong word, but there is more likelihood of a corporate responsibility, although in that sense it may be a bad example. If you put designated days as your second preference, then it is not a simple case of saying, "I voted for it" or "I voted against it". It was not my first preference, but we think it is a least worse option than, for example, having no flag.

**Mr Elliott:** I thank him for his attempt at clarification. I am still not sure that I take the point that people did not have an option to contribute.

Moving on, the Ulster Unionist Party amendment Nos 12 and 13 are about reconsideration of decisions by the call-in mechanism of councils. This is quite a simple proposal. We are merely trying to ensure that call-ins, or reconsideration decisions, go back to the full council and that reconsideration is not by a committee of a council, whether executive or formal. Reconsideration must take place in full council.

If people on a council feel strongly enough about a call-in, then it should be up to the full council to reconsider such decisions in the final analysis. We are trying to simplify the process and ensure that when decisions are taken, particularly when call-in decisions are reconsidered, as many people as possible have the opportunity to discuss them, make that decision and do that reconsideration, and that means the full council. All we are trying to do is make it as broad as possible. I hope that there will be no significant opposition to the Ulster Unionist Party amendments, simply because we are trying to ensure that the process on councils is as open, transparent and inclusive as possible.

Regarding other amendments, we do not have a significant problem with the Alliance Party's qualified majority to operate executive arrangements. We believe that the more mechanisms that can be built into the executive process, the better, simply because the executive process, if any councils implement it,

will mean that a small number of councillors will operate a council.

On that point, and although it is not in these amendments Mr Deputy Speaker if you will bear with me, it is an anomaly in an earlier amendment in clause 20, whereby the chair and deputy chair are now allowed to be non-voting members of an executive. However, we increased the minimum number of members on an executive from four to six. To me, you have not actually increased that number because now the chair and vice-chair will count as two of those members. Even though they are non-voting members, they are still members. It is an issue that the Minister needs to take away and look at in a further stage or maybe even in regulations. I am happy to discuss that further with him.

What the NI21 amendments are trying to do, by and large, is similar to what we are trying to do in our amendment, which is to have more accountability in councils and ensure that executive members do not sit on oversight and scrutiny committees. We support that proposal because it would be helpful. We do not think it is right that executive members, who are small in number when compared with the entire council, should have the option to sit on scrutiny committees.

We do not see difficulty with instructing councils to consider decisions or respond to reports that are urgent within, I think, one month as opposed to two. The issue will be what is urgent and what will fall into that category. That is one of the queries we have but maybe that will be decided by standing orders or regulation. I will leave it there.

**Mr Durkan:** Amendment No 6, tabled on behalf of the Alliance Party, seeks to place in the Bill a requirement for a decision on the political governance structure to be adopted by a council to be taken by a qualified majority. As I stated in the House at the Bill's Second Stage and subsequently, the decisions that will be required to be taken by a qualified majority vote will be specified in a council's standing orders, as provided for in clause 39. Those decisions will be specified as a mandatory element of standing orders in the regulations to be made by my Department using the power provided by clause 37. Those regulations will be subject to the draft affirmative procedure in the Assembly.

One of the strategic decisions a council will make, which will be specified in the regulations and, therefore, its standing orders, will be on the political governance structure it adopts. For those reasons, I urge members not to support

the amendment. There is nothing wrong with it; it is just unnecessary.

An integral aspect of the introduction of executive arrangements, which will provide for more efficient and effective decision-making in the new councils, is the accompanying establishment of overview and scrutiny arrangements. Recognising the local democratic autonomy of the councils, clause 26 provides a framework for overview and scrutiny arrangements and specifies the functions to be undertaken.

It is a matter for each council that adopts executive arrangements to determine how it wishes to structure overview and scrutiny. A council may choose to have a single overview and scrutiny committee, as is the case currently for Armagh City and District Council, or it may choose to establish a number of thematic overview and scrutiny committees, particularly if it adopts the streamlined committee executive structure.

Whilst amendment No 7, tabled by Mr McCallister and Mr McCrea, does not alter the underlying principles of providing freedom of choice for a council, neither does it strengthen those provisions. In my view, it is an unnecessary amendment.

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

**Mr Durkan:** Certainly.

**Mr McCallister:** I disagree with the Minister. I think that the amendment does strengthen the provisions. As Mr Elliott said, it provides that very clear separation between executive responsibility and scrutiny, which is vital. The Minister should know the importance of that, being an Executive Minister and knowing the level of scrutiny that the Chair and her colleagues on the Committee apply to him.

**Mr Durkan:** I thank the Member for that intervention. I have no doubt that he believes that the amendment will strengthen the provisions. However, I will come in due course to my rationale for why I deem it to be unnecessary.

My officials will be engaging with senior officers from local government to develop guidance to support the operation of executive arrangements, taking account of the lessons learned in England, Scotland and Wales. That guidance will cover the role of overview and scrutiny and outline aspects that a council will wish to consider, including the arrangements to

be adopted if the work programme of an executive cuts across two or more committees. I urge Members to not support the amendment.

Clause 27 makes supplementary provision in relation to overview and scrutiny committees, particularly the membership of such committees. The clause recognises that a council may wish to adopt the streamlined committee executive structure and have a number of thematic overview and scrutiny committees to match the functions and responsibilities of the executive committee.

In order to ensure that sufficient flexibility exists in the membership of each committee, in such circumstances a member of the executive may be a member of an overview and scrutiny committee. I will reverse the example that Mr McCallister gave: in a 40-member council that decides to adopt a streamlined executive with four committees, each with eight members, only eight members of the council would be available to undertake the overview and scrutiny role.

Whilst I am providing that flexibility, the legislation is clear that a member of a streamlined committee executive may not be a member of an overview and scrutiny committee that is scrutinising decisions in which the member has had a role. Amendment Nos 8 and 9 tabled by Mr McCallister and Mr McCrea would preclude that arrangement from being permissible. That would present difficulties for a council and remove the flexibility necessary to allow it to consider adopting the streamlined committee executive structure. For those reasons, I cannot accept those amendments.

7.45 pm

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

**Mr Durkan:** Certainly.

**Mr McCallister:** The Minister's objection does not provide for good governance. Even Mr Maginness, in interventions, talked about desirability. It is not desirable and it should not be permitted to have people on the executive and on scrutiny committees. It is just not good governance.

**Mr Durkan:** Again, I thank the Member for his intervention. I accept his point of view, but we are where we are. There is a possibility that a council could go with the streamlined committee executive structure and end up with the difficulty of having only eight members out of a 40-member council who could then take part in

the scrutiny and overview role. If you take the mayor and the deputy mayor or the chair and the vice-chair as being two of the eight members who are not on the four committees, that leaves you with six.

As I said, amendment Nos 8 and 9, tabled by Mr McCallister and Mr McCrea, would preclude that arrangement being permissible. That would present difficulties for a council and remove the flexibility necessary to allow it to consider adopting the streamlined committee executive structure. For those reasons, I oppose those amendments.

Amendment No 10 amends clause 31 to make provision that an overview and scrutiny committee can, if it considers it appropriate, require the council or the executive to respond to issues that it has raised in a report in a shorter time frame. That strengthens the provision and supports my policy objective of improving the efficiency and effectiveness of council decision-making. I therefore support the amendment.

I will now address amendment Nos 11 and 29, tabled by Mr Agnew, which have the combined effect of introducing a further new voting mechanism for council decision-making. The introduction of a qualified majority vote for specified strategic decisions and in response to a call-in on the grounds of a disproportionate adverse impact was agreed by the political parties on the strategic leadership board's policy development panel on governance and relationships. It was supported by the Committee for the Environment during its scrutiny of the Bill as one of the mechanisms to provide protection for the interests of minority communities in council decision-making. I cannot recommend support for the introduction of a further complicated voting methodology for the consideration of options for a decision of a council. Mrs Cameron mentioned the scenario of councillors emerging two days after a debate started and not remembering what the debate was about in the first place. That reminded me of Consideration Stage of this Bill. The identification of support for a particular course of action can be achieved in a simpler manner than that which Mr Agnew has proposed. Mr Weir described it as a Eurovision approach before giving it a resounding "nul points".

In closing, I will comment on amendment Nos 12 and 13, tabled by Mr Elliott and Mr Kinahan. The combined effect of those amendments to clause 40 would be to require the reconsideration of each decision that is the subject of a call-in to be undertaken by a council. That would mean that the committee

making the original decision or recommendation would not be afforded the opportunity to reconsider that decision or recommendation to take account of any additional information that has been identified and the views of the relevant overview and scrutiny committee. The process for the reconsideration of decisions or recommendations was agreed, again, by the policy development panel on governance and relationships and was supported by the Environment Committee. I therefore urge Members not to support those amendments.

**Ms Lo:** We have support for amendment No 6 from Sinn Féin, NI21, the Green Party and the UUP. I know that the Minister, Mr Weir, Mr Maginness and Mr Eastwood said that it was pointless and unnecessary because clause 37 already provided that mandatory element in standing orders for councils. However, we do not think that there is any harm in specifying in the Bill that we need that qualified majority for an executive system. It is important to make it very clear that this needs consensus in the council for that governance structure to be set up. Therefore, I urge Members to support the amendment.

*Amendment No 6 agreed to.*

**Clause 26 (Overview and scrutiny committees: functions)**

*Amendment No 7 made:* In page 13, line 23, at end insert

*"(2A) For the purpose of dealing with a matter of concern to more than one overview and scrutiny committee of the council, Standing Orders may provide for the council to appoint an ad hoc overview and scrutiny committee or for the relevant committees to sit concurrently." — [Mr McCallister.]*

**Clause 27 (Overview and scrutiny committees: supplementary provision)**

*Amendment No 8 proposed:* In page 13, line 40, after "may" insert "not".— *[Mr McCallister.]*

*Question put, That amendment No 8 be made.*

*The Assembly divided:*

*Ayes 50; Noes 38.*

**AYES**

*Mr Agnew, Mr Allister, Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr*

Clarke, Mrs Cochrane, Mr Craig, Mr Cree, Mr Dickson, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Easton, Mr Elliott, Dr Farry, Mr Frew, Mr Gardiner, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Ms Lo, Mr Lunn, Mr McCallister, Mr McCarthy, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McGimpsey, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wilson.

Tellers for the Ayes: Mr McCallister and Mr B McCrea.

## NOES

Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr Durkan, Mr Eastwood, Ms Fearon, Mr Flanagan, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Dr McDonnell, Ms McGahan, Mr McGlone, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Milne, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Mr Rogers, Ms Ruane, Mr Sheehan.

Tellers for the Noes: Mr Flanagan and Mr Rogers.

Question accordingly agreed to.

Amendment No 9 made: In page 13, line 40, leave out from "only" to the end of line 3 on page 14.— [Mr McCallister.]

### **Clause 31 (Duty of council or executive to respond to overview and scrutiny committee)**

Amendment No 10 made: In page 16, line 19, at end insert

"unless, in accordance with Standing Orders, the overview and scrutiny committee deems the notice to require a prompt response in which case the notice must require the council or the executive to comply within one month".— [Mr McCallister.]

## **New Clause**

Amendment No 11 proposed: After clause 38 insert

### **"Multi-option referendum**

**38A.** If more than two options have been proposed for a decision of the council, the council may take that decision by multi-option referendum in accordance with paragraph 9A of Schedule 5.— [Mr Agnew.]

Question, That amendment No 11 be made, put and negatived.

### **Clause 40 (Power to require decisions to be reconsidered)**

Amendment No 12 proposed: In page 21, line 39, leave out from the beginning to the first "council".— [Mr Elliott.]

Question put, That amendment No 12 be made.

**Mr Deputy Speaker:** Order. I have been advised by party Whips that, in accordance with Standing Order 27(1A)(b), there is agreement that we can dispense with the three-minute rule and move straight to the Division.

The Assembly divided:

Ayes 44; Noes 44.

## AYES

Mr Agnew, Mr Allister, Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Clarke, Mr Craig, Mr Cree, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Easton, Mr Elliott, Mr Frew, Mr Gardiner, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Mr McGimpsey, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wilson.

Tellers for the Ayes: Mr Elliott and Mr Kinahan.

