

# Official Report (Hansard)

Tuesday 25 September 2012  
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to arrive not later than two weeks after publication of this report.

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Wells, Jim (South Down)  
Wilson, Sammy (East Antrim)

# Northern Ireland Assembly

Tuesday 25 September 2012

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

*Members observed two minutes' silence.*

## Ministerial Statement

### British-Irish Council: Environment

**Mr Attwood (The Minister of the Environment):** In compliance with the requirements of the Northern Ireland Act 1998, I wish to make the following report on the twelfth British-Irish Council (BIC) meeting in environment sectoral format, which was held in Vogrie Country Park, Midlothian, Scotland on Friday 7 September 2012. The Northern Ireland Executive were represented by me and Jonathan Bell MLA, junior Minister in the Office of the First Minister and deputy First Minister. This report has been endorsed by junior Minister Bell, and he has agreed that I should make the statement on behalf of both of us.

The meeting was part of an ongoing series of meetings in the British-Irish Council since the first summit of 17 December 1999, which identified the environment as one of the issues for discussion. The Scottish Government were represented by Paul Wheelhouse MSP, Minister for Environment and Climate Change. It was, in fact, his first meeting on his second day as Minister for Environment and Climate Change, having replaced Stewart Stevenson, who is a really dynamic person. When I met Stewart Stevenson, my view was that he was the modern-day incarnation of Braveheart. He has been a member of the Scottish National Party since the 1960s; God knows there were very few members of the nationalist party back then. Paul Wheelhouse also chaired the meeting. The Irish Government were represented by Jimmy Deenihan TD, Minister for Arts, Heritage and the Gaeltacht. The Welsh Government were represented by John Griffiths AM, Minister for Environment and Sustainable Development. The States of Jersey were represented by Deputy Robert Duhamel, Minister for Planning and Environment. The States of Guernsey were represented by Roger Domaille, Minister for the Environment Department. The Isle of Man Government were represented by Phil Gawne MHK, Minister for Environment, Food and

Agriculture. The UK Government were represented by Jeremy Eppel, the deputy director for international biodiversity and evidence in the Department for Environment, Food and Rural Affairs.

As the junior Minister would confirm, the meeting focused on biodiversity and covered strategies, awareness campaigns, the management of invasive species, ecosystems approach, public engagement and strategies used to monitor and survey habitats and species.

Prior to the meeting, Ministers took part in a BioBlitz with local schoolchildren to gather information and boost records of species in Vogrie park. In Northern Ireland, 80% of our schools are members of the Eco-Schools project, and, indeed, I hope to make some announcements in respect of that project in the near future. That project and BioBlitz are ways of embedding an appreciation of biodiversity, ecosystems and the environment in general in the education of our young children. Although it might have been a bit awkward for five or six Ministers to run around a forest with 20 or 30 children, it was very instructive to their understanding of habitats and species.

Ministers discussed the development of biodiversity policy and delivery mechanisms for dealing with invasive species across member Administrations. Ministers also noted the opportunity to share the outcome of current pilots that look at practical tools and resources for the delivery of ecosystem services on the basis of the findings of the UK National Ecosystem Assessment. The issue of ecosystems is a bit abstract, but we should think about the wildfires in peatland areas last year, which affected 8% of our peatland in the North. It cost the Fire Service £8 million to manage those fires in the space of a dozen or so days, never mind the interference with recreation and the damage that was done to biodiversity and farming interests. That conveys what ecosystems are about. If you maintain that peatland, you can mitigate those

risks. In that way, what is somewhat obscure can become very real.

Ministers welcomed the news that, as a result of the British-Irish Council, the Joint Nature Conservation Committee will enhance the existing network to allow the Channel Islands to share their monitoring and surveillance data with the wider society through the National Biodiversity Network Gateway. They also welcomed the fact that that work has been brought forward and will be in place by October 2012.

Ministers recognised the threat that invasive species pose to the island ecosystems that make up the British-Irish Council membership. At present, there are two frameworks, one in Britain and one in Ireland, through which, on an island basis and, increasingly, on an islands basis, the threat of invasive species is addressed. There may be questions about that later. To bring it home, people may be aware that an invasive species was found in Strangford lough in the past weeks. Today and tomorrow, divers from Wales with knowledge of that particular invasive species are diving in Strangford lough to see the scale of the risk. When you remember that invasive species are now the second biggest threat to biodiversity and ecosystems globally, you can understand that, although this may be about hogweed in some places, it is actually about a fundamental threat to the character of our heritage, the environment and the benefits that ecosystems bring.

Following the presentation by GB's non-native species secretariat, Ministers discussed existing awareness campaigns, how to improve monitoring, warning systems and risk assessment across British-Irish Council member Administrations. Ministers also discussed the potential for an expert meeting in the run-up to the anticipated EU directive. That directive has been coming for some time and is expected over the next number of months. It will lay down new standards for the management of invasive species. Some advanced work has been done in that regard over the past 10 years here and in Britain. Nonetheless, given the risks that exist, it is clear that Governments generally and with the assistance of Europe will have to escalate their response to that ecological threat.

Ministers received a verbal update from the London Government on Sellafield, which, we should remember, is the largest nuclear facility in Britain. It was agreed that it would be discussed at a future meeting of the Council.

Ministers agreed that the next ministerial meeting would be hosted by the Isle of Man Government and that the theme of that meeting would be sustainable consumption and production; for example, marine spatial planning. Bearing in mind the Marine Bill that is about to come before the Assembly for consideration and the fact that we are somewhat behind the curve when it comes to marine spatial planning, the gathering in the Isle of Man, which is strategically placed for a conversation about the Irish Sea and marine issues generally, will, I hope, look at marine management. We all have our own nautical miles interests, but there is a shared resource there that we need to manage sustainably.

Members welcomed the continued close co-operation between member Administrations on environmental issues and asked officials to keep the Council updated on biodiversity issues and ecosystem approaches.

**Ms Lo (The Chairperson of the Committee for the Environment):** I thank the Minister for a comprehensive statement. I am sure that the meeting proved to be quite useful on various issues that are relevant to us, including, as you said, marine spatial planning.

The previous Programme for Government had a target to halt the loss of biodiversity by 2016, but this has now been extended to 2020 in the current Programme for Government. How will the Minister ensure that the new target will be met and will not slip any further?

**Mr Attwood:** I thank the Member for her question; she is quite right to ask it. How will we ensure that there is no further slippage and that biodiversity has the profile and the protection it needs? We had not had a review of our biodiversity strategy since 2002. A review of the biodiversity strategy is taking place, and I hope that it will be published in the next number of months or into 2013. If I can leave a fingerprint on it, it will be that the biodiversity strategy will take forward the wealth of knowledge that has been gathered over the past 10 years, not least from the conference in Nagoya.

I am mindful of the European environmental biodiversity strategy, which was adopted in 2011, and of the increased risks to our environment, our marine life and the impact of climate change. Therefore, I would like to think that that biodiversity strategy will be much more rigorous and more challenging than the one 10 years ago was. That will be inevitable, because I think our appreciation of issues around biodiversity, the scale of threat to our

biodiversity and the accelerating threat, not least because of climate change, should mean that we should scale up our ambition.

Secondly, we need to embed in the character of government the ecosystems approach — across government. Biodiversity is only a collection of elements of natural wonder, but, when you integrate those elements through ecosystems and have that approach at the heart of government, you will understand that our water, our land, our air, our marine and so on are part and parcel of the quality of our lives and our economy, going forward. It is estimated that, in Britain, the benefit from ecosystems in recreational terms alone is worth £400 million a year. It is reckoned that the wider benefit, excluding health, of an ecosystems approach is £1 billion a year. Beyond the biodiversity strategy, therefore, we have to assess our government policies against how we manage ecosystems and how we recognise the benefits that they bring. I will give an example. In my opening remarks, I mentioned the threat of wildfires and the damage that they do to ecosystems. On the other hand, to go back to your question, if you look at the strategy that is now being rolled out at the Garron plateau in the glens of Antrim, you will see a project that has just been announced. I announced it three or four weeks ago on the one good day in September. It protects the bogland and develops it for recreational purposes. It maintains its quality for storing carbon and water management. It also sustains uphill farming in that part of the world. In all those ways, there should be many Garron plateaux around the North to demonstrate that we are putting into operation the protection of biodiversity in a way that is sustainable and lives up to the ambitions that we should reach.

**10.45 am**

**Mr Hamilton:** I thank the Minister for his statement and encourage him to continue to work on a British Isles basis to enhance our environment. The Minister may be aware, for example, that a joint links conference will be held in Belfast this week, at which the Northern Ireland Environment Link and its equivalents from Scotland, England and Wales will look at how they can better promote the protection of the environment on an east-west basis. From the Minister's statement, I notice that a discussion was held on Sellafield, to which, I am sure, the Minister made an open-minded and positive contribution. At the other end of the scale —

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

**Mr Hamilton:** — I notice that the report does not state that renewables were discussed at the summit. Will the Minister assure the House that that area, in which there are great east-west opportunities, continues to be explored by the British-Irish Council?

**Mr Attwood:** He did not use the words, but I will conclude that he agrees with the sentiment that renewables are arguably Ireland's biggest economic opportunity, and, if you look at renewable opportunities —

**A Member:** He did use those words.

**Mr Attwood:** I missed that and am sorry that I did not pick up on it. I am sure that I would have had some witty reply.

We should look at some recent developments, such as the interconnector between the Republic and Britain. Some planning applications are ongoing, not only for offshore wind farms by world leader SeaGen and similar examples that will come on board over the next years but for other innovative renewable technology based on the character of the land. I will not go into those, because the planning applications have not yet been lodged. However, they mean that we can define ourselves not only as being at the cutting edge of renewable technology but as creating renewable energy jobs in the future.

The issue was not discussed at the environment sector meeting because it is being taken forward at a more global British-Irish Council level. At the Stirling meeting of the BIC in June, John Swinney, on behalf of the Scottish Government and other member Administrations, outlined the work that he had taken forward since the BIC meeting in Guernsey in June 2010. At that meeting, the BIC, after what I understand was years of resistance from the London Government, agreed a corporate approach to renewables, given that the issues of wind, wave and tide affect all the island members of the BIC, including Guernsey, the Channel Islands, the Isle of Man, Britain and us. That meeting was important in that John Swinney again demonstrated the difference between being in government and being in power. Two years ago, he took big concepts about renewables, broke them down and put into operation a strategy that saw that issue being moved forward corporately by BIC members. That included getting dedicated funding from Europe.

I refer Members to the statement and the papers from that BIC meeting because what he demonstrated proved that individual Ministers working together corporately in Governments can move issues forward.

The Member referred to Sellafield, which was touched on at the meeting. There was no greater conversation than that. As he might have hinted, I have my own view on nuclear energy. In as much as I can reassure him, there are no proposals for nuclear facilities in the North. There are no expressions of interest in the North about nuclear waste management, all of which is located in Britain. On the other hand, I understand that the London Government have a provisional ambition for up to 11 nuclear power stations. They cannot decide that issue unilaterally; it must be decided corporately by the people and Governments of these islands, given what happened in Fukushima in Japan. When these things go wrong, they are critical and create major risk. In my view, given that this issue not a devolved matter, it would be folly for the London Government to take it forward without the proper, full consultation and involvement of the devolved Administrations.

**Mr McMullan:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his presentation so far. Will he quickly bring us up to date on the verbal update on Sellafield that the UK Government gave to him? Will you, Minister, tell me why there is so little mention of Sellafield in your Marine Bill? Maybe I have got that wrong, but, given that you talk about the ecosystem and the fear of the proposed 11 new stations that the English Government are talking about installing, do you not agree that, with a close proximity to our north coast —

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

**Mr McMullan:** — Sellafield should be one of your high priorities for the ecosystem in your Marine Bill?

**Mr Attwood:** I thank the Member for his question and for thanking me for what I have said so far. We will see how it is on the far side of this answer. I have a view on the nuclear option going forward, and I indicated broadly what that might be. That said, there has been, especially over the past decade or two, much more collaboration between the British Government and the Irish Government on nuclear power and the risks that so many of us believe it carries. There has been an upgrade of the monitoring of the Irish Sea by both the Irish state and the Northern Ireland

Environment Agency. So, at present, 50 places of monitoring are working on a regular basis, and they monitor not just water quality but shellfish and even seaweed to assess what might be the continuing or residual impact of Sellafield — or Windscale — on the quality of the Irish Sea.

The Marine Bill creates an architecture for marine spatial planning. It is the architecture. That is what primary legislation normally does — it sets out the structures and broad parameters that are then taken forward in operational terms. That is what will happen with the Marine Bill. I think that we will have some robust conversations about the Bill, because I may be minded to try to persuade the Executive to go in certain directions with it beyond my proposal for a marine management organisation. So, there will be marine plans on the far side of the passage of the Bill. Marine plans will, no doubt, bear in mind and take into regard all the water management issues in the Irish Sea, including ongoing assessments of the impact of Sellafield on the quality of water and other species of life in the water. So, the Bill is not silent, and it would not refer explicitly to Sellafield.

**Mr McMullan:** *[Interruption.]*

**Mr Attwood:** Well, then, you table an amendment. If you believe that, did you table an amendment at Committee Stage to give —

**Mr Speaker:** Order.

**Mr Attwood:** I am sorry; through you, Mr Speaker. Did the Member, his party or anyone else give expression to that issue at the Committee Stage of the Bill? I do not think that they did. If something is brought forward at Consideration Stage, I will certainly look at it.

Clearly, all issues that impact on the water quality in the Irish Sea should be part of the conversation about marine planning. Whether it should be part of the Marine Bill per se is problematic, but, clearly, the issue of Sellafield is not problematic, and, therefore, its impact on water quality and marine management generally are matters that any government would be taking forward properly.

**Mr Elliott:** I thank the Minister for that relatively brief report. I follow on from the last question. Has there been any indication of whether there will be proposals or plans to increase the output from Sellafield?



**Mr Attwood:** I can rectify that particular problem if you want me to and speak at some length.

The environment sector agreed that we needed to come back to the issue of Sellafield. I will explain the approach that I have taken. Following the tsunami in Japan and given the requirements from Europe, never mind those of the domestic authorities, to assess risks around nuclear facilities in the light of what happened in Japan, I kept a correspondence going between my Department and London, into which I copied the Minister for the Environment, Community and Local Government in the South. We did that to ensure that assessments were ongoing, that we knew what was being said, that we knew what the conclusions were and that any additional risks would be mitigated. I have been very attentive and vigilant, not simply because of my views on nuclear power but because of the heightened risk that people sensed arising from what happened following the tsunami in Japan.

As I understand it, there are some proposals to develop Sellafield through a MOX facility — I think that that is what it is called — but that is a reserved matter. It is a matter of concern that, in taking forward some of the proposals, the London Government have not, as I understand it, consulted us or other devolved Administrations. As I said in my earlier reply, we need to be acutely aware of the issue, given Sellafield's profile, the concerns about its impact and the fact that deaths are purported to have risen because of cancer clusters. My family has some evidence of that following the death of my 16-year-old cousin in Liverpool, to where, the family believes, the wind from Sellafield carried dust particles that gave rise to cancer. We must continue to monitor the situation, and, as I indicated, if and when the British Government decide that they want to act on the development of the nuclear facility industry in Britain, they will need to have due regard for concerns, not least those of the people of this island.

**Mrs D Kelly:** I thank the Minister for his report, which ranged from the strategic European context to implementation at local level. On sharing practices, has he reached any conclusions about the merits of having an independent environment agency? Nations that have such an agency have better biodiversity outcomes. What assessment has his Department made of the effectiveness of the biodiversity duty placed on local authorities?

**Mr Attwood:** I thank the Member for her question. She will be aware of my view that,

given the scale and wonder of our natural environment and the need to protect it, the increasing challenges, opportunities and requirements of the management of that environment, further directives from Europe — for example, on invasive species — and the importance of the environment to Northern Ireland's economy, the quality of our lives and the future character of our place, it is best protected by having independent oversight. That is a principle that I agree with and support in other areas of public policy such as police complaints and the Prisoner Ombudsman. I believe in the principle of independent oversight and regulation as a better model for serving significant areas of public policy and that that principle should apply equally to the issue of having an independent environment agency. Whether my view would prevail is problematic, because, as the Member knows, I have argued vigorously for an independent marine management organisation. I hold to that view and will make that recommendation again to the Executive. However, on the basis of previous indications around the Executive table, at this stage it is uncertain that my argument will prevail.

**Mr Weir:** I thank the Minister for his statement. I want to ask him about actions on invasive species. In his statement, he referred to existing awareness campaigns, how to improve monitoring and so on. Are there any specific plans at this stage to upscale action in Northern Ireland on invasive species, or will that be undetermined or have to wait until we get the EU directive?

**11.00 am**

**Mr Attwood:** I thank the Member for his question. Given the fact that, as I indicated earlier, the second biggest threat to ecosystems is invasive species, and given the scale of that threat, this question is very important: will the scale of our response be upgraded? To be fair, especially since 2004, the authorities North and South — the National Parks and Wildlife Service in the Republic and the Northern Ireland Environment Agency in the North — have begun to roll out a good model of management of this issue. Indeed, it is a model that others are beginning to learn from.

The consequence of that is the identification of 800 invasive alien species that are here or are likely to, or may, come here. When an invasive species is identified, there is an immediate assessment of what it might be and what the consequences might be, and an alert is sent out. On the far side of the alert, there is an

attempt to control and suppress the invasive species. On the far side of that, there is a management strategy if nothing else prevails. In all those ways, there are good structures and good interventions to deal with the scale of invasive species, given the threat and risk that they carry.

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

To go back to the question, a website is now available where people can go and make assessments of invasive species themselves. There are two campaigns — Be Plant Wise and Check, Clean, Dry — which appeal to garden centres and gardeners on one hand and those involved in water sports on the other. They seek to get the message across that how we conduct ourselves in water sports recreation, and in respect of the plants that we buy and the plants that are imported to garden centres, contributes in numerous diverse ways to mitigate the risk of invasive species.

There is no doubt that the good work of the last decade has to continue and be upgraded, because there is also no doubt that the level of risk continues to increase. What has happened with the sea squirt in Strangford lough, and other examples in the past six months of invasive species coming to these islands, means that, in my view, we need to take an all-island approach. That is why, arising from the environment sectoral meeting a number of weeks ago, officials are gathering to see what opportunities might exist on an all-island basis to escalate our response, given that it is a shared threat wherever you may live or work on these islands. There may be a more definitive answer to the Member's question on the far side of the officials' meeting.

**Lord Morrow:** My question is very similar to what Mr Weir has just asked about invasive species. In the Minister's statement, he talked of:

*"current pilots that look at practical tools and resources for the delivery of ecosystem services".*

Will you outline in some detail, but not too graphic detail, exactly where we are in relation to those practical tools? I would have thought that we were past that stage by now but, according to the statement, we are obviously not.

**Mr Attwood:** I think, Lord Morrow, that if you were to ask people in the North generally whether they understand what an ecosystem is

and what the benefits of an ecosystem are, you would find that they have very little understanding of it. That is not a negative comment on people. It is merely a statement of the fact that an understanding of the benefits that ecosystems bring in water management, carbon reduction, economic opportunities, recreational opportunities and sustainable farming has simply not been fully grasped, perhaps even by government never mind more generally.

There is a need for a cultural shift and a shift in our understanding to embed ecosystem principles in how we manage our economy. The fact that it was only in more recent times that we deployed an ecosystem assessment in Northern Ireland and Britain is manifest evidence that the understanding of the benefits that this can bring are still maturing. It was only in October last year that, at Hillsborough, I launched the ecosystem assessment for Northern Ireland after it had been launched in Britain.

Clearly, to get people to more fully embrace and understand the benefits, we need to have pilots to demonstrate those. For example, in north Antrim, there was a restoration of the Garron plateau. There was a strategy for the restoration of that bogland, which recognised the opportunities that it would bring for farmers, as well as its impact on recreation activities, carbon reduction and water management. After the pilot, if we are able to replicate that approach in other areas of bogland and peatland in the North, we would have examples of how taking an ecosystems approach is a win-win-win everywhere.

Another example is the response to the damage that was caused in April 2011 by the wildfires, particularly to bogland. Arising from that incident, I established a wildfires forum. There was an argument that other Departments should lead that forum, but I said to my officials that we would lead it to mitigate the risk of wildfires occurring in peatland areas, and consequently mitigate the damage to farming interests, recreational interests, biodiversity, and so on. Ultimately, we led the forum to mitigate the risk of an £8 million fire bill, which was the resultant cost of the 12 days in April when those fires were at their height. That way, you demonstrate real-life ways in which pilots and better practice in ecosystem management can bring benefits.

**Mr Rogers:** I thank the Minister for his responses so far. Given that I am a cancer survivor and that my daughter had leukemia when she was six, our concerns about

Sellafield are very real. Recent media reports have stated that jobs could be created in the production of nuclear batteries for spacecraft, using waste plutonium stocks. Will the Minister reassure me and all inhabitants of the east coast, particularly in south Down and north Louth, where every other family has been touched by cancer, that he will bring our concerns to the British-Irish Council?

**Mr Attwood:** I thank the Member for his question. I convey my sympathy to his family and all the other families who have suffered from cancer. There is a belief that cancer clusters on the east coast are a consequence of the fall-out of nuclear particles from Sellafield, or Windscale as it was previously called. As I indicated, members of my family who live in Liverpool bear testament to that concern.

In February this year, I wrote to the Infrastructure Planning Commission in London, which is taking forward opportunities, as the London Government see them, for the rolling out of more nuclear facilities. I would not have written to that commission in February if it had not been to flag up in very strong terms that the Northern Ireland Government have an interest, that I as a Minister have an interest and a concern, and that there is a concern, especially on the east coast, about cancer clusters arising from past or present activities at Windscale or Sellafield.

That is why, on an ongoing basis, there is such a rigorous programme of monitoring. In February this year, the relevant authorities in the South and the North conducted an assessment of Carlingford lough, which is not so far from where the Member lives. Whilst the report on that has not yet been published, it was a thorough interrogation of the quality of the water, the sea life and other organisms in the lough to draw a conclusion on whether there was a risk. The science, I am told, indicates that the risk, compared with other examples of exposure to naturally occurring radiation, is small. Whether the science confirms that or not, London needs to be aware that there are heightened concerns on this island, that Britain cannot make unilateral decisions, given the proximity of Britain to the island of Ireland, that the matter has to be properly considered with the devolved Administrations and that, in making their assessments, the British Government have to have due regard to our interests. I have a personal view in respect of nuclear, and that view is confirmed by the events in Japan.

**Mr Wells:** I assume that, when the honourable Member refers to "the North", he means that

part of Her Majesty's realm known as Northern Ireland, but I will not be too hard on him.

On the issue of invasive species, can I have a categorical assurance from him that he will do everything to prevent Reeves's muntjac deer from getting into Northern Ireland? He knows the profound impact that that species has had in the southern Home Counties in England and the way that it has wiped out the understorey of vegetation and destroyed wildlife. Can he also give me an assurance that he is doing everything possible to stop the spread of the grey squirrel in Northern Ireland? In both south Down and the Ards peninsula, this species is moving rapidly southwards at the expense of the native red squirrel. If we do not do something soon, the red squirrel will be extinct in Northern Ireland. What is his Department doing to stop, first, the arrival of an invasive species in the form of muntjac and, secondly, the very worrying trend of increasing grey squirrel numbers?

**Mr Attwood:** Mr Wells, I am entirely comfortable with interchanging the words "the North" and "Northern Ireland". I do not have any hang-ups about it, and, if you were to check the Hansard report from today and other times, you would see that I sometimes refer to "the North" and sometimes to "Northern Ireland". I never refer to it in any other terms. I am comfortable, and other Members should be comfortable, in respecting those who use other terms or who interchange terms to describe the north-eastern part of the island of Ireland.

**Mr D Bradley:** It is not meant to be derogatory.

**Mr Attwood:** No, it is not. It is not. We are all the product of our history and our tradition, and we are all learning. That may even extend to you, Mr Wells. I knew Jim, or Mr Wells, back at Queen's, and I do not think that he has changed one iota since then. His speech yesterday on animal cruelty was a wonderful speech —

**Mr Deputy Speaker:** Can we return to the question, please? *[Laughter.]*

**Mr Attwood:** I outlined the broad strategy on invasive species, both in Britain and on the island of Ireland. We have some of the more advanced models of monitoring alert, which, no doubt, will be escalated on the far side of the European invasive species directive. However, my sense is that that directive might not add that much more to our understanding or to the structural approach that we are taking to managing invasive species. I was going to be

in a position to talk about Japanese knotweed, the giant hogweed, the potential threat of the North American signal crayfish, a raccoon that was found in Wexford and other examples of invasive species that are a threat and a future threat on the island of Ireland. I will come back to the Member on the two matters that he raised.

## Committee Business

### Paediatric Congenital Cardiac Services

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

**Ms S Ramsey (The Chairperson of the Committee for Health, Social Services and Public Safety):** I beg to move

*That this Assembly calls on the Minister of Health, Social Services and Public Safety to reassure parents that the future service model for paediatric congenital cardiac services will prioritise the needs of their children; and further calls on the Minister to explore fully an all-island solution with his counterpart Dr James Reilly.*

Go raibh maith agat, a LeasCheann Comhairle. I welcome the opportunity to bring the motion to the Floor of the House on behalf of the Committee. Many Members have a strong interest in the issue, and you can see from the list of names down to speak in the debate that there is a keen interest in it. It is important that the debate gives people the opportunity to convey their views directly to the Minister, who has an interest in it as well.

#### 11.15 am

A LeasCheann Comhairle, through you, I begin by acknowledging the work that has been done by the various charities and parents and children in highlighting the issue and bringing it to the public's attention. Many of the charities have met MLAs and have provided us with useful and up-to-date information on the topic of paediatric cardiac services. I formally thank them, especially the parents and young people, for taking the time and effort to do that.

Yesterday, a number of charities as well as young people and parents attended an event at the Assembly. It was great to see so many young people and children here who have used the service at the Royal Belfast Hospital for Sick Children and are here today to tell their stories. Yesterday's event was a celebration of the lives of those young people, and I accepted a petition from the group on behalf of the Health Committee. Indeed, the Minister took time out of his schedule to talk to parents and children and accepted the petition from them.

More generally, for the record, the Health Committee has been concerned about services for children, and we visited the children's hospital and the Clark Clinic in June 2012. As a Committee, we will continue to lobby the Minister for a new women and children's hospital, but I will park that and leave it for another day.

I will now talk about the review, which, in effect, brought the issue of paediatric cardiac services to a head and led to the debate today. In March this year, the Minister announced that he had asked the Regional Health and Social Care Board to undertake an external review of paediatric cardiac services in the Belfast Health and Social Care Trust. Each year, around 140 children require surgery. Most of the surgery is done at the Royal hospital, while a number of children are referred to other centres either in Dublin or England. The review was published in July 2012 and found that children here with congenital heart disease are well served by a dedicated and experienced team of doctors and nurses. It did not identify any immediate safety concerns with the current arrangements but did conclude that the surgical element of the service in Belfast was not sustainable. The review recommended that potential safety risks be addressed within six months, and, in effect, that means that paediatric cardiac services would have to stop within six months, too.

