

# Official Report (Hansard)

Tuesday 18 March 2014  
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# Northern Ireland Assembly

Tuesday 18 March 2014

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

*Members observed two minutes' silence.*

## Executive Committee Business

### Public Service Pensions Bill: Royal Assent

**Mr Speaker:** Before we proceed with today's business, I wish to inform the House that the Public Service Pensions Bill has received Royal Assent. It will be known as the Public Service Pensions Act (Northern Ireland) 2014.

## Matter of the Day

### Lord Ballyedmond of Mourne

**Mr Speaker:** Seán Rogers has tabled a Matter of the Day. Before I call Seán, I want to say that it was with great sadness that we all learnt of the death of Lord Ballyedmond. He was a good friend of the Assembly, took a keen interest in its work and was a very active member of the Northern Ireland Assembly and Business Trust. When he came here, he was always keen to listen and to learn about the work of the Assembly.

He was an entrepreneur who started from very humble beginnings, and Northern Ireland is poorer for his death. Our thoughts and prayers are with his wider family at this time and with the families of the others in the helicopter who lost their lives. I think it is important that that goes on the record. He was a true friend of this Assembly.

Mr Seán Rogers has been given leave to make a statement on the death of Lord Ballyedmond, which fulfils the criteria set out in Standing Order 24. If other Members wish to be called they should rise continually in their place. All Members who are called will have up to three minutes to speak. I remind Members that there will be no points of order or discussion of any other issue until the item of business is finished.

**Mr Rogers:** Thank you, Mr Speaker, for affording me the opportunity to speak on this solemn occasion. I agree with every word you said.

When the news of the helicopter crash in Norfolk broke on Thursday evening, it seemed quite remote. However, before long, we all knew that two people from south Down had died, along with the pilots. While the whole island and further afield have been shocked by the tragic death of Lord Ballyedmond, his impact and that of his business enterprises, including Norbrook Laboratories and Ballyedmond Castle Farms have had major significance for the people of south Down, Newry and Armagh.

Lord Ballyedmond was a former member of the Irish Senate, and, since 2004, he sat as a Conservative peer in the House of Lords. Frequently, I saw his helicopter make its way home, up along Carlingford lough, and land at Ballyedmond, but, sadly, on Thursday night, it was not to be the case.

Lord Ballyedmond was born in Kilcurry in County Louth and attended the CBS in Dundalk. As you said, Mr Speaker, he started from very humble beginnings, but through his personal drive, determination and single-mindedness, he made Norbrook a world leader. Based in Newry, it is the only home-grown veterinary pharmaceutical company. It employs over 1,700 employees and exports to over 120 countries.

Lord Ballyedmond was one of the most successful entrepreneurs in Northern Ireland and, indeed, these islands. He brought high-quality employment opportunities to the country during its darkest days. He had faith in Newry when it was not the most popular place. During the recent recession, even many of our construction workers found employment on the assembly lines, the farms and other enterprises. Many families are so thankful to Eddie Haughey for having that faith in the local workforce. He made the difference between employment and unemployment and between

having an income and living on benefits or emigrating.

This tragic accident has cut short the life of a man who still had a lot to give. The family circle will be numbed by such a loss. It was the spirit of the man that he was giving one of his workers — Declan Small from Mayobridge — a lift home rather than have him waiting for the flight on Friday morning. On behalf of the SDLP, I extend my deepest sympathy to Lord Ballyedmond's two sons and daughter, to Declan Small's mother, his three brothers and the wider family circle and to the families of the two pilots. May Lord Ballyedmond, Declan and the two pilots rest in peace.

**Mr Poots:** We heard the tragic news just last week of the death of Lord Ballyedmond, Declan Small and the two pilots, and it was with a heavy heart that we took it all in. Lord Ballyedmond, or Edward Haughey, as many of us knew him, was a man who was immensely driven and very determined. A lot of that came from his childhood. As a young boy, he lost his father very young in life. His mother set aside what money they had to educate her children. After he left school, he went to America for a short number of years. When he came back, he started selling drugs out of the boot of a car. From that, he created the most profitable business in Northern Ireland, employing some 1,700 people. We can look at the contribution that Eddie Haughey/Lord Ballyedmond made to business, which was absolutely massive, but that only touches on a small part of the man.

Lord Ballyedmond was a very charitable man to causes that he saw to be worthwhile. He gave huge support to those causes and encouraged others of means to support such causes. That is an element of him that we should all remember at this time. He was also a man who wanted to see Northern Ireland progress, and he did whatever he could to sell Northern Ireland, because he had massive international contacts, to encourage others in business, to encourage this Government and Executive in respect of its international outreach and bringing business to Northern Ireland and creating opportunities for others. He was immensely generous with his time, skills, knowledge and contacts.

Northern Ireland is a much poorer place as a result of the loss of Lord Ballyedmond. I deeply regret his loss, and I express my Christian sympathies and that of my party to his wife, two sons, daughter and wider family. I trust that they will find comfort, even over the course of the days, weeks and months where that absent

chair will be, and with the loss of such a close loved one.

**Ms Ruane:** Go raibh maith agat, a Cheann Comhairle. I join other MLAs who have paid tribute to Lord Ballyedmond, Declan Small and the two pilots. It is a loss for their families and for south Down.

Lord Ballyedmond was a big supporter of education; he was a big supporter of jobs, and as mentioned earlier, jobs in the Newry and Mourne area. Obviously I did not share all his viewpoints. We had differences of opinion on a range of issues, but one issue that he was a big supporter of was the bridge at Narrow Water. Being from Louth and living in Down, he wanted to see the bridge crossing over. I obviously shared that with him.

It is a huge loss for his family, and for Declan Small's family, and I know that many in south Down are grieving because of the untimely death of the four people in the helicopter.

**Mr Kennedy:** There is still a great sense of loss and shock following the helicopter tragedy in Norfolk late last week, which claimed the lives of Mr Declan Small from Mayobridge, the pilots Carl Dickerson and Lee Hoyle, and, of course, Lord Ballyedmond of Mourne. It is a tragedy that will impact on all of those families, and lives will be changed as a result of it.

It is right that we take time to pay particular tribute to Lord Ballyedmond because of the public profile that he had and because of the support that he gave to these institutions and the encouragement that he gave to many Members, including me. I offer my sincere sympathy and that of the Ulster Unionist Party to the four families whose lives are now changed completely.

Lord Ballyedmond was a significant figure in Northern Ireland. From a zero base he built Norbrook into a world-renowned company. He was, I think, what Northern Ireland needs more of. He was a business entrepreneur — someone who created wealth and provided jobs, most especially in my constituency and, in particular, Newry. Lord Ballyedmond deserves recognition for what he achieved for Norbrook, Newry and Northern Ireland.

Uniquely, as we have heard, he served in the upper houses of both the United Kingdom Parliament and the Parliament of the Republic of Ireland. He was also a generous benefactor to many causes — our universities and colleges, and our museums. He also privately supported many other good causes and worked

hard to bring people together, especially politicians and opinion-formers. He encouraged reconciliation.

I extend my sympathy and that of the Ulster Unionist Party to Lady Mary, his children Caroline, Edward Jnr and James, and I offer sincere condolence to all of the families of those affected by this tragedy.

**Dr Farry:** I join my colleagues in paying tribute to Lord Ballyedmond and in recognising his important legacy to the political and economic life within these islands. I pass on my condolences and those of the Alliance Party to his family and to the families of Declan Small and the two pilots who were caught up in this very tragic incident. Certainly, all of them will be deeply remembered in our society.

His political legacy was unique, as has been outlined, but, in recognising that, it points to the respect in which Lord Ballyedmond was held across these islands. He was someone who could move in a whole range of circles, be well regarded in each and every one of them and make a contribution in each.

#### 10.45 am

His ultimate legacy to Northern Ireland lies in the economic and business sphere. Norbrook Laboratories is a major employer in Northern Ireland and one of our most important businesses. In some respects, we can call it Northern Ireland's home-grown multinational corporation: it has a number of facilities not only in Newry but overseas, so Northern Ireland is, in turn, an inward investor in other parts of the world, particularly the United States.

As we talk a lot about the need for exports, it is also worth recognising that Norbrook is a leading exporter. Indeed, it has perhaps had the greatest impact around the world of any Northern Ireland business, given the wide range of customers and the number of countries touched by the very specialist nature of its veterinary medicine products. Such products are eagerly sought by a range of societies around the world. I fondly remember touring the facilities and seeing all the different packs being processed for all four corners of the world.

Lord Ballyedmond had a very keen interest in ensuring the future of his business. It is worth stressing that his legacy will continue in Norbrook, which will continue to flourish as a very valuable component of the Northern Ireland economy. Over the past number of

months, he had been taking a very keen interest in ensuring that his workforce had the right skills to continue to service Norbrook's emerging business needs. In particular, we were in discussion with the Southern Regional College about the development of higher level apprenticeships in pharmaceutical technical skills. That demonstrates Lord Ballyedmond's vision and acknowledgement of emerging trends in our economy. He ensured that he was at the forefront of those developments. He will be a very sad loss to our economy and all of our society, but he will be deeply remembered for generations to come.

**Mr McCallister:** I am grateful to Mr Rogers for tabling the matter of the day. I want to associate myself with the comments of colleagues. Edward Haughey, or Baron Ballyedmond of Mourne, made his contribution to our society from, as Mr Kennedy said, a zero base. He rose from that to build the company of international standing that is Norbrook Laboratories and create employment. As said, he based Norbrook in Newry, a city that many would have shied well away from in the 1970s, 1980s and 1990s. He had that commitment to Newry, and he employed on sites in the city some 1,700 people from a wide area, particularly the South Down and Newry and Armagh constituencies.

Thursday night's tragedy is a reminder how quickly any family — indeed, in this case, four families — can be thrown into grief. It reminds us all of the fragility of life. The family of Declan Small from Mayobridge in my constituency, the families of the two pilots and all their friends are in our thoughts and prayers. We must continue to remember them in the weeks and months ahead.

Colleagues have mentioned the variety of contributions that Lord Ballyedmond made to society, not just in the business world as an entrepreneur who exported products and world leader in the pharmaceutical industry but in the political sphere, where he moved from the Irish Senate to become a member of the House of Lords. He had a drive to build on peace and reconciliation and promote it wherever he could. I hope that that legacy, as well as that created by his business interests, will live on.

Our sincere sympathy goes to the family: Lady Mary, who is a relative of mine, Edward junior, Caroline and James. We are thinking about them and praying for them. In the days, weeks and months ahead, they will begin to feel the severe loss of Lord Ballyedmond and, when that comes to mind, they will know that many people in society and in this House are thinking

about them, supporting them and remembering him at this difficult time.

**Mr Allister:** I join in the condolences to the family of Lord Ballyedmond and, indeed, the families of the others who so tragically lost their lives in the helicopter crash. It is a reminder to us all, of course, that, whether we are rich or poor, death comes to us all in whatever circumstances.

Of Lord Ballyedmond, much has and can be said. He certainly has left a tremendous legacy through the remarkable company that he built from nothing. It is a case study in how an entrepreneurial spirit in the most trying of circumstances, such as we had for many, many years in Northern Ireland, can nonetheless succeed. It is a case study also in how private industry and investment has so much to contribute to the growth of our economy and how, within that, the focus on exports is very often the key to success of the magnitude that Norbrook Laboratories obtained and continues to obtain.

So, his legacy is immense, and I certainly wish to convey my condolences to his family, including his wife Mary, with whom I was acquainted in her years as a practising solicitor in the town of Newry. I did have the occasion to meet Lord Ballyedmond a few times during my service as an MEP, and he certainly had all the attributes that have been spoken about, which include his drive, his vision and his affable nature. It is a sad day not only for the Newry area but for all Northern Ireland that such an industrial giant, home-grown in this Province, has been taken from us. Our thoughts are very much with his family.

**Mr Wells:** It would be hard to overestimate the importance of Edward Haughey to the economy of south Down, Newry and Armagh, and, indeed, the wider area. He was the ultimate self-made man. I spoke to people over the weekend who remember him going around Newry in a small van selling veterinary products out of the back of it on his own. To have gone from that to now employing 1,700 people and bringing £30 million a year into the south Down and Newry and Armagh community is a remarkable feat.

He was an entrepreneur with a capital E. Indeed, he was also a man who was tremendously loyal to Northern Ireland and to south Down and Newry. There were many attempts to try to lure his company out of Northern Ireland. Various inducements were made and rejected, and, throughout the entire time, he kept the bulk of his employment in

Northern Ireland. I wish that many others had adopted the same attitude. He went on to make a name for himself not only in the economic life of Northern Ireland but, uniquely, he held a seat in the Irish Senate and, more latterly, a seat in the House of Lords.

He has made an inestimable contribution to the area but also behind the scenes in an unspoken way, and many people alluded to this. He also made very significant contributions to charity and to academia in Northern Ireland, sometimes without any mention whatsoever. There are many people who are grateful for his support and his tenacity.

I was first elected here in 1982, and I represented Newry, which was part of the South Down constituency at that time. Frankly, Newry, at that stage, was a basket case. There was always an undesirable competition between Newry and Strabane about which one of them was the most economically deprived part of the United Kingdom. It is no exaggeration to say that Edward Haughey single-handedly pulled Newry up by the bootstraps. That is because, as a result of his determination and investment in Newry, the formation of Norbrook and all the employment that that brought, other companies were attracted to the area, and the town is enjoying a relative prosperity that we could not have envisaged 40 years ago. We need more Edward Haugheys in Northern Ireland. We need more entrepreneurs to come in and do that. However, at this stage, I pay tribute to him and remember all the others who died in this tragic accident.

**Mr Flanagan:** Go raibh maith agat, a Cheann Comhairle. As Chair of the Assembly Business Trust, I express my great sadness at the tragic death of not only Eddie Haughey, who was one of our trustees, but the three others who died in that tragic helicopter crash. I was deeply shocked by his untimely death. He was a well-respected and significant member of the local business community whose influence was felt right around the world. His ruthlessness and vision were widely acknowledged by most people who met him. Although I did not agree with everything that he said, he certainly respected individuals who held differing views to his, and he never allowed political outlook to come in the way of a personal friendship or relationship with others.

Eddie was a member of the board of trustees since 2008, and he was an enthusiastic supporter of the trust. He was committed to encouraging much greater links between the local business community and the political



representatives here, which is the whole point of the trust. He not only found the time to serve on the board since 2008 but participated in a number of events and actually hosted numerous delegations both in Westminster and at his offices in Newry.

The only time that I had the chance to meet him was when he hosted us last year in, I think, the private Members' dining room in the House of Lords. He was delighted to have the opportunity to host a cross-party grouping of MLAs and business members. He really shone in that arena where he was the host. People acknowledged that he was there hosting us, and he was given that role. As the Chair of the organisation, I was sat beside him at the top of the table, and I think that I had to tell him five times that I was a Sinn Féin MLA, because he just could not believe that a Sinn Féin member was sitting beside him in the British House of Lords.

As Alban Maginness got up to deliver what many saw as his maiden speech in the House of Lords, he paid a glowing tribute to the political representatives who had travelled over from Belfast to London. As Alban was paying tribute to the political members of the trust, Eddie nudged me and said, "You can't let him say that about you". I said, "But he said something nice", and then he said "Oh, that's all right then". After that event, Eddie was supposed to give us a tour of the House of Lords, but, unfortunately, we spent too long talking around the table and missed that.

I actually have a story that links Eddie Haughey and somebody else who passed last week — the great Tony Benn. Unfortunately, we are much the less as a result of Tony Benn's passing. As a result of Eddie not being able to give us a tour, Basil McCrea and I managed to track down Stephen, one of Tony Benn's sons, who was hosting an event in Westminster. He then took us on a tour of both Houses of Parliament, which was very enjoyable. They tried to coax me to go into the Chamber, but I would not do it, a Cheann Comhairle.

Eddie's enthusiasm and generosity will be sadly missed by all of us in the trust. On behalf of the trust, I take the opportunity to express my great sympathy to his wife, Mary, his daughter, Caroline, and his two sons, James and Edward. In my role as a member of the trust, I have got to know Edward and James through their very active support of the trust, and I can only imagine what a difficult and emotional time this must be for them on the loss of their father.

**Mr D Bradley:** Go raibh maith agat, a Cheann Comhairle. Mr Speaker, thank you very much. There was certainly a palpable sense of shock in the Newry area on Thursday evening when the news of the death of Lord Ballyedmond, Edward Haughey — or, as he was better known around Newry, simply Eddie — came through.

I will begin by expressing my condolences to his wife, Mary, his sons, James and Edward, and his daughter, Caroline. I also express my condolences to his first cousin Patricia, who is my next-door neighbour. She told me of the great kindness that Eddie Haughey had shown to her and her family on the death of her mother just a couple of years ago. So, I suppose that is an indication of Lord Ballyedmond's kindness.

I also express my condolences to the family of Declan Small of Mayobridge and to the families of Carl Dickerson and Lee Hoyle, who were the two pilots of the helicopter.

#### 11.00 am

Lord Ballyedmond started his business, as Mr Kennedy will remember, in Bessbrook mill. I suspect that the "brook" in Norbrook indicates his thanks to the people of Bessbrook for hosting his early endeavours. Since then, he made a tremendous contribution to the economy of Newry, south Down and south Armagh. As other Members said, he was tremendously loyal to the area and kept the core of his business there, employing 1,700 people. We could safely say that Norbrook is the main plank of the Newry economy and the main basis of employment in Newry. I know that his employees and their families were extremely saddened by the news of his death.

He was a man of vision. As Mr Farry said, he invested in research and development. He had a relationship with the school in which Mr Rogers and I taught: St Paul's High School, Bessbrook. He sponsored the science department there, and his aim was that more young people would take an interest in science, technology, engineering and maths (STEM) subjects. Norbrook fostered a relationship with the Southern Regional College, emphasising once again the importance of the STEM subjects to our economy.

His charitable works have been referred to. One story that I heard was about a project taking socially disadvantaged children to America. One of the funders pulled out, and the whole project was in danger. Edward Haughey stepped in and made a substantial contribution to save the project and ensure that 40 children got to America. That is another

indication of the practical, charitable goodness of Edward Haughey.

As I said, I express my condolences to his family and to the other families involved.

**Mr Kinahan:** Like all of us, I was appalled when I heard of the accident last week. My sympathy and condolences go to the family; to Mary, Caroline, Edward junior and James, and, of course, to Declan Small and his family and to Captains Dickerson and Hoyle.

Many people today have spoken of his drive and determination and how he was one of the very top businessmen, if not the top businessman, in Northern Ireland. I think that the Assembly should look at some way of recognising that entrepreneurship, which we would like to see from many people. We should look at some way of forwarding that into the future.

I want to touch on three other areas that he was involved in. In the art world, he had a thirst for knowledge and wanted to know more and more, just as he did with historic buildings. When he took on a historic building, he restored it to perfection. He saved buildings, not just for himself and his family but for all of us. He was the same with art. He was a philanthropist; I know that he did great work in helping Hillsborough Castle with its art collection. We should thank him for that. He had just finished a term as honorary colonel of the Royal Irish Rangers. He took great time and interest in supporting everything that they did. We should remember that. At one event, when asking me how on earth I ended up in politics, we ended up discussing education. That same steely eye turned on me and said, "In education, we want pupils and students to come out entrepreneurs who can analyse, think for themselves and create". We should all follow that. That is what he wanted to see in Northern Ireland.

We will miss him. He did things in style. Nobody else did things in that way. You summed it up rightly at the beginning, Mr Speaker, when you said that he was a good friend, not just to the Assembly but to everyone.

**Mr Irwin:** As a Member for Newry and Armagh, the constituency where he had his business, I was deeply saddened to learn of the death of Lord Ballyedmond in a helicopter crash in Norfolk at the end of last week. Lord Ballyedmond was an entrepreneur and a gent. He had a great interest in the Newry area and, indeed, the whole of Northern Ireland, and he was very supportive of the institutions here.

A couple of years ago, he invited the Agriculture Committee to visit his Norbrook factory in Newry. He showed a great interest and gave us a personal tour of the factory. After the tour and a detailed analysis of what went on there, we had our lunch in his family home. He gave of his time generously and showed a great interest.

My sympathy goes out to his wife, his two sons and his daughter. My thoughts and prayers and that of the wider community are with the family at this time.

## Ministerial Statement

### North/South Ministerial Council: Aquaculture and Marine

**Mrs O'Neill (The Minister of Agriculture and Rural Development):** Go raibh maith agat, a Cheann Comhairle. With your permission, I will make a statement in compliance with section 52 of the 1998 Act regarding the 24th meeting of the North/South Ministerial Council (NSMC) in aquaculture and marine sectoral format.

The meeting was held in Armagh on Friday 21 February. The Executive were represented by Minister Nelson McCausland and me, and the Dublin Government were represented by the Minister for Communications, Energy and Natural Resources, Pat Rabbitte TD, and Fergus O'Dowd, Minister of State in the Department of Communications, Energy and Natural Resources. Minister Rabbitte chaired the meeting. The statement has been agreed with Minister McCausland, and I am making it on behalf of us both.

Ministers considered a paper on sectoral priorities and discussed other priorities in their respective sectoral areas. It was agreed that the priorities would be communicated to the joint secretaries in line with the plenary sitting decision of 8 November 2013. I stated that one of my key priorities would be to bring forward an all-island aquaculture shellfish strategy.

The Council received a progress report on the work of the Loughs Agency from its chairperson, Winston Patterson, and its acting chief executive, John Pollock. Ministers welcomed progress made, including the Loughs Agency's partnership with Co-operation Ireland in developing the Foyle river ambassadors citizenship scheme. The scheme uses the River Foyle as a focus to bring together young people from across the Derry City Council area in a personal development programme. Its aim is to promote the recreational and educational activities provided by the river. As well as getting leadership training, participants do angling, fisheries management, sailing and aquaculture. On completion, they act as ambassadors, publicising the Foyle as an important natural asset that supports a broad range of social and economic activities. It is a very commendable initiative, and I was encouraged to hear that the Loughs Agency is examining the prospect of rolling it out to Carlingford.

In addition, Ministers noted the agency's precautionary measures introduced to contain

disease within Lough Foyle and congratulated the agency on the successful delivery of an international conference on salmon stocking. We also look forward to the distribution of the film 'Atlantic Salmon – Lost at Sea', in which the Loughs Agency participated.

The Council also noted progress on the Loughs Agency's financial statements for 2012 and 2013, the Loughs Agency's corporate plan for 2014-16 and business plan for 2014 and the Loughs Agency's pension arrangements.

The Council welcomed, and very much enjoyed, the presentation on the movements of Atlantic salmon in the River Foyle in response to man-made barriers. That is one of a number of applied research projects that the Loughs Agency oversees, in conjunction with the University of Glasgow and Queen's University, and its aim is to help to protect aquatic resources across the North of Ireland and western Scotland. We noted the valuable contribution that those research projects will make to the management and development of the important Atlantic salmon fishery.

The Council recommended that the competent authorities in each jurisdiction consider jointly hosting an all-island aquaculture shellfish conference. I should say that that is an issue of particular interest to me. Such an event will help to focus and promote the shellfish sector throughout Ireland, and we agreed that plans will be taken forward by officials from my Department and the Department of Agriculture, Food and the Marine, alongside industry partners and others.

Ministers welcomed the report on the Loughs Agency's wide range of activities aimed at promoting and marketing Foyle and Carlingford Loughs. Those included the Loughs Agency's participation in planning for the return of the Clipper Round the World Yacht Race to the Foyle this June and an all-Ireland marketing initiative to promote angling in Ireland at the major exhibition Salon de la Pêche in Clermont-Ferrand, France. That is an expanding dimension of the agency's work, and we have encouraged the further development of such activities.

Other events that the Loughs Agency has been involved in include the Sail West project in association with Donegal County Council. That ambitious marine tourism project brought many benefits to the region, from the development of capital works to the sharing of ideas and experiences with Scottish partners and the creation of a marketing brand, MalinWaters.

We learned that the Loughs Agency is always keen to promote the Foyle area through radio, film and TV coverage. The agency recently worked with UTV, BBC and RTÉ on a number of projects to highlight Lough Foyle as a major tourism asset that is ideal for water-based leisure activities. The Council approved amendments to the Loughs Agency's pension scheme.

The Council noted the process for the recruitment of a chief executive of the Food Safety Promotion Board, Safefood.

The Council agreed to meet again in aquaculture and marine sectoral format in June 2014.

**Mr Frew (The Chairperson of the Committee for Agriculture and Rural Development):**

I thank the Minister for her statement. After the previous ministerial statement on the North/South Ministerial Council in aquaculture format on 2 December, I raised the issue of the lack of a management agreement for seabed leasing in Lough Foyle. The Committee for Agriculture and Rural Development is very concerned about that issue. On 2 December, I was told by the Minister that all efforts were being made to resolve it. She said:

*"We hope to see some movement towards the end of the year to get that resolved. Obviously, we do not want it to slip any further." — [Official Report, Vol 90, No 1, p13, col 2].*

Therefore, I am surprised that it did not feature on the agenda of the Council meeting on 21 February, six weeks after the end of the year. Can the Minister provide an update on developments on seabed leasing in Lough Foyle?

**Mrs O'Neill:** I want to assure the Member that I have given the Loughs Agency every possible support — my full support — in its attempts to finalise the management agreement with the relevant Departments in the South. I am grateful to Minister Rabbitte's officials for their efforts in helping the Loughs Agency to progress the management agreement with the Department of Agriculture, Food and the Marine. I assure the Member that a very positive meeting was held in Dublin on 23 January, which included inputs from all relevant Departments and the Office of the Attorney General on moving forward, particularly with regard to the jurisdictional issues that obviously exist. A number of possible solutions were proposed. They will be pursued and discussed

with the Crown Estate. I hope that we will have something more concrete to discuss at the next meeting and will report back to the Assembly in due course.

**Mr Byrne:** I thank the Minister for her statement. Can she indicate when there will be some outcomes from the research project involving the Foyle system with the University of Glasgow and Queen's University? Can she state whether she has had any discussions with energy Minister Rabbitte about the North/South interconnector, given the importance that it will have for Northern Ireland?

**Mrs O'Neill:** I will take the questions in reverse. We certainly had a bit of discussion on the interconnector. Minister Rabbitte clearly set out his position and outlined some discussions that he has had with Minister Foster, obviously because it comes under her remit. We had a discussion on the impact that it would have on society in general.

The research project was taken forward through IBIS. It was a really fantastic piece of research, which clearly shows the impact of, for example, weirs and other things on the salmon journey. They are putting all of that information together. Hopefully, that information will then benefit the wider systems right across Ireland and into Scotland. When they disseminate that information, people in other Departments will be able to see the impact of man-made structures, for example, on the salmon journey. It is key research. We are delighted to be associated with it. I believe that there will be wider benefits not only for Lough Foyle and Carlingford but the wider water systems.

**Mrs Dobson:** I, too, thank the Minister for her statement. She has outlined and, indeed, encouraged further development of the agency's work into the realm of tourism. First, how will the success of that venture be measured with regard to its benefits to the Northern Ireland economy? Secondly, what is the agency's relationship with the Northern Ireland Tourist Board when engaging with and promoting tourism?

**Mrs O'Neill:** We have been trying very hard to expand that role. The Loughs Agency is very well placed with regard to marketing what we have to offer, particularly when it comes to Foyle and Carlingford. It has been very successful. We want to promote and advertise what we have to offer right across the world, particularly when it comes to angling. The event that the Loughs Agency attended in France was very positive in getting what we

have to offer out there to a wider audience. A lot of the other works that have gone on, particularly with regard to tourism around Malin Head and the Sail West project in association with Donegal County Council, have been key to promoting those areas and what they have to offer. So, we want to have a lot more of that. A number of other big events are planned for this year, building on the benefits that we achieved particularly from the Clipper Round the World Yacht Race, which visited last year and will come again this year.

### 11.15 am

There are ongoing discussions with all the key agencies, including the Tourist Board, and I encourage those. I think that it is important that the Loughs Agency thinks outside the box in promoting and advertising what positive natural resources we have to offer.

**Mr McCarthy:** I, too, welcome the Minister's statement this morning. She talked about the all-island aquaculture shellfish conference. Will she outline her thoughts to the Assembly on how she sees that developing? She mentioned the shellfish sector throughout Ireland. Can she see an interest going further than this island?

**Mrs O'Neill:** I am delighted that the Council recommended that we have a shellfish conference. I certainly feel strongly about that action point, particularly on the back of the difficulties with oyster disease in Carlingford over the past year, which the Member will be aware of. From speaking to the industry, I know that it is very keen for a focus to be put on it. Again, the conference will tie in very nicely with the work of the Agri-Food Strategy Board in looking at how we can help to grow each sector.

Some of the key areas that we will focus on at the conference are as follows: disease prevention and control; the need to focus R&D funding; best practice in biosecurity improvements; emerging EU issues in aquaculture; and other issues such as licensing of sites, financial support, environmental assessments and the review of the current licensing appeals process. We will then look at the growth and marketing opportunities for the industry. Arrangements are ongoing with officials, but we hope to have the conference early next year. As I said, I know that industry has been asking for such a conference, which will really help to put the focus and attention on it and help us to move forward in marketing what we have to offer.

**Mr Irwin:** The Minister indicated that sectoral priorities were discussed and agreed. One of the priorities is to have an all-island aquaculture shellfish strategy. What are the other priorities, and why are they not listed here for scrutiny by the Assembly?

**Mrs O'Neill:** They have been listed and discussed before. As far back as, I think, November last year, we discussed all our priorities. At the last meeting, we discussed taking forward an all-island aquaculture strategy, which the conference would feed into nicely. So, that is an additional sectoral priority. However, I am very happy to provide the Member with a detailed list of all the priorities that were previously identified at the November meeting.

**Ms Maeve McLaughlin:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for her statement today. I particularly welcome the focus on the opportunities in and around Lough Foyle. Will she provide an update on the new chief executive position for the Loughs Agency?

**Mrs O'Neill:** The final interviews to select and appoint a new chief executive were held in Belfast on 28 February. A new chief executive has been identified, and the formalities to secure the appointment are under way. The next stage in the appointment process will be to secure NSMC approval, and work on that is well advanced. So, I very much hope that the new chief executive will be in post by 2 April 2014. My Department and the Department of Communications, Energy and Natural Resources in the South have worked together on that process, and I am grateful to them for their efforts. So, hopefully, that position will be confirmed by 2 April.

**Mr Rogers:** Thanks to the Minister for her answers thus far. I welcome her statement. What is being done to ensure that our shellfish producers can compete on a level playing field/seabed? How can we compete with Scottish shellfish producers to ensure that we continue to produce the world-class product that we have here?

**Mrs O'Neill:** I totally agree with you. I think that that area has lacked focus in the past. I recently engaged with growers from Carlingford, whom you will be aware of, and one of the issues that they raised was about how we work together. From that grew the idea that we need to have a strategy, which we do not have, but which would obviously benefit the sector. As I said, the conference ties in very nicely with what we are trying to do in growing

all sectors as part of the work of the Agri-Food Strategy Board. It will also be key in looking at how we market our all-island aquaculture. For me, one of the wins from the conference should be a clear direction on what we need to do. The success of that will be industry buy-in, which we have had to date.

**Mr Swann:** I thank the Minister for her statement. Minister, you mentioned "precautionary measures" to manage and contain disease in Lough Foyle. What specific diseases are you concerned about in Lough Foyle, and what measures are being taken?

**Mrs O'Neill:** We had to close what is called the south-side bed. *Bonamia ostreae* is the name of the disease that particularly affects oysters. That is the disease that we are considering. At the recent NSMC meeting, we received a briefing from the Loughs Agency as to why, as a precautionary measure, it had to close down that bed.

We took the decision on the temporary closure based on scientific advice, in conjunction with talking to fishermen, because we had to close the season earlier than normally planned for. So, the reason for the closure, as stated in the public declaration at the time, was due to increased infection levels. We were talking about a 70% increase in bonamia. We worked with and continue to work with fishermen because it is important that they understand that, if there has to be an early closure, it is because we are going to protect the sustainability of the industry. There is certainly an understanding of that now. When it comes to next year and next season, we are working proactively with the fishermen if there are to be any of these types of closures as a precautionary measure.

**Mr Speaker:** That concludes questions on the ministerial statement. I ask the House to take its ease as we change the top Table.

## Executive Committee Business

### Local Government Bill: Consideration Stage

**Mr Speaker:** I call the Minister of the Environment, Mr Durkan, to move the 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 six groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1, 2, 3, 6, 7, 20 to 35, 83 and 91, which deal with access to information and the code of conduct.

The second debate will be on the Minister's opposition to clauses 3 to 9 and schedules 1 and 2, as well as amendment Nos 4, 5, 92, 104, 105, 107, 108, 110 and 111, which deal with councillors' qualification, disqualification, vacancies and resignations.

The group 3 debate is on 30 amendments set out on the grouping list. They deal with governance, decision-making, appointments and transition to new council structures.

The fourth debate is on amendment Nos 36 to 47, 50, 51, 56 and 62, which deal with general powers and duties, community planning, general power of competence and performance improvement.

The group 5 debate deals with the 33 technical amendments to the Bill.

The sixth and final debate will be on amendment Nos 63 to 66, which deal with flags. A valid petition of concern has been tabled in relation to amendment No 63, which will therefore require a cross-community vote.

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. The questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

*Clause 1 ordered to stand part of the Bill.*

## **Clause 2 (Constitutions of councils)**

**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, 3, 6, 7, 20 to 35, 83 and 91. The amendments deal with access to information and the code of conduct for councillors. Members will note that amendment No 26 is consequential to amendment No 25 and that amendment No 30 is consequential to amendment Nos 28 and 29.

**Mr Durkan (The Minister of the Environment):** I beg to move amendment No 1: In page 1, line 14, leave out "council's code of conduct" and insert

*"Northern Ireland Local Government Code of Conduct for Councillors".*

*The following amendments stood on the Marshalled List:*

No 2: In page 1, line 17, after "that" insert "from 30th April 2015".— *[Ms Lo (The Chairperson of the Committee for the Environment).]*

No 3: In page 1, line 17, after "available" insert "on its website and".— *[Mr Elliott.]*

No 6: In clause 10, page 5, line 25, leave out "subsection (1)(f)" and insert "this Act".— *[Mr Durkan (The Minister of the Environment).]*

No 7: In clause 10, page 5, line 26, leave out "prescribed public body or other association" and insert "public body".— *[Mr Durkan (The Minister of the Environment).]*

No 20: In clause 46, page 25, line 37, leave out line 37 and insert -

*"(7) So far as is reasonably practicable, a council shall facilitate—".— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 21: In clause 48, page 27, line 28, after "must", insert -

*"as soon as is reasonably practicable".— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 22: After clause 48, insert -

**"Audio recording of meetings**

**48A.—(1)** *So far as is reasonably practicable, a council must make an audio recording of so much of any meeting of the council as is open to the public and the recording must be available to the public at the offices of the council until the expiration of the period of six years from the date of the meeting and published on the council website until the expiration of the period of two years from the date of the meeting.*

*(2) This section does not apply in relation to meetings of any committee or sub-committee of the council."— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 23: In clause 49, page 28, line 18, at end insert -

*"(6) A council must put on its website any document which is open to inspection under subsection (1)."— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 24: In clause 58, page 33, line 17, at end insert -

*"(1A) Instead of, or in addition to, conducting an investigation under this section, the Commissioner may take such action as appears to the Commissioner to be desirable to deal with any particular case falling within subsection (1)."— [Mr Durkan (The Minister of the Environment).]*

No 25: In clause 62, page 36, line 36, at end insert—

*"(13) A person who is censured, suspended or disqualified by the Commissioner as mentioned in subsection (3) may appeal to the High Court if the High Court gives the person leave to do so."— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 26: In clause 62, page 36, line 36, at end insert—

*"(14) An appeal under subsection (13) may be made on one or more of the following grounds—*

*(a) that the Commissioner's decision was based on an error of law;*

*(b) that there has been procedural impropriety in the conduct of the investigation under section 58;*

(c) that the Commissioner has acted unreasonably in the exercise of the Commissioner's discretion;

(d) that the Commissioner's decision was not supported by the facts found to be proved by the Commissioner;

(e) that the sanction imposed was excessive."— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 27: In clause 63, page 37, line 29, at end insert—

"(9) A person who is suspended (or partially suspended) by the Commissioner by notice as mentioned in subsection (1) may appeal to the High Court if the High Court gives the person leave to do so."— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 28: In clause 64, page 37, line 37, leave out from "and" to the end of line 38.— [Mr Durkan (The Minister of the Environment).]

No 29: In clause 64, page 38, line 5, leave out from "and" to the end of line 8.— [Mr Durkan (The Minister of the Environment).]

No 30: In clause 64, page 38, leave out subsection (6).— [Mr Durkan (The Minister of the Environment).]

No 31: In clause 67, page 39, line 23, leave out subsection (2).— [Mr Durkan (The Minister of the Environment).]

No 32: In clause 67, page 39, line 28, leave out "Commissioner" and insert "Department".— [Mr Durkan (The Minister of the Environment).]

No 33: In clause 67, page 39, line 28, leave out

", with the approval of the Department of Finance and Personnel,".— [Mr Durkan (The Minister of the Environment).]

No 34: In clause 67, page 39, line 30, leave out from "may be prescribed" to the end of line 35 and insert

"the Department, after consultation in accordance with subsection (3A), considers appropriate.

(3A) The Department must consult—

(a) councils; and

(b) such associations or bodies representative of councils as appear to the Department to be appropriate,

about the manner in which the amount mentioned in subsection (3) is to be apportioned.

(3B) The Department may deduct from any grant payable under section 27A of the Local Government Finance Act (Northern Ireland) 2011 to a council for a financial year the amount apportioned to it under subsection (3).— [Mr Durkan (The Minister of the Environment).]

No 35: In clause 68, page 40, line 11, at end insert -

"(5) Where a councillor who is suspended otherwise than partially or is disqualified under this Part is also a member of any other public body (whether as an external representative of the council or otherwise), the councillor is also suspended or disqualified from being a member of that body and any committee or sub-committee of that body.

(6) Any reference in this Part to a councillor being partially suspended from being a councillor includes a reference to the councillor being partially suspended from being a member of any other public body of which the councillor is a member (whether as an external representative of the council or otherwise) and the reference in subsection (2) to particular functions or particular responsibilities as a councillor includes particular functions or particular responsibilities as a member of that body.".— [Mr Durkan (The Minister of the Environment).]

No 83: After clause 123 insert -

"Council websites

### **Council websites**

**123A.** The Department must by regulations specify a standard format for the domain names of council websites.".— [Mr Elliott.]

No 91: In clause 125, page 70, line 27, at end insert -

"( ) section 51;

( ) section 54;".— [Mr Durkan (The Minister of the Environment).]



**Mr Durkan:** Mr Speaker, with your permission, I propose to speak first to the amendments that I will recommend that the Assembly accept.

Clause 2 requires a council to prepare and keep up to date a constitution that sets out how a council operates and the structures that it has in place for decision-making. There are three amendments on the constitution of councils. The constitution of every council, as provided in clause 2, will include a copy of the code of conduct. As there will be only one code of conduct for councillors — the mandatory code provided for in clause 56 — I propose, through amendment No 1, to clarify this point and change the reference to:

*"Northern Ireland Local Government Code of Conduct for Councillors".*

I have considered amendment No 2 from the Chair of the Environment Committee, which sets a deadline by which a new council must have prepared and agreed its constitution. I support the amendment, which will provide early clarity for ratepayers on how their new council intends to operate.

In addition, clause 2 provides for a council to ensure that its constitution is made available at its principal office for inspection by members of the public at all reasonable times. Amendment No 3, tabled by Tom Elliott and Danny Kinahan, would compel a council to ensure that a copy was also placed on its website. The primary aim of requiring a council to prepare and publish a constitution is to underpin transparency in how a council operates and transacts its business. This amendment reinforces that aim, and, therefore, I am happy to recommend that the Assembly support it.

Amendment No 24 and amendment Nos 28 to 35 refer to the new ethical standards framework, which will be the responsibility of the Northern Ireland Commissioner for Complaints. Amendment No 24 takes into account a recommendation made by the Environment Committee that provision be made for dealing with complaints about minor breaches of the code of conduct. I propose to amend clause 58 to provide the Commissioner for Complaints with the flexibility to deal with such complaints by taking whatever action is considered appropriate for resolving the complaints. That could include referring the matter for local resolution or referring the case for mediation. The commissioner will still retain responsibility for any case subject to this approach.

Mr Speaker, I now draw your attention to amendment Nos 28, 29 and 30, all of which relate to clause 64. This clause allows the commissioner to make recommendations to a council, arising from an adjudication, about the exercise of a council's functions or failure to observe the code of conduct. The council, in turn, must prepare a report on what action it proposes to take to address the recommendations. As drafted, the clause provides that the commissioner sends a copy of the recommendations to the Department of the Environment and any relevant Department. However, it may not always be obvious to the commissioner what the "relevant Department" would be.

I propose amending clause 64 to provide that any recommendations made by the commissioner, or any subsequent report produced by a council, are sent to my Department in the first instance for referral to any other Department as required. These amendments do not involve any change of policy but provide further streamlining of the procedure so that my Department will initially receive and, therefore, coordinate relevant recommendations from the commissioner.

Amendment Nos 31, 32, 33 and 34 seek to alter clause 67 to provide that the apportionment of the costs of the commissioner for ethical standards work will be determined by my Department after consultation with councils, rather than by the commissioner. The amendments do not alter the policy intent but seek to provide transparency that councils will be consulted on the manner in which the expenditure is apportioned as result of the top-slicing provision.

Amendment No 35 takes into account comments from the Environment Committee and will provide clarity on clause 68.

That clause will be amended to clarify that, should the decision of the Commissioner result in suspension and/or disqualification of a councillor, the suspension and/or disqualification will also apply to the councillor's membership of any external public body on which he or she represents the council or is a member of by virtue of being a councillor.

### **11.30 am**

Amendment Nos 6 and 7 make minor adjustments to clause 10 that will extend the definition of the term "external representative" to the whole of the Act. In addition, they will amend the reference to prescribed public

bodies, thereby removing the need to specify them in regulations.

Amendment Nos 21 to 23, tabled by Ms Anna Lo and Mr Stewart Dickson, deal with accessibility to information. Amendment No 21 seeks to strengthen clause 48 to ensure that specified documents, such as council agendas, minutes, summaries and reports, are available on the council's website so that they are available for all interested parties by requiring that action to be taken as soon as is reasonably practicable. Councils must not take months to publish the minutes of meetings.

Amendment No 23 requires a council to place copies of background papers on its website that support a report, or part of a report, that has been considered at a meeting of that council. That will allow anyone examining a report on the council's website to appreciate the considerations that went into the preparation of the report.

Those amendments support my desire to improve transparency in the operation of a council and how it transacts its business. I recommend that Members accept those amendments.

Amendment No 22 introduces a new clause, which seeks to require councils, so far as is reasonably practicable, to make audio recordings of those parts of any council meeting, excluding committee or subcommittee meetings, that are open to the public. Such an approach can assist in providing clarity on the discussions that take place at a council meeting and help to support the new ethical standards framework by removing doubt over comments made by members in respect of other members. In supporting that new approach, however, I emphasise the so-far-as-is-reasonably-practicable aspect of the requirement. I do not want to place an unacceptable financial burden on a council regarding the costs of introducing the equipment necessary for the production of audio recordings.

Finally, following a recommendation by the Examiner of Statutory Rules, and as a result of amendment No 91, I will amend the Assembly scrutiny required for subordinate legislation under clauses 51 and 51 to the draft affirmative procedure, whereby any regulations and orders require approval by resolution of this Assembly.

I will now speak to those amendments that I recommend do not stand part of the Bill.

Amendment No 20 was tabled by Ms Anna Lo and Mr Stewart Dickson. Clause 46 introduces new arrangements to ensure transparency in the operation of a council by making provision on the public's right of access to meetings and information of a council. It also provides that there is no requirement for a council to permit the taking of photographs of proceedings or the use of any means for providing live reporting or oral reporting of proceedings. That maintains the current position provided for in the Local Government Act (Northern Ireland) 1972.

However, amendment No 20 aims to reverse that position and seeks to require a council to facilitate, so far as is reasonably practicable, the taking of photographs at a council meeting and the recording or making of an oral report of the proceedings by an individual member of the public or even a councillor in attendance at the meeting. The introduction of such freedoms is likely to create difficulties for a council in its management of any arrangements to ensure that any actions by members of the public and media do not interfere with the transaction of the business of the meeting. It could also create difficulties in that information could be taken out of context, which could lead to complaints under the code of conduct or litigation, including those in regard to data protection issues. So, while I understand and sympathise with the thinking behind the amendment, I do not think that its practical implications have been considered. Therefore, I cannot support that amendment.

Three amendments relate to the provision of an appeals mechanism in the ethical standards process. Amendment Nos 25 and 27 seek to provide for an appeal to the High Court for any person who is subject to further action following either an interim report or adjudication by the commissioner if the High Court gives leave. Amendment No 26 sets out the grounds for any such appeal. I urge Members not to accept those amendments.

Any person who may seek to appeal the commissioner's findings can use the existing judicial review procedure. The remedies that are available to a court in a judicial review in exercising its discretion include quashing a decision, declaring it to be unlawful, damages and injunction. The commissioner has obtained legal advice from senior Crown counsel that judicial review would be the appropriate means of challenging a decision of the commissioner and has liaised with the Human Rights Commission to confirm that judicial review would be appropriate.

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

**Mr Durkan:** Certainly.

**Mr Allister:** Will the Minister also confirm that, although the Alliance Party amendments seem to be interested only in the rights of anyone against whom there has been an adverse finding, judicial review would also be available to a complainant who is unhappy with the commission's finding? Is that correct?

**Mr Durkan:** I confirm that that is the case.

In addition, my departmental legal advice supports the judicial review route. The House should also note that the provision of such an appeal process does not exclude the additional application of judicial review, which could extend the process significantly. That, in turn, could create uncertainty for the electorate during that period, uncertainty for any councillors who are involved in the case and who may wish to stand for office in the future and, more importantly, uncertainty for those persons who made the complaint to the commissioner. That could include other councillors and members of the public. This is an important consideration in the context of councillors' time-limited appointments and the costs that may be incurred for the ratepayer. Undue delays before a final resolution could attract undue media attention to the issue, which could, in turn, call into question the framework's effectiveness.

Amendment No 26 relates to the grounds for an appeal. My Department's legal advice has indicated that the provisions in this amendment are similar to the grounds for judicial review. Therefore, I question whether anything would be added by introducing such an appeal process. I believe that the framework, as provided in the Bill, will have the necessary robust procedures in place to provide the fairness, transparency and confidence that such a process requires. I also remind Members, as I stated at the Bill's Second Stage, that the framework will be reviewed in three to four years' time. For those reasons, I do not believe that these amendments would improve the Bill. Rather, they would serve to replicate an existing procedure and make the effective implementation of the new arrangements more cumbersome.

Amendment No 83, as tabled by Mr Tom Elliott and Mr Danny Kinahan, seeks to introduce a new clause to provide for my Department to issue regulations so that all domain names for council websites are in a similar format. I do not consider that my Department should have a role in that, as councils must be provided with the independence to make decisions on domain

names, just as they will make decisions on the name of their council.

**Ms Lo (The Chairperson of the Committee for the Environment):** On behalf of the Environment Committee, I welcome the Consideration Stage of the Local Government Bill.

The Bill was referred to the Committee on 11 October 2013, and to ensure that there was enough time to scrutinise it fully and effectively, the Committee sought an extension of the Second Stage to 20 February 2014. There were 38 written submissions to the Committee's call for evidence on the Bill. The Committee had a number of oral briefings from departmental officials, as well as from representatives of the Northern Ireland Local Government Association (NILGA), the Assembly Research and Information Service (RaISe), the Northern Ireland Public Service Alliance, the Northern Ireland Audit Office (NIAO), Community Places, the Commissioner for Complaints, and Belfast City Council.

The Committee also held a stakeholder event at which all who responded to the call for evidence were invited to give their views on the Bill. I would like to place on record the Committee's thanks and appreciation to those who responded in writing and to those who provided oral briefings for the Committee.

On 20 February 2014, the Committee completed its scrutiny of the Bill and published its report, which contained 13 recommendations. Most of those recommendations have been addressed by the Minister, either by the amendments tabled here today or by an assurance from the Minister that they will be addressed in forthcoming statutory guidance and subordinate legislation, and I thank the Minister for that. However, the few recommendations that remained outstanding required the Committee to table its own amendments.

I now turn to the amendments in group 1. During Committee Stage, the Department outlined to members how it was working with local government to develop the key documents, including the code of conduct that will form a council's constitution, and which are to be put in place ahead of the establishment of the shadow councils. Departmental officials outlined the need for amendment No 1 to make it quite clear that it was the code of conduct specified in Part 9 of the Bill that must be included in the constitution. The Committee was content to support that amendment to clause 2.

Amendment No 2, also to clause 2, is a Committee amendment. The Committee welcomed the requirement in clause 2 for councils to produce a written constitution but expressed reservations that no timeline was specified for the publication of the constitution, particularly since the Department plans to provide a model constitution as a template. The Committee believes that a council should provide a constitution on a timely basis and at least by the end of the expiry of the period of the shadow councils. The Committee communicated those concerns to the Department, but the Minister indicated that he did not consider it appropriate to amend this clause so that councils are not pressured into publishing a hastily prepared constitution. The Committee feels that a specified time would act as an incentive rather than a constraint, and for that reason it agreed to bring forward an amendment to clause 2(2) to specify that a constitution should be available from April 2015. I commend that amendment to the House.

I have no comment to make on amendment No 3, as it was not considered at Committee Stage. Departmental officials explained the rationale behind amendment Nos 6 and 7 to clause 10, and the Committee was content to agree the clause, subject to those amendments. As Amendment Nos 20 to 23 were not considered by the Committee, I have no comment to make on them as Chairperson.

In its deliberations on clause 56, the Committee raised the issue of how minor complaints would be dealt with, and departmental officials agreed to refer that matter to the Minister. Members also asked that the Minister reiterate his intention for the role of the Commissioner for Complaints to be reviewed in three to four years' time. The Department's proposed amendment would allow the Commissioner for Complaints to refer minor complaints to a council to be dealt with locally, and the Committee agreed that it was content with that amendment. I therefore support amendment No 24 on behalf of the Committee. I also welcome the Minister's assurance that he still intends to carry out a review of the role of the Commissioner for Complaints in three to four years' time, as he has previously indicated. The Minister has just assured us on that issue.

