



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Draft Children's Services Co-operation Bill:
Briefing by Mr Steven Agnew MLA

29 January 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Alex Attwood
Ms Megan Fearon
Mr Alex Maskey
Ms Bronwyn McGahan
Mr Stephen Moutray
Mr George Robinson

Witnesses:

Mr Agnew	MLA - North Down
Mr Ross Brown	Green Party

The Chairperson: Steven Agnew, you are very welcome.

Mr Steven Agnew (Northern Ireland Assembly): Thank you very much, Chair. Thank you for having us here today.

The Chairperson: I invite you to introduce your colleague and make some opening remarks.

Mr Agnew: This is Ross Brown. He is my parliamentary researcher, and he has been working extensively on the Bill.

I have presented to the Committee before, so hopefully you will have some awareness. I will try not to repeat too much. The genesis of the Bill, for me, was through my work on the all-party group on children and young people. The children's sector has been campaigning for a statutory duty to cooperate for a number of years. The importance of it was highlighted to me by the eventual failure of the draft early years strategy, which was presented to the all-party group on children and young people by the Department of Education. When I asked, "What work has been done with the Department of Health?", I was told that it was a Department of Education strategy. Early years is very much a key issue in the area of working with children aged 0-6 years, and all the research shows that that is a key age in the development of young people. Essentially, we had a draft early years 0-6 strategy which started at age three, because, by and large, the Department of Education will not come into contact with children before then. That highlighted to me a deficiency in government, which most

people will agree is there to some extent — people disagree to what extent — which is a lack of joined up cooperation between Departments.

I know that there has been a lot of work at OFMDFM, through the children's champion, the ministerial subgroup on children and young children and, now, Delivering Social Change to try to right that problem and the perceived silo mentality. There are certainly good practice examples of where Departments are working well together. I have said that I want to make good practice common practice with the introduction of this Bill and make it a standard of how Departments operate, rather than good practice that happens in isolated examples where, maybe, certain individuals have driven it forward.

Recently, I have been meeting a number of permanent secretaries, as well as the parties and those in the sector. As one permanent secretary put it, "This legislation would concentrate the minds". I think that that is ultimately what it is about. When I was in front of the Committee before, your predecessor in the Committee said, "This is a problem that has been around for years. What makes you think you can change it?" I think that it is about concentrating the minds and saying, "Now is the time to start changing it". I acknowledge that the Bill in itself will not do it, but, in our consultation, we asked whether it will make cooperation more likely. I believe that cooperation will be more likely if it is required. I think the requirement is important, rather than desired. I think that it will happen, if it is required.

I will very briefly explain the Bill. It breaks down into three key elements. There is the high-level duty on Departments to collaborate with each other in the achievement of the six high-level outcomes. The six high-level outcomes in the Bill mirror those in the 10-year strategy for children and young people. That is to set it at that policy level. When the likes of the draft early years strategy are being devised, we do not have a situation in which the Department that is producing the strategy, which will impact across wider society beyond its remit, operates on its own.

The second duty is about the delivery of children's services — planning, commissioning and delivery, operating at agency level. Currently, the Department of Health has the children and young people's strategic partnership, which has been seen as a success in bringing agencies together. Its weakness is that, while it is required to seek collaboration from other agencies, there is no requirement on those agencies to agree to that collaboration. It is really about setting a standard across the board so that this is a core duty.

The final element is the enabling legislation to allow the pooling of budgets. I will be very honest with the Committee: we have had mixed feedback on whether we need enabling legislation to allow for that. We asked questions for written answer of two Departments about whether they were collaborating, and one said yes and the other said no. I think that that has a lot to do with the definition of "collaboration", but it is unclear, legislatively, whether there can be pooling of budgets and resources.

So the enabling legislation is there, and if the Committee deemed that it was not needed, it could come out at a further stage. However, we very much feel that the pooling of budgets is a necessary outworking of the statutory duty to cooperate. I always give the example of why the Department of Health would invest in early years so that we have less crime among teenagers. Apart from the fact that it is the right thing to do, less crime among teenagers is not in the remit of the Department of Health but that of the Department of Justice. The Department of Justice might recognise that the Department of Health is the vehicle to deliver some of the early years services, but it might be willing to achieve its aims by putting up some of its funds and pooling funds with the Department of Health to deliver programmes that will realise benefits in its Department. That is where and how I see it working.