When the review was published, the Minister made a written statement to the House on 1 August. He announced that he had asked the board to set up a working group to look at potential models for delivering the service. Parents and parent group representatives are included on the working group, and that is to be welcomed. The group has met a number of times. I also welcome the fact that the Ambulance Service is part of the working group, because transport issues are key to this debate. The Minister said that he had specifically asked the working group to look at the potential of an all-island model as well as considering a model that involves arrangements with centres in England. The criteria and service specifications developed by the working group will be subject to public consultation. Again, that is to be welcomed.

Part of today's motion calls on the Minister to reassure parents that their children's needs will come first when decisions are made on this matter. I want to take this opportunity to directly relay to the Minister the concerns that parents and parents' groups have expressed, and I have done that in meetings with him and when passing him in the corridor. We do not always see eye to eye but, in fairness to the Minister,

he has met the groups and the charity and, as I said, took time yesterday to meet some of the people involved.

The group believes that it is not appropriate for a review team to use an agenda and criteria specifically created to assess services in England and Wales to assess services here. We have our own unique set of circumstances, and our health service should be assessed on its own terms. You cannot compare England and Wales, where there is a population of 60 million, with the population in the North of 1·8 million: it is not comparing like with like.

There is also concern that the review was rushed and that clinicians in Belfast were not given a reasonable timescale for completing the extensive documentation required. Parents are also concerned — and this is worrying — that they were afforded only one hour of consultation with the review team, whereas, in England and Wales, similar review teams engaged with parents over a two-year period. How is that comparing like with like?

In England and Wales, there is a criterion that paediatric cardiac surgery centres should be within three hours' travelling time, by ambulance, for the child. Clearly, that will never be the case if children from here must travel to England. They cannot travel by land; they need to travel by air transport. Yet, in the English review, it is stated that air travel cannot be relied upon because of the danger of poor weather, such as we have today. So parents are puzzled as to why air travel is seen as unacceptable for children in England and Wales but suitable for our kids. What is the difference? What is the difference between our kids and those in England and Wales?

I also refer to what is happening in Scotland, and I know that other Members will do so too. A report on paediatric cardiac surgery in Scotland was published in May, which reviewed the services provided at the Royal Hospital for Sick Children in Glasgow. The standards laid down by the review team states that children's heart surgery should operate with a minimum of 400 patients a year and four surgeons. However, Scotland's caseload is 300 patients annually, and three surgeons are employed. There is no indication that Scotland will change its model which, like Belfast, has actioned outcomes. Scotland does not intend to give up its dedicated children's heart surgery unit. We have to ask whether we can learn from the Scottish model and the attitude of the Scottish Government.

Parents have also stressed that the needs of children are wider than the clinical treatment that they receive. Other factors need to be taken into consideration. It is traumatic enough for families to be told that their child has a heart defect, but to be told that the only option for treatment is to get on a plane to England adds enormously to that burden. Having a sick child is highly stressful, not just for the child but for parents, brothers, sisters, grandparents and wider family. Parents, in particular, need the full support of the wider family network when they go through this experience. In order for parents to be able to support the child, they need support from others, so that they can rely on the emotional resilience of the family and build on it.

There are also issues of transfer. When a child is transported to England by air ambulance, sometimes there is room on the flight only for the patient, and the parent has to make his or her own way there. At other times, the mother may be too ill to travel. There are practical issues. Train travel in England must be paid for upfront by parents, who may then claim back the cost. However, that option might not be affordable for them. In some instances, families are asked to pay for accommodation and then claim it back. There is all that stress, on top of trying to reassure yourself that your child will be OK. There is all that time spent filling in forms.

That brings me to the second part of the motion, which calls on the Minister to consider an all-island solution. That is what parents want, if the service cannot continue as it has done in Belfast. There is an option for working with Our Lady's Children's Hospital in Dublin. It would mean that children and families would not need to travel by plane and would be within a reasonable distance of their own home and family. It would also mean that other relatives would be in a position to visit the child. There are other issues, and I am sure that other Members will elaborate on them.

Parents have to continue with their jobs and family life. They might have other children at home, so having an extended family network there benefits the parents.

Also, we would not be starting from scratch. The Department, the board and the trust have developed links with Our Lady's Hospital. The review recognised that partnership, and we acknowledge that it stated that those arrangements need further work. I know that the Minister is looking into that.

I am conscious that I am running out of time.

Minister, we have examples of co-operation. We see them with the cancer centre in Altnagelvin, through co-operation and working together, and at different times in various boards in the border counties. So I welcome the fact that paediatric cardiac surgery is a regular topic for discussion in the North/South Ministerial Council.

**Mr Deputy Speaker:** Will the Member please draw her remarks to a close?

**Ms S Ramsey:** I welcome the fact that the Minister has met with James Reilly and will continue to talk with him about this. I urge the Minister to continue those discussions, and I commend the motion to the House.

**Mr Dunne:** I welcome the opportunity to speak on this important and sensitive issue, which applies right across the Province. Cardiac services for children and young people are crucial, and their needs and quality of care must be a top priority as we move forward on the issue.

Having attended a recent public meeting in Bangor in my North Down constituency, as well as the event here yesterday in Parliament Buildings, I, and many others, were made aware of the strength of feeling and emotion around this complex issue. I pay tribute to the work of the Children's Heartbeat Trust for the very special work that it carries out daily. We were all very much impressed with the presentation given here yesterday. Unfortunately, congenital heart disease is one of the most common problems at birth in Northern Ireland. Charities and support groups, such as the Children's Heartbeat Trust, can be a real help and encouragement for families with children who have heart problems.

I also pay tribute to the work of the Clark clinic in the Royal Victoria Hospital for the excellent work that it carries out. The dedication and skills of the staff were brought to light by the very emotional personal stories we heard from young people yesterday. The life-saving specialist work that has been undertaken must be fully recognised and commended. The reality is that, had it not been for the Clark clinic, unfortunately, some of those who were here yesterday might not have lived to this day.

Our Minister, Edwin Poots, has said that he does not want a second-class service for parents and children in Northern Ireland, and that is to be welcomed. I know that the Minister is well aware of the concerns of parents and families and the fears of local charities. It is

important that, as the motion suggests, we prioritise the needs of children at this time. It is crucial that high standards of care are maintained in any future arrangement. We need to explore all options in order to achieve the highest standard of care and the best possible outcomes for those children.

**Mrs Dobson:** I thank the Member for giving way. Obviously, he recognises the very deep feelings and concerns of children and families across Northern Ireland about the review, which has led to tens of thousands of signatures on their petitions. Does the Member have sympathy with the view that the Executive should be looking to Belfast and not Dublin to form the hub of the future provision resulting from the review?

**Mr Deputy Speaker:** The Member has an extra minute.

**Mr Dunne:** Thank you, Mr Deputy Speaker. It is, certainly, a priority that Belfast is looked at first. However, we must broaden our horizons if the need arises. It is critical that a service is maintained, first, within Northern Ireland, and, indeed, in Ireland, if that is to be the case. That includes being able to offer the most highly skilled consultants, surgeons, nurses and support staff possible for the care of our children. We must do all that we can to ensure that some level of service is retained in Belfast. However, we have to face reality, and that reality may involve some co-operation between our health service and the Republic of Ireland's health service in order to maximise the level of service that we can provide to our most vulnerable children and young people.

At the meeting held in Bangor recently, there were mixed views about the transfer to Dublin. Some families were, understandably, very much against going to Dublin for treatment, while another family gave clear evidence that they had gone to Dublin with their baby and got excellent treatment from the hospital service there. The issue of travel is significant for sick children and families, and it must be taken seriously in any review. Travel to England is not suitable for many families with dependants and just adds to the stress and worry of the operation.

In conclusion, I urge the Minister to take on board the genuine issues raised and the real cries for help from families, parents, grandparents and the friends of those children affected by this terrible condition. It is vital that the paediatric service provided is accessible and available at the point of urgent need for the

most critically ill children in Northern Ireland. I support the motion.

**11.30 am**

**Mr Gardiner:** Thank you, Mr Deputy Speaker, for the opportunity to speak in the debate. If my postbox is anything to go by, this debate matters to a great many people. The House will be aware of the widespread public concern about the future of children's cardiac services in Northern Ireland, following a review of the children's congenital heart services at the Royal Victoria Hospital. The review found that although the services were safe, they were no longer sustainable. It is not only my postbag that has been very busy on the matter; I believe that some 10,000 people have signed an online petition calling for the retention of paediatric heart surgery in Belfast.

**Ms S Ramsey:** I want to update the Member. That petition has now reached in and around 52,000 signatures.

**Mr Gardiner:** Thank you for that correction.

**Mr Deputy Speaker:** The Member has an extra minute.

**Mr Gardiner:** In today's debate, we will hear about all-Ireland solutions and all-of-the-United Kingdom solutions. I am disturbed by the fact that such political overtones are now entering what should be a debate centred on patient care and priorities in the health service here. I believe that we need to solve the problem closer to home by re-examining the way in which reform and reordering of the health service in Northern Ireland is proceeding.

Such major dramatic changes to front line medical care in such a sensitive area, which involves young children, need to be avoided if at all possible. I do not believe that front line medical care should be reduced in such an area if there are still savings to be made by reducing health service bureaucracy. Have all those avenues been exhausted? Can the Minister really assure us that every avenue in eradicating fat and waste in health service bureaucracy has been explored? He should turn to a dramatic decision such as this only if he can answer yes to that question.

I have concerns about the review of our health service. If the review of the health service here had been carried out by an individual who was not a health service bureaucrat, would the outcome have been different? That is a legitimate question. I remind the House that a

review would sometimes be improved if it were conducted by someone completely outside the system rather than by someone who is so much part of it. Often, people within the system are too close to the organisation to see it clearly and without the baggage of having worked closely with many of the services they seek to reform. Can they do so fairly?

I would be grateful if the Minister, in his response, would explain exactly why the retention of the service in Belfast is inefficient or too expensive. Exactly how much money is involved in this very costly human decision?

I know that the Minister is trying his best to balance all the competing demands on resources, and I respect him for that. I know that I have always had positive, useful and productive talks in the past with the Minister over a range of health issues. That is why I assure him that my questions are designed to get at the truth and are not cheap political points. That is not the way I operate. I want to explore viable alternatives, if at all possible. Could the future of paediatric congenital cardiac services in Northern Ireland be seen in some other broader context or reset within a wider group of services, which would enable children's clinical specialisms to survive in this Province?

**Mr McDevitt:** At the outset, I declare an interest as the guardian and older brother of a young adult with special needs who is here today only because of the services provided by cardiac services at Our Lady's Children's Hospital in Crumlin, a hospital that is indirectly affected by the McKay review.

It is very sad that such an eminent review team should have paid such scant attention to the needs of this region. A very in-depth review was carried out in England and Wales, and there seems to be plenty of evidence of very detailed consideration having been given to the clinicians' views and experience; the infrastructure of hospitals; the transport infrastructure between existing centres and proposed new centres of excellence; and, most importantly, parents' and patients' experiences. Yet, clinicians, hospitals and parents in this region had the opposite experience. They were given scant notice of their opportunity to participate in the review, and, having received that scant notice, they were able to prepare, at best, only limited responses to some critical questions. A grave inequality was perpetrated by the people who were behind the review on this region. I think that that needs to unite us because, in responding to the review, we need

to start from the position that we were not treated right during it.

That said, the actual findings perpetuate that inequality even further. They expect us to accept a standard of transport, for example, that is not acceptable and not recommended for patients in England and Wales. The most obvious example is air transport. They expect our sick babies to get on planes or helicopters and be transported by air when they themselves say that that is not an acceptable mode of transport for such chronically ill patients in England and Wales. That is a high double standard and a gross inequality.

You would think that they would have given more time to understanding the needs of this region. Given that the region is part of an island — I am not making a political point; I am simply stating geographic fact — and that the island has existing clinical collaborative networks in this very area of medicine, they might have thought about talking to colleagues in Dublin. We hear from the review team that they did. They spent 90 minutes on Skype. Is that the way to seriously review such a critical clinical service? I am no expert in this area, but I know that that is not the way. If any Minister came to the House with a review that was carried out to that standard, he or she would know that the response that they would get would be a very negative one indeed.

**Mrs D Kelly:** I thank the Member for giving way. I met some of the families yesterday. I have a close friend who swears that her child was saved only because of the intervention by and availability of the service at the Royal Victoria Hospital. What indication is there that such evidence was actually taken into account in the review?

**Mr Deputy Speaker:** The Member has an extra minute.

**Mr McDevitt:** Thank you very much, Mr Deputy Speaker. Mrs Kelly made a very important point indeed, which was that it is very difficult to have genuine confidence in the review's report. That is because it is very, very difficult to point specifically to where the voices of this region have been heard and properly considered in the report's findings. We are being asked to accept an England and Wales solution to an Irish or Northern Irish challenge. That is not right, and it is not acceptable.

I think that it is worth putting a few other matters on the record. First, as has been said, no one questions the clinical standards at the Royal



Belfast Hospital for Sick Children. Nobody. Nobody questions the excellent clinical standards across the island. Indeed, I am told by senior clinicians in the field that practically everyone who practises paediatric cardiac medicine on the island of Ireland has been trained in England to the same standard as those who practise paediatric cardiac medicine in England. So, if nobody questions those standards, how can you be so blind to the opportunity that you can avoid the need for something simple, such as an airlift? How can you be so blind at a review level to the simple geographic fact that there are two existing centres on this island that could, with a bit of goodwill and foresight, be developed into a single clinical network?

It is a significant moment for the House. It is an opportunity for us to coalesce around a common-sense, sound clinical opportunity. It is an opportunity for us to be able to say to the children of this region that we will do our damndest to ensure that they have access to world-class cardiac services and that that access will be as close to them as we can make possible.

**Mr Deputy Speaker:** Will the Member draw his remarks to a close, please?

**Mr McDevitt:** I support the motion and look forward to the Minister's response.

**Mr McCarthy:** As a member of the Health Committee, I support the motion. However, I would like to have seen the word "Belfast" included in the motion calling for the retention of this vital service. That, surely, must be the aim of the Assembly as a priority. Working with the Dublin Minister Dr James Reilly, we can all benefit from a service on this island in both Belfast and Dublin.

I have to express some cynicism about the whole exercise, and I was very interested in Conall McDevitt's contribution. If I have got it right, it appears that a review of children's cardiac services was carried out across the water, with the result being the closing of a number of services. Then somebody in Northern Ireland thought that it would be a good idea to bring the review team to Belfast, probably knowing what the outcome would be: yet another closure in Northern Ireland, greatly disadvantaging our people. That is what they call "Transforming Your Care". If this goes ahead, it seems to me that it will look more like "transferring your care", and that should be resisted. Given that the children's cardiac service in Belfast has been a real success story

for most of 40 years, perhaps longer, it seems strange that somebody would suddenly say that it is safe but not sustainable and will have to close.

Yesterday, along with other colleagues, I had the pleasure of attending an event upstairs hosted by my colleague Judith Cochrane. Anybody who was there could not have been anything other than moved by the contributions made by the parents and, indeed, infants who have benefited from this exceptional service. I sincerely hope that everyone in the Chamber will resist the review's proposal and take whatever measures that we can, on our own or jointly with Our Lady's hospital in Dublin, to provide this vital service for our infants and their families.

The review on which all this is based is, it seems to me, highly flawed, as our Committee Chair remarked. It did not consider the difference between having 1.8 million people in Northern Ireland and over 60 million people across the water. Other Members have passed comment on the time that clinicians in Northern Ireland were given to respond to the review. As I understand it, parents had one meeting with the review team. What about parental choice? It simply will not happen. Babies being taken to England without their mother's consent will result in post-natal depression and many other consequences. Surely that has to be resisted. However much some people support the proposals, they will disadvantage our infants and parents.

I have real concerns about the lack of parent representatives on the local PCCS working group. It was agreed that four parents would be representatives, but I see only two people doing that work, and I wonder why.

I pay tribute to everyone working at the Clark clinic at the Royal. Last week, I paid a visit to the clinic, where I saw for myself the fantastic work carried out there. I spoke with staff, clinicians and parents and saw the babies, and I met members of the Children's Heartbeat Trust. Everyone there is totally committed to the welfare and care of their young patients. The clinic must be supported and recognised as a place of excellence and dedication. The volunteers of Heartbeat deserve enormous credit.

In conclusion, Mr Deputy Speaker, I say that this Assembly came into being to provide a better life for all in Northern Ireland. All 108 Members are here today courtesy of the voting public. It is essential that we prove that devolution is successful and worthwhile. This

vital service worked extremely well throughout the direct rule period. It would be truly disastrous if, under local representation and a local Health Minister, children's cardiac services were taken out of Northern Ireland. I appeal to our Health Minister to listen to the local people and politicians, to the cry of our young survivors — as we heard yesterday — and to the wider population, and stamp his authority on the issue. He has the power to ensure that this excellent facility stays in Northern Ireland.

I attended a public meeting in Bangor last week, as did my colleague from North Down, and it was heart-rending to hear the parents' stories. There are other public meetings in Northern Ireland, and there is one scheduled for Lisburn on 9 October. I appeal to the Minister, who is an MLA for that area, to present himself and hear direct from the parents —

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

**Mr McCarthy:** — and the nurses and to save this vital service.

**11.45 am**

**Ms P Bradley:** As a member of the Health Committee, I support the motion. As a mother, I cannot begin to imagine how parents must feel when they learn that such a vital organ in their baby or child needs urgent medical attention. However, as a parent, I can imagine that the families of those children want them to receive the best care possible as soon as possible and somewhere that allows them, as the Chair has previously stated, access to their full family support network.

As a former health worker, I can appreciate the demands and stresses facing our health boards. I believe that we as decision-makers have a responsibility to ensure that the service that we provide our fellow citizens with is the best that it can be. At the moment, just 1% of babies will need paediatric congenital cardiac services, with around 140 children from Northern Ireland undergoing surgery each year. Only 90 of those operations will be able to be carried out in Northern Ireland. It is already practice to send children for treatment to centres in the Republic of Ireland or England. Although there is no doubt that having to travel to those centres will place stress on families, it is important to know that doctors and surgeons perfect their craft through high volumes of patients. That, and that alone, means that PCCS are simply not going to be sustainable in Northern Ireland.

It is already practice in the UK for such specialist surgery to be located in specialist centres. Wales, for example, has no surgical option, with children being operated on in England. Scotland has one such service. We listened this morning to Members around the Chamber talking about a service in Belfast. I know that I can say on behalf of my party, and I can probably say on behalf of Sinn Féin, the SDLP and everyone else that we would love to have that service in Belfast. However, I am going to take the point that Conall McDevitt said — as he runs out the door — about common sense. I believe that common sense must prevail in this situation.

To me, an all-island solution is the one that we should pursue if we are to take our lead from the UK. I understand that there are a number of issues that the Minister has to work through in order for that to happen, but I am sure that he will do that with the energy that this affords. I am also sure that he will want to ensure that whatever option is finally selected will be the best option for all our children in Northern Ireland.

The safe and sustainable quality standards state that the criteria to maintain a centre in Northern Ireland would be that the service should be staffed by four full-time consultant congenital cardiac surgeons; it should perform a minimum of 400 paediatric surgical procedures a year, with the recommended number being 500, and it must provide enough staff to provide a full 24-hour emergency service, with legally compliant rotas, including cover by consultant paediatric cardiologists.

It is clear that, with such small demand, a region the size of ours cannot hope to sustain such a centre. It should also be clear that safety concerns have not been raised about the quality of care that patients get currently. The issue is purely the sustainability and future safety of the service if it is to be left as it is. The staff who care for and nurse our sick children do an outstanding job, sometimes in challenging circumstances, and that needs to be made very clear this afternoon. The high standards of care that they have set must continue to be met.

**Mr Brady:** Go raibh maith agat, a LeasCheann Comhairle. As a member of the Health Committee, I support the motion. It is a very emotive subject, but the bottom line in all of this is that we are talking about a unit that saves the lives of children. We should never get away from that pertinent fact. We heard a lot about the logistics of travel. Children here are apparently expected to put up with certain travel

conditions and to accept things that are not acceptable in England and Wales. Parity on other issues is rammed down our throat, so maybe this issue could be looked at in a more devolved way.

In some cases, particularly for women who have just had children, travel is not feasible. The Minister referred to that in recent days. For instance, he talked about a woman who has just had a C-section and is unable to travel but whose baby has to go to England to have surgery. That is certainly not acceptable, and it can obviously have a traumatic effect on the child and the parents. Indeed, in all this, the way parents have been treated is quite inexcusable. I know that Members have gone into a lot of detail about the review, or the lack of it. I think that this should have been addressed properly, and it obviously has not.

An all-Ireland solution or, as Mr Wells prefers to call it, an all-island solution, needs to be looked at. Common sense has been mentioned. The Minister has said on many occasions that health is not political. I am sure that he is pragmatic enough to look at an all-Ireland or all-island solution. I know that he has and continues to have talks with his counterpart, Dr James Reilly, in the Twenty-six Counties. In respect of finding a solution, CAWT — co-operation and working together — includes many health initiatives. In my area, for instance, there is cross-border co-operation at Daisy Hill A&E and, indeed, at the renal units, where beds are reserved for renal patients from north Louth. The new roads infrastructure means that it takes approximately two hours, or sometimes less depending on the time of day and traffic, to travel between Belfast and Dublin, so many more solutions can be found to get around this.

On a personal level, I have a friend whose son was born with Down's syndrome and had excellent surgery at the paediatric unit. He is now 12, is in mainstream education and is living a very normal and happy life. He is where he is today because of that unit. I think that that has to be remembered.

**Ms Brown:** I also speak as a member of the Health Committee. In opening, I would like to pay tribute to all those families who have, in a very short space of time, put together a very powerful lobbying voice on behalf of their children. The campaign is an example of how local people can join together, irrespective of class, creed or political outlook on life, for the greater good. Whatever the outcomes in respect of the arguments, the campaign should serve as a lesson to local communities

everywhere that they do not need to be disconnected either from the Assembly or politics in general. I pay tribute to them and I hope that this debate will highlight their concerns and assure them that we as politicians are here to listen to them and to do whatever we can to ensure that their voices and arguments are heard.

Without wishing to lessen the experiences that families have gone through, it seems to me that what we are looking at is another example of how best to achieve efficient and effective healthcare for those who need it most. Northern Ireland is traditionally a community-based society. We are all used to expecting a wide range of services and facilities to be available to us locally. For the most part, the health service is able to meet those needs, but the reality is that, with each review that takes place, questions arise about the sustainability of services, and this issue is an example of that.

Let me just say that if I were a parent in the same position as some of the families who are here today, I am certain that I would be adding my voice to their campaign and that I would be calling for the retention of the services available at the Clark clinic at the Royal.

As a member of the Health Committee, I have to say that it is simply impossible for the health service to be all things to all men, women and children. Politicians are often criticised for promising much but delivering little. I am, therefore, not going to stand in this Chamber and promise parents that we have all the answers and will deliver everything that has been asked for. What I will say, however, is that I have heard the heartfelt views that have been powerfully expressed, and I will work with the Committee and the Minister to ensure that no child suffers unnecessarily, and that families are not put under unnecessary strain. I know the Minister has given an undertaking to look at the range of options —

**Ms S Ramsey:** I thank the Member for giving way. I have just a couple of points. We were very conscious of the fact that we did not want to put in the motion — and you are a member of the Committee — where the service should be. We were conscious of the fact that we needed to explore all the options, and if that means across the island, then explore those options. However, we are also very conscious of the fact that if this goes down to resources or money, then the argument is lost. That is why we are pushing the Minister to talk to James Reilly, so that we can have that all-island approach, in which both Departments on both sides of the

border can come together and get the result that is needed.

**Mr Deputy Speaker:** The Member has an extra minute.

**Ms Brown:** Thank you, Deputy Speaker, and I thank the Member for the intervention.

As I said, I know the Minister has given an undertaking to look at a range of options. I believe that he has said that no child should, by necessity, be flown to another jurisdiction for treatment if at all possible. I agree with him on that. However, it is a reality that, for whatever reason, be it telecommunications, science or better transport links, the world is shrinking and other options, which previously might have been seen as unreasonable, are now becoming feasible. I, therefore, support the Minister's discussions with his counterpart in the Irish Government regarding a shared services approach. That is not dismissing the wishes of parents or minimising the strength of feeling around this issue. It is, rather, a commitment to do whatever we can to ensure that nothing is too much of an obstacle when it comes to saving a child's life and that this Assembly takes the voices of the electorate and the community seriously. We are here because families want us to make a difference. We owe it to them to do our best in finding solutions that work. I support the motion.

**Mr McCallister:** I am a member of the Health Committee. I apologise to the House for missing the start of the debate; I was attending the Assembly and Executive Review Committee.

Can I say out the outset, like colleagues, that no one could be but touched and moved by some of the stories in the huge volume of correspondence that I received about this issue. I pay tribute to those in lobby groups and the Children's Heartbeat Trust, and groups such as that that bring this issue to the fore. It is what the Assembly should be and is about, and how we connect with the people whom we seek to serve.

I think Mr McDevitt touched on some of the very real concerns round the review. Mr colleague Mr Gardiner also talked about issues round the review. Unfortunately, the way and timescale in which the review was carried out, particularly in comparison with England, certainly gives rise to some concerns and some credibility to those views. Medical professionals were not given the allotted time to prepare, and that damages the review significantly. Mr McDevitt's point

about a 90-minute Skype conversation between the review team and Dublin does not suggest to Members, or give confidence to Members or the public, that it was taken as a serious option. That needs to be addressed, and I look forward to the Minister addressing that and clarifying some of those issues.

At the heart of this will be the numbers. I agree with the Chair of the Committee that if this was about just money, it would be an appalling situation to be in. There are debates around numbers and medical expertise. We all know the medical profession is moving much more to specialties, much higher, so they need the numbers going through. The all-island approach certainly seems to deliver the numbers. Therefore, there probably has been disappointment in the House, in the Committee and among the wider public that the work at looking at that option with Dublin, and speaking to Dr Reilly, the Minister's counterpart, is not at a more advanced stage.

**Mr Clarke:** I take the point about the talks not being at a more advanced stage. It is interesting; I was just reading through the Assembly report, and even you asked the question earlier this year in relation to surgeries carried out in Dublin.

I notice from the response that, in 2008-09, 368 patients travelled from Northern Ireland to Dublin, and in 2009-2010, the figure was 190. I cannot find any supplementary question asking why so many travelled from Belfast to Dublin for surgery during those years. Maybe you could explain.

## 12.00 noon

**Mr Deputy Speaker:** The Member has an extra minute.

**Mr McCallister:** The Minister is in his place, and I am sure that he can give us the up-to-date figures on any variations. You would hardly expect me, not being a medical professional, to say why more surgeries were carried out in one year than in another. Why on earth would I know the answer to a question such as that?

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

**Mr McCallister:** I am happy to give way to others during the debate. However, if the Member is going to ask stupid questions, he should just sit there.