#### 11.45 am

In its wider consideration of the role of the commissioner, the Committee expressed serious concerns about the lack of an appeal mechanism in the Bill. The commissioner is enabled to investigate and adjudicate and to prescribe sanctions for any alleged breaches of

the code of conduct, but no form of appeal against his decision is specified in the Bill. In his evidence to the Committee, the commissioner took the view that judicial review was an appropriate option for appeal, but the Committee felt that that was not only time-consuming but too limited in scope to be adequate.

In response to those concerns, the Department prepared an amendment to enable a councillor who is censured, suspended or disqualified by the commissioner to appeal to the High Court. The Committee agreed that it was content with the amendment and recorded that in its report. However, the Minister subsequently wrote to the Committee to advise that, following legal advice and discussions with the Commissioner for Complaints, he no longer intended to bring forward amendments to provide for an appeal mechanism. Some members were very disappointed in the Minister's change of heart, as they believe that the role of the ombudsman is intrinsically different when he acts as Commissioner for Complaints. As commissioner, he will have the power to investigate and adjudicate, and potentially administer severe sanctions, on a complaint made against an individual person, not against a corporate entity. That person's good name and career as a councillor is at stake.

The Committee believes that the suggested remedy of a judicial review of the commissioner's decision is likely to prove inadequate, as it takes into account neither excessive sanctions imposed nor a decision not supported by the evidence. Subsequently, the Committee decided to bring forward amendment Nos 25, 26 and 27 to clauses 62 and 63 to provide for a right of appeal to the High Court following a decision by the Commissioner for Complaints. However, I and another Committee member dissented from the decision of the Committee following the Minister's explanation.

**Mr A Maginness:** I am grateful to the Member for giving way. This is a difficult issue, and the Member indicated, in her capacity as Chair, that the Minister changed his mind in a sense. Having listened to the Committee, he prepared a form of amendment and then, on receipt of strong legal advice, advised the Committee that it would not be appropriate to bring forward an amendment of that nature. The reason for that was that the position of ombudsman has a constitutional import. No decision of any ombudsman is appealable. There may well be judicial review, and so forth, but it is not appealable in the ordinary sense of the word. Therefore, the amendment was deemed

inappropriate and verging on unconstitutional. Does the Member accept that?

**Ms Lo:** Yes, very much so. I am of the same view as the Member. I thank the Member for explaining the issue.

On amendment Nos 28 to 30 —

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

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

**Mr B McCrea:** I am very glad that Mr Maginness has explained it, but it is still not terribly clear to me what you, as Chair, are proposing. Amendments are coming forward that strong legal advice says are unconstitutional, and therefore you are recommending, on a personal basis perhaps, that we should not support them. Is that the position?

**Ms Lo:** The Committee decided, by majority, to put forward the amendments. I and Mr Maginness dissented from that decision as members of the Committee. It is quite legitimate for the Committee to put forward that amendment on behalf of the majority of the members. Like Mr Maginness, I think that this provision will undermine the independence of the ombudsman and that it may have unintended consequences if we set a precedent that the ombudsman's decision can be appealed to the High Court, rather than through the normal route of judicial review.

On amendment Nos 28 to 30, the Committee was informed by the Department that it proposed to make technical amendments to clause 64 to clarify that the commissioner's report should go primarily to the Department of the Environment, rather than any other Department. The Committee was content with the policy underlying those amendments, although the wording was not provided before its report was agreed. I support the amendments on the Committee's behalf.

Amendment Nos 31 to 34 were not brought to members' attention at Committee Stage, but departmental officials indicated that the Minister was prepared to reconsider the original apportionment of the commissioner's expenses, in consultation with representatives of councils. The Committee welcomes his decision to bring forward the amendments to allow the Department to top-slice the total grant, rather than make apportionment to individual councils. As Chairman, I am content to support amendment Nos 31 to 34.

Moving to clause 68, the Committee asked the Department to clarify the position of a councillor who is disqualified from being a member of a council but who continues in an appointment to an external public body. The Department agreed to draft an amendment to make the position more explicit. The Committee is, therefore, content to support amendment No 35.

There is no Committee position on amendment No 83 because members did not consider it at Committee Stage.

Amendment No 91 makes clauses 51 and 54 subject to the draft affirmative resolution procedure. That was considered by the Committee under the advice of the Examiner of Statutory Rules, and members are content to support the amendment.

With your indulgence Mr Speaker, I would like to address the House in my capacity as Alliance MLA for South Belfast. I support the four amendments that Alliance has tabled to Part 8 of the Bill, "Access to meetings and documents".

Amendment No 26 would modify clause 46, relating to admission to meetings of councils, so that councils, so far as is reasonably practicable, shall facilitate photograph taking, oral reports and use of social media. Amendment No 21 inserts the phrase

*"as soon as is reasonably practicable"*

into clause 48, in respect of putting on a council's website any minutes and other documents for public inspection. In the interests of openness and transparency, the Alliance Party tabled that amendment to the provision about online publication of papers such as minutes and agendas.

Amendment No 22 adds a new clause 48A to enable councillors to make audio recordings of public meetings and make them available to the public. We believe that that is vital to ensure that the workings of local governance are transparent and that the expense will not be excessive. The Minister mentioned that he does not want a burden on councils, and I will comment further on the cost later.

Amendment No 23 addresses the inspection of background papers. If agreed, it would insert subsection (6) at the end of clause 49, which would read:

*"A council must put on its website any document which is open to inspection under subsection (1)."*

I want to set out our rationale for tabling those four amendments. It is of concern that too many of our councils operate in a way that is not open and transparent to local residents. Too often, councils seem to be convinced that it is better to keep decisions quiet and avoid too much fuss. A prime example of that is the existing Castlereagh council, which has asked journalists to leave and which regularly frustrates residents who are trying to observe council proceedings, even if they are not disrupting proceedings in any detrimental way. It is also crucial that people are able to access minutes, agendas and background papers online so that we can take advantage of modern technology to disseminate information more widely and quickly. Our amendments seek to make sure that that is possible and, taken together, will increase transparency and access to information.

**Mr B McCrea:** I thank the Member for giving way. I wonder whether, in the general thrust of her discussion of the amendments, she will cover the issue of having a lot of council meetings in closed session. I think that, as far as openness and transparency are concerned, unless there are particular reasons for council business being held in closed session, it should be conducted in open session. Has she dealt with that or does she have an opinion on that?

**Ms Lo:** I suppose that the audio recording that we suggest would help by providing more openness for members.

**Mr Weir:** On a point of order, Mr Speaker. I mean no disrespect, but is it appropriate for the Member to turn around when speaking and address one other Member rather than the Chamber? It does not help, even from the point of view of hearing what is being said.

**Mr Speaker:** It is a fair point of order. I know that the Member is not doing it deliberately. Maybe it is important to stress that all remarks should be made through the Chair.

**Ms Lo:** I apologise, Mr Speaker, and accept the Member's guidance. The Member's —

**Mr Weir:** Yes, words fail you.

**Ms Lo:** His opinion. His comment.

**Mr B McCrea:** On a point of order, Mr Speaker. Perhaps you would rule on a matter. I absolutely understand that all comments should be through the Chair, but does that mean that they should be to the Chair? It is part of debate that you can turn round and engage with people. Obviously, due respect must be given to you, Mr Speaker, but I am not sure that it is entirely inappropriate for the Member to turn round and acknowledge my point. Otherwise, I would be looking at the back of her head.

**Mr Speaker:** It is a courtesy to the Chair. We also find that when some Members turn around it creates difficulties with the amplifying and recording systems. I can understand that Members sometimes naturally feel that they need to turn around when they get an intervention from a Member behind them. I am reasonably relaxed about it, but I think that it is important that, as far as possible, Members turn to the Chair.

**Ms Lo:** Thank you. I appreciate the guidance from the Speaker. Of course, the Speaker knows that I have the greatest respect for him and that that was not meant to be a slight. I do like to talk to people face to face and look them in the eye. I am speaking to you, but he is behind me.

**Mr Speaker:** I can certainly understand.

**Ms Lo:** Thank you. I think that closed sessions in councils should not be the norm. Public open sessions should be the norm, and closed sessions should be the exception, with good reasons for holding them in that way.

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

**Ms Lo:** Yes, of course. *[Inaudible.]*

**Mr Allister:** I know that you are not to turn round.

**Mr Speaker:** Order. Let us not turn the issue of Members turning around into a full debate. I appreciate that Members have to turn around for a few seconds. I do not think that there is anything wrong with that. Let us move on. We have an important Bill that we are trying to get through the House.

**12.00 noon**

**Mr Allister:** I am sympathetic to the Member's amendment No 22, but I want to explore with her what her view is about the extent of its application. It is worded in terms of recording

any meeting of the council that is open to the public. Surely, part of the problem with the Bill is that it anticipates that a lot of the actual, real decisions will be made in an executive committee of the council — not by, or in, the council at all. Does the Member's amendment at all seek to address meetings that are held in a Cabinet-style committee or elsewhere, or is she content that her amendment would only apply to full meetings of the council?

**Ms Lo:** I thank the Member for his intervention. We intend the audio recording to take place only in public meetings of the council. That is to avoid people saying, "I said that" or "I did not say that". That is a good record. If I may continue, Mr Speaker, I will explain a bit further.

Our first amendment, No 20, makes changes to clause 46, which can be read as prohibiting photography and real-time reports, including on social media. The current wording that nothing "requires a council to permit" such activities, in our view, is too stringent and too open to interpretation. We are proposing to reword that to require a council to facilitate anything that is "reasonably practicable". That is a common legal phrase and would allow the council to refuse to permit anything that is causing a distraction, such as flash photography, for example, or oral reports that are interrupting proceedings. The amendment turns clause 46 from a shield against public access to information into a sword for the public who wish to engage with the council.

Our next amendment, No 21, simply inserts the phrase:

*"as soon as is reasonably practicable",*

into the wording of sections about placing papers online. The reason for that is twofold. The first is that it will speed up publication. The second is that it should require minutes and background papers to be placed online before the meeting takes place.

Similarly, amendment No 23 requires that the background papers which are available to the public in council offices are also available online. In the modern age, the Internet gives us the opportunity to open up councils to the public in a way that was inconceivable in previous generations. We should take advantage of that. For the same reason, I am happy to back amendment No 3 from the UUP regarding online publication of constitutions.

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

**Ms Lo:** Yes.

**Mr B McCrea:** Just before she moves off the point of amendment No 22, I refer her to new clause 48A(2), which states:

*"This section does not apply in relation to meetings of any committee or sub-committee".*

While the Member finds her place on that amendment, I will just say that I wonder why that restriction has been brought in. Why is it necessary to have that second subsection? If we are trying to have openness and transparency, surely it should all be open and transparent.

**Ms Lo:** I am still finding the place.

**Mr B McCrea:** Ms Lo is looking at her papers. She will find that it is clause 48A(2) in the amendments. She might also consider, in dealing with the same point, that if we are to be open and transparent in the Internet world, as you were talking about, whether one needs to consider if members have to be present in the chamber, or could it be possible that they could phone in or be available by video conferencing, as we do sometimes in the courts? I wonder whether she has extended her openness to that point. Perhaps, Mr Speaker, Ms Lo has found her place. I look forward to her response.

**Ms Lo:** Our amendment is only about making audio recordings and publishing papers online. It tries to improve the process by putting information on the website as soon as reasonably practicable, before and after meetings, to increase transparency for members of the public.

Amendment No 22 is the most significant of the Alliance amendments on transparency. It requires councils to create and place online an audio recording of proceedings. There are a few things to stress about the amendment: it relates to meetings of the full council only, as I said earlier, and not to meetings of committees and subcommittees.

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

**Ms Lo:** Yes.

**Mr B McCrea:** Ms Lo, the bit about it relating only to the full council was the point that I was looking for. You specifically exclude any meetings of committees or subcommittees. I was wondering why you felt that that was

necessary, because, in the interests of openness and transparency, we should, perhaps, be doing all council business online and making it available for the public to observe what is happening.

**Ms Lo:** Yes, I understand the Member's point.

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

**Mr Speaker:** Lord Morrow may have a similar intervention.

**Ms Lo:** Sure.

**Lord Morrow:** My intervention takes an opposite direction to Mr McCrea's. As one who has served on a council for some years, I feel that the amendment will not have the effect of helping debate and discussion; it will do the exact opposite. We need to keep in mind that we are talking about councils that regularly deal with community-based issues. I feel that, if this is introduced, councillors may well be put off. That is not in any way saying, Mr Speaker, that I am not for transparency, because I believe that transparency is essential. I do not think that the proposed amendment would add to it; I think that it would hinder and obstruct the effective working of a council. I ask Anna Lo to give that consideration when pushing the amendment, because this may not be the best way to go. I ask her to look seriously at that.

**Ms Lo:** First, I will address Basil McCrea's point about whether we should extend the amendment to committee and subcommittee meetings. I think that audio recording is a first step. There will be so many committee and subcommittee meetings that there may be a logistical reason not to extend. If we start with audio recording all public council meetings, where all of the decisions are discussed and further discussed —

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

**Ms Lo:** Yes.

**Mr Dickson:** Thank you, Ms Lo, for your comments. I heard Lord Morrow's comment that he thinks that audio recording might act to inhibit main council meetings. My experience of similar length, 32 years on Carrickfergus Borough Council, was the opposite. We were always a very open council. Despite many rows and arguments over the years, all of our meetings, to the best of our ability, were open to the public and the press. We never moved to the point of recording meetings, but I think that

that is the next logical step. Amendment No 22 presents to the House an open baseline for the standard that we expect in our new local authorities. These are new local authorities that, hopefully, will be fit for purpose for many years.

I know that Ms Lo will agree that recording at least the main meeting of a council is a step in the right direction. I wholly agree with Mr McCrea that, subsequently, that should also include committees and subcommittees of those councils. It may even be that we can move that forward at Further Consideration Stage. This is about setting a baseline standard. It is a standard that the House meets daily. It is what is happening as I speak, and there is absolutely no reason why it should not happen in the new local government arrangements.

**Lord Morrow:** Before Anna Lo speaks again, I will say that Mr Dickson makes my point admirably. He started off by stating that the council that he belonged to was open and transparent. I have no reason to disbelieve that; I accept that. I am sure that he is not claiming that he brought all the transparency to Carrick.

**Mr Dickson:** No.

**Lord Morrow:** I know you are not saying that, so do not get excited. However, the inference could well be that other councils are not open and transparent. Therefore, I think that it puts a shadow of suspicion where there never ever should be one. The few words that I said earlier put the case for not doing what Mr Dickson says should be done. Can he explain any way in which it has been very helpful in his council, bearing in mind that it was already so open and transparent in everything that it thought, said and did? I put that directly to the Member.

**Mr Speaker:** Before Mr Dickson gets to his feet again, I make it absolutely clear that it is Anna Lo who has the Floor. It is her decision about whether she gives the Floor. That is just to clarify the position.

**Ms Lo:** Thank you for your guidance, Mr Speaker. It is healthy to have a good debate on the issues. In response to what Lord Morrow said, I think that, if councils are transparent, there is nothing to fear from recording the proceedings of meetings. It would also serve as a record for people to refer to later rather than having to argue about whether someone said something.



**Mr McCallister:** I am grateful to the Member for giving way. I have no real understanding of why Lord Morrow is concerned. We practice it in this Building. Very few of our Committee meetings are held in closed session — only very small sections of them when we are obtaining legal advice — and there is still a record kept for members. Why would we not want and welcome that openness and transparency in moving away from the idea of councillors in smoke-filled rooms doing some sort of deal? I know that the pro-smoking wing of the DUP has been extinguished, but I am surprised that they are fearful of that openness.

**Ms Lo:** I am grateful for the Member's intervention.

I will go back to what I was saying. I want to stress a few things about this amendment. It relates only to meetings of the full council and not to meetings of committees and subcommittees. However, as our Chief Whip said, we may consider extending it at Further Consideration Stage or have a look at it and then see about extending it at some other stage. It would not affect councils that currently make video recordings and place them online. They would be able to continue doing that.

The cost of audio-only recordings has been examined by some councils in England. The cost per year is hundreds of pounds rather than thousands. Canterbury City Council told us that it cost them only £160 to buy the audio equipment. So, the cost is not excessive in any way.

This is crucial, because it would no longer be acceptable that, if someone wished to follow their local council's proceedings, they could do so only if it is at a convenient time. For little cost, we can provide a service for residents and ratepayers that will increase transparency.

### 12.15 pm

However, this amendment also fits in well with the other amendments in this group on the councillors' code of conduct. What better way is there to discover whether councillors said things, in the chamber at least, that breach that code than to have an audio recording of what was said? In fact, such a record of proceedings may encourage councillors to behave more appropriately. Most crucially, it sends a signal that the new councils cannot take for granted their responsibilities in transparency. It will be a signal that, in some areas, councils will now be mature, modern and open institutions, which they should be.

All these amendments are more important now than before, as our councils will be acquiring a whole range of functions of significant clout, such as regeneration, planning and local economic development. Those are hefty responsibilities, and they require a significant increase in scrutiny to ensure that they are exercised effectively, fairly and openly. Access to information should be a default position anyway, but it is all the more crucial now that we are investing significant new powers in our councils.

**Mrs Cameron:** I am pleased to be able to support the majority of amendments in group 1. This group deals with issues looking at the code of conduct of councillors and access to the information that they will have. I believe that we need to ensure that we have the proper balance between corporate compliance and the ability for business to be conducted in an open and transparent manner.

That said, as I see it, there are two procedures that have no need to be in the legislation. In this case, I am talking about amendment Nos 20 and 22. Amendment No 20 concentrates on the facilitation of detailed access to council business, and, although I am in favour of allowing the public to have more access to and a greater say in local government, I believe that this measure is excessive and unworkable. However, if there is a need to occasionally record business in this manner, that should be for the council itself to arrange. It needs no legislative support in the way that is suggested here.

Amendment No 22 —

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

**Mrs Cameron:** I will.

**Mr B McCrea:** Mr Speaker, she thought that the proposals in the amendment were "unworkable". Why are they unworkable? Surely, as Ms Lo outlined, recording equipment is very cheap, and we can manage it. Why is it unworkable?

**Mrs Cameron:** I thank the Member for his intervention. Maybe "unworkable" is not the right description for it, but, having served on a council for eight years, I think that it would be very burdensome on councils. I do not think that it is just a matter of spending £160 or whatever it is for a piece of equipment; I think that it will take a great deal of staff time to manage those audio recordings and, indeed, to keep them for six years and to make sure that

they are accessible on the website and whatnot.

For me, amendment No 22 is more invasive, as it requires the council to make audio recordings of meetings and to retain this information for a period of six years, as I mentioned, and to include it on the website. This, for me, is truly in the realms of Big Brother-style scrutiny. It is excessive and, I would have thought, unreasonably costly to implement and manage. In reality, the prospect of this service being routinely availed of is, in my opinion, low to non-existent and is not required to be part of this Bill.

**Mr Boylan:** Go raibh maith agat, a Cheann Comhairle. I welcome the opportunity to speak at this Consideration Stage of the Bill. I put on record my thanks to the Committee staff, the departmental officials and all those who took part in the Committee consultation process and gave evidence. I think that there were some very telling contributions and a lot of participation.

I do not intend to speak for long, but there are a couple of amendments that I would like to air some views on. We had the opportunity at Committee, which other Members would not have had as they are not part of the Committee. They will get their chance over the next two days to air their views. I want to pick up on one or two major ones that came up. There are other issues being brought to the Floor today that came up in the Chamber, and it is every Member's right to bring those back to the Chamber.

On a couple of points of clarity, I welcome amendment Nos 1 and 2 on the Minister bringing forward clarity on the code of conduct and the issue of a council having to produce the constitution by April 2015. The other issue brought up and discussed by Ms Anna Lo is the audio. In principle I agree with it and do not have any issues with it. There may be an issue of a burden of cost, and the Minister has relayed that in his contribution. Maybe the Minister will consider supporting councils in installing an audio system. Maybe he will give his views on that. There is a cost factor, but in principle I do not see an issue with the audio recordings.

**Ms Lo:** Will the Member give way?

**Mr Boylan:** Certainly, yes.

**Ms Lo:** From my understanding, you buy the equipment for as little as £150 or £200 and just

turn it on. We put things online now so often, so I do not think that it would be too costly. The super-councils with the bigger budgets should be able to manage that without a problem. Moreover, it is only for the full councils, which is only once a month.

**Mr Boylan:** Thanks very much for that. However, there is recording equipment and maintenance that goes along with it. That is my only concern on that matter, but I am content to support the amendment. I do not intend to support amendment No 20 on the photographing. I welcome amendment No 24 and the clarification from —

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

**Mr Boylan:** Certainly, yes.

**Mr B McCrea:** I am just curious. The Member said that he would not be happy to support the issue about photographs but did not give a reason why. Why would we not have openness and transparency? We have video all the way around here. Why should we not have maximum transparency to see what is going on, unless it disrupts proceedings?

**Mr Boylan:** To be honest, it is a fair point, but I think that audio recordings of any council meeting are sufficient. I take on board the point that Mr Morrow made about the recording of information —

**Mr Weir:** I thank the Member for giving way. Leaving aside the issue of the audio recordings, which I will touch on later in my contribution, is the distinction not between amendment Nos 20 and 22 in that regard? Mention has been made of the fact that, in this Chamber, we video proceedings, as, indeed, happens in a lot of Parliaments or Assemblies. I cannot think of a single elected body where anybody who is viewing it is allowed to snap photographs. For instance, anybody coming into the Public Gallery today will have been asked to remove any mobile phones or photographic equipment, and it is the same anywhere else. If they were to facilitate that, there would be nothing to stop a member of the public coming in and taking photographs all around them during a council meeting. Sometimes — I have seen this happen and there had to be interventions — it can be done in a malevolent fashion and can act as an intimidatory factor on those in the chamber. From that point of view, although I certainly have problems with amendment No 22, I think that the case against amendment No 20 is even stronger.

**Mr Boylan:** I thank the Member for the intervention. I certainly agree with him in this case. It does not happen here, but some of the comments that Lord Morrow made earlier were supportive of that in council as well.

**Mrs D Kelly:** Will the Member give way?

**Mr Boylan:** Yes.

**Mrs D Kelly:** The Member is being most generous. Sometimes, if people take photographs, they could be used to misrepresent the situation in a chamber if someone has had to leave to take an urgent call, for example. We already have a lot of openness in our local authorities. Minutes are available in public libraries after each meeting, and a lot of stuff is now on the Internet. We have already seen conflict and people being intimidated in some council chambers. I do not think that we need any further tools to misrepresent people doing their official duties.

**Mr Boylan:** Once again, I thank the Member for her intervention. I will get started at some point. I agree with you: photographs certainly can be used to misrepresent people.

Perhaps Mr McCrea's intention is to make all his contributions today through interventions, which I do not mind. That may be his plan of attack.

Some of the amendments are consequential. However, I certainly would like to have the debate. We have a number of legal people in the Chamber. An amendment has been brought forward that relates to an appeal to the commissioner. There is a judicial review process, but we are concerned that this has come about. Most of the issues brought forward have been around a challenge to a statutory body. We are talking here about an individual who may not have the means to bring forward a judicial review. I am open to suggestions, but I wonder, Minister, whether consideration has been given to something along the lines of having an investigative part and then an adjudication process. Maybe that is open for discussion. I feel that, as we set into and bed down a new system of councils, we do not know what the outcomes will be or what will take place. In bringing forward a new system, there needs to be a wee bit of flexibility until it beds down and we see how the whole process works. There are consequential amendments to that, but I would like to hear other views on how we deal with a process that could impact on a councillor.

We have discussed a lot of these things in Committee. There is only one other amendment that I want to touch on, and that is amendment No 83. I think that it should be up to councils to consider domain names. The debate came up in Committee. Selecting a domain name should be down to councils. We are, after all, transferring powers to empower councils, and amendment No 83 is one example of where councils would be able to use their influence on how they want to go forward, promote their areas and get the message out to their constituents in the new council format. I will not be supporting that amendment.

As I said, we have discussed most of the issues, so I am content, having given my views on those amendments.

**Mr Speaker:** The Business Committee has agreed to have a very short suspension today. I propose therefore, by leave of the Assembly, to suspend the sitting until 1.00 pm, when we will return to the Bill. The next Member to be called to speak will be Colum Eastwood. The Consideration Stage will then be interrupted at 2.00 pm for Question Time.

*The sitting was suspended at 12.28 pm.*

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

**1.00 pm**

**Mr Eastwood:** Maybe the Speaker should not have warned people that I was up first after the break, but I do not intend to speak for too long on this section of the debate.

We all owe a debt of thanks to the current Minister, Minister Durkan, the previous Minister, Alex Attwood, and all the officials who worked tirelessly to ensure that we got to this point. Many told us that we would not get to this point and that RPA was never going to be delivered. Although it sat on the shelf for far too long, once the SDLP Ministers came into office, the process moved very quickly. We are finally at the stage where we will have elections to new councils and there will be a whole new era in local government. The SDLP, obviously and loudly, had reservations around some of the decisions that were previously taken by the Executive around the number of councils and everything else, but we are absolutely committed to delivering on this once-in-a-lifetime opportunity for change in how we operate councils and interact with the public in local government.

When we mention change, we should be mindful of the people who have retired recently or who are retiring as councillors right across the North. I was a councillor for six years, but in very different times to when some of my colleagues served. Being a councillor in this part of the world was a difficult and, at times, dangerous job, and many paid the ultimate price. It is important that we acknowledge those people when we look to the future. However, we look to the future with great hope. The Bill, the processes around it and the way in which councillors take up the challenge should enshrine not only in law but in people's minds a more ethical, open and inclusive way to run local government. That is what the Bill and many of the amendments aim to do. It is an exciting time for anybody who will stand in the elections in May and will take up the challenge to get the new councils up and running. We should all embrace that as an exciting opportunity for the North of Ireland.

**Mr McCarthy:** I am grateful to the Member for giving way. I acknowledge the praise that he has given to his party colleagues the Minister and former Minister. He is right: a lot of people, myself included, were a bit sceptical that this might not happen, but it is going to happen. Is the Member confident that, at the end of it, the

savings that were supposed to happen when RPA was initiated many years ago will come about?

**Mr Deputy Speaker:** I encourage Members to return to the debate on the amendments that are in front of us.

**Mr Eastwood:** Thank you, Mr Deputy Speaker, for that bit of latitude. I wanted to make some remarks at the beginning of my contribution.

I hope that we can achieve the savings. As we said a number of years ago, it should not have taken RPA for people to start looking at how they do local government better. There were loads of opportunities in improvement, collaboration and efficiency (ICE) that councils could have been working on together to reduce some of their costs. Some did that very well, but others not so well. However, there is a real impetus to ensure that we get value for money for our local ratepayers.

Perhaps the Deputy Speaker will allow me one more bit of latitude. This is very important legislation. The last section of the debate will be about flags. The media are completely and utterly obsessed with that section of the debate. We need to be mindful that this legislation is much more important than that issue alone. This is a once-in-a-lifetime change to how we do local government; it is not a flags Bill, and it will not be a flags Bill by the time we finish.

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

**Mr Eastwood:** I will, yes.

**Mr B McCrea:** On that point — I have no doubt that we will come to flags later in the debate — does the Member feel that, given that this is a once-in-a-lifetime opportunity, we are actually ready for this debate? There are a lot of amendments that have not been before the Committee. A lot of things will be dealt with in secondary or other legislation. Is the Member confident that we are ready to deal with it?

**Mr Deputy Speaker:** Order. I ask Members to come back to this amendment. We have now reached this stage of the Bill, and we are here to discuss and decide on individual amendments. There have been other stages of the Bill for wider issues to be discussed, and, ultimately, at Final Stage, Members can discuss wider issues and whether they are in favour. We are here today to speak about the amendments that are in front of us in the various groupings, so I urge Members to come on to those amendments.

**Mr B McCrea:** On a point of order, Mr Deputy Speaker. With regard to your point about the debate, I ask you to rule whether it is in order for the Minister to have tabled amendments that have not yet been before the Committee. There are other issues, but I seek clarity on that particular position.

**Mr Deputy Speaker:** That is a matter for the Minister to deal with. He will speak at the end of this section of the debate.

**Mr Eastwood:** Thanks for your guidance, Mr Deputy Speaker. The Committee was informed last week that the Minister had received conflicting legal advice. It was on the basis of the latest legal advice that a lot of those amendments came in. To be honest, great work has been done between the Committee and the Department. There have been many hours of debate and discussion on a lot of these issues. Of course, some issues have been brought by Members from different parties that were not discussed at the Committee. That is not ideal. However, it is still the Member's right to table amendments. He would have had that right equally.

We need to park the issue of flags. All the members of the political reference group agreed that RPA was not the vehicle for dealing with that. It has to be dealt with in a separate process. It would have been better had it been dealt with before Christmas, but we are where we are.

With regard to the amendments that are in front of us, one of the main thrusts of the review of local government has to be about openness and transparency and ensuring that people are accountable for the actions that they take in local government. A lot of the work on the code of conduct is around that, and it is what some of the very good amendments deal with in particular. They will allow councillors to be open to more scrutiny. That can only make sense and be good for the political process.

Although we have difficulty with photography and those issues, which have already been thrashed out, the issue of audio recordings is one that we can live with very happily. We have to ensure that we do not place an undue financial burden on councils, but it makes sense in this day and age to allow the public to engage with their councillors in a very different way from what was maybe possible in the past. The onus is then on councils to make their debates interesting and useful. Sometimes we get very worried and worked up about —

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

**Mr Eastwood:** Yes.

**Mr B McCrea:** I refer to clause 50(1), which states:

*"Sections 46 to 49 apply in relation to a committee or sub-committee of a council as they apply in relation to a council."*

Given that the Member has just supported audio for councils, does he feel that that clause should be supported in the main Bill, which of course is contrary to amendments that have been tabled by the Alliance Party? In other words, if you think that audio is appropriate for a main council, do you think that clause 50 should apply in that regard?

**Mr Eastwood:** I cannot find the clause now, but the thrust of my view and that of the SDLP is that openness and accountability should apply everywhere. It should apply in full council, in committees and in executive meetings. Anybody who has been a councillor understands that we have to have a balance around this stuff and there are issues of commercial sensitivity. I sat on a staff committee in Derry City Council for a number of years. Those meetings were private, as they should have been. It was right that they were private and confidential. However, where possible, we should err on the side of openness and transparency. I think that that position is shared right across. I do not see any difficulty with opening up other meetings within council to that kind of scrutiny, with the caveats that I suggested.

I will end my contribution on this section there. I hope that we can have a fruitful and not-too-long debate through the rest of the next couple of days.

**Mr Elliott:** Clearly, the Bill has come a long way. I think that it is only 14 years since the proposal to start it off was made, back in 2000. However, we are where we are at this stage.

I would like to put on record my disappointment that the Bill came forward at such short notice last week and that Members and parties only had a day and a half to table their amendments. I have already relayed that to officials, but I just wanted to put it on the record here.

I want to touch on a number of matters in this specific group of amendments, the first of which is about the Ulster Unionist Party amendments. Our first amendment, which is amendment No

3, provides that a council's constitution must be available on its website. There seems to be widespread agreement on that. I take the Committee Chair's point about the need for other things to be available by electronic means and on the website, which her party is proposing. So, there seems to be pretty widespread support. I also support those things being available in as many ways as possible, and, obviously, a website is one way.

Our second amendment, which is amendment No 83, does not seem to have the same widespread support in the House. It provides for regulations for standard website names and domains. Clearly, what the Ulster Unionist Party wants to do here is have a consistent approach to website and domain names. That is important. It is easy for people to get in contact with us at the Assembly by email. A lot of people now know that the Northern Ireland Assembly website address is [niassembly.gov.uk](http://niassembly.gov.uk). It would be extremely beneficial and helpful if all councils had a consistent approach. It would make the lives of people on the ground much easier when they wanted to contact councils or individual councillors or, indeed, to find out information from a website. There is no use putting information on a website if it is not easily accessible, easy to get to and easy to manoeuvre through the website. That is our main reason for wanting to do this: it is about simplicity and consistency. I know that, even at this stage, some of the transition committees have already started to put forward website names and domains, but I do not think that that is helpful until there is a consistent approach. I hope that Members can see their way to coming round to support this.

**1.15 pm**

**Mr Weir:** I thank the Member for giving way. I certainly support his approach to this. Does the Member agree that it would be a pity if we had a scattergun approach to domain names? Generally, across the UK, there is a high level of consistency, and the only reason to shift from that would be for particular political reasons. The concern is that a lot of people who search for a particular council and its services etc look for a standard approach, as do tourists and visitors. If one or more councils had a domain name outside the UK norm, that could disadvantage tourism and trade in their area. People would be less able to find that domain. It would be a pity if people were prepared to play politics with domain names to the detriment of their area.

**Mr Elliott:** I thank the Member for that. Obviously, people are using this as a political issue, which is unfortunate. The people who will find difficulties are tourists, businesspeople, those who want to invest here and, indeed, the general public and ratepayer. They are the people who deserve the service and who will find the most difficulty. Consistency is vital.

**Mr Eastwood:** Thanks to the Member for giving way. I am no expert in search engine optimisation, if that is the correct term, but has the Member any evidence to suggest that consistency in council websites has any impact on tourism? I imagine that, if you put, for example, "Derry City Council" into Google, you will find it.

**Mr Elliott:** The Member will appreciate that we do not have any hard evidence at this stage, but there is plenty of anecdotal information in the form of people trying to access what they are looking for. You only have to try that yourself to establish that a consistent approach makes things much easier to find through search engines, and that is clear for everyone to realise.

I will move on directly to amendment Nos 20, 21, 22 and 23. As Ms Lo said, amendment Nos 21 and 23 concern putting more information on to websites and making information more easily available. The Ulster Unionist Party is quite happy to support them.

We have some difficulties with amendment No 20, particularly with privacy issues and the significant onus that it puts on councils, especially on photographs. It could lead to members of the public taking photographs at will in council chambers. I cannot remember who said that, but it may have been Mr Weir in an intervention. I am concerned about the outworkings of that and how it would progress. We have difficulties with that amendment.

Moving on —

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

**Mr Elliott:** Yes, I am happy to give way.

**Mr B McCrea:** I understand the Member's point about photographs being taken at will. However, he is aware that events in this Chamber are being streamed live on the Internet for people to see. Would that be acceptable? Obviously, there is no intrusion. Would that find support from the Ulster Unionist Party?

**Mr Elliott:** I assume that Mr McCrea is supporting his being seen as much as possible through whatever means. His point that the Northern Ireland Assembly is streamed live is correct. I am not so sure that each council would want to go that far. That brings me to amendment No 22 on audio recording. Indeed, you could have visual recording as well. I have some sympathy with this. However, I have concerns about some aspects of it, including the financial. Ms Lo said that the equipment would cost only about £150. For a number of reasons, I am always sceptical about such figures being thrown out. One reason is that I very much doubt that, for that amount, you would get audio equipment that could record all councils and make the recording available on disk. You then have other costs, such as secretarial and administrative costs. I am aware of audio equipment costing huge amounts, and not just in the region of just £150. So, before we insist on councils doing it, we should get a much better costing, but I am not averse to it.

**Ms Lo:** Will the Member give way?

**Mr Elliott:** Yes, I am happy to give way.

**Ms Lo:** Look at some findings. In England, the conclusion was that it would be only a few hundred pounds, and you could start with whatever equipment you want to buy. We were told by Canterbury City Council that it can be as cheap as £160 to buy equipment now. I am not into equipment, but there is a simple device that costs only a few hundred pounds a year to maintain.

**Mr Elliott:** Here we go again with a few hundred pounds a year. I do not know how accurate it is, but I am told that one council got an estimate of £170,000 to install the equipment, whereas you are talking about a level there and then a level down to £150, so there is a huge amount of research to do on that. As I say, I am not totally averse or opposed to it. In fact, I am quite supportive of making recordings available, but it needs to be tailored.

There is also the issue that they must be retained for six years. I do not know what the statutory requirement is, but we may need to check that. I am sure that the amendment is legally competent; there is no question around that, but we need to check out whether the statutory requirement is indeed for a shorter time. If it is, maybe we could look at a shorter time required for retention.

I am happy to take on board any further views on this. I am supportive of recording the full council meetings. Mr McCrea raised the issue of committees and subcommittees. In the Assembly, almost everything is available. Some councils make most committees available as well, but I do not know how widespread that is. All I can talk about is the council that I was on in Fermanagh. We found that, whenever council committees were held in private, you got a lot more business carried out. You had that bit of an opportunity to allow that business to proceed in private and then debate it in the open chamber at a full council meeting. I felt that that worked quite well because you had the opportunity of the privacy of the committee and then the openness of the full council meeting.

Maybe there is a wee bit of streamlining to be done to try to get all councils to the one position on this. It would be helpful if there was a consistent approach across councils. I would be supportive of that.

I do not want to deal too much with the Committee amendments because we have been through them verbatim in Committee. I note there is some opposition to them. If a councillor is charged because of some issue, it is important that there is an appeal mechanism to the High Court. The Minister indicated that it should go straight to a judicial review, but the other mechanism may be more efficient and practical.

**Mr Weir:** As the Member who spoke previously indicated, this has been a long time in coming; nevertheless, it is to be welcomed that we have reached this stage. I thank the officials. Also, in going through what was a lengthy process during Committee Stage, a large number of stakeholders were proactive in raising issues.

Given the length of the Bill, it was always likely that there would have to be some changes. I appreciate that there will be a few issues on which some of us will find ourselves in opposition to what the Minister is saying or vice versa. In general, I thank the departmental officials and the Minister for their attitude, openness and willingness to work with the Committee. The end result is that we have large number of amendments. Although the concentration will obviously be on those amendments where there is division, a large number of them have been effectively agreed between the Committee and the Department. That is reflected by the extent to which the Department took amendments on board.

The theme with the group 1 amendments is one that we will see throughout the debate. It was Mr Eastwood, I think, who said that we need a balancing act between consistency in our approach to the amendments on the one hand and flexibility on the other. Similarly, a balance needs to be struck between being prescriptive in how we see things being run and, on the flip side, allowing councils the opportunity to decide certain things for themselves.

To that extent, a lot of the amendments are relatively uncontroversial. Let me say at the outset that all the group 1 amendments that the Department tabled are ones that I favour, and the same is the case for the Committee's amendments.

Mention has been made of a couple of the Ulster Unionist Party amendments. Amendment No 3, which is on greater information, is one that we are happy to support. Due to the timescale involved, the Committee was not able to give its verdict on amendment No 83. However, where domain names are concerned, a degree of common sense should be applied that says that there should be a level of consistency throughout. To that extent, we also support amendment No 83.

The controversial amendments in this group boil down to five, which can then largely be divided into two groups. First, the Alliance amendments include amendment Nos 20 and 22. I do not think that anybody would have a particular issue with amendment No 21. Secondly, there are the Committee amendments, which are amendment Nos 25, 26 and 27 and which deal with the appeals mechanism.

Turning first to the Alliance's amendment Nos 20 and 22, it is important that we do not conflate two issues, even though there are similarities between them. The openness of councils to the public is a different one to that of photographs and recordings. There were some interventions earlier on, and at one stage, I did not think that Ms Lo would be in a position to get on her feet, because it seemed that the interventions were battling back and forth. She was almost caught in no-man's-land as the shots were fired back and forth.

**Mr Elliott:** You mean the Alliance Party.

**Mr Weir:** Some might say that, but it is probably not for me to comment.

There are specific provisions already in the legislation for admission to council meetings. Where access is concerned, clause 46(1) and

beyond indicate that the presumption of openness is in the Bill. So, irrespective of whether particular amendments are passed at this stage, we should drill down to the specific issues on the photographic and audio recording side of things. There are provisions that cater for openness.

On amendment No 20, I share the view of a number of Members who have spoken, including the Minister and the previous Member to speak. I think that care needs to be taken with the issue of photographs. Hopefully, we are not creating 11 mini-Assembly's across Northern Ireland. Taking that on board, as well as the fact that it is not quite the same thing, the rules and regulations in the Assembly mean that we do not have people taking photographs in the Public Gallery. Indeed, recording devices, cameras and camera phones are all expressly forbidden and are removed from members of the public before they come in.

That is not a theoretical example; I have seen situations, particularly at times of high tension, where a member of the public has brought a camera into the Public Gallery. I have also seen a situation where, effectively in retaliation, a councillor has produced a camera and started trying to take photographs of members of the public. That led to a degree of heightening of tensions on both occasions, and on one, there was a natural suspicion, whether true or not, that it was being done simply to intimidate and to ratchet up a problem.

Consequently, I think that the opportunity for members of the public to be there is right, but whenever facilitation is given for the taking of photographs of proceedings at any stage, it can be taken out of context and used for the wrong purposes. I think, therefore, that what is there at present is sufficient, and so I oppose amendment No 20.

### 1.30 pm

Similarly, there are a couple of issues around amendment No 22. There is a high level of disparity of information about the cost. It goes beyond simply obtaining the equipment: it covers the use and maintenance of it, as well as the publication of the recordings and their attachment to the website. On one hand, we have had evidence given that one council had a figure of £160 for capital installation, as has been indicated, and, on the other hand, Mr Elliott said that he had heard of an occasion where it was valued at £170,000. There is quite a disparity between those two figures, although I suspect that both are likely to be reasonably inaccurate. This is not going to be an entirely



cheap solution. We should remember that, in any duty that we are imposing, whatever the cost, we are imposing a cost to the ratepayer, and we are volunteering that piece of information.

It also strikes me that, if you have a situation where publication on a website is to be held for two years and tapes, or whatever recordings, are to be retained for six years, and I am happy to receive clarification from the proposer, but six years is, particularly with reference to legal cases —

**Ms Lo:** Will the Member give way?

**Mr Weir:** I will happily give way.

**Ms Lo:** Six years is the period for which the Bill specifies that minutes must be kept. Mr Weir talked about the range of costs, but when any of us buys a TV or any equipment we have a big range. It will be up to the budget and up to the council to decide what is a reasonable cost to pay to buy a piece of equipment. We can buy a cheap TV for £90 or spend £2,000 or £3,000. As for continuing costs, once you have the equipment, they will not be awfully expensive. It is a small price to pay for transparency.

**Mr Weir:** I take on board the points that have been made, but transparency is best shown by the openness of the council meeting to anyone who can attend as well as the publication of the minutes. A verbatim account seems to go beyond that.

I appreciate that quotations of many tens of thousands of pounds may seem excessive. It could well be that audio equipment could cost a number of thousands of pounds: we do not really know. The idea that a council would not chose a fairly high standard of equipment beggars belief. Councils are not going to go down to the Saturday or Sunday car-boot sale and pick up whatever equipment they can get for the cheapest possible rate. They are going to want stuff that is of a high standard, and they will spend a reasonable amount of money on it.

I do not think that the timescale is necessary. I presume that the period of six years, and reference throughout to the six years, has been selected because of the limitation of a civil case being taken by way of an action. I appreciate that the amendment copies what is in other parts of legislation, but I assume that that is the source intention.

If I were on a council, I would have no problem with meetings being audio-recorded, but I think that that is one of the areas where the level of prescription should, largely speaking, be determined by councils.

There is a concern. There have been disputes on Castlereagh Borough Council, for instance. Let us not try to sort out what happened in Castlereagh by way of legislation that will apply across all of Northern Ireland. With the greatest respect, we should not be fighting those turf wars here. It should be up to individual councils to decide how best to provide that level of transparency. It seems unduly prescriptive that the Assembly should dictate that there should be a system that says that there must be audio recordings, which must be on the council website for the next two years and must be held for six years, presumably contained in some sort of safe area. As such, it is better that councils find their own solutions.

There is a divergence between the Committee and the Department on amendment Nos 25, 26 and 27. A lot of representations were made, particularly by local councils, councillors and representative bodies. It was said that we were putting in place a particularly regulatory regime — when it comes to the code of conduct there is no alternative other than to do that — that gives the commissioner an opportunity to investigate, adjudicate and, essentially, punish a councillor who is found guilty, leading to disqualification of that person. Moreover, that is done in a vacuum. The individual could be very properly or perhaps maliciously accused of whatever wrongdoing, but there is no appeal mechanism whatsoever after the verdict is produced.

It has been mentioned that that can happen with any administrative decision of judicial review. Amendment Nos 25 to 27 do not preclude judicial review, but they do widen the grounds, for instance, on the issue of severity. Indeed, the grounds that the Committee chose and that have been drafted are not unique. In amendment No 26, as I understand it, the grounds for appeal, which are not grounds for a judicial review, are taken directly from the situation in Scotland, mirroring precisely the grounds on which an appeal can be taken there. With the best will in the world, at times in Northern Ireland there can be accusations of malevolence, false accusations, and so on.

**Ms Lo:** I thank Mr Weir for giving way. As a compromise, would it be possible to divide up the ombudsman's position, and let him investigate complaints and someone else

adjudicate? Could members agree on that level of compromise?

**Mr Weir:** I was going to come on to that issue. The Chairperson may be a mind reader. On that basis, perhaps she should pick a few lottery numbers for some folk on Saturday.

I will deal with some other aspects, but I will address that point directly. It has been mentioned that — it is a slightly spurious argument — there is a concern about the constitutional propriety of having the ombudsman's position in some way challenged and that that would be a unique situation. I argue that this is different from the normal ombudsman's position anyway, but let us set that aside for the moment. If the feeling, on consultation, is that to have an appeal of an ombudsman's decision pushes the boundaries of the constitutional position so far — it seems fairly clear that the amendments are likely to be passed today — one option for the Department would be to bring amendments at Further Consideration Stage effectively to separate out the powers. The argument seems to be not to challenge the investigative powers of the ombudsman and not to challenge the opportunity to make a report but to challenge the final verdict or the adjudication, be it at interim or final level. I suspect that the departmental officials are now going fairly white at the prospect as the colour drains from their faces, but one way around this is to separate out the powers so that someone in a different body carries out the adjudication. That is really only possible if these amendments are passed, but it is something that the Department could ultimately consider.

If the Department were to bring forward an amendment to divide up the roles so that the ombudsman investigated and produced a report but the adjudication and, indeed, any sentencing effectively came from a separate person or body, I would certainly be happy to consider that. I think that, at times, the commissioner has been a little bit precious on this issue. We are talking about somebody's reputation. Even if they were to successfully overturn a decision through judicial review or at some later court stage, their reputation will have been dragged through the mud. Even if it is shown at a later stage that they are cleared of wrongdoing, their career may be ruined. With the best will in the world, whatever level the remuneration is pitched at, it is essentially a part-time job, and it is not normal practice to have a situation where somebody, in their employment, can essentially be told, "You have been found guilty. By the way, you have no right of appeal". Due process and natural

justice indicates that people should have some form of appeal. That is not set at a low level. We have fairly stringent grounds even within the criteria proposed in amendment No 26, but it is right that some form of appeal is available to people beyond simply the extremely narrow grounds of judicial review. This widens it out; not massively, but it does widen it out.

**Ms Lo:** Thank you, Mr Weir. I recall that it is not as simple as the ombudsman making a decision and the person who was complained about having no recourse to change the decision or to answer the complaint. My understanding of the process is that, before a decision is finally made, the person can go to speak with the ombudsman, even with legal representation, and discuss the decision. So, it is not as black and white as the ombudsman sitting in a room by himself and making a decision that a person is guilty.

**Mr Weir:** I understand that but, with respect to Ms Lo's position, it still means that the ombudsman is judge, jury and executioner. I am sure that some Members complained about legal processes for many years in Northern Ireland. Even when someone was up for murder in Northern Ireland, you could not be convicted of murder without a right of appeal. We are saying that someone convicted of the most heinous crime has a right of appeal, but someone who has effectively been convicted for misuse of being a councillor, or whatever terminology you want to use, has no right of appeal. To my mind, simply having the opportunity to discuss it with the commissioner before a final verdict is produced seems fairly inadequate, and natural justice says there should be some level of appeal.

As I said, I am perfectly open to the Department bringing forward amendments in connection with this. Indeed, this amendment would bring us much more closely into line with what happens in Scotland. There has been mention of the role of the ombudsman in coming to a final determination and that being unchallengeable. I would question, to some extent, whether that should be the case in any event, but there is a fundamental distinction between that and the normal role of the Commissioner for Complaints. In many ways, the normal operation of the Commissioner for Complaints is a situation in which there has already been a determination by a Department or a government body and, effectively, the ombudsman acts as the member of the public's appeal to that decision, such as where there has been a clear case of maladministration. Effectively, that comes in at the second stage. That is where the complaint and, indeed, the

single conviction takes place directly against an individual. Whereas the ombudsman is effectively almost normally a form of appeal, this is about the verdict itself. That is the fundamental difference.

Secondly, on the implications of the decision, when the ombudsman rules on a complaint from a member of the public, they are, 99 times out of 100, ruling on a complaint against a government body or, perhaps, an arm's-length body. There is that opportunity. The implications may well be there for that body, but the implications for any individual within that body are severely limited. This provision, if it goes through without amendment, can allow the ombudsman to reach a verdict that disqualifies somebody from holding public office, effectively removing them from their job. That is of a fundamentally different nature from the normal run of things, if it were a ruling against the Department of the Environment, the Department of Health or whatever. That is where, I think, there is a fundamental difference, and why there is a need for an appeal mechanism. The grounds that we have in amendment Nos 25 to 27 is the way forward.

**1.45 pm**

Again, I express the view that the commissioner is being a little bit precious on this point. If, ultimately, this is felt to be something that rocks the constitution, it seems slightly strange that the defenders of the constitutional position are the SDLP and maybe the rest of us are hoping to rock the constitution in that regard. However, if that is the case, and the Department feels strongly enough about it, there can be rectification of this by way of reasonably sensible amendment or amendments at Further Consideration Stage. There is that opportunity to rectify it by way of further amendments, which would separate the role of the ombudsman in investigation and reporting from that of adjudication and sentencing. If that is the case, I would be willing to give such amendments a fair wind and be happy enough to consider supporting them at Further Consideration Stage.

I will conclude on this group of amendments by saying that the DUP will oppose amendment Nos 20 and 22 but is happy to support the others in the group.