To some extent, this would be a change to how things have been done, but we have had some quite positive feedback from a number of senior civil servants, and that is where the term "concentrate the minds" comes from. There are those already there who are trying to move things in the direction of cooperation, and they see this legislation as something that will enable that.

The Chairperson: OK. Thank you very much, Steven. I suppose that we are in the well rehearsed area that, traditionally, government has tended to work in silos and vertically. What you are talking about is identifying a need to go horizontally.

Mr Agnew: Absolutely.

The Chairperson: Can we begin with the idea of best practice in terms of governmental provision for children? What countries in the world have you identified that do it the best?

Mr Agnew: I will let Ross come in on this; he did more of the international research. Scotland is a very good example. It has themed Departments, but is also looking at a statutory duty. In fact, the duty is part of its Children and Young People Bill that is going through the Scottish Parliament at the moment.

England has introduced a statutory duty. It is somewhat different to what is proposed here, because it is largely focused on local authorities, which have very different powers. The structures here have required us to look at a different model. Again, there is a lot of positivity around the impact that that has had, to the extent that, although there is still resistance to it from those who almost want to maintain that silo mentality, an attempt to overturn the Bill was defeated in the House of Lords. So, the English introduced it, and where it has been challenged it has been successfully defended. Ross, do you want to come in with other examples of good practice?

The Chairperson: Before Ross comes in, I want to be clear that I heard you correctly, Steven. The first example of international best practice you gave was Scotland, but you said that Scotland does not have a statutory duty as yet.

Mr Agnew: It has themed Departments, which is a good example of how it could be done but not what I am proposing. It does not have the statutory duty yet, but it is going through the Scottish Parliament.

Mr Ross Brown (Green Party): I think that the way to measure best practice is probably to look at the outcomes. Of the countries that have been measured by the United Nations Children's Fund (UNICEF), the two that come out on top are Sweden and the Netherlands. I think that they are joint top. It is difficult, because there are different structures of government altogether in some of these places, so it is difficult for me to give you specific examples of how this legislation ties in with the situations in the Netherlands and Sweden. That is definitely something that I could try to find out and follow up on.

The other thing I would add is that the amount of money that is spent on children and young people in early years is significantly higher in those two countries. So, that also translates into differing levels of outcomes. That is something that I can look into more and provide the Committee with information on.

The Chairperson: I am not trying to trip you up, I am just interested. My mind took me straight to, "Where in the world is there best practice, and why is there best practice there? Is it because of the statutory duty to cooperate?" You have immediately identified Sweden and the Netherlands as two countries where there is best practice, but you do not know whether there is a statutory duty to cooperate. Is it not strange that we are on different planes?

Mr Brown: As I said, there are different structures of government out there.

The Chairperson: OK. How does Sweden do it?

Mr Brown: I will get back to you on that.

Mr Agnew: It is clear that this Bill in itself will not give us the Swedish or the Dutch model. We have to start from where we are, and it is true that they invest significantly more in preventative strategies, including those in early years. I accept that we need to look at whether they have required a statutory duty for their Departments to work together and at what collaboration exists in those countries. I am certainly willing to come back to the Committee with that information.

The Chairperson: OK, but you are now bringing in the issue of funding. I hope you accept that that is a very different proposition from a statutory duty to cooperate. If you have limitless funds, it might be reasonable to assume that you will do better.

Mr Agnew: Absolutely. My point is that I am not sure whether the outcomes in those countries are better because they invest more or because they have better structures. I suspect that it is a combination of both. We can certainly get back to the Committee on that.

Mr Moutray: I wanted to raise the issue about Scotland, but you have covered that.

I take you back to the statutory duty to cooperate in England and Wales, which was introduced in 2004. In your research paper, you say that it is early days, but that is nearly two years old. Have you done any more work? Has there been any more progress, two years on? Is there anything that we can learn from England and Wales?

Mr Brown: I will get back to you on that one, as well.

Mr Agnew: The difficulty in this area is that, whilst 2004 is a number of years ago, we are talking about the life outcomes for children, so we are looking at generations. What impact has the statutory duty in England had for the generation that has been coming through since it was introduced? It is hard to look at the outcomes of 0- to 6-year-olds, because outcomes are really measured by long-term health, employment et cetera. Those children will not have reached those milestones in their lives.