**Ms S Ramsey:** Will the Member give way?

**Mr McCallister:** Yes.

**Ms S Ramsey:** We are talking about real-life stories and about our children, so I will try to refrain from allowing the debate on what is a very emotive motion to become a political row.

A point made earlier is that there is co-operation and working together to achieve the best outcomes for our people, North and South, so we should continue with that.

**Mr McCallister:** That is what the debate should be about: getting co-operation. I accept the argument that we will probably never have the facilities, not even on the whole island of Ireland, to do everything that we want to do. A cohort of children will still have to travel to centres in England. My criticisms are of the review and of the apparent lack of speed when looking at the issue with Dublin. I would be quite happy if the Minister, during his response, said that the negotiations were at a much more advanced stage than we have been led to believe so far. I think that the Committee and the House would take encouragement from that. We want to hear that, and we want to hear that it is a viable option. We would also like to hear that keeping some surgery in Belfast is a viable option. Maybe, if the facilities are better there than in Dublin, why should we not look at Belfast being the main hub on an all-island basis? Is that an option? These are the questions that I would like and expect the Minister to answer during his response.

**Mr Deputy Speaker:** Will the Member draw his remarks to a close, please?

**Mr McCallister:** For us, the nub of the issue is how we build the service in Belfast, support families and give the best care that we can in Northern Ireland.

**Ms Maeve McLaughlin:** Go raibh maith agat, a LeasCheann Comhairle. As a member of the Health Committee, I speak in support of the motion. It is unfortunate and disappointing that some Members today chose to turn the debate into a Belfast versus Dublin issue. We all have a duty of care to find a solution that not only protects but enhances the service for our very vulnerable children and young people.

It is the view of many parents that the review seemed simply to dismiss the service as unsustainable and proceeded to suggest that it might close within six months, after which time our children were expected to consider air

travel as an option. However, such a consideration was deemed unsuitable for children in England and Wales. There, the review engaged in a two-year consultation, whereas the review here, as Members rightly outlined, was rushed and left little room for genuine or meaningful consultation.

Yesterday, as the Committee Chair said, a number of charities attended an event at the Assembly, and, as Members rightly pointed out, those children and their parents are the real heroes in this. Yesterday, listening to the story of young Holly and others, you quickly became aware that some of those children simply would not be here but for that vital service. The fact remains that, every year, 140 children require surgery for heart conditions.

We, as I stressed, have a duty of care to enhance that vital service. I take comfort from and welcome the reference to common sense prevailing in this debate from a number of Members who spoke. We need to examine the potential of an all-Ireland model. We have island-wide examples of that working in my constituency, where the cancer unit has clearly shown how it can provide a service for the entire north-west, including Donegal. We owe a duty of care to those children and young people, and we would be failing in our responsibilities if we did not examine models of co-operation that not only protect that vital service but enhance its delivery across the island. I support the motion.

**Dr McDonnell:** I pay tribute to and thank the Health Committee for bringing this important issue to the House. I also compliment the Minister on his very pragmatic efforts around many of these matters and the sterling work that he does. There should be no politics, constitutional or otherwise, around health, particularly children's health, and I know that the Minister takes that pragmatic approach.

Before I begin to outline the arguments for why every effort must be made to retain paediatric congenital cardiac services in Belfast and on this island, we need to remember that the infant patient, who is sometimes only a few hours old, is at the centre of the service that we are debating today. That infant is almost always a fragile or vulnerable very young child with a very flimsy hold on life. It is critical that we never lose sight of that. It is critical also that we get a pragmatic balance in what we are at. We want to deal with the emotional needs of extended families and the logistical needs of getting the patient — the infant or child — to where an adequate service is delivered.

Equally, we want to ensure that the highest possible standard of care is given.

Surgery of any kind is traumatic, particularly so for a young child. It is traumatic not just for the infant, who has to come through the surgery at such a vulnerable stage in their life, but for parents and the extended family. The stress is heightened — to unimaginable levels, in my book — if the family is forced to travel to Birmingham or London by air or whatever. Quite often, the mother of a very sick child who has to be moved in that way, who has just recently been confined and may have had a caesarian section or whatever, ends up having to find her own way. That disruption continues through the family. Maybe the father is trying to earn a living and all the rest; perhaps he tries to stretch and travel and hop back and forth between a sick child far away and a family at home. The strains that that can place on family members who have to stay behind to work, keep a wider family functioning and care for remaining children are very significant.

I echo the concerns that have been expressed by colleagues in the Chamber today about the recommendation to close the Belfast unit and how it came about. I have concerns that the comparison with England does not stand up and that the lead-in time was not long enough. I also have concerns that the report that contains the recommendation has too narrow a focus on numbers as opposed to the overall impact, which is the key measurement in any first-class patient-centered service.

I have met many of the families and some of the children who rely on the service and have survived into childhood because of it. I have met representatives of the Children's Heartbeat Trust, and I am very pleased to see a number of them in the Gallery. I share their preferred option that as many of the non-complex services as possible should be retained in Belfast and that there should be a closer working relationship with Dublin. I am heartened that the Minister broadly agrees. I have talked to the Minister at length and am grateful for the time he has afforded me. I want to explore fully the retention of as much of the service in Belfast as possible through whatever discussions we can have. I also raised that issue at a Committee in the Irish Parliament that I attend at times, and I was very heartened by the positive attitude of a number of TDs and Senators —

**Mr Deputy Speaker:** Will the Member draw his remarks to a close, please?

**Dr McDonnell:** — across a number of parties. I hope to meet the Minister in the South, and I intend to support every effort of our Minister here to ensure that we have a seamless, effective and high-quality service for the children, whether that is, hopefully, in Belfast, or in Dublin or wherever we have to find it.

**Mr Buchanan:** I am grateful for the opportunity to speak on the motion. At the outset, I commend the Minister on his sterling work to date on this matter. There is no doubt that the review of paediatric congenital cardiac services, which was announced on 30 March, and its recommendations of 1 August have caused much concern and anxiety amongst parents of children with heart disease, who fear for the future of paediatric cardiac surgery at the Clark clinic at the Royal Belfast Hospital for Sick Children. As cardiac heart disease is the most common birth defect in Northern Ireland — some 250 children are born with the condition each year and one third of that number require surgery — it is important that parents are reassured that any future service model will continue to cater for their needs.

Many children and young people throughout Northern Ireland are living testimonies to the excellent, high-quality care they received from a team of highly skilled and experienced doctors, nurses and support staff at the Clark clinic, who were responsible for saving their life in the first few months after birth and through follow-up operations. However, the grave concern is that, should that service be removed, it will jeopardise the provision of other procedures such as interventional catheterisations and life-saving emergency and stabilising procedures, which are delivered by paediatric cardiologists only where there is surgical backup cover.

Although the review team acknowledged that there were no safety concerns with the paediatric cardiac surgery, it recommended that that service was no longer sustainable. It would appear that that finding was based on a demographic model for England, which has a population of over 60 million people. Therefore, I question whether that is a good comparison for the Clark clinic in Belfast, which has provided a high standard of care for many years. It is also worth noting, as has been mentioned, that the consultation document for England and Wales did not consider air travel as an option, as it was considered that it could not always be relied on. As a result, paediatric cardiac surgery services in Bristol are to be retained simply because those living in south Wales and south-west Cornwall would be forced to use air travel if they were to close.

What then for our children in Northern Ireland?  
Does the same criterion apply?

**Mr Clarke:** I thank the Member for giving way. On the point of air travel, if the Member has attended any of the Children's Heartbeat Trust roadshows, I am sure he will appreciate that parents have to travel on commercial flights. That is the thing that struck me the most. Many people may be listening to the debate who are not affected by this or do not have families who are affected by it, and will not understand why air travel is not really an option. The thing that surprised me most — I am sure you feel the same — is that parents have to travel on commercial flights some time afterwards.

**Mr Deputy Speaker:** The Member has an extra minute.

**Mr Buchanan:** I take on board what the Member said and, perhaps, the Minister will take that on board as well.

Those are only some of the genuine fears and concerns that have been raised with me in my constituency office. I have had meetings with parents who fear that those who are too young to have a voice could be denied vital heart treatment in Northern Ireland or, indeed, on the island of Ireland. I encourage more discussions on, if you like, an all-Ireland basis on retaining that type of surgery.

**12.15 pm**

I must confess that I am very passionate about the delivery of children's services at the Royal Belfast Hospital for Sick Children. As a parent who spent some weeks at the hospital with a very ill child, albeit in a different ward, I know something of the fear, anxiety, pain and emotions that grip the heart of a parent whose child's life hangs in the balance. However, two things help to ease that pain: first, parents know that their child is in the hands of professionals and is receiving the very best medical treatment; and secondly, the support unit of friends and families is near at hand. For most patients in the Clark clinic, that support unit is no more than two hours away by car, but if they were across the water or elsewhere, they would be disconnected because the family unit would be further away. It is important that those issues are taken on board, because when a parent is waiting in hospital and a child's life is hanging in the balance, it is like being on a roller coaster: things are up one moment and down the next. That causes much concern and brings grief to the hearts of parents, and that is when they need support from the family unit.

I know that the Minister is committed to providing the best possible service and I commend him for setting up the working group through which parents have an opportunity to voice their concerns and put their views forward. I ask the Minister to take on board all the views from the parents and various groups when he makes his decision, so that, hopefully, we will get a service model that will cater for everyone here in Northern Ireland.

**Mr Deputy Speaker:** I call Steven Agnew, and I advise him that we must go to the Minister at 12.20 pm. The Member will have up to three minutes.

**Mr Agnew:** Thank you, Mr Deputy Speaker, and I appreciate your allowing me to speak to the motion. I will not cover all the points that I had intended to and will try to stick to those that have so far not been addressed.

We have had it confirmed that the Clark clinic is safe. That decision is based on objective criteria that the needs of patients are being met and that the required services are being provided there. The UK safe and sustainable team has said that those services are not sustainable. That, however, is not based on objective criteria but the arbitrary criterion of numbers. Four hundred patients is deemed a safe level, but as was pointed out earlier, that is in a mainland GB context. That team said that three hours' travel is sustainable and safe for patients and that it should be no longer than that. Can those figures be challenged?

We have to define what is sustainable for Northern Ireland. It is about making choices. I was touched by the many stories that I heard when attending the same event as Mr Dunne. I heard the stories of families in our constituency and how they are being affected. On behalf of those families, I ask whether we can define what is sustainable, because we have difficult choices. However, we have a choice about whether we continue to fund the Clark clinic as a surgical unit. We have a choice about whether we continue to put resources into training surgeons with the necessary specialisms to operate on these children. We have a choice about what the all-island model might look like, because although I have no fundamental disagreement with such a model, I wonder what it would look like. Could it include people from border counties travelling to Belfast to undergo surgery? Would that help us to keep a sustainable surgical unit in Northern Ireland? If that is not sustainable, Minister, please tell the families why not, given that it has been sustainable for the past 30 to 40 years.

Ultimately, what are the alternatives? The alternatives could be that we end up with services that are not safe. We may have units that are safe, but it may not be safe for the families who have to travel. That three hours' travelling time could be the difference between life and death. I have heard a number of stories that I had hoped to give more detail on, but I do not have time. I have heard of children who were saved at the Clark clinic because they underwent emergency surgery. A retired ambulance driver told me that paramedics do not have the necessary equipment to transport such children in an emergency. So, we have to make sure that not only our units but our families are safe.

**Mr Deputy Speaker:** Will the Member draw his remarks to a close, please?

**Mr Agnew:** I thank you, Mr Deputy Speaker.

**Mr Poots (The Minister of Health, Social Services and Public Safety):** I am very much aware of the great concern among the parents and families of the children who use paediatric congenital cardiac services here in Northern Ireland, and I understand the reasons for that concern. That is why I very much welcome the opportunity to debate this issue and to hear Members' views, as well as to explain the reasons for the review.

The motion calls on me:

*"to reassure parents that the future service model for paediatric congenital cardiac services will prioritise the needs of their children; and ... explore fully an all-island solution"*

with the Republic of Ireland. I am happy to provide that reassurance on both counts. First, and without question, these children's needs will be prioritised in any future service model. In prioritising those needs, a key issue has to be, and is, to ensure that the services that are provided for our children are safe and effective. That is at the core of the review.

I should also be clear that the report, which the expert panel produced in July, did not find any safety concerns with our service. However, it noted that the paediatric congenital cardiac surgery service in Belfast is not sustainable and that potential safety risks should be addressed within six months. Members ask why the panel concluded that the service is not sustainable. First, when Dr Gladstone retired, a succession plan had not been put in place. That was despite the fact that he had notified the trust

some time before of his wish to retire. He actually stayed on longer than he desired. In 2010, when he eventually retired, we were left with these circumstances. Subsequently, we have had a congenital cardiac surgeon who is mentored by a retired consultant who was also a congenital cardiac surgeon. That consultant has indicated his desire to retire next year and to no longer do that work. So, as we look down the line, the challenges rise further.

Mr McCallister asked why we are not further ahead in talks and why we are in this situation, given that Dr Gladstone retired in 2010 after indicating a number of years before that his desire was to retire.

The expert panel's report also highlighted many excellent features in the current service that present opportunities for the development of a future model for children's cardiology. The report notes the dedication and commitment of the cardiac team that is delivering the service in Belfast. I, too, acknowledge fully the work of that team, which sees something like 1,200 cases each year. I should say that that team should remain unaffected by whatever decision we arrive at. I would like to make it very clear that the work that goes on with the cardiologists in the Royal Belfast Hospital for Sick Children should remain unaffected by whatever decision on the surgery we arrive at. I think that the team is superb.

Since I received the expert panel's report, I have had the opportunity to meet the paediatric cardiologists in the Belfast Trust. Their commitment and dedication to the service is very evident. I have also had representations from patients, families and fellow MLAs, and I know the esteem in which the service is held. I also pay tribute to Dr Gladstone for the service and the standard of care that he provided for many years. The fact that we are having such trouble replacing him is testament to his skills and commitment.

I cannot ignore eminent professionals' views, which, I think, some Members wish me to. That would be a very foolish recommendation for them to make. It is incumbent on me as Minister to take appropriate steps to address the concerns that they have expressed. In so doing, I want to have a clear appreciation of all the options that are available for the delivery of this service for children in Northern Ireland, including an all-island, all-Ireland solution with the Republic of Ireland. The consultation will include consideration of the option of commissioning PCCS primarily from Belfast so that my decision is fully informed on all issues. However, it is necessary and appropriate that I



acknowledge that there is no realistic option that would permit a stand-alone paediatric cardiac surgery in Belfast. That is the relevant experts' clear analysis and the view of the service commissioners. People may not like that and find it hard to accept, but it is a factual situation.

That should not be a surprise, as there are some specialties in which our small population is simply not large enough to support a sustainable service model. That is an unavoidable reality, because if we were to seek to retain surgery here, expert staff would not see enough cases to sustain their skills, and it would be impossible to provide a safe and sustainable rota to cover unforeseen emergencies on a 24/7 basis. Those are the underlying logical reasons for the model that is at the core of the approach taken in other jurisdictions — in particular, the need for a team of four surgeons at each site. Hence we face a challenge in Belfast that is not about money. I can give Mr Gardiner that assurance. It is not about money or any unwillingness to recruit but is simply the way in which the medical world now operates.

I will now deal with the consultation itself. I asked the Health and Social Care Board, working with the Public Health Agency, to develop for consultation a commissioning specification, criteria and options for the delivery of the service for Northern Ireland. A working group, including patient representatives, parents and clinicians in its membership, was set up to take that important work forward. I have now received a copy of the draft consultation document, and I want to thank the working group, particularly the parents and parent groups, for their time and commitment to the development of the document in what was a challenging timescale. I appreciate that parents' time is very precious.

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

**Mr Poots:** I think that I heard enough earlier. We are looking at real solutions, not at simplicity, as perhaps you and Mrs Dobson — in her fleeting visit to the Chamber — would suggest. We have to deal with very complex situations in very difficult circumstances, and simple, throwaway lines do not really add much to the debate.

I have agreed with the HSCB that we will issue the consultation document for a period of 12 weeks. The consultation document sets out the standards that the HSCB proposes for the commissioning of paediatric cardiac services in future. The standards cover a range of issues

and are intended to ensure that we have a safe and sustainable service. Those issues include staffing and activity levels; monitoring of outcomes, facilities, capacity information and choices; access to services; clinical engagement; and arrangements for parents.

It is important that our children receive the same standard of care as that provided to children elsewhere in the UK. I will repeat that: it is important that our children receive the same standard of care as that provided to children elsewhere in the UK. Indeed, it would not be acceptable for our children to receive a lesser service. That is why it is important that everyone carefully consider the standards proposed and use the opportunity to put forward their views. Standards are rising in what can be done, and we want to have the very best for our children. Second best is not good enough.

I can assure Members that I have met the Minister for Health in the Republic of Ireland, Dr Reilly, and discussed our mutual wish to explore fully the potential for a service to be provided on an all-island basis. Officials from both jurisdictions have engaged in discussions on the matter, and those will continue throughout the consultation period. I spoke to him again by phone yesterday on that issue and another issue. That will go on, and we will be meeting to seek to develop things further. I think that it is to its advantage as well as our advantage to come together and have an all-island network for paediatric congenital cardiac care, and I am very happy to look at that.

**Ms S Ramsey:** Will the Minister give way?

**Mr Poots:** Yes, I certainly will.

**Ms S Ramsey:** Minister, I appreciate all that you are saying, and some of the points that you make are reassuring. If the work is ongoing, can you tell us where the six-month timeline that was in the review sits?

**Mr Poots:** I do not think that the six-month timeline will be met, but that is something that we can manage. It does not cause me that much concern that we may not meet the six-month timeline. We have to look at all the practical possibilities. As I have said, I want the best service. If it is an all-island service, I want it to be the best service that is available. That is my strong preference at this time. I want to explore fully the all-island solution.

**12.30 pm**

As I have made clear on many occasions, my ultimate aim is to ensure safe and sustainable services for children from Northern Ireland. Therefore, I urge everyone to consider the proposed standards options and assessment criteria set out in the consultation document and to let us know whether there are any additional areas or options that we should consider.

I want to assure you that this will be an open and transparent consultation process. I will provide all key stakeholders with an opportunity to have their say in this critically important service for children. In parallel with the consultation process, the working group will continue to complete a robust analysis of the current transport arrangements for children, including those with congenital cardiac disease, to determine the best way to deliver these services. I want to have that information available before I make a final decision on the future model for PCCS in Northern Ireland.

At the end of the consultation period, the HSC Board will complete a detailed analysis of the consultation responses. Those responses, along with the application of the criteria to each of the options, will help to inform the way forward in identifying the preferred service model for children from Northern Ireland who need specialist cardiac care. I will make a decision on the preferred model in early 2013. The consultation document will be available on the HSCB website.

I thank the Committee for tabling the motion. I reiterate my assurance to parents that the future service model for paediatric congenital cardiac services will prioritise the needs of their children and that we will explore fully an all-island solution with the Republic of Ireland.

I will deal briefly with a few of the issues raised in the debate. The Chair of the Health Committee, Sue Ramsey, said that it was not appropriate to use criteria developed for England. She was concerned that the review was rushed and parents had had only a one-hour meeting. She referred to the three-hour travel time and problems with air transport and the fact that 300 procedures were performed each year in Scotland with only three surgeons, which put it in a considerably better position than us, with 140 procedures a year. Safe and sustainable criteria are supported by most professional and parent groups and were a reasonable benchmark for the review of paediatric cardiac services here. The working group includes clinicians and parents, and it has developed criteria for the services here, recognising the safe and sustainable standards and the unique issues for families in Northern

Ireland. Those will be part of the public consultation that will be launched today.

Mr Gardiner raised a number of issues. He said that the review should be conducted by people outside the system and asked why Belfast would be inefficient or too expensive. First, the external review was led by Sir Ian Kennedy and a respected team. Sir Ian is neither a clinician nor a health service administrator; he brings his legal expertise to the review process. The issues being considered are not financial but are about creating a service that allows for a team to have the required skills and to be available on a 24/7 basis.

Conall McDevitt, remarkably enough, spoke for almost six minutes, and I did not find anything on which I could substantially disagree with him, which was refreshingly new. I believe that our team did not get adequate time to respond to the review, and Mr McDevitt's points were fair in that sense. He and Mickey Brady referred to air transport not being acceptable in England. It is important to recognise that we already have a lot of children who travel to England. In fact, around 70 children a year travel to England by air ambulance, and that happens regularly. Many of them present the most complex cases of paediatric congenital cardiac care. Around 35 transfers were by air ambulance back to Northern Ireland from centres in GB. I am, however, very aware of the concerns around air travel, and that is why the HSCB has been asked to undertake a robust analysis of the current transport arrangements.

Dr McDonnell also made the point that the mother could well be confined as a result of a caesarean section and so forth.

**Mr Deputy Speaker:** Will the Member draw his remarks to a close?

**Mr Poots:** I certainly will. That must be one of the most difficult situations in which a parent could find themselves in.

I apologise if there is anybody I have not got to, but time has beaten me on this occasion.

**Mr Wells (The Deputy Chairperson of the Committee for Health, Social Services and Public Safety):** This debate has shown why it is so important that we have a devolved Assembly. Under direct rule, this decision would have been taken by someone who jetted into Northern Ireland for maybe one day a week. There would have been absolutely no consultation with elected representatives in

Northern Ireland. This has been a mature debate in which there has been an explanation of the dilemma that the Minister undoubtedly faces and a clear articulation of the concerns of parents.

I congratulate those who instigated the campaign on the issue. As Mr Gardiner stated, all our mailboxes have been full of well-written letters from constituents and others. I read and replied to them all. The one that really hit me was an e-mail written on behalf of a young boy called Cathal from Dromore in County Tyrone. I was on my way down to the new South West Acute Hospital in Fermanagh with the Health Committee when I happened to open that e-mail. It was one of those messages that just hits you between the eyes. It was about the struggle for life that he endured, the serious heart operations that he underwent and what faced him. He made it very clear that he believed that, had it not been for the Clark clinic, he would not be here today. We have all heard such poignant comments, and no one here is trying to ignore those comments. They are very valid and have to be taken into consideration, as was reflected in the comments of various Members.

Gordon Dunne said that he had been to one of the public meetings in Bangor and had heard at first hand the concerns that were expressed. Like many others, he expressed his great gratitude for the work of the staff of the Clark clinic. The one thing that we are all agreed on is that the Clark clinic has done outstanding work over the past 40 years. Mr Dunne was the first of many to raise the issue of travel and the difficulty of people having to travel by air, often when the young people concerned are extremely ill and their parents are very anxious. We all sympathise with that view.

Alderman Gardiner said that 52,000 people had signed the online petition. Mrs Dobson said that the figure was 60,000, which would not surprise me; it is growing very quickly. Mr Gardiner questioned the bona fides of those who carried out the review. I think that the Minister has already answered that very clearly by stating that they were more than capable of dealing with the issue.

Conall McDevitt, as usual, made a very articulate and interesting contribution. He poured scorn on the nature of the review, the time given to it and the fact that some of it was done in a 90-minute conversation with Dublin on Skype. He also paid tribute to the Clark clinic. The Minister dealt with that issue and said that some of it was not of his making. I have to say, having looked at the evidence, that

I am doubtful whether the consultation would have come to a different conclusion even if it had been more extensive. We would still have been left with the issues that Mrs Bradley raised and that we cannot get around.

Kieran McCarthy is not here, but he came out with quite an interesting line. He said that it was not 'Transforming Your Care' but 'Transferring Your Care'. I wish I had thought of that line; it is quite a good one. I am sure that the scriptwriter up in Alliance Party headquarters is proud of himself. Like many others, Mr McCarthy also pointed to the flaws in the review. I wish that Kieran would not go for the populist one-liners. They will undoubtedly get him a headline in the next 'Ards Chronicle', but they do not actually deal with the substance of the case.

Paula Bradley was perhaps the only MLA who really faced up to the hard realities of what is going on with the service. It is not unique to children's cardiac surgery. The reality is that health is becoming more specialist by the day. Gone are the days when you had the general surgeon who could do your ankle in the morning and your brain at night. Now, young consultants — they look frighteningly young — are becoming more and more specialist. The question is this: can we sustain a service that has four consultants ready for all eventualities, 24/7, 365 days a year? Can that be sustained in Northern Ireland if only 90 cases a year are dealt with here? Can we do it? Unfortunately, the answer is that we could do it, but it would mean tying up a lot of highly paid expert consultants when those resources could be used elsewhere. What would they do with their time? How would they hone their skills and keep up with best practice? How would we attract senior clinicians to carry out that work? That is the difficulty we face in many aspects of the health service; it is not unique to this issue. Paula made the point that we need between 400 and 500 cases a year. We only have a fraction of that number, and there is no realistic prospect of it increasing.

Mickey Brady raised the issue of transport by air but failed to recognise that at the moment we transfer large numbers of seriously ill young children by air ambulance and other means to England for surgery. Unfortunately, that has to be done, and no matter what model we adopt we will still transport seriously ill young children to England for surgery. That is unavoidable, because there are hospitals in GB that specialise in the most complex of cases. We will have to continue to do that. He paid tribute to CAWT, which is developing cross-border policies.

Pam Brown often brings us back to the human aspect of these cases. She speaks as a mother, which we value, because it is important that we remember the anguish that parents face during these very difficult times. It is good, when we talk about statistics and clinical standards, to bring it back to the human scale.

John McCallister queried the lack of speed and progress in talks with Dublin. I hope that the Minister answered that when he said that he has been in regular contact with Dr Reilly about this important issue and is moving as fast as possible. Unusually for him, Mr McCallister made a good point when he said that Belfast could be made the main hub of an all-island approach. I say "all-island", but there are no political hang-ups here, Mr Brady; I can assure you of that. We want to do what is best for our children. We are not interested in borders as far as this is concerned, and we want to do our best for very vulnerable children. Maybe, Belfast could be made the place where the services are concentrated, and children could come from the Irish Republic to Northern Ireland. I hope that that will be considered; it is a good idea.

Alasdair McDonnell recognised a pragmatic approach and stressed, once again, the point that families should not be forced to move to England. He also asked — this issue comes up time and time again — whether we should compare ourselves with England, which has 55 million people compared with our population of 1·8 million. He has a point, but we are still left with the difficulty of trying to keep four consultant surgeons going 24/7 with such a small number of operations.

Maeve McLaughlin from Londonderry made the point that we should not consider everything from a Belfast perspective, and she was right to make that point on behalf of the north-west. She supported the motion but also said that the recent success in attracting the new cancer unit to Altnagelvin showed that we can send expert services west of the Bann.

Tom Buchanan spoke from personal experience of tragedy in his own life, and he is to be admired for bringing his knowledge of how difficult it is for parents in these tragic situations to the debate. He spoke of the quality of the care that he received as a parent, albeit in a different ward in the Royal, and how it was important to have friends and family together in these terribly stressful circumstances. Like Pam, he brought a very human approach to it.