**Mr A Maginness:** I have already intervened, during the contribution of Ms Lo, the Chair of the Committee, in relation primarily to amendment Nos 25, 26 and 27, which relate to the matters that Mr Weir has latterly discussed.

It seems to me that, although those amendments are well-intentioned and I am sympathetic to the general idea of an appeal in such circumstances where a councillor is adjudicated after due investigation as having done something wrong or contrary to the code of conduct, nonetheless, the legal implications are significant. This is based on legal advice obtained by the Minister, subsequent to the Committee meeting in which he engaged on this matter. That legal advice came not just from the departmental solicitor but included advice obtained by the Commissioner for Complaints. Let me summarise that legal advice: throughout these islands, no ombudsman or commissioner for complaints is or can be subject to appeal. That is the constitutional position in the UK, and I believe it to be so in the Republic. The reason for that is that an ombudsman is in a very special position and his investigation and adjudication is regarded as something that should not be appealable, save for judicial review, to which any public official or Department is subject. So, judicial review is the only instrument, as it were, of an effective appeal.

**Mr Weir:** I thank the Member for giving way. I take on board what has been said, although I have to say that I am not entirely persuaded by the argument. Surely, the way around this is as follows. There seems to be a widespread sympathy for the fact that no one should be potentially deprived of their job without some form of proper appeal mechanism. However, as indicated by Mr Maginness, it seems to centre on the issue of the extent to which, or whether at all, an ombudsman's position could be appealed. Surely the way around that is to accept the amendments that would involve an appeal, and then seek amendments at Further Consideration Stage to detach the adjudication issue from the ombudsman and give it to another body. Later we will be looking at amendments that give different interpretations of when, for example, a call-in could be made. So it is not as if these things are necessarily set in stone.

Surely that would be the way around that — to square the circle, remove that legal concern and ensure that we would have an opportunity to have an appeals mechanism.

**Mr A Maginness:** I thank Mr Weir for his intervention. I neither agree nor disagree with what he said. Of course, there are all sorts of possibilities that one could raise at Further Consideration Stage to deal with this problem, and I am sure that those matters will be considered in due course by the Department and the Minister.

I think that it is important to put on record the reason for opposition to the amendments that have been tabled by the Committee. Having being critical of them, I accept that they are well-intentioned, but they have an undesirable effect of undermining the authority of the ombudsman. That is a particularly sensitive position in any society, and I think that there should be safeguards in relation to the ombudsman's position.

Mr Weir made the point about investigation and adjudication, and those are two elements. The ombudsman has had discussions with the Minister, as indicated in the Minister's letter to the Chair of the Committee of 27 February 2014. In that letter, he wrote that, when discussing that matter with him, the ombudsman indicated:

*"if an appeal to the High Court is considered, this would undermine his position in relation to maladministration by setting a precedent that his decisions can be challenged on appeal."*

That is made very plain in the letter. The letter also indicates that the ombudsman:

*"would not be able, in this circumstance, to deal with both investigation and adjudication and that the adjudication element of the ethical standards framework would have to be referred to another body."*

It was partly on that basis that the Minister wrote:

*"this would be a significant deviation from the proposed policy approach which was agreed by the Executive."*

That was part of the reason why the Minister opposes any amendment of that nature.

The ombudsman has made it very plain that, in his view, he could only deal with the investigation function and not the adjudication function. So, if the amendment were to be agreed, it might be rendered nugatory by the fact that the ombudsman would not want anything to do with the adjudication function. We really have to take that into consideration when considering these amendments.

That is all that I really want to say on the matter. There is, however, protection in the form of a judicial review. I know that it is expensive and difficult, but, nonetheless, the grounds of appeal that appear in the amendment are very

reminiscent of a judicial review in any event. I think that the only —

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

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

**Mr Allister:** I agree with the Member that the first four grounds in the amendment are very reminiscent of those that we argued about, such as Wednesbury unreasonableness, irrationality etc. There might be more difficulty in a judicial review arguing that it encompasses (e), which is that the "sanction imposed was excessive". One would be driven to relying on Wednesbury unreasonableness, and I think that there is a line of authority that indicates that the courts in judicial reviews are very reluctant to get involved in evaluating that. The ombudsman, if we call him that, has, in clause 62, very draconian powers, in that he can disqualify someone from being or becoming a councillor. Therefore, is there not some necessity to find some mechanism that addresses the issue of penalty? It seems somewhat excessive to give the ombudsman that full range of powers without applying a brake or review. Does the Member agree that there may be something there that requires to be looked at?

**Mr A Maginness:** The Member makes a very reasonable point about (e), which states:

*"that the sanction imposed was excessive."*

That should be considered in the context of the debate. This is, if we involve the ombudsman, a difficult matter.

**Mr Weir:** I thank the Member for giving way. I take on board both points. The draft grounds for appeal, although there is overlap reminiscent of a lot of judicial reviews, go wider than judicial review because of the ground at (e). One could argue that some of the others stretch beyond what is the norm for judicial review. However, that is in line with the issue of severity, which is of particular importance. In the past, councillors have been struck off for five years or longer, so it is not unknown. If severity is one of the key considerations, it is unlikely to fall into the ambit of judicial review, and that highlights the need for appeal.

As has also been said, the potential solution has, in effect, been given by the ombudsman, although the wrong conclusion has been reached by the Department. He is opposed to there being an opportunity to appeal his verdict and has indicated, that, in such circumstances,

he wants there to be a separation between the investigation and the adjudication. That seems to me the most sensible route. It ensures that there is a situation that allows for appeal, and, if the ombudsman is so protective of his position and wants to ensure that it does not create any precedent, it covers that situation as well.

**Mr Deputy Speaker:** I remind the Member that we will break for Question Time in a few moments.

**Mr A Maginness:** I will conclude now. I take on board the points that Mr Weir made, but I go back to the original point that this is difficult if we involve the ombudsman or the Commissioner for Complaints. It is not an easy matter to resolve.

**Mr Deputy Speaker:** Members, as Question Time is due to commence at 2.00 pm, I ask that you take your ease for a few moments. We will return to the debate after Question Time, when the next Member to speak will be Danny Kinahan.

*The debate stood suspended.*

**2.00 pm**

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

## Oral Answers to Questions

### Regional Development

**Mr Principal Deputy Speaker:** Question 5 has been withdrawn.

#### A5: Timescales

1. **Mr McAleer** asked the Minister for Regional Development to outline his plans, and the projected timescales, for the A5 western transport corridor. (AQO 5769/11-15)

**Mr Kennedy (The Minister for Regional Development):** As I advised ministerial colleagues by letter on 27 February 2014, work is progressing on reports to inform the appropriate assessment process to address impacts on all areas with environmental designations — special areas of conservation, special protection areas and Ramsar sites — and proposed mitigation. There are four reports in all, dealing with nine environmentally sensitive sites. The reports will be the subject of a public consultation exercise expected to commence at the end of April 2014. A review of other matters considered in the environmental statement is ongoing and will lead to the publishing of an updated environmental statement, which will also require a public consultation exercise. The draft vesting order and direction order will also be reviewed and published at the same time as part of that process.

While I emphasise that I cannot in any way pre-empt the outcome of any public consultation exercise, an outline programme has been developed and the following key dates identified: in April 2014, there will be consultation on reports to inform the appropriate assessments associated with water-based special areas of conservation, special protection areas and Ramsar sites; consultation on the report to inform the Tully Bog special area of conservation appropriate assessment in September 2014; and, in November 2014, consultation on the updated environmental statement, together with the updated draft direction order and draft vesting order. That may lead to the need for a further public inquiry in the spring/summer of 2015.

**Mr McAleer:** Go raibh maith agat. I thank the Minister for his response and for answering my supplementary question in that response.

**Mr Kennedy:** It was a very great pleasure.

**Mr Byrne:** Can the Minister give an assurance that the timescale will not be so elongated that the entire project becomes a victim of a comprehensive spending review? There are genuine fears that that might happen. Can the Minister give any reassurance that he and the Department are so committed that the project will not fall by default?

**Mr Kennedy:** I am grateful to the Member for his supplementary. The Member will know that the Executive remain committed to the scheme. Indeed, the Department continues to carry out all necessary work. I indicated that I could not in any way pre-empt the outcome of the public consultation exercise, in particular, and I have indicated the range of activities that will be necessary to keep the project moving. The financial considerations, of course, are a slightly different matter and, perhaps, more complex, given the commitment or lack of it by the Irish Government. So, all these matters have yet to be confirmed and determined, but, as it stands, the Department continues to work through the scheme and to remedy the areas of concern that Mr Justice Stephens outlined in his judgement.

**Mr Elliott:** I thank the Minister for that update. Can the Minister confirm whether he has any money in his budget that could be available for the A5? Has all of it been spent on other projects? If he has any money, how much is there?

**Mr Kennedy:** I am grateful to the Member for his supplementary question. The only thing that he did not add was "Has he any money to spend on the Enniskillen bypass?", which, presumably, is his real purpose in asking. The Member will know that the A5 allocations have been redistributed and that the Executive, through me, have made the announcement on progress on the Magherafelt bypass and the A26 Frosses Road. It is important that money set aside for road projects continues to be spent on road projects. The House, in particular, will know the number and range of projects for which there is public and political support, including the Magherafelt bypass and the A26. No doubt other schemes will be referred to during Question Time. So, as I explained to the Member who asked the previous question, at this point in time, moneys that are allocated will be dependent on future financial settlements.

## **A5: Lessons Learned**

2. **Mrs D Kelly** asked the Minister for Regional Development what lessons have been learned

from the setback on the A5 project. (AQO 5770/11-15)

**Mr Kennedy:** After the successful legal challenge to the A5 western transport corridor dualling scheme in April 2013, I initiated a lessons learned review of my Department's development of the A5 scheme. I asked, in particular, for an emphasis on environmental issues and the associated legislation. The findings of the review of the A5 project have resulted in improvements that are now applied to all major road improvement schemes. The improvements include ensuring the receipt of written confirmation of all consultations with statutory bodies, including the Loughs Agency, and some fine-tuning of the statutory orders and public inquiry procedures.

As those who have looked at this project's progress will be aware, it was during my predecessor's tenure that a screening exercise, as allowed by the habitats directive, was carried out on the Department's behalf by Mouchel, the consultants for the A5 project. I have also commissioned a review of Mouchel's work. That work is ongoing. The primary focus of the review is on the appropriate assessment and environmental statement processes. It is expected that further lessons can be learned from this exercise that can in turn be applied to this and other major road improvement schemes.

**Mrs D Kelly:** Minister, I appreciate that the mistakes occurred with your predecessor, the Sinn Féin Minister Conor Murphy. You have clarified some points. However, where accountability for this is concerned, who was ultimately responsible for the failure to deliver on the A5 project? Will your Department give any further thought to keeping some of those environmental assessments in-house in the Executive, such as through the NIEA?

**Mr Kennedy:** I am grateful to the Member for her supplementary question. I think that there are issues that Members and the general public deserve explanations for. We are not at the final stage of either report, that is, the lessons learned review in the Department or the inquiry into the work undertaken by consultants. However, we have sought to implement the preliminary results as we move forward not only on this but on other road schemes, and that is important. It is not unreasonable to expect explanations, but I have to say that a lot of it will hang on the original decision to proceed on the basis on which Conor Murphy gave authority in the previous mandate. It will be interesting to see the outcome of that.

**Mr Spratt:** I thank the Minister for his answers so far. Given the vast amount of money that has been spent on the project to date, will the Minister, as he did in the past, immediately share with the Committee the consultants investigation — or call it what you will? Will he also share the early fixes that he referred to a short time ago with the members of my Committee as soon as possible?

**Mr Kennedy:** I am grateful to the Chair of the Regional Development Committee for his question. I am happy to share the existing implementation directives. On receipt of the final investigative reports, I will be happy to share those with members of the Regional Development Committee and Members of the House generally.

## **A6: Smaller Projects**

3. **Mr Dallat** asked the Minister for Regional Development for his assessment of the potential benefits of dividing the A6 project into smaller, more manageable sections, including the decoupling of the bypass at Dungiven. (AQO 5771/11-15)

**Mr Kennedy:** I am pleased to inform the Member that planning for the Londonderry to Dungiven dual carriageway scheme will allow it to be constructed in up to three parts: the Caw roundabout to the Maydown roundabout; the Maydown roundabout to the Derrychrier Road; and the Derrychrier Road to Crebarkey Road. My pronunciation of east Londonderry and south Londonderry terms may not be absolutely accurate, given that I am from south Armagh. This would allow components of the scheme to progress at different points in time. However, progression of the project will, subject to final approval of the business case, be determined by subsequent budget settlements agreed by the Department.

**Mr Dallat:** I welcome the Minister's very positive statement and the indication of flexibility. Will the Minister agree with me that 50 years is too long to wait for a bypass, as the people of Dungiven have done? Will he also agree that the Moneynick stretch has now become the biggest car park in western Europe?

**Mr Kennedy:** I am grateful to the Member for that. I am not sure about his latter point about the car park. I am reminded of what used to be said about the Dublin Road leading into and out of Newry. It was said that there were only two things that you could see from the moon: the Great Wall of China and the lane of traffic into

Newry. That may have been replaced now by Moneynick, I am not sure.

I think that I said at the end of my answer that final approval of the business case would be determined by subsequent budget settlements. I think I said, "agreed by the Department", but, in fact, I meant "agreed by the Executive".

I am aware of the importance of the A6 scheme and, indeed, other major projects to improve connectivity between two of the major cities in Northern Ireland: Belfast and Londonderry. Anyone who travels that road knows the importance of an upgrade and how much it would be appreciated and would benefit the entire region.

**Mr G Robinson:** Will the Minister agree that there would be immediate health benefits for residents and commuters if a decoupled scheme were to go ahead, leading to possible long-term savings by the Health Department?

**Mr Kennedy:** I am grateful to the Member. It is rather a novel approach to support your Health Minister by pushing the blame onto me. I am aware that there are air quality issues in Main Street Dungiven in particular and in that general area. We have had strong representations from the council and, indeed, other public representatives in the area. Two habitats assessments have been carried out for the River Roe and its tributaries and for the River Faughan — be careful how you say that — and its tributaries, which are special areas of conservation. The construction and operation of the dual carriageway would not, by itself or in combination with other known plans or projects, adversely affect the integrity of the special areas of conservation or their ability to meet their conservation objectives. Traffic volumes through Dungiven would reduce significantly, resulting in the removal of the air quality management area designation.

**Mr Ó hOisín:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire as ucht a fhrearaí go dtí seo. I thank the Minister for his answers up to this point. As a long-suffering resident of Dungiven, I acknowledge his announcement. As someone whose birthday occurs today, it makes me only slightly older than the proposals for the Dungiven bypass — very slightly, I might add. When will the procurement process for the three sections of the A6 that he has outlined commence?

**Mr Kennedy:** I am grateful to the Member for revealing aspects of his personal life and age.

The Member should know that I am assessing the inspector's report in respect of these matters. It is a significant report, and it carries huge potential. After that, we hope to identify a timescale, subject to some of the recommendations in it and whether we are prepared to accept and implement them.

**2.15 pm**

**Mr Cree:** Does the Minister agree that, of the A6 scheme's three components, the Randalstown to Castledawson section would have the greatest impact on congestion in the area?

**Mr Kennedy:** I am grateful to the Member. To ease traffic flow, as I indicated in earlier answers, upgrading the entire road between Belfast and Londonderry has been a long-standing cause, and the Randalstown section is a very important element of that. It is perhaps a larger element than the Dungiven bypass, which amounts to around £60 million, while the Castledawson section is approximately £270 million. Therefore, there is considerable work in both schemes. The Randalstown to Castledawson section would significantly improve the connectivity between Belfast and Londonderry, but the entire scheme would be of most major benefit.

## **Reservoirs Bill: Sporting Implications**

4. **Mr McMullan** asked the Minister for Regional Development what are the implications of the Reservoirs Bill (NIA 31/11-15) for sporting and community organisations that lease NI Water reservoirs. (AQO 5772/11-15)

**Mr Kennedy:** The DARD Reservoirs Bill is concerned with the safety of reservoirs and preventing an uncontrolled release of water as a result of reservoir failure. The Bill has no implications for sporting and community organisations that lease NI Water reservoirs.

**Mr McMullan:** I thank the Minister for his answer. Can he guarantee that, in all cases in which community organisations and charities lease reservoirs from NIW, it will be the reservoir manager and will take all responsibility for the inspection, upkeep and maintenance of the reservoirs in accordance with the Bill?

**Mr Kennedy:** I am grateful to the Member. I was not quite clear on the point that he raised. NI Water owns reservoirs that are no longer used as a water supply and, in some cases,

reservoirs that are still used as a water supply. As to them being sold off or leased to other Departments, that is open for discussion.

Ownership by outside bodies is perhaps a slightly more delicate matter. What I understood the Member to indicate was that he wanted reservoirs to be leased to outside bodies and organisations, with NI Water retaining full responsibility for maintenance. I am not sure that that is a legal position that could be stood over. I am not a lawyer — I am happy to admit that — but I think that each application for such a transfer would have to be considered on its merit, and those issues would have to be gone into in some depth before final agreement could be arrived at.

**Mrs McKeivitt:** Is the Minister satisfied that the best use is made of our reservoirs to promote tourism and leisure?

**Mr Kennedy:** I am grateful to the Member for her supplementary question. If reservoirs no longer provide a water supply to households, they would probably be better off under different management, either DCAL, for sporting reasons and because of responsibilities within its remit, or, indeed, local government. I have no ideological hang-up about the transfer of such facilities. I am happy to engage in some discussions. Indeed, we have had some discussions with at least one local authority, North Down Borough Council, on the future of a reservoir in its area.

## **Parking**

6. **Mr Givan** asked the Minister for Regional Development what consideration has been given to transferring responsibility for on-street parking to local councils. (AQO 5774/11-15)

**Mr Kennedy:** My Department is responsible for the management of the road network to promote safety and efficient operation. Traffic management is an important aspect of that function, and parking management — ie enforcement and car park provision — is a tool in managing traffic. I intend to review the success of the transfer of off-street parking before any future decision to transfer on-street parking is taken.

**Mr Givan:** The feedback I have received is that devolving responsibility for off-street parking is a good thing. However, the missing link is on-street parking, because you are dealing with the same issue without the powers to deal with it in a holistic fashion. I encourage the Minister to take forward a review with a view to transferring



on-street car parking. While his Department is in control, will he consider amending the hours in which people are punished for parking their vehicles, which is punishing our town centres, to 10.00 am until, potentially, 4.00 pm, rather than during the hours when traffic is limited yet people are still being penalised? If it is about managing traffic, manage it when traffic is in place.

**Mr Kennedy:** I am grateful to the Member for his supplementary question. People are punished, as he describes it, when they have parked inconsiderately, incorrectly or in full knowledge of but without any due regard for the rules of parking. I will consider the suggestion that he made about adapting the times, although that can cause problems too.

As for the transfer of on-street car parking charges to coincide with those for off-street parking, there are issues that those in local government would be interested in. In the current financial year, car parking services still cost the Department and therefore the taxpayer something to the tune of over £3 million. If local government, in its new format, were prepared to carry that added responsibility, I have a suspicion that it would want some supporting measure from the Finance Minister and the Executive to offset some of that. Those are some of the more serious issues that would have to be contemplated before any such transfer could be initiated.

**Mr Lynch:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. What would be the cost if on-street parking were transferred to councils? Has that been factored into any discussions with NILGA or the STCs?

**Mr Kennedy:** I am grateful to the Member, and I hope that he was listening to the previous answer. In rough terms, parking services cost about £20 million. On the basis of the latest figures, we take in about £17 million. Therefore, the shortfall is about £3 million, which is met by my Department through the Executive. That, distributed throughout local government, would represent a burden on ratepayers. If it is the Member's suggestion that that is worthwhile, I am happy, as I said, to pursue it, but my suspicion is that local government would want some insurance cover, as it were, to protect themselves against some of those charges.

## **A24/B6: Improvements**

**7. Mr Craig** asked the Minister for Regional Development for an update on the roads

improvement scheme at the junction of the A24 and B6, The Temple. (AQO 5775/11-15)

**Mr Kennedy:** The A24 Ballynahinch Road is a trunk road connecting south Down with the greater Belfast area that carries approximately 10,000 vehicles a day. I am aware of the support among local residents and road users for the introduction of safety improvements at the busy junction known locally as Temple crossroads. The need for improvements was identified through a route improvement study carried out by my Department. The study highlighted the number of collisions occurring at that location, as well as the difficulties faced by motorists trying to negotiate the busy junction, particularly at peak times.

A number of options have been considered. The preferred option is to construct a new four-leg roundabout to provide easier and safer access to, from and across the A24 Ballynahinch Road where it meets the B6 Saintfield Road. My Department is continuing to progress this scheme and has recently begun discussions with affected landowners to agree accommodation works. Progression of the scheme through the various statutory processes, including the vesting order, direction order and tendering process, will also be required. Subject to the satisfactory completion of each of those stages, I have asked officials to bring the scheme forward as quickly as possible. I can confirm that it is currently included in my Department's three-year minor works programme.

**Mr Craig:** I thank the Minister for that very comprehensive answer. I welcome the news that it is being given priority. Given all the hoops that we have to jump through, do we have any idea of the timescale of a possible roundabout being put at that junction, given its serious accident history and the number of fatalities that have taken place there?

**Mr Kennedy:** I am grateful to the Member for his indication of support for the project. The scheme has been estimated at £750,000, which, in Roads Service terms, is not enormous. However, it is a matter of putting the procedures in place, including the statutory planning and all the necessary stages that it needs to go through. Realistically, there will also be land issues to be undertaken with the landowners, and one can never quite predict timings for that. However, I would have thought that it will be the next couple of financial years before we see serious progress on it. Again, that depends on the available finance, and I

know that the Member is a close friend of the Finance Minister.

## Kilkeel Bus Station

8. **Mr Wells** asked the Minister for Regional Development what plans he has to upgrade Kilkeel bus station. (AQO 5776/11-15)

**Mr Kennedy:** I met Newry and Mourne District Council in May 2012 to discuss the possible upgrade of Kilkeel bus station. I subsequently wrote to the chief executive of the council in September that year.

The location proposed at that time — the old Mourne hospital site — was not suited to such a development. Historically, it has proven difficult to obtain planning permission for such facilities adjacent to existing housing, and access to the proposed site is too narrow. However, in recognition that the current premises offer limited facilities to users, Translink continues to explore alternatives that would provide an enhanced passenger experience. It has not ruled out relocation if such a possibility should arise. However, clearly this would be subject to achieving a value-for-money business case and to the necessary capital funding being available.

From 2008-09 to 2012-13, nearly £12 million has been invested by my Department in upgrading and improving bus stations and depots. Translink is currently prioritising work on a further programme — the building services upgrade programme — which involves carrying out repairs and replacements of Translink's mechanical and electrical installations at several buildings and workshops across the network.

Given the available budget allocations, this work will be my Department's priority going into the next financial year. However, I will avail myself of all opportunities to bid for additional capital to fund other bus projects, including the purchase of new buses.

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

2.30 pm

## Train Station: Derry

1. **Mr McCartney** asked the Minister for Regional Development whether, given today's

statement on an interactive travel hub at the Waterside station in Derry, it will become the site for the new train station. (AQT 881/11-15)

**Mr Kennedy:** I am grateful to the Member for his question. He will know that we have been looking at the issue for some time. The public consultation was undertaken, and we were then keen to look at the early economic appraisal on top of that. I know that there was some criticism and frustration in the Londonderry area at the time that it was taking, but I took the view that it was better to come back with more detail and a more significant announcement. We have made that announcement today, which is that the old Waterside station was far and away the most popular venue for the upgrade. We can accept that.

In the wider context of things and in the wider context of transport issues in the Londonderry region, I take the view that we would like to create and develop a possible hub as part of any new project. Clearly, that will involve more work and will certainly raise the cost of any such scheme. However, I think that it has the potential, given the increased numbers that we have seen on public transport, particularly on the Coleraine to Londonderry rail line, which, as the Member may know, I took action to rescue and save — I say that modestly. With all of that, I would like to see an integrated transport hub developed, potentially at that site. That is now what we will look to and work for.

**Mr McCartney:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Chomhalta as an fhreagra sin. I thank the Minister for his answer. Indeed, I was there on the platform when you came into Derry on the train. I think that you were actually waving a green flag. Whether that was appropriate, I am not sure, but you were certainly waving a green flag. *[Interruption.]* Obviously, it is an old railway signal thing; I am sure that the Minister appreciates that.

**Mr Kennedy:** Thank you for explaining that. *[Laughter.]*

**Mr McCartney:** OK.

This would be welcome news. I think that the Minister will be well aware of that in terms of the retention or, if you like, reuse of the former railway station. Can he outline whether there is any funding? What are his intentions in relation to funding what would be seen as a very worthwhile scheme?

**Mr Kennedy:** Somewhat differently to the Member, I have never wrapped the green flag around me. I am conscious that it was a railway signal flag that I was waving. Of course, yesterday was St Patrick's Day. We should bear that in mind, too.

Anyway, back to the question. There is no finance attached to that project yet; I have to be open and honest about that. However, I think that the intent is there. Having looked at it carefully, we have now indicated what we propose the solution to be. Therefore, we will bring forward the scheme on that basis and see, through Translink, how that can be developed. I am sure that it will represent a positive announcement for public transport users in the Londonderry area and the north-west.

## Belfast Transport Hub

2. **Mr Hazzard** asked the Minister for Regional Development to outline his next steps on the Belfast transport hub. (AQT 882/11-15)

**Mr Kennedy:** I am grateful to the Member for his question. Indeed, we move from one hub to another.

I have to say that the Belfast transport hub is further down the line — no pun intended — with the redevelopment of the GNR station at Great Victoria Street. There is huge potential there. We have had very positive discussions with Translink and, indeed, with other Departments on how it can be progressed and how finance could be sourced. The opportunities that the Belfast hub presents would be a lasting legacy project for this Department. It would do so much to enhance and revitalise not only that part of Belfast but public transport generally.

Let me restate that public transport is on the up and up. There are increased numbers on buses and, particularly, trains. There is increased interest in other modes of transport, particularly cycling. The cycling revolution has begun, and I am very positive about that. I could and will wax lyrical on that, given the opportunity.

**Mr Hazzard:** I thank the Minister for his answer. Perhaps he can outline where he foresees funding for that project coming from and whether it qualifies for any European funding. Go raibh maith agat.

**Mr Kennedy:** I am grateful to the Member for his supplementary question. We are working with SIB and the Department of Finance and

Personnel to identify the means by which we can avail ourselves of the serious money required. That would be one step removed, if you like, from normal, conventional Executive funding, but I have no ideological hang-up about that. I very much hope that the Member, on behalf of his party, takes a similar view. We want to avail ourselves of any available funding, be it from Europe or from Westminster in slightly different circumstances. We are working to achieve that.

## Flood-resistant Measures

3. **Mr Rogers** asked the Minister for Regional Development whether he has any plans to fund flood-resistant measures for individual properties that are prone to flooding, particularly in areas such as Mourneview on the Dundrum Road, Newcastle. (AQT 883/11-15)

**Mr Kennedy:** I am grateful to the Member for his question. I am aware of the difficulties in some estates in Newcastle and perhaps Downpatrick and other areas in the south Down area. We are working closely with NI Water to identify, as far as we can, any steps that we can take to reduce the impact of flooding. It is a complex situation, given that estates and houses are sometimes built in places that are very difficult because of water tables etc, but we will continue to work to see where we can at least alleviate, if not eradicate, the potential for flooding.

**Mr Rogers:** Thank you, Minister. When a house is, unfortunately, flooded, there can be a grant of £1,000, but I am thinking of individual flood barriers for front and back doors, covers for air bricks or a non-return valve for the sewerage system? Are there any plans on that?

**Mr Kennedy:** I thank the Member for his supplementary, which raises other issues, including liability and precedent: if we did that for several properties, the owners of other properties would come forward, and cost would become a very serious issue. At this point, we prefer to work to alleviate and reduce the risk of flooding to an estate rather than to individual properties.

## Translink: Integrated Ticketing System

5. **Ms Boyle** asked the Minister for Regional Development whether the proposed integrated ticketing system will facilitate cross-border travel. (AQT 885/11-15)

**Mr Kennedy:** I am grateful to the Member for her question and note that her party colleague Mr Brady has a question late on the list of questions for oral answer on the prospect of integrated ticketing. Translink continues to explore the possibilities, and we expect its report later this year. When we travel to other places, we see the forms of integrated ticketing available to customers and travellers. We would like to replicate that or, if possible, improve on it.

**Ms Boyle:** Will the new ticketing mechanism facilitate other providers such as trains and taxis? Go raibh maith agat.

**Mr Kennedy:** I am grateful to the Member. As I indicated, we await a report on these issues from Translink. When that is available and we have had a close look at it, I will be able to share more information on it. I am certainly aware that that facility is available to public transport users in other locations. If we can make it an integrated system, it would be to everyone's benefit.

### **Car Parking: Omagh**

6. **Mr McElduff** asked the Minister for Regional Development what steps his Department is taking to resolve the shortage of car parking spaces in Omagh, given the anticipated work at Drumragh Avenue car park. (AQT 886/11-15)

**Mr Kennedy:** I am grateful to the Member for raising that constituency issue, which is no doubt topical to him and to Omagh. If the Member writes to me or provides an Assembly question, we will provide a full answer.

**Mr McElduff:** I thank the Minister for his interest and commitment. *[Laughter.]* Will he consider using County Hall car park in Omagh, where the western division of Planning Service is located? That car park could be freed up, including perhaps at weekends, to help deal with the problem that is about to arise in Omagh. It may be that DRD and, in your case, Roads Service and the shared car park with the DOE Planning Service could be freed up for car parking.

**Mr Kennedy:** I am grateful to the Member for his helpful advice to our Roads Service engineers in that area. I have no doubt that they will listen carefully to that advice and respond to it accordingly. *[Interruption.]*

**Mr Principal Deputy Speaker:** Order. I call Mr Seán Lynch.

**Mr Lynch:** You caught me asleep. Go raibh maith agat. Question 6. *[Interruption.]* Sorry, it is topical questions. What number? Where is it? Sorry.

**Mr Principal Deputy Speaker:** We will move on. Anna Lo is not in her place. I call Mr Ian Milne.

### **Bus Service: Antrim Area Hospital**

**Mr Milne:** I will make an effort at a question. I have a couple, but I will give you this one.

10. **Mr Milne** asked the Minister for Regional Development to detail any meetings or correspondence he has had with Ulsterbus on the proposal to provide a bus service to Antrim Area Hospital. (AQT 890/11-15)

**Mr Kennedy:** I thank the Member for his question. I am even happier to thank Mr Lynch for not remembering his.

Again, Mr Milne has asked not so much a topical as a local question to which I do not think it is reasonable or fair to expect a detailed response. I am happy to provide a response if the Member wants to put that question in writing to me.

**Mr Milne:** I thank the Minister for his answer thus far. In fact, Minister, you are off the hook here because you have answered my supplementary. *[Interruption.]* I said that you answered my supplementary.

**Mr Kennedy:** All right.

**Mr Principal Deputy Speaker:** That ends the list of questions for the Minister. Thank you very much, Minister.

### **Social Development**

**Mr Principal Deputy Speaker:** Questions 9 and 11 have been withdrawn.

### **Housing: West Belfast**

1. **Mr Maskey** asked the Minister for Social Development what action he is taking to address housing need and the housing waiting list in west Belfast. (AQO 5784/11-15)

**Mr McCausland (The Minister for Social Development):** As of December 2013, the number of applicants on the housing waiting list for greater west Belfast, which covers west

Belfast, Lisburn Dairy Farm, Poleglass and Twinbrook, stood at 3,379.

Waiting list demand is addressed through allocations, which include the reletting of existing social housing stock and the development of new social housing. The projected social housing need requirement for greater west Belfast for the five-year period 2013-18 has identified a requirement for 2,524 new social homes.

In the current financial year, 2013-14, the social housing newbuild programme includes 149 units, of which 23 are for supported housing. To date, six schemes comprising 65 units have commenced. The newbuild programme for 2014-17 plans to deliver a further 1,336 units, of which 47 will be for supported housing.

#### 2.45 pm

In addition, the Housing Executive's greater west Belfast strategy has identified the need to maximise housing supply in sustainable communities. However, the availability of development land in west Belfast remains in short supply. Housing associations have experienced difficulty in securing suitable development sites in the area. Also, a recent design-and-build competition in west Belfast resulted in no applications.

The release of key sites between Hannahstown Hill and the Monagh bypass and the Visteon factory site will, therefore, be important in meeting this social housing demand. I encourage the Member to support the development of those key sites to ensure that housing demand in the west Belfast area is met.

**Mr Maskey:** I thank the Minister for that reply and assure him that my party colleagues are very much in support of developing those additional sites for social housing need in that constituency. There are in the region of 1,000 families, 300 senior citizens, 1,000 singles and people living in hostels on the waiting list. The figures that the Minister gave to the House this afternoon will not meet that need, and will, in fact, fall considerably short of meeting it. Given that there is available land either side of some of what we call peace lines, can the Minister give any assurance or comfort, other than what he has given today, to those families on the waiting list, many of which are in housing stress or homeless, and who, on the basis of today's figures, cannot look forward to being housed in the next number of years?

**Mr McCausland:** The figures for west Belfast are significant. However, I have to say that, if you look right across the Province, you will see that there are significant waiting lists in other constituencies. If you compare not simply the number in housing stress but the figures for the time that people are on the waiting list before they manage to get a house, you will find that the waiting time in a number of constituencies is not dissimilar to that in west Belfast. So, it is important that we remember the whole issue across the whole Province.

As regards west Belfast in particular, I identified that there is an issue with the shortage of land. Visteon is certainly a very substantial site that would accommodate several hundred houses. Therefore, I think that it is an important site, and I hope that people will support it. It would provide 196 new social homes with the opportunity for 48 families to own their own home. That would be very important, but it has, unfortunately, run into community and political opposition.

**Mr Attwood:** Touching on that last point and given the stark figures that you outlined, it is important to note that all appropriate land in west Belfast is developed for housing use. It is no reassurance to say that it is bad in west Belfast and bad everywhere else. That does not seem to be a credible answer from the Minister. Do you not accept that there are certain sites in west Belfast — Visteon is one — that DETI has decided are significant economic opportunities? There will be sites in other constituencies where protection of industrial land is an issue in a very difficult situation in the context of land use generally. Does the Minister accept that that principle may have to prevail for the land at Visteon?

**Mr McCausland:** I am loath to get involved in what seems to be almost an interparty dispute in west Belfast between the SDLP and Sinn Féin about the Visteon site. What people sometimes say in private is different from what people sometimes say in public. I think that it is important that the site is developed. The Member is absolutely right: housing development has to be seen, as I have always said, in the context not just of building houses but of building sustainable communities. Therefore, we need to look, not just at the provision of housing but at the provision of recreational space, employment opportunities and so on. That is absolutely right. However, if people chose to live in that particular part of the city, there is a limit to the land that is available.

If the Member is aware of additional sites in west Belfast, I would be willing to advise the

Housing Executive accordingly. Over the past number of years, before I came into the Department, my predecessors would also have identified to the Housing Executive sites in west Belfast that might have been appropriate.

**Mr Principal Deputy Speaker:** Before I call the next Member, I remind Members that this question topic is constituency-specific, and the Minister's notes may reflect that. I call Ms Paula Bradley.

**Ms P Bradley:** I thank the Minister for his answers thus far. Will he go into more detail on what has been done to deliver suitable land for development?

**Mr McCausland:** I thank the Member for her question. Delivering social housing is not without its challenges. Land available for development is limited, and only 12 of Northern Ireland's 25 housing associations are developing. In addition, over the three-year period 2011-14, 70% of all new social housing was delivered by four housing associations: Apex, Clanmil, Fold and Oaklee.

To address a range of issues, including land acquisition, I have tasked my officials with ensuring that improved systems and processes are put in place to transfer Housing Executive surplus land and public sector surplus sites more efficiently to those housing associations that have proved that they can deliver. Officials are also reviewing the system for social housing development and are considering opening up the development of new social housing to other providers.

## Fuel Poverty Action Group

2. **Mrs Cameron** asked the Minister for Social Development for an update on the work of the fuel poverty action group. (AQO 5785/11-15)

**Mr McCausland:** The fuel poverty advisory group was formed in 2005, and its primary task was to allow the private sector and voluntary groups to discuss fuel poverty issues and to advise my Department on progress with its fuel poverty strategy. Following the publication of my Department's new fuel poverty strategy, Warmer Healthier Homes, in March 2011, the fuel poverty advisory group was succeeded by the cross-sectoral partnership on fuel poverty.

The cross-sectoral partnership was established to ensure the effective coordination of policies and actions to tackle fuel poverty. Membership of the group comprises senior officials from all the main Departments that have a role in

tackling poverty and representatives from the voluntary and community sector and the energy sector.

In line with the recommendations from the Social Development Committee's fuel poverty report of May 2012, the group divided into four thematic subgroups, which have met regularly since. Those subgroups have developed action plans and brought forward initiatives to tackle fuel poverty. The composition of the subgroups provides a great wealth of knowledge on fuel poverty and a platform for sharing information across government, the energy companies and the voluntary sector. I chair the cross-sectoral partnership, which meets twice yearly. The next meeting is expected to take place in June 2014.

To help to maintain a focus on fuel poverty issues, my officials are reviewing the structure of the subgroups to ensure that the fuel poverty strategy is supported fully.

**Mrs Cameron:** I thank the Minister for his answer. What is the rate of, and what are the figures pertaining to, fuel poverty in South Antrim? What can be done to deal with the issue?

**Mr McCausland:** In the council areas of Newtownabbey and Antrim, which largely comprise the constituency of South Antrim, a total of 2,807 energy-efficiency improvement measures have been provided under the warm homes scheme since July 2009. Meanwhile, measures available under the warm homes scheme include loft insulation, cavity wall insulation, hot water cylinder tanks, benefit entitlement checks and energy-efficiency advice. I encourage anyone who is a householder living in privately owned or privately rented accommodation and in receipt of a qualifying benefit to contact the Warm Homes scheme to ascertain what measures they might be entitled to.

The latest fuel poverty figures are from the 2011 house condition survey. They show that 42% of households across Northern Ireland are in fuel poverty. In some pockets, it goes up to 78%, but the percentage varies. It is hard to break the figures down into constituencies, but I will come back to the Member with further information.

**Mr Copeland:** Does the Minister believe that he and his Department — I include the Minister's immediate predecessor in this — have done all that they can to alleviate fuel poverty, including the establishment of the action group, which I

welcome? How does he account for the seemingly negligible impact that we have had on fuel poverty?

**Mr McCausland:** So many areas of work have been undertaken that one can only speculate on how much worse the situation might have been had those interventions not taken place. I believe that we have been proactive. Since I came into the Department, fuel poverty has been an issue that has been very much on my mind, and I put it to the fore of the work that officials take forward.

Many things contribute to improving energy efficiency, including the warm homes scheme, the boiler replacement scheme, double glazing and thermal insulation of Housing Executive properties. However, Northern Ireland is very much dependent on oil as a main source of fuel. We are very different from Great Britain, where there is a heavy reliance on gas, which is cheaper, and that is why fuel poverty is not just for one Department to address. My colleague in DETI, Arlene Foster, has been proactive in taking the gas network to the west of the Province because that is an area where there is a particular need. Access to gas there will make a big difference.

The other area of work that we have undertaken, which helps to some extent, is our benefit uptake campaign. That is putting more money into the pockets of more vulnerable people so that they can afford the fuel that they need. Those three factors — energy efficiency of the home; the nature and cost of the fuel; and level of income — determine whether a person is in fuel poverty.

**Mr Rogers:** Minister, will you ask the fuel poverty action group to investigate what alternative heat supply systems are available, especially in rural areas where there is no gas supply?

**Mr McCausland:** The Member raises a valid enough point, in that the more access that there is to cheaper fuels, the better. I remember meeting a group who were very keen that we ensure that provision be made for the use of peat in certain heating systems in the north of the Province. There was great enthusiasm for that in the Moyle area. Spreading the gas network further across the Province is crucial here.

There has been a good balance of uptake of the various measures that we have introduced between rural and urban areas. The focus of the work is Province-wide, and there has been

very significant uptake of the measures in rural areas. We do not forget the rural areas: the focus is right across the Province.

**Mr Flanagan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. One issue facing people who have no choice but to rely on home-heating oil is not just the cost but the difficulty that they have in budgeting for it, because it must be bought in huge quantities to benefit from economies of scale. Will the Minister give us an update on how he is trying to make oil more affordable for people who will never be able to switch to gas?

**Mr McCausland:** Some work was taken forward on the basis of a pay-as-you-go scheme. However, it emerged subsequently when economists looked at it that the scheme was not as advantageous for the tenant as we had thought. The mechanical system works and the technology is there, but when you seek to implement it, you run into an issue with costs. That is why I have tasked officials with going back to the two companies that were involved to see what can be done to try to make the proposed scheme a more attractive option.

As the Member will know, there are schemes in which collective buying groups come together. One such group came together in Glenravel in County Antrim. There are lots of different interventions, such as stamp schemes and other things to make oil more accessible to people, but, ultimately, the move towards a range of fuels other than oil will be particularly attractive and beneficial.

**3.00 pm**

## **Councils: Transfer of Functions**

3. **Miss M McIlveen** asked the Minister for Social Development what progress has been made in ensuring that statutory transition committees are prepared for the transfer of regeneration functions from his Department to the new local councils. (AQO 5786/11-15)

**Mr McCausland:** First, I should clarify that my Department is not transferring regeneration functions to councils but will confer powers on them and transfer relevant budgets to enable councils to decide how best to take forward regeneration in their areas, having regard to the guidance that will be issued. The Executive's vision for the new councils to be stronger, more efficient and citizen-focused, responding to the needs, aspirations and concerns of their communities, is clear. Councils and their locally elected representatives are best placed to

identify local needs, make local plans and bring forward real improvements to the lives of the citizens in their communities, be they urban or rural.

However, I am concerned that significant challenges lie ahead in ensuring that the transfer to the new arrangements is as smooth and seamless as possible. In order to assist the new councils in discharging their new responsibilities, I have tasked my officials to work closely with the statutory transition committees (STCs) and, later, the shadow councils to assist them in putting in place effective arrangements to meet the needs of their communities.

Additionally, I wrote to the statutory transition committees on 20 February, following a gateway health check of my Department's preparedness and the progress of jointly developed implementation plans, offering to meet with STCs to discuss any concerns they may have about the challenges that we face over the next 14 months. It is hoped to hold those meetings in the coming weeks; so far, only two are planned with the Mid Ulster and the Armagh, Banbridge and Craigavon STCs. I hope that meetings with the other STCs will be arranged and confirmed very quickly in the coming days.

**Miss M McIlveen:** I thank the Minister for his answer, in which he mentioned the gateway health check. Will he outline the outcome of that check, what he means by "significant challenges" and whether he has a plan of action to overcome those?

**Mr McCausland:** The gateway review of my Department's preparedness was largely positive and made some recommendations about some internal improvements that my Department could make in relation to improved communications and the strengthening of some programme management arrangements. My Department has taken the health check findings on board and will make the necessary adjustments. It is important to remember that that looked at the departmental end of the picture, but the other end of the picture is at the council end.

As stated in the independent gateway health check, the following challenges were referenced: demanding timescales, the demanding environment of political and organisational change, and the fact that success in relation to the continued delivery of the services that the Department currently provides to the most deprived communities relies very much on the active participation of

councils in the run-up to the date of reorganisation. To overcome these challenges, my Department has implemented a series of measures with a view to achieving the high-level objective of transferring powers and functions by 1 April 2015.

My Department recognises that the new councils may be at varying degrees and stages of readiness in taking forward their new operational responsibilities. To mitigate that, my Department will work closely with the new council chief executives to ensure a state of readiness for April 2015.

**Mr McCarthy:** I welcome the Minister's response so far. Does he agree that the new regeneration and planning functions for councils should be accompanied by a requirement to be responsible for promoting shared space in all public areas?

**Mr McCausland:** I am sure that the Member is right to say that most councils will want to encourage shared space. When it comes to urban regeneration, there has to be a particular focus on town centres. If town centres are to thrive, they need to be shared spaces. You cannot sustain a town centre on having support for the shops and businesses and so on from simply one section of the community; every section of the community needs to feel comfortable going into those town centres. I discussed that in part the other week in the debate on the Pavement Cafés Bill. It is important that people have that aspiration and commitment; it just makes good sense so I happily endorse what the Member says.

## Ballymoney Master Plan

4. **Mr Storey** asked the Minister for Social Development to outline the implications of the review of public administration for the delivery of the Ballymoney master plan. (AQO 5787/11-15)

**Mr McCausland:** The Executive have committed to the reform of local government (RLG) and agreed a package of powers and functions that should transfer from central government to local government in 2015. As part of that, my Department is extending powers to councils to enable them to address area-based regeneration. I believe that the reform of local government provides us all with a unique opportunity to bring about a step change in the delivery of area-based regeneration by placing the power, the resources and the decisions at the heart of local decision-making.



The Executive's vision for our new councils to be stronger, more efficient and citizen-focused, responding to the needs, aspirations and concerns of their communities, is very clear. So, councils and their locally elected representatives are best placed to identify local needs, make local plans and bring forward real improvements to the lives of the citizens in their communities. Going forward, the Ballymoney master plan will provide the council with a sound evidence base and with guidance to help steer it in the right direction, but, ultimately, decisions on the projects to take forward, as set out in the master plan, will rest with the new Causeway Coast and Glens cluster council comprising Ballymoney, Coleraine, Limavady and Moyle councils.

**Mr Storey:** I thank the Minister for his answer. Given the considerable capital that his Department has put into the production of the master plan and the considerable buy-in that there has been to many elements of it, and given the concerns that he raised in the previous answer to my colleague Miss McIlveen when he referred to effective arrangements being in place to ensure that the proposals are brought forward, will he give an assurance that his Department, having started the process in relation to the master plan, will continue to work with the new council to ensure that its vision becomes a reality?

**Mr McCausland:** Under the reform of local government, I will bring forward legislation that places a statutory duty on councils to have regard to the outcomes contained in the regeneration and community development framework. It will ultimately be a matter for councils to determine how they will exercise the powers and deploy the resources, but my Department will support councils in taking on the new regeneration and community development responsibilities. I have written to the councils advising them that there should be a smooth transition to the new arrangements and to ensure that there is the capacity for delivering regeneration and community development work, particularly regarding the staffing resources that will be required in the councils to deliver forward work plans.

An independent gateway health check, which I mentioned, involving interviews with DSD, DOE and local government stakeholders has examined arrangements in place for the Department, working in partnership with councils, to implement RLG, and a further review will be carried out in June 2014. So, we are keeping a careful watch on the situation to make sure that things are moving properly in the right direction, and that review will provide

an assessment of the adequacy of plans in place for the proposed transfer on 1 April 2015. The outcome of the check will identify potential obstacles to the transfer and any measures required to deal with those.

I was in Ballymoney to see the launch of the master plan consultation, and I was there again to meet the Member and local councillors in regard to its completion. It is a very exciting document and holds out great possibilities and prospects for Ballymoney. Therefore, it is important that it is taken ahead in the smooth and seamless way to which I referred.

**Mr Allister:** In taking it forward, will the Minister say to the new council, "Here are our fine proposals and our master plan. Now you take it and you pay for it"? Or is the Minister giving any undertaking to underwrite any of the funding of a scheme that he has begun?

**Mr McCausland:** If the Member paid more attention to the communication between my Department and the local council, he would be aware of the communication that has gone out to all the councils setting out the financial commitment that there will be and the resources that will be passed over to the council to take forward that work in the same way as money and resources will be passed over to other councils to take forward the many schemes in those areas. The function and the lead role moves across to the council and so do the resources that accompany that.

## Housing Executive: Double Glazing

5. **Mrs McKeivitt** asked the Minister for Social Development how many Northern Ireland Housing Executive homes do not have double glazing. (AQO 5788/11-15)

**Mr McCausland:** The Housing Executive has advised me that, following local surveys, it now estimates that there are 9,800 properties that require upgrading from single glazing or partial double glazing to full double glazing. It has further advised me that this figure does not include properties in recent double glazing schemes where the tenants have refused the work, or properties in the stock transfer programme which are not double-glazed but have been removed from planned schemes. The Housing Executive has also advised that a total of 10,430 of its dwellings have now had double glazing installed since the commitment to have all Housing Executive houses double-glazed by March 2015, as agreed in the Programme for Government.

**Mrs McKeivitt:** Will the Minister update the House on the contracts for the refit of double glazing to the homes of approximately 11,000 people who are currently waiting on the scheme to commence?

**Mr McCausland:** The Housing Executive has advised me that the double glazing contracts have now been signed, and it is now moving ahead to have double-glazed windows installed in line with the programme target of completion by March 2015. The contracts have been awarded across the Housing Executive's three regional areas to the following contractors: in Belfast, P K Murphy Construction Ltd; in the north, Dixons Contractors Ltd; and in the south, Bann Ltd. Work has already started in preparing for the actual installations because, obviously, there is preparatory work to be done for the schemes. I expect work to be on site very quickly, in a matter of weeks.

**Mr Cree:** Just to complete the picture, Minister, will you tell us your assessment of the number of housing association houses that do not have double glazing? Perhaps you can fill in the picture there about the number of houses in transfer which also do not have double glazing at this point.

**Mr McCausland:** The Member will appreciate that housing association stock, in general, is much newer than Housing Executive stock. The executive has a lot of older stock which goes back to the 1960s and probably even, in some cases, to the end of the 1950s and so on. Those are houses from an earlier period when double glazing was not standard. Housing association properties are much newer. In fact, they are some of the most energy-efficient properties. We certainly encourage housing associations to ensure that any of their properties that do not have double glazing get it installed as part of their programme of maintaining their stock. Every housing association is required, as part of its regime, to have a programme in place about upgrading and maintaining stock, and that should be a part of that programme of work.

## Fuel Poverty

6. **Mr Dallat** asked the Minister for Social Development how his Department is targeting resources at people who are suffering most from fuel poverty. (AQO 5789/11-15)

**Mr McCausland:** The warm homes scheme has been my Department's primary tool in tackling fuel poverty since its inception in 2001. The scheme has been very popular and

successful and has improved the energy efficiency of more than 120,000 low-income households. My Department's fuel poverty strategy, 'Warmer Healthier Homes', called for increased partnership working and improved targeting of resources to assist those households most at risk of fuel poverty.