That is why in our research paper we acknowledge that it is difficult to say that it has been a success. Those who work with children in the children's sector very much see it as having progressed things. We all know that NGOs are not always champions for what Governments do: normally, they challenge what is being done. That is where we have heard positive evidence from England that they see the statutory duty as something that has progressed things.

Mr Brown: The Conservative Government are changing the structures of what the Labour Government introduced in the Children Act 2004. One of the things that they tried to change was to remove the statutory duty to cooperate, which was defeated in the House of Lords because there was recognition that it was contributing to positive outcomes. So, it was recognised in the House of Lords that the statutory duty to cooperate was a positive change, was making collaboration more likely and was leading to improved outcomes.

A number of other papers have come out since ours. For example, the Northern Ireland Children's Commissioner is still calling for a statutory duty to cooperate. She recently released a report, undertaken by Bronagh Byrne and Laura Lundy, which again emphasised the requirement for a duty to cooperate. It is still recognised that —

Mr Moutray: I accept that in relation to here, but I am interested in seeing what the benefits have been in England and Wales, where it has been introduced.

Mr Maskey: Thanks, Steven and Ross. I do not think that anybody would be in any way unsympathetic to what you are trying to achieve here. As the Chair said, we are all very keen to make sure that all Departments work with one another to deliver the right outcomes. In that regard, on behalf of our party grouping, I wish you well in taking this forward. That is without prejudice to what the party might ultimately formally decide. We will have to take all this in the round, which is why we are grateful that you are here this afternoon to try to brief us a wee bit.

If I understand this correctly, you are determining a set of criteria that will lead to high-level outcomes. Whatever about the high-level outcomes that you have referred to — you may want to come on that a wee bit at the end of this, in terms of what they might mean and how you can measure some of those things — if I read this correctly, this is designed to give OFMDFM the authority to lay proposals jointly before the House to modify or increase the criteria, which include being healthy, living safely, stability and raising economic and environmental well-being, and so on.

On the one hand, you would say that OFMDFM should be able to lay draft changes for that, and the substance of all of this would really be changing the Children Order 1995, which specifies a range of Departments and organisations that have to work together and cooperate. On top of that, you have a fund that is pooled from the various organisations and agencies.

Would this legislation give OFMDFM authority to create additional criteria to what you have outlined, and also to determine which organisations have to contribute to this fund? I do not know, but I am sure that, right away, you will get a lot of organisations saying, "That is all very well, but where does the funding stream for that come from?" You have listed quite a number of organisations: the Probation Board, the Youth Justice Agency, the maintained schools sector and so on. How do you actually end up dictating? In a way, that might be necessary. It might be a good thing. I am being half devil's advocate here. I am not sure how a number of the powers would work in practice.

Mr Agnew: To clarify, the pooled budgets is enabling legislation. It would allow Departments to pool budgets; it would not require them to do so. I very much believe that that is a necessary way to make

the statutory duty work. However, to some extent I am not legislating for that, in a sense. It will allow them to do that. That will be a conversation between the Departments.

In our conversations, we have been given examples of Departments pooling budgets presently. As I say, when we ask questions, some people say it is a pooled budget and some people say it is not. It has really been hard to drill down into how a pooled budget is defined. We recently had an example of the Department of Justice and the Department of Education looking at an early intervention fund where they would collaborate. It is about that kind of voluntary practice. Obviously, the duty to cooperate would make that type of voluntary arrangement more likely.

OFMDFM certainly could not say, "You two Departments must work together and pool budgets." However, OFMDFM has the power to say, "We have to lay a report before the Assembly showing how cooperation has taken place in this area. What are you doing? If you are not doing something, do it quickly because we are accountable to the Assembly."

Mr Maskey: Are you not saying, in clause 3(1), that OFMDFM:

"may by order specify which bodies may for the purposes of this Act ...

(a) provide staff, goods, services, accommodation or other resources; and

(b) establish and maintain a pooled fund"?

They would have an order to do that. It is on page 2.

Mr Agnew: Sorry, yes, I see.

Mr Maskey: I am only using that as an example of the type of authority that you are looking to give.

Mr Agnew: It says:

"may by order specify which bodies".

Yes, I suppose that it gives the power to OFMDFM to outline those guidelines as to which Departments could and should pool. As I said, I do not think that it is a requirement, but, in the drafting process, we need to see whether that will be an unintended consequence. It certainly was never intended to be a requirement that Departments must pool budgets.