Steven Agnew made the point that the Clark unit is safe, and we all agree on that. The

difficulty is that it is not sustainable. He asked whether the 400 patient figure was arbitrary. The difficulty is that neither Steven Agnew nor I are experts in the matter. However, when we appoint some of the country's best brains to look at the issue and they say that there should be 400 patients a year, who are we to question that figure? That figure matches the trend throughout the United Kingdom and the world, with larger numbers of patients required to hone skills to ensure that you attract and retain the best staff and clinicians. We cannot avoid that. That is the elephant in the room.

I am convinced that the Minister has at his heart the needs of the children and what is best for them. There is a huge range between retaining the present service in Belfast in its entirety and continuing as you were, and transferring everything somewhere else. There is a huge gap between those two options. We need to explore all the options between the two stances and come up with something that is best for the children of Northern Ireland.

I agree with Mr Brady: the journey time between Belfast and Dublin has shortened dramatically in recent years. With the new motorway system, there are people commuting every day down that motorway. Therefore, getting children to and from facilities in Dublin is not that difficult. Obviously, most parents would prefer to take their child down the motorway to Dublin than go through the anguish of having to fly them to England, but, at the end of the day, no matter what we do, we will still be flying people to England.

I wish the Minister well. It is a very difficult decision, but I know he will do what is best for the young children of Northern Ireland.

*Question put and agreed to.*

*Resolved:*

*That this Assembly calls on the Minister of Health, Social Services and Public Safety to reassure parents that the future service model for paediatric congenital cardiac services will prioritise the needs of their children; and further calls on the Minister to explore fully an all-island solution with his counterpart Dr James Reilly.*

**Mr Deputy Speaker:** The Business Committee has arranged to meet immediately after the lunchtime suspension. I therefore propose, by leave of the Assembly, to suspend the sitting until 2.00 pm. The first item of business will then be Question Time.

*The sitting was suspended at 12.44 pm.*

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

2.00 pm

## Oral Answers to Questions

### Education

#### Children's Commissioner: 'Review of Transitions to Adult Services for Young People with Learning Disabilities'

1. **Mr Givan** asked the Minister of Education how he will address the issues relating to his Department contained in the Children's Commissioner's 'Review of Transitions to Adult Services for Young People with Learning Disabilities'. (AQO 2500/11-15)

**Mr O'Dowd (The Minister of Education):** I welcome the Children's Commissioner's report on transition. My Department has previously taken actions to strengthen the transition planning process. This includes the permanent appointment of education transition co-ordinators in each of the education and library boards; ensuring a person-centred approach to alleviate the difficulties encountered by young people in relation to the process; and the provision of appropriate life skills training for independent living. I will ensure that the education issues in the commissioner's report are given due consideration and that the areas identified for improvement are fully explored. My Department will also be considering the Children and Young People's Strategic Partnership's consultation document, 'Transition to Adulthood of Young People with Disabilities Draft Action Plan'.

**Mr Givan:** I thank the Minister for that response. He will be aware that the report deals with other areas, such as health and social security, but I appreciate the response on how he intends to take forward the gaps identified relating to his Department. The report also highlights — it has been raised before — the inconsistency of provision. The South Eastern Education and Library Board only provides for those with moderate learning difficulties (MLD) up to the age of 16. Other boards provide for them up to the age of 19. In my constituency, Beechlawn stands ready to make post-16 MLD provision. Can the Minister take up that issue with the education board to ensure that there is no inconsistency and that those with learning difficulties in that board area

are not suffering compared with other people in Northern Ireland?

**Mr O'Dowd:** I welcome the fact that the Executive passed the draft policy memorandum for the special education needs (SEN) review at their July meeting. One reason why I was keen to move forward on the SEN review was to ensure equality of services, delivery and treatment across all the education and library boards. I want to see in place the best services for young people with additional learning needs. If the Member wishes to raise specific issues about provision in his constituency, I am more than happy to deal with those directly. The overall policy objective in SEN is to ensure that there is equality of delivery across all education boards to all young people with additional learning needs.

**Ms Boyle:** Go raibh maith agat, a LeasCheann Comhairle. Have the transition arrangements resulted in any significant improvement in academic outcomes for SEN pupils in mainstream schools, thereby better preparing them for life after school?

**Mr O'Dowd:** A range of policies have assisted in the improvement of educational outcomes for young people with SEN. The percentages of SEN pupils leaving school with five or more GCSEs at grade A\* to C or higher and with two or more A levels at grade A to E have shown significant improvement in the past five years. In some cases, the percentages have almost doubled. The percentages of SEN pupils achieving two or more A levels at grades A to E have increased over the period from 2005-06 to 2010-11. So, we are seeing an increase in educational attainment for young people with SEN, but it is a matter that we require to continue to pay close attention to.

**Mr P Ramsey:** I welcome the Minister's comments. Mindful of the guidance in the SEN code of practice, what mechanisms are in place to enable young people's contributions and views to count in decision-making, particularly in and around transitions?

**Mr O'Dowd:** With transitions, there is already a responsibility to carry out a review for any child with a statement, and that should involve the parents and the views of the young adult. It has to be remembered that we are dealing with a young adult at that stage, and their views should be taken on board. I will continue to review the draft SEN legislation as it is being prepared in consultation with the Education Committee. Where we can strengthen provision to ensure that the views of young

people are taken on board in any circumstances, we will.

## Arvalee School and Resource Centre

2. **Mr Buchanan** asked the Minister of Education for an update on the future of Arvalee special school and resource centre following the fire which destroyed its premises. (AQO 2501/11-15)

**Mr O'Dowd:** First, I express my shock and sympathy following the damage caused by fire at Arvalee special school. It has had a devastating impact on the whole school community and on some of the most vulnerable children in our society. I also record my admiration for the parents of pupils and the staff of Arvalee and the Western Education and Library Board for the manner in which they have worked together to ensure continuity of the education of pupils at Arvalee. The pupils have already returned to full-time education. Those of primary-school age and some of the younger post-primary pupils are attending Knockavoe School and Resource Centre in Strabane, and the remaining pupils have been accommodated in St Eugene's High School, Castlederg.

Clearance of the Arvalee site is ongoing, and, following necessary demolition and renovation and the provision of additional modular accommodation, it is hoped that the pupils will be able to return to the school by January 2013. I have instructed my officials to investigate all possible options to allow for the provision of new school buildings for Arvalee to be constructed on the Lisanelly site as a matter of urgency.

**Mr Buchanan:** I thank the Minister for his response. Can he give us more indication of when the newbuild for the school will commence on the Lisanelly site as part of the education campus in Omagh? It is important that the newbuild commences as soon as possible.

**Mr O'Dowd:** As the Member will appreciate, the current situation is not of our making. The appropriate authorities are continuing to investigate the devastating fire at Arvalee, and the cause, to the best of my knowledge, has not yet been identified. We were presented with a catastrophe on the weekend before the schools started back, and our immediate concern was to identify premises for the children and young people to attend. That has been achieved, and we are now looking at the medium-term plans and whether we can move back to the Arvalee

site. We believe that, after the investigation by the Western Education and Library Board, that will be possible as a medium-term solution. Some of the buildings on the site can be secured. However, a major clearance operation has to take place as there is a lot of damaged material, including asbestos. I do not want to raise undue concerns about that, but asbestos was disturbed or broken up during the fire and will be removed by properly qualified contractors.

We continue to investigate moving the school permanently onto the Lisanelly site. I want the school to be constructed and open by 2015, and I am working to that time frame. I have met my officials and will meet them again tomorrow to discuss capital build programmes, and Arvalee is high on the list of our priorities.

**Mr Byrne:** I thank the Minister for his support for the local community on the matter. However, can he reassure the public at large that Lisanelly will become a realistic project and that Arvalee school will be there as soon as possible? In the meantime, can he assure us that all funds and resources that are necessary to provide interim arrangements will be available with no need for fundraising at a local level?

**Mr O'Dowd:** The Lisanelly campus is a Programme for Government target, and we have to meet certain conditions under the Programme for Government. I believe that Lisanelly can and will succeed, but local leadership will be required. I can understand that long-established schools with a long history will want to remain on their current site or to seek to meet their own accommodation needs, but I do not agree with it. Now is the time now for a more collective view on education, and the Lisanelly site presents us with a great opportunity to move forward on a site with shared facilities but with schools holding on to their own identity. That is the way forward, and it can be a shining example of modern educational delivery into the future. Strong local leadership will be required to deliver that, but I think that we will get there.

My Department is looking at interim funding options for Arvalee. That may include the October monitoring round, but I assure the Member and the House that we will do everything within our power to assist the young people of Arvalee school to return to the Arvalee site as soon as possible and to move into modern, fit-for-purpose accommodation on the Lisanelly site as quickly as possible.

## Schools: Area Planning

3. **Mr Girvan** asked the Minister of Education for an update, including the timescale, on area-based planning for primary and post-primary schools. (AQO 2502/11-15)

11. **Mr McQuillan** asked the Minister of Education for an update on the primary schools area plan consultation including when the information relating to it will be released. (AQO 2510/11-15)

**Mr O'Dowd:** Principal Deputy Speaker, with your permission, I will answer questions 3 and 11 together.

The boards continue to make progress in the area planning process, and Members will know that, in March, they published the viability audit of all schools and, on 5 July, published the post-primary plans for consultation. That consultation will end on 26 October, and I encourage everyone with an interest in education to make their views known. That can be done online or in writing to the boards.

Following the consultation, the boards will analyse the comments and take account of the views of the public as they enhance and refine the post-primary plans. I would like to have the revised plans before the end of the year. However, I will want to be fully aware of the issues emerging from the consultation. I will want to satisfy myself that the public have confidence in the process, the information and the proposals. That will help me to determine how much work is required to refine and enhance the plans. At that time, we will be in a better position to determine the date for approval of the post-primary plans.

The boards are also working to finalise the area plans for primary schools. The publication date is, however, dependent on the level of response to the post-primary plans and the level of refinement needed for those plans. It is important that we learn the lessons from the post-primary consultation. We must take account of the public, especially with respect to whether the plans help them to understand the need for change and show them the way forward.

**Mr Girvan:** I thank the Minister for his answer. Mention was made of consultation. It is an online consultation, and that might be fine where schools are concerned, but what opportunity is there for parents and boards of governors other than that? Would another

method of getting engagement with all stakeholders not have been more appropriate?

**Mr O'Dowd:** There has been some confusion in the media about the consultation process we launched. It was launched in early July. We took the opportunity, later in the summer, to launch an online consultation process as well. Members of the public, schools, parents, key stakeholders and whoever can respond in writing to those plans. The online facility is there to assist anyone wishing to complete the consultation response by that method. It is not the only facility available to members of the public or anyone else.

**Mr McQuillan:** I thank the Minister for his answer so far. Does he agree that the sooner all this information is released to the public, the better it will be for some of the smaller rural schools? Such schools find themselves in limbo. Parents are nervous about sending their children to those schools while the axe hangs over them.

**Mr O'Dowd:** I am keen to complete the post-primary area planning process as quickly as possible. I think it wise, however, to learn whatever lessons need to be learned from the post-primary review before we launch the consultation process on the primary school review, though I am also keen to get that off the ground for a number of reasons, including those the Member suggested. I also believe that we are reaching decision time on these matters.

With regard to the sustainable schools policy, the Bain report has been around since 2006. Everyone has debated the need for rationalisation of our schools estate, but we have not reached the decision-making stage. I am keen to get to the decision-making point, which will allow for certainty in the system and allow parents and pupils to know, with a degree of certainty, about the future of schools in their community.

**Mr Kinahan:** It is good to hear that the Minister will learn lessons, but I would be more keen on delaying.

Will the Minister detail to what extent existing levels of sharing across all the sectors will be taken into account in the area planning process to ensure that few, if any, schools are forced to break those structures, even just a little bit?

**Mr O'Dowd:** We should present it to schools not as breaking their structures but as an opportunity. We have an opportunity to move forward in a different mode. Generally, around

the House, Members agree that there is a greater requirement for sharing in our education system and for shared education, moving forward. As part of the Programme for Government, I recently announced the establishment of a shared education advisory team, which will report to me.

I have made it clear, in the terms of reference for area planning, that I am keen to see shared education projects coming forward. I also want the boards and schools to be imaginative in their approach to this. When I review the plans, I will do so with the mindset that I want to see opportunities for shared education contained in them, because I believe that it is a sensible way forward for education. For the good of our society but also because of the stringency of the budget, it is only wise that we ensure that our schools, which are public resources, share as many of their facilities as they can and that the communities around them are comfortable with that.

**Mr Hazzard:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Will the Minister reiterate the core principles behind area planning?

**Mr O'Dowd:** The core principles of area planning are to determine the needs of an area across all sectors; to compare what is needed with what already exists; and to identify gaps in the provision. The process recognises existing school sectors but does not, as I said, rule out any opportunities for new ways of doing things. The terms of reference explicitly encourage creative and innovative solutions, including shared schooling on a cross-sectoral basis. Area planning is about planning into the future and setting our schools estate up for the next 25 to 30 years and beyond to ensure that a sustainable schools estate is in place to deliver a modern education curriculum.

## 2.15 pm

**Mr Rogers:** I thank the Minister for his answers thus far. Will the Minister clarify why ELBs are using "outside Belfast and Derry" to define rural in the viability audits, while the Department has more accurate information on its website?

**Mr O'Dowd:** It is quite simple: the sustainable schools policy, which has been consulted on and agreed and is departmental policy, defines rurality as everywhere outside Derry City Council area and Belfast. I thought that it was only prudent that we stayed with that definition, at least until the area planning processes are complete. I felt that if I was to meddle or

change the definition at this time, I might be accused of moving the goalposts on a policy that has already been consulted on and is in place. There is certainly merit in discussing a redefinition, but I do not think that now is the time to do it.

**Mr Principal Deputy Speaker:** Question 4 has been withdrawn.

## Schools: Area Planning Consultation

5. **Mr McCarthy** asked the Minister of Education to outline the extent to which the Northern Ireland Council for Integrated Education has been included in the consultation on the area-based planning process. (AQO 2504/11-15)

6. **Mr Cree** asked the Minister of Education how his Department is ensuring that parents and schools are afforded every opportunity to participate in the ongoing consultation process on area-based planning. (AQO 2505/11-15)

10. **Ms Ruane** asked the Minister of Education what specific measures were put in place to ensure meaningful youth engagement in the area-based planning consultation. (AQO 2509/11-15)

13. **Mr D Bradley** asked the Minister of Education how he proposes to have meaningful consultation with parents and young people on area-based planning proposals considering the limitations of online consultation. (AQO 2512/11-15)

**Mr O'Dowd:** With your permission, Mr Principal Deputy Speaker, I will answer questions 5, 6, 10 and 13 together.

The five boards published their post-primary area plans for public consultation on 5 July. The consultation will run for 16 weeks until 26 October 2012. The consultation offers everyone with an interest in education a chance to give their views. The terms of reference require the boards and the CCMS to engage actively with the other school sectors and their representative bodies. The plans will report the extent of that engagement, and I will consider the appropriateness of the level of engagement when I assess the revised plans following the consultation.

I understand that the boards have made specific arrangements to help young people to get involved. Specifically, the Youth Service and the youth forum in each board will conduct



a series of focus groups. The Participation Network has agreed to circulate details of the consultation to its 120-plus membership list. The boards also e-mailed all schools to ask that they encourage their staff, young people and their parents to respond. As stated earlier, there are a number of ways to respond to the consultation. People can complete and return the response document online or download the document and return it by post to the board. Those who do not have access to the internet can contact the board for the documentation, and they may also wish to consider using public libraries to access the internet and so on.

**Mr McCarthy:** I thank the Minister for his detailed response. Does he agree that, for area-based planning to be meaningful and successful, it must be cross-sectoral and that, therefore, the input and experience of NICIE is vital? NICIE is the Northern Ireland Council for Integrated Education.

**Mr O'Dowd:** That I do know. I agree with the Member, and I recently approved a business case for NICIE to the value of £38,000 to allow it to participate in the area-planning process in a detailed and informed manner. So I am keen to hear the views of NICIE and other sectoral organisations. The boards have a statutory responsibility for the provision of education in their area, and it is up to the boards to bring together the figures and the necessary information to plan ahead for education across all sectors. That is why the boards and the CCMS, which is the other body involved in education, are taking the issue forward. However, the boards are the submitting authority. As I said, NICIE has been financed recently to further assist it in the process.

**Mr Cree:** I also thank the Minister for his response. Will he consider an annual but much less arduous snapshot viability study to ensure the collection of the most recent data on which area planning can be based over the coming years?

**Mr O'Dowd:** I am actively considering conducting annual viability audits. I do not want them to be seen as league tables or used by the media for the wrong purposes. They are there to collect information about the current state of our schools, both financially in relation to their enrolment levels and their examinations attainment. So, they are useful information for the Department to have and, in the future, for ESA etc to have. I am, therefore, actively considering conducting them annually.

**Ms Ruane:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Thank you, Principal Deputy Speaker. What reassurance can the Minister give that a collective approach will be taken to the area-based planning process, given the number of education bodies involved?

**Mr O'Dowd:** Gabhaim buíochas leis an Chomhalta as a ceist. The key to a centralised approach to this is that the Minister and the Department are the responsible body for signing off on the area plans. So, although there has been some concern that education boards have, perhaps, approached this in a different manner, they have all approached them under the auspices of the terms of reference, which are signed off by the Minister. At the end of the day, the Minister is the person responsible for signing off the final area plans. As I go through the area plans, I will, therefore, want to assure myself that they fully meet the terms of reference, that they have taken on board the views expressed during the public consultation and that they are in line with the Department's direction of travel and policies. There will, therefore, be a centralised policy at the heart of an agreed area plan.

**Mr Principal Deputy Speaker:** I call Dominic Bradley.

**Mr D Bradley:** Thank you very much, Mr Principal Deputy Speaker.

**Mr Principal Deputy Speaker:** It is the grouped questions.

**Mr D Bradley:** Gabh mo leithscéal?

**Mr Principal Deputy Speaker:** It is the grouped questions.

**Mr D Bradley:** Gabh mo leithscéal, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire as ucht a fhreagraí. I thank the Minister for his answer. To what extent is cross-border co-operation considered part of area-based planning?

**Mr O'Dowd:** Gabhaim buíochas leis an Chomhalta as a cheist. Cross-border co-operation on this matter along the border corridor is important, and we have tasked the education boards with looking at that imaginatively. Can they provide educational services to the benefit of the young people in their area on a cross-border basis? When I come to assess the area plans, I will look for that in detail as well. The Member will be aware that, through the North/South Ministerial

Council, we are conducting an attitudinal survey along the border corridors to see whether there is a demand among parents and pupils to travel across the border. All that information will be taken on board. We want to provide effective, efficient and excellent educational services to the communities along the border, and that may involve sharing resources with our counterparts in the Twenty-six Counties.

## Education and Skills Authority

7. **Mr Gardiner** asked the Minister of Education to explain the reasons for the delay in the introduction of the Bill relating to the Education and Skills Authority. (AQO 2506/11-15)

**Mr O'Dowd:** I am pleased to say that the Executive have agreed to the introduction of the Education Bill. Subject to the Speaker's agreement, I intend to introduce the Bill on 2 October. This is excellent news for all those working to improve our education system. I would like to have been able to introduce the Bill much sooner, but Members will appreciate that I could not do so until Executive agreement was obtained.

**Mr Gardiner:** I thank the Minister for his response. Given that the Bill was approved by the Executive, once again, only last week, can the Minister give the House a quick overview of the reasons for the delay?

**Mr O'Dowd:** A week is a long time in politics; that is one of the reasons. The Education Bill has proven to be a difficult piece of legislation. It is also an emotive piece of legislation, understandably so. Many people have views on education, and I am glad of that. All the political parties have views on education, and I appreciate that as well. The education sectors out there, who, through many years, have delivered education to our young people, wanted to be assured that their views were listened to and, where it could be the case, taken on board. I think that we have achieved that through the new Education Bill. It will be up to the Assembly and individual Members to judge that for themselves. If the Speaker agrees that the Bill is competent and it is introduced on 1 October, the Second Reading will, I believe, be around 8 or 9 October, when the Bill will be open to full debate. Members will be able to scrutinise the Bill, and they will be the final adjudicators of whether it serves the educational needs of the local population. I firmly believe that it does.

**Ms McCorley:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas

leis an Aire as ucht a chuid freagraí go dtí seo. I thank the Minister for his answers up until now. Now that the ESA Bill has finally secured Executive agreement, can he outline what the main benefits of the new arrangements will be?

**Mr O'Dowd:** Gabhaim buíochas leis an Chomhalta as a ceist. The main benefit of the Education Bill will be to modernise how education is delivered in our society. It will reduce eight bodies to one, which will create a more modern, effective and efficient management structure. It will not be ESA's role to manage schools. The management of schools will be the responsibility of boards of governors. However, the overall policies that we want to see the ESA deliver will be those set by the Department. The role of ESA will be to raise standards; as I said, it will not be to run schools. ESA's role is to plan, support and challenge. Strong intervention powers are reserved for my Department. There will be an independent tribunal with the power to stop ESA interfering in schools if individual schools or sectors have concerns about the body.

I think that we have achieved a Bill that will allow ESA to continue with its functions while reassuring people who perhaps are afraid that the control of education will be centralised. That will not be the case. Boards of governors will continue to run schools. Schools will have a lot of independence in their day-to-day affairs.

**Mrs Hale:** When will the Minister make an announcement about the establishment of a sectoral support body, as outlined in his statement welcoming the ESA Bill?

**Mr O'Dowd:** I hope to be in a position to do that very soon. The establishment of the controlled sectoral support body has been delayed as a result of delays to the Bill. However, I assure the Member that my officials are working away on that matter. I hope to ensure that contact is made with members of the controlled sector in the coming days and that a meeting is called as soon as possible to give reassurance to those members and to start a programme of work. The controlled sectoral support body is an important part of the ESA Bill. It is also an important part of the strategy to raise education standards across the system.

**Mr McClarty:** How will the delayed education reform affect the outcome of area-based planning for primary and post-primary schools?

**Mr O'Dowd:** It will not. ESA will become the body responsible for area-based planning when it is established and fully functioning. Until

then, as Minister, I am responsible for the matter. As I outlined in a statement to the House in late September 2011, I believed that the time was right to move ahead with area planning; that the system was creaking at the seams; and that we needed to make decisions. As I have outlined to Members previously, public consultations are vital. I believe in them strongly. However, when the public consultation process is over and I have taken account of all the views expressed, I will make decisions on area planning. Area planning will be not the Big Bang theory but an evolutionary process. It will evolve and move on to the ESA, which will have responsibility for the further delivery of area planning in future.

## Higher Education: Access to Success

8. **Mr Maskey** asked the Minister of Education to outline how his Department will be engaging with the Department for Employment and Learning in relation to the Access to Success scheme. (AQO 2507/11-15)

**Mr O'Dowd:** I have Paul Maskey's name here. It is definitely Alec. I welcome the strategy's focus on widening participation in higher education and raising young people's aspirations and levels of attainment. It complements my focus on addressing educational underachievement among young people from disadvantaged backgrounds. DE and DEL officials meet regularly. Indeed, I met the Minister for Employment and Learning this morning. DE officials provide input to the draft strategy and will continue to work with their DEL counterparts in support of the strategy. That will include contributing to any appropriate projects or working groups that DEL may establish as the strategy rolls out. I also regularly meet Minister Farry to discuss issues of common interest to both Departments. Undoubtedly, the strategy and its implementation will form part of those discussions in coming months.

## Employment and Learning

### Further and Higher Education: STEM Subjects

1. **Mr McQuillan** asked the Minister for Employment and Learning to outline the change in the uptake of STEM subjects in higher education institutes and further education colleges over the last five years. (AQO 2515/11-15)

**Dr Farry (The Minister for Employment and Learning):** I continue to give the uptake of STEM subjects priority status. The future growth of our economy will rely on a workforce with skills in science, technology, engineering and mathematics. My Department has played a leading role in the production and implementation of the STEM strategy, which the Executive endorsed in March 2011.

That strategy aims to promote science, technology, engineering and mathematics and to encourage more people to gain skills in those areas to meet the needs of the economy. It contributes to one of the four strategic goals in my Department's overarching skills strategy. The aim is to increase those qualifying from Northern Ireland's higher education institutions with graduate and postgraduate qualifications in STEM subjects from 18% in 2008 to at least 25% by 2020.

### 2.30 pm

The higher education strategy, which I published earlier this year, seeks adjustments in the academic profile to provide a greater emphasis on STEM and economically relevant subjects, including postgraduate opportunities. I have committed to creating an additional 700 economically relevant STEM places by 2014-15 at our local universities. In 2010-11, there were a total of 90,910 enrolments on STEM-related courses at the Northern Ireland higher education institutions and further education colleges, which represents 44% of overall enrolments. That compares to 85,365 enrolments in 2006-07, an increase of over 5,000, or 6.5%, over the five-year period.

**Mr McQuillan:** I thank the Minister for his answer. Does he agree that the promotion of STEM subjects should be a priority for his Department, considering the demand for employees with those qualifications?

**Dr Farry:** It is indeed the case that our education system has to have a much stronger economic focus. We need a lot of interventions, ranging from, for example, careers and labour market advice, through to the provision of relevant courses. It is important that we address skills shortages and mismatches in our economy and plan for future skills needs.

**Mr B McCrea:** The Minister will be aware that the Committee visited the Armagh Planetarium last week. He may not be aware that, on Tuesday, representatives of the Armagh Planetarium are coming to Stormont. On 15

October, the Assembly will be hosting Science and Stormont 2012. Will he encourage Members to attend those events to send out the message to all in our community that science is a good thing and that this is the way forward?

**Dr Farry:** I am very happy to join the Chair of the Committee in endorsing those events and in encouraging people to visit and participate in them. It is important to stress that the encouragement of the take-up of STEM subjects cannot be left to the school system alone or traditional educational methods. We have to use any and every innovative technique we can to grab the interest of young people at an early stage. There is sometimes a gender issue, so we particularly want to encourage girls to take up careers in those areas.

**Mr McElduff:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I do not know what planet Mr McCrea is on, but there were a lot of space cadets and rockets at the planetarium last week when we visited it.

Will the Minister outline the international links that Queen's University and the University of Ulster have developed to best deliver the STEM agenda in both universities?

**Dr Farry:** I thank Mr McElduff for his question. His references to space are very tempting, but I shall resist going down that avenue.

Of course our universities are very keen to develop international links. The pursuit of an international strategy is very much a core theme in the recently published higher education strategy. That can involve a whole range of different activities, including the attraction of more overseas students to local universities, which adds to our diversity and exposes us to other ideas and opinions. It is also important that we encourage research links. Our universities are encouraged to develop those links, particularly in STEM and economically relevant areas, whether that is part of things like the US-Ireland research alliance or partnerships under framework programme 7 and what will become Horizon 2020 European funding.

#### North/South Ministerial Council: Education

**Ms Ruane:** Ceist uimhir a dó, le do thoil. Question number two, please.

**Dr Farry:** That is OK; my Irish is good enough to catch that one.

2. **Ms Ruane** asked the Minister for Employment and Learning to outline the issues which he plans to raise at the next meeting of the North/South Ministerial Council when it meets in education sectoral format. (AQO 2516/11-15)

**Dr Farry:** My areas of responsibility do not feature explicitly in the agreed work programme for North/South Ministerial Council (NSMC) meetings in educational sectoral format. Therefore, I do not attend. Nevertheless, I meet Minister Ruairi Quinn regularly to address matters of mutual interest. The importance of co-operation on third-level education was raised at the NSMC plenary meeting in June. I also discussed the matter with Ruairi Quinn in a bilateral format, and I would be happy to participate in further discussions on the matter.