## NOES

Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mrs Cochrane, Mr Dickson, Mr Durkan, Mr Eastwood, Dr Farry, Ms Fearon, Mr Flanagan, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Ms Lo, Mr Lunn, Mr Lynch, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Ms McCorley, Dr McDonnell, Ms McGahan, Mr McGlone, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Milne, Ms Ní Chuilín, Mr Ó hOisín,

*Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Mr Rogers, Ms Ruane, Mr Sheehan.*

*Tellers for the Noes: Mr Rogers and Ms Ruane.*

*Question accordingly negated.*

*Amendment No 13 not moved.*

**Clause 41 (Admission to meetings of councils)**

**Mr Deputy Speaker:** We now come to the fourth group of amendments for debate. With amendment No 14, it will be convenient to debate amendment Nos 15 to 17 and 19 to 21. The amendments deal with the use of social media during council meetings. *[Interruption.]* I will stop for a second because there is a lot of noise, and I cannot be heard. Will Members please leave the Chamber quietly?

The amendments deal with the use of social media during council meetings; audio recordings of Committee meetings; and good relations as an objective of community planning. Members should note that a valid petition of concern has been tabled in relation to amendment No 19. Therefore, the vote on that amendment will be on a cross-community basis. Members should further note that amendment No 19 is mutually exclusive with amendment No 20, and amendment No 21 is consequential to amendment Nos 19 or 20.

**Ms Lo:** I beg to move amendment No 14: In page 23, line 15, at end insert -

*"(7A) But a council shall permit during proceedings the use of social media by councillors, members of the public or journalists, to the extent that its use does not disrupt proceedings."*

*The following amendments stood on the Marshalled List:*

No 15: *As an amendment to amendment No 14*

*After the first "proceedings" insert*

*"which are open to the public".— [Mr Weir.]*

No 16: *In clause 45, page 26, line 8, at end insert*

*"and*

*(d) for the purposes of sections 43(3) and 44(6) the council's website is treated as the website*

*of the committee or sub-committee".— [Mr Durkan (The Minister of the Environment).]*

No 17: *In clause 46, page 26, line 20, leave out subsection (2).— [Ms Lo.]*

No 19: *In clause 65, page 39, line 5, leave out "in accordance with" and insert*

*"and good relations between the categories of persons listed in".— [Ms Lo.]*

No 20: *In clause 65, page 39, line 6, at end insert*

*"without prejudice to this, having regard to the desirability of promoting good relations; and".— [Mr Durkan (The Minister of the Environment).]*

No 21: *In clause 65, page 39, line 22, at end insert*

*"(7) For the purposes of this section the reference to good relations shall involve, in particular, having regard to the need to a) tackle prejudice and b) promote understanding between the categories of persons listed in section 75(1) of the Northern Ireland Act 1998." — [Mr Durkan (The Minister of the Environment).]*

**Ms Lo:** Amendment Nos 14 and 17 relate to openness and transparency. I thank all Members who, a fortnight ago, voted for my amendment to require the audio recording and online publication of council meetings. I outlined my reasons for supporting that at the time, but, in summary, I wanted to make sure that members of the public and ratepayers could have access to what was happening in their local council. I also felt that a public record of who said what would perhaps help to reduce bad behaviour among councillors and make it easier for the commissioner to investigate complaints. At that time, the amendment contained an exemption for committee and subcommittee meetings, in effect limiting the requirement to full council only. I was, however, impressed with the arguments made by Members from several parties who remarked that they would support a wider duty.

Given the size of the initial majority, I feel that I can now bring forward a wider duty without undermining the initial amendment. I am aware that many of the key decisions of councils are taken on committees, and I feel that it is right that importance be attached to these amendments too. That is why I have sought to

amend a clause created by the Alliance Party at Consideration Stage. I hope that Members will carry their support over to this new amendment too.

My amendment No 14 also raises the issue of transparency. In this case, it relates to social media, a medium that is growing in influence and, for all its flaws, is a useful way to communicate directly with members of the public. Using these tools is usually discreet and quick. Therefore, I propose that the council should have a duty to allow members to use them so long as they do not disrupt the meeting when doing so. To me, that is an important step towards making sure that our councils reflect the changes in the ways in which people engage with politics. We will also vote for amendment No 15, which clarifies our amendment. I thank the Members for tabling that amendment.

The other amendments in the group relate to good relations and how important we, in the House, believe that those are. My amendment No 19 and the Minister's amendment No 20 offer two visions of how equality and good relations work. Alliance believes that good relations and equality are part of the same issue and should not be placed in a hierarchy. One is as important as the other. The Minister's amendment states that good relations should be made inferior to equality; that is my interpretation of it. We believe that that misunderstands the relationship between the two. They are part of the same process. The challenge for SDLP members today is to explain why they think that good relations matter less than equality. They must also justify why they are vetoing the placing of good relations on an equal footing with equality and why they feel that the idea is so wrong-headed that it cannot be decided by a majority. Those of us who believe otherwise must support amendment No 19. We must move on from the idea that equality considerations and good relations considerations are separate and competing. We must accept that they are both part of the package that aims to ensure that all citizens in Northern Ireland are treated in a way that respects human rights and promotes tolerance and integration. That cannot occur if we pick one over the other. It must be both.

We will also oppose amendment No 21, which provides a definition of good relations that, we think, is limited and flawed. We are not convinced that a definition is required, if no definition is required in the Northern Ireland Act and as there has already been 15 years' worth of good work with the legal framework that exists. More than that, I am deeply concerned

that the amendment makes no reference to reconciliation, integration or sharing. Those must all be part of our approach to good relations, and we cannot leave them out. To do so would be to roll back valuable good relations work and would limit good relations work far too narrowly. A comprehensive definition is needed if one is to be applied at all. This definition is not good enough and could undermine work done so far.

**Mr Weir:** There are seven amendments in group 4. I will pick up where the Member who spoke previously left off.

The DUP is happy to back Alliance amendment No 19. I appreciate that there are arguments about contradictions with amendment No 20. However, if amendment No 19 were not successful, we could live with amendment No 20. Others have been at the eye of the storm in this, but I still have not entirely grasped why people feel that amendment No 19 or indeed its predecessor at Consideration Stage is so poisonous that it requires a petition of concern. From that point of view, we are happy to back amendment No 19, but, in its absence, we will support amendment No 20.

We share some of the concerns of the Member who spoke previously about amendment No 21. We spent a considerable time at Consideration Stage debating definitions of good relations and equality. One of the many things that was said is that one person's good relations could be another person's inequality. Indeed, it could also be argued in particular cases that what is seen by one person as contributing to good relations may be seen by someone else as taking away from them. Consequently, this seems a little bit packaged and limited as a definition. More work needs to be done on it, and, from that point of view, we oppose amendment No 21.

Amendment No 16, proposed by the Department, is largely a consequential amendment, and it seems to be quite sensible about the definition of the website.

That leaves three amendments. Amendment No 17 is an extension of an amendment that went through at Consideration Stage that we voted against. In part, that was because we were concerned about the cost. Costs include not only the provision of capital equipment but the work of recording it consistently, having a member of staff to deal with it, storage and production. If that argument was used in a general sense against it happening simply at council meetings and its mandatory application, this amendment takes recording one stage

further, as would be acknowledged by its proposers. It states that recording has to be done for every committee and subcommittee meeting that is held. That seems to us to add an additional burden, and we think it excessive. Let me make it clear, as I did at Consideration Stage, that I have no problem if a council decides that it wants to record everything. The problem with both the earlier amendment and this amendment is the level of prescription. As I mentioned, with much of this legislation a balance must be struck between how prescriptive we are at Assembly level and how much flexibility we allow at local government level.

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

**Mr Weir:** Yes, I am happy to give way.

**Mr Dickson:** I have listened to what Mr Weir is saying, and, to a certain extent, I acknowledge that it is for individual councils to make that decision. Sadly, with local government at the moment, some councils see the value not necessarily of recording meetings but of doing things in a particular way. Others become totally intransigent about ideas and working methodologies, whether that involves openness to the press or whatever. Therefore, it is a matter of some regret, but it is important that we have to set the baseline. It sadly comes on the back of the track record of some authorities that have not acted in the best interests of the public whom they serve.

**8.30 pm**

**Mr Weir:** Amendment No 17 smacks a little bit of Big Brother; it goes a step too far. Although we opposed it, the Assembly has decided that there will be a recording of all council meetings. To take that a stage further and say that every committee or subcommittee meeting will be recorded because the provisions of clause 46 apply to it will mean that all those recordings will be available on the website for two years and will be stored for six years.

At present, structures vary from council to council. Most councils will have, I suspect, five or six committees and probably a number of subcommittees. I suspect that that is likely to increase as we move to greater responsibilities. Therefore to say that the requirements may be multiplied 10-fold because they are applying to eight, 10 or 12 meetings — not merely full council meetings — seems excessively prescriptive. If the Assembly is minded, as clearly it was, to make that provision purely for

councils, it is, personally speaking, taking it a step too far and being too prescriptive.

Turning briefly to the other two amendments, we accept the broad thrust of amendment No 14. However, it is important to put the qualification in that it should not disrupt meetings. It is important that, if social media is used, it does not cause disruption, although I appreciate that provision has already been made for photographs.

I think that we all accept that it is commonplace in the Assembly or in council meetings that those spectating and, because of the use of electronic devices, those attending meetings are, quite rightly, perfectly at liberty to indicate when decisions have been taken and to try to share that information. I have no problem with that. However, the vast bulk of business — indeed it is the presumption in the legislation — in councils at present, and more so in future, will be open to the public, and it is important that it be openly scrutinised. That is the basis for our amendment No 15.

There will, however, be occasions, and the legislation quite properly provides for them, on which, either because there is a discussion of a commercial nature — perhaps a contract is being discussed or awarded or tenders are being discussed — or a staff issue that is pertinent to an individual, perhaps the successful or unsuccessful applicant for a job, the council rightly decides that the matter should be discussed in camera or in committee and that the public and the press should be excluded. That deals with two elements of the provisions in amendment No 14: if people are not present, they will not be able to post the proceedings on social media. In meetings dealing with confidential business, the vast majority of councillors will, in my experience, respect that confidentiality, and that is the right thing to do.

However, I have also been in council meetings that, while a decision is being taken, or has just been taken, on the awarding of a contract or the appointment of a member of staff, I have seen the results of decision posted on Facebook or Twitter by another councillor. Sometimes, that can be done innocently: perhaps they want to be the first to congratulate the individual, and I can understand that. However, whether the reason is benign or malevolent, if something is to be decided in confidence, that confidence should be respected by everybody.

Consequently, we have added the caveat that amendment No 14 should apply where such meetings are public because it could undermine

the position of a council if commercially sensitive material were immediately released. It could lead to, for example, the leaking of a progress report, and that could damage the opportunity for ratepayers to get the best value for money. For example, if Ms Lo, the Chair of the Environment Committee, was being appointed or head-hunted as the chief executive of a new council, it could be that everything was being kept under wraps until it had been formally approved by the council. Indeed, quite often, director or other posts, with the exception of the chief executive, will require at least that ratification. Occasionally, that can go awry. It may be that official word is being held back until the decision has gone through. If I were up for a job, whether successful or unsuccessful, it would be wrong if the first that I saw of the decision was when it suddenly appeared on my Twitter account that I had got the job or, even worse, that someone else had got it. There needs to be a level of decency when we are dealing with staff.

Although I think the vast majority of councillors are self-regulating, unfortunately there are some who do not seem to know the boundaries of confidentiality and who, in the past, have been willing to tweet or put on Facebook or other social media things that were decided confidentially. That is wrong. When you accept something as confidential, it should be treated as such.

That is a relatively minor constraint on amendment No 14. Taking the two together provides a more harmonious picture. As with any of these things, there is no guarantee that anybody will abide by it. However, it is, at least, sending out a clear signal about what is acceptable and what is not. By all means, let us be as transparent as possible and involve and inform the public as much as possible, but let us not, where we have issues around commercial sensitivity —

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

**Mr Weir:** Yes, I am happy to give way.

**Mr Allister:** Has the Member any concern that a lazy councillor who does not bother to contribute very much to council business could, in fact, create the aura of being quite busy and involved in the work of the council simply by tweeting what is happening here and there, without actually contributing anything?

**Mr Weir:** There is always that danger. I am not sure how, with the best will in the world, we can prevent that. Even if amendment No 14 does

not go through and there is a prohibition on the use of social media during a council meeting, there is nothing to stop the lazy councillor, five minutes after they have left the meeting, tweeting or Facebooking what has gone on. I will not attribute this to any individual or party, but I am sure that we have all received leaflets through the post claiming that a councillor, or even an MLA or MP, has achieved the heaven, moon and stars when it may have been nothing to do with them at all. That happens occasionally. I am not sure how we build into the legislation a clause on the veracity of public claims; that may be beyond the competence of the Assembly.