My Department has been working with colleagues in the University of Ulster, the local councils and the Housing Executive on the development of a new evidence-based model for tackling fuel poverty. The results from the early pilots are impressive in identifying and targeting those households most in need of assistance, and I am encouraged by the progress.

My Department is consulting on proposals for a new affordable warmth scheme until 9 May 2014. The proposals contained in that consultation are evidence-based and will provide a sound basis for targeting low-income households throughout Northern Ireland and making them warmer and healthier. In addition, as Members are aware, the Housing Executive is working to ensure increased energy efficiency through full double-glazing of its homes by March 2015, as set out in the commitment that I made in the Programme for Government.

**Mr Principal Deputy Speaker:** That ends the period set aside for listed questions. We move on to topical questions.

3.15 pm

## Housing Executive: Contractors

1. **Mr McNarry** asked the Minister for Social Development for the current position resulting from discussions between the Northern Ireland Housing Executive (NIHE) and its contractors, about which I am sure he has been briefed, recalling his high-profile announcement that NIHE contractors had overcharged by a staggering £18 million. (AQT 891/11-15)

**Mr McCausland:** The Member is absolutely right in saying that this is between the Housing Executive and the contractors. The Housing Executive is in negotiations with the contractors. I hope that those negotiations are coming towards a conclusion and that a mutually agreeable situation emerges from them.

As I have said before, it would be inappropriate for me to comment until those discussions have been completed. The issue has a commercial

dimension and a financial dimension for both sides. Until they have completed their negotiations and the issue has been through the board of the Housing Executive, I could not possibly comment. However, I hope that they will bring something to the board of the Housing Executive fairly soon.

**Mr McNarry:** I am sorry to say that I am disappointed in the Minister, who seems to have caught the common ailment of his ministerial colleagues, which is one of knowing more than they will tell us. Perhaps he will return to the House and make a statement when he finds it more appropriate.

In the meantime, will he confirm to the House that the figure of £18 million is fictitious? As a consequence, will he agree to redress the damage to the contractors' credit rating and the other commercial damage done to them? Will he tell the House how he will set about that task in the name of commercialism and in the name of doing what is right?

**Mr McCausland:** Just so that the Member is absolutely clear — his supplementary perhaps betrayed some confusion — this is a matter between the Housing Executive and the contractors.

**Mr McNarry:** You are the Minister.

**Mr McCausland:** It is a matter between the Housing Executive and the contractors. There is an issue about the role of the Housing Executive and the role of its board. The matter has not been to the board of the Housing Executive. Until it has, and until the board has had the opportunity to consider it and decide whether it is content, it would be totally wrong and inappropriate for me to comment.

The Member can shake his head like a nodding dog as much as he wants, but the fact is that I want to show due respect to the board of the Housing Executive, even if he does not.

## **Housing: Lower Oldpark**

2. **Mr Sheehan** asked the Minister for Social Development to explain how the recently refurbished houses in the lower Oldpark were allocated. (AQT 892/11-15)

**Mr McCausland:** I welcome the Member's interest in the affairs of a different constituency. I am very pleased to be able to tell him that I have already provided the answer in response to a question for written answer. People were

allocated the houses on the basis of their being on the Housing Executive waiting list.

I had an opportunity recently to go and see the houses. The first houses were completed in Mountview Court, and I think that Mountview Street will be next. Some 16 of the 26 houses have been allocated. I have to say that Clanmil Housing has done an excellent job. The houses are extremely well finished, and the tenants are very happy with the houses that they have been allocated. People have moved on from the dire situation of being left living in the middle of desolation, dereliction and decay — a situation that no one should be forced into — and there is a new enthusiasm, urgency and vitality about the area.

I had the opportunity to speak about the houses at the local community association's AGM. It is a great start, and I look forward to the remainder of the 26 houses being completed and to the Housing Executive's meeting its commitment to build, I think, 12 houses on an adjacent site on the front of the Oldpark Road. *[Interruption.]*

**Mr Principal Deputy Speaker:** Order. The House has to hear the answers, please.

**Mr Sheehan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra sin. Unfortunately, he did not answer the question. It is my understanding that some of those houses were allocated to people who were already in social housing locally. Will the Minister tell the House how many points they had and whether several houses were allocated to people with no points at all?

**Mr McCausland:** My understanding is that there was only one case of a transfer and that folk were on the waiting list. People right across Northern Ireland are on the waiting list even though they may be in a house. Just because you happen to be in a house does not in any way bar you from being on the waiting list.

That is quite clear. I am surprised that the Member would even dream of asking the question.

As regards people being allocated houses on no points, I am totally unaware of that, and I do not believe that to be the case. If the Member wants to speak to the Housing Executive, he will get a better understanding of the fact that there is housing need in North Belfast in the unionist community. As much as some people

in the nationalist community want to deny it, it is there. In fact, as I pointed out previously, the waiting list in the North Belfast constituency has more people from the unionist community on it than people from the nationalist community, and if the Member even speaks about the length of time — *[Interruption.]*

**Mr Principal Deputy Speaker:** Order.

**Mr McCausland:** Some people just cannot face up to facts. They prefer to perpetuate myths and imagine things. Those are the facts. If the Member is so interested in another constituency, will he also take on board the fact that, in parts of North Belfast, the time that you have to remain on the waiting list to get a house is longer in some of the unionist communities than it is in some of the nationalist communities?

## Boiler Replacement Scheme

3. **Mr Buchanan** asked the Minister for Social Development for an update on the benefits of the boiler replacement scheme to homes across Northern Ireland. (AQT 893/11-15)

**Mr McCausland:** On 25 May 2012, I announced the introduction of the £12 million boiler replacement scheme to improve energy efficiency in 16,000 homes across Northern Ireland. The scheme, which is administered by the Northern Ireland Housing Executive, is open to owner-occupiers whose household income is less than £40,000 a year, with an inefficient boiler of at least 15 years. The grant of up to £1,000, depending on gross income, is available to assist in replacing an inefficient boiler for a more energy efficient condensing oil or gas boiler. That includes switching from oil to gas or switching to a wood pellet boiler as an option.

The boiler replacement scheme was launched in September 2012 and has funding up to March 2015. It has been very successful. I was able to secure an additional £6 million of funding from the European regional development fund. That will assist 8,000 additional owner-occupier households to replace their boiler over the final two years of the scheme, bringing the total homes that will be assisted to 24,000.

Domestic heating boilers account for around 60% of the household spend on energy bills, so an efficient boiler makes a significant difference to the annual energy bill. In some cases, people were able to achieve a saving of around one third or even more in other cases. That is a

very substantial saving to their fuel bill, and it has been a major benefit, therefore, to some homes, particularly of people who are on lower incomes or who are more vulnerable. I encourage Members to engage with their constituents and keep them minded of the scheme, because the more people who hear about it, the more people will benefit from it.

**Mr Buchanan:** I thank the Minister for his response. Can he further advise of the level of employment that the scheme has provided for the likes of individual installers of those boilers?

**Mr McCausland:** One of the great benefits of this particular scheme and one of the things that we built into it purposely at the start was that the installation would be carried out by installers at a local level. So, plumbers working in a local area would get work in that area. When I went to visit a number of homes where installations had taken place, those who had carried out the installations were very positive about it. They said, "I may not have had a vast amount of work, but I have gained 12 or 15 additional jobs for my small local business through this". The number will have increased now; that was some time ago. However, at the moment, 1,800 separate installers have got installation work, which shows how the work is being spread across the Province at a local level to local installers.

Picking up on a point that another Member raised earlier about rural and urban areas, the split is 40% rural and 60% urban. That is in line with the warm homes target to assist rural areas. So, a lot of installers are getting work, and 40% of them are in rural areas.

## Housing: Dungannon Waiting Lists

4. **Ms McGahan** asked the Minister for Social Development what he is doing to address the fact that, in Dungannon district, almost 1,000 people are on the housing waiting list while figures from Land and Property Services show 1,520 vacant domestic dwellings. (AQT 894/11-15)

**Mr McCausland:** I welcome the question, because empty homes is a hugely important issue. If a home is lying empty, it is a wasted resource. When I came into the Department, it was clear that empty homes had been put very much on the back burner. We ran a couple of pilots in two very different streets, one in east Belfast and one in north Belfast, to get a sense of what the issues were and to identify the reasons why there were a number of empty properties in a particular street. That

information has fed into the renewed commitment to take forward work on empty homes. The Housing Executive has to take the lead on this, and I detect that, in the executive, there is much more commitment to so doing. The Member is right: it is an opportunity that is lost. A family could have a home, and somebody could have additional income, and it is a pity if that does not happen.

**Ms McGahan:** Go raibh maith agat. I thank the Minister for his response. Minister, your Department has responsibility for town centre regeneration, so why is it changing the usage of local businesses from commercial to domestic when there are so many vacant properties in Dungannon town?

**Mr McCausland:** We had a very good scheme, called the Living over the Shop scheme. That has run its course. It has been evaluated, and the intention is to bring forward a new scheme in the not too distant future. It will not be called Living over the Shop, or LOTS, as it was known, but it will certainly be a scheme that I think will bring a new vibrancy to town centres. Many of our town centres are, quite frankly, dead for a large part of the day. There is no one around, and there is no life there. On Friday, I looked at an area from one part of Royal Avenue to another and saw the number of empty properties that there were. There are opportunities there for commercial properties that have three, four or five storeys. It would be additional income for the trader, and it would provide an initial home. I think that it would be good all-round success. It would bring vibrancy to the street and would provide more homes and more income to make additionally sustainable a business that otherwise might not be sustainable or is on the verge of sustainability.

## **Welfare Reform: Underoccupancy Penalty**

5. **Mr Nesbitt** asked the Minister for Social Development for his current timeline for the introduction of the underoccupancy penalty for social housing. (AQT 895/11-15)

**Mr McCausland:** Again, the Member's party is represented on the Executive's subcommittee. Mr Kennedy is the Minister who represents the Ulster Unionist Party on the Executive subcommittee. From general conversation, general debate in the Chamber and through the feedback that I am sure, he will have got from his party colleague, the Member will be aware that I am concerned that we make sure that we have a package of measures for Northern

Ireland that is fit for purpose. Therefore, welfare reform in Northern Ireland would be different from what it is across in Great Britain. The Member is aware of a number of the flexibilities that were negotiated with the United Kingdom Government, particularly through Lord Freud and Iain Duncan Smith, at a very early stage, well over a year ago, and the fact that we have brought together proposals that will, I think, mitigate by far the worst effects of the so-called underoccupancy tax or bedroom tax.

In the past, the social housing development programme in Northern Ireland did not take account of the needs of welfare reform and the need for smaller one- and two-bedroom units. We tended to build larger three- and four-bed units. That is why, when I came into the Department, one of the things that I did was tell the Executive to make sure that they took account of the potential impacts of welfare reform when they were bringing forward the social housing development programme.

The timeline for bringing forward the entire package of measures is something that is beyond my control. The dangers of not moving forward on welfare reform in a way that is suitable for Northern Ireland and with a unique Northern Ireland focus has been outlined very clearly by my colleague in DFP, Mr Hamilton, who has pointed out that if we sit as we are, £1 billion will be lost to the Northern Ireland block grant.

## **Northern Ireland Assembly Commission**

**Mr Principal Deputy Speaker:** Questions 2 and 8 have been withdrawn.

**3.30 pm**

### **School Visits**

1. **Mr McCartney** asked the Assembly Commission for a breakdown of school visits to Parliament Buildings from each constituency since January 2014. (AQO 5799/11-15)

**Ms Ruane:** Gabhaim buíochas leis an gComhalta as an gceist. Thug 52 scoil cuairt ar Fhoirgnimh na Parlaiminte ón 2 Eanáir 2014. Orthu seo, bhí 20 bunscoil, 29 meánscoil agus trí scoil speisialta. Lena chois sin, thug coláiste breis- agus ardoideachais amháin cuairt orainn, chomh maith le 18 institiúidí ardoideachais domhanda, le haghaidh inchur clár oideachais.

I thank the Member for his question. Fifty-two schools have visited Parliament Buildings since 2 January 2014. Of those, 20 were primary schools, 29 were secondary schools and three were special schools. In addition, one further and higher education college and 18 worldwide higher education institutions have visited for an education programme input.

Primary schools from 12 constituencies have visited in this period. No primary school from South Belfast, West Belfast, East Derry, Foyle, Newry and Armagh or South Down has visited Parliament Buildings this year. Apart from the East Belfast constituency, from which three primary schools visited Parliament Buildings, either one or two primary schools from each of the other constituencies have visited. In the same period, secondary schools from 16 constituencies have visited Parliament Buildings. East Belfast and Lagan Valley are the only constituencies from which secondary schools have not yet visited Parliament Buildings this year. Between one and three secondary schools from each of the other constituencies have visited. The Member may also wish to note that, from January to December 2013, 198 schools visited Parliament Buildings.

**Mr McCartney:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Chomhalta as an fhreagra sin. I thank the Member for her answer. What plans or programmes are in place, and what actions are being taken, to ensure that we extend the number of schools that come to the Building?

**Ms Ruane:** Go raibh maith agat as an gceist sin. Thank you for that question.

Tá foireann na Seirbhíse Oideachais ag 50% ó lár mhí na Nollag 2013 mar gheall ar ghluaiseacht inmheánach foirne agus saoire mháthaireachais. Tá na folúntais seo á líonadh go sealadach, agus táthar ag dréim le foireann a bheith i bpost faoin 24 Márta. Tá athbhreithniú á dhéanamh ar an gclár for-rochtana oideachais leis an soláthar seo a leathnú lena chinntiú gur féidir le scoil ar bith nach bhfuil ábalta cuairt a thabhairt ar Fhoirgnimh na Parlaiminte, as cibé fáth, gur féidir léi cuairt for-rochtana a dhéanamh.

Staffing in the Education Service has been at 50% since mid-December 2013 as a result of internal staff movement and maternity leave. Those vacancies are in the process of being filled on a temporary basis, and staff are expected to be in post by 24 March. A review of the education outreach programme is being undertaken with the intention of extending this

provision to ensure that any school that cannot attend Parliament Buildings for whatever reason can avail itself of an outreach visit.

## Commissioner for Standards

3. **Mr Elliott** asked the Assembly Commission to outline the costs incurred by appointing an acting Commissioner for Standards to investigate the complaint against Gerry Kelly MLA regarding his alleged conduct in Castlederg on 11 August 2013. (AQO 5801/11-15)

**Mr Cree:** I thank the Member for that question. The Assembly appointed an acting Commissioner for Standards on the passing of a motion from the Committee on Standards and Privileges. As a result, the Assembly Commission has incurred travelling and accommodation costs totalling £346.84 to date. The total is split is £271.84 for travel and £75 for accommodation. A further sum of approximately £225 will be payable in respect of travel and accommodation costs arising from the acting commissioner's attendance at the Committee on Standards and Privileges meeting on Wednesday 5 March. No additional costs were incurred in respect of remuneration payments to the acting commissioner as he was appointed on the same per diem terms as the commissioner.

**Mr Elliott:** I thank the Member for that answer. Will the Member give us some details on why the commissioner could not hear the case and why an interim commissioner had to be appointed?

**Mr Cree:** I thank the Member for his question. The commissioner was appointed under the terms of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011. I am sure that you knew that anyway. Schedule 3 to the Act specifically provided for the holders of certain posts or offices to be disqualified from appointment as the commissioner. A conflict of interest can arise in many circumstances, especially in a small place such as Northern Ireland. In this case, the conflict arose because the commissioner had been a member of the Parades Commission. Members of the Parades Commission are not included in the lengthy list of people who are disqualified from appointment as the commissioner, but, when the conflict of interest emerged, it was managed in a proper manner through the appointment of an acting commissioner.

**Mr Allister:** Does the Commission's oversight of expenditure include it having any oversight of the shameless squander that we saw over the weekend, when the Committee on Standards and Privileges took five of its members to Washington etc as part of that particular jamboree and spent a large amount of money? One might add that three of those members were from one party and that they went to look at a document on ethics that, it is reported, they can download. Has the Commission any oversight of squander by Committees in the House?

**Mr Cree:** I am not sure whether I thank the Member for that question or not. The simple answer is no, the Commission does not have that responsibility, I am glad to say on this occasion.

**Mr McCartney:** The Member asked about money being squandered on that trip. Do you accept that money was squandered by having to bring the commissioner to rule against the person who made the allegation in the first place?

**Mr Cree:** That is called democracy, is it not?

**Mr McCartney:** Squandering money?

**Mr Cree:** No, no. Definitely not.

## Stormont Estate

4. **Mr McNarry** asked the Assembly Commission to outline the area of the Stormont estate that falls under its control. (AQO 5802/11-15)

**Mr Weir:** I thank the Member for his question. I do not know whether I will be thanking him for his supplementary question when I hear it.

The Assembly Commission has responsibility for Parliament Buildings and its immediate environs. To define the immediate environs, the land that is outside of the Building is delineated by the railings that surround the front lawn and by the security fencing to the north, which is the rear of the Building, and at the east and west sides.

**Mr McNarry:** According to many visitors, we do not appear to be user-friendly. On a day such as today, they battle uphill in the rain, having parked downhill. Are there plans to provide closer-proximity parking for visitors? If not, will the Commission consider being more user-friendly towards our visitors and guests?

**Mr Weir:** I thank the Member for his supplementary question. There are a couple of points to make, points that we originally intended to cover earlier. First, strictly speaking, the control of parking outside of the Building's environs is a matter that is under not the direct control of the Assembly but that of DFP. We should be making every effort that we can to make admission to the Building and the Stormont experience, for want of a better phrase, the best that it can be.

Assembly management continue to discuss the issue of parking with DFP colleagues, and they are exploring further possibilities for improving the situation. One positive measure that has already emerged is the handing-over for management by Assembly staff of the lower east car park and the establishment of an overspill car park. That has provided the Assembly with an additional 42 parking spaces.

There is a limited amount I can answer for DFP, but it has carried out a broader review of parking in the Stormont estate. At this stage, we understand that there are no plans for DFP to provide additional car parks. However, I think that there are indications of behalf of DFP that it is considering, in periods in which there is inordinately high demand for parking, temporarily relaxing some of the current parking restrictions on Prince of Wales Avenue and Massey Avenue. Naturally, Assembly management will work closely on monitoring that and will continue to liaise with DFP. Principally, given the restrictions of the area that is directly controlled by the Assembly Commission, we can, at best, be an organisation that influences some change there. Ultimately, most of the actions lie within the direct remit of the Department of Finance and Personnel.

**Mr Flanagan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Commission member for his answer. I want to deal with the issue of how this Building is heated and the area of the estate that falls under its control. When I asked the former Minister of Finance and Personnel what opportunities there were for storing biomass here, he told me that there was not space within the estate to build a shed. Will the Commission consider engaging with DFP to see whether there is somewhere in the estate where a shed could be built to store biomass to heat this Building?

**Mr Weir:** That seems to move slightly from the intention of the original question on the control of the environs. We are open to anything that produces the most efficient energy and, indeed,

the best heating. Quite often, a lot of hot air comes from this Chamber that sometimes goes to waste in that regard. The Assembly Commission is open to any suggestions that can improve energy efficiency within the Building. There are ongoing discussions on a range of issues with DFP on the interaction between the Assembly and the estate, and I am sure that matter could be discussed with the Department of Finance and Personnel. Ultimately, as DFP has control over the estate, the matter is probably best directed towards it in the first instance.

**Mrs Overend:** I had originally thought of asking the Member about negotiations with the Department of Finance and Personnel on extending car parks. However, what comes to mind is that an area has been cleared to the back of Parliament Buildings for the roof project. Is there any thought about using that cleared area for parking afterwards?

**Mr Weir:** Yes, I think that is the case. The roof project will be ongoing for the best part of a year. That area was cleared initially to facilitate the work on the roof project, but I think the intention is that, because the space is now cleared, once the roof project is completed, there will be the opportunity for additional car parking. It will be a space that, having been created, can be used so that it has long-term benefits as opposed to just creating additional space. Obviously, any action that we can take to ease the level of parking congestion around Parliament Buildings would be to the advantage of everyone.

**Mr Storey:** And the shed.

**Mr Weir:** And the shed.

## **Inclusivity: Parliament Buildings**

5. **Ms McCorley** asked the Assembly Commission what steps it is taking to make Parliament Buildings more inclusive. (AQO 5803/11-15)

**Mr Weir:** I thank the Member for her question. The Assembly Commission has taken a range of steps to ensure that Parliament Buildings is inclusive. Section 75 of the Northern Ireland Act 1998 requires all public authorities designated for the purposes of the Act, including the Assembly Commission, to comply with two statutory duties.

The first duty is the equality of opportunity duty, which requires public authorities in carrying out

their functions relating to Northern Ireland to have due regard to the need to promote equality of opportunity between the nine equality categories that are listed in section 75. The Assembly's 2012-16 equality scheme is a statement of the arrangements for fulfilling the statutory duties, as well as the plan for implementation. It meets both the legal requirements of schedule 9 to the 1998 Act.

The second duty is the good relations duty. That requires that public authorities, in carrying out their functions relating to Northern Ireland, have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinions and racial groups.

The Member may wish to note that, in a letter from the Equality Commission in October 2013, it wrote:

*"It has been encouraging to note that the Northern Ireland Assembly has sustained consistent progress in the implementation of their Equality Scheme and there is evidence of effectiveness in meeting the S75 duties. There has been sustained engagement and consultation with those directly affected by the policies and this has been a key achievement of the Northern Ireland Assembly's scheme. A clear culture exists in the organisation that fosters co-operation with other parts of the public sector and those affected by statutory duty."*

In addition, the Assembly Commission has taken a number of steps to promote inclusion within Parliament Buildings, including: work with Action on Hearing Loss; an autism initiative; a disability action plan; gender equality; Assembly Community Connect; tours and educational visits; and a Chinese new year event focused on art.

The Member will appreciate the challenges of obtaining political agreement on some of the more contentious issues around good relations.

**Mr Principal Deputy Speaker:** I remind the responders that the two-minute rule applies.

**3.45 pm**

**Ms McCorley:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Chomhalta as an fhreagra sin. I thank the Member for that answer.

An dtig liom iarraidh ar an Chomhalta cad iad na pleananna atá ag Coimisiún an Tionóil le



húsáid na Gaeilge a leathnú i bhFoirgnimh na Parlaiminte? What plans does the Assembly Commission have to expand the use of Irish in Parliament Buildings?

**Mr Wells:** Hopefully none.

**Mr Principal Deputy Speaker:** Order.

**Mr Weir:** Obviously we have regard to good relations and ensuring the promotion of good relations. Although further discussions will always take place on those issues, I do not think that there is any specific agreement, as yet, on any expansion of the use of Irish in the Building.

**Mr D Bradley:** Go raibh míle maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an bhall den Choimisiún as ucht a fhreagra. An bhféadfainn ceist a chur air faoin Chairt Eorpach um Teangacha Réigiúnacha agus Mionlaigh? The Assembly was recently criticised for failing to fulfil its duties under the European Charter for Regional or Minority Languages. What action does the Commission intend to take to change that situation?

**Mr Weir:** I am not directly aware of the criticism in connection with that. We have produced a good relations action plan, which looks at the wider context. We have to ensure that, whatever we have by way of a welcoming environment in the Assembly Buildings, it is one that is welcoming to everyone. Any actions taken, in any direction, can have consequences for the attitude that people from different communities feel. We have to look always at trying to be as inclusive as possible, but in such a way as not to alienate people.

**Mr Kinahan:** Is there any evidence from visitors to suggest that Parliament Buildings is not inclusive?

**Mr Weir:** I am not aware of any evidence to suggest that. As I said in a previous answer, we have a wide range of groups from across the community, from different communities and from minority communities. There seems to be a good level of outreach and good usage of the Building. I am certainly not aware of any evidence to suggest anything to the contrary. However, I am not ruling out the possibility that somebody could produce evidence of that nature, but I am not aware of any.

## **Lighting: Parliament Buildings**

6. **Mr Lyttle** asked the Assembly Commission to outline its policy on the use of lighting on the exterior of Parliament Buildings to raise awareness of charitable organisations. (AQO 5804/11-15)

**Mr Cree:** I thank the Member for his question. The Assembly Commission does not currently have a policy in place for lighting the exterior of Parliament Buildings. The Commission has agreed, on two previous occasions, in conjunction with other high-ranking, high-profile public buildings, to light the exterior of the Building. To achieve the desired effect, gel filters were purchased by the Commission. In addition, permanent uplighters have been fitted in the Great Hall, enabling many different shades of light to be applied internally, as seen, for example, at a recent event held to mark the ovarian cancer awareness campaign. However, due to the increasing number of calls to light the exterior of the Building, the Commission has agreed to put in place a policy so that appropriate controls are in place to ensure that that is done in a manner that befits the listed status of the Building.

**Mr Lyttle:** I thank the Member for that answer. I welcome the announcement that the Commission is going to undertake a policy on lighting the exterior of Parliament Buildings. Does the Member agree that buildings, such as Belfast City Hall, have been used to really good effect to raise awareness of health campaigns and charitable causes? I look forward to hearing more detail on the policy.

**Mr Dallat:** Does the Member of the Commission agree that it would have been really nice if the exterior of the Building had been illuminated green yesterday to symbolise the unifying nature of St Patrick, something that thousands of people across the North shared yesterday? Is that a plan for the future, perhaps?

**Mr Cree:** I thank the Member for his question. I think that it is a rhetorical question, because we have passed that stage. However, I am sure that it will be taken into consideration when we are developing policy. I thank the Member for that.

**Mr Flanagan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I assure the Member that my question is not a rhetorical question. Many historical and very prominent places around the world went green as part of the global greening initiative, which is an initiative undertaken by Tourism Ireland, which is one of the bodies funded by the Assembly and the

Executive. I raised the issue last year, and there does not appear to have been any progress. Will the Member take that back to the Commission, and, in a spirit of inclusivity and to promote the building and to put it on the map as a place for people to visit, will he consider getting the place to turn green for St Patrick's Day next year?

**Mr Cree:** As I said, the Commission is going to consider a policy and it will take on board what we have heard this afternoon. It can enhance the situation, but whatever we do must be in keeping with the status of the Building. For example, in another place, someone asked me about a picture where Parliament Buildings was shown in all sorts of different colours, and that certainly was not the case. Obviously, a lot can be done with Photoshop and all those things to change things, but that sort of thing tends to be a bit cheap or a bit of a nonsense, which is not fair, but I hear what the Member says.

## Childcare Allowance

7. **Mrs McKeivitt** asked the Assembly Commission to outline the criteria used to determine the level of support provided by the childcare allowance scheme to Members and Assembly staff. (AQO 5805/11-15)

**Mr Cree:** I thank the Member for her question. As Judith is not here, I will attempt to answer it.

The Assembly Commission does not establish the eligibility criteria or the level of support provided to Members in respect of childcare. That function falls to the Independent Financial Review Panel — that is the second time that I have mentioned the panel this afternoon.

The scheme for staff relates to childcare costs incurred while the parents are at work at the Assembly. There are two separate tiers of support. The first tier is for children up to age five or school age, whichever is earlier, and is paid at a rate of £38.90 a week. The second tier is for children up to age 14 and is paid at a rate of £18.90 per week.

The eligibility criteria for secretariat staff include a requirement that actual childcare costs exceed the above rates, that the parent submits a valid claim each month setting out the days when they were at work and that the child's date of birth is verified by reference to his or her birth certificate.

**Mrs McKeivitt:** Can the Commission highlight how that information is put out to those who qualify for the scheme?

**Mr Cree:** If I understand correctly, I think that it has been made available by direct communication. However, I am not sure whether it is on the website, so I will check that and get back to the Member. It is a good point.

**Mr Hazzard:** What has the Assembly Commission done to provide crèche facilities?

**Mr Cree:** That is obviously not part of the scheme. It is really a matter for the Member or staff member to find their own facilities and whatever suits them best. It is probably best left that way.

## Lifts: Parliament Buildings

9. **Mr Copeland** asked the Assembly Commission to outline the reasons why the lift at the east side of Parliament Buildings has been frequently out of operation. (AQO 5807/11-15)

**Ms Ruane:** Ceist uimhir a naoi, for those who do not think that more needs to be done for Irish-speakers here. Gabhaim buíochas leis an gComhalta as an gceist.

Loic an t-ardaitheoir i dtaobh oirthear an fhoirgnimh i mí Bealtaine na bliain anuraidh, agus rinne na hinnealtóirí seirbhíse amach nach mbeadh sé sábháilte an t-ardaitheoir a chur ar obair arís go dtí go ndearnadh an deisiúchán agus an t-athchóiriú a bhí riachtanach.

I thank the Member for his question. The lift at the east side of the building suffered a mechanical breakdown in May last year, and the service engineers concluded that it would not be safe to bring the lift back into service until essential repair and refurbishment work was undertaken. The work was due to be carried out during the summer recess of 2013 as part of a programme of planned refurbishment work. However, the operator of the service contract, DFP property management branch, was not content with the appointment of the contractor and determined that it was required to re-tender. The contract has now been re-tendered and a contractor appointed to carry out the work, which has been programmed to take place during the Easter recess to try to minimise the noise and disruption.

**Mr Copeland:** Thank you very much, Mr Principal Deputy Speaker, for your kindness during my last faux pas. Can the Minister detail approximately how much has been spent on the maintenance of the lift during the period that it

has not been in operation and how much is generally spent on the maintenance of elevators and lifts in the Building? Will she accept that for people like me — not only Members but staff and the public — who, on occasion, have mobility difficulties, the unreliability of the lifts, particularly when there is a Division, can cause very great difficulties?

**Ms Ruane:** I accept that it causes difficulties and that the lift should have been refurbished by now in order to fulfil our disability and equality duties. All that I can say is that the DFP branch insisted that it be re-tendered. I have said Easter 2014, and we will do everything that we can to ensure that the work is completed.

I am answering this question on behalf of Judith Cochrane, so I am sorry that I do not have all the details on costs. We can certainly provide the Member with those.

### Assembly Questions: Irish

10. **Mr Sheehan** asked the Assembly Commission to outline the steps it is taking to ensure its Members can answer both written and oral Assembly questions in Irish. (AQO 5808/11-15)

**Mr Weir:** I thank the Member for his question, which falls into two parts. The Commission provides parallel translation, when requested, to enable Members to respond in their language of choice to questions for oral response.

In May 2013, the Commission determined that questions for written response would be answered in the language in which they are received. In effect, that means that questions are responded to in English only.

**Mr Sheehan:** Go raibh maith agat. An aontaíonn an comhalta liom nach dtig le cuid comhaltaí Gaeilge a úsáid mar gheall ar chleachtadh Choimisiún an Tionóil, is é sin go dtig leis an Choimisiún gan glacadh le ceisteann scríofa nó béil? Does the Member agree that some Members are excluded from using Irish in the Assembly as a result of the Commission's policy of not taking written or oral questions in Irish?

**Mr Weir:** With respect, there seems to be a degree of misunderstanding. The procedure in the Chamber is that Members who speak in a language other than English have to provide their own simultaneous translation. The way in which questions for written answer are received is not determined by the Commission. If I

picked up the Member correctly, he was referring to the Member who is submitting the question. It is not the responsibility of the Commission to determine the procedures for the submission of questions to the Assembly. That matter is determined by the Business Office and is not for the Commission. Questions are forwarded to the Commission in the same way as they are forwarded, as I understand it, to Departments. On that basis, it is a question for the Business Office rather than the Commission to determine.

### Internet: Parliament Buildings

11. **Mr Moutray** asked the Assembly Commission what efforts are being made to improve the Internet connectivity speeds in Parliament Buildings. (AQO 5809/11-15)

**Ms Ruane:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an gComhalta as a cheist. I mí Márta 2011, fuair an Tionól nasc idirlín neamhspleách le húsáid i bhFoirgimh na Parlaiminte. Chosain na cruá-earraí agus an suiteáil £54,595 chomh maith le costais ath-fhillteacha de £14,260 sa bhliain. I mí Eanáir 2013, d'ardaigh Oifig na gCóras Faisnéise cumas nasc idirlín an Tionóil ó 20 meigi-ghiotán sa soicind go 40 meigi-ghiotán sa soicind le deileáil leis na riachtanais bhreise a d'éirigh ó chóras Ríomh-phacaíste na gCoistí agus ó úsáid bhreise na seirbhísí idirlín. Ba é £5,180 an costas breise le 40 meigi-ghiotán a sholáthar.

### 4.00 pm

I thank the Member for his question. In March 2011, the Assembly Commission procured an independent Internet connection for use in Parliament Buildings. The hardware and installation costs for that service were £54,595, with recurring costs of £14,260 per annum.

In January 2013, Information Systems Office increased the capacity of the Assembly Internet connection from 20 megabits a second to 40 megabits a second to cope with the additional demands brought about by the introduction of the electronic Committee pack system and the overall increased use of Internet services. The additional cost to flex up to 40 megabits a second was £5,180 per annum.

The Information Systems Office closely monitors the performance and availability of the Internet service, and the current connection is performing well, with no major delays or congestion detected. The Assembly Commission has, however, approved the

procurement of an additional independent connection for Parliament Buildings to provide contingency arrangements for business-critical procedural and corporate systems that are reliant on Internet connectivity. That will effectively double the Internet bandwidth available from 40 megabits to 80 megabits.

**Mr Principal Deputy Speaker:** Order. Time is up.

## Assembly Business

**Mr Sheehan:** On a point of order, Mr Principal Deputy Speaker. During my question to the Minister for Social Development earlier, he referred to people on the housing waiting list as being unionist or nationalist. It is my understanding that the Housing Executive does not use those designations. Do you, therefore, not consider it to be inappropriate for the Minister to use those designations in the Chamber?

**Mr Principal Deputy Speaker:** I have a view that that is not a point of order. I noted that comment and, in my view, it was quite clear that there was no attempt to mislead the House; it was an expression. I accept your point about the correct designations. However, on the basis that there was no attempt to mislead the House in the discussion and that it is an expression that I am sure we have heard from time to time, that is not a valid point of order. Thank you.

*(Mr Speaker in the Chair)*

## Questions for Urgent Oral Answer

### Environment

#### DVA Job Losses

**Mr Speaker:** Mr Cathal Ó hOisín has given notice of a question for urgent oral answer to the Minister of the Environment. Once again, I remind Members that, if they wish to ask a supplementary question, they should rise continually in their place. The Member who tabled the question will automatically be called. The Minister approached the Table because he is keen to get more time to answer the question, which I can understand, given the nature of the question.

**Mr Ó hOisín** asked the Minister of the Environment to outline what steps he has taken, including any discussions with the Minister of Finance and Personnel, to ensure that the 300 Driver and Vehicle Agency workers will be retained within the Civil Service.

**Mr Durkan (The Minister of the Environment):** As Members are aware, the Secretary of State for Transport announced on 13 March that vehicle licensing services for motorists in Northern Ireland are to be centralised in Swansea. From July this year, the Department for Transport, which has responsibility for this excepted matter, intends to replace the Northern Ireland IT system for vehicle licensing with the system used in GB. That will extend online and enhanced Post Office services to Northern Ireland.

Those services, which have been available in Britain for a number of years, could have and should have been provided to motorists here many years ago. However, rather than investing in Northern Ireland, the Driver and Vehicle Licensing Agency (DVLA) in Swansea continually refused to develop the required technology to enable motorists here to have the same level of access to vehicle licensing services that has been available in Britain.

The decision to centralise will result in the closure of all DVA's vehicle licensing offices in Coleraine, Belfast, Ballymena, Derry, Omagh, Enniskillen, Armagh and Downpatrick. The work of and funding for over 300 jobs will be lost. This is a devastating blow for all the hard-working staff of the DVA and their families, as well as for motorists in Northern Ireland, who have received a first-class service from the

DVA. I have no doubt that the standards of service will diminish when DVLA tries to deliver services remotely from Swansea. During the public consultation on these centralisation proposals, the motor trade and the motoring public demonstrated their overwhelming support for retaining the local delivery of vehicle licensing and confirmed their high regard for the DVA's work.

I am bitterly disappointed and angered by this decision, which represents nothing more than a narrowly focused cost-cutting exercise that was made at the expense of high-quality public services and jobs and to the detriment of our local economy. I am also extremely angry by the timing of the announcement. In spite of assurances from Ministers in London that I would be informed in advance of any announcement, and notwithstanding that I made myself available to discuss this critical issue with London Ministers at any time, it is disgraceful that the announcement was made while I was out of the country and that officials were informed of the announcement only the night before.

I am grateful for the support that I received from Executive colleagues, Members across the House and other public representatives. I also readily acknowledge the efforts of the DVA staff and their trade union. Customers and other stakeholders also played their part in making their opposition to centralisation in Swansea abundantly clear during the public consultation on the DVLA plans. However, although we are all bitterly disappointed by this decision, I do not believe that there was anything further that we could have done to turn Westminster from this misguided decision because of their blinkered focus on short-term financial gain.

My primary responsibility will now be to bring some certainty to the affected staff in the DVA regarding their future employment. I have already written to Executive colleagues seeking their assistance in identifying possible alternative work that could be located in the affected areas. I do not underestimate the difficulties in finding new work for staff, but I am confident that my Executive colleagues will work with me in seeking a solution. There are opportunities to make use of a well-trained and highly committed workforce with a proven record of customer service and achievement.

Obviously, the problem will be greatest for Coleraine, but, although the numbers are small in the other areas with local motor tax offices, I appreciate that the opportunities for redeployment to other posts in the Civil Service will also be greatly restricted in some places.

Finally, in trying to resolve the staffing issues that have been created by this unwarranted decision to centralise all this work in Swansea, I have already made it very clear that I expect the DVLA and the Department for Transport to provide whatever level of financial assistance is needed to facilitate the transfer of work or the redeployment of staff. I intend to do everything possible to ensure that London and Swansea face up fully to the consequences of this decision.

**Mr Ó hOisín:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as ucht an fhreagra sin. I thank the Minister for his answer, and I accept that he acknowledges the hurt and pain that have been caused by this move to staff and, indeed, to their families. What efforts did the Minister and his predecessor make with British Transport Minister Hammond and others to devolve the DVA to Coleraine and its responsibilities to the Assembly? I also understand that a meeting with Minister Hammond had been organised for last week. That did not happen, as I further understand it. Was that meeting scheduled to have informed the Environment Minister of the impending jobs cuts? Indeed, when and where was he informed of them?

**Mr Durkan:** Go raibh maith agat as an cheist sin. As regards my being informed of the decision, not last Wednesday but the Wednesday before, I was told that Stephen Hammond would be phoning me at 3.30 pm. He was called into a long meeting. It was a very long meeting; I did not hear from him for eight days, despite my efforts to make contact with him. That is completely unacceptable.

As regards the devolution of vehicle licensing powers, I and my party support the devolution of taxation and fiscal powers. However, such has been the neglect of DVA here by DVLA, the cost of having that devolved at this moment would be too great because the IT system was allowed to run down so far. As well as the cost of providing the service from Northern Ireland, we would be talking millions of pounds. That is without even considering whether the willingness was there to devolve this from London. Any attempt that I made to ascertain whether it is was met with a negative response.

**Mr G Robinson:** Will any consideration be given to the financial impact not only on DVA staff but on local car dealers and Translink's ability to de-tax 700-plus buses over the school summer holidays due to the ill-conceived and ludicrous proposal to close DVA offices in

Northern Ireland by an uncaring Westminster Government?

**Mr Durkan:** I thank you, Mr Robinson. The Member described the decision as ludicrous. The more we hear about it and the impact it will have, the more ludicrous it will seem. I am sure that as every Member stands up here today, it will seem more and more ludicrous. The wider impact on the motor trade was addressed in the submission that I made to Westminster on this. On the issue about the buses, I believe that Translink itself responded to the consultation to flag up that issue.

**Mr Dallat:** I thank the Minister for his comprehensive response and an indication of his indignation at how he was treated. The Minister was not in Coleraine last Thursday to see at first hand the hurt, distress and sense of bewilderment that this had happened. Will the Minister go back to Coleraine to meet those workers face to face and will he do it after he has spoken to the First Minister and deputy First Minister, who were given some kind of indication from the Prime Minister that he would deal with it? Sadly, regrettably, disgracefully he was in Israel talking about the peace process —

**Mr Speaker:** I urge the Member to come to his question.

**Mr Dallat:** Yes. I just want to thank the Minister for his solidarity with the workers and for refusing to accept that it was a done deal from the beginning. Will he go back to Coleraine? Will he meet those people face to face?

**Mr Durkan:** I thank Mr Dallat for his question. The anger that I feel and have expressed about the manner in which I was informed of this decision is not because of some slight to me or disrespect for my post as Minister of the Environment in the North. My anger is that I was not here and was not able to be in Coleraine last Thursday morning with the workers to give them any assurance that I could that we will not be abandoning them despite the fact that the British Government have clearly abandoned them in this case.

**Mr Elliott:** I thank the Minister for that. I thank the Minister and his predecessor for the way that they tried to help the people in Coleraine and throughout Northern Ireland. For those members of staff who are fortunate enough to be redeployed to other Civil Service posts, what is a reasonable and acceptable distance, and one that is felt appropriate within the Civil Service regime, that they would be expected to travel?

4.15 pm

**Mr Durkan:** I thank the Member for his question, which is extremely pertinent. A lot of the workforce, the bulk of whom are located in Coleraine, have caring responsibilities. Many of them work part-time, so a reasonable travel distance will be not that great a distance. I and my Executive colleagues have to be creative in looking not at what work staff can be redeployed to but at what work can be redeployed to staff. That is a point that I will be making to staff when I visit them in the coming days.

**Mr Dickson:** Minister, I thank you for your answer. We recognise the loyalty of the staff in the DVLNI. It is very difficult for those jobs to be redeployed. I am talking about not only the large number of jobs in Coleraine, which you highlighted, but the DVLNI jobs in other parts of Northern Ireland. Moreover, there will be a great deal of inconvenience to the general public. What action will you be taking, if you have accepted that the decision is a fait accompli, to inform the public of how the transition will take place?

**Mr Durkan:** I thank Mr Dickson for his question. The public cannot have failed to be made aware that this transition will be taking place. It is extremely important that we ensure that the transition is as smooth as possible. Given the experience of other jurisdictions after the centralisation of their services, however, I anticipate this transition being far from smooth. The stay of execution that they have given us by making one service available until July but keeping the offices open until December will largely be to deflect the blame for the roughness of transition on to the DVA and this devolved Assembly.

**Mr McCallister:** The consultation process period has been the one time that the Assembly has spoken with a united voice in expressing its opposition to the proposal. I commend the cross-party approach and the commitment of the workers affected up in Coleraine for garnering that support.

What plans does the Minister have to bring together all the stakeholders — his Ministerial colleagues, the local council and all the interested parties — to see what can be done about redeployment across government? Will he encourage private sector investors to come in, and will he hold to his very strong commitment to ensuring that the UK Government step up to the plate and help out financially?

**Mr Durkan:** I thank the Member for the question. As I stated, it is vital that we retain the unity that we have had thus far. It is a matter that has unified the House, and that has given heart to employees up there. Despite the bad news that they received last week, it still gives them heart. They have been given heart by the fact that there is something that we can agree on and work on for them. It is that that will ensure that we keep working for them to make their opportunities hereafter as good as possible.

**Mr Allister:** I commend the workers in Coleraine and elsewhere for the very tenacious campaign that they and their union led. The failure is not theirs; the failure is of government to listen and of politicians here, despite their best endeavours, to persuade.

When the Minister reflects on the decision, is there any part of him that embraces the unthinkable, which is that, when a devolved institution such as this wishes to drag its feet on something such as welfare reform, it makes it much more difficult for it to persuade Westminster on other issues on which we are looking a favour?

Since these people do not work in the Northern Ireland Civil Service, how can the devolved institutions afford to them transfers into the Northern Ireland Civil Service?

**Mr Durkan:** It is evident who failed and it is also evident whom they have failed: the workers. I spoke about the success of the campaign in unifying the Assembly, which it did. Ultimately, and sadly, the campaign to save the jobs has not been successful. I see where the Member is coming from by tying this matter into something like welfare reform, but it is quite pertinent that, if we are not able to get them redeployed or if we are not able to find work to go to Coleraine for them, many of those staff will find themselves seeking benefits and help from government. Should welfare reform go through as proposed, quite a lot of them would not be able to get that help for at least a year.

**Mr Storey:** I think that we all share the frustration, disappointment and anger at last week's statement. I know that those affected in my constituency in Ballymoney, Bushmills and the surrounding areas who work in County Hall are very concerned.

The Member for East Londonderry asked the Minister to go to Coleraine. Will he ensure, before he goes there, as he said, that he will bring some certainty to the staff affected? We

all want to be there to give support, but we do not want to give the staff in County Hall a false sense of security and hope. We want to be able to deliver something that is real and tangible and that is done in a shorter time frame than the disgraceful delay in the announcement that was made.

**Mr Durkan:** I certainly would rather be able to provide that certainty. As I said, I have also initiated conversations and communications with my Executive colleagues, facilitated in many cases by the MP for East Derry. He, like all elected Members for that area and in this House, wants to get this sorted out. We want to be able to give that certainty; we want to be able to give some sort of assurances to the people there. The assurance for the immediate future that we can give them today is that we have not forgotten about them and that we will not forget about them.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as na freagraí sin. I thank the Minister for his answers and for showing the passion that he has on this subject. What lessons are there to be learned when such decisions are made in Westminster? What weight do they put on the people who live here in the North? What weight will he put on anything that Stephen Hammond tells him from here on in?

**Mr Durkan:** I think that it says a lot about what weight Westminster puts on what happens here in the North. It says a lot about what weight they put on us as a devolved institution when our First Minister and deputy First Minister have raised this issue on three occasions with the Prime Minister. We were assured that this decision would be taken at the highest political level. I do not know whether the Prime Minister is the highest political level in England, but it is certainly not a good decision or a popular one.

As for the lessons we can learn, I think that we can learn a lot from how we approached it by doing so together. I also think that a lesson that the House as a whole has learned is one that some of us on one side of the House might have learned long ago about what value you can place on words from certain sources.

**Mr Swann:** I thank the Minister for his statement. The major bulk of the job losses are in Coleraine. The Minister talks of being creative and seeking support from other ministerial colleagues and writing to people across the water asking for more financial support, but what assurances can he give the House that any support and further

underpinning for the jobs in Coleraine will also apply to employees in the smaller offices in the likes of Ballymena?

**Mr Durkan:** I assure the Member that in no way do I intend or have I attempted to differentiate between employees in any location. However, given that the majority of these employees, 240, are located in Coleraine, that is where most of my answers have been focused. The economic impact on Coleraine will obviously be crushing, but I recognise fully the impact that this decision will have on individuals, families and other towns across the North where services have been withdrawn. As I said, however, I intend to treat all the staff equally and give them all the same equality of opportunity.

## Justice

### Desertcreat Training Facility: Update

**Mr Speaker:** Mrs Sandra Overend has given notice of a question for urgent oral answer to the Minister of Justice. Again, if Members wish to ask supplementary questions, they should rise continually in their places. Mrs Overend will be called automatically.

**Mrs Overend** asked the Minister of Justice for an update on the development of the police, prison and fire officer training centre facility at Desertcreat, Cookstown.

**Mr Ford (The Minister of Justice):** Within the past week, the programme board was made aware that the preferred bidder was experiencing a number of cost pressures in the supply chain regarding the tender to build the new Northern Ireland community safety college at Desertcreat. There were a number of media reports on the issue, but the position remains that the preferred bidder has not withdrawn its tender and discussions between the preferred bidder and the programme team are ongoing. It would not be appropriate for me to comment any further on those discussions because of the commercial sensitivities.

**Mrs Overend:** I thank the Minister for that response. Not only does the training of police and other community safety personnel deserve better but so does the local economy of Cookstown and the surrounding area, which has been very enthusiastic about the opportunities that this project brings to Desertcreat and the whole area. A strong message of support is required of the Minister, so I will say to him that, in taking this project

forward, it seems that the options are either to cut back on the cost of the project, which may mean that it is no longer a state-of-the-art project, or to find the additional money to fund the project as it is. What is the Minister's preference, and what is the likelihood of the project needing to be re-tendered?

**Mr Ford:** As I said, the current process is under way. On the specific issue of functionality, which Mrs Overend raised, a significant amount of cost — something in the region of £20 million — has been taken out recently, but the programme board has assured me that that has not affected the functionality of the college. It has simply been a question of dealing with matters to get the best possible value for money. It remains my commitment to ensure that we get that integrated college in place.

**Mr Givan:** The design team, Perkins and Will, has cost in the region of £8.5 million, £6 million of which has been paid already. That company has admitted failure on its part in underestimating the costs. What assurances has the Minister received that this project can be delivered, given that the cost now stands at £157 million when originally it was £140 million? Does he share the view of Judith Gillespie, who is in charge of the project, who told the Committee for Justice back in August that she remained convinced that it was still a viable programme? Does he share that optimism?

**Mr Ford:** Mr Givan and other members of the Justice Committee will have the opportunity to have discussions with the new chair of the programme board, Mr Finlay, and others at Thursday's Committee meeting. I will perhaps leave it to them to explore the detail of it. I share the Member's concerns about the inability of consultants to get their work right, and I understand that the programme board is taking legal advice on that particular issue.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as na freagraí sin. I thank the Minister for his answers thus far. In his opening remarks in answer to the question, he said that the preferred bidder had not withdrawn its bid. Has the preferred bidder given any indication that it cannot proceed with the current costs?

**Mr Ford:** I need to be careful about the commercial sensitivities. It is my understanding that a statement was made last week by somebody who had connections to one part of the consortium and which was rejected by the consortium as a whole. That is why the



process is still under way. Clearly, however, that will be teased out over the coming days.

**Mrs D Kelly:** Can we afford not to build the police college, given that each of the services that have bought into sharing the site require their facilities to be upgraded? Perhaps the Minister could give us an indication of the budget that was set aside for that work and whether the budget would be sufficient to meet modern standards.