Mr Brown: The other thing is that obviously it is an order, so it has to go through Assembly scrutiny. You mentioned the high-level outcomes. Any changes to those also need to come through the Assembly, so there is a level of scrutiny on what those regulations will be.

Mr Maskey: I appreciate that. I am just making the point that you can, by order, make these specifications. So, in other words, it would happen, or it is supposed to happen.

Mr Agnew: I accept that.

The Chairperson: Stephen, in the draft legislation, there is a general duty that:

"The Northern Ireland departments must ensure"

and then it goes on to talk about functions, and people discharging their functions in ways that:

"contribute to the achievement of the specified outcomes. The specified outcomes are the well-being of children and young people"

which are then further defined in terms of health, enjoyment, safety and so on. The key is:

"The Northern Ireland departments must ensure".

In the Welsh legislation, the Departments must "have due regard", and in Scotland, I think it is "keep under consideration". So, we have "keep under consideration", "have due regard" and "must ensure". What is your analysis of the potential outcome of those three duties and what that practically might mean for children and young people?

Mr Agnew: Our choice of language with "must ensure" is about giving strength to the Bill. We did not want to go through this process for having something that is there on paper but which could be disregarded, so it is about that. We have been very careful in that, for example, there are six outcomes that not every policy will necessarily have a direct impact on. So, we were clear when we were drafting this and speaking to the drafters that we wanted to ensure that it concerned the discharging of a function where it impacts on children. So, it is about ensuring that each Department's work, where it impacts on children, contributes to these outcomes. Probably the best way that I can put it is that this is a near-final draft. We have questioned this ourselves, because we want to ensure that it does not hamstring Departments to the point that something that may seem almost — not irrelevant to children; I think that most legislation we put forward in the Assembly will impact on children as part of our society — but that it is not overly onerous in proving that every little piece of legislation contributes to all six of these outcomes. It is only where the discharge of the Department's functions is relevant and, indeed, the policy implications are relevant.

The Chairperson: Even if we take it that OFMDFM, which has responsibility for children's issues, and the Health Department might be the two lead Departments, as it were, I am not sure that there is any Department that would not fall under your proposed general duty in clause 1. Take the Department for Regional Development, for example. You could argue that the provision of public transport is contributing positively to community and society and to economic and environmental well-being. What happens if a Minister says, "You put me under a duty where I must ensure that these things happen, but I do not have the budget to do it"?

Mr Agnew: I think that "must ensure" is around collaboration in the achievement of these —

The Chairperson: No, it says:

"in such as way as to contribute to the achievement of the specified outcomes."

So, what happens if a Minister says, "I do not have the budget, and I have failed to contribute"?

Mr Agnew: To clarify, I accept the point that it applies to every Department; it just will not apply to every Department in every function. I accept the point that you may not have the resources to contribute to a large extent. "Contribute" sufficiently allows them to say, "We have contributed to it. We have not solved it or achieved it. It may not even be our main function, but we have contributed to it without necessarily wholly tackling it. We played our part across the range of Departments."

The Chairperson: So, you could contribute to it without actually meaning to.

Mr Agnew: You could do. It is about a direction contributing to the six outcomes. It is about moving things towards that direction. The degree to which you contribute is not the issue for this legislation.

The Chairperson: Have you thought of looking at the current Departments to see the extent to which they currently, whether or not they intend to, contribute to the achievement of your specified outcomes?

Mr Agnew: Looking at it somewhat conversely, part of the genesis of the Bill has been failure, such as the failure of the 10-year strategy for children and young people. I think that many people would acknowledge, including, I think it is fair to say, in OFMDFM, that it was a very strong and very large document, but the outcomes that they were to derive from the document have not been achieved. From the sector's point of view, a lack of collaboration has been identified as being one of the key reasons why those outcomes are not being achieved. I am sure that each Department could go in front of you and say, "Here's what we've done to contribute to these outcomes", but the insufficient progress has been deemed to be as a result, in part, of a lack of collaboration between the Departments.

The Chairperson: As your Bill puts a duty on the Departments to contribute to the achievement of specified outcomes, it might be interesting to ask the Departments about the extent to which they currently contribute to:

"(a) being healthy;

(b) enjoying learning and achievement;

(c) living in safety and with stability;

(d) experiencing economic and environmental well-being;

(e) contributing positively to community and society; and

(f) living in a society which respects their rights."