It strikes me that, to at least keep people informed, social media is, in general, a good tool. As with any form of communication, it can be abused. There is no guarantee that what is put there is correct. However, our amendment, at the very least, gives some level of safeguard that it should not be abused when there is a decision to be taken in committee in camera or in confidence. It gives councillors an indication that they should not abuse that by Facebooking or tweeting it. Amendment No 15 is a relatively straightforward amendment that complements amendment No 14.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. This reminds me of travelling in the back of the car on a long journey, when we used to ask, "Are we there yet? Are we there yet?" We are getting very close to the end of tonight's debate. I just want to say a few words on some of the amendments.

With your indulgence, Mr Deputy Speaker, I want to put on record that Barry McElduff, who spoke at Consideration Stage, is suffering a family bereavement. I want to offer my condolences and prayers to him at this time. The reason why I brought up Barry's name is that he spoke on good relations. I may reflect some of the stuff that he commented on at that time.

On amendment Nos 14 and 15, we went through the debate about meetings being open to the public and what could be recorded. Mr Weir articulated the point about tweeting and the use of other social media. We are content to go down that line with meetings that are open to the public. I do not see any issue with that, but I am certainly not in favour of opening up the type of meeting at which commercial sensitivities and other issues need to be discussed. I do not want something to come out of such a meeting that could give rise to the public getting the wrong impression of the

discussions that took place. This argument has been well rehashed. I know that the Member has won the argument about audio recording. That is not a problem. We support public meetings being recorded, and we do not have a problem with the use of social media at any meetings open to the public.

In this group of amendments, the main issues for Sinn Féin are with the Alliance Party amendments. Once again, these issues have been brought to the Floor for debate. I am still of the opinion, as my colleague articulated at the previous stage, that the amendments would diminish what is in the NI Act 1998. I do not believe that what the Alliance Party proposes would help.

The Minister tabled amendment Nos 20 and 21, and I look forward to his clarification of promoting understanding, tackling prejudice and good relations. I think that he has tabled fairly reasonable amendments and will listen to his remarks on them.

Mr McElduff articulated Sinn Féin's points on this matter last week, and I thank him for that. Our thoughts are with him at this time.

**Mr Eastwood:** No one is as happy as I am that we are getting towards the end of the debate and that, largely, we have got through it in a pretty mild-mannered way. However, I have to say that I was deeply disappointed to hear the remarks of the Committee Chair in her role as an Alliance Party spokesperson. We are not really surprised because we watched some of the Alliance Party conference last week. I got bored halfway through, so I turned over, but there was a stinging attack on us and Sinn Féin for not supporting the Alliance Party's perspective on good relations. Let me tell the Alliance Party that it does not own good relations or community relations. They are not the only people in the North of Ireland who are concerned about good relations. From my party's perspective, we are very, very serious about good relations and have been since our foundation. I am sure that Mr Morrow will disagree with that — indeed, I can hear him speaking from a sedentary position. There were lots of very strong words about our amendment being flawed. Our amendment was based on the Equality Act 2010, which made an attempt — a very good attempt, in my view — to define good relations to ensure that there was a relationship between good relations and equality on the basis of objective need. The Alliance Party, despite having plenty of opportunity over the past two weeks, made no real attempt to define good relations. That is

why we and the Minister have made the effort to do so.

This society has been through a lot in the past 40 years, in the past 400 years and in the past 800 years. People in here and people outside of here, many of whom are not here today, have fought very hard in a democratic way to ensure that we have a rights-based approach to our society.

**Mr McCallister:** I am grateful to the Member for giving way. If the Alliance Party does not own good relations, surely the SDLP does not own equality. It is rather difficult and, quite frankly, slightly patronising to talk about the democratic way, having signed a petition of concern against an amendment.

**Mr Eastwood:** We signed a petition of concern because we thought that there was a better way, and we now have the DUP signing up to amendment No 20. I am not sure that it would have done so had it been up to the Alliance Party and maybe you.

I do not pretend that the SDLP owns equality. The SDLP is very strong on equality and good relations. It is not a case of one over the other. It is equality and good relations, and they are too important to play with in this way and to tell us that we are trying to ensure that good relations are inferior to equality. They are not equivalent. They are different, and both are very important. One should not be allowed to trump the other, and one should not be allowed as a veto over the other.

8.45 pm

**Ms Lo:** Will the Member give way?

**Mr Eastwood:** I will, yes.

**Ms Lo:** What you are doing with your amendment is trumping good relations with equality. We agree with you: one is as important as the other. Another point that we agree with you on is that good relations is what you said it is in the amendment. However, it needs to be more. It needs to be about reconciliation and bringing people together to have good relations.

**Mr Eastwood:** I would have loved to have read your definition of good relations, but you made no attempt to define it in the Bill. We did, and we did it on the basis of ensuring that objective need and equality will not be trumped by good relations or anything else. However, we stand by the principles of community relations and

good relations, and we will not allow them to be used to veto policies on the basis of need and to stop equality becoming a central part of our society and this Government.

People fought very hard to ensure that we have a rights-based approach in this society and that we can develop that. All the work around the Good Friday Agreement — not everybody in this room says they agree with it, but they are all here — was about ensuring a rights-based approach. That was because we have a history in this society of not having had that approach. People in this city and in the North of Ireland had to fight and march in a peaceful and democratic way even to be allowed to use their vote. I think that people very clearly understand why equality is an essential part of this.

**Lord Morrow:** Will the Member give way?

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

**Mr Eastwood:** You are up first. Go ahead.

**Lord Morrow:** I listened intently to what Mr Eastwood said. Quite frankly, you will need to do better because you are not cutting it. Normally, actions speak louder than words. You chastised the Alliance Party, maybe with some degree of accuracy, about what it has not done, but let us take a look at what you have done to promote community relations. Let us, for a moment, put the spotlight on Mr Eastwood and Co. Newry: do you remember it? Do you remember the children's play park and the sign that went up in honour of a terrorist? Is that your definition of good community relations? Is that what you claim that you and your forefathers fought for? I think that you went back 800 years. Is that your definition of good community relations? Is that the outworking of it? I would like to hear you on that.

**Mr Eastwood:** I think that there must be something wrong with the microphones on this side of the Chamber. That has been put to bed. It has been said a number of times that that was not the best thing to happen. Alasdair McDonnell stood there and explained what happened.

**Lord Morrow:** He did nothing about it.

**Mr Eastwood:** You know, I am listening to the DUP —

**Mr Deputy Speaker:** Order. This gesture of good community relations has gone too far

across the Chamber. Remarks must be made through the Chair.

**Mr Eastwood:** Apologies, Mr Deputy Speaker. It is interesting to be lectured to by the DUP on good relations. However, I am glad to see that it is now on the pitch on good relations and, hopefully, on equality.

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

**Mr Eastwood:** I will, yes.

**Mr Dickson:** Rather than lecture Mr Eastwood, I have a question for him.

Listening to what he said, it would appear to me that he has a fear that good relations in some way dilutes the standard of equality. Equality is enshrined in our legislation in all the ways that you have described it — the struggle to get there and where it is on the law books today. However, good relations is not about diluting equality but enhancing it and taking the next step. I am concerned that the SDLP seems to be stuck in some sort of Good Friday groove. They have not been able to move on. You need to join the rest of us, take the next step forward and add and embellish equality with the whole concept of good relations.

**Mr Eastwood:** The SDLP is not stuck in a Good Friday groove. We would love to see the sentiment behind the Good Friday Agreement and, actually, some of the structures around the Good Friday Agreement that have not yet been implemented. We would love to see the sentiment of that, which does not allow one to trump the other. It does not allow good relations to be used as a veto for equality; it says that they are both different and that they can both be achieved. Your amendment is not the way to do it. I think the Minister has made a very good attempt and a very good piece of law, based on other laws, to ensure that we can have good relations and equality but that we do not allow projects to be vetoed on the basis of good relations. I do not see any difficulty around that.

A rights-based approach is one that we have all signed up to. During the Haass proposals, unionists talked about freedom of assembly, and I think that is a fair point. We have to understand that there are rights and responsibilities, which I think some people on the other side did not hear. We talked about rights-based approaches in different ways. We have to get back to that. The Minister's attempt with the amendment is to enshrine good relations in law. I think that is what we are

doing here. We are enshrining good relations in law, but we are also enshrining the connection to all nine categories referenced in section 75 with regard to community planning.

I think it would be better for us to work together on that. I did say that at the last stage, but we were not really taken up on our offer. What we got instead was David Ford lambasting the SDLP and Sinn Féin for not signing up to good relations, even though that was not the tenor of the debate. The debate was around finding a solution and a definition. We have made an attempt at finding a definition. Others have tried to create political point-scoring around it. We have not done that, but we will not be lectured by people about good relations or equality. We will not be lectured by anybody from the DUP or the Alliance Party.

**Mr Elliott:** It is interesting to hear. We thought that we were getting on quite well in this group of amendments, and Mr Eastwood got up and praised how well we were getting on, just to almost tear it all apart within a few minutes of being on his feet. I think it is fair to say that absolutely nobody in this House can claim to have ownership of good relations or equality. I think that, if everybody looks at their past, they will realise that there may be some issues that they need to look at in more depth. It is almost demeaning for the rest of us to hear the SDLP attempt to claim that aspect of it. It is very unfortunate that they have attempted to do that.

Mr Eastwood indicated that he believed that others were political point-scoring. If ever I heard political point-scoring, it was coming from Mr Eastwood. It is unfortunate because this had the opportunity to be a good, positive debate and discussion. It is unfortunate that it has turned into what it has. I am not going to dwell on it except to say that, on the issue around amendment No 21, I will be happy to listen to the Minister's view about how they came up with the meaning of good relations in that respect. At least they have made an attempt at it. My view is that it may be a bit narrow and a bit too focused. I appreciate that section 75 has been brought in, and I fully support that, but I am just concerned about the narrowness of it and how that will reflect on other pieces of legislation, because, quite often, once a piece of legislation is made and a criterion or a meaning is put into it, it is used as an example for other pieces of legislation. However, I will listen to the Minister's view and interpretation of that. I am quite happy to do that.

In relation to the other amendments, the Alliance Party's amendment around social

media and the DUP's amendment to the Alliance amendment, I have some concerns about how widely it is used, but, in broad terms, I support the concept of getting the message out and of councillors being allowed to put that message out from council meetings, provided that it is not sensitive information. Mr Weir dealt with that. I acknowledge the point that Mr Allister made. I think he spoke about a lazy councillor not doing much but tweeting from a council chamber as if they were active. Maybe the same could be said of this Chamber, where I see regular tweets going out from Members. Far be it from me to suggest that they are not doing anything, but that is up to them and others to decide and make an assessment on.

The Alliance Party's amendment on audio recordings of committees is that party amending its own amendment from Consideration Stage. In fairness, I have sympathy because I went through the same issues at Consideration Stage. It is useful to have recordings for the public to access if required. My main concern goes back to the issue I raised last time, which is about the cost. I have not yet heard Alliance make the case. I supported it last time, and, at this stage, I do not see me doing anything different, although I would like to hear a much more definitive cost put on this, because last time we heard so many costings and estimates for recordings. It would be helpful if we got more specific information on that. In general, I do not oppose the principle, but I am quite happy to listen to other arguments on it as well.

Broadly, that brings us back to good relations and we have dealt with that, so I am happy to leave it at that.

**Mr B McCrea:** I want to make a couple of points. The issue with amendment No 14, with regard to the use of social media, is that that is, in principle, part of our society now, whether it be social media, texting or whatever. We will be supporting that amendment, although I guess we do accept that it can be quite irritating from time to time and people should use discretion. We agree with the DUP in amendment No 15 in that social media should be used in only those sessions that are open to the public. That seems eminently sensible.

We are happy with the Minister regarding amendment No 16. When it comes to amendment No 17, which says, "Leave out subsection (2)", we are firmly of the opinion that that should be supported. We made this argument before to our colleagues from the Alliance Party. I heard Mr Weir speak at the start of the debate, and we had the issue about

cost. Cost is not a substantive issue in this matter. What is at stake here is democracy and letting the people know what is going on in their name in their premises. There is an additional benefit, which I know from my time as a councillor on Lisburn City Council, and here, in that you get a better type of debate if there is a recording of the information. It means that people are more careful about what they say and talk in more measured tones. If for no other reasons, although there are other reasons, that is the right thing to do.

I appeal to the bigger parties, just to say to them, that the challenge for a real democracy is how it treats its minorities. In councils, you will have minorities that will want to speak. They should not be shouted down. They have a mandate and that should be respected. I dismiss the argument about cost and implore my colleagues here to support this amendment, which removes the restriction on subcommittees and makes audio recording available for all committees and subcommittees.