**4.30 pm**

**Mr Ford:** Again, I am afraid that Mrs Kelly is encouraging me to get a bit too close to the commercial sensitivities. However, Members are aware, as I have just said to Mrs Overend, that in the region of a £20 million cost has been taken out, in the discussions that have proceeded with the preferred bidder, to ensure that the costs can be fitted within the available budget and that we still have a college that is fit for purpose and meets the needs of all three services. I cannot speak for the Fire and Rescue Service, which is the responsibility of the Minister of Health, Social Services and Public Safety, but it is clear to me that the Police Service needs something better than its current facilities at Garnerville and that the Prison Service needs something better than its current facilities at Millisle. There were and remain real opportunities to get a world-class facility to meet the needs of the three services together, and that will clearly be of major benefit to Northern Ireland.

**Mr B McCrea:** Minister, how can you take £20 million out of a project and say that you will still get the same functionality?

**Mr Ford:** With respect, that is a question for the programme board, not for me. I have outlined, at different times, parts of the work that is being done to reduce that. For example, some of the roads that were planned were planned for a higher standard than was necessary for their actual use in training, as opposed to how a similar road would be constructed for public use. A number of different initiatives around that have shown that it is possible to take that money out to satisfy the programme board that functionality is not lost, but it will be a matter for the programme board to give answers on the detail of that question.

**Mr Allister:** Minister, does the problem not go back to the fact that the preferred bidder was given the flexibility to reprice the job? Other bidders were unable to come anywhere near what they claimed they could do, and they then

had to price it back into reality. Should it not have been re-tendered then? Is that not the mistake that was made? Will that mistake now be rectified?

**Mr Ford:** I repeat to Mr Allister that the process is under way and that this is not the time to do anything. He said that the preferred bidder was given the opportunity, as he describes it, to re-tender, but it was not exactly that. It was a matter of discussion with the preferred bidder about elements of the contract that did not affect the functionality, to make reductions in the various bills of quantity. That was entirely in line with legal advice and was advised to both Departments and to the programme board as the best way forward.

**Mr I McCrea:** The Minister will be aware that part of the reason that the £20 million had to be cut off the tender was down to the miscalculating of the tender in the first place. So, it is maybe not the case that £20 million was cut off but more that it was the wrong figure to start with. Can the Minister assure the House and the people that, given that the economy will be affected in my constituency, a full investigation will be carried out into why we have got ourselves into this mess? Can he give any reason why it was not re-tendered in the first place when the mess was found?

**Mr Ford:** I share the concerns that Mr McCrea and other constituency Members have about the scheme as a whole. He describes the issue as the "mess". As I said, the specific issue of the consultants having failed in their duty is now a matter for potential legal concern between the programme board and those consultants. However, the issue of how the programme board then proceeded was in line with advice from senior counsel as the best way to move forward given that the tenders that were submitted were significantly higher than had been indicated by the consultants as an appropriate cost. That is the current position, and that is how work is continuing at this time.

**Mr Elliott:** I thank the Minister for the update. Some months ago, it was indicated that unless the contract was signed at that stage, the terms would have expired. As I understand it, the contract was then agreed. Can the Minister indicate whether — I know that he is reluctant to do this — there is a requirement for a re-tendering process at the moment? A simple yes or no.

**Mr Ford:** No.

**Mr Wells:** Minister, is the real scandal not that the consultants responsible for the debacle have continued to be paid? Throughout all the warnings that your Department received, they still got their money. My understanding is that not only will the preferred bidder withdraw but the second-placed bidder is making it clear that his company will not stand by the next lowest tender. What happens if those issues become evident?

**Mr Ford:** I am not sure exactly what bills were paid by the programme board to the consultants. Mr Wells seems to be better informed on that than me. Similarly, given that I have said that the current process is under way with the preferred bidder, it is not for me to comment at this stage on what might happen should the preferred bidder withdraw. There are issues that clearly need to be examined, and that is a matter for the programme board. The current position remains that the preferred bidder has not formally withdrawn.

**Mr A Maginness:** There is a feeling of bewilderment outside the Assembly that we are in yet another mess with a big capital project, yet the consultants who assisted in and advised on the project have received £6 million. Are we living in the real world, if people who mess up get £6 million? Will the Minister assure the House that the £6 million will be retrieved from those consultants?

**Mr Ford:** We all share concerns about the consultants who so grossly underestimated the cost of the scheme. However, we need to be very careful about exactly how much was spent and on which consultants. I do not think that those responsible for that error have been paid £6 million. Let us not exaggerate the problem, which is clearly a significant one, with regard to that group of consultants.

**Mr Speaker:** That concludes this item of business, and I ask the House to take its ease while we change the top Table.

## Executive Committee Business

### Local Government Bill: Consideration Stage

#### *Clause 2 (Constitutions of councils)*

*Debate resumed on amendment No 1, which amendment was:*

In page 1, line 14, leave out "council's code of conduct" and insert

*"Northern Ireland Local Government Code of Conduct for Councillors".— [Mr Durkan (The Minister of the Environment).]*

*The following amendments stood on the Marshalled List:*

No 2: In page 1, line 17, after "that" insert "from 30th April 2015".— *[Ms Lo (The Chairperson of the Committee for the Environment).]*

No 3: In page 1, line 17, after "available" insert "on its website and".— *[Mr Elliott.]*

No 6: In clause 10, page 5, line 25, leave out "subsection (1)(f)" and insert "this Act".— *[Mr Durkan (The Minister of the Environment).]*

No 7: In clause 10, page 5, line 26, leave out "prescribed public body or other association" and insert "public body".— *[Mr Durkan (The Minister of the Environment).]*

No 20: In clause 46, page 25, line 37, leave out line 37 and insert -

*"(7) So far as is reasonably practicable, a council shall facilitate—".— [Ms Lo.]*

No 21: In clause 48, page 27, line 28, after "must", insert -

*"as soon as is reasonably practicable".— [Ms Lo.]*

No 22: After clause 48, insert -

#### **"Audio recording of meetings**

**48A.—(1) So far as is reasonably practicable, a council must make an audio recording of so much of any meeting of the council as is open to the public and the recording must be**

available to the public at the offices of the council until the expiration of the period of six years from the date of the meeting and published on the council website until the expiration of the period of two years from the date of the meeting.

(2) This section does not apply in relation to meetings of any committee or sub-committee of the council.— [Ms Lo.]

No 23: In clause 49, page 28, line 18, at end insert -

"(6) A council must put on its website any document which is open to inspection under subsection (1)."— [Ms Lo.]

No 24: In clause 58, page 33, line 17, at end insert -

"(1A) Instead of, or in addition to, conducting an investigation under this section, the Commissioner may take such action as appears to the Commissioner to be desirable to deal with any particular case falling within subsection (1)."— [Mr Durkan (The Minister of the Environment).]

No 25: In clause 62, page 36, line 36, at end insert—

"(13) A person who is censured, suspended or disqualified by the Commissioner as mentioned in subsection (3) may appeal to the High Court if the High Court gives the person leave to do so."— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 26: In clause 62, page 36, line 36, at end insert—

"(14) An appeal under subsection (13) may be made on one or more of the following grounds—

(a) that the Commissioner's decision was based on an error of law;

(b) that there has been procedural impropriety in the conduct of the investigation under section 58;

(c) that the Commissioner has acted unreasonably in the exercise of the Commissioner's discretion;

(d) that the Commissioner's decision was not supported by the facts found to be proved by the Commissioner;

(e) that the sanction imposed was excessive."— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 27: In clause 63, page 37, line 29, at end insert—

"(9) A person who is suspended (or partially suspended) by the Commissioner by notice as mentioned in subsection (1) may appeal to the High Court if the High Court gives the person leave to do so."— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 28: In clause 64, page 37, line 37, leave out from "and" to the end of line 38.— [Mr Durkan (The Minister of the Environment).]

No 29: In clause 64, page 38, line 5, leave out from "and" to the end of line 8.— [Mr Durkan (The Minister of the Environment).]

No 30: In clause 64, page 38, leave out subsection (6).— [Mr Durkan (The Minister of the Environment).]

No 31: In clause 67, page 39, line 23, leave out subsection (2).— [Mr Durkan (The Minister of the Environment).]

No 32: In clause 67, page 39, line 28, leave out "Commissioner" and insert "Department".— [Mr Durkan (The Minister of the Environment).]

No 33: In clause 67, page 39, line 28, leave out

", with the approval of the Department of Finance and Personnel,".— [Mr Durkan (The Minister of the Environment).]

No 34: In clause 67, page 39, line 30, leave out from "may be prescribed" to the end of line 35 and insert

"the Department, after consultation in accordance with subsection (3A), considers appropriate.

(3A) The Department must consult—

(a) councils; and

(b) such associations or bodies representative of councils as appear to the Department to be appropriate,

*about the manner in which the amount mentioned in subsection (3) is to be apportioned.*

*(3B) The Department may deduct from any grant payable under section 27A of the Local Government Finance Act (Northern Ireland) 2011 to a council for a financial year the amount apportioned to it under subsection (3).”— [Mr Durkan (The Minister of the Environment).]*

No 35: In clause 68, page 40, line 11, at end insert -

*"(5) Where a councillor who is suspended otherwise than partially or is disqualified under this Part is also a member of any other public body (whether as an external representative of the council or otherwise), the councillor is also suspended or disqualified from being a member of that body and any committee or sub-committee of that body.*

*(6) Any reference in this Part to a councillor being partially suspended from being a councillor includes a reference to the councillor being partially suspended from being a member of any other public body of which the councillor is a member (whether as an external representative of the council or otherwise) and the reference in subsection (2) to particular functions or particular responsibilities as a councillor includes particular functions or particular responsibilities as a member of that body.”— [Mr Durkan (The Minister of the Environment).]*

No 83: After clause 123 insert

*"Council websites*

### **Council websites**

*123A. The Department must by regulations specify a standard format for the domain names of council websites.”— [Mr Elliott.]*

No 91: In clause 125, page 70, line 27, at end insert

*"( ) section 51;*

*( ) section 54;”— [Mr Durkan (The Minister of the Environment).]*

**Mr Speaker:** Before we resume the debate, I advise Members that a valid petition of concern has been submitted in relation to amendment Nos 37 and 63 to 66, which means that they

require cross-community support. The petition was tabled today, so I cannot put the Question on amendment No 37 until tomorrow.

Therefore, if we reach that point before 10.00 pm, proceedings on the Bill must stop must stop after amendment No 37 has been moved formally, which would happen shortly after the end of the debate on the fourth group. I hope that that is very clear, which, from looking at Members, it seems to be. Really what I am saying is that, because of the petition that has been presented today, the vote cannot be taken until later. That is provided that we reach amendment No 37 this evening. I am warning the House about the particular issue and about what the petition of concern really means for that part of the Bill.

**Mr Kinahan:** I welcome the chance to speak in support of my colleague on the amendments from the Ulster Unionist Party, amendment Nos 3 and 83. It is good to see the Bill at this stage. As my colleague said, it has taken 14 years to get here without many of the intentions that were meant to be part of it.

If I can be a little bit of a curmudgeon, as someone in the Chamber has referred to me before, I feel that we have been hurried into having the debate. We rushed the Planning Bill a few years ago, and it has been sitting on a shelf for some two and half years. In future, we need to be given more time so that we can look at our amendments at greater length.

As far as amendment No 1 is concerned, it is good that the Minister is bringing in a Northern Ireland local government code of conduct for councillors. That is absolutely the right way to go forward. When I was a councillor, there were times when I concerned that we seemed to be giving moneys to groups that councillors sat on. There were there quite rightly, but I think that it needs to be more transparent. Certain actions are also taken by councils whereby they help one or two bodies to set up and do something and then compete against them. The code of conduct really needs to be clear and well argued.

I welcome amendment No 2 and the idea that it should be in place by 30 April. I just hope that, in this case, we are better at sticking to our deadlines than we are at achieving things. However, it is right to have a time frame to work to.

Amendment No 3 is our amendment and, of course, I welcome it. It is absolutely right in the modern world to publish background reports and papers on a website. That is the way forward and what we should all do.

There has been much discussion today about amendment Nos 20, 21, 22 and 23. Again, it is absolutely right that councils should be encouraged to have a Hansard or some type of recording of everything that goes on in their chambers; then we might not see things such as what happened last week with Linfield scarves or what happened in the Committee for Social Development last week. It is right because it will allow the public to see exactly what goes on in councils and judge for themselves. In my day on Antrim council, that was important. During the many times that we discussed it, I was intrigued that it was the DUP that wanted everything to be opened up, so I find it strange today that that party is a little uneasy with everything being recorded. I agree with them about photographs. In fact, if a photograph is taken in the chamber and someone's eyes are closed, that does not mean that they are asleep. If it is on film, at least you can see that they are not as time goes on.

We need to encourage all councils always to record matters. That is the right way forward. Going back to the issue that has been debated, there is a cost. Doing things properly, whether it is filming, recording or other things, means that we will need to spend money. One colleague has mentioned a figure of, I think, £170,000 for a council to do all its recording, publicity and everything that goes with it. It is not just as straightforward as it may seem. We will oppose amendment Nos 20 and 22 and support amendment Nos 21 and 23.

It seems wholly right that the commissioner should be able to deal with any investigation that he feels necessary. It is absolutely right, therefore, to support amendment No 24.

Moving on to amendment Nos 25, 26 and 27, it is also right that any councillor who has committed a wrong should be disciplined, but it is just as right that that same councillor has a right of appeal. Therefore, it seems good that the Committee has found a way forward by referring it all to the High Court. However, I wonder whether we have looked at what the consistency of disciplinary results for councillors who break the code should be. A similar approach should be taken in every council in Northern Ireland. The Ulster Unionist Party supports those amendments.

Amendment Nos 28, 29 and 30 deal with clause 64. It seems right that, if everything is referred to the Minister's Department, the Department should pass on the suitable ones to other Departments. I was going to suggest that, but the Minister had already come up with it. We must ensure that that happens.

#### 4.45 pm

Moving on to amendment Nos 32, 33 and 34, I can say that it also seems right to give the power to the Department for the commissioner to apportion the share of costs among councils and for him to discuss it with the councils. However, I wonder whether we should also put a mechanism in there that is not quite of appeal but that means that there is not just discussion with councils on it but actual agreement.

Amendment No 83 is our amendment. Of course, I support it, but it seems vital that all councils have the same domain names and that there is some standardisation of those names. If you are a bit of a technophobe like me, it is nice to find easy ways to be able to find somebody if you know that they all have a similar name. Would it not just be wonderful for the public to be able to easily look up any MLA, councillor or anyone working in a council because they would not have to think too hard about how to find them? I think that it is absolutely right that we have some standardisation throughout all councils.

Lastly, moving on to amendment No 91, it is also right that all those sections come back to the Floor.

**Mr B McCrea:** A number of colleagues said that they are either surprised or a little worried about the fact that the Bill has got to this stage. I am looking at the amendments, and one of the things that is particularly concerning me is the number of amendments that the Committee have not had the opportunity to scrutinise. We have, perhaps understandably, some amendments coming in from the Ulster Unionist Party — amendment Nos 3 and 83 — but we also have amendments coming in from the Alliance Party. I would have thought that the Chair of the Committee, who is an Alliance Party Member, might have been able to introduce those amendments earlier so that they could get a bit of consideration from the Committee and the benefit of its wisdom.

I am also concerned about the amendments —

**Ms Lo:** Will the Member give way?

**Mr B McCrea:** Yes.

**Ms Lo:** I brought up a number of issues to the Committee, including audio recording, and I did not get much support from it.

**Mr B McCrea:** Thank you for the clarification, Ms Lo. The issue is that it is part of the process

that we have proper deliberation and debate. I think that it was Mr Elliott who said that it was regrettable that we had only a few days to have sight of the Bill before we could table amendments. There is some cause for concern in that. I share with him that we seem to have taken a long time to get here, but now we are under a lot of pressure, so we are having to push our way through. Given the late sitting that is in prospect for the House tonight, and, no doubt, for tomorrow, I am sure that that is not the ideal way to deal with legislation of this importance.

I will come now to the Alliance Party amendments. I have to say that I am really surprised that the DUP, in particular, seems to be against openness and transparency. I hope that the Member does not mind me saying, but I think that she has probably not gone far enough with openness and transparency in the things that are being proposed. I realise that her colleague Mr Dickson made an intervention suggesting that, at Further Consideration Stage, we should look further at that. I assure him that he would certainly have our support in that.

I do not understand what the problem is when we are saying that we do not want to have cameras in place in councils, but we are quite happy to have them in place in this Chamber. As I speak now, Mr Speaker, this is being streamed to the Internet, and, no doubt, there will be people looking to see what is being said in this Chamber. I think that that is a wholly good thing for those people who are sufficiently interested —

**Mr Weir:** I thank the Member for giving way. Again, the Member seems to be slightly conflating two issues. We referred to the openness and the level of recording as being two separate issues. He talks about cameras. This is not a question of whether there is a video recording taking place, because there is nothing in the legislation to preclude that. The issue is somebody taking photographs, which is something that is prohibited in this place. When he talks about cameras, he is talking about two different things: the official recording of something and whether a member of the public is taking photographs, which, as has been indicated, may be taken out of context or used to misrepresent the situation.

**Mr B McCrea:** I am grateful to the Member for his intervention. Perhaps better drafting of the Bill or the amendments could have dealt with that, because, taking on board that concerns have been raised about people being distracted or photographs being used in the wrong way,

there is a principle about having more openness and accessibility for the public, if we are serious about it.

One of the points that was brought up in dealing with amendment No 22, I think by the Member himself, related to what this might cost. The Northern Ireland Audit Office reports that councils in Northern Ireland are responsible for £800 million of expenditure per annum and 9,700 staff and utilise assets worth £2,000,000,000 — £2 billion. When I looked in the report to see which councils had the highest debt, it became obvious that it was North Down Council with £36.9 million. I am sure that the Member is familiar with that. Given those sums, we should be looking at investing in engaging the public in making decisions that are appropriate and important to them.

When it comes to the articles here present, I asked Ms Lo a question, although I am not sure if it has been properly dealt with. In amendment No 22, she specifically removes committees and subcommittees. Proposed new clause 48A(2) states:

*"This section does not apply in relation to meetings of any committee or sub-committee of the council."*

Her colleagues have said, "Yes, we're going to have a look at that". I wonder if it had anything to do with any representations made by the NILGA, or whatever, saying, "We cannot have open and frank discussions" or "We can't do this properly if we are on record". I find that a strange position to take. What conversations will Members or members of councils have that do not bear public scrutiny? I cannot think of anything that I would want to say that I would not say in public. This is not the time to be having decisions made behind closed doors; we need openness and transparency. I am at a loss, and I am happy to give way if any Members of the DUP would —

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

**Ms Lo:** Will the Member give way?

**Mr B McCrea:** I will take ladies first; I will take the Chair first and then Lord Morrow.

**Ms Lo:** Thank you very much. In relation to audio recording not covering committees, we want to take the first step. Recording councils is very important. All decisions made there will impact on citizens in the district, and that is where transparency and accountability need to be seen. We believe that that is a start. As for

committees, I agree with Mr McCrea: we should not decide anything behind closed doors. I know that committees, generally, have minutes, but we feel that there needs to be a full record of everything that is said in full council, in detail.

**Mr B McCrea:** I will respond to that point first, and then, if Lord Morrow wishes to intervene, he is more than welcome. I am sympathetic to the position that Ms Lo puts forward. I understand where her heart lies on this point. However, I draw her attention to clause 50(1), which states:

*"Sections 46 to 49 apply in relation to a committee or sub-committee of a council as they apply in relation to a council."*

In other words, the generality of what we are saying is that all the minutes and other things are available. We are actually taking a position to exclude that, so, on reflection, we may want to revisit that point.

I was also taken by what the Alliance Party wants to amend in clause 46(7), which states:

*"Nothing in this section requires a council to permit —  
(a) the taking of photographs of any proceedings;"*

There has been some discussion about whether the taking of photographs is right or wrong and how the matter should be dealt with. However, the general principle of having video or online streaming or recordings of what is going on is wholly positive. I think that, when people can see it, that does impact on behaviour and the language that people use to one another. It should be done. I do not understand why people are concerned about it.

Clause 46(7)(b) is about councils not being required to permit:

*"the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later);"*

I think that it would be a positive thing if they were, which is why I will support the Alliance Party's amendment. We should do that. Put in whatever caveats you want to control it, but I think that that is a wholly positive statement. I am not sure exactly what the situation is in clause 46(7)(c), which is councils not being required to permit:

*"the making of any oral report on any proceedings as they take place."*

Perhaps that is to do with language, translations or whatever, but I am not sure. However, as a general point, that is something worth looking at.

I move on to the amendment tabled by the Ulster Unionist Party. It is unfortunate that people try to use this issue as a political football. In the charged political environment that we are in here, it is quite clear what people are talking about. Mr Kinahan said — I think that I quote him correctly, but I do not want to do him any injustice — that he is not as technically au fait as other people might be, and, therefore, it would be nice if he could find things quite easily. My understanding is that the way that most people find things is by using Google. You put in the name and see what comes up.

We are deluding ourselves if do not face up to the reality that this is not about naming convention but about cultural warfare or some sort of thing. This is about, "Is it going to be 'ie'? Is it going to be in Irish?" That is the reality that we are pretending not to talk about, but it needs to be talked about and discussed. When Members are tabling an amendment, I would prefer that they confront the situation rather than try to slip it in and say, "Well, we are doing this only for clarity".

I apologise to Lord Morrow. I said that I was going to let him intervene if he wished, but I forgot. I am more than happy to take an intervention. My apologies.

**Lord Morrow:** I thank the Member for giving way. I suspected that he had forgotten about me.

I do not know what councils Mr McCrea or Anna Lo have served on and what vast experience of local government they bring to this. However, there are Members sitting right around the Chamber today who bring a lot of experience of local government. Basil McCrea is maybe getting a wee bit lost. There was not an avalanche of members of the public coming into meetings of the council that I served on for some years. As a matter of fact, if you got 10 a year, that would have been rated as a high number.

There has never been any attempt to make councils some sort of clandestine meeting point, where all these major decisions are taken in a secret conclave or something like that. Meetings are open, transparent and there for

the public who want to come. After all, are the councillors not also there as gatekeepers on behalf of the ratepayers?

Mr Dickson made the point very validly and well — although I think that he was trying to emphasise another point — when he eulogised his own council and the amount of transparency that exists in its operations. It is no different in any other council. There is openness, transparency, freedom of information questions and everything else that is available, so I ask Mr McCrea and Anna Lo to take that on board. I noticed that both of them shook their heads, and Anna Lo, at least, said that she has no experience at all of how a council works. I do not know whether Mr McCrea can clarify what experience he has.

**5.00 pm**

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

**Mr B McCrea:** I am happy to clarify that I was elected to council in 2005 and that I served until 2011. His colleagues will testify to that point.

**Ms Lo:** Will the Member give way so that I can respond to Lord Morrow?

**Mr B McCrea:** Indeed.

**Ms Lo:** Thank you. No, I have never been in council. I came straight into the Assembly, but I certainly have heard plenty of complaints, particularly, for example, about Castlereagh.

**Mr B McCrea:** I am happy to accommodate the Chair in getting that on the record.

I am somewhat disappointed for Lord Morrow that there was not an avalanche of people who wished to come to his council to listen to him speak. I am sure that he has been quite entertaining. Maybe, given the pearls of wisdom that he quite often favours us with, if people got to hear more of what he has to say, they might become more engaged in these matters. We certainly had some very lively debates in Lisburn City Council, and hearing what had gone on would have been to the benefit of people.

I have to say that I think that you are protesting at the wrong things. We should have more open and transparent government, and the same standards that we have here for the Northern Ireland Assembly should apply to local government. I have absolutely no doubt that Members opposite have nothing to fear and nothing to hide, so why not let us see if we can

engage? It is not compulsory to watch the proceedings of the Assembly, but I can tell you that some people are doing it.

I also have to make one very important point that comes across when we make material available. Mr Boylan talked about the fact that the Committee had had the opportunity to review proceedings in some detail but that other Members might not. The benefit for me was that I was able to go and look at all the proceedings and the information that was available. I was able to go back and see what had been said, and I was able to read the Committee report. I found that entirely useful, and that is part of the process of having information available. It is good to have things on the record to find out what people have said.

The argument about the cost of audio recordings is almost like saying that elections are a bit expensive as well. This is an engagement in democracy. We should take the opportunity to make it open and transparent and say that we have nothing to hide; look at all the new things that we are going to be doing.

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

**Mr B McCrea:** I will.

**Mr McCallister:** Does he also agree that Lord Morrow is almost saying that we are setting the standards high enough as it is and that we do not need to go any further? We are devolving more powers to these councils, particularly in planning, which I am on record as not being supportive of. Is it not incumbent on us to ensure that, when planning in particular goes to councils, there is openness and transparency to ensure that that is all above board and is following the correct procedures and planning policies?

**Mr B McCrea:** I thank the Member for his contribution. One of the points that we will be looking at is that we may move to some form of Cabinet-style decision-making. The legislation proposes currently having only four members as a minimum, and you might get a situation in the future where four people make all the decisions but it is done behind closed doors and we are not allowed to go and find out what the thought process is.

I will give one other issue that I hope that colleagues will take up at Further Consideration Stage. I do not think that councils should be going into closed session for anything other than matters to do with an individual or a specific commercial activity. The press talk



about this incessantly and pick up on the fact that, in many councils, too much of our business is done behind closed doors. Too much of it goes through on the nod: you say that a report was accepted or whatever. We need more openness and transparency. We should put it all out there and let the citizens decide what is of interest to them, rather than trying to censor them.

When it comes to the issue about the commissioner, I am a little concerned about —

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

**Mr B McCrea:** Yes.

**Mr Eastwood:** Just before the Member moves off that particular point, can he tell us where it is envisaged that the meetings of the cabinet or executive would all be held in private? My understanding of the Bill is that they would be treated in the same way as a full council and that people would only go into confidential business on an issue such as he described.

**Mr B McCrea:** The issue is to do with the specific point on amendment No 22 as proposed by the Alliance Party, subsection (2) which states that the audio recordings of that are specifically not going to be made. Minutes are not always verbatim. Minutes are sometimes just consolidated and you get the resolution of the matters. I think that we should have all of it on the record. We should have an entire audio recording of everything that is said in public. Let us get it out there. Let us not duck the issue. What have we got to hide? Let us put it out there and go and talk —

**Mr Weir:** I appreciate the Member giving way. Obviously, the Member is a man who likes to practise what he preaches. In light of what he has said today about how nothing should be said in private that could not be said in public, and in light of some of the revelations that appeared last week, will he institute live video streaming or audio streaming of NI21 executive meetings?

**Mr B McCrea:** I am completely at a loss as to the point that the Member has tried to make. We are talking about public funds, public money and public accountability. If the Member cannot understand the difference, I am actually a little bit worried about that.

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

**Mr B McCrea:** No, I am not giving way. If you stand up and try to take it on, you must understand that you will get a response. That is not an appropriate response to come back with. All of us should be looking for openness and transparency. I think that it is absolutely appropriate that I can give —

**Mr Weir:** *[Interruption.]*

**Mr B McCrea:** Mr Speaker, I am trying to hold a conversation here that I am sure is not appropriate. I should be talking to you. I say for the record that there are issues regarding probity in public life where we should get as much information out as possible. I am really surprised that the DUP is not supporting it, and I wonder why. I have not heard a proper response to the matter.

I will move on to some of the issues that were brought forward by the Committee. It was quite telling that the Chair of the Committee mentioned — as, I think, did Mr Maginness — that when they were looking at the amendments relating to the commissioner, they had received strong legal advice to say that those amendments are not right. I may have got that wrong, but I did ask a question on it.

It seems to me that fairly standard clauses are brought forward about why you might want to have an appeal or whatever, and that is OK, but paragraph (e) in the amendment is the one that causes some concern. I do not understand why that was brought forward. Perhaps the Chair will be able to clarify whether the Committee had knowledge of a legal ruling or legal advice, or took legal advice, because it seems to me rather strange to bring forward a Committee amendment — admittedly, the Chair explained her position on it — that may not have the support of the legal system. Perhaps the Chair will confirm to me whether the Committee took legal advice on that matter or not.

**Ms Lo:** I am trying to remember. There are so many different issues, and we got several different pieces of legal advice. I do not think that we got legal advice specifically on that amendment, but we did talk at length with Mr Frawley, who came to give us his response to the Bill. He was quite adamant that his position could be undermined and it could make things very difficult.

**Mr B McCrea:** I thank the Chair for the clarification on that.

I have to say that amendment No 26, to clause 62:

"At end insert -

...

*(e) that the sanction imposed was excessive."*

— seems to me to be a move away from what would be the standard procedure. It does not seem to me to be helpful. I think that Members should not support that amendment.

I take on board the issue of the commissioner and the High Court and suchlike, although I am not sure that I really got it. What drew my attention to the fact, and perhaps the Minister will address it, is that he said in his opening remarks — at least according to Ms Lo's remarks:

*"the Minister's assurance that he ... intends to carry out a review of the role of the Commissioner for Complaints in three to four years' time, as he has previously indicated".*

I am not sure that that is a good basis to go forward on. Surely we should sort out now what the role of the commissioner is, rather than running it for three to four years to see what will happen.

So we have a situation where we have some amendments from the Alliance Party which seem to go in the right direction towards openness and transparency. However, maybe its Members have not quite had the time to develop them in full. We should have more time to look at that, or at least for people to come back and give us an argument why we should not do it.

We have some amendments from the Committee which at least some people in the Chamber have suggested could be challenged on a legal or constitutional basis. I would like further clarity on that. We have some amendments coming forward from the UUP, but I think that it is trying to play politics with the issue rather than trying to resolve the matter. Mr Kinahan shakes his head, but that is what I think he is trying to do.

**Mr Elliott:** I thank the Member for giving way. What is playing politics about trying to have something submitted to the council website on their plan? How is that amendment playing politics?

**Mr B McCrea:** The issue is about trying to prescribe a form and a language on these

issues. The argument, as I understood it — I may have got it wrong — was that it would help identification and the easy retrieval of information. Actually, what I have said — I may have got it wrong, but I do not think so — is that that is not what this is about. This is about trying to prevent some councils having one type of website or information or something in their own bit, and somebody else having something else. That may well be a reasonable argument and something that we want to do, but do not try to tell me that it is something else. Come out and tell me exactly what it is that you want to argue. I might well agree with your argument, but do not try to use a spurious argument. If the Member is looking to come in on that, I am happy for him to. Maybe not.

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

**Mr B McCrea:** I was going to give way; I just was not sure whether you were ready.

**Mr Elliott:** The Member should read amendment No 3, which states that we would insert on the website the council constitution. Given the openness and transparency that the Member is looking for, what is he opposed to in that amendment? What is politically advantageous about that? It is just a matter of putting it on the website.

**Mr B McCrea:** Perhaps the Member, since he is on his feet, may like to come back and explain to me his amendment No 83, which says:

*"The Department must by regulations specify a standard format for the domain names of council websites."*

That is an issue about that. There is the issue that was forwarded on those particular things. If it is not the case, I am happy to accept that it is not the case. However, I actually think there is a reasonable argument that the Member might have put forward on other things.

I will draw to a close, Mr Deputy Speaker, by saying that we have a series of amendments that have not been through Committee and, therefore, we have not had the benefit of its scrutiny; we have a number of amendments that have come in late; we have, in other areas, some petitions of concern; we have amendments brought forward by the Committee that do not have the support of the Chair and may face legal challenge; we have the fact that we can maybe have a go at this and, three or four years from now, see whether we can do a bit better. This does not seem to me to have

been clearly thought out or the right way forward. When I spoke at Second Stage, I said that we were in danger of devolving dysfunctionality.

In other words, if we cannot sort out what we want the councils to do, passing it down to them will not fix the problem; it will make matters worse. We need more time to consider this properly, and, perhaps, when we come to Further Consideration Stage, people will bear that in mind. We do not have sufficient time to do justice to this level of complexity. We need more time and more scrutiny. On the basis of what I see in front of me, I cannot support many of the amendments, with the exception of the Alliance amendments.

### 5.15 pm

**Mr Dickson:** I want to address amendment Nos 20 to 23, tabled by my party colleague Anna Lo. The amendments are genuinely designed to enable all citizens to inspect council records and to provide greater access to information about the actions of the new councils.

I thank Lord Morrow for complimenting Carrickfergus. In all honesty, I have to say that my experience of that council was good when it came to openness and transparency, within the limits that we had as one of the smallest councils in Northern Ireland. Council meetings, as was described by others, were always open to the public and the press. Only on very limited occasions, in the type of circumstances that is reasonably well known, did we not do so — for example, if we were dealing with a personnel matter for an individual member of staff or a group of staff, although trade union representatives were often present in the council chamber even then, or if we were dealing with financial or contractual matters that it would not have been appropriate to discuss in public. We even went to the extent of not excluding the press. Journalists from local papers were welcome to sit at their table in the centre of the floor. They knew when to put their pen down because they knew which business it was or was not appropriate to record for the public to read in the next week's paper. Sadly, in other councils and other places in Northern Ireland, openness and transparency were not always evident. We heard reference made, for example, to Castlereagh and other councils from which members of the press had been excluded on too many occasions.

We are trying to set a level playing field and make the standard available to all councils. We need to achieve that on behalf of all the citizens

of Northern Ireland. We want to make minutes, agendas and background papers accessible and use modern technology such as the Internet to our advantage, so that information can be distributed as quickly and widely as possible. Therefore, the amendments, if taken together, will, honestly, increase transparency and give better access to information.

Amendment No 20 alters clause 46, which can be read as prohibiting photography and live reporting, including social media. The current wording places no requirement on a council to permit those activities and is too strict and too open to interpretation. I agree with my colleague Mr McCrea that perhaps there is room to improve the wording, and we can come back and look at that at the next stage. Essentially, we propose that clause 46 be reworded to require a council to facilitate anything that is reasonably practical. In other words, councils can set their own guidelines and their own rules within the overall responsibility of allowing the freedom and openness for people to take photographs in a council meeting. Therefore, the use of flash photography and intrusive photographic methods can be prescribed locally. This is not about taking responsibility from councils; this is about giving responsibility to councils. A common legal phrase would allow the council to set the guidelines and include the refusal to permit anything that would cause a distraction. Therein lies the answer to the question: it is down to the council to make that guidance available to the general public. We are trying to make it permissible for photographs to be taken in council chambers. In deciding how they should be taken and in which circumstances — perhaps a local community group is coming to make a presentation or wants to do something about a grant, or information is being given to the councils — the opportunity for the council and the people participating to take photographs should not be unreasonably denied. The amendment would transform clause 46 from a barrier to public access to information into a vehicle for better public engagement with councils.

Amendment No 21 inserts the phrase:

*"as soon as is reasonably practicable".*

That relates to the publication of papers online. It is designed to speed up publication and require minutes as background papers to be placed online before a meeting takes place. Reference was made by Mr Weir, I think, to the time that that documentation should remain online after a meeting has taken place and it has been published. We are already subject to

a wide range of rules with regard to that in the public sector. The Public Record Office operates under an Act of Parliament from 1925. It also sets wide guidelines for councils with regard to the retention and, indeed, publication of their records and minutes. In fact, a simple trawl of the Internet will show that most councils have indeed published their retention policies online. I did a scan during lunchtime today, and I could see that most councils seem to follow a guideline of a minimum of six years' retention of most key documents in local authorities. Similarly, amendment No 23 requires online publication —

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

**Mr Dickson:** Yes.

**Mr Allister:** Before the Member moves off amendment No 22, will he clarify something? The amendment speaks of an audio recording. As a companion to that, does the Member then anticipate something being produced of the order of a Hansard report, or is it merely an audio recording to be held in the archives?

**Mr Dickson:** Yes, I am happy to clarify that for Mr Allister: it is just the retention of the audio recording. It would be an unreasonable burden on councils to expect them to produce a Hansard-style record. Most councils — in fact, all councils — will keep minutes of their meetings. At the end of the day, minutes are only a record of decisions taken. Generally, they will give a little background to the subject and perhaps reflect some of the key points made in the debate. However, ultimately, a minute is simply a record of the decision. That written record of the decisions made and the debate around them, when kept together with the audio tape, should enhance access. As the minute is perhaps not always clear about who said what or why they pointed an argument in one direction or another, it could be backed up and resourced by the audio record.

It would perhaps be unreasonable to raise the standard to a Hansard-style recording unless the electronic recording of meetings would allow the audio recording to translate into a written record. That may be some way off yet. At this point, all that we are doing is trying to enhance the responsibility of the local authority not only to keep its written minutes, which it is required to do under various rules and regulations, but to enhance that by the retention of an audio recording of the meeting.

The value of keeping background papers and documents is that it allows the public to access

them, become involved and see how decisions were made. Lord Morrow described his council as one where perhaps the public did not regularly engage. Again, my experience is somewhat different, particularly on planning matters. Of course, planning will now become a key role in the local authority and will excite even more involvement from the public than it has in the past. Certainly, planning matters have been controversial. My experience has been that they have led to large numbers of people coming to council meetings. Likewise, local decisions, whether about a playground or the provision of a leisure centre or some other facility, have often sparked a wide variety of public support and knowledge.

**Mrs Cameron:** I thank the Member for giving way. On the back of his comments on audio recordings and Mr Allister's question on whether the likes of Hansard would be brought in, which would obviously be very burdensome, is any weight given to the possibility of problems with audio recordings when there is disturbance to them, as happens in this Chamber? That is why Hansard is needed so badly — to back up those recordings and make them useful to a degree. Basically, has any thought been given to problems with the recordings and how they could be backed up?

**Mr Dickson:** I am not technically knowledgeable about the storage of audio recordings, but it is my understanding and belief that that is not a difficulty nowadays and that, either in the cloud or in physical computer space, recordings can be retained for a very long time indeed. In fact, this morning, I listened to an article on Radio 4 about how the British Library has now gathered millions and millions of pieces of information from the Internet and the web in the same way that it gathers its books. So, it is not impossible to record that type of information and to hold those records in a proper and competent way.

**Mrs Cameron:** I thank the Member for giving way again. I am thinking more along the lines of disturbance to the actual recording that would mean that it is not fit to be listened to. What would be the outworkings of that? I appreciate that we are talking about low-cost equipment, but would it be fit to deal with such disturbance, particularly given that most councils now use technology such as tablets, iPads and laptops, which could interfere with and affect audio recordings?

**Mr Dickson:** As I said, I am not technically competent to answer those questions. However, I do not believe that it is

unreasonable to expect meetings to be recorded. In fact, if you went online this minute and typed the words "video stream" or "recording of council meetings" into Google, you would get videos from council after council after council in Northern Ireland and across the United Kingdom. Even very small parish councils stream their meetings live on the Internet. So, it is not impossible. The answer is that it is very achievable and obviously very reasonable, and it is out there. Many, many local authorities right across, from the largest city councils in the United Kingdom to some of the smallest parish councils, do exactly what we are ask in these amendments today.

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

**Mr Dickson:** Sure.

**Lord Morrow:** I wonder whether Mr Dickson has given any thought to the cost that ratepayers would have to bear for the service, which he sees as vital in informing the general public. Has he given any thought at all to how much of a burden it would put on ratepayers in a particular council area?

**Mr Dickson:** I am happy to do that. The Chair of the Environment Committee, Ms Lo, who is also speaking on behalf of the Alliance Party, indicated that a local authority in Canterbury had said that the cost of its equipment was in the region of £160. Again, although we did not live-stream our council meetings in Carrickfergus, we did live-stream the weddings that took place at the council. It cost us less than, I think, £1,000 to install the equipment in the room where the weddings take place, so that family and friends in Australia or New Zealand can see a wedding ceremony take place.

If you went on to the Internet today, you would see that Belfast City Council live streams its meetings in public so that people can see them. I do not believe that that is a heavy burden on the ratepayers. Bear it in mind that we are not asking councils to do this times 26; we are now only asking them to do it times 11. I do not wish to enter into an argument about where the headquarters of the 11 local authorities will be, but many of them will naturally be around some of the larger and perhaps newer and better equipped local authority buildings. The pooling of existing resources and the ingenuity of local authorities will mean that the cost of providing audio recordings and, if they wish to enhance that, live streaming or video steaming of council meetings will not be impossible. I do not think

that it will be a particularly expensive task for local authorities at all.

It is crucial to allow the public to see and hear democracy in action. That is an important part of the democratic process. The pace of life means that many with an interest in council meetings are not able to travel to town halls across Northern Ireland or even in their local authority area or to go to a council chamber perhaps in the evening or sometimes during the day, but they would be able to watch or listen live to council meetings or to perhaps catch up at a later date.

This amendment, for a little cost, will require the provision of a service for ratepayers that will genuinely increase openness and transparency. It complements our other amendments in this section on the code of conduct. Having an audio recording of what was said in full council will ensure that the public will know for sure who said what and when. Hopefully, that may encourage councillors tempted to stray into what is inappropriate to adopt a better standard of behaviour.

### 5.30 pm

I will address the issue that Mr McCrea raised of whether the amendment goes far enough. I agree with him that it does not, and we can look at it further. If it gains the support of the House, we should genuinely look at how we can move the recording and perhaps live streaming of council meetings further down into committee and subcommittee meetings, accepting the caveat of the appropriateness of such meetings and the appropriate standing orders being in place for the local authority to know when it should or should not make recordings; or, indeed, to decide whether recordings should always be made but whether they should be published. Those are important matters for local authorities to make decisions on.

Crucially, it sends a clear message to new councils that they cannot and should not take for granted their responsibilities in relation to openness and transparency. That is key to transforming our councils into the mature, modern and open institutions that our ratepayers expect them to be. With the acquisition of more functions and responsibilities that are absolutely central to the well-being and development of our communities, it is important and appropriate that the increase in responsibility is met with an increase in scrutiny. That will allow the public greater insight into whether functions are being exercised efficiently, fairly and openly.

**Mr Allister:** I wish to pass comment on four dimensions to this group of amendments. The first relates to the provision of a statutory code of conduct, such as is foreshadowed in clause 56. I do not dissent at all from the suggestion implicit in some of the amendments, notably amendment No 1, that it should be a common code of conduct in respect of each of the councils, rather than leaving each council to formulate its own code of conduct.

From my experience of the code of conduct in this House, I do, though, have some practical issues as to its application. As MLAs, we are supposedly subject to a code of conduct; yet, two recent decisions indicate that that code of conduct applies only selectively. The question, therefore, is: will the code of conduct apply to councillors at all times or only when they are explicitly performing the role of a councillor.

I illustrate that with the two cases in this House. Mr Flanagan had a complaint against him in respect of tweeting something on his Twitter account in which he described himself as an MLA, yet the finding was that, in that action, he was not operating as an MLA. Therefore, there was no application of the code to him.

Likewise, in respect of Mr Kelly, the complaint in regard to Castlederg was dismissed on the basis that he was not acting or speaking as an MLA. So, in drafting any code, the Minister will need to be explicit as to whether, if it is to mean anything, the code is applicable at all times to councillors, and in how he squares that circle that you could be an MLA with a "pick 'n' mix" code of conduct — sometimes it applies and sometimes it does not — but it applies to councillors day and night. The Minister would need to expound upon that in anticipation of what sort of code he has in mind.

Of course, I note that, to an extent, clause 56(3) and (4) already anticipate the issues, although without providing any answers. Clause 56(3) states:

*"The principles may be ... principles which are to apply to a person at all times"*

or:

*"to apply to a person otherwise than at all times".*

Clause 56(4) states:

*"The code of conduct may include ... provisions which are to apply to a person at all times"*

or:

*"provisions which are to apply to a person otherwise than at all times".*

We need clarity as to when any code of conduct would apply. Are we going to have an elaborate definition within it as to when it applies and when it does not, or is it going to have blanket application? We have seen in the House that the capacity to be selective as to when it applies hoards other problems. I draw that matter to the Minister's attention.

On amendment No 22, I really do not see the difficulty with having an audio recording of council meetings. My sole criticism of the amendment was already voiced; namely, that it seeks to restrict itself and exclude committees and subcommittees. I endorse the view that if proposed new clause 48A finds favour with the House, it should be further refined.

I have a concern about its application, and here I stray for a moment into the next section of the debate. If we have councils operating to a Cabinet style, it seems to me that the amendment, if passed, would not apply there. It would apply only to the full council meeting, and there perhaps is another gap there when it comes to the amendment's application.

Mr Dickson clarified that the new clause covers audio recording only, and the recording, if I read the amendment correctly, would stay on a council's website for two years and be held in archive for six years. A citizen could therefore play back the recording and hear what was and was not said about a matter.

I have heard some say — I think that it was Mrs Lewis who suggested it in the House — to let each council decide for itself. That would be a recipe for grievance. Take my constituency, which will be in two council areas. Are my constituents in, say, Ballymena to be afforded the option of audio recording of the new Mid and East Antrim District Council so that they can hear what is said, while my constituents in, say, Ballymoney, who belong to the Causeway Coast and Glens District Council area, are to be denied that facility? I can well anticipate the sense of grievance that that would create, where there are different applications according to different councils. So, I do not think that it is an answer to leave it to each council to make up its own mind. It is a relatively straightforward issue in this day and age, and it does not go beyond expectations that what is said in a council should form a permanent audio record.

I do not believe that to do this would be excessively expensive. Any council chamber that I know is already equipped, as this Chamber is, with microphones and all the facilities of amplification. It is a straightforward matter of simply recording what the microphones pick up and retaining the audio. I certainly would not expect the cost to run into tens of thousands of pounds. However, if it were to cost a few pounds, perhaps it could be paid for by having one fewer council junket a year. That might be a simple way of paying for it. It really is a straw man to suggest that it will cost a prohibitive amount of money to do. That is stretching a point until it becomes absolutely ludicrous. Therefore, I see no difficulty with amendment No 22, other than it does not go far enough.

In respect of amendment No 26, there is tricky territory to be tread in regard to the appeals of any councillor who is disciplined by the commission. It is a fairly fundamental expectation that someone who has had visited upon them a punishment that could mean the end of their council career should have a pretty transparent and ready option of appeal.

Undoubtedly, the decisions of the commissioner would be subject to judicial review. As I indicated in an earlier intervention, of the five grounds that would be looked at, four of them very readily probably come within the existing ambit of judicial review. That does not mean that we should not prescribe for a separate and distinct remedy of an appeal process, because judicial review is not meant to be a substitute for a proper due process. It is like a safety net to catch what is not covered otherwise.

There is an issue about whether it is enough for us to simply say, "Ah well, there's always judicial review." Yes, there should be, but that does not mean that the House should recoil from providing an appeal mechanism in itself, though of course one wants to avoid duplication. In truth, they would really be alternatives. Most likely, you could not avail yourself of judicial review unless and until you had exhausted the appeal process. In that sense, they are not alternatives. If you provide an appeal mechanism, it would probably supplant judicial review in practical terms as a remedy; I do not think you would be at risk of both.

There are a number of questions. In respect of the appeal, the fifth ground is where, "the sanction imposed was excessive." The amendment seems to fall short in affording any facility to the reviewer as to what to do about that. The legislation, before it finally leaves this

House, if it goes down this road, would certainly need to include such a provision.

The House may recall that, when we debated the Civil Service (Special Advisers) Bill, we provided a facility for an appeal for someone affected by disqualification. That facility was an appeal to the High Court. In clause 4 of that Bill, we included the line:

*"On hearing the appeal, the High Court may make such order as it thinks fit in respect of a person's eligibility for appointment as, or to continue to hold appointment as, a special adviser."*

We would need something similar to afford, in respect of any appeal, a facility to substitute a penalty. What are you to do? It would be very difficult to send back a decision to an ombudsman, if we call him that, saying, "You were too harsh in disqualifying someone for five years. Take another look at it." The reviewing authority — the appeal authority — should be the one to say, "In fact, the suspension from office will be two years rather than five years." So, the amendment, if it does find favour with the House, will need further tidied up in that regard.

As I mentioned this morning, there is also the situation with the complainant. You could have someone come along with a grievance about how they have been treated by a council or a councillor. If that person makes a complaint and the commissioner makes a finding that the complainant is dissatisfied with, there is no provision for any appeal by the complainant. Yes, he might have judicial review options. It is a bit like the parallel with an objector in planning: there is no such thing as a third-party appeal. However, is that entirely in accord with what we anticipate here?

#### 5.45 pm

The other dimension is who would pay for any legal proceedings. Would the councillor be expected and required to meet his own obligations, or would he be able to call down the assistance of the council through his position as a councillor? We might need to get some clarity about that, because public money is at stake and I think that there would be considerable resistance to the idea that some councillor, perhaps in a case where his engagement in inappropriate behaviour has been plain, is so found guilty on those terms by the commissioner and then has a publicly funded right of appeal. I think that there might be an issue there. If he funds it himself and

succeeds, the expectation would be that he would recover his costs; but I wonder whether, if he does not succeed, the council should be required to fund an appeal that would be, in one sense, almost against itself. That is the sort of thing that perhaps needs further amplification and regard.

The final matter that I wanted to look at was amendment No 83. I strongly believe that there is a pragmatic argument for continuity of domain names. Mr McCrea asked whether someone here is hiding behind what they really want to say. I am not given to hiding behind what I really want to say, so I will say quite plainly that I think that it is logical, right, necessary and sensible that if a councillor within the United Kingdom is part of the governmental apparatus, why would you not expect, within the United Kingdom, that the domain name of his council would include .gov.uk? We have a pyramid of governmental arrangements in the United Kingdom from the Government, House of Commons, devolved Assemblies down to councils. Here, as elsewhere at Assembly level, the common denominator in domain names is .gov.uk, because it reflects the fact that each in their own way participates and plays a part in the governing of the United Kingdom. Equally, a council contributes to and plays its part in the governing of the United Kingdom. So, why would that council not legitimately and properly — indeed, be expected to — describe itself by a domain name that reflects that, which is the common denominator of .gov.uk?

In that setting, I think that amendment No 83 is eminently sensible, maintains continuity and gives as the gift of the Minister through the House the right to determine any common designation. It is not as though we are setting up domain names for school classes where something might take one child's fancy and another thing someone else's. We are talking about a governmental layer in a country: why would you not have the common denominator that links those in domain names?

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

**Mr Allister:** Yes.

**Mr B McCrea:** I commend the Member for making the argument that, I think, should have been made by the proposers. By all means, let us come out and face it, let us say that this is what we believe in, or, if you want to come up with another name, let us do it, but I think that the Member is absolutely right to lay out his stall in the way that he has.

**Mr Allister:** It is not my amendment, of course; I am putting my interpretation on it. But I am giving it very strong support because I think that it touches on a basic common sense approach to domain names in any tier of government, including local government.