I imagine that every Department would give you a fairly detailed list of achievements and contributions.

Mr Agnew: Yes. That is probably a fair point.

Mr Attwood: Thank you very much. I am tempted to suggest that, given our previous discussion, we should table legislation about a duty on OFMDFM to cooperate with the Committee. That might move things on a bit. Maybe that is already covered by the Northern Ireland Act 1998; I must go and check.

The Chairperson: I think that you will find that it probably is.

Mr Attwood: So, then, has it breached the law? That is a serious matter.

You had a discussion about what "contribute" means. My sense is that Departments try to avoid making commitments on contributions to what they might do for young people or any other sector of society. That is not a very healthy comment to make, but I think that that tends to be the nature. People hold back rather than come forward. That is why the essence of your Bill is a very healthy one.

This may well have been answered in previous sessions of the Committee, but did OFMDFM have any conversations with you about taking ownership of the Bill?

Mr Agnew: No, not at this point. We have met officials from OFMDFM. We have certainly had engagement. To some extent, we have been advised about what it is doing. It is not so much their view, because it has been officials; it would be more for the Ministers to make that view. We have had engagement and an outline of what it is doing and how it sees this potentially affecting its work. At no point has it been suggested that the Department would take this on.

I think that there was an issue — Ross, correct me if I am wrong — when we spoke to the Bill Office. Bizarrely, whilst you can legislate for this as a private Member, an individual Department such as OFMDFM cannot bring forward a piece of legislation that legislates for other Departments. That was advice that we got from the Bill Office, if I am remembering that right. There was a suggestion that it would either have to come as an Executive Bill or as a private Member's Bill, but that an individual Department could not bring a duty such as this because it legislates for other Departments.

Mr Attwood: Subject to your advice, I am not trying to get ahead of your Bill or your work, but it might be useful to determine whether OFMDFM in its own right — or the Executive — might take forward this Bill if they were inclined to do so. The weight of a Department or the weight of the Executive would add to it. That does not mean that your Bill will not succeed, but that certainly would add to it. It might be worthwhile enquiring whether they are minded to do so or to do so on behalf of the Executive.

The second thing is that you said that you had a number of meetings with permanent secretaries and that they had said, or one of them had said, that this would concentrate minds. However, the more fundamental question is, when you met the permanent secretaries, were they supportive, as opposed to saying that this would concentrate their minds but they did not want their minds to be concentrated?
[Laughter.]

The Chairperson: Sir Humphrey.

Mr Agnew: To some extent. Some have been more candid than others. As you know, it is not for permanent secretaries to comment on policy. They are very much giving a perspective from the drafting and whatever, but some have been quite candid and some have been supportive. I think that, in some cases, their demeanour would suggest that they were more resistant, but the stock answer that we have got is that they will take this back to their Minister and it is for them to dictate policy direction. You will have more experience of how that actually works. Certainly, the person who said that it would concentrate minds was saying yes. They were a relatively new permanent secretary, and I think that they were suggesting that there needed to be a bit more of what we are seeking to achieve and that this would help.

Mr Attwood: On the local government side, there is, if you like, a baby version of this in the current Bill that is before Committee, which I do not think that anybody is resisting. It mentions a duty in law. I cannot remember the precise terms, whether it is "to cooperate" or the lighter term about "having due regard to", or whatever it might be. I think it is more than that; I think that there is a duty "to cooperate" on community planning. It seems to me that, if the Executive have signed off on a duty to cooperate in respect of one very significant aspect of local government and all their functions and relationships with other statutory agencies and government itself, it is not a big leap to scale that up in terms of Departments. That is another reason why I think that, if we write to the First Minister and deputy First Minister asking their views on this, it would remind them that the Executive have already endorsed this principle when it comes to local government and its relationship with wider government.

My sense is from the bit of time that I was in the Executive. I remember on one occasion convening a meeting in the north about Yorkgate. I have told you this. Four Ministers were represented, and it was quite clear in the fall-out from that meeting that one or other just did not want to cooperate. When you have a strategic site such as the north side of the city with the Royal Exchange, York Street and Cityside, and with the university proposal, it was clear that there needed to be some coherence between Departments. Let me put it this way: local politics and the geography of north Belfast got in the way of Departments working properly, even though three of the Ministers in that room — Regional Development, Culture, Arts and Leisure and Environment — very much wanted to, but there was no requirement to. Consequently, the whole thing came to nought at that stage because of, as I saw it, the conduct of one Department.