We are happy with amendment No 18. Amendment No 19 is subject to a petition of concern. We are extremely unhappy about the use of petitions of concern. There must be a better way to do business. You cannot have a veto just because your interpretation leads you to a particular area.

We do not agree with them.

We also have a problem with the issue about good relations. I remember talking at some length to Mr Eastwood at Consideration Stage, and he said that he thought that he could come forward with a definition of good relations. I think that Lord Morrow agreed with me that it was unlikely that he would get agreement on a definition of good relations. I am still of that opinion. So, we will not support amendment No 19, because we cannot define good relations in that way. We need a proper, full and detailed debate — maybe many such debates — at some stage.

**9.00 pm**

**Ms Lo:** Will the Member give way?

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

**Ms Lo:** It is amendment No 21 that contains the definition, not amendment No 19. You said that you could not support amendment No 19, but you meant amendment No 21, which defines good relations. Is that right?

**Mr B McCrea:** Thank you for the clarification. Never mind tweeting or anything like that, I was getting two audio sources in my ear.

Good relations needs to be discussed in a proper, detailed and separate manner. You cannot just tag it on at the end. To support what Ms Lo was saying, I have some difficulties with amendment No 19 as well, but that is irrelevant because of the petition of concern. The definition in amendment No 21 does not have sufficient support or depth for us to support it.

I have given an indication of how we will vote, but, in the interests of brevity, which I trust you will all appreciate, I will finish there.

**Mr McCallister:** I promised everybody that I would be remarkably short. I will respond to amendment Nos 19, 20 and 21 and to Mr Eastwood's point and the idea that somehow everybody has fought for this rights-based approach and defended democracy. I find it a bizarre situation for someone to be defending democracy and signing a petition of concern in the one breath. The two are not consistent. On issues like this, we should let the House decide. I would be as critical of the DUP abusing the petition of concern as I would be of the SDLP and Sinn Féin. It is wrong and unnecessary, and it should not be used on something like this. They ought to reflect very carefully about using a petition of concern in a debate about good relations.

As my colleague said, we should not be tagging on good relations at this stage of a Bill's passage; it needs a much bigger focus. However, to put in a petition of concern is wholly wrong and completely floors any argument about democratic accountability that they put up.

**Mr Agnew:** I also intend to be brief and will do my best to stick to that.

In amendment Nos 14, 15 and 17, there is an attempt to provide greater transparency in councils. With the social media clause, I accept the sensible amendment from the DUP. I hope that that does not make the DUP re-evaluate its position. *[Laughter.]*

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

**Mr Agnew:** Yes.

**Mr Weir:** The Member has accused us of tabling a sensible amendment. I ask him to withdraw that accusation. *[Laughter.]*

**Mr Agnew:** I am sorry to disappoint Mr Weir: I will have to support his amendment. Hopefully, I will get through this quickly, and we can both get to support our shared football team.

**Mr B McCrea:** Will Mr Agnew give way?

**Mr Agnew:** I give way again.

**Mr B McCrea:** It is a double whammy, because I also support it. That is real trouble for you.

**Mr Agnew:** Back to the point about transparency. Whilst we all might hope and believe that councils will act in an open and transparent manner, we have seen in our existing councils different standards, ranging from those that are very open and invite the media in to those such as Castlereagh council, which kicked out the journalist Rebecca Black because she tweeted what was, essentially, a public meeting. It is important that we have scrutiny of our councillors and councils and do everything to make them more open, transparent and accessible to the public. If North Down Borough Council is anything to go by, councils do not get vast numbers of people attending council meetings. If they were easily accessible through audio, that would be a benefit.

I do not accept the concerns about cost. Mr Weir will be thankful that I am back on the path of disagreeing with him. He made a point about the cost of storage. We live in the digital age, and storage is no longer a large room with audio tapes. With digital files, storage does not have to be an issue. Whilst councils will make their own spending decisions about what recording equipment they use, technology today allows us to record relatively cheaply. Allowing councils to make decisions on their spend but saying that there must be audio recording is achievable without any great expense to the public purse.

I certainly have no problems with amendment No 16 on the issue of websites. On the issue of good relations, I fail to understand why amendment No 19 is so objectionable that it requires a petition of concern. Although there is a debate to be had about the right wording between amendment Nos 19 and 20, it seems a blunt instrument to use.

I recall that, in a previous debate on planning, I was seeking to define sustainable development. When I looked at defining sustainable development, I realised that, in trying to define it, you could narrow and undermine what sustainable development was. Therefore, I

share some of the concerns of others around amendment No 21 and seeking to define good relations. It is important that, when something is in legislation, you try to be clear about what the intent is, but sometimes a definition can narrow what is a complex issue. I fear that amendment No 21 needs broader consideration. Maybe it should have been considered at Committee Stage, with more input and greater consideration. Perhaps then it would have been easier to support, but I share the House's concerns about it.

**Mr Durkan:** Before I offer my view on other Members' proposed amendments to the Bill, with your permission, Mr Deputy Speaker, I will deal first with my own amendments in the group.

Amendment No 16 is consequential to an amendment to clause 43 that was agreed at Consideration Stage. Clause 43, as amended, provides that a council must, as soon as is reasonably practicable, put on its website any minutes of council meetings that are open to the public. The provision is applied to committees and subcommittees by clause 45. Amendment No 16 is necessary to clarify that any such documents relating to the business of a council's committees or subcommittees should be put on that council's website, rather than on another website relating specifically to the business of the committee or subcommittee itself.

Amendment Nos 20 and 21 add to clause 65, which places a duty on all councils to deliver community planning. At Consideration Stage, Members agreed an amendment to clarify that improving the social well-being of a district will include promoting equality of opportunity and that improving the economic well-being of a district will include tackling poverty, social exclusion and deprivation.

Amendment Nos 20 and 21 provide additional detail in relation to the consideration of good relations in this context, in response to comments made at Consideration Stage. As Members will see, amendment No 20 is framed to ensure that the type of existing safeguards between equality and good relations in section 75 of the Northern Ireland Act 1998 are maintained. Clause 65(3) as it stands already makes it clear that equality of opportunity is to be interpreted in accordance with the Northern Ireland Act, and amendment No 20 makes it clear that regard to the desirability of promoting good relations is to be considered without prejudice to the equality considerations. Amendment Nos 20 and 21 seek to maintain the spirit of section 75. Local councils are

bound by section 75, and that should be a principle underpinning everything that they do, including good relations. Good relations, therefore, in the context of community planning, are intended to be interpreted in line with the definition of good relations that has been in legislation in Great Britain for a number of years under the Equality Act 2010 as meaning across the grouping in section 75 and as primarily being about tackling prejudice and promoting understanding. That is the intention of amendment No 21.

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

**Mr Durkan:** Certainly.

**Mr Boylan:** I would like some clarity on amendment No 20. Are you talking about all the equality categories with regard to tackling prejudice and promoting understanding?

**Mr Durkan:** Yes, it is all the groupings under section 75.

Amendment Nos 20 and 21 are, therefore, clearly linked, and I urge Members to support them.

I move on to the amendments proposed by other Members. As you heard, amendment No 14 would require that, during council meetings, a council must allow the use of social media by councillors, members of the public or journalists, provided, obviously, that it does not disrupt proceedings. Amendment No 15 will alter amendment No 14 to ensure that its provisions applies only to council meetings that are open to the public. I ask Members to accept both amendments so that the Bill provides for the use of social media in council meetings that are held in public session. The making of both amendments would bring into effect a provision that supports the public's right —

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

**Mr Durkan:** Certainly.

**Mr Elliott:** While the Minister was debating the issue, I just wondered whether there is anything in the Bill as it stands that prohibits the use of social media at the moment.

**Mr Durkan:** Not now. There were issues around access to information, access to council meetings and taking information out of council meetings into the public domain.

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

**Mr Durkan:** Certainly.

**Mr Elliott:** I go back to a point that I made earlier. I do not think that there are any rules, Standing Orders or legislation that allow Members in this Chamber to use social media, but they still use it. I am not opposing the amendment; I just wonder how effective it would be.

**9.15 pm**

**Mr Durkan:** I thank the Member for his intervention. I think that it is to encourage councils that may be reluctant to permit such interaction with the public in their meetings to do so. Currently, there is an inconsistency of approach across councils. However, it is important that we support this, which in turn supports the public's right to access information without conflicting with the need to allow council business to be conducted in specific circumstances. There are concerns, and Mr Weir and others raised a few. However, it is important that we try to reach — democracy tries to reach — as wide an audience as possible.

Perhaps we could look at the code of conduct, which is currently out for consultation, and see whether there is anywhere in it where we might be able to look for safeguards or restrictions on how social media can be used. Amendment No 15 addresses confidential meetings, which would cover staffing and commercially sensitive issues. I know that there are other issues, such as when people perhaps tweet prematurely in an attempt to be first to hit the headlines with something. We also need to look at that issue.

Clause 46 was inserted at Consideration Stage. It places a requirement on a council to make, as far as is reasonably practicable, an audio recording of the parts of a council meeting that are open to the public and make the recording available on the council's website for a period of two years from the date of the meeting.

Amendment No 17 would remove subsection (2), which states:

*"This section does not apply in relation to meetings of any committee or sub-committee of the council."*

The amendment would require councils to ensure that, again, as far as is reasonably practicable, audio recordings of meetings of a council's committees and subcommittees would

also be made available on its website in the same manner as meetings of the full council. In the interests of promoting openness and transparency across all council business, I ask Members to support the amendment.

Amendment No 19 is designed to emphasise the need for the community planning process to take account of good relations when identifying long-term objectives for improving the social well-being of a district. I give full acknowledgement to the importance of the issue, and that is why my amendment Nos 20 and 21 propose similar provisions with regard to good relations. I have already asked for support for my amendments. For that reason, I urge Members not to accept Amendment No 19.

That is it, Mr Deputy Speaker. Thank you.

**Ms Lo:** It is getting late in the day, so I will be brief. I want to thank Members for being very brief and succinct in their comments on this group of amendments.

*(Mr Speaker in the Chair)*

There is general agreement on amendment Nos 14 and 15, except to say that social media should be allowed to operate in public meetings specifically. On amendment No 17, again there is general agreement. Mr Elliott and Mr Weir mentioned that they did not want it to be a burden on councils. They also mentioned cost. On amendment No 19, a number of Members expressed concern about the use of the petition of concern to veto an issue as important as good relations in the Bill. That is all that I want to say, Mr Speaker. Thank you.

**Mr Speaker:** Order, Members —

**Ms Lo:** I have one more. Sorry, Mr Speaker. On amendment No 21, although it is not mine, I want to say that a number of parties also queried the definition that it puts forward.

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

**Ms Lo:** Yes.

**Mr Attwood:** The Member's last point was that the definition in amendment No 21 was queried. Can she explain why her amendment No 19 is utterly silent on the issue of a definition? It makes no reference to reconciliation, prejudice or anything other than the concept of community relations. Does that not create uncertainty and doubt, and, therefore, in this

instance, it is not the best way in which to proceed?

**Ms Lo:** I am happy to remind the Member. Maybe he did not hear what I said, which was that we are not convinced that a definition is required. No definition is required in the Northern Ireland Act, and there has already been 15 years of work on good relations and a working definition from the Equality Commission. We think that that is good enough.

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

**Ms Lo:** Yes, of course.

**Mr Attwood:** It seems that the Member's argument is that, because a concept is named in the Northern Ireland Act 1998, there is no need to create a further definition in the primary legislation, in the primary authority in the land, as a guide and a lead to courts when they come to interpret how councils conduct their responsibility for community planning. Somehow, we now have the situation that, because something is not defined in 1998, it does not need to be defined in primary legislation in 2014. I suggest that that is a curious way of making law.

**Ms Lo:** I suggest to the Member that it is such an important issue that we cannot just tack it on to a section on community planning in the Local Government Bill. We need to have a wider discussion. I think that someone else mentioned that we needed to have a debate and consider it further rather than tacking it on to the end of a section of a Bill that is not specifically about community relations.

**Mr B McCrea:** Will the Member give way?

**Ms Lo:** Yes, I will give way.

**Mr B McCrea:** I reiterate the point that I made earlier, to which the Member referred. We had this debate at the previous stage. If the matter is so important, we need to have a proper debate and a proper decision; you cannot just tag it on here or through one statement. I am sorry, but I warned that I thought that you would have difficulty getting that through. I support the position that Ms Lo has put forward.

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

**Ms Lo:** Yes.

**Mr Attwood:** I find it an even more curious approach to law-making that the Member argues that you do not tag on legislation at the end of a Bill, yet that is what amendment No 19 does. If we are going to scope this out, it is better to do it in a substantive rather than a tokenistic way. That is the difference between amendment No 21 and amendment No 19.