**Ms Ruane:** Go raibh maith agat. Gabhaim buíochas leis an Aire as a chuid freagraí go dtí seo. Thank you for the responses to date. The Minister will know that a significant number of students from the North have been denied admission to universities in the South because of the Central Application Office's (CAO) non-recognition of A levels. Can the Minister outline what measures he has taken in partnership with John O'Dowd and Ruairi Quinn to ensure that the CAO properly recognises A levels?

**Dr Farry:** I thank the Member for raising that issue. It is important because it goes to the issue of equality of opportunity for our residents in pursuing their options for higher education. It is primarily the responsibility of my colleague John O'Dowd, but it is something that he and I have raised with Minister Quinn, and I know that Minister Quinn is very sympathetic and understands the case that we are making. The Central Applications Office in the Republic is, of course, the key decision-making body in this regard, and it is for that office to make those reforms, but a very strong and unified message is going out to it. I understand that progress is being made, and John O'Dowd and I will certainly continue to apply pressure to ensure that we get an outcome for our citizens in that regard.

**Mr Dallat:** I am sure that the whole House would encourage the Minister to meet Ministers in the Republic to iron out all the anomalies that exist as a result of partition. How many special needs teachers are registered to work throughout the island of Ireland as a direct result of agreement of the North/South Ministerial Council?

**Dr Farry:** Again, Mr Dallat is leading me down the route of making a much wider comment on the political geography of this island. However, let me just say that I am perfectly happy to be a Minister in the devolved setting of Northern Ireland, but I recognise that we are part of a single island, that we have to co-operate with our neighbours on the island and that there will be a large number of issues, including education and higher education issues, where there is significant crossover. The House will be aware that the Confederation of British Industry and the Irish Business and Employers Federation published a report last year that sets out a number of recommendations to better improve student flows on the island, which are considerably underdeveloped compared to flows elsewhere, and we are looking to address those.

I suggest that the specific points on special needs teachers are primarily a matter for John O'Dowd, but, between us, we will ensure that a formal response is given to the Member on the specific point about the numbers.

### Social Enterprise: Training

3. **Miss M McIlveen** asked the Minister for Employment and Learning what steps his Department has taken or intends to take to ensure that training is available in the skills required for the social enterprise sector. (AQO 2517/11-15)

**Dr Farry:** I recognise the important contribution that the social enterprise sector can and does make to the economy in Northern Ireland. That is also understood in the context of the economic strategy, specifically under the encouraging business growth aspect. In March 2010, the Executive launched their cross-departmental social economy and enterprise strategy, which was developed in conjunction with a wide range of stakeholders and key Departments, including mine.

Where social enterprises are established as businesses, my Department treats them as it would any other business of a similar size. This means that they can avail themselves of a range of services, including, for example, the skills solutions service. A fully trained skills solutions adviser will visit a social enterprise, talk to its management to help them to identify their training needs in light of their business objectives, advise them on how those needs can be met and provide information on available financial support. I encourage more social enterprises to avail themselves of that service. Information is available on my

Department's website. Social enterprises have also benefited from my Department's management and leadership development programmes and have received financial support to achieve Investors in People status. The six regional further education colleges also offer opportunities for upskilling social enterprises to help them to meet their business objectives.

**Miss M McIlveen:** I thank the Minister for his answer. As he will know, his constituency of North Down and my constituency of Strangford have the lowest number of social enterprises in Northern Ireland. Social enterprises can, obviously, provide and nurture a variety of skills as well as create employment, particularly in deprived areas. Given that the barrier to establishing such enterprises really is a lack of capacity, will the Minister commit to addressing the shortfall in capacity through appropriate training or mentoring schemes?

**Dr Farry:** I fully understand the Member's point. Indeed, in recognising the contribution that social enterprises make, I should acknowledge that some social enterprise organisations deliver some of my Department's services. That may be the case for a number of my colleagues as well.

I am not sure that we are in a position to tilt the playing field in favour of a particular type of business, but I certainly give the Member and the House a commitment that my Department stands very ready to assist any business, including social enterprises, in addressing their particular skills needs. In terms of resources having to be diverted elsewhere, we will not be found wanting, and it will not stop us from going ahead with any of this. Of course, wider issues will have to be addressed in the context of the economic strategy, and that will also involve my colleague Minister Foster. In respect of my responsibility, we are very happy to engage in addressing skills and training needs.

**Mrs Overend:** Will the Minister tell us how he is actively encouraging relevant organisations to increase the uptake of European money, such as the European social fund, to establish and support social enterprises? What funding has his Department provided to that important sector of the economy?

**Dr Farry:** I thank the Member for her question. The European social fund moneys are allocated on a competitive basis through a number of calls. At present, moneys are fully allocated. I stress that point because I know that a number of Members are applying pressure to see

whether there is any loose change in the system. We have asked the European Commission, particularly in light of underspends elsewhere in the system, whether there is the potential for the redistribution of funds to Northern Ireland, through something akin to the monitoring round process that we are familiar with, but, unfortunately, that has not been forthcoming. When the next European Union budget is struck, there will be a new round of European social fund moneys available for Northern Ireland, and another process will be commenced. I certainly encourage a wide range of projects to come forward for that.

## FG Wilson: Job Losses

4. **Mr Beggs** asked the Minister for Employment and Learning to outline how, in order to retain the skills of workers following the job losses at FG Wilson, he intends to assist them in gaining alternative employment. (AQO 2518/11-15)

**Dr Farry:** My officials have been proactive in determining what steps we can take to assist with redundancies, to provide upskilling and to identify alternative employment. They have worked with FG Wilson in relation to redundancies since the earlier announcement was made in June.

Through our redundancy advice service, we work in partnership with the Social Security Agency, further education colleges, HMRC and other agencies to provide advice on alternative job opportunities, access to training courses, education opportunities and careers advice, as well as a range of other issues such as benefits and taxation. The redundancy advice service is available to go on site to deliver a tailored package of support to each employee. It is vital that we not only retain the skills of workers but formally recognise existing skills through accreditation, if necessary, and provide upskilling, where appropriate, to meet any new specific demands of other employers.

I also had the opportunity to raise the issue at the inaugural meeting of the advanced manufacturing and engineering services working group on 19 September 2012. The working group includes business leaders from the sector, employer representative bodies, representatives from the colleges and universities, and other Departments and agencies. FG Wilson representatives gave an update and highlighted that the company is at the beginning of a 90-day consultation to determine the implications of the redundancy announcement.

FG Wilson, the Confederation of British Industry and officials from my Department confirmed that they had received expressions of interest from companies interested in exploring the possibility of redeploying affected staff. My officials will engage closely with the outplacement provider appointed by FG Wilson in taking that work forward and will continue to work closely with all key stakeholders to maximise the redeployment of workers to other suitable opportunities in Northern Ireland.

My Department is also exploring options for reskilling and upskilling affected staff through the Northern Regional College. The college informed me that, as well as offering upskilling and training, it offered to undertake a skills audit of staff. Likewise, Belfast Metropolitan College has contacted FG Wilson to offer a range of support, including job searches, careers information and access to its training facilities.

## 2.45 pm

**Mr Beggs:** In the past, the Minister indicated that employees could have an opportunity to participate in a tailored training programme and that there would be discussions with potential employers. Will he elaborate on the type of training programme that could be available, so that more of those who might be made redundant will have an opportunity to reskill and continue employment?

**Dr Farry:** I thank Mr Beggs for his original question and his supplementary. Clearly, this is a very important issue. A number of strands are under way and under discussion between different government agencies and FG Wilson, in particular about retraining. It is important to stress that we have a wide range of skill sets available through the workers of FG Wilson. Indeed, many of them will already be highly skilled. We first need to understand exactly who will be made redundant. As you will appreciate, we are going through a redundancy consultation period, which is why I am stressing the point of the skills audit. However, our further education sector — in particular, the Northern Regional College, which has a very good track record in engineering — is well placed to provide refresher and conversion courses, taking general skills that people have and maybe retraining them in the specific skills that new companies that wish to take advantage of staff redeploying will need. That is being taken forward and those discussions are well under way.

We are also looking at how we can best facilitate other employers accessing those

workers. I am pleased to see expressions of interest from a number of sources, and discussions are under way with a view to having job fairs on-site within the premises of FG Wilson.

**Mr Campbell:** Given the scale of the potential redundancies at FG Wilson, the catchment area for employees there is significant. Partnerships were talked about. What sort of liaison is there with the Department of Enterprise, Trade and Investment to ensure that other employers who may be looking for the adaptability and type of skill sets that exist in the workforce of FG Wilson could avail themselves of those people with the right kind of training?

**Dr Farry:** Mr Campbell raises an important point, and it is something that the company itself has been keen to stress. We need to have a smooth set of communications around all of this. We also need to make sure that we have a number of agencies with different specialist functions all pushing in the one direction and that we avoid duplication of effort, which just adds complication and stress, and causes more difficulty for FG Wilson in managing the process. To that end, there are ongoing and active discussions between all the relevant agencies. My own organisation is trying to set up a single liaison point with the company to make sure that we are handling this as smoothly and efficiently as possible.

**Mr Dickson:** I thank you, Minister, for your detailed answers. Are you satisfied that the Northern Regional College and other education providers will have sufficient resources made available to them to deliver on the promises that have been made to a significant number of employees who, regrettably, will be losing their jobs?

**Dr Farry:** I thank Mr Dickson for those comments. This is, as I said, a very serious matter whenever people are losing their jobs. It is also important that we place people with the right skills in companies and encourage those companies to grow and flourish. I again stress that Northern Ireland has a real future in manufacturing. The discussions with the Northern Regional College are ongoing, and the issues to be ironed out are largely over exactly how we take forward training. I give the House a commitment that the roll-out of those programmes will not founder on the issue of money and arguments over resources.

## Higher Education: Subjects

5. **Mr Kinahan** asked the Minister for Employment and Learning how he has taken into account the destination of school leavers analysis 2010-11, which was published on 31 August, in considering what subjects should be provided at our higher education institutes. (AQO 2519/11-15)

**Dr Farry:** It is my understanding that the Member was referring to the analysis 'The Destinations of Leavers from Higher Education Institutions'. This analysis, published by the Higher Education Statistics Agency in June of this year, provides insight into the employability of graduates and shows that this varies according to subject discipline. Although, overall, 75% of Northern Ireland-domiciled graduates found employment within six months of graduation, the highest employment rate, 97%, was for those who studied medicine and dentistry; the lowest rate, 58%, was for those who studied languages.

My Department's higher education strategy for Northern Ireland, *Graduating to Success*, emphasises the need to rebalance the current academic profile to provide greater emphasis on STEM and economically relevant subjects. In support of this transition, I have provided additional places in STEM subjects over the next three years. The strategy also highlights the need to ensure that learners in higher education are provided with the opportunities to develop a portfolio of skills, attributes and experiences that will set them apart in the world of employment. This portfolio includes personal development, creative thinking allied to enterprise and innovation, international mobility opportunities and a chance for learners to avail themselves of a work placement. These extra-curricular skills, activities and experiences will be recorded in each student's higher education achievement report.

**Mr Kinahan:** I thank the Minister for a good, comprehensive answer, and I welcome the idea of a portfolio of skills. Will he give an update on the 700 university places that he announced in December 2011? In 2014-15, how will they be provided to help the economically relevant subjects?

**Dr Farry:** I thank Mr Kinahan for his supplementary question. The background to the extra places is that they were part of the package, agreed by the Executive last September, which related to tuition fees. At that stage, we also recognised that there would be some knock-on consequences for local

universities, including the potential for an increased demand for local places given the differential in fees. However, bearing in mind the importance of continuing to invest strategically in the future of our economy, we decided that all 700 places would be for economically relevant STEM subjects. All those additional places will be phased in over the next three years. The first tranche is already live and has been distributed across Queen's University, the University of Ulster, where the focus is mainly on the Magee campus, and the further education colleges that also provide higher education.

**Mr Storey:** Given the earlier questions to the Education Minister on area planning, what discussions has the Minister had with him and the universities to ensure that there is a joined-up approach to rebalancing provision and making absolutely sure that we have in place appropriate educational facilities offering appropriate qualifications? To date, it seems that the further and higher education colleges have been left out of the process.

**Dr Farry:** I thank Mr Storey for that question. I wonder whether he was a fly on the wall this morning, when I met Minister O'Dowd to discuss a number of topics, and that was the main item on our agenda. I am very keen to ensure that our young people have as many opportunities, a mix of academic and vocational, as we can provide to them in Northern Ireland. It is important that each young person has a tailored package that suits his or her individual needs. It is also important that my Department works closely with the Department of Education on the interface between the school system and further education colleges. We have an entitlement framework, and I am keen to ensure, as, I am sure, is Mr O'Dowd, that we maintain that and ensure that it works as effectively as possible. We are also moving towards a consolidated 14-19 strategy statement, which will cover all the work done between the two Departments to ensure that we are capturing the opportunities and delivering for students the most appropriate institutions for their particular needs.

**Mrs D Kelly:** I am interested in the Minister's comments. As he knows, the primary focus will be on getting people back to work and ensuring that the courses available meet the needs of local industry and the economy. Minister, have you carried out, or do you intend to carry out, an appraisal of the applications in this academic year to see whether there are gaps in the provision across the higher and further education sectors?

**Dr Farry:** I thank the Member for her question. We have a very comprehensive set of provisions, so I would not so much say that gaps in provision are emerging as that there are issues of supply and demand that we need to address from time to time. I stress that we are seeing an increase in the numbers of applications for STEM subjects, particularly over the past 12 months. People are no doubt thinking more closely about their future career prospects. I know that we have seen a similar trend in the Republic of Ireland. I also understand that, in the secondary education system, we have seen an increase in the number of applications to STEM-related GCSEs and A levels, which is also a good and encouraging sign for us.

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

## Parkanaur College

7. **Ms McGahan** asked the Minister for Employment and Learning to outline the level of support which his Department provides to Parkanaur College in County Tyrone. (AQO 2521/11-15)

**Dr Farry:** My Department has an annual contract with the Thomas Doran Parkanaur Trust to purchase residential vocational training, and it has pledged to provide funding for up to 15 training places at Parkanaur College for 2012-13. That is despite the fact that occupancy has averaged between only seven and 10 trainees during the past number of years. The Department pays Parkanaur trust an annual training fee of £16,285 a person, as well as travel costs and a weekly personal training allowance for each trainee. That is supplemented by an additional £84,000 for residential care costs. In 2011-12, the Thomas Doran Parkanaur Trust received £207,485 in funding from the Department.

Officials from the Department's disability employment service work closely with staff at Parkanaur College to help to promote the specialist facility, raise public awareness and encourage trainee referrals as appropriate. That includes organising annual visits to the college for employment service advisers and careers advisers, who provide advice to people and refer them to Parkanaur College. I am also on record as being willing to review the funding commitment, subject to demand, suitability and available resources.

**Ms McGahan:** I thank the Minister for his response. Does the Department intend to



increase the number of places that it allocated to Parkanaur College? Can the Minister provide an assurance that the Careers Service in his Department is correctly signposting those students who might benefit most from a placement in Parkanaur College?

**Dr Farry:** I thank the Member for her supplementary question. I see that she is following in the footsteps of her predecessor, Michelle Gildernew, in pushing this issue.

We do not have any immediate plans to increase the numbers of trainees. As the Member will appreciate, we are currently funding 15 places, but we do not have full occupancy. She rightly highlighted the importance of making the facility known. It will not be appropriate for every person; there may be cases where they would be better taking forward their skills and training in different types of settings. However, where it is appropriate, we are very happy to draw the facility to people's attention. My careers advisers are very much aware of that. I think that I am probably the only Minister in my Department who makes annual visits to Parkanaur, and that includes my predecessors. I have had the privilege over the past two years of being to the college's annual prize-givings, which are very moving events. I will certainly continue to keep up that habit over the coming months and years.

**Mr Principal Deputy Speaker:** That concludes Question Time, so I ask Members to take their ease for a few minutes.

*(Mr Speaker in the Chair)*

**3.00 pm**

## Private Members' Business

### Civil Service (Special Advisers) Bill: Second Stage

**Mr Allister:** I beg to move

*That the Second Stage of the Civil Service (Special Advisers) Bill [NIA 12/11-15] be agreed.*

I begin by thanking the staff of the Bill Office and Legal Services for the very extensive help that they have been throughout this process. Any Member who has sponsored a private Member's Bill will know that it is a complex procedure, through which many hoops have to be passed. I am very grateful for the professional guidance of the staff and the extremely professional manner in which they conducted themselves and assisted me at all times. Whatever happens to the Bill, I come away from this process with a very enhanced view of the professional staff in the Bill Office and in Legal Services. I think that it is right and proper that I put that on the record in the House.

Everyone probably knows that the genesis of the Bill is the audacious and calculated appointment by the Culture Minister of Mary McArdle as her special adviser, and the hurt that that caused, in particular to the victim family most affected by that, the Travers family. That is what crystallised my thought processes and determination to seek to do something about that situation. The Bill flows from that determination.

I pay tribute to the Travers family. I take that back to Tom Travers, who served this country as a resident magistrate for many years. As a young barrister, I spent many days in Tommy Travers's court representing those who had got themselves into difficulty. Whereas Mr Travers was not a great one for easy acquittals, if I can put it like that, when it came to dealing with individuals, he was a most compassionate man. He was a man who would give anyone a second chance, and if there was a positive way forward for someone, he would seek it out. His humanity and compassion always struck me. In April 1984, of course, a most grotesque and murderous attack was made not just on him but on all his family members who were with him at St Brigid's chapel on Derryvolgie Avenue.

Mary Travers was 22 years of age, full of life and enthusiasm, and embarking on a teaching career. Everything I have heard about her indicates that she carried with her those same characteristics of compassion and humanity and great gentleness. She was brutally shot in the back. Her father was shot six times and grievously injured, and the intention was that her mother was to be shot also, because, as she tended to Mary, the gun was pointed at her head and the trigger was pulled but, mercifully, the gun jammed. That was one of the most touching episodes in all of the Troubles. I think it touched folk of all religions and persuasions that a young girl going about her Sunday morning religious activities could be, with the rest of her family, picked out for murder in such horrendous circumstances.

**Mr A Maginness:** The Member rightly raises the fact that Mr Travers was a resident magistrate, and that murder was attempted on him. One can associate that with the attempted murder of County Court Judge Garrett McGrath and the murder of County Court Judge Billy Doyle. All three of those outstanding members of the legal profession were Catholics. Would one not deduce from that that the IRA specifically identified those people in a campaign to drive Catholics out of the judiciary?

**Mr Allister:** The Member is absolutely right. I think it is indisputable that those who dared to serve and to dispense justice in Northern Ireland were particular objects of the murder campaign of the IRA. They were brave men who, despite the risks, did not take the easy option of simply carrying on in private practice, but burdened themselves with the duty of serving on the bench. Then and now, this community owes a debt of gratitude to them all.

I also commend the most courageous stand that has been taken by Mary Travers's surviving sister, Ann Travers. Tommy Travers was a man who, as I have described, was gentle and compassionate, but he was also most stoic and determined. That was clear from the manner in which he returned to the bench, despite his injuries, and gave many more years of service. It seems to me that his daughter Ann inherited those characteristics of determination. The manner in which she has spoken out courageously in difficult circumstances, and the manner in which she has stuck to that course, demonstrates how stoic an individual she is. This society owes her a tribute too for her strength and courage in facing up to and facing down the circumstances that arose from the appointment of Mary McArdle. Today, as it is now a matter of public record and knowledge, I hope that most in this House would join in

wishing Ann Travers a full recovery from the health battle that she is fighting. If ever there was a courageous woman, it is Ann Travers.

In part inspired by and driven on by what I saw in that family, I bring the Bill to the House, so that it has the opportunity of saying that never again will someone guilty of such a vile, vicious murder be elevated to one of the top administrative posts in this land. The Bill will also ensure that, in accordance with the standard of probity that we expect in public life, that insult will not again be visited upon either a victim's family or the law-abiding community of this land.

I will move on to some of the details of the Bill. There is nothing novel about imposing the absence of a criminal conviction as a qualification for a job. I could give many examples. Estate agents cannot, by law, be estate agents if they hold certain convictions. Solicitors' clerks cannot be solicitors' clerks if they hold certain convictions, so why not special advisers in government? Special advisers are in a very special, very privileged place. They are senior civil servants in status and in reward. They have access to all government papers and are pivotal in the making of, and in coming to, government decisions. Some might say that, de facto, they are the Government at times in the negotiations that they conduct, particularly in an arrangement such as that which prevails here. Yet, they are appointed in a process of political patronage in which they are exempted from the merit principle and exempted, as things stand, from security vetting, which gave rise, just over a year ago, to the fact that the Culture Minister could appoint her former commander from the prison as her special adviser. That is unconscionable. It is wrong. Steps must be taken to ensure that it can never happen again.

My Bill addresses four issues that affect special advisers. Number one is who cannot be appointed and why. Number two creates accountability to the Assembly by introducing an annual report on special advisers. Number three takes codes of conduct and appointment that exist as guidance and puts them on a statutory basis. Fourthly, it removes an anomaly that, I am sorry to say, affects you, Mr Speaker, whereby the Speaker, over and above the help that he has from the Commission-appointed adviser, has the capacity to himself appoint a political special adviser, a step that has not been exercised by our present Speaker. Thus, it has become something of an anomaly.

Clause 1 defines a special adviser in pretty regular and uncontroversial terms as someone appointed by the Minister. They continue in office as long as the Minister holds office and are the Minister's choice for that position. Clause 2 introduces, as a qualification for holding that position, the absence of serious criminal conviction. It is not just terrorist conviction. It is a conviction for any serious crime, be it rape, murder, or robbery — any offence collecting a sentence of five years or more.

### 3.15 pm

The Bill also seeks to provide that anyone in office as a special adviser who collects such a conviction loses their position and anyone already in position who has such a conviction loses their position, with the appropriate compensation, as provided for in schedule 1. I will come back to that.

Some say that I am seeking to introduce retrospective legislation. Let me say straight away that the Bill is prospective, not retrospective. It applies from the day it is made. If it was retrospective, it would take effect before it was made and would be deemed to have always had effect. The Bill will not change the legal nature of a past event. It will simply make a past event a condition of current eligibility for a position.

There are many authorities that I could take the House to, but I will mention only one, Bennion, a very famous writer on these matters, who said:

*"Changes relating to the past are objectionable only if they alter the legal nature of an act or omission in itself. A change in the law is not objectionable merely because it takes note that a past event has happened, and bases new legal consequences upon it."*

The Bill does not state that the appointment of a special adviser with a serious criminal conviction was void from the outset. It does not seek to claw back salary paid to such an adviser. It simply states that, from this point in time onwards, that person is ineligible to be a special adviser.

I mentioned the position of solicitors' clerks. That issue was taken to the Court of Appeal, and a very famous judgement was issued in that regard, holding that that Act was not retrospective. The court stated that:

*"It enables an order to be made disqualifying a person from acting as a solicitor's clerk in the future and what happened in the past is the cause or reason for the making of the order, but the order has no retrospective effect. It would be retrospective if the Act provided that anything done before the Act came into force or before the order was made should be void or voidable, or if a penalty were inflicted for having acted in this or any other capacity before the Act came into force or before the order was made. This Act simply enables a disqualification to be imposed for the future which in no way affects anything done by the appellant in the past."*

That leads me on to deal with a point that has been touched on by the Attorney General, who, in evidence to the Committee for Finance and Personnel just last week, tentatively suggested that there could be a potential infringement of article 7 of the European Convention on Human Rights. Let me read article 7.1 of the convention. I think that, as the House follows it, it will see how strained the suggestion is that the Bill could breach article 7. It states:

*"No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed."*

From first principles, what does that mean? I am clear that it prohibits retrospective criminal penalties. You cannot be found guilty of something that was not an offence when you committed it, nor can you be given a penalty that is greater than that which pertained when you committed the offence.

The Attorney General suggests that it prohibits the imposition of a conviction as a qualification for a post, because that has the effect of increasing the penalty. I utterly disagree with that. I even dare to suggest that it seems he disagrees with himself. If it were right that you could not impose the absence of a conviction as a qualification for a post after that conviction and sentence had been imposed, then the Justice Bill that this House passed last year would have been beyond the competence of this House.

Paragraph 9(3) of schedule 1 to the Justice Act (Northern Ireland) 2011 introduces something new. It states:

*"A person is disqualified for being an independent member of a PCSP if —*

*(a) that person has been convicted in Northern Ireland or elsewhere of any offence and a sentence of imprisonment or detention has been passed on that person".*

What is that doing other than saying that you can retrospectively, in that sense, impose a disqualification on someone because of an earlier conviction when, at that earlier time, that disqualification was not in vogue? That is exactly and precisely what clause 2 of my Bill seeks to do, where it says that a conviction disqualifies you from holding a certain post.

As I understand it, the Attorney General is not quibbling over the possibility of someone being displaced because the compensation afforded them meets their convention rights in that regard, but he is suggesting that having any regard to an historic or pre-existing conviction offends article 7. It patently did not in the case of the Justice Bill, so why should it be so with this Bill?

Likewise, Westminster recently passed the Police Reform and Social Responsibility Act 2011, which deals with the appointment of police commissioners. It also provides something new, in that someone with a pre-existing conviction is disqualified from holding the post of a police commissioner. That was not the position when that aspirant might have committed the offence; it is the position now, and as that Act runs from now, so to speak, it now imposes that disqualification.

Again, there is no suggestion that that provision was not article 7 compliant or was not human rights compliant, not to mention the extensive legislation that prohibits people with certain earlier convictions from working with children — again, something that was introduced retrospectively, if you like.

I also note that having this debate — the Bill having been introduced and having reached Second Stage — is confirmation that the authorities of this House regard the Bill as competent. It could not be held to be competent if it were not thought to be European Convention compliant. With the legal advice that he gets, the Speaker has decreed the Bill to be competent. So, not only have I the meagre support of my own opinion, the help of the draftsman and the legal advisers, but I have the clear indication that the Bill is competent arising from the fact that it is before us at all.

I will move to some of the other clauses. Clause 3 simply defines a serious criminal conviction as anything involving a five-year sentence or more. Let me say that there is nothing magical about five years. Five years is quite often regarded in law as a significant benchmark between very serious crimes and not so serious crimes. However, there is nothing magical about it. I am not wedded to it. If the House in its wisdom thinks that a different tariff is the appropriate benchmark, so be it.

I move to clause 4. In a couple of places in the Bill, I seek to borrow from provisions in Westminster legislation that touch on special advisers. The legislation that does that the most and is most pertinent to this Bill is the Constitutional Reform and Governance Act 2010. It provides that an annual report shall be laid in respect of the number and cost of special advisers. It does that for England and Wales and, interestingly, for Scotland. It includes the devolved institutions in Wales and Scotland, but the absentee from the list is Northern Ireland. I am saying that we could do a lot worse than follow that example to bring ourselves up to speed with what is provided elsewhere.