Mr Agnew: Going back to your point about scaling up, I can say that there is a statutory duty in the Autism Act and the Safeguarding Act. So, it is something that is coming into legislation in Northern Ireland. It is exactly that: it is scaling it up from some of the examples in specific areas to the broader range of children.

Mr G Robinson: I thank Steven and Ross for their presentation. I have a very brief question. Have you given the presentation to any other Committees, for example, the Health or Education Committees?

Mr Agnew: We briefed the Education Committee when we launched the consultation, and we wrote to the Health Committee. Am I right in saying that the Health Committee said, "Not at this time"? However, that might have been the Justice Committee. We have written to other Committees. Obviously, we do not set their agendas. OFMDFM has been the most engaging, and we have been called back. We have briefed the Education Committee, but other Committees have chosen not to have a briefing at this stage.

Mr G Robinson: From a children and young people's point of view, they are very relevant.

Mr Agnew: Yes, absolutely.

Ms McGahan: Thank you, Steven and Ross, for your presentation. I generally welcome the concept of the Bill. First, apart from what we have had previously, can you give some examples of improved outcomes under the Bill? Secondly, in the context of what other Departments can do, reference was made to the Department for Regional Development. I think that some of the Departments need to think outside the box. If we did not have the delay of the A5 west of the Bann, for example, jobs and income would have been created, thereby improving health and so on. So, can you give me some examples of such outcomes?

Mr Agnew: Obviously, the legislation is not in place, so I cannot give examples of where it has worked. However, I can give examples of where I see it working or where things have not worked.

Ms McGahan: How would you improve outcomes, if you had the Bill in place, as opposed to what we have now?

Mr Agnew: I can give the example of when I visited an NGO in my constituency. It was receiving funding from various government streams, as many of them do. It was working directly with children. I think that it had five different funding streams, and it had to report to five different funders, even though three of them were in the Department of Health. That is where the idea of the pooled budget comes in. If, instead of having five Departments funding early years intervention, we had a single-pool fund that each of those Departments potentially fed into, we could have an NGO on the ground that reports once. That would save on administration. The administration of that pooled fund would be carried out by one set of administrators rather than five administrators in different Departments. We all know that resources are limited; they are always limited, but they are particularly limited now during the downturn with the various cuts. It is about ensuring that the maximum resources get to children, rather than being spent on government administrators liaising with particular NGO administrators.

I am sure that that is a frustration that many MLAs have come across. We have the inefficiency that means that groups have to continually reapply for various funding streams to the point where people are employed solely for that purpose. That happens when actually the money has been set aside for children, not administrators. There will always be a need for administration, but we should minimise it where we can. That is part of the nature of the Bill.

Mr Brown: The duty to cooperate and the reform of children's services were introduced in England following the tragedy of Victoria Climbié. In that whole story, services were not cooperating, and that, obviously, had a safeguarding side to it as well. However, the other side to that was that the general level of collaboration was not good enough, and, following that tragedy, they recognised that there needed to be improved levels of collaboration to stop such things happening again. So, it goes right across the board from everything from safeguarding to funding streams and general levels of shared information between services, be that health or education, that have contact with children. In that sense, we are hearing many examples of how collaboration could be improved. Case studies have come to us that have said, "If these two agencies collaborated, we would be able to achieve this". We can certainly update you with some of those specific examples.

Mr Lyttle: I apologise for not being here for the whole presentation today; I was delayed due to exceptional circumstances. I support the work that you are doing. From an Alliance Party point of view, we regard a statutory duty on Departments to cooperate as a positive mechanism to improve outcomes and collaboration. So, I wish you well with your work on that.

How do you see your proposals fitting in or working with the Delivering Social Change framework that OFMDFM brought forward?

Mr Agnew: It is hard to know, because I think that we are still learning what Delivering Social Change is. Given what OFMDFM is seeking to achieve with Delivering Social Change, I think that they are complementary. Again, OFMDFM seems to be trying to focus on cooperation between Departments. There are still a lot of unknowns about how the funding will be administered, but, to me, they seem to be moving in the same direction.