**Ms Lo:** If you put the definition in the Bill without proper debate or people agreeing to it, you are not doing any good; you are limiting rather than enhancing the scope of good relations. Mr Speaker, I have finished. Thank you.

**Mr Speaker:** Amendment No 15 has already been debated and is an amendment to amendment No 14. It must, therefore, be disposed of before the amendment to which it relates.

*Amendment No 15, as an amendment to amendment No 14, made:* After the first "proceedings" insert

*"which are open to the public".— [Mr Weir.]*

*Amendment No 14, as amended, made:* In page 23, line 15, at end insert

*"(7A) But a council shall permit during proceedings which are open to the public the use of social media by councillors, members of the public or journalists, to the extent that its use does not disrupt proceedings."— [Ms Lo.]*

#### **Clause 45 (Application to committees and sub-committees)**

*Amendment No 16 made:* In page 26, line 8, at end insert

*"and*

*(d) for the purposes of sections 43(3) and 44(6) the council's website is treated as the website of the committee or sub-committee".— [Mr Durkan (The Minister of the Environment).]*

#### **Clause 46 (Audio recording of meetings)**

*Amendment No 17 proposed:* In page 26, line 20, leave out subsection (2).— [Ms Lo.]

*The Assembly divided:*

*Ayes 34; Noes 52.*

#### **AYES**

*Mr Agnew, Mr Allister, Mr Attwood, Mr D Bradley, Mr Byrne, Mrs Cochrane, Mr Copeland, Mr Cree, Mr Dickson, Mrs Dobson, Mr Durkan, Mr Eastwood, Mr Elliott, Dr Farry, Mr Ford, Mr Gardiner, Mrs D Kelly, Mr Kennedy, Mr Kinahan, Ms Lo, Mr Lunn, Mr McCallister, Mr McCarthy, Mr B McCrea, Dr McDonnell, Mr McGlone, Mrs McKeivitt, Mr McKinney, Mr A Maginness, Mr Nesbitt, Mrs Overend, Mr P Ramsey, Mr Rogers, Mr Swann.*

*Tellers for the Ayes: Ms Lo and Mr McCarthy.*

#### **NOES**

*Mr Anderson, Mr Bell, Mr Boylan, Ms Boyle, Ms P Bradley, Mr Brady, Mr Buchanan, Mrs Cameron, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Mr Easton, Ms Fearon, Mr Flanagan, Mr Frew, Mr Givan, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Ms McCorley, Mr I McCrea, Ms McGahan, Mr D McIlveen, Miss M McIlveen, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr McQuillan, Mr Maskey, Mr Milne, Lord Morrow, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Mr G Robinson, Ms Ruane, Mr Sheehan, Mr Storey, Mr Weir.*

*Tellers for the Noes: Mr Milne and Mr G Robinson.*

*Question accordingly negatived.*

#### **Clause 59 (Decisions on interim reports)**

*Amendment No 18 made:* In page 35, line 39, at end insert

*"(10) An appeal under subsection (9) may be made—*

*(a) against the suspension (or partial suspension);*

*(b) against the length of the suspension (or partial suspension)".— [Mr Durkan (The Minister of the Environment).]*

#### **Clause 65 (Community planning)**

**Mr Speaker:** Amendment No 19 has already been debated and is mutually exclusive to amendment No 20. I remind Members that a valid petition of concern has been tabled in relation to this amendment. Therefore, the vote will be on a cross-community basis.

*Amendment No 19 proposed:* In page 39, line 5, leave out "in accordance with" and insert

*"and good relations between the categories of persons listed in".— [Ms Lo.]*

*Question put, That amendment No 19 be made.*

*The Assembly divided:*

*Ayes 37; Noes 50.*

#### **AYES**

#### **UNIONIST:**

*Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Mr Easton, Mr Frew, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr McCausland, Mr I McCrea, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr Spratt, Mr Storey, Mr Weir, Mr Wilson.*

#### **OTHER:**

*Mr Agnew, Mrs Cochrane, Mr Dickson, Dr Farry, Mr Ford, Ms Lo, Mr Lunn, Mr McCarthy.*

*Tellers for the Ayes: Ms Lo and Mr McCarthy.*

#### **NOES**

#### **NATIONALIST:**

*Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr Durkan, Mr Eastwood, Ms Fearon, Mr Flanagan, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Dr McDonnell, Ms McGahan, Mr McGlone, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Milne, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Mr Rogers, Ms Ruane, Mr Sheehan.*

#### **UNIONIST:**

*Mr Allister, Mr Cree, Mrs Dobson, Mr Elliott, Mr Gardiner, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr Nesbitt, Mrs Overend, Mr Swann.*

*Tellers for the Noes: Mr Byrne and Mr Milne.*

*Total Votes 87 Total Ayes 37 [42.5%]*

*Nationalist Votes 38 Nationalist Ayes 0 [0.0%]*

*Unionist Votes 41 Unionist Ayes 29 [70.7%]*

*Other Votes 8 Other Ayes 8 [100.0%]*

*Question accordingly negatived (cross-community vote).*

*Amendment No 20 made:* In page 39, line 6, at end insert

*"without prejudice to this, having regard to the desirability of promoting good relations; and".— [Mr Durkan (The Minister of the Environment).]*

**Mr Speaker:** Amendment No 21 is consequential to amendment No 20.

*Amendment No 21 proposed:* In page 39, line 22, at end insert

*"(7) For the purposes of this section the reference to good relations shall involve, in particular, having regard to the need to a) tackle prejudice and b) promote understanding between the categories of persons listed in section 75(1) of the Northern Ireland Act 1998."— [Mr Durkan (The Minister of the Environment).]*

*Question put, That amendment No 21 be made.*

*The Assembly divided:*

*Ayes 38; Noes 49.*

#### **AYES**

*Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr Durkan, Mr Eastwood, Ms Fearon, Mr Flanagan, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Dr McDonnell, Ms McGahan, Mr McGlone, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Milne, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Mr Rogers, Ms Ruane, Mr Sheehan.*

*Tellers for the Ayes: Mr Byrne and Mr Milne.*

#### **NOES**

*Mr Agnew, Mr Allister, Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Clarke, Mrs Cochrane, Mr Craig, Mr Cree, Mr Dickson, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Easton, Mr Elliott, Dr Farry, Mr Ford, Mr Frew, Mr Gardiner, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Ms Lo, Mr Lunn, Mr McCallister, Mr McCarthy,*

Mr McCausland, Mr B McCrea, Mr I McCrea, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr G Robinson, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wilson.

Tellers for the Noes: Mr McQuillan and Mr G Robinson.

Question accordingly negated.

**Clause 111 (Transitional rate relief in consequence of changes in local government districts)**

Amendment No 22 proposed: In page 63, line 17, at end insert

"(2C) The Department must within two years of the making of an order under paragraph (2A) lay before the Assembly a report on the operation of any transitional rate relief scheme under that paragraph including—

(a) the Department's assessment of the likely or actual percentage increase in district rates payable by ratepayers in each affected district as a consequence of the termination of the scheme; and

(b) consideration of possible further mitigating measures." — [Mr Elliott.]

Question put, That amendment No 22 be made.

The Assembly divided:

Ayes 43; Noes 42.

**AYES**

Mr Agnew, Mr Allister, Mr Boylan, Ms Boyle, Mr Brady, Mrs Cochrane, Mr Cree, Mr Dickson, Mrs Dobson, Mr Elliott, Dr Farry, Ms Fearon, Mr Flanagan, Mr Gardiner, Mr Hazzard, Mr G Kelly, Mr Kennedy, Mr Kinahan, Ms Lo, Mr Lunn, Mr Lynch, Mr McAleer, Mr McCallister, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Mr B McCrea, Ms McGahan, Mr McKay, Ms Maeve McLaughlin, Mr McMullan, Mr Maskey, Mr Milne, Mr Nesbitt, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mrs Overend, Ms Ruane, Mr Sheehan, Mr Swann.

Tellers for the Ayes: Mr Elliott and Mr Milne.

**NOES**

Mr Anderson, Mr Attwood, Mr Bell, Mr D Bradley, Ms P Bradley, Mr Buchanan, Mr

Byrne, Mrs Cameron, Mr Clarke, Mr Craig, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Eastwood, Mr Frew, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr McCausland, Mr I McCrea, Dr McDonnell, Mr McGlone, Mr D McIlveen, Miss M McIlveen, Mrs McKeivitt, Mr McKinney, Mr McQuillan, Mr A Maginness, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr P Ramsey, Mr G Robinson, Mr Rogers, Mr Spratt, Mr Storey, Mr Weir, Mr Wilson.

Tellers for the Noes: Mr McQuillan and Mr G Robinson.

Question accordingly agreed to.

**New Clause**

Amendment No 23 proposed: After clause 117 insert

"Public bodies to support employees seeking election to council

**Public bodies to support employees seeking election to council**

**117A.** A public body, other than a council, must to the extent that it is reasonably practicable, support and facilitate any employee, other than its chief executive or directors, in seeking election as a councillor including—

(a) offering unpaid leave for the three-week period prior to local government elections;

(b) actively seeking to overcome perceived conflicts of interest." — [Mr B McCrea.]

Question, That amendment No 23 be made, put and negated.

**Clause 125 (Interpretation)**

Amendment No 24 made: In page 70, line 17, leave out "and 123" and insert ", 123 and 126". — [Mr Durkan (The Minister of the Environment).]

**Schedule 1 (Positions of responsibility)**

Amendment No 25 made: In page 78, line 22, leave out "nomination is made" and insert

"member is nominated or elected, as the case may be,". — [Mr Durkan (The Minister of the Environment).]

*Amendment No 26 made:* In page 78, line 26, after "nominated" insert "or elected".— [Mr Durkan (The Minister of the Environment).]

### **Schedule 2 (Appointment of councilors to committees, etc.)**

*Amendment No 27 made:* In page 79, line 21, at end insert

"(6) If the figures given by sub-paragraph (5) in relation to two or more parties are equal, the nominating officer of whichever of those parties is the party for which the greatest number of first preference votes was cast at the last local general election is to be treated as the nominating officer of the party with the greatest remainder for the purposes of sub-paragraph (4), then the nominating officer of whichever of those parties is the party for which the next greatest number of first preference votes was cast at the last local general election and so on."— [Mr Durkan (The Minister of the Environment).]

*Amendment No 28 proposed:* In page 80, line 5, leave out "Regulations" and insert "Standing orders".— [Mr Durkan (The Minister of the Environment).]

*Question put, That amendment No 28 be made.*

*The Assembly divided:*

*Ayes 50; Noes 35.*

### **AYES**

*Mr Allister, Mr Attwood, Mr Boylan, Ms Boyle, Mr D Bradley, Mr Brady, Mr Byrne, Mr Cree, Mrs Dobson, Mr Durkan, Mr Eastwood, Mr Elliott, Ms Fearon, Mr Flanagan, Mr Gardiner, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Kennedy, Mr Kinahan, Mr Lynch, Mr McAleer, Mr McCallister, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Mr B McCrea, Dr McDonnell, Ms McGahan, Mr McGlone, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Milne, Mr Nesbitt, Ms Ní Chuilín, Mr Ó hOisín, Mr O'Dowd, Mrs O'Neill, Mrs Overend, Mr P Ramsey, Mr Rogers, Ms Ruane, Mr Sheehan, Mr Swann.*

*Tellers for the Ayes: Mr Byrne and Mr Milne.*

### **NOES**

*Mr Agnew, Mr Anderson, Mr Bell, Ms P Bradley, Mr Buchanan, Mrs Cameron, Mr Clarke, Mrs Cochrane, Mr Craig, Mr Dickson, Mr Douglas,*

*Mr Dunne, Mr Easton, Dr Farry, Mr Frew, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Ms Lo, Mr Lunn, Mr McCausland, Mr I McCrea, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr Spratt, Mr Storey, Mr Weir, Mr Wilson.*

*Tellers for the Noes: Mr McQuillan and Mr G Robinson.*

*Question accordingly agreed to.*

**10.15 pm**

**Mr Speaker:** I will not call amendment No 29 as it is consequential to amendment No 11, which has not been made.

### **Schedule 9 (Minor and consequential amendments: general)**

*Amendment No 30 made:* In page 93, line 8, after "6" insert

*"of the Local Government Act (Northern Ireland) 2014".— [Mr Durkan (The Minister of the Environment).]*

### **Schedule 10 (Repeals)**

*Amendment No 31 made:* In page 93, line 27, leave out "Schedules 1 and" and insert "Schedule". — [Mr Durkan (The Minister of the Environment).]