**Mr Durkan:** I thank Members for the questions and issues that they have raised in this debate on the first group of amendments. I will address some of the points that were raised, and I will endeavour to address as many as I can. However, there was a slight degree of repetition in today's proceedings so far, so I will probably not address every contributor's remarks.

The first contributor was the Chair of the Environment Committee, Ms Anna Lo, who said that the Committee Stage had been extended. The Committee received a large number of representations on the reform of local government. I would like to echo her thanks to those who have had an input into this important process. I would also like to thank Ms Lo, the members of the Committee and their supporting staff.

She spoke of the Cabinet style that the legislation will allow. I have to confirm to Members that this is not going to be confidential. The executive-style Cabinets will not be confidential; it is in everyone's interests that local government, and all levels and forms of government, are as transparent as possible. She mentioned disappointment at the fact that I had not expressed my support for all the amendments that she tabled as a member of the Alliance Party, and spoke of the need for accessibility to local government and to the decisions that it makes.

Mr Boylan spoke about the provision of audio equipment — it was Ms Lo who really brought that point up — and the price of installing these systems. He was able to tell us that they could be got for as little as £160, and that is low-cost if ever I heard it. He asked if I would assist with the cost of these sound systems to local government; if they are only £160, I might. However, it would not be appropriate to fund that equipment from a central government budget. The recording of proceedings would be for the benefit of a council's ratepayers and, therefore, the cost should really be met through rates.

Cathal Boylan also raised the issue of the adjudication and investigation elements of the ethical framework, as did several other contributors thereafter. In taking on this new function, however, the commissioner's office is



setting up separate and distinct arrangements for investigation and adjudication. It would be very late in the day for the Bill to provide a different adjudication mechanism. Even if we were to provide an enabling power to allow that to be done by subordinate legislation, by the time the policy was developed and consulted on, with a possible public appointment process needed, it could take about 18 months, ie after the new councils come into being.

Also, I am not convinced that to provide for adjudication in subordinate legislation would be appropriate, as it would not afford the Assembly the opportunity to fully debate the detail of such an important aspect of the framework. I have given an undertaking to review the ethical framework in three to four years' time — Mr McCrea referred to that — and the issue of whether investigation and adjudication should be carried out will be part of any such review.

If we removed the adjudication element from the Bill or provided an enabling power to provide for it in subordinate legislation, it could have an effect on the timing of the transfer of important functions such as planning. Judicial review provides a means of challenging the commissioner's decisions. I urge Members to vote against amendment Nos 25, 26 and 27, but I will review the system, as I said.

Mr McCrea, in one of several interventions, asked whether, given the amount of subordinate legislation, we were ready for the Bill and the reorganisation. The subordinate legislation that I put forward will make provision for the operation of the new arrangements. Such an approach provides greater flexibility to modify the operational arrangements if necessary.

Mr Elliott lamented the fact that the Bill came out at short notice. He sits on the Committee and will know the work only too well. I am sure that he is overly familiar with the work that has been ongoing on the Bill for some time. I apologise if he or any Member feels rushed, but I have been trying to get the debate on the agenda and the Bill on the Floor for a few weeks now at least. He referred to domain names, as did some other Members, and said that people were using it as a political issue. Sadly, it is evident who is doing so today. Mr Eastwood challenged his assertion that this could lead to confusion, ie. of someone typing in council names.

**Mr Allister:** With .ie.

**Mr Durkan:** Someone is awake.

Mr Allister made an intervention on the openness of decisions being taken by an executive, and I referred to that point when speaking about Ms Lo's contribution earlier. The Bill provides that meetings of an executive must be open to the public unless a confidential matter is being discussed.

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

**Mr Durkan:** Certainly.

**Mr B McCrea:** What is the definition of a confidential matter? Who decides what is confidential? Mr Dickson said that it was fairly limited and to do with an individual or a specific commercial case, but there are cases of other councils going into closed session for all sorts of things, and the argument was put forward by others that you get a better form of discussion that way. Surely that is not what is intended. Will somebody define what is confidential? Will the Minister undertake to think about how that would be so defined?

**Mr Durkan:** I certainly undertake to do so. Generally, as Mr McCrea points out, a council, or any body, will go into confidential session if it is discussing something of a personal or commercially sensitive nature. I know that there has been an issue with one particular STC doing more of its business in confidential session than is necessary. Some councils take the view that a better type of discussion is facilitated because people do not play to the cameras, but I know that that thought would never enter the Member's head.

There was also some debate on live streaming versus photographs, and the majority in the Assembly seemed to be open to that transparency and open to people seeing what councils do. However, a lot of Members had concerns about people being able to take photographs in council meetings. I referred to that in my opening comments, and it has been borne out in today's debate. Mr Kinahan referred to the possibility of someone getting snapped with their eyes shut. A picture does, as they say, speak 1,000 words. If this amendment were passed, we would have no control over the narrative that accompanied the picture. There are many advantages to opening up and allowing audio recording. I take on board the point that Members made that perhaps the Alliance Party amendment does not go far enough and that it could be extended to committee and subcommittee meetings. If they were to do further work on this for Further Consideration Stage, I would happily consider it. So, although everyone generally seems to

acknowledge that councils should be open to more scrutiny, there seems to be a lot of negatives around photos.

**6.00 pm**

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

Mr Maginness referred to the legal advice that I received subsequent to the Committee. This refers to amendment Nos 25 and 26, as tabled by the DUP.

**Mr Weir:** I thank the Minister for giving way. On a point of accuracy, those amendments have been tabled on behalf of the Committee. They are not DUP amendments, though we are very much in favour of them.

**Mr Durkan:** I apologise to the Member for that. My notes are not great. The amendments were tabled by the Committee, however the Committee Chair is keen to distance herself from them. If the amendments are carried, and it seems likely that they will be, I am not sure whether, even at Further Consideration Stage, we will have an opportunity to square the circle, as Mr Weir put it.

I will move to some of the other issues raised by Members. Mr Kinahan said that there should be consistency in how councillors are treated with regard to standards across councils. The reason why the commissioner is to deal with all allegations of breaches of standards is to ensure that there is a consistent approach. Mr Allister and others referred to that as well.

Mr McCrea asked whether the promise of a review of the role of the commissioner was the proper way to move forward, and he asked whether we should try to get that right now. The review will cover all aspects of the ethical framework, not just the role of the commissioner. It will also consider whether a standards committee should be established in each council. It is good practice, when introducing a new policy, to ensure that it is reviewed after a number of years to check whether it is working properly and whether it could be improved.

Mr Allister asked whether the code of conduct would apply to councillors at all times or only when they are acting as a councillor. He referred to the code of conduct applied to MLAs as pick and mix. I previously referred to the Member's apparent fixation with confectionery. However, the draft code of conduct sets out when and to whom the code will apply. The

code states that it will apply when a person is undertaking the functions of a councillor. That includes times when that person gives the impression of acting as a councillor. The code is out to consultation, which closes on 30 April. I encourage the Member and, indeed, any Member to respond to it.

Another pertinent question raised by Mr Allister was about who will pay for legal proceedings. The consultation on the draft code of conduct, which was issued a few weeks ago, also deals with the issue of the provision of indemnities in respect of the ethical standards framework. The views of respondees will be taken into account in deciding the way forward.

I hope that that covers more than just a few of the questions that were raised. There has been a degree of repetition in the debate. I would like to thank all Members for their contributions thus far and for how they have conducted themselves through this stage of the debate. I am sure that they will remain equally well behaved throughout proceedings today and tomorrow.

*Question, That amendment No 1 be made, put and agreed to.*

*Amendment No 2 made:* In page 1, line 17, after "that" insert "from 30th April 2015".— *[Ms Lo (The Chairperson of the Committee for the Environment).]*

*Amendment No 3 made:* In page 1, line 17, after "available" insert "on its website and".— *[Mr Elliott.]*

*Clause 2, as amended, ordered to stand part of the Bill.*

### **Clause 3 (Qualifications)**

**Mr Deputy Speaker:** We now come to the second group of amendments for debate, which concerns the Minister's opposition to clauses 3 to 9 and schedules 1 and 2 standing part of the Bill, amendment Nos 4 and 5 and a series of consequential amendments set out on the grouping list that deal with councillor qualification, disqualification for being a councillor, vacancies and resignations. I call the Minister of the Environment to speak to clause 3 stand part of the Bill and address the other oppositions and amendments in the group.

*Question proposed, That the clause stand part of the Bill.*

The following amendments stood on the  
Marshaled List:

No 4: After clause 9 insert

**"Disqualifications for being councillors**

**9A.** A member of—

(a) the Assembly;

(b) the House of Commons; or

(c) the European Parliament,

is disqualified for being a councillor."— [Mr  
Durkan (The Minister of the Environment).]

No 5: After clause 9 insert

**"Power to exempt offices and employments  
from disqualification**

**9B.** In section 4(1)(a) of the Local Government  
Act (Northern Ireland) 1972 (disqualifications),  
for the words from 'place of profit' to 'council'  
there shall be substituted the words  
'employment appointments to which are made  
by a council if it is a prescribed office or  
employment'."— [Mr Durkan (The Minister of  
the Environment).]

No 92: In clause 125, page 70, leave out line  
33.— [Mr Durkan (The Minister of the  
Environment).]

No 104: In schedule 11, page 92, line 25, at  
end insert

"Local Government Act (Northern Ireland) 1972  
(c.9)

[A1]. In section 9 (vacation of office on account  
of non-attendance)

(a) in subsection (1), for 'and (3)' substitute 'to  
(4)';

(b) after subsection (3) add

'(4) Any period during which a councillor is  
suspended or partially suspended under Part 9  
of the Local Government Act (Northern Ireland)  
2014 is to be disregarded for the purpose of  
calculating the period of six months under  
subsection (1) (and accordingly—

(a) a period during which a councillor fails to  
attend meetings of the council that falls  
immediately before, and

(b) a period during which a councillor fails to  
attend meetings of the council that falls  
immediately after,

a period of suspension or partial suspension  
are to be treated as consecutive).'.

[A2]. In section 42 (councillors not to be  
appointed officers)

(a) after 'paid office' insert 'office which is  
prescribed under section 4(1)(a)';

(b) omit subsection (2).

[A3]. In section 143 (orders and regulations), for  
'115(2A)' substitute '4(1)(a) or 115(2A)'.

[A4]. In Part 1 of Schedule 1 (declaration of  
councillor on acceptance of office), for 'be  
guided by the Northern Ireland code of local  
government conduct' substitute 'observe the  
Northern Ireland Local Government Code of  
Conduct for Councillors (as revised from time to  
time)'."— [Mr Durkan (The Minister of the  
Environment).]

No 105: In schedule 11, page 92, leave out  
lines 26 to 34.— [Mr Durkan (The Minister of  
the Environment).]

No 107: In schedule 12, page 93, line 16, in the  
second column leave out "Sections 3" and  
insert

"In section 4(1)(b)(i) and (ii), the words 'or  
interim order'.

Section 7A.

Sections 11".— [Mr Durkan (The Minister of the  
Environment).]

No 108: In schedule 12, page 93, line 18, in the  
second column at end insert

"Section 42(2)."— [Mr Durkan (The Minister of  
the Environment).]

No 110: In schedule 12, page 93, line 26, in the  
second column leave out "Articles 29" and  
insert

"Article 29(1).

*Articles 31".— [Mr Durkan (The Minister of the Environment).]*

No 111: In schedule 12, page 93, leave out lines 30 to 33.— *[Mr Durkan (The Minister of the Environment).]*

**Mr Durkan:** The amendments arise from legal advice that I have received only recently. When I introduced the Local Government Bill to the Assembly on 23 September last year, I did so on the basis that the legal advice that I had received from a number of sources indicated that the Bill's provisions were within the competence of the Assembly. I assure the House that, had it been otherwise, I would not have proceeded with the introduction. However, since then, I have received legal advice that indicates that clause 4 and schedule 1 may not be within the competence of the Assembly, as they refer to "being elected" and elections are specified as an excepted matter in schedule 2 to the Northern Ireland Act 1998.

Rather than proceed with the provisions and risk the Bill falling at the final stages, I have reluctantly decided to oppose the clauses in Part 2 of the Bill and schedules 1 and 2 standing part of the Bill. The legislation is too important to the delivery of the Executive's programme for the reform of local government to take that risk.

Part 2 and schedules 1 and 2 simply re-enact and modernise the language of the provisions in the 1972 Act, with certain amendments to deal with dual mandates and officers as councillors and to take account of the new ethical standards framework and mandatory code of conduct provided for in Part 9. In my opinion, it would not make sense to oppose clause 4 standing part of the Bill, thus moving it back into the 1972 Act, while leaving the other clauses — clause 3 and clauses 5 to 9 — to stand part of this Bill. The only sensible course of action is to leave the provisions on qualification and disqualification in the 1972 Act.

The extent of the amendments that I now propose may, to some Members, seem excessive as a response to one potentially problematic phrase. The removal of the seven substantive clauses — clauses 3 to 9 — gives rise to 10 consequential amendments. I have, however, taken the view that the provisions remain extant in the 1972 Act. That is my recommendation to the House. The Bill will, however, make provision to amend section 4 of the 1972 Act to remove the blanket prohibition on council employees being councillors. It will also amend the provisions in the 1972 Act to

take account of the new mandatory Northern Ireland code of conduct for councillors.

I propose that new clause 9A is added to make provision for a new category of disqualification: dual mandate. I oppose clauses 3 to 9 standing part of the Bill to leave the corresponding substantive provisions extant in the Local Government Act (Northern Ireland) 1972. As a consequence of clause 4 not standing part of the Bill, amendment No 4 introduces a new clause to provide for the ending of the dual mandate. Similarly, amendment No 5 introduces a new clause to amend section 4 of the 1972 Act to provide for the removal of the blanket prohibition on employees of councils being councillors.

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

**Mr Durkan:** Certainly.

**Mr Allister:** Will the Minister explain to the House, if the reason for not pursuing some of the clauses as originally drafted is a recognition that disqualification in respect of election is an excepted matter, the basis on which he grounds amendment No 4, which seeks to introduce a disqualification clause in respect of double-jobbing? How is that not an excepted disqualification matter?

**Mr Durkan:** I thank the Member for the question. It is the matter of elections that is excepted rather than the institution to which they are elected. Therefore, we can, in effect, put the amendments in to prohibit someone sitting in the two institutions. However, we cannot control which institutions they may seek election to.

**Mr Allister:** In seeking to follow that, is the Minister saying that he can disqualify double-jobbers from sitting on a council? Can he disqualify them from standing for a council?

**Mr Durkan:** I was hoping that no one would pick up on that. *[Laughter.]* Unfortunately, as a direct consequence of the legal advice that I received late on, the Member is correct.

**Mr Allister:** So, are we not in the throes of creating a pretty difficult conundrum in that, legally, one can stand and be elected to a council as a double-jobber but one can never take one's seat? Therefore, after six months, say, someone could forfeit their seat and stand again? Is that correct? Could they be nominated again by their party? Surely, to resolve that conundrum, we need some sort of

parallel legislation in Westminster to deal with the issue, do we not?

**Mr Durkan:** I thank the Member for his further question on the issue. We do need to have parallel legislation in Westminster. I am disappointed that the legal advice came so late. However, at the same time, I am hopeful that the lateness of its arrival might be our saviour. It might be too late for Members who might sit in the Assembly to decide that they will run for council and possibly never take their seat. I know the views of the Assembly on double-jobbing and know that the vast majority of Members are opposed to it; I am hopeful that they will display political maturity when it comes to running or not running for election to the new councils.

**Mr Elliott:** I thank the Minister for giving way. I fully acknowledge what the Member for North Antrim is highlighting here because we had this discussion last week at the Committee. Can I ask further about the legal advice that you got, which, you said, was at a late stage? The legal advice up to that point appeared to indicate that your proposed legislation was correct and not subject to any pitfalls, but, all of a sudden, late advice came in. Where did that late advice come from, and where did the earlier advice come from that indicated that you were correct? I ask that because we are all aware that giving conflicting legal advice is how solicitors' practices and barristers make their money. Can you expound on some of that?

**6.15 pm**

**Mr Durkan:** I thank the Member for his question. I am aware that the decision was raised at the Committee last Thursday. The advice came from a source from whom I had not received advice earlier. The advice that I had received previously was from my Departmental Solicitor's Office and an external solicitor. The more recent advice came from a source. However, owing to convention, I cannot reveal the source at this moment.

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

**Mr Durkan:** Yes.

**Mr Allister:** I am sorry to press the Minister even further on this, but, so as we in the House are absolutely clear, is he saying that double-jobbers could stand, could be elected to council but never take their seat as a councillor and could be substituted by their party? Could they, at that point, be substituted by the party without ever having taken their seat as a councillor?

Surely they need to become a councillor before they can be substituted, and, in becoming a councillor, would they be at risk of criminal penalty under clause 5, which says that a person who acts as or purports to be a councillor while disqualified is guilty of an offence? In order to take their seat, would double-jobbers not be guilty of an offence of purporting to be a councillor? How could it be that, nonetheless, they could be substituted by their party?

**Mr Durkan:** I thank the Member for the question and for bringing to the House's attention the less-than-satisfactory situation that we find ourselves in. I believe that the Member is right, in that, if someone is purporting to be a councillor, as stated in the amendment, an offence would or certainly could be committed. However, I am hopeful that that is not something that will present itself as a problem in the elections come 22 May, and I am certain that it is a situation that we can rectify between now and the next council elections.

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

**Mr Durkan:** Yes.

**Mr B McCrea:** I, too, wanted to come in on that point, but I think that you have been through it. If we look at the other side — the more positive side — there is, as I understand it, a disqualification for employees of councils to stand for election but you had hoped to remove that blanket ban. What position do we have for people who would like to stand at the elections on May 22? I will put a particular scenario to you, for the sake of clarification. Take people who have got a leave of absence, such as a career break. Technically, they are still on the payroll, but they are not receiving remuneration. Are they allowed to stand and then resign, or do they have to resign and then stand?

**Mr Durkan:** I thank the Member for his question. The issue of the blanket ban and our desire to remove it was to be effected through amendments. However, I am confident that, in time for these elections, some council employees will be able to run for and be elected to council.

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

**Mr Durkan:** Yes.

**Mr Weir:** I will deal later with the desirability of it, but I wonder how it can be, given the fact that this is a power to make regulations. For this to

have effect, the Bill will need to pass and presumably get Royal Assent. I cannot see how it could get Royal Assent in time to bring in regulations to allow somebody who is a council employee to run for this council election, for which the cut-off point will presumably be the beginning of May, when nominations take place. I cannot see how that could meet the time frame for this election.

**Mr Durkan:** I thank the Member for his clarification and correction on that. The issue of Royal Assent is one that I had neglected to consider when answering that question. However, there are many more questions around the removal of a blanket ban such as how it will apply and what members of staff or council officers will be able to run for election and be elected and in what council area.

**Mr B McCrea:** Minister, I actually agree with the point made by Mr Weir. Surely this puts you in a particularly invidious position in that it has been found to be illegal. There was a court case where it was decided that we are not allowed a blanket removal of the ability to stand. This has legal precedent. We will now be running elections in which people are disadvantaged. We must find some way around that, because I know of people who would like to stand.

**Mr Durkan:** I thank the Member for the intervention. I also thank him for recognising my current position as invidious. We should certainly look at reaching a solution to this. I do not want to disadvantage anyone; that is not the intention of this legislation. In fact, it was our intention to do the opposite. I am happy to see how this situation can be improved and opportunities made available to more people.

Schedule 1 provided an enabling power for my Department to specify the offices and employments that would disqualify the holder from being a councillor. Amendment No 92 removes the reference to that enabling power from the list in clause 125 of the regulations and orders that must be made by the draft affirmative procedure. I oppose schedules 1 and 2, as they would no longer be required, as a consequence of clauses 4 and 6 not standing part of the Bill.

Amendment No 104 makes consequential amendments as a result of the removal of Part 2. It provides for the consequential amendments necessary to the 1972 Act to take account of the introduction of the new ethical standards regime by making provision that a period of suspension or partial suspension

under the new regime will not count for the purposes of vacation of office on account of non-attendance. An amendment is also made to the declaration that a councillor must make on acceptance of office to take account of the introduction of the mandatory code of conduct for councillors.

Amendment No 104 also makes two consequential amendments as a result of removing the blanket ban on officers being councillors. Section 42 of the 1972 Act is amended to provide that a councillor may be employed by a council with the exception of offices or employments that will be specified in regulations made under the revised provision in section 4 of the 1972 Act. Section 143 of the 1972 Act is amended to take account of the regulations that will specify the offices and employments that will still be subject to disqualification.

Amendment No 105 removes the consequential amendment that was being made to the Education and Libraries (Northern Ireland) Order 1986 to take account of the provisions in relation to disqualifications. Amendment Nos 107, 108, 110 and 111 make the amendments necessary to the repeals provisions as a consequence of the removal of clauses 3 to 9.

Those are the amendments in group 2.

**Ms Lo:** The Committee was made aware of the amendments in this group only after the Committee Stage was complete. The Committee was briefed by officials at its meeting on 13 March — last Thursday — on the Minister's intention to oppose clauses 3 to 9 and the corresponding schedules 1 and 2. He has outlined his reasons for this today, but members were disappointed that the issues with these clauses were being flagged up at such a late stage. They were also concerned to hear that, as a result of the removal of this part of the Bill, an MLA, an MP or an MEP could stand for election to a council. Although he would not be permitted to take the seat if successful, he could then co-opt a party colleague. The officials informed the Committee that the Department would aim to close that loophole, but it will not be done in time for the upcoming council elections. I urge the Department and Minister to address this anomaly as soon as possible.

During its scrutiny of this part of the Bill, the Committee was keenly aware of the problems associated with the qualification and disqualification of councillors, particularly the proposal to lift the blanket bar on council employees becoming councillors in the council

where they are employed. The Committee continues to urge the Minister to ensure that this is clearly specified in subordinate legislation. With this in mind, the Committee was broadly content to support the Minister in opposing the Question that the clauses and schedules stand part of the Bill and to support the amendments in this group.

With your indulgence, Mr Deputy Speaker, I will say a few words as an Alliance MLA. I feel very sorry for the Minister. This is the Minister's first Bill, and it is complicated and quite cumbersome. He has done his best, and, at the last minute, he was told that there was a second legal opinion. This has now put the Bill in a bit of a mess. That is just not acceptable. I know that the Minister said that he could not disclose who gave him the second opinion, but I hope that lessons can be learned now from whomever it is who at this last minute suddenly handed the Minister this bombshell. Why could the source of this second opinion not have done his job earlier? We then would not have had to face such a silly mess and such an anomaly at this stage. I support the Minister.

**Mr Weir:** On this group of amendments, although I will make some criticism of the Department, I appreciate the very invidious, to use his own word, position that the Minister has been put in. I think that we have some sympathy for the position that he has been in. In light of that, it is helpful to indicate that, particularly given the position that has been put forward, we will support all the amendments here as maybe being the least worst situation.

I suppose that it comes down to three issues in this group, and there is a bit of confusion around some of the issues. Essentially, the first is the issue of the legal advice, which has led to opposition to particular clauses standing part of the Bill. Secondly, there is the specific issue of disqualification and the dual mandate. Thirdly, there is the issue regarding council employees and exemption.

On the first issue, given the late legal advice that the Minister has received, in the short term, there probably is no practical option other than to oppose various clauses standing part of the Bill and to perhaps seek some degree of rectification of the issue, potentially with the assistance of Westminster. I join the Chair in indicating that there was disappointment on the Committee that this issue had arisen so late in the day. I appreciate that that may be outside the Minister's hands because of the lateness of the legal advice, but most of the Committee members would have preferred the issue to have been flagged up earlier.

I wonder whether, somewhere down the line, there was not something missed in connection with that.

### 6.30 pm

I cast my mind back, and there may be other reasons why it was the formula that was used, but it was noticeable that, when the issue of dual mandates was previously looked at and consideration was given to the private Member's Bill by Dawn Purvis in the last Administration, she drew a distinction in the wording of her legislation to disqualify someone from being a councillor, rather than someone being elected to being a councillor. There was, if you like, that clear distinction. Whether that was because she had had some level of advice that you could not preclude somebody being elected in those circumstances but could use a bar on somebody holding the post, it seems to me, potentially —

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

**Mr Weir:** I will give way in a second. It does seem that there were potentially other reasons why she took that route. I think, in particular, that when she was proposing that, it appeared likely that the council elections and Assembly elections might well have taken place simultaneously, so it might have also been to do with that practical problem, but I wonder — it is maybe a question that we are not in a position to answer today — whether there was some level of legal advice as to the limits of what could be done. I will give way to Mr McCrea.

**Mr B McCrea:** I am grateful to the Member for giving way. Can I just check that we are saying that, if we change the wording from "being elected a councillor" to "being a councillor", that might give us some way through this particular mess? It seems to me to leave us open to ridicule, because, obviously, councillors are elected. I mean, we are having elections. I am not just not sure that that is the proper way to go forward, but I am happy to hear what the Member has to say if he thinks that —

**Mr Weir:** I certainly take on board the point that has been made. My understanding is that, by removing the various clauses, we will effectively fall back, with the exception of the two additional clauses that have been proposed, on the 1972 legislation. I think, to some extent, what was originally intended with these clauses was largely a tidying exercise. From a practical point of view, most of what is contained in

clauses 3 to 9 was a codifying of what had been there in 1972 and, potentially, anything subsequent to that, with the new intentions. Strictly speaking, I think the issue was that a large amount of the content of clauses 3 to 9 was not necessary. It might have been desirable as a way of ensuring that all was contained within the one piece of legislation, but it was not necessary. I think, with the extent of the amendments that would be required to rectify it, particularly as there is, arguably, a neater solution of falling back, largely, with a couple of exceptions, on the 1972 legislation, it probably may be the best way to go, but it may be that some work needs to be done at Westminster as well to clarify issues.

In terms of the disqualifications side of it, there is a little bit of distinction that Mr Allister has drawn out, on the issue of what the position is if somebody with a mandate then seeks election, is elected and presumably is deemed elected, but then automatically and immediately disqualified. That puts us into a slightly grey area. There may need to be something on the back of that at Further Consideration Stage to tighten that.

It is difficult to judge, but it seems to me that there might be some advantages in the wording that has been used in clause 4. We are now in a situation where, of the 108 Assembly Members, none is a councillor. I think everybody that was on a council has left it. I know that my own party will not run anybody who is an MLA as a potential councillor. I assume that that will probably be the case with all other parties. From a practical point of view, particularly if we get the space to try to tighten it up both at Further Consideration Stage and, probably, with the advantage of Westminster, I suspect that, in this election, that will not be a problem, and it can be sorted out with time.

Where there might be a slight advantage is that there is a slightly grey area on the flip side of the coin, which, I think, to be fair, is covered by the new legislation. I think it is very unlikely that a sitting MLA will seek to become a councillor, unless they are, if you like, in the last throes of being an MLA and want to give up their seat as an MLA, which is one possibility.

The more likely scenario, which has happened frequently in the past and, I suspect, is quite likely to happen come the next Assembly elections, is that a number of the candidates from different parties may well be sitting councillors. If, on the flip side of the coin, councillors were precluded from running for the Assembly, that would put an onus on them to give up their council seat for the prospect of

becoming an MLA. The situation now is that, on election as an MLA, you are automatically disqualified as a councillor. There might be a grey area if we did not have direct disqualification, without which a sitting councillor could be elected as an MLA and, in theory, serve the rest of their term as a councillor. However, in some of this, it may, given the likelihood of that, be more likely that angels will dance on the head of a pin. The formulation of disqualification, at least as the short-term measure, for anybody who is an MLA, a Member of the House of Commons or a Member of the European Parliament, may well solve that problem as well.

The intention is clear. There is an argument that someone might go to the Assembly poll saying, "I am a councillor and, if elected as an MLA, will, as I have to automatically, end my role as a councillor". That is fair enough. With the best will in the world, and assuming that the legislation passes, it would clearly be nonsense if an MLA ran for local council with the clear knowledge that, immediately upon election, they would be disqualified. I suspect that that would be used against any party. That would be a deceit on the electorate and would, I think, be seen through.

When the issue of disqualification from being a councillor was debated in 2009 and 2010, I put forward an amendment — this is a wry irony — suggesting that the introduction of RPA be the key point at which dual mandates ended and disqualification kicked in. The amendment, which did not find favour with the House, said that the cut-off point at which disqualification kicked in should be, off the top of my head, July 2014. It seems likely that the legislation before us will receive Royal Assent in June 2014. My amendment was rejected by the House, but seems largely to have come to pass.

I am acutely aware that the other element of that amendment was the suggestion that any MLA who served as a councillor receive no pay for being a councillor. Through a combination of the Department of the Environment and the remuneration position in the Assembly, that also came to pass at some stage in 2013. It seems that both limbs of the amendment, which was fairly soundly rejected by the Assembly, have come to pass.

It is right that we have seen the phased removal of dual mandates. The key point about dual mandates, from a practical point of view, is that we will be dealing with larger councils that have larger responsibilities and budgets. That may well be reflected in other ways, such as remuneration, for example. Therefore, as we



move forward to the new councils, being a councillor and an MLA will not be compatible.

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

**Mr Weir:** Yes, I will give way on that.

**Mr B McCrea:** The Member may be coming to this, but I just wanted to check. He talked at some length about dual mandates for MLAs, MEPs and such like. However, he mentioned in his earlier remarks the current blanket ban on council employees. I am really interested to know, given his expertise and knowledge — I do not mean that in any supercilious way; I am being serious —

**Mr Weir:** You are not being sarcastic?

**Mr B McCrea:** No, not on this particular occasion. I am really interested to know how we deal with the issue of the forthcoming elections. Council employees below director level would like to stand for election but are currently under a blanket ban, even though there have been court rulings that that is not appropriate. How do we deal with that? It takes only one to challenge the whole thing.

**Mr Weir:** It is not quite as clear-cut as is, perhaps, being presented.

It is not that there is a legal ruling saying that this has to change. As I understand it, there was a legal ruling some time ago that indicated that, if there was a challenge on this or another attempt at a blanket ban, we may be legally vulnerable, which is not quite the same thing as saying that there is an imperative directly to change.

From a practical point of view, the problem is that we have, perhaps unfortunately, gone beyond the point of no return with regard to these elections. As I understand it, the problem is that the present ban is in primary legislation. This would effectively change the 1972 Act. To change that Act and to repeal that part of it would require primary legislation, as is in front of us today. If we were to try to deal with that separately and specifically as it affects 22 May, there is not time to get primary legislation through. To give people certainty, it would have to be through by roughly 1 May or whatever the date is for nominations to take place. From a practical point of view, it could not be done. Regulations cannot simply overturn what is in primary legislation. The only route is to look at the more medium- to long-term position contained in amendment No 5. Maybe the Minister will have some other suggestion, but,

from a practical point of view, there is no opportunity ahead of the elections on 22 May for that to be turned around.

Amendment No 5 provides for a power to bring forward regulations and overturn the blanket ban, which is the right way of tackling it in the long run. By the same token, if we were to turn it completely on its head and say that there was no disqualification for anybody who is employed in local government, it would be fraught with difficulties. When regulations are brought forward, there will clearly be two provisos. It would undoubtedly be a clear conflict of interest if someone were able to be elected as a councillor in the council area in which they worked — their employer directly — at whatever level, because virtually every decision that is taken at council will have some financial implications and some direct or indirect impact on that person's job. There is a much stronger case for change if somebody was working in one council and wanted to run in a different council area, because there is not the same contractual connection. The second proviso is that it is difficult to see a situation where those at the very top of local government employment could be a councillor in a different council. For example, it would be difficult if a chief executive — there will be a debate around the regulations with regard to what level it is pitched at — of one of the 11 councils were to be a councillor in a different council, although there might be practical difficulties with them holding a post anyway. However, amendment No 5 seems to be a sensible way forward. I am sure that we all know people in local government who may well be suitable to run for their council. The same could apply to solicitors. For example, until now, if you have been a solicitor for a council, you are prevented from running for that council or working in that firm. So, it seems that amendment No 5 is a reasonably sensible way forward. As with the other amendments in this group, it is not a perfect way forward. However, on balance, although there may need to be some adjustment at Further Consideration Stage, and there may be elements of it that we will have to seek assistance from Westminster on tightening it up, the amendments that have been put forward by the Department are as good as we are likely to get today. They are at least a step forward, and we should support them.

**6.45 pm**

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. I will speak in favour of the amendments. However, I am somewhat disappointed that we have come through the Committee Stage of the Bill and that,

unfortunately, it is late in the day, at Consideration Stage, that we receive legal advice. I know that the Chair offered some sympathy to you for that, Minister, but I am somewhat concerned that we have gone through the whole process. I realise the action that you had to take to do what you had to do. However, I will speak a wee bit about the two amendments in general.

The thing is this, Minister: when did you receive that advice? You talked about last December with regard to the Bill itself. Given that we debated part of the issue away back in 2009 — I am obviously referring to legislation on the issue that Dawn Purvis tried to bring forward — I am trying to figure out whether there could have been any indication about why we could not have found that out before this point in time. Perhaps the Minister could respond to that.

I know that the Minister has allowed a lot of interventions. Most people have actually stolen the thunder of everybody else who wanted to speak on the two amendments. However, the issue for us is that there is certainly a loophole that needs to be dealt with and closed very quickly. That is because we are creating the impression out there that it is conceivable that any MLA could stand for election in any area. I know that you are relying on good faith in that area. The Bill says that that person cannot take the seat. Therefore, I just wonder what impact a legal challenge would have. If somebody were to take that further, asked the question or wanted to do it, what would be your legal advice about that?

Obviously, I support the Minister's amendment No 4. Where amendment No 5 is concerned, I welcome lifting the blanket ban and giving people an opportunity. However, we discussed at Committee, first, the level at which those people would be able to stand for election and, secondly, whether they could stand in a different area or whether there was a conflict of interest in standing in their own area. Maybe, Minister, you will pick up on some of those points. Clearly, other Members made a lot of those points. I propose to support the amendments in group 2.

**Mr Elliott:** We have a great method of getting ourselves into complicated situations, do we not? We went through an entire Committee process believing that we got resolution to these matters, but then, all of a sudden, right at the last minute, because of additional and conflicting legal advice, we have had these matters turned on their head. Like the Committee Chairperson, I have sympathy with

the Minister for that. However, there was a decision to be made on which legal advice to go with. From what I heard from the Minister, there was not just one piece of legal advice that indicated that the proposals that were in place in the Bill when it was introduced were correct; there was more than one when a later piece of advice came forward.

That is why I believe that we have not, the Minister has not and the Department has not taken the right approach to the matter. I believe that we should have pushed on. We should have pursued the matter and pressed ahead with the Bill as it was introduced. I feel that, because there was at least one and maybe two, or, indeed more, pieces of legal advice that said that it was correct, we should have gone ahead with that proposal. I believe that it has now turned into a minefield. What we will see in the days, weeks, months and, indeed, maybe years ahead will be a really difficult situation. I feel that there will be a challenge somewhere down the line now that we have decided to move our position on this.

Earlier, Mr Allister asked a number of questions that were similar to those that I asked in Committee last week. The crux of the matter is that a currently elected representative — an MLA, MEP or MP — can actually put their name forward, contest an election for a council and get elected. The point is that they cannot take their seat and their place on that council. However, the question raised by Mr Allister and, I think, Mr Weir that still has not been answered is this: can that seat be handed over to someone else or not? That issue has not been resolved, and until it is, I am sorry, but I cannot support the proposals at this present time. I believe that there is the potential for a disastrous situation here that we could have and should have avoided. We should have pursued what was in place.

Again, I do not see any reason for trying to hog this debate or hold it up any further. I have made my points. I am clearly disappointed at the way in which this has evolved. In all honesty, I think that we should have pursued the Bill the way it was and tried to establish a proper framework in the Bill as introduced.

**Mrs Cameron:** As a Committee member, I am pleased to support all the amendments contained in group 2 in the Marshalled List of amendments. I believe that these changes are right and necessary to ensure that we have a clear framework when dealing with matters arising from what qualifies a person to become a councillor and, by necessity, what disqualifies a person from being a councillor. It also deals

with how we manage vacancies, which are an inevitability at times, although we would prefer it if they did not occur.

There is also the issue of deciding at what level council employees are eligible to be elected to council, whether they can be a council member at their own place of work and how the removal of the blanket ban will actually work in practice. I look forward to supporting legislation that will clarify how those issues will be dealt with.

We have already observed that the Bill as it stands allows sitting MLAs, MP and MEPs to stand for election but not take their seats. That loophole obviously needs to be closed off in line with the current single-mandate policy, otherwise it could be used in co-option to place councillors in seats who might not have easily gained that same position through the election process. An example would be a high-profile existing elected representative, such as an MEP, who could stand for local council this May. Although they could be elected, they would be disqualified from taking their seat. However, a party could, in theory, co-opt an unknown person into that council seat. I am sure that we as political parties can all see the benefits of that situation, but I am also very sure that we as legislators can see that it would not be in any way appropriate. I urge the Minister to address that loophole as soon as physically possible.

In general, I support the amendments in group 2.

**Mr B McCrea:** The Minister's position is invidious, and the status of the forthcoming elections is almost untenable. I am sorry that I have had to run up and down to get this information. When I asked Mr Weir earlier whether there was a legal impediment, he effectively said that there was a recommendation that it might be a problem.

I want to quote to the Minister what one of his departmental officials said, in the Official Report, to the Committee of the Environment. She said:

*"I think that clarification was needed about the various pieces of legal advice and legal cases on the issue."*

She went on to say:

*"We first became aware in 2005 that there was a human rights issue in that when the Department received correspondence from a solicitor acting on behalf of a council*

*employee. That alleged that that provision violated article 10 of the European Convention"*

She then said:

*We sought legal advice on the matter, and that indicated that there was a strong argument that section 4(1)(a) was disproportionate to the legitimate aim pursued.*

It goes on to say that that was not just an opinion but that case law was quoted in support of the legal advice. That case law is *Hirst v United Kingdom (No 2)* [2005].

I have another series of information, although I cannot put my hand on the piece of paper right now, that provides legal positions on this. It was quoted, I think, in Ahmed and others. Therefore, this is not a matter of conjecture. As I understand it, there is a prima facie case that we cannot run elections and discriminate against council employees. I accept the argument about employees below a certain grade, but there are many council employees who will want to run.

I have to say, Minister, that I really think that you or somebody has a very difficult position to reconcile here of trying to run council elections on 22 May from which we are going to disbar people who have a legal right to stand. This is a serious issue. I am not sure that we have found a satisfactory resolution for this. It is really hard work. We cannot run an election that is, in effect, illegal. It will discriminate against a significant proportion of our citizens.

While the Minister thinks about that issue, the case law and the various other things that are there, I will say that there are so many amendments to put clauses in and take clauses out, and to take out schedules here and there, that, to be honest, I was having a certain amount of difficulty keeping up.

By the way, I am sympathetic. I hope that the Minister realises that I understand that he has been put in this position and that I am not, in any way, trying to minimise the difficulties in which he finds himself. However, the way forward is not clear. The ground that we are moving forward on seems very flimsy. When we look at exclusion, one of the points that he might want to consider is what do we do about the fact that 70% of our economy is public sector-orientated? We have a lot of people who work for publicly funded bodies such as Invest Northern Ireland or other agencies, all of which say, "Look, stand for council if you want, but it is

not a good idea, because you have to deal with all sides of the community". In a community where such a large proportion of our workforce is in the public sector, surely there is a duty on us to encourage such people to stand. It should not just be a case of saying, "You can if you want to". To enhance the democratic representation that we have, we need to address that particular issue.

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

I guess that these speeches are so short because a bombshell has been dropped in front of us. Minister, you are in a position of being asked to carry forward elections that I think will be challenged in court. I hesitate to say it, but I think that that creates a real problem for even running the elections in their current format. I would like to understand what you think you might do with this. On that basis, although I may come back with an intervention later, I want to know what you and your officials think we can do to get out of this mess, because it is a big, big mess.

**Mr Allister:** The House is certainly not in a position that it would wish to be in. A lack of clarity has evolved from apparently competing legal advice, and there has been a belated change of direction in the Department on foot of some of that advice. We have arrived at a point at which we now have this conundrum that the Assembly cannot lawfully legislate on an excepted matter, of course, and therefore cannot specify the qualifications for election but can, it seems, specify the qualifications for a councillor. If I understand the situation correctly, section 3 of the 1972 Act will continue to govern who is eligible to stand for election, but the anticipated amendment No 4 will insert new clause 9A into the Bill to stipulate who may be disqualified from being a councillor.

**7.00 pm**

It is fair to say that, when you go back to the 1972 Act, section 4 seems to make a distinction between being elected and being a councillor because it states:

*"Subject to section 5, a person shall be disqualified for being elected or being a councillor if—"*

There seems to be an acknowledged distinction between what might apply to being elected and what might apply to being a councillor. That is the point we have got ourselves to. The accepted legislative provision governs the

process of elections and being elected, and the devolved institution probably governs the qualifications relating to being a councillor. That is a far from happy scene, as I think the Minister is only too aware.

In relation to amendment No 107, could I ask the Minister to bring some clarity? Amendment No 107 seeks to amend schedule 12 to the Bill. Schedule 12, as it stood, was to set out the extent of repeals, and it was purporting to repeal all from section 3 to 27 of the 1972 Act. I want to ask the Minister whether I am reading his amendment No 107 correctly to conclude that section 3 of the 1972 Act shall not be repealed and it stands. It is not clear to me whether section 4 stays or goes because it seems that there are going to be some words inserted, which will mean that the extent of the repeal will read:

*"In section 4(1)(b)(i) and (ii), the words "or interim order"."*

Sections 7A and 11 of the 1972 Act are going to be repealed, meaning that all else up to section 11 stands as in the 1972 Act, if I am reading that correctly, and that, thereafter, sections 12 to 27 are repealed. I think that is what amendment No 107 means but it is not the clearest, perhaps.

Returning to the amendment that deals with the qualifications of sitting as a councillor, the Minister's new clause 9A excludes MLAs, MPs and MEPs. He has not sought to exclude Members of the House of Lords. Can he advise us whether the current law excludes Members of other legislatures and why his amendment does not simply say, "a Member of any legislature in any place is disqualified from being a councillor"? Is there a reason why it is not as sweeping and straightforward as that and, rather, picks out MLAs, the House of Commons and the European Parliament? An amendment that said, "a Member of any legislature anywhere" would exclude Members of the Assembly, Commons, Lords and European Parliament, and Members of a legislature anywhere else.

Why indeed should a Member of a legislature outside the United Kingdom be qualified to be a councillor and a Member of the Assembly, the Commons or the European Parliament, to which people are elected from within Northern Ireland, not be? Why is there not a more even disqualification? It should simply disqualify a Member of any legislature anywhere. I do not follow the logic of excluding Members of the House of Lords, Dáil Éireann or anywhere else. Could the Minister explain why his new clause

under amendment No 4 is so selective in that way? It would be helpful to hear the answer to that.

**Mr I McCrea:** As Basil McCrea said, there are short speeches on this set of amendments because of a bombshell that has left Members unsure of what is in and what is out.

It is only right that I express my concerns, as I did at the Committee Stage, in respect of amendment No 5. Although I do not disagree with it, I have concerns. I accept that it will not impact on this set of elections, but if we are being asked to vote something through it is only right that we should know the level at which it will allow or disallow people from holding office in another council. I ask the Minister to bring forward more clarity in respect of that.

Some Members and people within the local government sector have great reservations about how that would be managed. When the Minister was before the Committee, I raised those issues with him. It is going to be very difficult to manage a member of staff who is a councillor on another council. There are difficulties that that may bring in respect of the political coverage that that councillor has if he belongs to a party that holds the majority.

Another Member asked what level it should be. If it is one, why should it not be all? If it is not all, why should there be any in the first place? The Minister referred to the advice on that, but when we are being asked to vote on a piece of legislation we should be aware of the level that it will impose. I ask the Minister to give a bit more clarity in respect of that when he is summing up.

A number of questions have been asked about the qualifications of a councillor, and, as others have said, there needs to be clarity on the loophole that exists.

**Mr Durkan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank Members for their questions. Well, I thank them for the issues that they have raised during the debate on the second group of amendments. I will certainly try to address some of them now. Quite a few Members raised the same issues, which is understandable because I have issues with some of these things myself.

The Chair of the Committee spoke first and said that members were disappointed at being informed of these necessary amendments so late. I have to tell her that they are not the only ones who were disappointed. She also said that she feels sorry for me. I assure you that

you are not the only one. *[Interruption.]* I assure Ms Lo that I will work with her, the Committee and others to ensure that these anomalies are addressed as soon as possible.

Mr Weir and Ms Lo referred to issues around council employees being councillors on their employing councils. I fully recognise that such a situation could give rise to conflicts of interest and, for that reason, regulations will provide that an employee cannot stand for election or be a councillor on the council by which he or she is employed.

Mr Weir also spoke about why it was necessary to make such a number of changes. The current disqualification provision in the Local Government (Northern Ireland) Act 1972 makes provision in respect of people being elected and being a councillor. The legal opinion that we have lately received questioned the use of the words "being elected" in clause 4 and schedule 1. Rather than weaken the current disqualification provisions by removing the words "being elected" from clause 4, I decided to revert to the 1972 Act.

Mr Boylan asked, as others did subsequently, when the differing legal advice was received. My Department was provided with this differing legal opinion less than two weeks ago, but given the importance of the Bill, I did not want to take the chance of its being referred to the Supreme Court.

Mr Elliott questioned whether co-option would be available. My Department is currently considering the ramifications of that and is seeking legal advice from many sources on the issue.

Mrs Cameron went back to the issue of employees as councillors. Amendment No 5 provides an enabling power for the Department to specify those employments that will continue to debar someone from being a councillor. That could include disqualification on a geographical basis — that is, by preventing an employee from being a councillor on the council that employs them, as addressed earlier — and disqualification for specific employment in order to prevent senior officers, for example, from being councillors. Mr McCrea spoke of the need for clarity and clarification around this, and I assure him that that will be forthcoming as soon as possible.

Mr McCrea had quite a few questions around the issue of employees and, indeed, public sector workers more widely. Civil servants and public sector employees other than council employees below a certain grade can already stand and be a councillor. 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.

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

**Mr Durkan:** Certainly.

**Mr B McCrea:** I was not sure if you had finished your point on this, but you might just like to address this issue, because I could not find it in the speech. I talked to Mr Weir about this point on employees — was it a potential or a reality? I quoted you from the Official Report, but the Official Report of the Committee's meeting on the Local Government Bill on 23 January 2014 states that:

*"Subsequently, a number of senior local authority employees in the case of Ahmed et al v the UK Government took a case to the European Court of Human Rights on the basis that regulations made under section 1 of the 1989 Act interfered with their rights".*

The judgement came back and said:

*"restrictions imposed on applicants not open to challenge on grounds of lack of proportionality".*

It basically found in their favour. The problem is that:

*"The Department's position is that we have made provision in the Bill to remove the blanket prohibition on council employees, because the advice that we got in 2005 was that that could be challenged under article 10. The enabling power in schedule 1 to the Bill allows us to specify".*

Yet you are taking away all of those powers that you have.

I have to tell you, and I put you on notice here now, that there are people who are entitled to stand for election in this part of the world and whom we currently prohibit from doing so. That is a legal position, and you, as Minister, have to take that on board. In my opinion, you must find a way of making it legal for such people to stand, because that is the Department's knowledge on the matter. It is not just about that case but about the others that I mentioned previously.

**7.15 pm**

**Mr Durkan:** I thank Mr McCrea for his intervention. The advice is that we could face a legal challenge. The provisions that I am bringing forward are designed to address the issue. The removal of the blanket ban, despite my earlier faux pas, would not have been in place for the elections on 22 May, even without the need for amendment at Consideration Stage.

**Mr B McCrea:** Are you suggesting that we run an election knowing that people will be disbarred who should not be disbarred? Regardless of whether we have the time to change this, you cannot, as Minister, run an election knowing that some people will be discriminated against. The legal implications of that are horrendous.

**Mr Durkan:** It is evident that we are ensuring that this matter is addressed for future elections, and I am determined that it will be addressed for future elections. Mr McCrea also asked about employees who want to run in the forthcoming elections. The current legislation provides for a blanket ban on employees of councils becoming councillors, and it is this legislation that will and would have applied to forthcoming elections. Therefore, unfortunately, I have no way of providing for employees of councils who wish to become councillors in the next election.

Mr Allister had a couple of questions, and I will respond to one of them, which was about why the House of Lords was not covered by the disqualification relating to the dual mandate. The difference is that Members of the House of Lords are not elected whereas MEPs, MPs and MLAs are.

Amendment No 5 will amend the 1972 Act and make provision along similar lines to those in schedule 1, but it will remove the blanket ban on employees being a councillor.

I would like to thank all Members who participated in the debate on this group of amendments.

**Mr Elliott:** I thank the Minister for giving way. Before he finishes on this group, it is important to clarify that, throughout Committee Stage, we assumed that the Minister had correct legal advice on elected representatives standing for council and on the issue of council employees, which Mr McCrea continually raises. Why, Minister, at a late stage, when you got conflicting legal advice, did you bring the Bill to the House on the basis of that advice and not

on what you originally assumed, and then rush to get to Consideration Stage?

**Mr Durkan:** I outlined earlier in the debate the reason for the rush to get to Consideration Stage. I had been trying to get the Bill here for a few weeks but was delayed on a couple of roads that I tried to go down. The more recent advice that led to the necessity for these amendments quite clearly stated that, had the Bill proceeded unamended, it could, and most likely would, have faced challenge in the Supreme Court.

I would like to thank Members for their contributions —

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

**Mr Durkan:** Yes.

**Mr Allister:** Has the Minister sought any legal advice on Mr McCrea's point about proceeding with elections as planned and persons being disqualified from standing whom some European jurisprudence suggests should not be disqualified?

**Mr Durkan:** I thank the Member for the question. I have not got that legal advice. However, I will seek it as soon as we finish tonight or get someone to seek it before we finish tonight. Hopefully, we will be able to come back with an answer tomorrow. It is not in our interests to disqualify anyone from running for elected office, but it is certainly not in our interests to disqualify someone who legally should not be disqualified.

I thank Members for their contributions to this part of the debate. I apologise to Members for the lateness of the amendments and thank them for their consideration of them. I thank some Members for supporting them as well.