In the Bill, apart from its main thrust, I am taking opportunities to tidy up the law here and there to what I suggest is the betterment of the situation. One of those opportunities is to bring in that reporting restriction, which is not onerous. There has been controversy and questions in the media and elsewhere — I might have generated some of those myself — about the cost of special advisers to our Exchequer. We probably all know that there are currently 19 special advisers. This report would simply entail the Finance Minister lodging an annual report about the number and cost of special advisers. If he wants to give more detail, so much the better, but that would be the de minimis requirement of him. I do not think that anyone should have anything to hide in that regard. It would be in the very prudent hands, no doubt, of the Finance Minister.

I move to clause 5. Again, this is modelled on section 8 of the Constitutional Reform and Governance Act 2010, which provides the basic tenets of a code of conduct. The Minister of Finance has such a code of conduct, and I am not criticising it or saying that it is deficient. I am simply saying that it should be put on a statutory footing to give it the extra strength, the lack of wriggle room and the lack of dissent that affords. Let us put it on a statutory basis and get it as is done elsewhere. Clause 5(2) sets out some of the minimum things that need to be in a code of conduct. It is not that there cannot be more. There is more in the present

code, and there should be more in the present code. Clause 5(2) simply states that there are minimum things that should be in it.

I come to clause 6, which again is based on the 2010 Act. It suggests that the code of appointment of special advisers should be put on a statutory footing. Why? I am not saying that the present code for the appointment of special advisers — whichever is the present code — or the guidance is wrong or glaringly deficient. I am simply saying: let us put that on a statutory footing.

So, let us insert the minimum requirement into statute, as clause 6(2) does. Clause 6(2) states that, "without prejudice" to whatever else is in the code, it:

*"must provide that the appointment of special advisers must be subject to the same vetting procedures"*

as the appointment of civil servants. What on earth could be wrong with that? You could have people exercising, shoulder to shoulder with permanent secretaries, the functions of a special adviser with equivalent status and the same ability to call for and examine papers and all of that; yet, one of them has been vetted before getting his or her job and the other has not. The House should say, "We expect no less". If it is right for civil servants to be vetted, it is right for civil servants called "special advisers" to be vetted. Never forget that they are civil servants. Clause 6 nails that down, removes the wriggle room and means that any change would have to pass through the Assembly.

### 3.30 pm

I say that particularly because of the controversy that has attended the Minister's gallant attempts to improve the code on appointments. Last September, he issued new guidance on the code of appointment that built into the code vetting of applicants for the role of special adviser. That code has not been put into effect by all parties in this House. Sinn Féin Ministers, who have since appointed special advisers, have refused to operate the new code on appointments and refused to submit their appointees to vetting. As a consequence of that impasse, their special advisers are not being paid from the public purse. I know that because of an answer, hot off the press, that I received today from the Minister of Finance and Personnel. I asked him how many special advisers had been appointed by Sinn Féin Ministers in full compliance with

his guidance on the appointment of special advisers and were being paid as civil servants directly from public funds since he introduced that guidance in September 2011. His answer was "None".

So, we have guidance that is fine in every regard except that it is not being adhered to. I say that the answer to that is clause 6, which will put it on a statutory footing and will put it in statute the fact that vetting is required. Therefore, it will become inescapable. If Ministers then want special advisers appointed to the Civil Service, they will have to comply with what the law says, as the ministerial code requires them to. So, I say that that is a sensible provision to make.

I now come to the fourth purpose of the Bill, which is to remove from you, Mr Speaker, the right to appoint a special adviser. It is now largely an anomaly. When the 1999 order was passed, enabling Ministers to appoint special advisers, included in it was the same right for the Presiding Officer to appoint a political special adviser by political patronage. However, we have moved way beyond that. In recent years, the Assembly Commission has appointed, by due process of recruitment, a specific adviser to the Speaker. That person's post is not dependent on a particular person holding the Speakership; they are there to advise the Speaker, whoever he or she might be. That is the way that it should be. It is, therefore, now anomalous and unnecessary for the Speaker to have the additional and unexercised power to appoint, by political patronage, a special adviser. Not only is that now effectively defunct, but, secondly, it does not sit comfortably with the independence of the Speaker to have him able to appoint by political patronage a political special adviser. For those two reasons, now is the opportunity, with this Bill, to remove that from the 1999 order and regularise that situation.

In introducing my Bill, I highlight those points. The Mary McArdle appointment highlighted a significant gap in our law, and, as legislators, we either face up to it or we ignore it. Let each Member decide whether it is right that someone with serious convictions, which can include murder, can hold a position not only to which they are not appointed on merit but to which they are appointed in spite of the pain and anguish that that causes to their victims. They are not just appointed to any post but to one of the most seminal posts in public administration. Some can be paid up to £90,000 a year out of public funds for doing the job. It is for each Member to weigh up whether they are comfortable with an arrangement that allows

that to happen or whether they are sufficiently exercised to want to do something about it. The Bill, in terms that I suggest are modest, proportionate and necessary, affords the House the opportunity to do something about it. I trust that that opportunity will be taken.

**Mr McKay (The Chairperson of the Committee for Finance and Personnel):** Go raibh maith agat, a Cheann Comhairle. The Finance Committee was notified at its meeting of 5 September that, should the Bill pass its Second Stage, it would stand referred to the Committee unless the House ordered otherwise. At that meeting, it was agreed that evidence should be invited from the Bill's sponsor, Mr Allister, on its provisions. The Bill confers functions on the Department of Finance and Personnel, so departmental officials were also invited to give evidence. Additionally, the Attorney General was invited to address concerns regarding legislative competence, although the Committee is mindful of the fact that it can take its own legal advice on the issue in due course. The evidence sessions were held at the Committee's meeting of 19 September.

In his evidence to the Committee, Mr Allister outlined the provisions of each clause and the schedule. The Committee heard that the Bill defines what a special adviser is and specifies that a person will not be eligible to be appointed as a special adviser if they have a serious conviction, which is defined as any conviction with a custodial sentence of five years or more. Duties placed on the Department by the Bill include the requirements to issue a code for appointment of special advisers, to issue a code of conduct for special advisers and to lay an annual report about special advisers before the Assembly. Mr Allister also advised that the Bill would remove what he considers to be an anomaly in respect of the unexercised power of the Speaker to appoint a special adviser, and he referred to that in his speech. The practice has been that such an adviser is appointed by the Assembly Commission and fulfils the role irrespective of who the Speaker is.

During the discussion, Committee members raised a number of issues, including the process that was followed for the consultation undertaken on the Bill's policy proposals; the need for the legislation, given that arrangements for the appointment of special advisers already exist; potentially retrospective aspects of elements of the Bill; compensation for termination of employment; the status of people released under the NI (Sentences) Act 1998; and the Bill's compliance with the European Convention on Human Rights. As

was agreed during the evidence session, Mr Allister subsequently provided the Committee with information on the dates of the consultation.

During the subsequent evidence session, the Committee heard from a senior official from the Department, and it should be noted that the official made it clear that his evidence should not be taken as any comment on the policy behind the Bill. The Committee heard that it was not envisaged that the requirements in the Bill to lay documents, including codes and an annual report, would present the Department with any difficulty or incur significant cost. The official answered members' questions on a number of issues, including whether there is a requirement for Executive agreement on the arrangements for the appointment of special advisers; the number of special advisers appointed since September 2011; the process for determining special advisers' salaries; proposed severance arrangements; current vetting procedures; and the possibility that Secretary of State permission is needed to amend the Civil Service Commissioners Order 1999.

Finally, the Committee took evidence from the Attorney General, Mr John Larkin, who advised that he is a statutorily independent law officer and chief legal adviser to the Executive, particularly on Bills, and wished to give as much assistance as he could to the Assembly and its Committees. The issues discussed during the evidence session with the Attorney General included the retrospectivity of particular provisions in the Bill; the release of prisoners under the NI (Sentences) Act 1998; concern about potential non-compliance with the European Convention on Human Rights, particularly article 7; the process for referral of provisions of the Bill to the Supreme Court and the European Court of Human Rights in Strasbourg; and the interpretation of convictions in other jurisdictions. I thank all those who gave evidence to the Committee at its last meeting. It was a very valuable exercise that will have helped to inform Members, particularly Committee members, in advance of today's debate.

I will move on to Sinn Féin's position. It is important to reflect on the comments of the Attorney General last week. He raised concerns that stem from article 7 of the European Convention on Human Rights, which prohibits retrospective penalisation. So, one cannot retrospectively render criminal that which was not criminal at the time. It also prohibits an increase in penalty or the imposition of a heavier penalty than was

available at the time. It is worth looking at some of the Attorney General's comments. He said:

*"It strikes me that in the cases where retrospective measures have been imposed throughout Europe ... — cases that have survived scrutiny at Strasbourg — have been measures that, although retrospective in their effect, have been typically for a public safety purpose."*

Mr Allister made reference to the example of people who work with children and so on. Mr Larkin went on to say:

*"However, you then look at a purpose and its severity ... I am not fully aware of what the purpose may be, but, as I listened, at least partly, to Mr Allister, it seems that that does loom large. It is based, at least in part, on the idea of the public, or a large section of the public, recoiling from the presence of certain people".*

He continued:

*"That is the point of the Bill and that is why, I think, there are dangers in relation to the competence of clauses 2 and 3 as they stand at present."*

There are serious questions about the competence of the Bill, and Sinn Féin is concerned about that. That is one of the many reasons why we will not support the Bill as it makes it way through the House. It singles out former political prisoners. The proposer has said on the record that he does not want European funding, for example, to go to any ex-prisoner groups, and the Bill is against the ethos of the Good Friday Agreement, which says that the Governments —

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

**Mr McKay:** Yes.

**Mr Campbell:** The Member indicated that the Bill singles out former political prisoners. Is it not more accurate to say that the Bill singles out former convicts who have served five years or more for very serious terrorist offences?

**Mr McKay:** It is obvious that the Bill is directed towards ex-IRA prisoners. Let us not beat about the bush; that is what this is about. That is the purpose of the Bill.

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

**Mr McKay:** Yes.

**3.45 pm**

**Mr Beggs:** How would the Member feel if Johnny Adair were appointed as a political adviser to someone in the unionist community? Will you take cognisance of the effect that appointing someone with such a history has on the unionist community and on your own nationalist community?

**Mr McKay:** I thank the Member for his intervention, but it is important to reflect where we are going with all this. There are ex-prisoners throughout all our communities. Ex-prisoners have been Members of the House on all sides, and members of every political party work with ex-prisoners. Ex-prisoners are in various positions in society and the community. A lot of them carry out very important roles. One can look at David Ervine, for example, who was a very articulate Member of the House and made a valuable contribution to the peace process. I may not have agreed with everything he said, but he played a very important part in the peace process in east Belfast and elsewhere. There is a contradiction, because the Ulster Unionist Party wanted David Ervine to join its group in 2006. At that time, David Ervine was an ex-prisoner and he had been convicted and sentenced to 11 years. So I put that to the Member: is there not a contradiction in his position?

**Mr Speaker:** Order. Let us not have a debate across the Chamber. This is not a conversation.

**Mr Beggs:** Does the Member accept that David Ervine had been elected by the people, just as Members of Sinn Féin are elected by the people, and that has to be respected by everyone? We are talking about someone who was given a very significant salary without having won a post through a merit process openly available to everyone. She had not been given appropriate security clearances to gain access to the Senior Civil Service. She was given that very important role, not on merit and without the appropriate security clearances.

**Mr McKay:** The Member must have misunderstood my point with respect to David Ervine, which is that he played a very valuable part in our society in recent years. Why should he have been discriminated against under legislation such as this? On this side of the House, we have a number of ex-prisoners. Why should they be discriminated against? That is a step back, an unwinding of the Good

Friday Agreement. It is somewhere we should not go. We have to move forward. Isolating ex-prisoners in this society is not the way forward. That needs to be put on the record.

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

**Mr McKay:** Yes.

**Mr Dickson:** The Member has referred to the isolating of ex-prisoners in the community. He has just been questioned by another Member about how one might perceive a loyalist ex-prisoner in such a role. Does he agree that that question sits at odds with the comments made by the Ulster Unionist Party leader at the weekend, who said that he would help:

*"any ex-prisoner, and anyone associated with ex-prisoner groups, if they are genuine about using their commitment and energy positively for their community."?*

He added:

*"We made commitments in the Belfast Agreement that linger unfulfilled".*

**Mr McKay:** Absolutely. I do not want to go too far away from the principles of the Bill, a Cheann Comhairle —

**Mr Speaker:** That would be very useful.

**Mr McKay:** There are a lot of contradictions in that party's position. We have to look —

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

**Mr McKay:** Yes.

**Mr McCartney:** Further to the point made by Stewart Dickson, who reminded us, through the Speaker, of what the leader of the UUP said, I saw Mr Beggs clapping enthusiastically on television. In relation to ex-prisoners, the leader of the Ulster Unionist Party also said:

*"I want them to tell me what they want to be, not what they were."*

This legislation will enshrine that people will continually have to say what they were, rather than what they want to be.

**Mr McKay:** I thank the Member for his intervention.

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

**Mr McKay:** Yes. I am up and down like a yo-yo.

**Mr Beggs:** We are talking about a very select few. Only a few special adviser posts are available. I accept wholeheartedly that the fact that someone has a past does not mean that they cannot have a future. However, we are talking about putting people into very sensitive roles, and there ought to be due regard for those who may have suffered.

**Mr McKay:** The Member makes an important point. A lot of people have suffered in this society. In the nationalist and republican community, a lot of people have had a lot of difficulty with people who were released under the Good Friday Agreement, but we have to move on. Prisoners have to be reintegrated into the community and into society. We cannot turn back the clock.

It is important to look at political appointments. A number of parties are taking positions that they have not adhered to themselves. In 2004, the proposer of the motion was an elected member of the European Parliament. At the same time, he was a member of the leadership of the DUP in north Antrim. In that same year, the DUP appointed as a party officer an ex-LVF prisoner who was involved in a killing in Ballymoney and received the due sentence, which would have been more than five years. At that time, Mr Allister did not take his party to task, nor did he query the appointments process. That is why I call into question the motivations behind this legislation.

As I said, we have to move on. We cannot move back to the days before the Good Friday Agreement. Prisoners are neglected and used as political pawns, as is the case here. As I have already said, they have been used by all political parties on the other side of the House. There have been some very fiery debates over the past number of days, and, on the unionist Benches, there is so much contradiction, especially about ex-prisoners. *[Interruption.]* I see that the Member for East Derry is making comments from a sedentary position, but it was only six years ago that he said, in respect of appointments to the police, that ex-prisoners should be considered on their particular circumstances. I think that he said, "if they had repented". I do not know how you legislate for repentance, but maybe the Member could inform us.

**Mr Campbell:** The Member for East Londonderry did not say that at all. What he said was that anybody who applied obviously



had to be considered in that the envelope had to be opened. Once it was opened and it was seen that there was a conviction, that was the end of their application.

**Mr McKay:** I remember something different regarding the controversy that was created on 'The Stephen Nolan Show' at that time and the clash that he had with the Police Federation, but however.

In reference to the Ballymoney case, when Mr Allister was a member of the DUP in North Antrim —

**Mr Speaker:** Order. This is the Second Stage, and it is about the principles of the Bill. We are really straying well outside the principles of the Bill. I ask all Members from all sides of the House to stay within the ramifications of the Second Stage of the Bill. Certainly, I will allow some Members latitude in and around the principles of the Bill.

**Mr McKay:** I will just make one final point on the matter, a Cheann Comhairle. It is in regard to prisoners and how they have been accepted in political parties. The person I referred to who was convicted of the killing in Ballymoney said on a website in January 2007 that his convictions did not prevent the DUP — and Jim Allister, obviously, at that time — from accepting him as a member:

*"nor did the party cringe when I tramped the roads and streets of North Antrim canvassing in the 2003 and 2005 elections."*

I will conclude by saying that there should be no return to discrimination; there should be no return to the days before the Good Friday Agreement; and we should really stop bringing legislation and debates to the House that sit uneasily with members of the public. We should show leadership on these issues. Steps need to be taken with members of the ex-prisoner community, regardless of where they came from, to ensure that they reintegrate into society and play a positive role in our communities. Quite obviously, they have played roles in many political parties in the House, and Members have had no problem with that. The question is this: why do certain Members have a problem with that today?

**Mr Cree:** I welcome the opportunity to speak to the Second Stage of the Civil Service (Special Advisers) Bill. I will take your advice and try to stick to the principles. The difficulty is that, when you follow someone of the stature of the

promoter of the Bill, there really is not an awful lot left to say, but I will do it anyway.

We are told — this is a fundamental point — that special advisers are employed to assist Ministers on matters on which the work of the Northern Ireland Assembly and Ministers' party responsibilities overlap. That is the first point. It would be inappropriate, therefore, for permanent civil servants to become involved in such cases, so special advisers have a role. They are an additional resource for Ministers, and, while they enjoy the position of senior civil servant, their appointments are temporary. Special advisers are exempt from the general requirement that civil servants are appointed on merit, and it is essential that they have the utmost integrity and be of good character.

The appointment of a Sinn Féin adviser recently caused much concern in the community because of her conviction for murder. Mr Speaker, as you know, a special adviser can earn up to £90,000; it is not just any post. Under clause 2, the Bill will disqualify candidates who have such a record. Compensation or a termination payment is provided for in the schedule to the Bill, and that tends to address the issue of termination of employment.

Mr Allister has also covered the term "serious criminal conviction" very well. It has been defined for the purposes of the Bill as a conviction for which there is a sentence of five years or more.

There are other points, which, again, have been referred to. The Department of Finance and Personnel will be required to issue an annual report about special advisers employed during that year. It will also issue a code of conduct for special advisers, bearing in mind what exists in the rest of the United Kingdom and its legislation. An anomaly with respect to the Presiding Officer is also addressed in the Bill.

The overriding objective of the Bill is to place on statute the issues that have been referred to. The Ulster Unionist Party is content to support the Bill and to allow it to proceed to Consideration Stage.

**Mr A Maginness:** I rise to outline the SDLP's position on the Bill. We as a party are sympathetic to the declared aim of the Bill, which is to tackle the issue of the appointment of ministerial advisers and, in particular, the protection of the victims of paramilitary violence from the appointment to office of those who have caused death and injury to their loved ones. However, that does not mean that we

give unqualified support to the Bill and its individual clauses, as it stands. We will deal with a number of the matters that concern us when the Bill comes to Committee and Consideration Stage. We will, however, vote for the Bill to be sent to Committee today for legislative scrutiny and proper parliamentary examination and debate. Today, we deal only with its principles, not its details. It aims to establish justice and fairness for the victims of paramilitary violence. That is a good aim, and it is an aim that should be supported.

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

This issue arises out of the appointment of Mary McArdle to the position of special adviser to the Minister Carál Ní Chuilín. Mary McArdle was convicted of the murder of Mary Travers and the serious wounding of her father, Tom Travers, a Belfast magistrate. The attack on both of them included the attempted murder of Mrs Travers. That attempt failed when the gun jammed. One could not pick a more egregious atrocity during the Troubles: the death of a young Catholic schoolteacher in the prime of her life and career, before a loving father and mother coming out of Sunday Mass. The murder was not only cruel and hideous but sacrilegious and even blasphemous. Despite those egregious aspects of an appalling murder, which, incidentally, was done to intimidate Catholics and, indeed, nationalists out of the judiciary — I made that point to Mr Allister in an earlier intervention — Sinn Féin appointed the only person convicted of the murder to be a special ministerial adviser.

That appointment was both insensitive and provocative. That is probably an understatement. Whether that appointment was unintentional or deliberate is a point debated by some today. The evidence to date suggests that it was probably a deliberate choice by Sinn Féin.

#### **4.00 pm**

First of all, the House should note that the issue of Mary Travers's murder was raised a few months prior to Mary McArdle's appointment in a radio interview between Martin McGuinness and RTÉ presenter Joe Duffy. At that time, Mr McGuinness was standing for election to the office of president of Ireland. Ann Travers phoned in to challenge Martin McGuinness for not condemning — indeed, supporting — the attack on her father in 1984. Sinn Féin was, therefore, warned in advance about the delicate and sensitive issue of Mary Travers's murder. Despite that, it insisted on appointing Mary

McArdle. I suspect that it did so out of political arrogance and sheer indifference to the plight of a suffering victim's family. Effectively, it said, "We have the right to appoint and we will, therefore, exercise that right" despite the sensitivities surrounding the death of Mary Travers.

I believe that that appointment was also part of Sinn Féin's corporate view, which is this: "If we appoint somebody like Mary McArdle, we will send out a message to all and sundry that although the war is over," — its so-called war, which I do not accept and most people in the House would never accept — "even now, we do not admit that the war was wrong: we fought like an army and our IRA members should be treated as combatants, not as criminals." To differentiate between Mary McArdle and a non-convicted person is unacceptable in the eyes of Sinn Féin.

In its rewriting of the IRA narrative of the Troubles, Mary McArdle is a warrior, not a murderer. She is a member of an ex-prisoner elite who could be appointed to sensitive political positions irrespective of victims' feelings. Sinn Féin refused to budge on that issue. All of us in the House can remember that debate. Not one inch did Sinn Féin budge. It asserted its rights and stuck to them. That speaks volumes about its insensitivity to victims of the Troubles and its desire to rewrite history in its eyes.

Ann Travers, sister of Mary Travers, has fought the cause valiantly on behalf of her murdered sister and now-deceased father. She has written that it looks as though Mary McArdle was rewarded by Sinn Féin for her work as an IRA member. That highlights the need to, once and for all, have a proper mechanism to deal with the past and to address the needs of victims and their families.

Sinn Féin persists and has brazened its way through the issue, contending that it had no case to answer with regard to Mary McArdle's appointment. It asserted that the system of appointment was acceptable and that it should not have to change it. It held to that position until it quietly moved Mary McArdle to a position in Sinn Féin. By then, the damage was done. Thus, we have the present Bill, presented by Mr Allister.

Some in Sinn Féin have argued that, because the Bill was put forward by Mr Allister, it should be opposed. That, I believe, is an unacceptable position, and we in the SDLP reject it. Yes, we strongly disagree with Mr Allister in his politics and continued opposition to the Good Friday

Agreement. However, we will consider the Bill on its merits, not its parentage. We support parts of it and are concerned about other parts of it, but we will consider those in due course as it passes through its stages. Let me stress that the SDLP has given no blank cheque to the Bill. We will scrutinise its clauses in detail and bring amendments if necessary.

We want to see legislation to address the issue of appointment justly, equitably and in the context of human rights. At the end of the day, we wish to see special advisers treated no better or worse than any senior civil servant of corresponding rank. No privilege should be attached to a special adviser appointed by a Minister. We support the Bill in its Second Stage and look forward to discussing it further in Committee and at Consideration Stage.

**Mrs Cochrane:** I welcome the opportunity to speak on the Bill as brought forward by the Member for North Antrim.

As Members have heard, the primary objective at the core of the Bill serves to disqualify prospective and existing special advisers with serious criminal convictions, with secondary objectives designed to produce a revised code of conduct and code of appointment, to publish an annual report giving detailed information on each special adviser and to remove the capacity of the Speaker to appoint an additional special adviser. Some may, on first sighting, perceive potential merit in some aspects of the Bill. If indeed there is merit, it would probably be more appropriate that the Department itself brought forward such legislation, as it would be more considered and balanced and reflect policy elsewhere.

Looking at the Bill —

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

**Mrs Cochrane:** Yes, I will.

**Mr Beggs:** Does the Member accept that legislation brought forward by the Department would have to get through the Executive, and that there might be a difficulty there?

**Mrs Cochrane:** I take the Member's point, although the Bill will require cross-party support here anyway, so I do not think that that should make the difference.

Looking at the Bill in detail, I see that it is clause 2 that substantially changes the current practice. It is here that we have to ask the broader question of whether the proposed

legislation is appropriate. In other spheres, we do have legislation specifying certain areas of employment from which people should be barred. However, that is based either on concerns about public safety — for example, the protection of children and vulnerable adults — or the direct relevance of crimes committed to the job in question. Mr Allister's Bill is a sweeping exclusion based on his view that anyone convicted of any crime for which they have received a sentence of five years or more should be deemed unsuitable for the job of special adviser. That takes us significantly beyond exclusions that apply in other areas.

The main question that we need to ask is this: should there be vetting for special advisers? Mr Allister's view is that there should be, but he argues that it should be akin to that for other senior civil servants. There are two fundamental flaws in that logic. The first flaw is that he has argued publicly that special advisers are significantly different in power, status and employment terms from other senior civil servants. In his evidence to the Finance and Personnel Committee, he referred at length to the temporary nature of their appointment, comparing it with Civil Service appointments, which are a job for life.

About their power and status, he said:

*"some might say that, on some occasions, they effectively are the Government, because they almost make governmental decisions. They advise the Ministers, and many of the arrangements made are probably the product of agreement between special advisers."*

No conventional senior civil servant would be comfortable with such a description.

The second flaw in his argument is that the bar that he is proposing is significantly different to the vetting arrangements for conventional civil servants. For conventional civil servants, unspent convictions, which are any convictions that result in a custodial sentence of two and a half years, are considered against a risk assessment matrix. Proposed appointees are then invited to provide comments to the Department of Finance and Personnel (DFP) on the decisions about those convictions, and DFP officials go through a process of weighing up all the relevant issues before deciding whether the offences should preclude a candidate from appointment.

Decisions about convictions and suitability for appointment are, therefore, based on relevance, and there is no blanket ban. Therefore, on the one hand, Mr Allister argues

that special advisers should be treated in the same way as other senior civil servants, but on the other hand, he argues that they are quite different and should be treated differently. The fact is that they are quite different. That is why codes of appointment and conduct are in place.

The appointment of special advisers is, by its nature, a subjective decision made by elected Ministers. The job specification, the role that they play and the relevant desirable and essential attributes are left to individual Ministers to determine. In light of that, it is difficult to argue that the arrangements should, therefore, be the same, even if Mr Allister's argument was consistently that, which it is not.

The Bill is, by Mr Allister's own declaration, a response to an individual instance, in which the appointment of one special adviser caused understandable upset to a family. We must recognise the horrific and devastating effect that the actions of that individual and others involved in the murderous attack on their loved ones had, but, as legislators, we must be careful about making law on the basis of an individual case.

I also have sympathy with those who have questioned why other appointments of longer standing did not cause such disquiet in this place, and we need to be careful about the consistency and integrity of our responses. I question how those of us who voted for and, indeed, campaigned for — perhaps even negotiated and agreed — the Good Friday Agreement, with its recognition of the:

*"importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education"*

could then support a Bill that allows for no consideration to be given to the nature of the crimes for which people have been convicted.

It is not just the Good Friday Agreement. The St Andrews Agreement, supported by others in the Chamber who could not bring themselves to support the agreement of 1998, committed the two Governments to working with business, trade unions and ex-prisoner groups to produce guidance for employers, which will reduce barriers to employment and enhance the reintegration of former prisoners. That will not be a convincing argument for Mr Allister, but others whose parties stood in support of either or both those agreements should consider how

their support for the Bill sits alongside such support.