*Amendment No 32 made:* In page 93, line 29, leave out "6,". — [Mr Durkan (The Minister of the Environment).]

*Amendment No 33 made:* In page 94, line 6, leave out "and (3)". — [Mr Durkan (The Minister of the Environment).]

*Amendment No 34 made:* In page 94, leave out line 29. — [Mr Durkan (The Minister of the Environment).]

**Mr Speaker:** That concludes the Further Consideration Stage of the Local Government Bill. The Bill stands referred to the Speaker.

## **Assembly Business**

### **Standing Order 42(1): Suspension**

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

*That Standing Order 42(1) be suspended in respect of the passage of the Local Government Bill.*

When I introduced the Local Government Bill in September last year, the Assembly took the final major step towards delivering the most significant change in local government in over 40 years. The scope and complexity of the Bill's provisions represented a challenge that I was confident that we could meet.

Mr Speaker, I want to place on record my appreciation to you and your deputies, the Business Committee and your officials for making the necessary arrangements for the Consideration Stage of the Bill to be taken on 18 and 19 March, and for the Further Consideration Stage to be completed today. This has put us in the position that, subject to the Assembly passing the Bill at its Final Stage, we can have the legislation on the Northern Ireland statute book prior to the new councils being established following the elections on 22 May.

At Second Stage, I urged the House to support this critical element of the local government reform programme to deliver stronger councils that have the needs of everyone at their core. That is what we have done. The Bill has been scrutinised thoroughly by the Committee, for which I commend it. I also commend Members for the amendments that they tabled at the Consideration Stage and today.

I want the Bill to complete its passage through the Assembly before the Easter recess, and, as Members will be aware, the Final Stage has been scheduled for next Tuesday, 8 April. However, the date for the Final Stage means that there will be less than the five-day minimum interval required under Standing Order 42(1) between Further Consideration Stage and the Final Stage of the Bill. To allow the Final Stage to proceed next Tuesday, which is the last scheduled plenary sitting before the Easter recess, the Assembly must agree to the suspension of Standing Order 42(1). That is the purpose of bringing this motion to the House today.

I appreciate that you, Mr Speaker, also have certain obligations under statute and Standing Orders before the date of the Final Stage of a Bill can definitely be determined. I acknowledge that, should the Assembly agree the motion, you will be left with less time to carry out your duties, and I beg your further indulgence in that respect. However, subject to those important provisos, the passage of the

Bill at Final Stage next Tuesday will complete a significant step towards delivering the Executive's vision for the future shape of local government.

I acknowledge that there is still work to do, but the passage of the Bill will allow my Department and the Assembly to move forward with the extensive programme of subordinate legislation and guidance that will be needed for the new councils to operate effectively at the earliest possible opportunity.

Consideration of the Bill is nearly complete. It has taken some time to reach this point, but most of the hard work has been done. Let us take it to the next stage and provide the new councils with the tools that they need to deliver benefits to all our people.

Therefore, subject to your consideration of the Bill, Mr Speaker, I seek Members' support for the suspension of the Standing Order to allow the Final Stage of the Local Government Bill to take place next Tuesday.

**Mr Elliott:** The Minister indicated that it has taken us quite a while to get to this stage. I think that it is about 14 years, all told. That is why I am not overly content, nor is the Ulster Unionist Party, that we have to rush through to the Final Stage within a few days. We appreciate that a huge amount of work has gone on behind the scenes. A huge amount of work has been done in the Committee and a massive amount in the Department. I appreciate the work and commitment of a number of Ministers and the Department. However, I want to put on record our disappointment that the passage of this has taken so long and yet it is being rushed at the last moment. I raised the same issue when the Consideration Stage was brought forward to a much earlier date than was required. We are not going to divide the House on this, but we want to put on record our disappointment about it.

**Mr Durkan:** I thank Mr Elliott for his contribution and for saying that he will not divide the House. I thank you, Mr Speaker, for your consideration.

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

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That Standing Order 42(1) be suspended in respect of the passage of the Local Government Bill.*

**Mr Speaker:** As there are Ayes from all sides of the House and no dissenting voices, I am satisfied that cross-community support has been demonstrated. Standing Order 42(1) is suspended in respect of the passage of the Local Government Bill, and the Final Stage may take place on Tuesday 8 April, provided that the statutory duties that the Speaker is required to carry out under section 10 of the Northern Ireland Act 1998 have been completed.

*Motion made:*

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

## Adjournment

### Northern Regional College: Ballymoney

**Mr Speaker:** The proposer of the topic will have 15 minutes, and all other Members who wish to speak will have approximately six minutes.

**Mr Storey:** It is not hard to know who your friends are when it comes to 10.25 pm and Members begin to leave the Chamber. I thank those Members who are staying to take part in a debate on what is a very important issue for those from North Antrim, particularly those from the town of Ballymoney.

I pay tribute not only to those who currently work in the regional college, but to those who, down through the years, have made a contribution to the education of young people in the Ballymoney area in what was previously Ballymoney tech, which then became the Causeway Institute, and, subsequently, the Northern Regional College (NRC), which came into existence as a result of the mergers on 1 August 2007.

Last night, I left home, at about roughly the same time as it is now, and walked up to my office. I picked up some papers and decided that it was time to head back home. When I was going past the regional college, the caretaker was going through the building. The closer I got to the regional college, more and more lights kept going out. I trust that that is not an omen, not that I am superstitious. When I eventually got past NRC, I looked behind me; the lights were all out and the caretaker had left. I thank the Minister for being here this evening and I say to him sincerely that there is real concern in the community, and among the staff and all those who have been associated with the existence of NRC, that we are seeing that very process being played out in front of our eyes. The lights are gradually going out, and we are getting to a point where the decision has been made that the long-term future of the college is not going to be in Ballymoney.

The regional college in Ballymoney has played a pivotal and successful role in the education of post-16 students in the Ballymoney area for many years. Its range of vocational and creative courses has served many hundreds of

young people in achieving their professional goals in life and in ensuring that those students have made successful progress in their future careers. It is, however, much more than just a stand-alone educational establishment. At this stage, I want to say that we appreciate very much the fact that we have outstanding provision in the regional college, from Ballymena right through to Coleraine. I know that my colleagues will make reference to the provision in Ballymena. Although the focus of the debate is on the access between Ballymoney and Coleraine, we should not lose sight of the access that there is between Ballymoney and Ballymena or of the outstanding provision in Ballymena and the way in which that has developed over the years.

We have, in Ballymoney, three other partners in the provision of the regional college. Those partners are our local schools: Our Lady of Lourdes, Ballymoney High and Dalriada. They all, with one accord, are very fearful and concerned about the long-term implications of NRC not having a physical presence in Ballymoney. One only has to read the comments that appeared in the local press from Tom Skelton, the current principal of Dalriada. He said that the move would leave Dalriada as the only post-16 education provider in the town and that that should strengthen the case for joint post-16 provision. He made that pitch to the Department of Education. Rodney Scott, the principal of Ballymoney High, went on to say that NRC helped to deliver the entitlement framework, particularly with Key Stage 4 occupational and vocational courses. He said that it is a good facility in the town and something that is valued. That gives you a flavour of the thoughts of the local principals from the schools that benefit from the college. They clearly have concerns for its long-term future.

To get an understanding of where we have come from and how we got to this point, we need to go back to decisions that were made, not by this Minister, and that is why I welcome the fact that we have the current Minister with us this evening in the House.

### 10.30 pm

We have to go back to the previous Ministers in the Department who, unfortunately in my opinion, took their eyes off the ball with regard to the long-term provision in Ballymoney and the regional college. Over a period of time I asked questions of Sir Reg, who was one of the previous Ministers, and Danny Kennedy. On 15 February 2011 in a question for written answer to the then Minister, Danny Kennedy, I asked

for an update on the future of the Ballymoney campus of the regional college. The answer was as follows:

*"that the Coleraine and Ballymoney campuses would be replaced by a new college in Coleraine." — [Official Report, Bound Volume 62, pWA69-70].*

It is quite clear that, even in 2011 and probably prior to that, a decision had been made that would ultimately bring the existing presence of the regional college out of the town of Ballymoney and into Coleraine. What was the plan? We all know now that it was to build a new facility at Wattstown. Let us remember that, in their thinking, the people in Ballymoney are tired of seeing everything heading out of the town. Had it not been for some of us and the interventions that we made, we would not have a new police station in Ballymoney. However, the effort was made and we were able to secure that provision.

Let us remember what happened with regard to the future of the Route Hospital. We were told that we would get a new provision in the Causeway and that it would be an enhanced provision, and it has been. I pay tribute to the fact that we have a facility in the Causeway that local people look upon as their own. However, they still remember that to get what they now have, they had to sacrifice the Route Hospital.

The council will be going as a result of what took place in the House today. Now, we are being told that access has to be towards the greater geographical area of Coleraine, and that we are going to Wattstown because that would help with regard to access for people and students from Ballymoney. There is an element of rationale in what was the then proposal for Wattstown. It is on the Ballymoney side of Coleraine, and it is a shorter distance. At that stage, I talked to the Minister about having an integrated transport link to ensure that we had a railway halt that would facilitate students and all of that.

However, now we discover that Wattstown is no longer the preferred location for this provision. The preferred provision is now a town-centre location. That is obviously based on the fact that you would have a greater number of people, and there would be economic benefits. You can see that many of the arguments for making the decision are rational and reasonable. However, it removes the college further and further into the centre of another town and further away from the people and the students in Ballymoney. Therefore, there is an

issue around the current proposals on where the college would be located.

In response to questions from other Members in the House yesterday, when the issue was raised, the Minister tried to convince us all that a final decision has not been made. That is not how it is with regard to the outline business case; that is not how it is with the arguments that are being made by the regional college. I believe that the decision has been made by them in that process that the only logical, sensible thing to do is to amalgamate the two colleges, as was the case under the previous Ministers. Regrettably, no action was taken by them to hinder that process, and it has been allowed to continue.

There is an economic argument for Ballymoney. I am proud to live in Ballymoney town, and I have lived in it all my adult life. I came to live in Ballymoney when I was 15, I am an adopted son of the town and was educated at Ballymoney High School, and I declare an interest as a member of the board of governors of that school.

Ballymoney has suffered. Ballymoney is now a commuter town for areas between Coleraine, Ballymena and further afield. It has excellent educational provision. However, there is no doubt that if that, full-time provision is removed, it will have a knock-on effect on Our Lady of Lourdes High School, Dalriada School to a lesser degree, and Ballymoney High School in particular.

Let me just say something on location. I have written to Deloitte, which was doing the business case, and the Minister. I thanked the Minister for the meetings and discussions that we have had with him and for his answers to questions that we have asked. When I was at school, Christie's was the main occupier of Linenhall Street in Ballymoney. That was over 30 years ago. The site has sat in dereliction for all of that time since Christie's closed. That whole area, over an acre of land, is sitting in a state of great need, despite all the council's efforts to tidy it up with artwork and all that has been done. The site at that location in Ballymoney could facilitate new provision.

When I spoke to senior people in the NRC, I was reassured that what could happen would most likely be the same as what happened in Antrim. As you know, there was closure in Antrim, but there is now provision in Parkhall Integrated College and other places. It is not full-time provision; it is part time. So, the full-time element of educational provision would go to a new location in Coleraine. With great

deference to my colleagues in East Londonderry, I, along with the MP for the area and my colleagues, had a meeting with the Minister. He can report on how amicable that meeting was, even though I was still clear that I was ensuring that Ballymoney would not be left out of the situation.

There is no greater signal that the current Minister could give to the people and students of Ballymoney and the outlying areas of Rasharkin, Loughguile and Ballycastle — let us remember that Ballymoney does not just serve the local borough; it goes beyond that and serves a wider area — than to tell them that we will provide them with something that reflects how we value them as individuals and that we do not buy into the idea that, somehow, everything has go towards Coleraine.

There is much more that we could say about benefits. The economic benefits for Ballymoney of the retention of that provision would be immense. Equally, the economic downturn that it would suffer due to staff and students being taken out of the town and sent to some new location in Coleraine would be immense.

Let me also say this: I have, for some time, been speaking to the Minister and the Education Minister about a 14-to-19 policy. At long last, although we may not have a document, at least we have a commitment to the delivery of a 14-to-19 policy. There are proposals to spend capital in DE and DEL. I ask the Minister and the Education Minister to sit down together and give us a comprehensive education plan in policy terms and also in capital terms that will deliver for Ballymoney educational provision that takes into account the post-primary provision of Our Lady of Lourdes, Ballymoney High School, Dalriada and the NRC in a way that proves, as I believe those institutions have done, that they can deliver for the pupils and young people they serve.