I have heard Delivering Social Change used as an example for why we do not need the Bill. That framework happens to be the flavour of the day, so to speak. However, it will be done potentially for a limited period, and this Bill is trying to put in place something that is more permanent. As I put it earlier, it is about trying to make good practice — if that is what we see as an outcome of Delivering Social Change — common practice. As I say, if we require collaboration to be part of the job, it becomes the norm rather than just, as I say, the particular focus of the day in the latest diktat that has come down through OFMDFM. So, I see this as complementary. I am yet to hear anything that says that what we are doing contradicts what OFMDFM is currently trying to do in conjunction with the other Departments.

As I say, I suppose that we are still seeing the outworkings of Delivering Social Change. As you will know from sitting on the all-party group on children and young people, I have engaged with it and with OFMDFM on the Bill. As I say, at this point, I do not see any contradiction, although some will use Delivering Social Change to say that we do not need this. As I say, I see them as complementary.

Even if Delivering Social Change delivers everything that it sets out to, I still think that we need to put into legislation a statutory duty to collaborate and to do what the permanent secretary said, which is to concentrate minds. I have always said about civil servants — I mean this as a compliment, but it could be taken both ways — that they do their jobs. The target is to make collaboration their job, because I believe that civil servants will seek to do their jobs. When they sit down with a list of priorities, I want this to be one of them.

Mr Lyttle: The Office of the First Minister and deputy First Minister has committed to conducting a children's budgeting pilot as well. Do you see the statutory duty to cooperate working well alongside that mechanism?

Mr Agnew: Again, I see it as complementary. From your work on the all-party group on children and young people, you will know the importance of early years. We had a discussion earlier about the Swedish model, for example. We believe that they put more resources into children's services. We can have that discussion only really when we know exactly how much resource we put into children's services in the broadest sense. The long-term thinking is that early years intervention is exactly where our policy and our resources need to go. Again, I suspect that some of the resistance to children's budgeting is because it will highlight that we are not currently doing that and that a shift is needed. The children's budget must show us the extent of that. Again, I think that it is complementary to the Bill. It is a separate aspect of work, but I certainly welcome it.

Mr Lyttle: This is my final question. The Delivering Social Change signature projects have shown how Departments can work together and how OFMDFM can identify cross-cutting themes that are relevant for children and young people. However, there is a particularly short consultation time for the recently launched Delivering Social Change for Children and Young People strategy. Is there anything in your Bill, or do you have any suggestions, for the need for greater cooperation between Departments and NGOs and community organisations, which are vital partners to achieving better outcomes?

Mr Agnew: The second duty in the Bill is the planning, commissioning and delivery of children's services. I think that that collaboration can only be helpful. NGOs feed into strategy and provide delivery on the ground, along with agencies, particularly those in health and education. I think that the NGOs are that other arm, although not of government, because they are non-governmental organisations, but they are the key deliverers of services. So, it is essential that that cooperation exists. I think that there is goodwill in the sector to do that. It is the other piece of the jigsaw.

Mr Maskey: I have one question, and it is not even necessarily for today; it is just something to think about. As I said, we are all very sympathetic to the duty to cooperate, and Alex Attwood referred to getting almost a veto on an operation. He does not want to do something that will hold everybody else back. Have you considered how this particular duty might conflict with Ministers' executive authority? You know how this Executive and these institutions work. Ministers have executive authority, and certain issues have to be brought back to the Executive if they are contentious, but there is still a degree of executive authority in the Department. Do you see this conflicting with that in any way?

Mr Agnew: I am just checking whether I understand your question. In the context of that kind of Executive agreement being required, most children's strategies make that more the case than less so, because it would be saying that children's issues are cross-cutting. So, if you are doing something with children, it needs to be in collaboration with your government partners. I think that this would bring children's issues more to Executive level than individual Department level. I accept that there are probably pros and cons with that. The pro is that you do not get a 0-6 strategy that starts at the age of three, but, at the same time, it requires agreement on the part of the Executive to move issues.