Arising from those agreements, we have guidance for employers that is promoted by the Office of the First Minister and deputy First Minister (OFMDFM). 'Recruiting People with Conflict-related Convictions: Employers' Guidance' has been cited in courts of law as being relevant to the actions of Departments and may, therefore, be of direct relevance to the competence of the Bill.

In summary, the basic principle arising out of the guidance is that any conviction for a conflict-related offence that predates April 1998 should not be taken into account, unless it is materially relevant to the employment being sought, so there is no blanket barring on the basis of the length of a sentence. That is what our Executive ask of employers in the private and other sectors. Are we to ask one thing of those sectors about disregarding serious convictions unless they are immediately relevant to a particular position, yet we are not prepared to do it for the public sector? The Bill sets out to do that.

We cannot shy away from our differentiation as a society in transition. As I already said, if aspects of the Bill possess merit, it would be more appropriate for the Department to bring forward such legislation without the associated political baggage.

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

**Mrs Cochrane:** No, I will not give way. As we endeavour to move away from our dark past and seek to build a brighter future for Northern Ireland, we will be faced with many issues that have the potential to cause hurt and pain, and legislation will not always be the answer. Instead, we, as elected Members, must be cognisant of the impact that our decisions may have and ensure that we approach matters sensitively and respectfully. It is for those reasons that we will not be supporting the Bill's passage today.

**4.15 pm**

**Mr Beggs:** Is there a need for this Bill to be enacted in Northern Ireland? In looking at it, I certainly believe that there is. Let us be clear: it would affect a very small number of elite positions — those of special advisers only. They can earn up to £90,000, are not appointed through a normal merit process but through political appointment, and they are outside the present vetting procedures that everyone else

who wishes to enter the Senior Civil Service has to go through. So, we are talking about some very particular circumstances.

It is important to consider the hurt that has been caused as a result of Mary McArdle's appointment. I am very supportive of the Bill because I do not want another victim to suffer in the same way. If someone else who had been involved in a murderous act were appointed, they would, undoubtedly, come into the public domain. The issue would be forced on the victim's family, as they would relive the incident every time that that adviser was caught on camera or on TV, as the adviser is always close to their Minister. We are talking about a very small number of offences and about trying to protect into the future. So, this is not just about that one instance but about trying to prevent offence in the future.

The Department of Finance and Personnel has introduced regulations, but, from the evidence that was given to the Committee, it was clear that there is ongoing argument and discussion about them. I understand that they are being enforced by the Finance Minister, but what of the future? No one knows who will be the Finance Minister in the future and who will have the authority to impose such regulations. So, I think that there is a need to bring clarity on the issue through clear guidance in legislation. That is important.

The Bill talks about serious offences, which are defined as those that are awarded a sentence of five or more years. That seems to be a reasonable figure. It also talks about the need to produce an annual report on the number and cost of special advisers, as well as the need for a code of conduct on their appointment and behaviour. That also seems to be reasonable. It would also remove the existing anomaly regarding the Speaker, who has an assistant appointed through the Commission to help and guide him. The provision for the Speaker to personally appoint a special adviser on political grounds has not been exercised, nor is it needed. In fact, it would likely be detrimental to his role. So, that seems to be a wise addition in tidying up the legislation on special advisers. I commend Mr Allister for identifying that in his consultation.

Some Members mentioned that this type of legislation would undermine some of the Good Friday Agreement principles on the release of prisoners. I will tell you what undermined some aspects of the Good Friday Agreement for those who took a vote of confidence that tomorrow could be better and that everyone would leave their past behind them. The

Robert McCartney murder, which happened well after the establishment of the Assembly and well after the Good Friday Agreement, undermined the confidence of the people of Northern Ireland. The Northern Bank robbery also undermined the confidence of the people of Northern Ireland. Are you saying that, were someone to be convicted of those offences —

**Mr Deputy Speaker:** Order. I remind the Member that we must stick to the broad principles of the Bill.

**Mr Beggs:** I am just coming to that, Mr Deputy Speaker. The point I am making is that if people were to be convicted for those very serious offences, it would cause great offence if they were to be appointed as political advisers. Also, with respect to those who may have committed such serious offences in the past, there is doubt about their commitment to solely peaceful and democratic means because of such incidents.

So, if we are talking about a very small number of posts, on political appointment, at very senior level in the Senior Civil Service, I believe that it is proportionate to put in a degree of protection for the public and for victims who may have suffered.

**Mr Wells:** The Member listened, I think with the same astonishment as I did, to Mrs Cochrane's contribution, which, I am sure, will go down very well in East Belfast at the next Westminster election. Will you, Mr Beggs, indicate to me what prospect such legislation would have had if it had been brought before the Executive and what mechanism could have been used to block it at the Executive, which makes Mrs Cochrane's contention that this should have been brought forward through the Executive an absolute nonsense?

**Mr Beggs:** I understand that you have to have cross-community support. The major parties from both sections of the community in the Executive could have blocked it. So, I suspect those who would have been affected by it would have blocked it. Therefore, we should all be grateful for the private Member's Bill and this opportunity to discuss it, think about it carefully and, hopefully, approve it today and take it forward. If aspects need to be refined, the Committee can refine them and allow the Bill to progress further on its way and into legislation.

There seems to be a degree of discussion around the prospective nature of the legislation, with it potentially affecting those already in positions. Legal arguments can be made as to

whether it is proportionate as regards human rights. However, I notice that there is provision in the principles of the Bill for any contractual arrangements to be honoured and for a minimum period of salary to be offered to anyone affected.

It is important to note that the position of special adviser is always dependent on the appointment of a particular Minister. Ministers' positions are, as we know, transient. They can change; and when a Minister changes, so, too, does the special adviser. So, it is not like any normal job and I think that that is a reasonable judgement on what is being suggested in the legislation. It is a political judgement that we all must come to.

I note that the Speaker in his role, and the Assembly's legal advisers, have had to make an assessment on whether the Bill is within the realms of human rights and is acceptable to move forward into legislation. Those legal advisers, who are here to advise the Assembly, have deemed it to be so.

The Attorney General intervened, had a discussion and questioned one aspect of the Bill. However, he clearly indicated that there are some aspects with which he is content. He did not clearly indicate that the Bill would breach human rights. He indicated that he has concerns. It is up to us as an Assembly to come to a political judgement on what we think is right. As I understand it, it is up to the Attorney General, at the end of the legislative process, to make his assessment as to whether the legislation is human rights compliant. If, at that point, he considers that some sections of the retrospective or prospective nature may not be appropriate, he can refer them to the Supreme Court. At that point, a judgement can be made by those who are experts in this area and adjustments can be made if deemed possible.

There is no point in us making that decision now. The Bill may be entirely appropriate and within the realms of human rights. At present, we have a political judgement to make on whether the general principles of the Bill are appropriate. I certainly deem them to be so. I look forward, with the support of the Assembly, to be able to scrutinise the Bill; if necessary, take evidence in the Committee; delve into its precise outworkings; if necessary, make amendments; and, ultimately, bring it back to the Assembly and, hopefully, forward into legislation.

I would like to offer my support for Mr Allister's Bill and his work to date, and I look forward to

further progress through the Assembly's normal statutory process.

**Mr McCartney:** Go raibh maith agat, a LeasCheann Comhairle. Beidh mé ag labhairt in éadan an Bhille. I will speak in opposition to the Bill. Indeed, Sinn Féin, as outlined by Daithí McKay, will oppose the Bill throughout its passage. We believe, for a number of reasons, that it should not even go to Committee Stage. I think that this is an issue of equality and fairness. If Members are to bring any sense of honesty or integrity to the debate, they should see it for what it is: an attempt to prevent republican ex-prisoners from fulfilling the role of special adviser. The proposer of the Bill has a long history of saying that republican ex-prisoners should not be treated with any sense of equality and fairness. The Bill is just part of that process. Members should be very mindful of the need to ensure that their comments on the Bill are accurate and based on fact. I noted that Mr Maginness, on a number of occasions during his contribution, used very sectional language and, when trying to sequence some of what has taken place, he was inaccurate. We should not allow that to be a feature of the debate.

I should declare an interest as a former political prisoner. Perhaps the main reason for our opposition is that the Bill is clearly in contravention of the spirit, and indeed the terms, of the Good Friday Agreement. In my opinion, Judith Cochrane, in outlining that, did a service to the agreement. Those who say that they support the Good Friday Agreement, and, indeed, those who claimed in the past to have been its architects, should also take cognisance of that. It is very important that we read out the relevant section of the Good Friday Agreement. I know that Judith Cochrane did so earlier, but I think that it is worth quoting it again for the record and, indeed, for the Hansard report. It may inform Members as they make up their minds about whether to take the Bill to Committee Stage. The agreement clearly states:

*"The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling".*

In my opinion, the Bill is in contravention of that spirit. It says to a particular group of people who are political ex-prisoners that they are not entitled to be a specialist adviser. No one should be under any illusion about that. That is

discriminatory practice. I noted that some Members said that it was a small number of people, but it does not matter if you discriminate against one person; it is still discrimination. There is no such thing as a wee bit of discrimination: it is either discrimination or not. Who is to stop the proposer of the Bill, if he so wished, in another instance, coming in with exactly the same arguments as he made today and barring republican ex-prisoners from other areas?

Again, in the interests of accuracy and being factual, I want to point out that the proposer said, particularly in relation to the argument about retrospection, that the position of special adviser was a new one. It is not a new position: special advisers have been in place since 1999. Therefore, any sense that the Bill is somehow not retrospective flies in the face of its terms as they are presented.

Daithí McKay outlined Sinn Féin's serious concerns about whether the Bill contravenes the European Convention. That is an important point, and I do not think that it is good enough for Mr Beggs, who I notice is now absent from the Chamber —

**Mr Beggs:** No, I am not.

**Mr McCartney:** My apologies. However, this idea that —

**Mr Mitchel McLaughlin:** He is on his knees.

**Mr McCartney:** Yes, he is on his knees.

The idea of not questioning whether the Bill is competent, because, somewhere along the line, someone will tell us whether it is, is not good enough. That is our responsibility.

**4.30 pm**

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

**Mr McCartney:** Yes.

**Mr Beggs:** The Assembly's legal advisers have deemed it to be competent.

**Mr McCartney:** I do not dispute that. However, I notice that the explanatory notes talk about article 6 of the convention, but there is no reference to article 7. I am not questioning the integrity of the legal advisers, but I think that we all know that if you put two lawyers in a room, people say that you get three opinions. That may be the case in this instance.

We are marking down the possibility that this is in contravention of human rights. That concern has been raised by a number of people. Indeed, the legal advisers noted that it may be in contravention. They are not saying that they can come to a firm opinion that it is not, but they have not ruled out the possibility that it may be. That is very important.

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

**Mr McCartney:** Yes.

**Mr Beggs:** Does the Member acknowledge that the Attorney General has indicated the process to follow should there be concerns? He has not indicated that he has a concern. He said that there may be concerns; he has not clearly identified whether it breaches anything. If, in the future, he considers that it does, he has a role to play, as does the Supreme Court.

**Mr McCartney:** No. I have made no reference to what the Attorney General said. I have said that Sinn Féin has sought legal advice, and it tells us very clearly that there will be issues in relation to the convention if the Bill is passed as outlined. The Attorney General was at the Committee. He said what he said, and I will make no comment.

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

**Mr McCartney:** I will indeed.

**Mr McKay:** It is worth reflecting on the words of the Attorney General. He said:

*"there are dangers in relation to the competence of clauses 2 and 3 as they stand at present."*

Does the Member agree that we should consider what he said in that instance?

**Mr McCartney:** Of course. Any person who brings anything to the debate has to have that as a consideration. All that I am pointing out is that I do not think it is a very good defence, what Mr Beggs outlined, and I say that through the LeasCheann Comhairle. This sort of idea that it does not matter whether we think that it is incompetent, and who cares, because, sure, there is somebody at the end of the process — if this goes, and there is a long, drawn-out process, there is a cost. We should not just have a willy-nilly approach to legislation. Just because we make political judgements that are not open to legal scrutiny, that is not the way to approach this.

Mr Beggs, on behalf of his party, and Stewart Dickson referred to this: it was only last Saturday that the leader of the Ulster Unionists made the point. I recall attending a conference a number of years ago. I think that Mike Nesbitt, in his address, addressed this. Other people have asked the question. Indeed, people who have found themselves and find themselves being defined as ex-prisoners often ask how long an ex-prisoner will be an ex-prisoner for. So long as there is legislation in place that defines you as an ex-prisoner, people will be classed as such. Mr Nesbitt hit the nail on the head on Saturday. He said very clearly:

*"I want them to tell me what they want to be, not what they were."*

That is what republican ex-prisoners are trying to do. We are trying to remove the impediments that prevent us, as republican ex-prisoners, from participating fully in society. Many legal impediments are put in front of republican and loyalist ex-prisoners. Sinn Féin will not allow a situation in which people further impose legislation that defines you and prevents you from doing meaningful employment, which is what specialist advisers do. It is important that the Ulster Unionists are aware of that.

The Bill is discriminatory. It flies in the face of equality and fairness. I say this very carefully to create the debate: it flies in the face of the Good Friday Agreement. Those who say that they support the Good Friday Agreement should offer no support to the Bill and should ensure that it goes no further than it does today. Go raibh míle maith agat, a LeasCheann Comhairle.

**Mr D Bradley:** Go raibh míle maith agat, a LeasCheann Comhairle. Gabhaim buíochas leat as ucht an deis cainte a bheith agam ar an Bhille seo. Thank you very much, Mr Deputy Speaker, and thank you for the opportunity to contribute to the debate.

As mentioned earlier, the debate at Second Stage deals with the general principles of the Bill. To my mind, one of the main principles behind the Bill is, or should be, the protection of the victims of paramilitaries from the appointment to office of those who caused death or injury to their loved ones.

As we are all aware, the Bill arises from the appointment of the convicted murderer of Mary Travers to the post of special adviser to the Minister of Culture, Arts and Leisure. Ms Cochrane would argue that that crime was not

materially relevant to the employment being sought. Many people would disagree with her. I am sure that Ann Travers would disagree with her. Ms Cochrane said that law should not be made on a single case, but I am sure that the reverberations of that appointment echoed through the hearts of many victims in many homes across this region. Like Mr Beggs, I would say that the parents of Paul Quinn, who was so brutally murdered, would not like to see one of his murderers appointed to the post of special adviser.

Mr McCartney said that those views fly in the face of the spirit of the Good Friday Agreement. I do not believe that that appointment was in the spirit of the Good Friday Agreement; not the Good Friday Agreement that I read and supported. That particular appointment was most insensitive. It was rightly seen by many as disregarding the feelings, hurt and sensitivities of the surviving members of the Travers family, which were so sadly expressed by Ann Travers on radio and television in the aftermath of the appointment.

Like other Members, I received a letter from Ann Travers a few days ago in which she outlined how the appointment of that special adviser to the Minister of Culture, Arts and Leisure affected her. Ann Travers was getting on with her life, having come to terms, in as much as one can, with the brutal murder of her younger 23-year-old sister Mary and the attempted murder of her parents. In her letter, she states:

*"I thought I had dealt with my grief, and while various instances and hearing what certain politicians/people over the last number of years on TV/Radio have said has frustrated and at times angered me, I had managed to slot it all in that box in the back of my head, never to be opened."*

In her letter, Ms Travers describes the flood of emotions to which she was subject because of that thoughtless appointment. It opened the floodgates of the past and led her to relive the awful events of the day of her sister's murder, 8 April 1984. Her life, she said, fell apart. Not only was her emotional life thrown into turmoil but she was physically affected, suffering a miscarriage and succumbing to cancer, both of which were directly attributable to the trauma unleashed on her by the appointment of the convicted murderer of her sister to one of the highest political positions available.

As Mr Maginness said, it looked very much like Ms McArdle was being rewarded by Sinn Féin for her work as a member of the IRA and her



subsequent backing of the peace process, while Ms Travers was being punished for being an innocent victim and was being made to relive the awfulness of her sister's murder and the wounding of her late father. Once again, in her own words, she said:

*"I found myself constantly back at the 8th April 1984, running towards Mum, Dad and Mary, Mary's gurgling head turned the wrong way."*

I have heard that Sinn Féin has realised the error of its ways in the Travers case, and that it will approach such appointments with much more care and attention in the future. That may be so, but it hardly provides the type of guarantee that victims would want to ensure that no one else is subject to the emotional and physical trauma that Ann Travers had to endure.

The SDLP agrees that, under the circumstances, we need to use the strongest means available to reassure victims and to protect the public interest. Legislation may offer such a guarantee. However, we need to ensure that any Bill that deals with this sensitive topic is properly scrutinised and does not open the door to legal challenge in relation to article 7 of the European Convention of Human Rights regarding retrospective penalisation. That was outlined by the Attorney General in evidence to the Committee for Finance and Personnel on 19 September.

I believe it is our duty to ensure that the needs of victims are catered for in any proposed regulation of the appointment of special advisers. The danger is that referral to the Supreme Court or to the European Court of Human Rights could lead to changes to proposed legislation that would render it ineffective to the extent that it would no longer serve any underlying principle or principles. We should seek to avoid that situation, and the way to do so is to apply full and rigorous scrutiny of this Bill at Committee Stage, including the scrutiny of any amendments in order to ensure that they serve victims and the public as they should.

As Mr Maginness said, the fact that we support the Bill's passage to Committee Stage does not imply our unqualified support for the Bill, but we will work as hard as we possibly can to ensure that the interests of victims are fully protected in the future.

**Mr Agnew:** The Green Party believes that the post of special adviser and its appointment process and governance needs to be looked at

and regularised. In that regard, there are some good things in this Bill. One point that has been made a number of times in this debate, and Jim Allister said it himself, is that special advisers are senior civil servants in status and rewards, and, in that regard, they should be treated similarly. We support the proposal to bring greater transparency to this role, its remuneration and appointment procedures, as well as inviting better public scrutiny of the role.

The Bill proposes a mandatory code of conduct for special advisers, and again, we support that. We are governed by such a code in the Assembly, and we see this as a sensible measure. The Bill proposes a code governing the appointment of special advisers, and although I disagree with some of Mr Allister's proposals in that regard, I agree with the principle of there being a better process for the appointment of special advisers.

The Bill suggests that vetting procedures for the role of special adviser should be included. Again, that is true of senior civil servants, and so there seems to be sense in that. Clause 7 of the Bill calls for open and fair competition for the appointment of any advisers to the Speaker and differentiates that particular role from other roles of special adviser. Mr Allister explained that in his opening remarks.

#### 4.45 pm

I am disappointed that the Bill does not continue the thread of treating special advisers more like senior civil servants. The point was made that special advisers act almost as a bridge between a Minister's political role and his role as a Minister — between his party and ministerial roles. That is something that the Assembly needs to consider. How much do we deviate from fair employment law when we look at party roles? I interviewed all my staff prior to appointing them. In the process of interviewing and marking candidates, the issue of trusting their position on the party and its role is a factor. However, there is no reason why any party or Minister appointing a member of staff should exclude someone from outside their party or even somebody who fundamentally disagrees with their party's positions. Parties can protect themselves. Indeed, I have a number of students who come up and work with us and spend time in our Assembly office, and we have to ensure that what goes on in that office stays there. Around some of the discussions, we maintain a level —

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

**Mr Agnew:** Certainly.

**Mr Wilson:** Would the Member be happy to accept me as his adviser on climate change? [Laughter.]

**Mr Agnew:** On the basis of merit, no I would not, Minister. You do not have the necessary qualifications. You are not an expert and, in fact, your analysis is wrong. So, based on that, I would exclude you, Minister, not because of your party affiliations, but I thank you for the intervention.

**Mr McNarry:** Is that not enough? [Laughter.]

**Mr Agnew:** Certainly, in the past, as a pupil of Grosvenor Grammar School, I accepted his advice on economics, and I am always willing to continue to listen to his views on those issues.

Clauses 2 and 3 bring me difficulties, including the barring of anyone with a serious criminal conviction from being employed as a special adviser. As has been highlighted, this issue arose with the appointment of Mary McArdle, who was convicted of the murder of Mary Travers. The Green Party and I have no problem condemning that murder. We have no problem condemning the grievous injuries inflicted on Tom Travers and the devastation brought to the Travers family and its wider circle. To many, the appointment of Mary McArdle was insensitive and inflammatory, but the question asked of us here today with the proposals in the Bill is this: should it be made illegal?

The Belfast Agreement included a number of provisions that many found hard to swallow, including the release of prisoners convicted of offences relating to the conflict. To be fair to him, Jim Allister did not and does not support the Good Friday Agreement. It was, in fact, the first vote that I ever took part in. I turned 18 the year of the referendum, and 14 years on, I stand over my decision to support the Belfast Agreement.

Mr Allister said that the Bill does not create retrospective legislation. However, it is a response to our past, and, in my view, would take Northern Ireland a step back.

**Mr McDevitt:** I appreciate Mr Agnew giving way. I suppose that I should declare a couple of potential conflicts of interest. One of them is that I am a former special adviser, and, secondly, I am a parishioner of St Bride's in south Belfast, where the murder that is the backdrop to the Bill took place.

I have a couple of observations to make. The Good Friday Agreement does not provide an amnesty for those convicted during the Troubles. It does not, and no one can say that it does. It provided the opportunity for those who were incarcerated to be liberated and to reintegrate into society. That is an important point of principle: we do not and never have had an amnesty for those convicted of Troubles-related offences.

The second point that I want to make is about the role of a special adviser. The day that I was appointed — Séamus Mallon signed my papers — I was reminded that I was now a temporary member of the Civil Service and that I was expected to behave as such. So, I was not allowed to represent the SDLP. I had to think about my role simply in the context of the Minister whom I served and the Department that now employed me. I was reminded by the permanent secretary of that Department that I had certain duties to the Department that I had to live up to. So even though I did not enjoy the tenure or many of the privileges and benefits of being a senior civil servant, I enjoyed the status of that position. There is surely a basic point of good government — we debated standards in public office in the House yesterday — which is that, when people are appointed to a position that enjoys the status of a senior civil servant, they should be appointed in a way that does not create an inequality between them, with their background and qualifications, and the other people who are now their colleagues as permanent members of the Senior Civil Service.

**Mr Agnew:** I thank the Member for his intervention, and I agree that the Good Friday Agreement, the Belfast Agreement, whatever you choose to call it — I do not particularly mind — does not provide an amnesty for those who were released under its provisions. Indeed, as we know, others have been returned to jail when they breached the conditions of their release. However, the judgement of Kerr J in the Damien McComb case states:

*"a prisoner released under the terms of the Northern Ireland (Sentences) Act 1998 has been adjudged not to be a danger to the public."*

Some provisions of the Good Friday Agreement are unpalatable to some people, but that is the basis on which we chose to go forward.

I see Mr Allister's Bill as a response to our past, but in my view, it takes Northern Ireland a step backwards. David Ervine has been mentioned in the Chamber today. The following quotation is often used in the Chamber and elsewhere:

*"Those who forget the past are condemned to repeat it."*

I certainly share that sentiment. We have to remember where we come from, and I, as a relatively young politician in the Chamber, have to be mindful of the past that created these institutions. I agree with David Ervine's statement in that respect, but I would equally say that the past cannot be allowed to be the shackles on the feet that lead us to the future. If we continually drag ourselves back into the debates of the conflict, that is precisely what we do.

As we debate the Bill, it is important to remember that it is not simply legislating for convicted terrorists and for the past. It is legislating to go forward. It legislates for everyone who is convicted of a serious criminal offence, regardless of the circumstances. Two key focuses of our legal system should be to reduce offending and reoffending. NIACRO, an organisation that works with ex-offenders across the board for serious and minor offences, stated in its response to the Bill:

*"as employment is key in reducing re-offending, it is important people with a conviction are given fair treatment when trying to find a job."*

Although the point has been made that some 19 special adviser posts exist, which is a small number, it sets a precedent about how we treat people with past convictions. Although there are sound public safety reasons for making exceptions — someone convicted of sexual offences relating to children being ineligible to work with children is one such exception that has good grounds — I feel that the grounds here are political rather than based on public safety.

In the past, when I worked with the homeless, I worked with ex-offenders and supported their rehabilitation efforts along with their probation officer.

The majority of those with whom I worked were young people. Many of them had grown up in care and most of them in households where violence and alcohol and/or drug abuse were commonplace. Inevitably, they made mistakes, and, in some cases, they made very serious mistakes with serious consequences. We have a judicial system that includes punishment for those acts, including incarceration. However, it also includes rehabilitation, and it is important that we do not detract from that.

Mr Allister made it clear that the Bill is a response to the appointment of one person. However, it legislates for all those who have serious criminal convictions, and, for that reason, I cannot support it.

**Mr McNarry:** As a former adviser to the First Minister's office — indeed, the first First Minister's office — I am somewhat alarmed to hear by implication the suggestion that the corridors that I walked were seemingly only for the elite, who were pursuing power and corruption. I assure the House that that was something to which I was all but oblivious in my role as a senior adviser to David Trimble.

I think that it is important to get that point out of the road, because, whatever warped images there may be of advisers in any capacity, they essentially serve the purpose of Ministers' being in this place. Their duty is to their Minister and to use their best ability to serve that Minister.

I believe that the Bill has merit and that it deserves fully to proceed in the normal way. I support the role of special advisers and their political appointments. I am not going to get bogged down on these issues, so, irrespective of the McArdle issue, which has been very widely debated, and the allegations of the post being a purely party political appointment, we have a Bill that, as we should all be able to see, will improve special advisers' future integrity from the day that it becomes law. At the moment, without this Bill, what it introduces and the reasons why I accept that it should be supported, the advisers' integrity will always be under greater scrutiny.

The Bill makes necessary improvements, as should be the case in any employment position. Under this Bill, I would have found it more acceptable to be employed as a special adviser than to what I signed up to. Then, as was known, we were going into the unknown, with a lack of experience.

I find it somewhat different for me, and anyone else — Conall, my good friend across the way, might find that this is the same. The idea that there has been, or there is, parity between special advisers and senior civil servants is a myth that needs to be blown. Part of the problem that we have, which this Bill might, in fact, help, is that there is no parity. In fact, I understand that there is still no good relationship between senior civil servants and ministerial advisers. They do not work together. They see themselves as separate. They see themselves as separate delivery mechanisms. That is not right.

5.00 pm

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

**Mr McNarry:** Just a minute. It has always been a problem that we have not yet overcome the direct rule mentality. The special advisers are there to advise their Ministers. Sometimes I wonder and query who the civil servants are there to advise.

**Mr Agnew:** I thank the Member for giving way. Does he agree that the issue is not whether or not special advisers and senior civil servants work well together or, indeed, whether the system is working well but whether they are employed with a similar status and remuneration and, therefore, should have similar conditions to their employment?

**Mr McNarry:** I do not agree because of the situation that prevails. I cannot agree from experience, and I do not hear anyone telling me that their experiences were any different to mine.