**Mr Speaker:** Will Member draw his remarks to a close?

**Mr Storey:** Let us not continue to see the lights go out. Let us put the lights back on so that the NRC's full-time presence in Ballymoney remains.

**Mr McKay:** Go raibh maith agat, a Cheann Comhairle. I thank the Member for bringing this issue to the House. Having served on the council previously, I know that the gradual closing down of many sources of employment

and activity in general in Ballymoney is something that we have been almost unable to affect, regardless of the many representations from different parties over the years to try to prevent it. I think that there is a general attitude and assumption that everything has to go to Ballymena or Coleraine and that somehow Ballymoney has nothing to offer. We need to continue to challenge that before it is too late, certainly in this case. Otherwise, it will get to the stage where, instead of making a more rounded assessment, the powers that be simply dismiss towns such as Ballymoney and Ballycastle.

There is already an excellent service at the Ballymoney campus, which accommodates approximately 1,000 students on 61 courses and has full-time, part-time and evening provision. There is a feeling not only in the town but in the Ballymoney district that there is a general squeeze between the larger hubs of Coleraine and Ballymena. However, the other way to look at it is that Ballymoney is within a short distance of Coleraine and Ballymena and is itself a large hub, so why could it not facilitate this kind of provision, given its closeness to the other large population centres?

There is no doubt that we need a modern estate, but that does not mean that everything has to be centralised. Even in Ballymena town, where I went to technical college, there were two different colleges — Trostan Avenue and Farm Lodge. Even then, there was no need to site everything in one building or one set of buildings. There does not have to be a single centralised unit in this case either. There is a good service in Ballymoney and more than enough opportunities to site the facility in the town. The Minister should take cognisance of that.

The Member, rightly, referred to the sense that the lights are going out, not only for the college but people sometimes get that feeling about Ballymoney itself. Every time that another business, manufacturer or service closes, the Ballymoney economy is left weaker and more exposed. We should consider the other educational facilities in the town, including Our Lady of Lourdes, Dalriada and Ballymoney High. The Minister should be mindful of the effects on education, not only in the town but on the rural community around Ballymoney.

The Member referred to the likes of Rasharkin, Dunloy, Ballybogy and Ballycastle. Ballymoney is very much a rural town in north Antrim that facilitates many members of the rural community in that central strip of the county. People in Ballymoney and Members who

represent it know that they have to fight for everything that they hold and achieve there.

I remember the debate and long discussions about Ballymoney police station. Before the newbuild was achieved, it was raised at the Policing Board, and, as budgets were squeezed in the past five or six years, there was certainly a train of thought that the police station would not go ahead. Fortunately, that was not the case and it is now in place. However, it goes to show that we cannot take anything for granted in Ballymoney. The town is well serviced. Unlike many towns across the North, it has a train station and good access to Coleraine and Ballymena. It has a lot going for it, which I feel that Departments and others, even in the wider business community, ignore.

I conclude by asking the Minister to consider Ballymoney as a serious option. We should not go ahead with this decision without taking cognisance of its possible domino effect. Siting the college in the town would provide not only educational provision but economic activity through footfall for local businesses. The effect on the town of not doing so could be quite damning, some might say almost fatal. The Minister should consider that and the views of Members here today that we cannot be left with a situation of Ballymoney having an economic and educational deficit. We must guard against the danger that Ballymoney could become a ghost town. Ballymena and Coleraine are big, modern towns that we want to progress in equal measure, but, at the same time, Ballymoney cannot be left behind.

#### 10.45 pm

**Mr Dallat:** You may well wonder what somebody from East Derry is doing taking part in this Adjournment debate. I am glad that I came because I wanted to put right a few things that I have heard.

I came here as someone who owes their education to the technical schools of the past, as I attended in Coleraine, but I had great admiration for my student friends who went to Ballymoney, in their lovely brown uniforms in those days, who were constantly winning gold medals and all sorts of things. This debate should not be about Ballymoney or Coleraine.

Four years ago, technical education marked its 100th anniversary. I was looking forward to some kind of great celebration, but it passed with a whimper. Over the past few years, we have talked a lot about integrated education and the benefits that it may have. As someone who went to a technical college when the

Troubles were beginning, we had the best integrated education at those colleges. They were not cultivated, they were natural.

Technical education gives a second chance to thousands of people across Northern Ireland that they would otherwise not have. The colleges promoted vocational education when it was not the flavour of the month and, for whatever reason, they had the most outstanding teachers that the education system could ever hope for. I know young people who attended Ballymoney technical college and Coleraine who went into second arts in Queen's, such was the standard of preparation of those young people. Interestingly, many of them who I have remained friendly with down through the years played a major part in keeping sanity alive in Northern Ireland when others were trying to destroy it.

This may sound like nostalgia, but some things are better built on than dismantled. I honestly believe that it would be a major mistake to take the presence of the further education college out of Ballymoney, not just because of the reasons I have heard, but because I think that the reasons stand on their own. The reasons are solid, they are good and they are 104 years old.

Let us move on. The education partnerships have been mentioned, and Mr Speaker, you will know that those were developed in the north-west and are outstanding. However, central to them is the key role of the further education college. As a former pupil of Our Lady of Lourdes in Ballymoney, because we do cross the Bann occasionally and shop in Ballymoney as well, I know and support the belief that the college of further education is critical to Our Lady of Lourdes, Ballymoney High School and Dalriada in continuing to develop a level of education that ensures that every child benefits from it and hopefully has a job to go to.

I know that the Minister has got his prepared speech here. I was encouraged when I saw him writing because I hope that he is rewriting it. I hope perhaps out of this Adjournment debate, we might have rekindled something of the benefits of an education system that failed nobody and benefited everybody. Whilst some things need to be centralised, I know, although perhaps Mervyn does not appreciate it, that Coleraine feels left out as well since that centralisation plan took place. It did not help staff morale, and certainly the long, drawn-out indecision about what should happen in the future did not help either.

In the interests of Ballymoney and Coleraine, and, God knows, they are only eight miles apart, there surely must be a better plan than to simply condense everything into one geographical area, which may well be Ballymena.

In conclusion, the colleges of further education are probably the best models of community colleges that anyone could hope for. Those are talked about as something new and all that, and they are there. I agree with Mervyn and Daithí: do not take the heart out of any community, whether it is Coleraine or Ballymoney, by taking away the presence of the college, and acknowledge that each of these colleges has specialised.

Ballymoney is outstanding in promoting the arts, music, catering and those things; do not rob it of that. If we are to move forward together, let us do it with some kind of equality — we heard that word earlier — and with a generosity. Do not be blinkered by what the consultants might tell you.

**Mr Swann:** I congratulate and thank Mervyn for securing this debate. I know that he has campaigned on the issue for quite some time. Moving on from what John said, I hope that the Minister realises that this is not just a plea from North Antrim Members about keeping a college in Ballymoney; it is also a call from East Londonderry Members about looking at the correct solution for the Northern Regional College.

Earlier, Mervyn mentioned Wattstown, which was looked at by previous Ministers. I am fully aware from our meetings and conversations with the Minister that he has not yet received the business case from NRC and that he still has time, when that business case comes forward, to have an influence on it and an input into it. However, that concern has always been there, and Mervyn highlighted earlier that this was something that NRC has been planning for some time, since the Training for Success courses began to move away. It got to a stage where bricklaying, joinery, paintwork and plastering courses were no longer provided in Ballymoney and you had to go to Ballymena or Coleraine to source those. There was a feeling then among the staff, in the wider community and among employers who were looking to those training courses and those apprentices, that there was a plan already in place. I do not think that anything until now has changed that. However, I hope that the Minister can have an influence to do that.

Ballymoney Technical College, which we are looking at at this time, has 1,000 students, which Daithí referred to earlier, 22 full-time courses and 39 part-time courses. Now, those 1,000 students are based mostly around performing arts, music and the media. On Friday, I was lucky enough to go down to the South Eastern Regional College, which was hosting a Northern Ireland performing arts competition for the technical colleges, and I can honestly say that I was proud of the NRC students who were on stage that day because their abilities and the skills they are being taught in Ballymoney were second to none.

Minister, it is really about ensuring that there is a wider provision for further and higher education in the town itself. We are looking now at the need for more part-time courses, more supported courses, more adult learning and more evening learning — something that the technical colleges were always able to supply to a local community. The current provision comprises BTECs and diplomas in the full-time courses; even the part-time courses are BTECs and diplomas. I think two GCSEs are supplied there now.

We need to ensure that the people of Ballymoney and the wider community have access to higher and further education, which is the Minister's responsibility. As we look at evening classes and the people who we are trying to get in to further education, there are people who cannot travel to Ballymena or Coleraine in the evening, so we need to make sure that there is provision there. We need to support it through our area learning plans. We are also looking for that post-16 provision, and adult learning as well. I know that the Minister is looking to develop policy in those areas. There is an opportunity here for the Department to take a strategic approach across the entire provision to make sure that Ballymoney can provide something, supported by DEL and the NRC, as a part of a wider education and learning community.

The Minister has a big push on in his review of apprenticeships, and there has to be provision. Daithí and Mervyn talked about the businesses and employers that are leaving the area.

If we were to create the correct apprentices and apprenticeships, supported by the technical college in that area, we could attract employers. That has been proven by the representations we have received through the Committee and heard elsewhere. If we have the skilled workforce, the employers will follow. We will look at that in respect of the job losses in Coleraine and the surrounding area. Many

people who have lost jobs in the DVA are from Ballymoney and the surrounding areas.

So, we need to support adult provision and apprenticeships and look to Ballymoney as a source. The estate there at the minute needs major refurbishment; there is no doubt about that. Part of NRC's strategic plan was to allow that estate to run down, but, as Mervyn said, it is about looking to other locations, sources and premises in the greater town and area that can be utilised by the Department.

All I want to say now to the Minister is that the business case has not been brought forward. The Speaker will recognise that we are standing here at 10.55 pm on a Tuesday night, after what has been a long day, and there is still enough representation here from two constituencies to make the case for proper provision for further and higher education in Ballymoney and the surrounding area. I support the proposal.

**Mr Frew:** I congratulate my colleague Mervyn Storey for bringing this Adjournment debate on this very important issue to the Floor of the House and to the ears of the Minister. There is no doubt that this is a very important issue, and I am glad to see Members from other constituencies also speaking on behalf of their constituents and the town of Ballymoney. That is refreshing and good. This should not be about one town versus another town. If it is that argument, it is the road to no town.

Mervyn covered all the bases, but I will cover some of the issues. What we have learnt from area planning in the education world is that there seems to be an obsession with an empty seat, as opposed to a young person sitting on a seat. Some officials look at pounds and pence. When are we going to start considering what is best for the young person in the seat rather than the estate and how much it costs to run or heat an estate? We should centre more on the facilities for the young people and how we treat them and provide the service to them. I would not want the Department and the Minister to fall into that same trap where they become obsessed with pounds and pence, with the estate and with the empty seat, rather than with the child or young person.

That brings me to my other point. There is absolutely no doubt that the people of Ballymoney feel vulnerable and defensive when we talk about services. They are competing between two bigger population centres. You can sense that when you talk to Ballymoney folk and the losses that they sustained over the years with regard to services. When you speak

to Ballymoney people, they fear more losses. It should not be the case that bigger is best. It should be the case that, when you are looking at services, especially when it comes to further and higher education, you look at the linkage and do not look at higher education as an island or on its own.

There is no doubt that higher education and further education is just a pathway, and at the start of that pathway are the schools. We have very good schools in Ballymoney. They have all been mentioned: Ballymoney High; Dalriada, and Our Lady of Lourdes. They do great work for our young people. There is also the truth that we are probably sending far too many people to university at present. As someone who was educated at the Farm Lodge campus of Ballymena NRC, I saw what were probably the best artisans to come out of the education system. They learnt trades and went on to make massive contributions to the built form in this country. They have been very successful in business, made lots of money and provided lots of income and employment for people. It is very important that further education is given the respect and resource that it deserves.

**11.00 pm**

I fear that it was decisions that were taken previously to move trades out of Ballymoney that have put it in a vulnerable position. I know that it was not this Minister's decision; it was others who made those decisions. I regret that those decisions were made. I believe that that was a mistake, because at the other end of this link are business, industry and manufacturing. Ballymoney has held its own to a degree, but it could do much better. However, it cannot do any better unless the links are there with the schools and NRC, providing those people who have those talents. It is not fair to ask schools or businesses to link with a college that may well be on the other side of a town, albeit eight miles away. If it is at the other side of the town, it may as well be 100 miles away, because, logistically, those links are hard to put in place.