**Mr Principal Deputy Speaker:** Order. Before I put the Question, I remind Members — this is an important point that affects this group — that we have debated the Minister's opposition to clause 3. However, the Question will be put in the positive as usual.

*Question put.*

*The Assembly divided:*

*Ayes 12; Noes 80.*

**AYES**

*Mr Cree, Mrs Dobson, Mr Elliott, Mr Gardiner, Mr Hussey, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr Nesbitt, Mrs Overend, Mr Swann.*

*Tellers for the Ayes: Mr Elliott and Mr Kinahan*

## **NOES**

*Mr Agnew, Mr Allister, Mr Anderson, Mr Attwood, Mr Bell, Mr Boylan, Ms Boyle, Mr D Bradley, Ms P Bradley, Mr Brady, Mr Buchanan, Mr Byrne, Mrs Cameron, Mr Campbell, Mr Clarke, Mrs Cochrane, Mr Craig, Mr Dickson, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Eastwood, Dr Farry, Ms Fearon, Mr Flanagan, Mr Ford, Mr Frew, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hazzard, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr G Kelly, Ms Lo, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Mr McCausland, Ms McCorley, Mr I McCrea, Mr McElduff, Ms McGahan, Mr McGlone, Mr M McGuinness, Mr D McIlveen, Miss M McIlveen, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, 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, Mr Rogers, Mr Ross, Ms Ruane, Mr Sheehan, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.*

*Tellers for the Noes: Mr McKinney and Mr Rogers*

*Question accordingly negated.*

*Clause 3 disagreed to.*

## **Clause 4 (Disqualifications)**

**Mr Principal Deputy Speaker:** The Minister's opposition to clause 4 has already been debated.

*Question, That the clause stand part of the Bill, put and negated.*

*Clause No 4 disagreed to.*

## **Clause 5 (Penalties for acting as a councillor while disqualified)**

**Mr Principal Deputy Speaker:** The Minister's opposition to clause 5 has already been debated.

*Question, That the clause stand part of the Bill, put and negated.*

*Clause No 5 disagreed to.*

**Clause 6 (Declaration on acceptance of office of councillor)**

**Mr Principal Deputy Speaker:** The Minister's opposition to clause 6 has already been debated.

*Question, That the clause stand part of the Bill, put and negated.*

*Clause No 6 disagreed to.*

**Clause 7 (Resignation)**

**Mr Principal Deputy Speaker:** The Minister's opposition to clause 7 has already been debated.

*Question, That the clause stand part of the Bill, put and negated.*

*Clause No 7 disagreed to.*

**Clause 8 (Vacation of office on account of non-attendance)**

**Mr Principal Deputy Speaker:** The Minister's opposition to clause 8 has already been debated.

*Question, That the clause stand part of the Bill, put and negated.*

*Clause No 8 disagreed to.*

**Clause 9 (Declaration of vacancy in office in certain cases)**

**Mr Principal Deputy Speaker:** The Minister's opposition to clause 9 has already been debated.

*Question, That the clause stand part of the Bill, put and negated.*

*Clause No 9 disagreed to.*

**New Clause**

*Amendment No 4 made:*

After clause 9 insert

**"Disqualifications for being councillors**  
**9A.**A member of—

(a) the Assembly;

(b) the House of Commons; or

(c) the European Parliament,

is disqualified for being a councillor."— [Mr Durkan (The Minister of the Environment).]

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

**New Clause**

*Amendment No 5 made:*

After clause 9 insert

**"Power to exempt offices and employments from disqualification**

**9B.**In section 4(1)(a) of the Local Government Act (Northern Ireland) 1972 (disqualifications), for the words from "place of profit" to "council" there shall be substituted the words "employment appointments to which are made by a council if it is a prescribed office or employment".— [Mr Durkan (The Minister of the Environment).]

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

**Clause 10 (Positions of responsibility)**

*Amendment No 6 made:*

In page 5, line 25, leave out "subsection (1)(f)" and insert "this Act".— [Mr Durkan (The Minister of the Environment).]

*Amendment No 7 made:*

In page 5, line 26, leave out "prescribed public body or other association" and insert "public body".— [Mr Durkan (The Minister of the Environment).]

*Clause 10, as amended, ordered to stand part of the Bill.*

**Mr Principal Deputy Speaker:** We now come to the third group of amendments for debate. With amendment No 8, it will be convenient to debate the other 29 amendments on the grouping list which deal with governance, decision-making, appointments and transition to new structures. Members should note that amendment No 11 is mutually exclusive with amendment No 10. Amendment No 15 is consequential to amendment No 14, amendment No 18 is consequential to



amendment No 17, and amendments Nos 96, 98 and 99 are consequential to amendment No 95.

I call the Minister of the Environment to move amendment No 8 and speak to the other amendments in the group.

**Mr Durkan (The Minister of the Environment):** I beg to move amendment No 8: In clause 11, page 5, line 38, at end insert -

*"( ) making a determination under section 13(1) of the Local Government Finance Act (Northern Ireland) 2011 (affordable borrowing limit) and monitoring an amount determined under that subsection;"*

*The following amendments stood on the Marshalled List:*

No 9: In clause 23, page 10, line 11, leave out lines 11 to 13 and insert

*"a committee system unless the council decides to operate executive arrangements or prescribed arrangements".— [Ms Lo.]*

No 10: In clause 25, page 11, line 29, leave out subsection (3) and insert—

*"(3) The chair and deputy chair of the council shall be non-voting members of the executive and shall be disregarded for the purpose of subsections (4) and (5)".— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 11: In clause 25, page 11, line 29, leave out "not".— [Mr Elliott.]

No 12: In clause 25, page 11, line 31, leave out "four" and insert "six".— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 13: In clause 25, page 11, line 34, leave out "four" and insert "six".— [Ms Lo (The Chairperson of the Committee for the Environment).]

No 14: In clause 34, page 18, line 9, leave out "an excluded" and insert "a prescribed".— [Mr Durkan (The Minister of the Environment).]

No 15: In clause 34, page 18, line 17, leave out subsection (4).— [Mr Durkan (The Minister of the Environment).]

No 16: In clause 44, page 23, line 40, leave out "Standing orders must" and insert "The Department must by order".— [Mr Elliott.]

No 17: In clause 45, page 24, line 16, at end insert

*"(1A) The Department must appoint a panel of solicitors for the purposes of providing an opinion if requested under subsection (2)".— [Mr Elliott.]*

No 18: In clause 45, page 24, line 18, leave out "a practising barrister or solicitor" and insert

*"the panel of solicitors appointed under subsection (1A)".— [Mr Elliott.]*

No 19: In clause 45, page 24, line 20, at end insert

*"and the process by which a legal opinion is obtained in subsection (2)".— [Mr Weir.]*

No 57: In clause 106, page 60, line 6, leave out "appointed by the Department".— [Mr Durkan (The Minister of the Environment).]

No 58: In clause 106, page 60, line 7, at end insert

*"(c) a maximum of 5 representatives of such representative body or association of the district councils as appear to the Department to be appropriate".— [Mr Weir.]*

No 59: In clause 106, page 60, line 8, leave out "(4)" and insert "(3A)".— [Mr Durkan (The Minister of the Environment).]

No 60: In clause 106, page 60, line 8, at end insert

*"(3A) Each council may nominate a councillor to serve as a member of the Panel".— [Mr Durkan (The Minister of the Environment).]*

No 61: In clause 106, page 60, line 9, leave out subsection (4).— [Mr Durkan (The Minister of the Environment).]

No 68: In clause 114, page 63, line 34, after "(2A)" insert

*"for a rates convergence period lasting a minimum of three years".— [Mr Elliott.]*

No 69: After clause 115 insert

*'Transferred functions grant*

**Transferred functions grant**

**115A.**—(1) *In the Local Government Finance Act (Northern Ireland) 2011, after section 27 (rates support grant) there shall be inserted the following section—*

*"Transferred functions grant*

**27A.**—(1) *The Department shall for any prescribed financial year make a grant under this section to councils.*

(2) *In this section "transferred functions grant" means the grant payable under this section for any financial year.*

(3) *The transferred functions grant is payable only to a council which is a new council within the meaning of Part 2 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010.*

(4) *The amount of the transferred functions grant payable to a council for any financial year is the amount equal to the difference between—*

(a) *the amount of the product of the district rate for that year (within the meaning of the Rates (Northern Ireland) Order 1977) so far as it relates to the rateable net annual values of the hereditaments in the district of that council; and*

(b) *the amount which would have been the amount of that product if the total of the rateable net annual values of the hereditaments in the district of that council had been increased by a prescribed amount.*

(5) *Subsection (4) is subject to section 28 (reductions in grants) and to section 67(3B) of the Local Government Act (Northern Ireland) 2014.*

(6) *Payments in respect of transferred functions grant shall be made to a council at such times as the Department may determine."*

(2) *In section 28 of that Act (reductions in grants), in subsections (2)(a) and (6)(b) and in the heading for "or 27" there shall be substituted ", 27 or 27A".— [Mr Durkan (The Minister of the Environment).]*

No 71: After clause 119 insert

**"Power to dissolve Local Government Staff Commission**

**Power to dissolve the Local Government Staff Commission for Northern Ireland**

**119A.** *In section 40 of the Local Government Act (Northern Ireland) 1972 (Staff Commission), after subsection (8) there shall be added the following subsection*

*'(9) The Department may by order make provision for, and in connection with, the dissolution of the Staff Commission and such an order may—*

(a) *provide for the transfer of the functions, assets and liabilities of the Staff Commission to any other body or person; and*

(b) *contain such incidental, consequential, transitional or supplementary provisions (including the modification or repeal of any statutory provision (including a provision of this Act)) as appear to the Department to be necessary or expedient.*

(10) *An order must not be made under subsection (9) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.'.— [Mr Durkan (The Minister of the Environment).]*

No 80: In clause 122, page 67, line 28, at end insert

*"(4A) Subsection (4) does not preclude the payment of compensation if it forms part of a severance arrangement which has been sanctioned by the Department. The Department must satisfy itself that the arrangement is reasonable."— [Mr Weir.]*

No 82: After clause 123 insert

**"Appointment of chair and vice-chair of district policing and community safety partnerships**

**123A.**—(1) *Schedule 2 of the Justice Act (Northern Ireland) 2011 (c.24) is amended as follows.*

(2) *After paragraph 10(2)(b) insert—*  
*'(c) In this sub-paragraph, 'in turn' means in order of size, with size being determined by the number of seats won by each political party in the previous local government election, with the largest first, second largest second and so on. Where the number of seats won by two or more*

*political parties is equal, the number of first preference votes cast in the council district for the parties at the last local government election shall be used to determine the order in which each of those parties shall hold the relevant position.’— [Ms Lo.]*

No 93: In clause 125, page 70, line 34, at end insert

*"(m) paragraph 4A of Schedule 4".— [Ms Lo (The Chairperson of the Committee for the Environment).]*

No 95: In schedule 3, page 74, line 6, leave out "unless" and insert "only if".— [Ms Lo.]

No 96: In schedule 3, page 74, line 8, leave out "applies" and insert "does not apply".— [Ms Lo.]

No 97: In schedule 3, page 75, line 33, at end insert

*"(3) This paragraph does not apply in relation to a position of responsibility specified at section 10(1)(e) (member of a cabinet-style executive of the council) or section 10(1)(f) (external representative of the council).".— [Mr Weir.]*

No 98: In schedule 3, page 76, line 18, leave out "only if" and insert "unless".— [Ms Lo.]

No 99: In schedule 3, page 76, line 18, leave out "so decides" and insert "decides otherwise".— [Ms Lo.]

No 100: In schedule 3, page 79, line 12, at end insert

*"(6A) In this Schedule "term", in relation to a member of a cabinet-style executive of the council, means the period beginning with the date of the meeting at which the nomination is made and ending when the members of the council retire by virtue of section 11(2)(c) of the 1962 Act."— [Mr Weir.]*

No 101: In schedule 4, page 80, line 28, at end insert—

*"4A. Regulations shall provide for the application of paragraphs 2 to 4 in circumstances where a council decides to appoint more than one Committee."— [Ms Lo (The Chairperson of the Committee for the Environment).]*

**Mr Durkan:** Mr Principal Deputy Speaker, with your permission, I propose to speak first on the

amendments I will be recommending that the House accept.

There are certain responsibilities of a council that should be taken by the council, irrespective of the political management structures it puts in place. Those are specified in clause 11 and include making the district rate, borrowing money and acquiring or disposing of land. Amendment No 8 adds to that list by specifying that the setting of an affordable borrowing limit and the monitoring of that amount may be discharged only by the council itself. To do otherwise could lead to a conflict between those setting the borrowing limit and the will of the council, as a body, in relation to borrowing for a particular project.

The next three amendments that I want to address, which were tabled by the Committee for the Environment, relate to the composition of an executive of a council, whether the council chooses to operate a Cabinet-style executive or a streamlined committee executive. Clause 25 provides that the chair and deputy chair of a council may not be members of an executive, to draw a distinction between the civic role of those positions and the decision-making role of an executive.

Whilst the provisions in relation to access to meetings of an executive permit any member of the council to attend such meetings, I support amendment No 10, which provides for the chair and deputy chair of the council to be non-voting members of the executive. I also support amendment Nos 12 and 13. These have the effect of increasing the minimum number of members on an executive to six to provide the opportunity for a broader range of political parties to be represented on these decision-making bodies if the political parties wish to take up the positions.

**7.45 pm**

Amendment Nos 14 and 15 make provision for my Department to specify in regulations matters that may not be referred to an overview and scrutiny committee if a council adopts executive arrangements. I am bringing forward these amendments so that my Department can make a single set of regulations that will address all the issues pertaining to the operation of executive arrangements rather than the specification of excluded matters being addressed separately in an order.

A key feature of the governance arrangements for the new councils is the specification of a system of protections for the interests of minority communities in a council's decision-

making. One aspect of this system is the provision of the ability for 15% of the members of a council to request that a decision is reconsidered; that is the call-in process. To support, as far as is practicable, the effective operation of a council if the call-in is requested on the grounds that the decision would disproportionately affect adversely any section of the community in the district, the opinion of a barrister or solicitor would be obtained. The role of the solicitor or barrister is simply to provide an opinion on whether the members requesting the reconsideration of the decision have articulated their case. The individual has no role in the decision-making process; that is clearly a matter for the council.

This process was agreed by the political parties represented on the strategic leadership board's policy development panel on governance and relationships. I am, however, prepared to support amendment No 19, tabled by Mr Weir, Mrs Cameron, Mr Ian McCrea and Lord Morrow. This amendment provides an enabling power for my Department to alter this process should that become appropriate in the light of experience in the operation of the process.

The local government reform programme provides an opportunity to formalise the relationship between Executive Ministers and elected representatives from the new councils through the establishment of the partnership panel provided for in clause 106. In moving forward on this, it should be for each council to determine who represents it on the partnership panel. Whilst that was always the intent, I am persuaded that amendment Nos 57, 59, 60 and 61 will give greater effect to this by placing responsibility for the nomination of council representatives firmly in the hands of the individual councils.

The local government reform programme is not just about rationalising the number of councils; it is about strengthening the role of local government by transferring functions from Departments to councils. Amendment No 69 makes provision for the payment of a grant to councils to fund those functions and powers being transferred to or conferred on the new councils from Departments. This transferred functions grant will bolster the tax base in each of the 11 new local government districts and provide a relatively settled and sustainable funding source rather than operating through alternative grant-based mechanisms. It will guarantee each of the new councils an amount of money based on a set amount of rateable value multiplied by the prevailing district rate.

Amendment No 71 introduces a new clause to make provision to dissolve the Local Government Staff Commission, if that is agreed to be the appropriate course of action at some time in the future. The Local Government Staff Commission was established by section 40 of the Local Government Act (Northern Ireland) 1972 as a corporate body with perpetual succession. However, there is no means in the legislation to wind up the commission. My predecessor launched a consultation as part of a review of the Local Government Staff Commission and its future role. While a final decision on the way forward has yet to be agreed, and without prejudging wider views on the issue, I consider it prudent to include the necessary winding up provision in the Bill.

The final amendment that I commend to the House is amendment No 80, which was tabled by Mr Weir, Mrs Cameron, Mr McCrea and Lord Morrow in relation to clause 122. This clause provides for payments of compensation to be made as part of a severance arrangement that has been sanctioned by the Department. I have considered the reasoning behind the proposal, including managing the loss of experienced staff over a more prolonged period and some financial savings that could be gained from staff leaving earlier than the start date of the agreed severance scheme. I can understand this reasoning and therefore support the need for some flexibility on this in certain circumstances.

I now wish to speak to the amendments that I must recommend to the House are not made. Amendment No 9, tabled by Ms Lo and Mr Dickson, seeks to make the existing committee system the default system unless the council decides to operate executive arrangements or prescribed arrangements. The decision on the political management structure to be adopted should be a matter for individual councils, taking account of their particular circumstances. It is anticipated that a significant number of the new councils will automatically default to the committee structure, with which the majority of existing councillors will be familiar. The range of political management structures to be available to the new councils was agreed after a detailed analysis by the political parties represented on the strategic leadership board's policy development panel on governance and relationships. These options were also supported by the Environment Committee during its scrutiny of the Bill.

Amendment No 11, tabled by Mr Elliott and Mr Kinahan, seeks to make the chair and deputy chair compulsory members with voting rights of a council's executive. As I stated earlier, the

policy intent is to provide a separation between the civic role of the chair and deputy chair of a council and the decision-making role of the executive. The inclusion of the chair and deputy chair of the council in the membership of the executive has the potential to raise issues with regard to impartiality if a request for the reconsideration of a decision by the executive is referred to the council. I have already indicated my support for the chair and deputy chair of a council being ex officio members of its executive; I am not prepared to recommend that the Bill goes any further than this in its provisions.

Amendment No 16 seeks to make provision for the decisions that must be taken by a qualified majority to be specified in an order, rather than in a council's standing orders. Clause 42 provides an enabling power for my Department to make regulations about standing orders. This power will allow the Department to specify decisions that are to be taken by a qualified majority in subordinate legislation without the need to amend clause 44. I have already given a commitment to the House that the decisions of a council that must be subject to a qualified majority would be a mandatory element of a council's standing orders to be specified in regulations made using the enabling power provided by clause 42. Maintaining this approach will ensure that all the mandatory elements of standing orders that provide for the protection of the interests of minority communities in council decision-making are contained in regulations that will be subject to the draft affirmative procedure in the Assembly.

The next two amendments — amendments Nos 17 and 18 — that I am not able to support have also been tabled by Mr Elliott and Mr Kinahan. The amendments would require my Department to establish a panel of solicitors to provide an opinion on whether a request for the reconsideration of a decision on adverse impact grounds was valid. Such an approach would remove the autonomy of a council to seek its own opinion and is not in accordance with the recommendations that came forward from the strategic leadership board's policy development panel on governance and relationships. I have already indicated my support for the amendment tabled by Mr Weir and colleagues on the Committee for the Environment. I am satisfied that this is the appropriate mechanism to future-proof the system.

Amendment No 58, tabled by Mr Weir, Ms Lo and Mr Boylan, seeks to enshrine in statute representation from a representative body for councils on the partnership panel. Although I acknowledge the valuable role played by

NILGA and the National Association of Councillors (NAC), the objective of the local government reform programme is to empower councils. I am therefore not prepared to support the amendment. The autonomy of councils in the process must be the overriding principle, as demonstrated by the amendments that I tabled to provide that individual councils are responsible for nominating their representatives on the panel. It is for councils to determine the role that NILGA, the NAC or any other representative regional body has to play in the operation of the panel.

Amendment No 68, in the names of Mr Elliott and Mr Kinahan, seeks to provide that the transitional rate relief scheme, which was agreed by the Executive to minimise the impact on ratepayers of the convergence of different levels of rates between existing councils that will constitute a new council, will last for a minimum of three years. My officials and those of the Minister of Finance and Personnel continue to work on the development of an affordable scheme based on the Executive's commitment to provide up to £30 million to stagger the effects of rates convergence for affected ratepayers. I cannot recommend to the House an amendment that would make provision for a scheme that has not been the subject of consultation with local government.

Amendment No 82, in the names of Ms Lo and Mr Kinahan, proposes an addition to the Bill that would effect a change to the Justice Act (Northern Ireland) 2011 which provides for the allocation of the chair of a district policing and community safety partnership. The amendment would require the chair to be allocated to each of the four largest parties in turn, rather than permitting each political party to decide when they want to hold the position during the term of the partnership. The amendment seeks a change not to the Bill but to an Act introduced by the current Minister of Justice. A change through the amendment would therefore take place without proper consultation with the Justice Committee and other stakeholders. The amendment refers only to schedule 2 to the Justice Act (Northern Ireland) 2011, which relates only to procedures operating in Belfast. It is interesting that it does not include a reference to schedule 1, which makes provision in relation to the rotation of the chair of a policing and community safety partnership for individual councils. The amendment also runs contrary to the principle enshrined in schedule 3, which leaves decisions on selecting when a position of responsibility will be held to the discretion of the political party. That principle was agreed by the representatives of the five main political parties on the strategic leadership

board's policy development panel on governance and relationships.

I will speak to amendment Nos 93 and 101 together, as they are linked. Amendment No 101, tabled by the Committee for the Environment, seeks to make provision for regulations to provide that the procedure for the allocation of committee places across the political parties on a council may be applied to more than one committee at a time. Amendment No 93 adds such regulations to the list in clause 125 of the enabling powers that must be subject to the draft affirmative procedure. Although I support the principle underpinning the main amendment, I cannot recommend that it be made. I intend to table an amendment at Further Consideration Stage that will provide for the use of the procedures in schedule 4 for multiple committees to be specified as a mandatory element of council standing orders.

*(Mr Speaker in the Chair)*

I also want to link amendment Nos 95, 96, 98 and 99, tabled by Ms Lo and Mr Dickson. Schedule 3 makes provision for the methods to be available to a council for the allocation of the positions of responsibility specified in clause 10. The schedule provides that the default method of filling positions of responsibility shall be the d'Hondt method unless the council, by a qualified majority, has selected a specific method. One of the methods specified in Part 2 of the schedule is the use of the single transferable vote (STV) to fill the positions. The effect of the amendments would be that, instead of d'Hondt being the default method, STV would become the default method. The use of the d'Hondt method as the default option was agreed by the political parties represented on the strategic leadership board. The use of STV as the default method for filling positions of responsibility was discussed by the Environment Committee and rejected. I therefore call on the House in the strongest terms not to support the amendments.

**8.00 pm**

The final two amendments in group 3 are amendment Nos 97 and 100, which stand in the name of Mr Weir and his party colleagues on the Committee for the Environment. The amendments would exempt positions on a cabinet-style executive and representative appointments to external bodies from the annual selection provided for in schedule 3. The effect would be that the positions would be selected at the start of a council term following

a local government election for the whole of the four-year term. Again, I recognise the rationale behind the amendments and the aim of seeking to provide continuity in the political party membership of this key decision-making body and on external bodies. However, I am committed to ensuring that positions of responsibility are shared across the political parties and independents represented on a council in accordance with the views expressed by the political parties on the SLB's policy development panel on governance and relationships. It is a matter for individual political parties and independents to determine which positions of responsibility they wish to hold over the life of a council, taking into account their own priorities and considerations. In view of the above, I cannot recommend support for the amendments.

Those, Mr Speaker, are the amendments in group 3.

**Ms Lo:** During Committee Stage, departmental officials agreed to report back on the possibility of amending clause 11 to address a possible conflict with the Local Government Finance Act by changing the description of "borrowing money" to "affordable borrowing limit". The Committee was content with the wording of the amendment that the Department proposed. I therefore support amendment No 8.

I cannot make any comment on behalf of the Committee on amendment No 9, as members did not consider it during Committee Stage.

I now turn to the amendments proposed by the Committee: amendments Nos 10, 12 and 13. The Committee raised issues on a number of aspects of clause 25. The first related to the operation of committees with quasi-judicial functions, such as planning or licensing. It is unclear from the Bill whether those committees would be subject to the call-in or qualified majority voting or would have their own inbuilt appeal mechanism. Departmental officials indicated that that would be clarified by guidance and specified in standing orders to be covered by subordinate legislation.

The second area of concern relates to the role of the mayor and deputy mayor. Those positions currently have civic and political significance and are part of the decision-making process, with the mayor or chairperson having a casting vote. Clause 25(3) specifies that a council executive must not include the chair or deputy chair in order to maintain the appearance of independence from the council's decision-making. The Committee agreed that the chair/mayor and the deputy chair/mayor

needed to be fully aware of the rationale behind any decisions taken by the council, as they are held accountable by ratepayers and need to be in a position to comment authoritatively on those. The Minister was not minded to make an amendment to reflect that. Consequently, the Committee agreed to amend clause 25(3) to read:

*"The chair and deputy chair of the council shall be non-voting members of the executive".*

I commend amendment No 10 to the House.

The Committee also agreed to table amendment Nos 12 and 13 to increase the minimum number of members to be appointed to a council executive, either cabinet-style or streamlined, to six. The Committee did not feel that the minimum number specified in the Bill — four members — was appropriate to ensure adequate cross-party representation. I commend the amendments to the House.

I cannot make any comment on amendment No 11 on behalf of the Committee, as members did not consider it during Committee Stage.

Amendment Nos 14 and 15 to clause 34 are merely technical in nature, and the Committee is content to support the amendments.

I cannot comment on behalf of the Committee on amendment Nos 16 to 19, as they were not considered at Committee Stage. However, the issues to which they relate — the determination of an appropriate percentage for qualified majority and the identification of a practising barrister or solicitor to support a call-in — greatly concerned the Committee during its scrutiny of the Bill.

Moving on to clause 106 and to amendment Nos 57, 59, 60 and 61, I will say that the Department briefed the Committee on its intention to enable each council to nominate a representative to the partnership panel. The Committee was content with the clause, subject to those amendments. Before it reported on the Bill, the Committee did not consider amendment No 58 to clause 106, which seeks to allow additional regional representatives of councils to be appointed to the partnership panel. However, members were not unsympathetic to the representations that NILGA has since made to the Committee on the issue.

I cannot comment on behalf of the Committee on amendment No 68, as it was not considered at Committee Stage.

The Committee was content with the proposed new clause after clause 115 to provide funding for the functions transferred from central to local government. I therefore support amendment No 69 on behalf of the Committee.

Departmental officials also advised the Committee of a proposed new clause after clause 119 to allow for the abolition of the Local Government Staff Commission. Members were content with the new clause, and I therefore support amendment No 71 on behalf of the Committee.

I cannot comment on behalf of the Committee on amendment Nos 80 and 82, as they were not considered at Committee Stage.

The Committee has tabled amendment No 93 as consequential to amendment No 101. Taken together, the amendments will 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 the election. That is to enable a fairer allocation of seats on committees to smaller parties and independent councillors, who otherwise may be excluded by using the quota greatest remainder process for each individual committee on an annual basis only. On behalf of the Committee, I ask the House to support both amendments.

I cannot comment on behalf of the Committee on amendment Nos 95 to 100, as they were not considered at Committee Stage.

Mr Speaker, I will now speak on behalf of the Alliance Party, which has tabled a number of amendments. Amendment No 9 seeks to modify clause 23, which sets out the forms of political governance by which a council may conduct its business. The Alliance Party amendment makes the committee system the default arrangement as opposed to an executive system, unless a council decides to operate executive or prescribed arrangements. I am disappointed to hear that the Minister does not support that. Councils could use the committee system; in fact, they are quite likely to use it. Therefore, I do not see why that cannot be the default position. Amendment No 58, to which Peter Weir, Cathal Boylan and I have signed our names in a happy collaboration, ensures that clause 106 allows up to five representatives from NILGA or the equivalent body to be appointed to the partnership panel. I am disappointed that the Minister says that he is not minded to support that. After the Minister's amendment to allow

each council to put forward its own member to the partnership panel and the clause on consulting with NILGA also having been taken away, we certainly do not want to see the partnership panel being dominated by the two major parties. We felt that it was a compromise that five representatives from NILGA should help to balance the membership of the partnership panel. It is a very important panel that brings Ministers and statutory bodies together. We feel strongly that the balance of power should be in place there. I urge parties to support the amendment.

The Alliance Party tabled amendment No 82 to clarify in clause 123A the appointment of chairpersons and vice-chairpersons of district policing and community safety partnerships. The words "in turn" mean in order of size, which is determined by the number of seats that are won by each political party, with the largest first, the second largest second et cetera. We believe that that is incredibly important to safeguard against one political party dominating council decisions. I take the Minister's point that that is perhaps being done without consultation, but we think that it is an opportunity to have more democracy and power sharing in PCSPs.

Amendment Nos 95, 96, 98 and 99 all deal with making the single transferable vote the default position for allocating positions of responsibility instead of d'Hondt as the Bill is currently worded.

In amendment No 9, Alliance wants to make the committee arrangements the default system for governance. That is being done for two reasons. The first is that the current wording is not clear in circumstances where a council is unable to make a decision on which set of arrangements to use. To us, there seems to be no backstop. The second is that we believe that committee arrangements are the most appropriate form of governance for Northern Ireland.

There are two reasons for that preference. The first is that the wide variety of political views in Northern Ireland ensures that a broad consensus needs to be developed on a range of issues. Majoritarian rule would not be appropriate. A committee system at least means that decisions are considered by committees rather than through any other system. It is also the case that, even with the new powers that we are conferring on them, councils will still have fewer powers than their equivalents in Great Britain or the Republic of Ireland.

## 8.15 pm

Most of the new powers relate to issues such as neighbourhood renewal or community planning, which are about taking long-term decisions rather than short-term determinations. As a result, Cabinet-style government is not appropriate for such decisions. There will not always be a demand on committees to make quick decisions. Committees are very able to make decisions on long-term issues without the need for Cabinet-style government, which makes snappy, quick decisions.

However, for those councils that do opt for a Cabinet-style role, that should not be confused with the role of the mayor and the deputy mayor. We support allowing the mayor and the deputy mayor to sit as non-voting members of the Cabinet, as per amendment No 10 tabled by the Environment Committee. However, we cannot support amendment No 11, tabled by the UUP, because it requires them to be full members.

The first reason relates to proportionality. Having two ex-officio members who are not required to reflect the proportionality of the board will affect it adversely. Also, the mayor and deputy mayor, as heads of the council, should represent the council as a whole and stay neutral in the process of decision-making. They also have a responsibility to allow back-bench members to scrutinise decisions, and that would be jeopardised if they were involved in those decisions.

Amendment No 82, which was tabled by my party, clarifies the existing legislation on how chairs of policing and community safety partnerships (PCSPs) are appointed. The amendment makes no substantive change to the process but clarifies the legal position of the phrase "in turn" to mean "in order of size". That issue arose recently for the allocation of the chair of Castlereagh PCSP. Although the decision was in the end not challenged, the scope for further problems still exists. Our amendment does not change the intention behind the original wording in the Justice Act 2011 but does alter it to better reflect that intention.

The Alliance Party also tabled four amendments on using the single transferable vote (STV) as the default system for allocating positions of responsibility instead of, as the Bill is currently worded, d'Hondt, because we believe that STV better reflects the cross-community governance that we wish to see implemented for the new councils. It also makes sure that votes of independents or



groups too small to make the quota are not lost when allocating seats. The amendments will ensure that all parts of the community are able to influence positions of responsibility and reduces the likelihood of a carve-up of seats.

Under the d'Hondt system, it would currently be too easy for one section of the community to be excluded from governance entirely, such as nationalists in the new North Down and Ards District Council or unionists in the new Derry City and Strabane District Council. In all councils, independents would be excluded from contributing —

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

**Ms Lo:** After I finish this sentence. Independents would be excluded from contributing to being elected to positions of responsibility.

**Mr Weir:** I thank the Member for giving way. I will probably address this issue more substantially in my speech. The concern that has been raised about exclusion of minorities would be much more applicable if we were electing or appointing people to only a very small number of positions of responsibility. However, irrespective of whether or not my amendment Nos 97 and 100, which would group some of those in a term-type limit, are agreed, the councils will make appointments at the start of their term for individual posts for one year and will do that all in one block. They may well be appointing somewhere in the region of 200, 300 or 400 posts straight away in one go. In a situation in which you have 40 councillors, that will mean, effectively, that even an independent on their own would automatically be entitled to one fortieth of the seats under d'Hondt. So, it becomes impossible to exclude people on that basis. Indeed, it clearly becomes proportionate. The Member's proposal would carry a lot more weight if there were a relatively small number of posts. When you start applying it across a vast number of posts, d'Hondt becomes very proportionate.

**Ms Lo:** We will certainly be supporting the amendments.

**Mr Eastwood:** I thank the Member for giving way. She referred to the new Derry and Strabane council. People in Derry are proud of the fact that they led the way on partnership, power sharing and d'Hondt in local government, so the Member might like to clarify that she was not casting any aspersions on the people there.

**Ms Lo:** I was saying that people could be excluded if just d'Hondt were run. That would apply to the minority of unionists in Derry, and similarly for nationalists in north Down. I am talking about the system and using those examples. I am not making any derogatory comments about the new council, but we are saying that this could be the case if that system is used.

Under an STV system, however, the use of transfers between voters in small parties and groups do not see their electoral mandate ignored when it comes to positions of responsibility. Likewise, larger parties would not see surplus votes wasted. This will ensure that the complex patterns of voting in Northern Ireland will not disproportionately impact on some parties. STV is by far the fairest way of demonstrating that all councillors should be involved in the allocation of positions of responsibility. We believe that it is a much fairer system, and that is one of the reasons why it was adopted for the Assembly and council elections over other less flexible forms of proportional representation, such as d'Hondt. If it is good enough for voters to elect their councillors, surely it is good enough for councillors to elect their chairs and deputy chairs.

I turn now to other amendments in this group. Amendment Nos 16 to 18 relate to the recall mechanism. Alliance supports making the Department rather than standing orders responsible for defining the areas for which recall is appropriate. This will allow regional consistency. However, we will not support the amendments that relate to using a panel of solicitors. We prefer councils to use their own legal team or to pick the legal adviser most suitable for the circumstances. We will, however, support amendment No 19, which allows the Minister to amend by regulation.

Alliance will also support amendment No 58, a cross-party amendment that allows up to five representatives from NILGA or an equivalent body to be appointed to the partnership panel. As I said earlier, this amendment was agreed by the parties following the Minister's decision to bring forward amendment Nos 57 and 60, which the Alliance Party supports, to allow each council to appoint a councillor to the partnership panel. However, amendment No 58 ensures that there will be fairer representation on the panel.

I am interested to hear more on the DUP amendment Nos 97 and 100 regarding the rotation of chairs and vice-chairs. However, as this is not in line with the norm in Great Britain,

we are currently minded to oppose those amendments.

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

**Ms Lo:** Yes.

**Mr Weir:** I appreciate that I will be addressing amendment Nos 97 and 100, but they do not touch upon chairs and vice-chairs. They relate purely to a situation where you have an executive and essentially external representatives, where it would deal with a situation when a body was seeking someone for more than one year. It would leave the rotation of the chairs and vice-chairs untouched on that basis.

**Ms Lo:** OK. Well, we will certainly listen to your presentation on that.

We are minded to support amendment Nos 68 to 80 and other technical amendments.

**Mr Weir:** Although a lot of the focus tomorrow may well end up on group 6, in terms of the meat of sheer volume of amendments and intricacies, group 3 has probably got the most in the range of issues that it covers.

I want to touch on two areas. First of all, there are five amendments that I or my party have put forward with others. I will then touch more generally on a number of the other amendments.

Amendment No 19 covers an issue that the Committee grappled with. If we are enshrining within the legislation a call-in mechanism, which I think that everyone accepts as a form of protection for minority rights, there needs to be some mechanism to determine whether that is a legitimate call-in or vexatious. If it is vexatious or does not meet the criteria, we simply have gridlock. If it does not provide enough protection, similarly there is a problem.

The solution currently in the legislation enables councils simply to refer to any barrister or solicitor. There is a concern, which was expressed by a number of people in Committee, that as a formula that has a danger of inconsistency. A solution may be that tight guidance issued by the Department might be sufficient to ensure a consistent approach to this. However, there is a concern that what is there may not be sufficient. Consequently, at least on amendment No 19, there is a provision that if indeed there is agreement on a better way forward that can command support, it does not have to go back to primary legislation but

can, by way of affirmative resolution, be made in regulations.

I will listen again to what is being said of similar amendments at amendment Nos 17 and 18. They are, perhaps, producing a situation of the endgame of amendment No 19; ie where the issue was looked at again, an alternative method found and a panel of solicitors appointed. To that end, I would potentially be minded to support amendment Nos 17 and 18 because that seems to be a reasonable enough solution, although I will listen to the debate before we resolve that issue.

I duly indicate that if amendments Nos 17 and 18 are defeated, we will put forward amendment No 19. If they are accepted by the House, we will not move amendment No 19 because there would be little point in that.

Perhaps I could put aside what appears to be one degree of slight in amendments Nos 17 and 18. We have moved from a position where the opinion of solicitors and a barrister may be taken. I do not know whether there is any intent or thought that amendment Nos 17 and 18 refer purely to solicitors and the Bar has been cast into Lough Neagh or outer space. I am interested to see whether there was any intention behind that. However, it seems that amendment Nos 17 and 18 are a reasonable attempt to crack the problem of how we gain consistency within that.

The second amendment that I am putting forward with representatives of some of the other parties is amendment No 58. The changes that the Department made in having a direct representative from each council are sensible. Within any partnership panel, however, which is meant to look strategically at the interface between local and central government, there should be some regional representation. That is for a number of reasons. There have been some concerns that there is a danger, and there is no guarantee as to the way that this will work out, of getting disproportionate representation from the 11 councils. This measure would at least ensure that there was one representative from each of the five main parties.

### 8.30 pm

Speaking as somebody who used to be an officer in the Local Government Association, I think there is good cooperation between the parties within it. Also, there is a good relationship and good cooperation, particularly since devolution — it was a bit more rocky at times during the direct rule days — between the Department and the Local Government

Association, to the extent that when, for example, the strategic leadership board or, indeed, some of the political panels had been set up, at times during the RPA process the vice chair of the strategic leadership board was always the president of the Local Government Association. So there is a precedent and a direct bit for direct representation.

Also, with the best will in the world, this will aid the partnership panel to focus on a regional basis. There is always a danger when you only have 11 representatives — one from each council — that each will see their role as being to fight for their area. There is no harm in that, but it also needs, from a local government point of view, those who are coming in to try to give a more Northern Ireland-wide consensus in connection with that. Therefore, although it is not enshrined that the representatives will come from a particular body, although it is likely to be NILGA or a successor body of that nature, to make that direct provision seems to be relatively sensible and, generally speaking, relatively uncontroversial.

Amendment No 80, as has been indicated, deals with severance arrangements, particularly looking at senior staff. It allows a wee bit of common sense and flexibility to come into this. You could get a situation where you have a senior member of staff looking to leave, the council is keen enough for that person to leave and it makes economic sense on both sides for them to leave, but, because the regulations are too rigid, they are effectively trapped in that position. This amendment allows for that degree of flexibility in circumstances where you have a scheme that has been sanctioned by the Department and has been shown to be reasonable, so that it can withstand any legal test that is put against it. That seems to be a relatively sensible approach, and I thank the Minister for indicating that it makes sense from the Department's point of view.

On amendment Nos 97 and 100, again, as somebody who was involved in the policy development work around governance, I think that the idea of positions of responsibility being rotated — the opportunity for people to choose — seems to be quite a sensible one. It is perfectly fair that, where you have the positions of mayor and deputy mayor and chair and vice chair of a committee, the people in those positions change each year as part of that process.

It is similar where you have an external representative who is really to fill that position for one year — on a one-year appointment. Most of us who have been through council

AGMs — I presume that this is the case in other council areas — know that external representatives are largely listed in two blocks: those who are elected annually, who are there for the council to elect, and those who are elected at the start of the council term who are serving for two years or, possibly, for the full council term. No one knows what the exact future will be. For example, when people are elected to the education and library boards, they are, generally speaking, elected for a four-year term. It is similar with some other posts as well.

So, it seems to me as regards external representation that there is a distinction that needs to be drawn. If there is further work to be done at Further Consideration Stage to refine this, I am more than happy to do it. Essentially, this is to cover the situation where a council is electing somebody and it is intended by the outside body for that to be a three- or four-year term. It seems to make sense from the point of view of the definition of "term". If it is unadjusted in the legislation, "term" refers purely to the period of time between one council AGM and the next. That would mean that, according to the legal position, if you were electing, as part of whatever choices were being made in terms of the division between all the parties, someone to an external body for a four-year period, you could not do so: you would be electing that person on a rotating one-year basis. A lot of the external bodies do not meet that frequently and are things in which you need to gain a little bit of experience before you are in the best position to be able to handle it. Consequently, the idea of the local representative rotating every year in those circumstances lacks a little bit in common sense.

This is to make provision for that sort of circumstance.

Similarly, although I think that it might be a moot point, we have included the position of Cabinet-style responsibility, which, if embraced by any council, will be different from the civic positions. In essence, it means the adoption of an executive by a council. My guess is that it will be a very long time before local councils adopt an executive form of government — if ever. However, if one does, just as a Cabinet Minister might deal with local economic development, an executive member might be responsible for leisure and tourism. If that person simply chairs a committee, it makes sense for the position to rotate every year. If an executive deals with particular functions, as our Executive here do, it makes sense for a party to hold a particular portfolio for the term of the

council rather than swapping yearly. This is to try to apply common sense in particular circumstances: where external representation lasts for longer than a year; and if there was a Cabinet-type position.

Amendment No 9 seeks to enshrine the committee position as the default position. Although I have some sympathy for the Alliance Party's proposals, I oppose this amendment. From a practical point of view, that is the position likely to be embraced. However, I think that people make a mistake when they look ahead to how councils will operate. The mistake is that people see it in black-and-white terms: there will either be a committee system or a full executive. I think that it is wrong to say that it will be either/or: councils are more likely to find themselves somewhere along a spectrum. The most likely scenario is that a lot of councils will have a streamlined committee system, which gives some coordinating responsibility to the chairs but allows for the bulk of decisions to be made at committee level. However, there is a range of possibilities.

I could be proved wrong, but I think that councils will find that the changes will be greater than they imagined and that having a system that runs on the basis of, "This is precisely how we have done things until now and this is how we will continue" could be a mistake. If we, as an Assembly, reinforce that message by saying that the existing committee system is the preferred position, that has the potential to lull a lot of councils into a false sense of security. That will send out the wrong message. From a practical point of view, in 2015, the vast bulk, if not all, of the councils will adopt a committee system to start off with, but we need to open people's minds so that they can see that, within that system, some changes could be made.

On the Committee's proposed amendments, particularly Nos 10, 12 and 13, it seems to make sense that, if you have an executive — as I said, I suspect that this will not happen immediately, anyway — the mayor and deputy mayor are at the table hearing what is being said and able to contribute to the discussion. You differentiate between the executive, who are the key people running the council, and the more civic-type posts. So putting people into the position of mayor or deputy mayor, in which they have full voting rights but rotate each year on the basis of the balance in that executive, seems to me to be a step too far. From that point of view, we support amendment No 10 and the consequential amendments and prefer those to amendment No 11.

On amendment No 16, which is on the qualified majority vote, we keep an open mind —

**Mr A Maginness:** Will the Member give way?

**Mr Weir:** I will give way, yes.

**Mr A Maginness:** I thank the Member for giving way. You made a point about the mayor and deputy mayor or chair and deputy chair. Those positions are quite clearly civic positions as opposed to political/executive positions. That is the point that you are emphasising when you come down in favour of a mayor and deputy mayor being in the cabinet but not being voting members. Is that a correct interpretation?

**Mr Weir:** I feel that counsel has given me a leading question in that regard but, broadly speaking, that is the case. It is something to which consideration has obviously been given. However, it strikes me that there is a slight danger of upsetting a level of balance if there is a vote. At times, the mayor and deputy mayor positions can go simply beyond a pure civic position; they need, effectively, to be the spokespersons for the council and they need to be aware of everything that is happening in the council. So, it is right and proper that they are at the table in that regard.

Similarly, we need to consider whether amendment Nos 12 and 13 go far enough, but the initial proposal, which talked about a minimum of four places on the executive, seems to be far too small a number for any form of committee. Therefore, the Committee amendments make sense in that regard.

I have some sympathy for the thrust of what has been said on amendment No 16 on qualified majority votes. Again, however, although I listened to what was said, I take on board what the Minister said and which reinforced what I had thought beforehand. The clarification, essentially, is that there is an opportunity for the Department, by way of affirmative resolution, to bring forward those elements of qualified majority voting that should be made mandatory if approved by the Assembly. On that basis, and given that the role of councils in standing orders beyond that is to further bind themselves or further restrict themselves, I would perhaps question whether there is a particular positive advantage in amendment No 16 because it simply does something that is already provided for in the legislation. Again, I will listen to other arguments to see whether there is anything to dissuade me of that notion.

I would welcome some of the changes that would be made by way of amendment Nos 57, 60 and 61. Again, the initial drafting perhaps created a wrong impression that councillors would simply be plucked out of some process by the Department. It is important to make it very clear that the councils will put forward the names and do the selection. I welcome the Department's open mind on those amendments.

Amendment No 68 deals with rates convergence, which has been flagged up by the Executive. I understand that a considerable amount of work on the detail has gone on between the Department of Finance and Personnel and DOE. Indeed, a package was agreed some time ago at Executive level, and I understand that the detail of that is due to be announced in the near future. Consequently, I am not convinced that a particular legislative proposal on amendment No 68 is of any particular advantage and the ongoing process should cover it.

On amendment No 69, I very much welcome what has been put forward as a rebalancing clause between regional and local rates. I know that the Minister's predecessor dealt with this as well. The concern, particularly from local government, was that there were two ways forward that essentially could deal with the future distribution of money. With the additional duties that were being taken on by councils, it created a shift in the cost element between central government and local government.

There were two ways of dealing with that, the first of which was, effectively, to have some form of annual grant. The danger in that was a bit like the general grant: whenever you felt some level of pressure in the system, it was always susceptible to the whim of particular Ministers or, indeed, financial pressures. That gave no overall certainty to the future of local government. The other way was to have some mechanism that allowed a degree of rebalancing between central government expenditure — essentially between the regional rate and the local rate. Amendment No 69, which is sometimes referred to as the notional buildings-type solution, is quite sensible in that it provides a clear, independent mechanism that can guarantee that, at least in the long run, there is that shift between the local and the regional rate that provides a degree of protection.

**8.45 pm**

Amendment No 82 is on the PCSPs. From my experience as somebody who has observed the DPPs in particular, and now their successor, and as somebody who has previously served on the Policing Board, I can say that, broadly, the governance arrangements for DPPs and now PCSPs are ones that have worked. In enshrining what is essentially common practice at present, amendment No 82 seems to be a common-sense solution. Therefore, I have no problem supporting amendment No 82.

I will move on to amendment Nos 93 and 101. I appreciate what the Minister said, and, if those amendments are defeated, I will look forward to his amendments. Alternatively, if they are passed, there may well need to be some tweaking to what is there. Amendment Nos 93 and 101 seem to address a problem that was not realised or perhaps not fully grasped in the Department until fairly late in the day. That problem is that the mechanisms in the legislation for appointment to committees could have simply perpetuated disproportionate balances in committees. If it meant, effectively, that each committee was appointed individually, that could mean that some parties and some individuals would simply be excluded from committees altogether. In other cases, it is not even simply that large parties will be over-represented and smaller parties not represented. You could have quirks and a situation in which there is an under-representation for a larger party and an over-representation for a slightly smaller party. The only way to cover that is to look at the situation that applies largely in the Assembly and at the overall distribution in Committees across the Assembly. I believe that amendment Nos 93 and 101 start to address that problem. To be fair, this issue was flagged up to the Department a number of weeks before we reached this point, and, with the greatest respect to the Department, no amendment came forward. Therefore, until we see at least another amendment at Further Consideration Stage, amendment Nos 93 and 101 are worth supporting for those of us who believe that there is a need to be able to provide that fair representation.

Finally, I will turn to the Alliance Party's amendment Nos 95, 96, 98 and 99, which I touched on already. In proposing those amendments, the Member who spoke previously was very candid in saying that they are essentially to take, from an appointments point of view, d'Hondt out of the process and substitute it with the single transferable vote. That was effectively agreed on an all-party basis quite a long time ago, and I have no problem with parties changing their mind. I

appreciate that, at the time, the Alliance Party put in a reservation about d'Hondt, and I think that it has been consistent in that regard. The problem is that, in these circumstances, leaving aside any other considerations, STV simply does not work. It works very well if you are selecting out of an electorate of 5,000 people in an area and giving them six councillors to vote for. It can even work reasonably well if you are picking four positions out of 40 councillors, because at least there can be some level of balance in that. However, irrespective of whether amendment Nos 97 and 100, which are in my name, are passed and reduce the number, you may find that, in any one particular year, the council is selecting 50, 60 or 70 positions of responsibility. If you multiply that across a four-year period, because it will run once, you may find 200 or 300 positions being selected on day one, or early into the process. The electorate will then have to choose that of 40 or 41 councillors. In Belfast, the highest number will be 60. If you are selecting 300 positions with an electorate of 40, it essentially means that the quota figure for that would be — well, you can work that out for yourself. It simply does not work with STV.

The other complication with STV is that it does not necessarily produce a ranking of order. For example, if a decision is to be made and two parties have an identical position under STV and both want the role of mayor in the first year, how do you decide who gets it? In those circumstances, the d'Hondt system and other variations of that such as Sainte Laguë or other things of that nature will come up with a similar result, and at least then you will have a much clearer sense of ranking order of responsibility for the positions. On the basis of having 40 councillors —

**Ms Lo:** I thank the Member for giving way. Mr Weir mentioned that in the Committee, and I have checked it out with those who know. I put my hand up: I have no experience in local councils and least of all of the various electoral systems. However, I checked out that assertion and have been told that any system, whether d'Hondt or STV, will not work for such a large number of positions. So the answer is to break down the groups into smaller units. That will work for STV.

**Mr Weir:** The problem is that the only way that STV could work would be, yes, to group it into smaller numbers. What does that mean? Say, for the sake of argument, to make it work, we group the positions into eight at any one time. You have 40 councillors. However, on that basis, the independent councillor, who, in an STV system, may only be able to attract their

own vote, will never make the quota under those circumstances. You will elect block after block of eight positions; you may end up with 300 positions allocated on that basis; but an individual councillor, who is an independent, would get none of them.