Mr Maskey: The reason why I press that is not to protect executive authority per se, but that is currently in existence. Where there are cross-cutting Programme for Government commitments, there are very detailed delivery plans across a range of Departments. I do not think that we are good enough at scrutinising those delivery plans, because if you do your work properly, you would be shining a big bright light on where people need to cooperate. That is on the basis that the Ministers are coming together and the Assembly has had its debate, and then you have the Programme for Government commitments and the implementation plans. I am as much concerned about people going in on the minimum end of the scale as opposed to the maximum. So, if you have a duty to cooperate, as Alex suggested, you might have a tendency for some Departments or Ministers to go in on the lower end of the scale, because they do not want to make commitments that are outside their core business. I am just trying to work out how we guard against those unintended consequences. I

appreciate that you might not be able to give a full answer on that, but we need to think those things through.

Mr Agnew: Where cooperation is concerned, there will be a report back to the Assembly, and we, as Members, will have the opportunity to scrutinise that. Before this is laid before the Assembly, there will be a pressure that we have to be able to justify it in the Chamber. I think that that level of scrutiny is important, and we specifically said that we require an Assembly debate on it. So, it is not simply laying a report; it is laying a report and having a debate on it.

There will be pressure from Ministers, who might say, "Do not make us look bad here. We have to stand up in front of the Assembly and defend this." I had a conversation with a permanent secretary — I cannot remember which permanent secretary it was — and he said that that is the sort of thing that, in their experience, Ministers take seriously. There is no foolproof legislation. This legislation will not be a panacea, but we have tried to make the scrutiny of collaboration at such a level as it becomes a priority.

Mr Brown: If there is one thing that the Executive could find common ground on it is children and the fact that everybody wants what is best for children. In that sense, we would very much trust that that would be in the interests of everybody on the Executive. Therefore, this is something that the Executive could get behind and work together on for the next generation's sake and to bring society forward.

The Chairperson: I think that everybody agrees that better government requires the horizontal, cross-cutting kind of work that you were trying to promote. Just to be clear about the exact benefit of making it a statutory duty as opposed to all the other expressions that we discussed, what do you think the benefit is of making cooperation a statutory duty rather than having a specified outcome as a Programme for Government target?

Mr Agnew: Again, I see them as complementary. I think that the statutory duty would, as I say, concentrate minds and make it part of civil servants' job to cooperate and make it part of their priorities in trying to achieve the outcomes. The outcomes that are outlined in the Bill mirror what is in the children's strategy and can be changed by order. To some extent, we are not wedded to those specific outcomes, because research may change and evidence may say, "Actually, here are the most important areas where children need to do well".

That is something almost to hang the duty to collaborate on, which is the key issue. The Programme for Government commitments sit as priorities, which is a rung below a statutory duty and by which most Departments will judge them. However, I think that a legal requirement has that bit of extra weight.

The outcomes in this and in any Programme for Government will change every four years. So, I do not see any reason why, in five years' time, a new Government would say, "Collaboration is a bad idea now. It has been shown to be something that we do not want." Those outcomes may change, through research and evidence, but collaboration is a universal good, in that it will always remain to benefit the delivery of outcomes. The outcomes may change, but collaboration will always be necessary.

The Chairperson: As you know, the Commissioner for Children and Young People has taken an interest in strategic delivery from devolved government. I think that she employed Queen's University to do research. Is she supportive of your Bill?

Mr Agnew: Absolutely. I think that it is fair to say that I have the support of the vast majority of the children's NGO sector, including the Children's Commissioner.

The Chairperson: Have you consulted?

Mr Agnew: I have. We consulted with the sector — we consulted publicly.

The Chairperson: What were the results?

Mr Agnew: We got —

Mr Brown: We got around 30 responses, and nobody was opposed to it. I think that everybody said yes and that they were in favour of it.

Mr Agnew: This is something that they back. Children in Northern Ireland, for example, has brought out a key policy document, and its two key policy priorities were a statutory duty and children's budget. The Children's Commissioner also produced a report, as you outlined. So, we have had very positive feedback from the sector.

The Chairperson: When are you hoping to introduce the Bill?

Mr Agnew: I am always nervous with that question, because I think that I said to one group last year that it would be ready by last Easter. The drafting and such things are out of our control, but I would hope to introduce it within the next four to six weeks.

The Chairperson: I do not want to make you nervous, so I will change the question. You said that you were bringing the Bill forward last Easter. What is going on? *[Laughter.]*

Mr Agnew: I think four to six weeks, but, if I breach that, I will apologise.

The Chairperson: Steven Agnew and Ross Brown, thank you very much indeed.