It is also the case that further education and higher education cater not only for young people but for adults. As John Dallat said, it is, in some cases, a second chance for people. Those adults will already have a family, in some circumstances; they may well be tying down a job; they may well have dependants; they may well have families; they may be single parents. Even if it is only eight miles to travel to a place to learn and study, it is not always the easiest thing to do —

**Mr Speaker:** Will the Member draw his remarks to a close?

**Mr Frew:** — with all the pressures that it brings.

So, along with my colleagues, I make this appeal to the Minister: please, consider this very, very carefully, Minister. You do not want to lift any more services out of a town that already struggles, because the NRC campus may be the one thing —

**Mr Speaker:** The Member's time is gone.

**Mr Frew:** — that helps this town and brings it up out of the recession.

**Mr D McIlveen:** The hour is late, so I will curtail my comments as much as I can.

Yesterday, in Question Time, this issue was raised to the Minister by my colleague Mr Frew. The Minister referred to Ballymoney as a market town. I accept that he is accurate in his description, but, when I look at how Ballymoney is performing, I have to say that I believe that its performance is much greater than the average market town around the Province. Of course, the Minister represents a large market town in his constituency. I think that he will envy the figure that I am about to tell him, when it comes to his own constituency. At present, Ballymoney has an unemployment rate of 4%, which is well below the United Kingdom average of 7.5%. I believe that that is largely due to the private sector that exists in Ballymoney. Despite the very difficult times, which my colleague talked about, and the mass exodus, in many cases, that Ballymoney has suffered as a result of the recession and, obviously, other services being centralised to larger towns, there has been an ability to innovate and for the companies in Ballymoney to hold their own and to punch above their weight. That has been largely as a result of having a local, high-class further education establishment on its doorstep.

It is so easy to stand here and say that it is only a short distance to Coleraine or Ballymena, but the local ties and links between our further and higher education establishments and local business on their doorstep are vital. I believe that, if such a facility were to be torn out of Ballymoney, those links would be severed, and it would be very difficult to re-establish them, even with an establishment in Coleraine or Ballymena. As well as that, we have to accept that the infrastructure, particularly down to Ballymena, still leaves something to be desired. We are glad, obviously, that improvement has

been planned, and that is under way to part of the road to Ballymena. However, the infrastructure is still not sufficient to make the journey from Ballymoney to Ballymena a pleasurable experience. We are dealing with students who, as it is, are scraping money together to make ends meet, and for them to have to take a laborious journey to Ballymena every day, whether by bus or train, is something that may not be particularly attractive.

Let me close with this. I believe that there is a risk of creating a perception of sectarianism here as well. I am not suggesting that you are being sectarian; I am just saying that the perception could be there. Demographically, whether we like it or not, Ballymoney is predominantly a town of people from the unionist community. It is 80% Protestant. We see the Department's failure to deal with, for example, the issue in St Mary's University College; there is an over-provision for teacher training and a failure on the part of some people in the Department to have the courage to stand up and deal with that issue. I believe that there is a risk that, if we close down a highly used, proven establishment with a good track record, such as NRC in Ballymoney, yet we fail to deal with the issue in St Mary's, it sends out a very damaging message. We have to be careful about the perceptions that can be created as a result of that.

I will leave my comments at that, and I look forward to hearing what the Minister has to say.

**Mr Allister:** I commend the Member for bringing the matter to the House.

For those of us who have the privilege of representing Ballymoney, one of the great sadnesses, as we survey what has been happening in the town on a number of fronts, particularly in regard to community provision, is that it has amounted over the years to what could be described as asset-stripping. We have seen so much employment stripped out of the town. We have seen hospital provision stripped out of the town. Now we have a live threat to a key component of post-16 educational provision. Added to that, at the same time, we have a threat to residential care provision in the town. Little wonder that there are many people in and about Ballymoney who think that their town is becoming the Cinderella of the north-east and that, if something has to go, it will disappear first in Ballymoney. Other places, they think, are more important.

Minister, the choice that faces you is whether you are going to continue that cycle of asset-stripping from Ballymoney or will you take a

stand in defence of a key component of our educational provision. Make no mistake about it: the regional college is key to the economic future of Ballymoney. That is not just in the sense that it has 1,000 students who come and go; 1,000 students who bring commerce to the town. At lunchtime and afterwards, they go down the town and spend money in the shops. You have only to visit the High Street and the surrounding streets in Ballymoney to see the dearth of investment and dereliction that there is. If we take another 1,000 spenders out of Ballymoney and rob the town of that facility, what will we do to its economic heart, and what will we do to the prospect of attracting new businesses that will be reliant upon skilled staff, apprentices and all that? So, I say to you, Minister, that you have to act. My fear, and the first Member who spoke reflected this, is that you have all but already decided against Ballymoney. I say that because we have seen play out before us for some years a long-term strategy, whereby the scheme has been to take the college totally out of Ballymoney, suggest that it will be in a convenient place in Coleraine and then even waltz on that. However, there seems to be an underlying desire, which I do not understand, to rob Ballymoney of that key component of its education provision.

The point was made that many people talk admirably, as do you, Minister, about integrated education. The regional colleges are integrated education in action, and here we have a proposition that the town of Ballymoney should be robbed of that, too. I say to you, Minister, that Ballymoney has suffered more than it can bear and that you have to face the fact that, if you continue down the road that you seem to be headed, you will add greatly and unnecessarily to the further pain and diminishing of the town of Ballymoney and that you will further strip it of assets that are vital to its survival. I trust, Minister, that you will turn and that you will not do that, because the people of Ballymoney deserve better.

**Dr Farry (The Minister for Employment and Learning):** First of all, I thank the Member who proposed the topic for the Adjournment debate this evening. I recognise that we have a full turnout from the North Antrim constituency and, indeed, a Member from the neighbouring constituency. That reflects the interest in the debate. I fully acknowledge that.

Let me say at the outset that I have taken no decisions on the future provision of colleges in the Northern Regional College area. I will also say for the record that the Department formally received the outline business case last Friday, but it has not yet been presented to me for my

consideration. So, at this stage, I have yet to formally read the outline business case, never mind take any decisions on it. Although Members will know the history of the strategic outline case and its recommendations and may well suspect what the current outline business is saying and recommending, let me reassure them that I will fully reflect on all the comments that have been made from all sides of the House this evening and will take them fully into account when making decisions on the way forward.

I think that it is also important to recognise that we are here primarily talking about investing in the future of our economy. That means investing in the right skills, which in turn means investing in the people who will have those skills and in the development of their ability to implement those skills in a productive manner for our economy. In saying that, we also have to recognise that the world of work is changing dramatically, so we need different forms of education and training. Members spoke tonight about apprenticeships, and I welcome their commitments to those. In saying that, we also have to reflect on the critical role that the FE sector plays as a key delivery partner, and, in many instances, it is the first point of call for the delivery of those innovative solutions and for the supporting mechanisms that will take forward the appropriate training.

### 11.15 pm

In providing that service, it is important that we have a modern FE estate and that the infrastructure is of high quality, with state-of-the-art technical facilities, including modern equipment. As such, over the past number of years, my Department has made a considerable number of investments in the FE estate across Northern Ireland. Many Members will be familiar with the high-quality campuses that have been delivered.

With respect to the Northern Regional College, in recent years we have seen, in 2004, £2 million for a replacement building at Larne and, in 2010, £10 million for refurbishment and a newbuild project at the Newtownabbey campus. There were also minor works of about £2 million. To put that into perspective, that is less than has been invested in many other parts of Northern Ireland, so NRC has not yet benefited from the degree of investment that we have seen elsewhere. It is important that we ensure that the quality of the FE estate in that part of Northern Ireland is as good as if not better than other parts of this region.

Three years ago, NRC commissioned a condition survey of the buildings in its estate. Deficiencies highlighted included high maintenance levels, poor appearance, constrained layout and outdated and inefficient buildings. In essence, the existing estate is not fit for purpose, nor is it in keeping with the wider vision and aims of the college and my Department. So, we do need to consider change.

A high-level strategic outline case (SOC) was presented by the college and gained the Department of Finance and Personnel's approval to proceed to the next phase, which is the outline business case. The SOC identified that the buildings at the Ballymoney, Coleraine and Ballymena campuses were most in need of improvement, and it concluded that the outline business case would examine that in more detail and identify the value-for-money options for new accommodation in those areas. A number of core issues will underpin how we examine that.

The first issue is infrastructure capacity and the ability to provide modern accommodation and equipment that is up to industry standards. At times, that can be quite costly, particularly in engineering, construction and catering.

The second issue is student capacity. Given the wide and varied range of courses in the FE sector, we need to ensure that there is a sufficient number of a students to make classes viable and that, as we look to build a shared future, FE provides a shared experience, not just in respect of people occupying the same building but in the sharing of teaching and learning, as Members have recognised.

Experience in the FE sector is that students are willing to travel to ensure that they get access to their preferred courses. In the Ballymoney learning community, we already have examples of young people from schools coming together to participate in courses not just at the Ballymoney campus but the Ballymena and Coleraine campuses. Those experiences are shared with pupils from other schools across the North Antrim area. We need to ensure that we meet the wider needs of the entitlement framework and, as Mr Storey outlined, provide a wider 14-to-19 strategy in the most strategic and economical manner. Before concluding what the best option would be in the North Antrim area, the business case has been examining current student flows.

The third issue is teaching capacity. Many tutors in the FE sector have significant industrial experience. That is valued because of the

expertise and resource that they bring, which gives the sector a very distinctive feel. To ensure that the teaching resource is fully utilised, there needs to be an optimum capacity of students and accommodation.

Those three issues in particular need to be considered in the outline business case. The business case has been developed by the college itself, with the assistance of Deloitte. At present, my Department's economists and accountants are liaising with the college on that. Once my officials and I are content with the business case and any decisions and recommendations that we wish to make, we will submit that to the Department of Finance and Personnel for approval. Experience tells us that the timescale could be a number of months.

After the approval stage, I will be in a position to share with you the full detail of the value-for-money option that we are recommending be taken forward. I am hopeful that we will be able to secure funding for further investment in the NRC area over the coming years. That has to be taken into account alongside demands in other parts of Northern Ireland for investment in colleges, but I clearly understand the need for further investment in the North Antrim area.

Before looking at any further provision, I want to stress that, wherever the permanent provision is located, it will be done on an economical and strategic basis and provide for a wide catchment area. Where we do not have a permanent FE campus, there will be consideration of how we can provide community provision at other public sector buildings, leased accommodation or, indeed, through partnership with existing schools. It is also worth stressing the importance of the entitlement framework and how the FE sector can play a full role in that. It is important that schools do not seek to replicate what can be offered in the FE estate. Rather, we must look to make full use of further education, and I took considerable encouragement from how Members reflected on the importance of the FE sector and the almost unique offering that it brings to the table.

**Mr Storey:** Thank you, Minister, for giving way on that point. That is a very big issue, given that the entitlement framework funding will run out very shortly, so there is a real risk of entrenchment. However, the Department of Education overlooked that when, recently, a home economics department was built at Dalriada School. That, ultimately, meant that the FE provision was lost. There was no strategic thinking or long-term plan. Clearly,

that is a very serious issue in how we deliver the entitlement framework.

**Dr Farry:** I thank the Member for those comments. I am acutely aware of such dangers, and, indeed, I will meet Minister O'Dowd next week to discuss those issues. Taking the Member's example, I agree that there is a world of difference between the teaching of home economics in a school setting and the teaching of catering in an FE setting. To provide for the very successful tourism and hospitality sector in Northern Ireland, we need people who are skilled in that area.

I appreciate that time is against me, but I again place on record that we will fully take on board the comments that Members have made this evening. We will reflect fully on what has been said and factor it into our decision-making over the coming days. I fully appreciate the importance of the college to Ballymoney town. Members will appreciate that this has to be a rounded decision that is not based simply on the interests of particular towns; it must be based on the needs of the economy, whether on a subregional basis or across Northern Ireland. We need to ensure that we invest in people across the age spectrum to ensure that we are investing in the right skills for the economy. In doing that, we need to have proper, modern facilities, and we are committed to investing in the Northern Regional College area over the coming years.

*Adjourned at 11.23 pm.*





Published by Authority of the Northern Ireland Assembly,  
Belfast: The Stationery Office

and available from:

Online  
[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

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ISSN 1463-7162

Daily Editions: Single copies £5, Annual subscriptions £325  
Bound Volumes of Debates are issued periodically during the session: Single copies: £90

Printed in Northern Ireland by The Stationery Office Limited  
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