The Member indicated, for example, that we had backed, on a cross-party basis, what might be described as "the NILGA amendment". NILGA has used this system between the main parties for the past number of years. The initial run, I think, runs to 60 or 70 positions, and d'Hondt has worked, having been selected by everybody, and has been part of a broad agreement. It has worked fairly well.

There is no doubt that, if you are electing a vast number of positions, there is always some level of difficulty as you work your way down the system. However, for any mathematician trying to do that and striving for fairness, the position is essentially that d'Hondt works a heck of a lot better than STV. Under STV, whatever way you calculate a quota or group them together, it either enshrines a range of unfairnesses by which you discriminate against particular minorities, or it creates something that mathematically becomes very quickly — indeed, from moment one — pretty much unworkable. It only works if you have a very small number of positions. If you keep on repeating a small number of positions, then perhaps the representative who is an independent, of whom mention was made, and if the election results repeat themselves as previously.

Mention was made, for example, that, in North Down and Ards, out of 48 councillors, there is at present one nationalist. If, in the new circumstances in which there are 40 seats in North Down and Ards, again, there is one nationalist elected out of 40; if you simply group that together, the SDLP representative from the peninsula would get no positions at any stage. I am not trying to sway the Minister's mind by highlighting that. The problem is that, essentially, on any mathematical system, where you have a very large number of positions and a very small electorate, STV does not work. It works well if you have a large electorate and a small number of positions. That is why it has largely been used here. Leaving aside the fact that there has been a broad consensus for some time at local government level that d'Hondt, applied properly, is perhaps the best fallback option, it simply, from a mathematical point of view, will work better and in a fairer way than single transferable vote.

So, there is obviously a wide range of amendments. I will not go through the remainder of them; not even the quota greatest remainder of amendments. With that, I urge Members to examine all those issues in group 3 of the amendments.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. Sinn Féin views a number of the amendments and proposals in group 3 as contributing to the greater democratisation of the way in which we do our business at local government level. Sinn Féin advocates the delivery of public services as close to local communities as is practically feasible, and there is a need for all of us to continually appraise how local services are best delivered.

Of particular importance to Sinn Féin is the fact that the Bill contains provisions and a range of measures that will see a far fairer way of delivering local government and services than has been the case historically.

In the past, Sinn Féin has been very reluctant to oversee the transfer of any additional powers or responsibilities to local government, not least because of instances of misuse of powers in certain councils. That is why safeguards are so important. In particular, I want to note that positions of responsibility will be allocated according to party political strength using d'Hondt as the default position. That is real progress. Throughout its analysis of the Bill, Sinn Féin has been at pains to point out that it will not accept anything short of the d'Hondt principle in that matter. Indeed, we met the Minister on 4 March to communicate that directly to him and followed it up with a letter a week later on 11 March.

I will turn to some of the amendments. Under amendment No 10, the chair and vice-chair of council executives shall be non-voting members, and Sinn Féin supports that. That is only right when the chair and vice-chair are out front under the spotlight as leaders of the council and are called on, in all circumstances, to promote and defend the policies and decisions of a council. They need to be fully involved in the executive structure and be across the detail. In opposing amendment No 11, we suggest that, while we want them to be involved, it is more appropriate that they are ex officio and do not have voting rights. In amendment Nos 12 and 13, the figure of six for the membership of a council executive is more sensible, inclusive and representative than the figure of four. Sinn Féin considers the figure of four to be far too few in the context of a 40-member council.

Amendment No 57 relates to the partnership panel. We support the removal of the phrase "appointed by the Department". Councillors should be appointed by councils and by the representative body of local government.

In amendment No 58, Sinn Féin supports the idea of the partnership panel being inclusive of representation from, for example, NILGA in its current form, or whatever representative body is in place. I put it on the record that, through its modus operandi, NILGA has earned the confidence of people generally and of the parties.

Regarding amendment No 68, the Executive's commitment of £30 million to help to offset the burden on many ratepayers through rates convergence is a good thing. It will help to avoid a sharp hike in rates and allow the absorption of a sharp pain that will be experienced with the merging of some councils. I believe that it is appropriate to use the DFP financial model for a minimum of three years to phase that in.

Amendment No 71 is perhaps the final amendment in this group that I will comment on. I want to point out that the Staff Commission has played a valuable role in helping councils with legal and procedural advice on human resources and personnel issues. The 11 new councils will have an increased in-house HR role. They will be able to absorb that function, and amendment No 71 allows for that winding-up provision. Those are a number of specific comments.

**Mr Speaker:** Tom Elliott. Sorry, Colum Eastwood.

**Mr Eastwood:** I thought that we had lost a couple of seats, Mr Speaker. Thankfully, that has not happened.

**Mr McElduff:** STV.

**Mr Eastwood:** Yes. Thank you very much for the opportunity to speak on this group of amendments. You will be glad to hear that I do not propose to address all the amendments. Mr Weir and Mr Durkan have already done most of that for us.

I will start by referring to clause 25 and amendment No 10, which makes perfect sense to me. There was quite a bit of discussion about that issue in Committee and about everything else — a bit like today. It was felt very strongly — I felt very strongly — that the mayor and deputy mayor or the chair and

deputy chair should be involved, at least in an ex officio capacity, as members of the executive committee. You and I both had the honour of representing our city as mayor, and you know that it is very difficult because you are always the first phone call. It is very difficult to go out in the media and discuss an issue that you do not know anything about, although I have done that. *[Laughter.]*

### 9.00 pm

I also understand and agree with the point that mayors and deputy mayors should not have voting rights because, in any given year, the mayor and deputy mayor will change, the parties that are represented will change, and that will skew the balance in the executive committee and in voting rights. It does not make any sense. Once we discussed all that, it was very easy to understand why they should be in the room, they should have all the knowledge, but they should not have voting rights. I think that it is a sensible amendment that we can all support.

Amendment Nos 12 and 13 relate to increasing the minimum numbers from four to six. Again, that makes a lot of sense to us. It is important that as many people as possible can be represented in the room when decisions are being made. A large part of the Bill is about ensuring that we can have all parties represented and the maximum number of people represented on committees to make decisions. We are happy to support that.

On the other hand, amendment No 68, in the name of Mr Elliott and Mr Kinahan, relates to the transitional rate relief scheme. We have to be mindful — other Members have already touched on this and explained it quite well — that there is already an agreement. There is already work going on between DOE and DFP officials to try to develop an affordable scheme based on the Executive's commitment to provide up to £30 million to stagger the effects — the very real effects, for some people — of rates convergence. I do not think that the amendment takes consideration of that fact, and it would not be a good idea to adopt it. When we are mindful of these things, we need to be mindful of what else is happening around us. The new scheme that I am sure will be announced soon will have to be subject to consultation with local government. I think that makes a lot of sense. To put the provision in the Bill now without any consultation, knowing that there is already work going on, would be a mistake.

Ms Lo and Mr Dickson proposed amendment No 82. The proposal would require the chair to be allocated to each of the four largest parties in turn. That is an addition to the Bill, but it seeks to effect a change in the Justice Act. It does not seem to make much sense to us that you would do that here. We need to ensure that any change to the Justice Act is effected in consultation with the Justice Committee to start with and with the Justice Minister. That would be a better place to look at those types of issues.

My final contribution to this part of the debate is around amendment Nos 95, 96, 98 and 99, tabled by Ms Lo and Mr Dickson. The amendments relate to the issue around STV versus d'Hondt. It is very clear to us, and it seemed very clear to everybody else when all the parties agreed, that d'Hondt would be the default mechanism that we would rely on. It is difficult to hear the Alliance Party, which has two Ministers in the Executive when it does not really have a right to them, talking about proportionality. Maybe it explains why they are not too clued-up on the figures around how STV and d'Hondt would affect the filling of positions on any given council. I think that d'Hondt works. Mr Campbell might disagree with me, but I think that Derry City Council has been a very good beacon with regard to cross-community partnership working and filling positions. I know that we were referred to earlier, but, in that area, we have always been very good at ensuring that people who are in the room are getting the positions that, maybe, they would not necessarily be entitled to under more traditional systems, and I know that others have done that too.

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

**Mr Eastwood:** I am glad to; I knew you would be up.

**Mr Campbell:** I thank the Member for giving way. To take his analogy a bit further, and I put a question to the Minister, his colleague, the other day, does he appreciate and accept that there will be an opportunity in the next stage of the Bill to see if that magnanimity will extend to getting agreement on what the council should be called? We will see if consensus emerges there, and we will see the degree of magnanimity that is offered at that stage.

**Mr Eastwood:** I take the fact that Mr Campbell has not challenged my assertions around how magnanimous the SDLP and other parties have been on Derry City Council as an acceptance of the fact that we have been groundbreaking in



partnership working and in involving minorities in that area.

**Ms Lo:** I thank the Member for giving way. I will respond to the Member's earlier comments about two Ministers in the Alliance Party, if I may. Under d'Hondt, we were given only one ministerial position, as we were entitled, but the Minister of Justice was established on a different method, because both sides of the House would not agree, and it had to have cross-community support. Alliance, being very much in a neutral position, got the position. So, it is nothing to do with d'Hondt.

**Mr Eastwood:** A neutral position is an interesting position to be in in politics. You have agreed with me that, under d'Hondt, you got your fair share. It was the other process that you created to ensure that you got an extra place that was not fair. I am glad to see that the Alliance Party is now saying that d'Hondt would be —

**Ms Lo:** I did not say that it was not fair. You are putting words in my mouth.

**Mr Eastwood:** I am not actually. I am glad to see that the Alliance Party is now saying that d'Hondt would be properly proportionate.

On Mr Campbell's point, I would be glad to see a process in which we could try our best to get names that everyone would feel comfortable with. We all have moved on a fair bit in our city. People, maybe not all of us, are now more comfortable in using both names — Derry, Londonderry, whatever you want to call it.

**Mr Wells:** He said it.

**Mr Eastwood:** I have said it many a time.

**Mr Wells:** It is the first time ever.

**Mr Eastwood:** No, it is not the first time ever. I call it Derry — *[Interruption.]*

**Mr Speaker:** Order. Let us not have a debate across the Floor.

**Mr Eastwood:** In fact, I have said it in here. *[Interruption.]*

**Mr Speaker:** Order. Allow the Member to continue.

**Mr Eastwood:** Thank you very much, Mr Speaker. I call my city Derry; other people call it Londonderry. That is all right; I think that that

is fair enough. I do not think that we should be using names to rub each other's noses in it.

**Mr Campbell:** Oh dear. It is a bit late in the day for that.

**Mr Speaker:** Order.

**Mr Eastwood:** I know that Mr Campbell likes to create a victim complex and whip up tension around things like that. The city of Derry has moved on very, very far. It is a city that was able to accommodate thousands upon thousands upon thousands of Apprentice Boys one day, and, the next day, have hundreds of thousands of people coming through it to celebrate the biggest festival of Irish traditional music and dance in the world. That shows you where the city is. I hope that Mr Campbell is on the same journey as us all. I presume that he is, and I will be glad to enter into any discussions around names of councils or whatever else. I look forward to that discussion and debate with Mr Campbell as we go forward.

**Mr Speaker:** Now Mr Elliott.

**Mr Elliott:** Thank you very much, Mr Speaker. It was worth waiting for, of course. I am almost tempted to get into the debate over Londonderry and Derry, but I know that you might stop me at that point. I am also tempted to get into the debate over how the Alliance Party came to have two ministerial places, but I will not, at this stage, because we all know that it should not have them and that it has them by default.

Anyway, moving on to this group of amendments to the Local Government Bill, I will start with amendment Nos 10 and 11. These concern the issues around the chairs and vice chairs of councils being part of the structure if there is an executive structure in the council. I have to say that I am not overly content with having an executive structure at all. I just think that that is not for councils. Anyway, it is there and —

**Mr A Maginness:** Thank you for giving way. I know that you are not in favour of an executive. However, if there were to be an executive in a council, surely you would agree that that executive should be proportionate in accordance with the membership of the council? I assume that that is the correct position and that I am not doing you any disservice by saying that. If that is true and you then add the mayor and deputy mayor or the chair and deputy chair, would that not, in fact, create the potential for an imbalance on the

executive? In fact, the mayor and deputy mayor being added on to the executive will create an imbalance in that area, which surely defeats the whole purpose of having a balanced executive in the first place.

**Mr Elliott:** I thank the Member for the intervention. The point is that the mayor and deputy mayor or chair and vice chair can be taken into account in party strengths. There is no issue with that, so I do not see that as a valid argument for not having them as full members of the executive. I know that the vast majority of Members here are indicating that they will support the Committee position. I have to say that we had to fight long and hard to get to that Committee position. The Bill, as it stands, says that the chair and the vice chair will not have any part of the executive committee on the new councils. We had to fight to get even that at Committee Stage.

We would like to go that bit further, as we are quite entitled to do. Our amendment is saying that the leading people on councils, who are the chair and vice chair, should be part of the executive. Can you imagine — maybe some people would support this, by the way — the Northern Ireland Executive not having as its head, or even as part of it, the First Minister and deputy First Minister? I will not ask people for their views on that. However, in that position, you would not have the head of the Assembly on the Executive, which is the decision-making body. That will be the same if this goes through.

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

**Mr Elliott:** The chair and the vice chair will not be part of the executive committee, which will be the main decision-making body in those councils. The fact is —

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

**Mr Elliott:** I will give way to both in a wee second, if you let me finish this point. The point is that the executive committee, whether there are six, eight, 10 or however many on it, will be the body that makes the decisions. I do not know what the other 32 and 34 councillors on that council are going to do. They will not have a great lot to do, because those people will be the decision-making body. I will give way to Mr Weir first.

**Mr Weir:** Thank you for giving way. A lot of this may be a slightly moot point, because I suspect that it is unlikely that anybody is going to embrace an executive in that regard. So, it is

useful that we look ahead to the role of a mayor in those circumstances. He draws the analogy of this House and the First Minister and deputy First Minister, but that is not a complete fit. If we are comparing this House to a council, a closer analogy is the mayor being effectively the equivalent of the Speaker, who does not sit on the Executive and does not have decision-making powers. Largely speaking, where an executive has operated in England, Scotland and Wales, whoever is the mayor for that year is not the council leader. Those are two distinct positions; that is the way that it is operated.

**9.15 pm**

**Mr Elliott:** I take your point, Mr Weir, about the Speaker, but the mayor and deputy mayor, or the chair and vice-chair, are, in my opinion, the political leaders of the council. I am happy to give way to Mr McCallister.

**Mr McCallister:** I am grateful. On this occasion, I am probably closer to Mr Weir's view, in that the First Minister and deputy First Minister are Executive Ministers, so a more relevant comparison would be with the Speaker and Deputy Speakers. If we expect our mayors and deputy mayors, or chairs and deputy chairs, of councils to hold much more ceremonial-type roles, they will not have an executive function. I take Mr Elliott's point in the amendment that it is probably right that they should be there as non-voting members.

**Mr Elliott:** Thank you, Mr McCallister. As usual, I am not sure whether you are supporting what is in the Bill, the Committee's amendment or our amendment. It is still unclear. I have made the point, and I will leave it at that, which is that —

**Mr A Maginness:** I thank the Member for giving way. He has been very patient. The concept of an executive comes from the English experience, where there is Cabinet government in many councils throughout England and Wales. The fact is that, in English councils, the leader of the council is the political leader, usually of the majority party or the majority coalition in a council. The mayor and deputy mayor are the civic representatives and the public figures, but the political power resides, essentially, with the leader. It is the leader who dominates the Cabinet that is established in the council. So your analogy is, I think, not correct. You have to see the mayor and deputy mayor, or the chair and deputy chair, as civic representatives rather than executive or political figures.

**Mr Elliott:** I thank the Member, once again, for his view. Obviously, that is your view, and we differ on that. It is good to see the SDLP looking at the English model of councils and holding it up as one that we can endorse here in Northern Ireland, thereby keeping consistency across the United Kingdom. I welcome Mr Maginness's progress in that respect.

In amendment No 16, the Ulster Unionist Party seeks that the criteria for an 80% qualified majority be established in regulations as opposed to standing orders. What we propose is quite straightforward. I have heard the Minister speak on it, and I have also heard him talk about the protection in clause 42. I do not hold that clause 42 gives total protection; I think that it gives only limited protection. We seek to ensure that the criteria are built into regulations as opposed to leaving it up to each council. The problem that I see in leaving it up to each council is that standing orders will include only what a council agrees to put into them as qualified majority issues. Therefore, councils dominated by one community or another will put into the standing orders what they wish, and the number of ideas or items that can be qualified majority vote issues will be very limited. The majority community would dominate and include in standing orders only the issues that it wants. That is why I wanted a consistent approach built into regulations.

Amendment Nos 17 and 18 deal with legal advice for any decision that is subject to the 15% call-in mechanism. That has also received a lot of discussion. I listened to Mr Weir talk about the DUP's amendment No 19, and maybe that will move eventually to the position that the Ulster Unionist Party and I propose. We are trying to move one step ahead.

The Bill proposes that the legal advice must be sought. We heard much about that potential legal advice in Committee. We have heard today about legal advice that was sought and conflicting legal advice that was received. Indeed, one day in Committee, when we were debating the very issue of the call-in mechanism, I recall that Mr Weir and the city solicitor for Belfast City Council had a long discussion and debate. I will not say that it was a legal argument, but it certainly went into quite a bit of detail. I thought to myself that, if that is the kind of discussion that we will have around the legal advice on call-in mechanisms, you are going to bring councils to gridlock. You will actually stop any decision-making taking place.

What I am trying to do is bring a consistent approach that would involve a panel of

solicitors. It was quite interesting that, when we had NILGA up in front of the Committee, some of its officers recommended that type of panel solicitor group, or, indeed, barrister group, if it must be. Clearly, the solicitors could then engage the barristers, as I understand it. What we are trying to do is have a panel of solicitors to give consistent advice about the call-in mechanism to all 11 councils.

**Ms Lo:** Will the Member give way?

**Mr Elliott:** Yes, I am happy to give way.

**Ms Lo:** How are you going to ensure that they will give you consistent opinions if you have a panel of solicitors, following your earlier train of thought about different and varying legal opinions?

**Mr Elliott:** Yes, I think the Chair of the Committee is right. What we are trying to do is reduce and curtail the amount of conflicting legal advice that the councils will get, simply because, if they get conflicting legal advice, they will be into gridlock. I keep making the point that that mechanism could bring councils to gridlock, stop any decisions being made and stop the normal business of councils going ahead.

Amendment Nos 57 to 61 deal with the partnership panel. There is obviously an acceptance that the partnership panels can be a good advice-making operation for the Minister and the Department. The one aspect that I have a concern about is equality and fairness. The councils will appoint representatives to the panel. The end result of that could be that the panel would be totally dominated by the two main parties, and the smaller parties and independents may have no representation whatsoever on that partnership panel. That causes me concern.

Amendment Nos 68 and 69 again deal with the financial aspect. Amendment No 68 is the Ulster Unionist Party's proposal for a minimum of three years for the rate convergence support. I heard other Members and the Minister saying that there is much good work going on between the Department of Finance and Personnel and DOE in bringing forward the rate convergence mechanism and proposals. I have no doubt that that is happening, and I hope that it progresses well. All that we are trying to do is ensure that it is in place for a minimum of three years, otherwise you could have some sort of support to councils for one year and then it would be, "Over to yourselves, folks. Get the

money off the ratepayer and let them pay for this change in convergence".

Amendment No 69 gives the financial support mechanism to the transfer of functions. Again, I do not think that has been totally worked out. I would be interested to hear from the Minister whether those proposals have been definitively worked out and whether we know how they will be managed. I am just not sure. It is something that I raised not only with this Minister but with his predecessor to try to ensure that we will have a smooth transfer of functions and the finance that goes with it. We need to ensure that the ratepayers are protected in all that. That is why both those amendments are very important. The Ulster Unionist Party amendment to ensure that there is a three-year rate for convergence support is very important to ratepayers, especially those who will be disadvantaged in circumstances where two councils merge and there is significant difference in the rates. That is very important. The second issue is the financial support that will follow the transfer of functions. Again, that must protect the ratepayer at all costs.

The final issue in this group is the Local Government Staff Commission. I understand that the Department has been attempting for some time to find a mechanism to wind that body up. It seems that it has eventually found that mechanism. For the moment, however, I will reserve judgement on whether that is good and positive.

**Mrs Cameron:** Happily, my colleague Peter Weir covered this group of amendments thoroughly, so I will be brief.

I am pleased to support the majority of amendments in the group, which deal with governance, decision-making, appointments and the transition to new council structures. However, there are a number of amendments that I cannot support.

I oppose amendment No 11, as I believe that the Committee already caters for the roles of mayors and deputies.

I do not regard the UUP amendment No 68 on rates convergence necessary. I say that on the grounds that the Department of the Environment and the Department of Finance are to make an announcement on that issue in a relatively short time.

I will class amendment Nos 96, 98 and 99 together, as they concern the same part of the Bill. I oppose those three amendments, as I

feel that they are nothing more than an attempt to remove the d'Hondt principle when appointing positions of responsibility. The Executive have accepted that principle as the fairest, most representative way to allocate positions of power, and I see no reason why councils should operate on a different system. We must, of course, be sure that reasonable safeguards are put in place to ensure that one section of the community is not seen to be holding all positions of power. We have seen how that has worked in the past. However, I believe that the Bill does indeed protect against that.

**Mr McCallister:** I want to make several comments. At different stages of our debate on the reform of local government, I have warned about the dangers of devolving our own dysfunctionality in the Assembly to local government. Some of that was highlighted earlier in today's debate.

I will work through some of the earlier comments. I will point out to the Alliance Party that, in the debate on the Justice Minister, it had the chance to change that in the recent Northern Ireland Bill that went through. However, it did not, and it is effectively locked in to the Justice Department forever. Of course, it will probably come as no surprise to the House to hear that I think that the Alliance Party, along with others, should be in opposition, with Mr Allister and myself.

I will turn now to the amendments that are before us. Most of the themes that we want to progress are on making whatever system we have in local government as open and transparent as possible. We debated amendment Nos 10 and 11 earlier, and I make a very clear distinction between the political lead of a council and a civic role. Someone carrying out civic responsibilities, such as a mayor or deputy mayor, or indeed chairing council meetings in an impartial manner, very much in a role similar to yours, Mr Speaker, and those of your Deputy Speakers, has a completely different role from what a political lead would have if we had a Cabinet or executive-style local administration. It is sensible to increase the number of executive positions; four seems a very small number. That seems to have gained more or less widespread support.

My perspective is that we should move to a more Cabinet or executive style. I know that, having looked at some of the English experience, Members have warned that that is unlikely to happen. However, in the medium to longer term, I think that that is a more desirable

place to get to. It would be a more normalised politics where the larger parties that win elections would form a government — much the same as I advocate for this House where the larger parties would be in government forming a proper programme for government. I also advocate that for councils so that they too could work out a council programme for government to set out the changes and the strategic direction that councils were to go in. To answer Mr Elliott's point, the rest of the councillors would hold the executive to account, judge it and make sure that it delivered what it said it would deliver, in the same way that I would expect Back-Benchers here to do. If we ever moved to an opposition, that is exactly what an opposition would provide, both here and in local government. I accept the argument that it is important that the chair and the deputy chair might be in the executive arm of local government, but not as voting members. That is a sensible amendment, and I will support it and oppose Mr Elliott's amendment.

### 9.30 pm

Qualified majority voting is sensible. I have much more sympathy with Mr Elliott's point around rates conversion. We probably hear too often in the House the phrase, "Don't worry too much about that; the Executive or the Government have that sorted. A deal is about to emerge. Don't worry, you can put your trust in us; the cheque is in the post." The one lesson that we all should learn is this: if it is important enough to be debated, let us put it in the Bill. There are huge issues for councils. When Mr Elliott was declaring an interest, I am not sure whether it was with regard to when Fermanagh merges with Omagh and the subsequent problems that that might cause. It is important to protect ratepayers, and ratepayers should know that it has been thought about, debated in the Assembly and that those points have been made, because it is too important not to have it in the Bill. It is too important to walk out of here with the line, "The cheque is in the post; it is all going to be OK; the Ministers are close to a deal". It is too important to leave it at that point.

Although I listened carefully to Ms Lo's case for amendment No 95 and the idea of STV being the default, I am not totally convinced by it. Although I would like to see us moving to a more normal system of voluntary coalition and moving away from this, it is clear that, almost 16 years after the Good Friday Agreement, we have not built up the partnership and trust that were envisaged. For those who were in Washington last week, it was obvious from some of Richard Haass's comments about his

time here that he was disappointed that we had not progressed to that level. It is clear that so much of what we are building into the legislation for our local councils is saying that we recognise that we have not made the progress and the leaps in building trust and confidence in partnership government, either here or in local councils, that we should have made in the past 16 years, and I regret that.

If the Alliance Party looks at d'Hondt, it will see that, if it were run for all the positions together, there would be a much better chance of smaller parties and independents being included. I would probably make the same argument for here: we should not run d'Hondt for the Executive and stop and then run it again for Committee Chairpersons, and so on. We should run d'Hondt as one process. Mr Weir's point is very valid. If we stick with d'Hondt or opt for a proportional system, and then run it for all positions, smaller parties and independents have a better chance of getting in. That is why I am somewhat reluctant to support the Alliance Party's amendment.

Overall, the group of amendments is a mixed package. We need to think carefully about arrangements for decision-making appointments and ensure that we get them right without being too prescriptive about what councils do. There is merit in sticking with at least some of the things that work, because we have not made the significant progress that I would like to see to having proper voluntary coalitions and partnership arrangements.

**Mr Allister:** When it comes to the Bill's provisions on how local government will be run, I suppose that the point that concerns me most is that, among many of the clauses, there seems to be a desire to concentrate power in the hands of the few, leaving the question that someone rightly asked in the debate, which was to wonder what the other 30-plus councillors will in fact do. If the starting point is that there should be an executive committee — an executive Cabinet, in fact — which could be as small as four, but, from the tone of the debate, is more likely to be six, that begs the question as to what the remaining members of the council would have to do at all. It is foolish to start down that road.

Such as I know about local government, as always indicated, it operates — in some places, quite successfully — fundamentally on a committee system, where there is sometimes the involvement of committees of the whole council and sometimes subject committees, all of which report back to the whole council. No councillor can ever say that he was not involved

in some way or other in the decision-making process.

Under the arrangements that are anticipated in clause 23, it seems to me that what could well evolve is very tight control of power among a very limited group of people, with the remainder of the councillors simply being spectators — perhaps not even spectators — because many of the issues decided among that small group would not even be reported for ratification to the council. That does not seem to me to be prudent.

I have heard Members say that this is about sharing power in councils. It is quite the reverse, I would have thought. Far from being about sharing power, it is the concentration of power in the hands of a few. I do not think that that is healthy or desirable. Of course, the council executive is a body that would be spawned and appointed under d'Hondt. I have to make the observation that there are some in this House who, even yet, tell us that they are not d'Hondt enthusiasts; that they do not agree or support a government formed by d'Hondt; and that it is not their aspiration, vision and hope. Indeed, some told us that the demise of d'Hondt was almost upon us. Yet, here we have it being institutionalised in local government. I think that the answer came from Mr McElduff when he told the House that Sinn Féin made it plain that it would not accept anything but d'Hondt and a d'Hondt Cabinet in local government. Of course, as is so often the case, what Sinn Féin wanted, Sinn Féin got in the Local Government Bill. So, those who paraded themselves as opponents of d'Hondt are now going to be the legislators for d'Hondt, in perpetuity, at the very heart of local government. That gives its own message.

Part of the real concern I have is that, under this tightly controlled system, there really is no accountability, and you could well have a council run by a dictatorial cabal. Yes, we will set up the smokescreen of a scrutiny committee to give some others something else to do, but real power will never be outside the hands of that Cabinet. Some tell us that, although that is the preferred and first-mentioned option in the Bill, in truth, they do not really expect that the Cabinet will be the system chosen. We will wait and see; I am not so sure about that. I certainly agree that, on past experience, a committee arrangement would be the preferable and better option for running councils. The Alliance amendment, which would accentuate that option, is the one that I prefer over the current wording in those clauses.

If the mission here is to move local government forward, surely this has to be a backward step. Some talk about the bad old days of local government in the past, the exclusion of people and all that. Yet, now we are creating a structure that could exclude the great majority of councillors from any effective control. That does not seem to me to make a lot of sense. For those reasons, I am opposed to the provisions on governance as they presently stand.

**Mr Durkan:** I thank all the Members who participated in the debate on the third group of amendments. We had quite a lengthy and, I believe, fruitful debate on this part of the legislation. Thankfully, there were a lot fewer questions than there were during the previous debate, even though the debate was a lot longer.

Ms Lo, the Committee Chair, started off proceedings and spoke to each amendment as Chair and as an Alliance Party Member. She and subsequent Members who spoke, including Mr Weir, dwelt for some time on the amendment on the role of a local government association in any future partnership panel. I have to clarify that I have nothing against NILGA, NAC or any local government association. I fully understand and appreciate the point that those Members made about the representation of more political parties, which this would allow, and the experience and expertise that some members of any association could bring to that important panel. However, NILGA itself lobbied to ensure that local government determined for itself who its representatives would be on the partnership panel. I agree with NILGA's position on that, and I therefore cannot agree that I predetermine in legislation some of the representatives.

**9.45 pm**

**Mr Weir:** I thank the Minister for giving way. I appreciate what he is saying. It may be a slight misrepresentation of NILGA's position to be fair. Yes, it said, and the Committee accepted, that the local government representatives of each of the councils should be elected from local government rather than being chosen by the Department. However that does not preclude NILGA having some form of direct representation, which was the argument that it put to the Committee. It would be wrong to suggest that the two are in any way incompatible. Indeed, NILGA and some Members would see them as complementary rather than incompatible.

**Mr Durkan:** Yes, and I am not saying that they necessarily conflict. However, NILGA's view was that local government should determine the representatives; this is about empowering local government rather than enforcing someone else's being on the partnership panel or ensuring that another association is represented on it. This decision will ultimately lie with local government and with the partnership panel. If it decides that it wants an association represented on it, so be it. It can vote to do so. As I said, I am aware of the strengths that that could bring to the partnership panel, and I would be supportive of such a move.

I am also aware that the president of the Welsh Local Government Association was invited to join the Welsh partnership panel, but that was not legislated for. If local government wishes to nominate a representative from a regional body, it will be at liberty to do so. The panel would potentially end up disproportionately representing local government, with up to 16 representatives, while central government would only ever field a maximum of 12 Ministers.

Ms Lo spoke about the committee system being the default political governance structure. I want to clarify that it will be a matter for a council to agree which structure to operate. The three methods specified here are of equal significance. Executive arrangements are not the default.

With regard to the make-up of an executive, should any council decide to go down that governance route, Mr Elliott asked whether we could imagine not having a First Minister and a deputy First Minister on the Executive: well, yes, frequently. However, as Mr Weir pointed out, that is the wrong analogy. The First Minister and deputy First Minister are Executive Ministers running a Department; the Speaker — as Mr Maginness pointed out — as head of the Assembly, plays no role in the Executive, and so his office would be a more appropriate analogy in that respect.

In response to Mr Elliott's points around standing orders: the regulations to be made under clause 42 will specify the matters and the wording of those matters that must be included in standing orders. Those regulations will specify the process that must be followed in relation to a call-in. Clause 41 requires a council to have standing orders, so a council cannot operate without having the mandatory elements in place.

Mr Elliott asked another pertinent question about whether the system for transferring budgets has been worked out. The technical aspects of the proposed system for transferring funding for those functions that are transferring have been fully explored by my Department, DFP and Land and Property Services. There are ongoing discussions on the level of funding to transfer, and I await the findings of a DOE diligence exercise that is being carried out on this by Deloitte. So, the cheque is not quite in the post yet, but I will let you know how much it is for and when it will arrive.

Mr Allister spoke of the role of an executive, should councils choose to go down that road, and the fear that other councillors might not have anything to do. The Bill provides flexibility for a council to choose from a number of governance structures. The Bill will not impose an executive structure on any council. The fear that two tiers of councillors would be created should a council vote to go with the executive arrangements is also unfounded. The establishment of an executive by a council will not diminish the role of those councillors not on the executive.

The adoption of executive arrangements must be accompanied by the establishment of one or more overview and scrutiny committees. The members of those committees will play an important role in the operation of a council. The arrangements that I am putting in place for the allocation of positions of responsibility and membership of committees will not prevent a political party from rotating its representatives on the executive or those committees to give all its members the opportunity to serve.

In addition, subordinate legislation will provide that a range of council functions and responsibilities will not be the responsibility of the executive. In delivering those functions and responsibilities, a council has the ability to arrange for them to be discharged by a committee. That provides further opportunities for councillors to serve their committee. One such function and committee, one would assume, would be planning, when councillors will have a lot more power than they currently do.

Mr Speaker, that is my winding up on this part of the debate —

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

**Mr Durkan:** OK.

**Mr Kinahan:** I just wanted a bit of clarification. One or two people wondered whether the chair

or the mayor was going to end up being more ceremonial than political. How does he see that working? Has he got a direction that he wants to see there?

**Mr Durkan:** It is explained in my amendment that I brought. I believe that, yes, a mayor and deputy mayor have an extremely important role to play on a council. They have a civic or ceremonial role, as he puts it. However, they have a duty also as elected councillors; they have a duty to scrutinise. As ex officio members of the executive committee, they will retain the power and authority to scrutinise its decisions in full council or any oversight committee.

So, Mr Speaker, that concludes my winding up on this part of the debate and, hopefully, for the day.

**Mr Speaker:** The Business Committee agreed that the House would not sit later than 10.00 pm this evening and would resume at 10.30 am tomorrow. This would seem to be a convenient moment at which to suspend. The sitting is, therefore, suspended until 10.30 am tomorrow.

*The debate stood suspended.*

*The sitting was suspended at 9.52 pm.*



## WRITTEN MINISTERIAL STATEMENT

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

### Health, Social Services and Public Safety

#### EMERGENCY DEPARTMENTS IN NORTHERN IRELAND

*Published at 12.00 noon on Tuesday 18 March 2014*

**Mr Poots (The Minister of Health, Social Services and Public Safety):** The purpose of this Statement is to update the Assembly on the progress being made on a number of actions across the Health and Social Care sector aimed at ensuring the safety and quality of services provided by our emergency departments. It is important that the public is aware of this work so that it can have confidence in the services being provided in our emergency departments and across health and social services more generally. I specifically want to update members on what is happening at Belfast Trust and also at Lagan Valley and Downe Emergency Departments as well as a range of wider actions being taken forward.

Members will recall that in my Statement to the House on 10 February I advised that I had commissioned the Regulatory Quality Improvement Authority (RQIA) to do two things in response to the issues identified within the Emergency Department of the Royal Victoria Hospital which would help ensure that the Belfast Trust and wider Health and Social care system could act as effectively as possible on those issues and ensure a full and open process of review.

Firstly, I instructed RQIA to carry out an inspection of the Royal Victoria Hospital Emergency Department and Acute Medical Units over the weekend of 31 January to assess the quality of care and dignity afforded to patients. Secondly I asked that RQIA conduct a wider review of the arrangements for unscheduled care within the Belfast Trust and for regional co-ordination and escalation.

Regarding the inspection which was carried out over the weekend of 31 January, members will recall that the initial feedback in relation to the issues identified within the RVH caused me to have serious concern about whether the Belfast Trust was consistently performing to the high

standards that I and Assembly Members expect, whilst recognising however that some of these are wider issues that cannot necessarily be addressed by the Trust on its own.

The RQIA has advised that they will provide me with a final report of their inspection in early April. Crucially, this report will include a Quality Improvement Plan which will set out the proposed actions of the Trust to address the findings of the RQIA Inspection, and further work which may be required.

I can however inform the Assembly that the Belfast Trust is already in the process of taking forward a number of actions in immediate response to the feedback they have received. These include an urgent review of nurse and medical staffing levels in both the Emergency Department and the Acute Medical Unit which has now been completed. Additional nurses have been appointed on foot of this, 15 to the Emergency Department and 25 to Acute Medical Unit. The Trust has also appointed a dedicated clinical co-ordinator senior nurse for the Acute Medical Unit.

Exploratory action has also begun to identify any immediate opportunities to improve the flow of patients out of the Emergency Department as well as to and from the Acute Medical Unit with the aim of reducing pressures there.

The Trust is also working to ensure the key functions of the Acute Medical Unit and specialist Units in relation to patient intake are understood with clarity; as well as reviewing the timings of key meetings to ensure that specialty triage decisions are taken as early as possible.

Further the trust is examining what immediate actions it can take to reduce the number of patient in outlying wards.

Ensuring that patients are properly tracked throughout their hospital stay is also a key area of work that the Trust is taking forward. At present all patients are tracked on the Patient Administration System however the Trust plans to implement an electronic tracking system as rapidly as possible.

This is in addition to work that had already commenced following receipt of a report from the College of Emergency Medicine in November 2013 in response to an inspection which the Trust had commissioned. Changes already introduced following that report include:

- establishment of a new Directorate of Unscheduled Care with a Director, Associate Medical Director and Medical lead tasked with leading improvement and modernisation of urgent care within the Trust. A Reference Group chaired by the Medical Director brings together senior doctors from all the relevant specialties to advise and support this process;
- two Emergency Department nurses will undertake training as Advanced Nurse Practitioners, which will mean that they will be able to provide some services in the Emergency Department which would traditionally be undertaken by middle grade doctors. It is the Trust's intention to support more;
- a Programmed Treatment Unit (PTU) is now in place on the Royal site to provide treatment for patients which would previously have required them to remain in hospital;
- establishment of an Emergency Surgical Unit (ESU) on the Royal site to ensure the early involvement of surgeons in the management of cases presenting to the Emergency Department. I understand that this has already had an impact in reducing waiting times in Emergency Department whilst providing much more timely surgical care for surgical patients. It is worth noting that this particular development has received a Quality Award from the Institute of Healthcare Management;
- the role of the Acute Medical Unit has been expanded to include input from Acute Medicine and Geriatric Medicine consultants aimed at providing senior medical care more rapidly to medical patients;
- the Trust has also piloted a Programmed Treatment Area in the Emergency Department, which enables ambulatory diagnostic assessment of patients who might otherwise be admitted, and they are working with the Health and Social Care Board to develop a regionally agreed approach.

The actions I have outlined are in direct response to the recommendations emanating from the inspections. However, a number of other changes are currently being implemented within the Trust with a view to enhancing the flow of patients through the system and ensuring quality and safety of services. These include:

- The establishment of an Acute Medical Assessment facility within the Acute Medical

Unit to allow much earlier intervention for medical patients presenting to the Emergency Department. Patients referred by their GP for possible medical admission will be assessed here rather than in the Emergency Department. This will enhance the service already available on the Belfast City Hospital site;

- The Trust has also piloted a successful "Acute Care at Home" service headed by a consultant which can provide care at home which previously would have needed hospital admission. This is in line with developments as part of the Transforming Your Care changes.

These actions are specific to the Belfast Health and Social Care Trust but I would look to the HSCB and the PHA working with the Trust to ensure that lessons learned and best practice are shared more widely across not just the Trusts but also in primary and community care settings which are vitally important in ensuring the effective operation of our Emergency Departments.

We have seen significant improvement in the number of 12 hour breaches. Regionally there has been a significant reduction in the number of patients who have waited longer than 12 hours - from September 2013 to January 2014, 558 patients waited longer than 12 hours compared to 2,248 during the same period last year, a reduction of 75%. This is welcome but it needs to be built on and improved. Clearly there remains much to be done to ensure delivery against the 4 and 12 hour targets that I have set for EDs.

Emergency Department performance continues to be a focus of engagement by the Health and Social Care Board and PHA with Trusts and I continue to look to the HSCB to work with Trusts to ensure the necessary improvements are made.

One example of this is work being undertaken by Commissioners to improve the flow of ambulance borne patients to all acute sites. The Health and Social Care Board has worked with NIAS and BSO to develop a web-based dashboard with indicators measured against agreed baseline activity, which provides an indication of ED pressures and in turn informs patient flow decision making for Ambulance-borne patients.

Initially this development is focusing on the following six major acute Type 1 Emergency Departments: Altnagelvin, Antrim, Craigavon, the Ulster and the Mater. The dashboard is due to go live in April 2014.

The HSC Board has also provided funding to NIAS to appoint Hospital Ambulance Liaison Officers (HALOs) in Emergency Departments to help improve ambulance turnaround times. Feedback from Trusts on the effectiveness of these staff has been very positive with noticeable improvement in hospital turnaround times. The HSCB has therefore extended the funding for HALOs for a further year while a full evaluation takes place.

Regarding the wider RQIA review of the arrangements for unscheduled care within the Belfast Trust and for regional co-ordination and escalation I am pleased to inform the Assembly that the review team which will be led by Dr David Stewart, the RQIA Director of Reviews and Medical Director, has now been appointed, and will include the following members:

- Professor George Crooks, OBE, the Medical Director of NHS 24. Professor Crooks will contribute expertise in examining the links between primary care/ ambulance service and hospitals;
- Dr Alistair Douglas, President, Society for Acute Medicine – consultant in acute medicine in Dundee, who will offer his expertise in management of Acute Medical Units;
- Kathy Fodey, Director of Regulation and Nursing, RQIA who will offer expert assistance in nurse education;
- Paul Harriman, Assistant Director, Service Improvement, Sheffield Teaching Hospital – who has been involved in a major patient flow project in Sheffield teaching hospitals and will bring this experience to bear in looking at patient flows through the entire system;
- Dr Taj Hassan, Vice President, College of Emergency Medicine. Dr Hassan will bring his considerable experience as an Emergency Department consultant in Leeds;
- Mary Monnington, Independent Nurse Advisor – Mary is a former ED nurse who has considerable experience of several similar reviews of emergency medicine;
- Dr Elizabeth Myers, Nurse Consultant, Acute Medicine – will bring her expertise alongside that of Dr Douglas looking specifically at nursing issues in AMU;
- Professor Bill Reid, Dean of Postgraduate Medicine, South East Deanery,

NHS Education for Scotland – who will assist the Review team with examination of issues in medical education;

- Patricia Snell, Deputy Director Quality Improvement and Patient Safety, Guy's and St. Thomas' NHS Foundation Trust –will look at governance issues across the system;
- Mr Niall McSperrin – an experienced RQIA lay reviewer

As regards the Lagan Valley and Downe hospitals I made it very clear that I was deeply disappointed that the South Eastern Trust had decided to close the emergency departments of those hospitals at weekends; however I accepted the Trust's difficulty in recruiting middle grade doctors or securing locum cover.

Although it has been necessary to temporarily reduce the opening hours of the emergency departments of the Lagan Valley and Downe Hospitals, I have challenged the South Eastern Trust, the HSC Board and the Department as to why this change has proved necessary, particularly during the winter period and I have asked for several key actions to be taken.

Firstly, that all appropriate and feasible steps are taken to ensure that the consequences of these changes are managed in a way that minimises the risk of unmanageable pressures on the emergency departments at the Ulster, Royal Victoria and other affected hospitals, so that patient safety and the quality of the patient experience is not compromised. The Trust and the HSC Board have assured me that the numbers of attendances and admissions likely to arise at other sites will be manageable.

I have been advised that GP Direct admissions are working well for Lagan Valley and Downe. At Lagan Valley, to date on average three patients are being admitted at weekends from the GP Out of Hours service and a further four are being admitted directly as a result of other non-elective admissions i.e. transfers from other hospitals. With regard to the Downe Hospital, on average nine patients are now being admitted at weekends from the GP Out of Hours and a further two as a result of other non-elective admissions. A learning event was held between the Trust and Lisburn GPs on 27 February 2014 to further engage GPs and a key focus of that event was the direct admissions process. The Trust will continue to refine the process in conjunction with GPs.

In respect of the repatriation of patients from other hospitals to the Downe and Lagan Valley

Hospitals, the Trust report good cooperation from the NIAS and that there is effective repatriation of patients where clinically appropriate.

The South Eastern Trust recently launched a pilot minor injuries unit in the Downe Hospital at weekends and will pursue similar provision for Lagan Valley Hospital. The Trust is currently recruiting Emergency Nurse Practitioners and a number of its own nursing staff are currently completing their specialist practice Emergency Nurse Practitioner programme through the University of Ulster. They are due to complete the programme in May 2014 following which they require a minimum of 4 months supervised practice working as nurse practitioners with minor injuries patients before they can practice autonomously.

The Northern Ireland Medical and Dental Training Agency (NIMDTA) recently met with the Trust. It had no concerns with training and deployment of junior doctors in Lagan Valley and Downe as a result of weekend ED closures. NIMDTA indicated greater levels of supervision are now in place in ED across the 5 day service.

Secondly, I asked the HSC Board and the Trust to accelerate the work to develop and implement the new model of care at the Lagan Valley Hospital which will enable many of those affected by these changes in the short term, to resume receiving services locally.

Work on the development of a Business Case for the implementation of the new model of care at Lagan Valley Hospital is ongoing.

Thirdly, I have asked that fresh efforts are made to secure medical staffing for both sites;

The Trust recently concluded a recruitment drive for Emergency Department Staff – ED Consultants, Middle Grade Doctors and Emergency Nurse Practitioners. I am pleased to advise that the Trust received a number of applications for their Consultant posts and are concluding the recruitment process. Unfortunately no applications were received for the Middle Grade posts. In terms of the Emergency Nurse Practitioner posts, these applications are also being processed with a view to appointments in the near future. The Trust continues to work with recruitment agencies and will attempt to recruit again in the open marketplace.

In addition to this, I asked the HSC Board and the Trust to bring forward a detailed plan for the

future of the Downe and Lagan Valley Hospitals with an implementation plan, to secure confidence in the community that the best possible steps are being taken.

My Department will shortly be engaging with the Health and Social Care Board and South Eastern HSC Trust in respect of proposals for the future model of both the Lagan Valley and Downe Hospitals.

As I have said on a number of occasions the problems which manifest themselves in our emergency departments are not issues for consideration in the context of the emergency departments alone but need to be considered from a “whole system” perspective. Often the best solutions to the pressures in Emergency Departments are found outside the emergency room. It is vital for example to ensure that we have effective procedures in place to ensure that patients are properly and appropriately discharged. We cannot have a situation where people are discharged too early, or with inappropriate support and care packages which results in a readmission some days later. Nor can we have a situation where valuable beds are being occupied by patients who no longer need to be in hospital, but are delayed because of lack of capacity to support them in the community or their own homes.

Recognising this, and as part of the RQIA’s three year programme, a review of the effectiveness of our hospital discharge arrangements has recently commenced. This will play a key role in informing the outcome of the RQIA’s review of unscheduled care. The care provided to older people in acute wards be inspected across Northern Ireland as part of the three year review programme. I expect to receive the report later this year.

All of this work will need to be drawn together with other work across the HSC and my Department to develop a strategic approach to addressing the quality of care patients receive in Hospitals.

In all of this work it is vital that we share good practice and lessons to be learned not only within the Health and Social Care sector here but across the NHS and more widely. For that reason I am pleased to advise the Assembly of a major summit which the College of Emergency Medicine has agreed to hold in Northern Ireland on the 9th April. This summit will bring together policymakers, key leaders in health and social care across NI, as well as staff who work on the front line and senior

colleagues from across the UK to take a whole system look at our unscheduled care systems.

This "invitation-only" summit will ask attendees to discuss examples of best practice which they have been involved in and to share their experiences, views and ideas through a number of workshops including:

- Access to Unscheduled and Emergency care: and ensuring an integrated whole-system approach;
- Improving Patient Flow and preventing Exit and Access Blocking;
- Sustainable Workforce models and the challenges of providing 7 day services

Underpinning each of the workshops is a drive to deliver safe, effective and high quality services to the people of Northern Ireland.

The College has also agreed to work with colleagues in my Department and the wider HSC to hold a follow-up event sixty days after the summit to build on the outcome of the summit and develop recommendations on how to maximise the effectiveness of urgent and unscheduled care services in Northern Ireland.

My officials will work closely with the HSCB and wider HSC as well as with the CEM and others to draw together the outcomes and recommendations of all of these strands into an action plan to improve the quality of unscheduled care services in Northern Ireland.

Effective workforce planning is fundamental to ensuring we have the right staff in the right place to deliver safe and effective services for patients and clients both now and in the future. My Department has appointed the Centre for Workforce Planning to carry out a review of the medical workforce, including undergraduate intake levels. The output of this work will provide the strategic context for how the medical workforce is expected to evolve. It will highlight the key issues for the profession and identify emerging patterns. This will better enable the Department, the Trusts and the Universities to plan future delivery and ensure the workforce aligns with the direction set in TYC.

At an operational level there are several strands of workforce planning underway: these include specific workforce planning reviews for Nursing and Midwifery, and Medical for primary and secondary care.

I recently attended an Emergency Care Summit to take the valuable opportunity to hear the views of frontline emergency care practitioners and hear firsthand how the current situations facing Emergency Departments impact on both the patient and on staff.

At The Summit I had an opportunity for both myself and the Chief Nursing Officer to engage in an interactive discussion with the audience who were frontline staff and we were able to hear their concerns in relation to emergency departments and also their views as to how these concerns might be addressed.

Their concerns primarily addressed professional issues which centred on career pathways and access to training and professional development opportunities for nurses who wished to work in Emergency departments. They also highlighted issues around staffing levels and recruitment and retention of staff with appropriate skills for an emergency care setting and the associated pressures that this caused to staff.

I am therefore happy to inform you of the following measures which will address the issues which were raised at the Emergency Care Summit.

The Chief Nursing Officer is commissioning work to develop a Framework for Emergency Care Nursing. This work will be led by the RCN Emergency Care Network, chaired by a member of the Network and supported by NIPEC.

The Chief Nursing officer will also take forward a review of the Baseline Emergency Staffing Tool (BEST) which is a workforce planning tool that has been developed by the RCN Emergency Care Association and the Faculty of Emergency Nursing, by incorporating it within the current work stream of Workforce Review and Planning which is currently ongoing.

I am under no illusion that it will take time to make a difference. I don't expect change to happen overnight - but I do expect progress to be made. It is clear that there has been progress to an extent but much more needs to be done and we need to maintain the momentum that has been built. As I have said before these are complex issues and there are no easy solutions. In addressing these issues it will be important that we support and demonstrate our confidence in, the dedicated and committed staff who continue to deliver these vital services for our citizens on a daily basis.





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