The key issue, as Conall pointed out, is that he was reminded on his appointment that he was not really a member of the SDLP. I heard him say that, although I wish that he had practised it when he was a special adviser. *[Laughter.]* That was really something novel for me to hear during the time that he and I walked the corridor together; albeit that it was elitist and all about corruption and power, something I knew nothing about.

In terms of where we are, the category that we talk about, the mention of codes for advisers etc, I ask the Minister, and I look forward to hearing him later on, to clarify whether all special advisers assigned to and working for Ministers today have signed up to the Official Secrets Act. For me, that made conformity a most legally binding commitment.

I am sure that all special advisers have come through some halcyon days with their Ministers. I will not be allowed to mention for some time the roller coaster time that I had with my Minister, David Trimble. Whether he gets to print before me or David Campbell gets to print before the both of us, we will see who —

**Mr Hamilton:** That is the first time that you have been discreet, David.

**Mr McNarry:** Thank you for that, Simon. I really appreciate it. My discretion is based on not wanting to break the law, and I do not break the law.

The point of the Official Secrets Act is that advisers are bound by it. It is a duty and delegation from Her Majesty that you maintain secrecy in all that you do. In other words, you do not betray the faith that this House, through its appointment system, has placed on advisers.

I say respectfully to Irish republicans in the House: on this issue, you might actually want to stop involving yourselves in your own self-created victimhood about what this Bill may or may not intend to do for people from your background and what prevention it may or may not wish to impose on Irish republicans. I do not see that. I do not see it being other than fair and equitable for all Members and, therefore, for those who become Ministers, that their appointments are their appointments. Here we have a template and a blueprint to use.

To ditch the Bill, ignore its competency and spurn the opportunities that it presents would leave us, as legislators, open to the charges of fudge and hiding from the realities and exposure that would come from moving the Bill to its next stage.

To ditch the Bill would be foolish. To leave the Assembly open to such charges, especially when we eulogise about and promote the fact we have moved on. We are continuously told that we have moved on, and we have found new ways to transmit openness and transparency. To ditch the Bill would be foolish. In my book, there is nothing to hide from and nothing to fudge.

I have, and I know all of you surely share this opinion, a lot of hope for this place. Yesterday proved that there is still some way to go, but the legacy that we can contribute, from Stormont plc, is based on something that we do in our name. There are some things that are important that you can do in your name and in our name as legislators.

Work like this, the bringing forward of Bills that are meaningful and have merit, is something that should be embraced in our name. I commend the Bill to the House and hope that we take it to its next stage and scrutinise it properly from thereon.

**Mr Wilson:** I am happy to take part in this debate to explain the position of the Democratic Unionist Party on this Bill.

Regulation of special advisers is something that is necessary. The debate around this particular piece of legislation and its content has been highlighted because of the way in which Sinn

Féin dealt with the appointment of the adviser to the Minister of Culture, Arts and Leisure. Great hurt was caused to an individual, and great anger was caused in the general community. The way in which Sinn Féin handled the reaction to that highlighted that it really did not get where the community was on these things and that there was still great hurt there.

Many people have talked about the Good Friday Agreement, the way in which they support the Good Friday Agreement and how the Bill is reflective of the Good Friday Agreement. I speak as someone who did not support the Good Friday Agreement. Mary McArdle would never have been in a position where she could have been appointed as the CAL Minister's adviser had it not been for one of the most obnoxious provisions of the Good Friday Agreement, namely the early release of prisoners. There is a bit of revisionism going on around the Chamber today. Nevertheless, having got to this position, it is necessary that we have regulation of those who are appointed to what are, or can be, high profile public positions because of the background of some of the people who are appointed to them.

Sinn Féin has tried to roll out its victimhood, because they are good at it. They are saying that the Bill is getting at Sinn Féin. Well, it is only getting at Sinn Féin in so far as Sinn Féin was the only party to have appointed someone who caused the kind of hurt and outcry that was created by the appointment of Mary McArdle. This is not singling out Sinn Féin, and to use Mr McCartney's terms, it is not discriminatory and it is not about equality and fairness where, somehow or other, the rights of Sinn Féin are being attacked.

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

**Mr Wilson:** I will give way in a minute. I want to finish the point. Maybe when I finish the point he will understand why I am making it. Anyone who applies for a public position or for a job in the Civil Service is subject to vetting as, indeed, are people in many other parts of public service. Given that that is the case, it would be an issue of inequality and unfairness if we were to say that there is a special category of people who are paid out of the public purse but who are not subject to that particular scrutiny. I know that Sinn Féin feels a bit sore about this, but it is not being picked on, other than the fact that one of its advisers has fallen foul of the normal vetting procedure and the normal standards that would have been required from someone who was appointed to such a public post.

**Mr McCartney:** I thank the Member for giving way. Everything that he has said would have had more credibility if, on his first day of office as Minister of Finance and Personnel, he had done something previous to this.

**Mr Wilson:** I suppose that you could say that that is true of any legislation or any regulations that are brought forward. Very often, they are brought forward in response to a situation that has arisen. This situation arose, and a response was made.

We are debating the Bill that Mr Allister has brought to the Floor of the House, and it shows the support that our party has for this particular kind of regulation. Many — not all — of the Bill's provisions are already there and are already effective. After the outcry about the appointment of the DCAL special adviser, as Minister of Finance and Personnel, I was commissioned to look at the kind of regulations we could put in place to ensure that this did not happen again. I do not want to bore the House with all of the details, but there are three basic legs to those regulations.

The first is that there had to be a proper appointments procedure. That meant that the nature of the job had to be specified, people had to apply, there had to be a process, there had to be a marking of that process and then there had to be indication of how the decision was made. The second was that there was to be a code of conduct for special advisers. That code of conduct runs to seven pages. In response to Mr McNarry's point, special advisers are not required under the code of conduct to sign the Official Secrets Act, but the code of conduct indicates that they must observe normal Civil Service rules on confidentiality unless specifically authorised in a particular instance by the appointing authority, so there is a confidentiality requirement in the regulations. Of course, the detail of the code of conduct is not specified in Mr Allister's legislation.

The third part of the guidance stated that there had to be vetting of those who were appointed — here is where I cannot understand Sinn Féin's attitude on this — on the same basis as anyone else who applies for a post.

**5.15 pm**

Mr Allister will take up this point, but the guidelines differed from the terms of this Bill in so far — I think it was right to do this and probably reflects Judith Cochrane's position on the Bill — as the guidelines allowed people who

had been turned down on the vetting because they had been found guilty and had served a conviction for certain offences to appeal that decision. Given the passage of time, the circumstances, the fact that people can change, may not have reoffended and have shown remorse for what they did, some people used the term that it gives them a "way back". I listened very carefully to Mr Allister's introduction when he talked about Judge Travers and said that he had served under him, learnt a lot from him and that he was a man who gave people and looked for ways of giving people a second chance. The guidelines allowed people the opportunity to make the appeal and are not as absolute as Mr Allister's Bill.

The question is: have they been effective? On two occasions, I notified Ministers and their permanent secretaries of the guidelines and their nature, and they were never challenged. Since they have been in place, five advisers have been appointed. The Alliance Party has complied. The Ulster Unionist Party has complied. The Democratic Unionist Party has complied. Sinn Féin, on two occasions, has decided not to comply. Mr Allister put down a question about that on Monday, and I wanted him to have the answer for today's debate. I have given him the answer: in both of those situations, the individuals have not been employed as special advisers using money from the public purse.

Have the guidelines been effective? Is it possible to apply the sanctions within them? The answer is yes. That is background to give the picture of where we are.

I come to our attitude towards Mr Allister's Bill. Mr Beggs raised the issue — I do not know if any other Member did — that that is fine while you have a Minister who wishes to have those kinds of regulations, but what will happen with a different Minister? Mr Allister's position will be that, if the regulations are embedded in statute, they can be changed only with the Assembly's assent. However, if the guidelines were to be changed in the future by some Minister who takes a different view, they could be called in by the Executive and would be subject to a cross-community vote in the Executive. In response to Mr Beggs's question, there is that safeguard.

We have guidelines in place that reflect in a measured and reasonable way people's concerns about the particular appointment and guidelines that are effective because people cannot be appointed and paid from the public purse unless they are adhered to.

I look at all those things from the point of view of a teacher. When you go into a classroom, there are two ways of having authority. You can get the agreement of the pupils that you teach. You will know, as well as I do, that that is not always possible on occasions and sometimes rules have to be imposed. I can tell you that agreed rules are much better than the alternative. They are more robust; they make for a better atmosphere in the classroom and better relationships. I would have hoped that, because the rules were reasonable and measured, we could have had agreement from all the parties in the House on the guidelines and rules which were proportionate to the particular issue and to which no one would be embarrassed to sign up. That has not been possible. I suspect that, if the SDLP had appointed a new adviser some time since they were in place, that party would have also agreed to the rules.

**Mr McDevitt:** I guess that the answer to that is yes, Minister. Will the Minister clarify something with regard to the disclosure he made? If two special advisers are currently in office and they are not being paid from the public purse, but they still enjoy the privilege of access to papers and departmental officials, how is the Minister, or the system, able to hold them to account, should they act in any way which is unbecoming or outside of their roles and responsibilities as special advisers? You are basically saying that there are two volunteer special advisers in the system, with all the access, but without falling under the remit of the public purse.

**Mr McCartney:** On a point of order, a LeasCheann Comhairle. Mr Wilson has indicated that he is speaking as a representative of the Democratic Unionist Party, so he should not be addressed as Minister or answer the question as Minister. *[Interruption.]*

**Mr Deputy Speaker:** It is up to the Member to clarify in which capacity he is speaking.

**Mr Wilson:** I will answer the question as a Member, because that is how I am addressing the Assembly.

Mr McDevitt is absolutely right. The sanction that is imposed is that there is no payment, but access to those papers is, of course, still available. However, I find that rather odd, coming from the SDLP, most of whose members seem to be able to get access to Executive papers, sometimes before the Executive have even met, let alone after the Executive have — *[Interruption.]*

**Mr Deputy Speaker:** Order, please. As a teacher who coaxes his pupils to be good, let me say that the debate until now has been splendid. I ask the Member to continue in that atmosphere, and remember that we are discussing the broad principles of the Bill.

**Mr Wilson:** I was really just responding to an issue of genuine concern raised by the Member.

Of course, yes, the individuals do have access to papers and to the Minister. However, the sanction which is imposed is that they are not employed as special advisers by the public purse. Let me just say that, regardless of what would happen with the Bill which we have before us, if parties decided that they wished to give an individual or individuals access to papers of the nature that the Member has talked about, that could still happen anyway.

That brings me to my party's position on the Bill before us. We have not had agreement, and I am disappointed that we have not because I believe that it would have been the right way forward; all of us could have signed up to the same rules that apply to people who hold public posts and posts outside the public arena.

We come to the issue of how we take this forward. For that reason, I have already indicated to Mr Allister that, in the absence of agreement from all the parties in the Assembly to the guidelines that have been laid down — the measured guidelines but, nevertheless, what I believe are effective guidelines — the answer is that perhaps we have to impose some of the rules and do it through statute. For that reason, we have indicated, and we have already indicated it to Sinn Féin, that we will be supporting the Second Stage of the Bill.

There have been issues around competence and whether all of the Bill is competent. Certainly, the Assembly's legal advice is that it falls within the remit of legislation that the Assembly can bring forward. It is competent in that it does not discriminate against individuals and all of what is contained in section 6, I think it is, of the Act. The legal competence is there. Of course, it may well be that the Attorney General will do as he has done with other Bills, which is that, once it has gone through, he may well decide that he wishes to mount a challenge to the Bill in the Supreme Court, and I know that he has already raised some issues around that. However, as the Bill stands today, in the absence of agreement — agreement that was sought with Sinn Féin — and until the Bill passes, of course, the guidelines that we laid down will still apply and the sanctions will still

be applied. No one is going to doubt the honesty or integrity with which they were drawn up, the purpose for which they were drawn up and the way in which they have been applied since they were drawn up. At the time, I know that there were those who said that it was only a cosmetic exercise and that it was just to get us over a difficult period. They have been in place now for a year, and they have been applied rigorously. It was always my intention to make that the case. However, in the absence of getting widespread agreement across the parties, we will be supporting the Second Stage of the Bill. It may well be that, as the Bill goes through, some of the issues that have been raised today will require clarification.

I want to close on this point: I find the Alliance Party's position rather strange, in so far as it has signed up and accepted that regulation is needed, and it has adhered to the regulation that is in place. However, somehow or other, it then argues — let me just take up the arguments that Ms Cochrane raised. She does not want to see people discriminated against, and she believes that any sanctions are against what was signed up to in the Good Friday Agreement. Yet, the same vetting is already in the regulations that apply at present. Now, the vetting is OK if it is in regulation, but it is not OK if it is in a Bill. I am not too sure where the logic is in that.

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

**Mr Wilson:** I will give way on it. I think that we ought to have an explanation from her on that issue.

**Mrs Cochrane:** I thank the Member for giving way. Just to be clear, if you look back at what I said, I think that there are flaws in the Bill as it stands, and I think that, potentially, legislation should come forward to strengthen it, but I think that that should come forward from the Department. That is the reason for us not supporting the Bill today.

**Mr Wilson:** The Member knows full well. She is not stupid —

**Mr Wells:** She is.

**Mr Wilson:** I will give her credit that she is not stupid, but she does know that to bring any legislation onto the Floor of the House would require cross-party agreement in the Executive. Quite clearly, Sinn Féin has made it obvious today that support will not be forthcoming from it, so the desire that she has and the route that she would like to see for this legislation would

ensure that it would never happen. I listened to her carefully. It was not only about the route by which we would reach the final point; it was whether the final point to which we were heading was even acceptable. As the Member for South Down pointed out, I can imagine that many of those in East Belfast —

**5.30 pm**

**Ms Ruane:** On a point of order, Mr Deputy Speaker. The Member refers to the Member for South Down. The Member for South Down made comments, which, I think, are unparliamentary. He said something like, "She is stupid." I would like the comments to be retracted. They are disgraceful comments in the House; there is no call for them.

**A Member:** But she is.

**Mr Dickson:** On a point of order, Mr Deputy Speaker, the comment has been remade in the Chamber.

**Mr Deputy Speaker:** I am sorry; I did not hear the remarks. The reason why I did not hear them is that it is becoming a bit like the last two periods on a Friday evening in school. If those Members who are making remarks from a sedentary position would cease doing that, I would be able to hear what remarks are being made. Certainly, if disparaging remarks were made from a sedentary position, it is disgraceful and should not be repeated.

**Mr Mitchel McLaughlin:** Further to that point of order, Mr Deputy Speaker — and you will, of course refer this to the Speaker — would the Speaker be prepared to arrange to interview the Member for South Down to see whether he will deny having made those remarks from a sedentary position?

**Mr Deputy Speaker:** Minister, carry on.

**Mr Wilson:** At least he did not call anyone a pleb, as far as I know. *[Laughter.]*

**Mr Mitchel McLaughlin:** Further to my point of order, Mr Deputy Speaker. It may have been because of the noise, but I did not detect a response from you to my request.

**Mr Deputy Speaker:** I am sorry, could the Member repeat the request? *[Laughter.]* You are absolutely right; I did not hear the request.

**Mr Mitchel McLaughlin:** You did not hear the request? Making due allowance for the noise,

and speaking into the microphone, may I ask you whether you would refer to the Speaker the suggestion that, having made a point of order and raised the issue, which you did not hear, he will make arrangements to interview the Member of the DUP from South Down and ask him whether he is prepared to confirm that he did make the remarks that were complained of?

**Mr Deputy Speaker:** I believe that that is a reasonable request. I will refer it to the Speaker and, no doubt, he will reflect on it.

**Mr Wilson:** I think I made it clear that I did not believe that the Member for East Belfast was stupid. She knew exactly the implication of her suggestion and that the route that she was suggesting to get legislation to the Assembly would not be effective, and that we would finish up with no legislation on the issue. Of course, she went on to point out that it was not only the route that was not acceptable, but that some of the impact of it was not acceptable. The Alliance Party has tried to ride two horses on this one. It is a great pity, especially since it has recognised that, basically, the main principles of this, albeit with some differences that I have highlighted today, are something to which Ministers should adhere and to which, in fact, its own Minister has adhered. I cannot understand the difficulty.

**Mr Deputy Speaker:** Order. Today, we are discussing the broad principles of the Bill. It becomes dangerous when you begin paraphrasing what somebody said earlier, and I do not have access to the Hansard report to know exactly what the Member said. I think that we should go back to discussing the Bill.

**Mr Wilson:** With respect, I thought that I was discussing the principles. One of the basic principles of the Bill, and the guidelines that are in place, is that there should be a means of looking at the character of the people who are appointed to these posts and deciding whether they are the kind of people you would want to have in those positions. That was the point that I was referring to.

I will not go into great detail about the other opponent of the Bill, the Green Party. I know that he sidestepped the issue, but I must say that I find it bizarre that anyone would suggest that they are so liberal and open that they would accept someone as an employee in their office, regardless of their political views. I think that he gave the game away when he refused to accept me as his climate change adviser. Even in the Green Party, there are limits. He cannot say that there should not be some



political consideration when appointing advisers.

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

**Mr Wilson:** The reason why the recruitment process has been laid down and followed is to show that, first of all, at least you have sought a field of candidates, and you have looked at their competencies. However, special advisers are special in so far as they are dealing with political issues for Ministers and parties, and there will be a political stance that parties will want them to accept. That is entirely reasonable. He says that that should be open to all members of the public, when he has shown that he would not do that. I will give way now.

**Mr Agnew:** I thank the Member for giving way. My point was that, when we employ people on salaries of up to £90,000 a year, as has been pointed out, or even in our own offices through our expenses, we employ them through the public purse, and a degree of merit should be included in the decision. We should not just give out jobs to our friends.

**Mr Wilson:** There is a bit of revisionism going on there, but I will not enter into a debate with the Member on that.

In closing, we will vote in support of the Second Stage of the Bill.

**Mr Allister:** I am grateful to those who have spoken. If I do not deal with specific points that some Members raised, no disrespect is intended. I will begin by dealing with the general thrust of the opposition that has come from some quarters. It has been suggested, by Sinn Féin notably, that the Bill is discriminatory because it targets only what they call republican political ex-prisoners. Let me be very clear: this Bill is entirely even-handed in applying not just to terrorist prisoners — be they republican or those who call themselves loyalist — but equally to any person convicted of any serious offence. Therefore, whether it is serious fraud, rape, murder, or anything of that nature, this Bill would apply even-handedly across the board. It does not pick out or discriminate a particular class of prisoner other than those who have obtained a sentence of five years or more, and it certainly does not distinguish in any way between terrorist and non-terrorist prisoners, or within terrorist prisoners on the basis of some perceived allegiance. I want to nail that point absolutely. That was the foundation of the attempt of some Sinn Féin Members to roll out,

again, their whole plethora of victimhood, which they are so practised at.

It was interesting to find Sinn Féin so exercised about human rights. I have to say that if they and their associates had been so exercised about the primary human right to life, we would be in a much happier position tonight in this Province. However, seeking to dress up concerns about the Bill in the language of human rights, given the quarter that it comes from, will not deceive many people.

Then we had it from Sinn Féin that anyone who dares to support the Bill at Second Stage is, in some way, anti-Good Friday Agreement. You might not get any objection from me about being anti-Good Friday Agreement, but I can well understand why Members who will vote for the Bill object to that slant. I think the best answer to that came from Mr Dominic Bradley, who very clearly threw it back. He said that the McArdle appointment was against the spirit of the Good Friday Agreement, because it was a calculated, deliberate measure; a statement by Sinn Féin that it was going to elevate a particular individual because of their past, that it was going to do so because it could and to demonstrate that it had no remorse or regret for the actions of that individual or anyone else it called a volunteer in the IRA, and that it was elevating and promoting them precisely to make that point. I think that that point was well made by Mr Maginness and Mr Bradley.

In dealing with the SDLP contributions, I want to welcome the support that is forthcoming at Second Stage. I am not here to say that the Bill is perfect and that it cannot be improved. No Bill, I am sure, is in that category. Certainly, as the matter unfolds and progresses, I will be more than willing to listen to suggestions as to how it can be improved and how some people's concerns might be better addressed and might necessarily be addressed. However, I welcome the SDLP's forthright statements about the Bill's principles.

I now turn to Mrs Cochrane's contribution on behalf of the Alliance Party. It really became clear that Mrs Cochrane's problem with the Bill is not so much the Bill but the promoter of the Bill. She has a problem supporting the Bill because of its source. She thinks that the Bill should have come from the Department of Finance and Personnel, even though it could not have done so because it would have been blocked, and she seems to be saying to us that if it had come from the Department, her attitude would be different. I have to say that that puts the probity and value of someone's consideration of a proposition into a particular

context: that they could contemplate endorsement if it came from someone else, but they could not contemplate that because it came from this Member of the House. I will not take offence, if offence was intended.

*[Laughter.]* As the Minister pointed out, if she is saying that she is opposed to vetting — and she did say that she is opposed to vetting — then she is opposed not just to the Bill but, indeed, to the Minister's September 2011 guidance. The other thing —

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

**Mr Allister:** Yes.

**Mr Beggs:** I understand that all Members were consulted on the new regulations, so is she saying that she disagrees with the views of her party leader?

**Mr Allister:** Who am I to enter into the internal politics of the Alliance Party? She certainly —

**Mr Deputy Speaker:** Order, please. I am sure that the Member would love to get back to the principles of his Bill.

**Mr Allister:** If I can remember where that was, I will head in that direction. *[Laughter.]* Of course, as was pointed out to her, her own party has already practised the process of vetting under the new guidance. So, I really am left somewhat bewildered. What is the Alliance Party's problem with putting vetting into the Bill? It has already practised it in guidance but opposes it being put into a Bill.

**Dr Farry:** Will the Member give way?  
*[Interruption.]*

**Mr Allister:** Yes.

5.45 pm

**Dr Farry:** I was not planning to speak on this, but as a Minister who has applied the guidelines set out by the Finance Minister, I can say that it was not an issue, because, as far as I am aware, neither of the special advisers that I appointed had any issues relevant to those guidelines. However, the fundamental difference between the two is that the guidelines from the Finance Minister include a review mechanism. They are not absolute; they move in a particular direction. The Bill before the House is absolute and unequivocal. There is no room for discretion in it whatsoever. It is an absolute statement that we believe is fundamentally against the spirit and letter of

where this society has evolved over the past decade.

**Mr Allister:** I welcome the Member to the House. *[Laughter.]* Perhaps if he had been here a little longer, he would have known that, at the moment, we are discussing clause 6 of the Bill. What clause 6 says is that the code on appointments should be statutory and should incorporate as a minimum the same vetting procedures as apply to the appointment of civil servants. It is within those procedures that there is, in fact, a right of appeal, so to speak. So, the Member is quite wrong to suggest that, in respect of clause 6, I am seeking to introduce a different form of vetting than that which is in the guidance. I am simply saying that to make it foolproof and to ensure that there is no wriggle room, let us put it on a statutory basis. Perhaps the issue that he half got hold of was that, in clauses 2 and 3, there is a more absolute stance in regard to those with serious criminal convictions, and I make no apology for that.

**Mrs D Kelly:** I thank the Member for giving way. On the point of being within the spirit of the Good Friday Agreement, does the Member agree that the departure from d'Hondt in the appointment of Ministers breaches the spirit of the Good Friday Agreement? *[Laughter.]*

**Mr Allister:** Yes, I think there are some places the Alliance Party should not go. *[Laughter.]* That is the second illustration today of where it should not go. So, I am a bit bemused by the Alliance Party position. It is the sort of party that tells us that it does not like slamming doors. It likes keeping options open. It likes to have a variety of choices. Yet, they are the people who tonight will line up with Sinn Féin to slam the door on this Bill. I did notice that, in the contribution from the Alliance Party, there was not a single word of condemnation of the McArdle appointment. Not a single word.

**Mr Dickson:** On a point of order, I demand that Mrs Cochrane be given the right to read every single word of condemnation in her speech back to Mr Allister. *[Laughter.]*

**Mr Allister:** If anything is likely to cause me to withdraw my remarks, it would be the threat of having to listen to that speech again.  
*[Laughter.]*

**Mr Dickson:** On a point of order, levity is being made in the Chamber about a very serious matter. It ill behoves the Member who has taken forward this Bill and this debate today on a very serious matter to bring levity to the

matter. Mrs Cochrane made it very clear on behalf of the Alliance Party — and I address these comments to Sinn Féin — our absolute abhorrence of not only all violence —

**Mr Deputy Speaker:** Order, please.

**Mr Dickson:** — but the violence of that individual.

**Mr Deputy Speaker:** Order, please. That is not a point of order, and nothing that was said was out of order. I ask Mr Allister to continue.

**Mr Allister:** If Mr Dickson, on behalf of the Alliance Party, is not only condemning violence — I did not say that the Alliance Party did not condemn violence — but condemning the appointment of Miss McArdle as a special adviser, I welcome that. If he were doing that, I would say to him, "If that appointment was wrong, why not join in righting that wrong and making sure that it cannot happen again?" *[Interruption.]*

**Mr Deputy Speaker:** Order, I know that Members are having a good time, but this is a serious debate, so I need to hear what is being said. One Member on my right is continually shouting across the Chamber. If it happens again, I will name that Member. I ask Mr Allister to continue.

**Mr Allister:** Thank you, Mr Deputy Speaker. I will move on.

Mr Beggs made a number of valuable points. He pointed out that whereas the present Finance Minister might be, and is, well intentioned in making and proposing his guidance, when it comes to who might be Finance Minister next and further down the road, the future is uncertain. Therefore, it is better to have certainty in a statutory form that a Minister has to implement because the ministerial code requires Ministers to abide by the law. If the law requires vetting, for example, that requirement could not be changed without the agreement of the House. The Minister — *[Interruption.]*

**Mr Dickson:** On a point of order, Mr Deputy Speaker. *[Interruption.]* The Member has just said that the ministerial code requires Ministers to abide by the law. May I ask the Deputy Speaker to remind us how the same Member voted in a previous debate on the subject?

**Mr Deputy Speaker:** That is not a point of order. Continue, Mr Allister.

**Mr Allister:** The Minister, Mr Wilson, came to the House to deal with that point. He said that the position was that his code was made, had not been objected to and, therefore, stood. That is fine as far as it goes, except that it is not being operated by Sinn Féin. Therefore, we have a situation, as Mr McDevitt pointed out, in which we have special advisers with all the privileges of being a special adviser except the luxury of being paid from the public purse. That situation, which could go on indefinitely, is not healthy for accountability within and between Departments. Better by far that it be placed in legislation. The Minister then said that if the code was signed up to and accepted, it could not be changed in future without Executive approval, because the Executive could call it in. The problem with that lies in the arrangements that govern this House, where nothing is free-standing and everything becomes part of a wider matrix of trade-off. Therefore, you run the risk of this becoming an issue that is simply traded for something else that someone else requires. The Minister was quite blunt when trying to trade my Bill for Sinn Féin's signing up to the guidance. That was on the basis that if Sinn Féin signed up, the Bill, as he would say, would not be necessary. I do not know whether that was a compliment.

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

**Mr Allister:** Yes.

**Mr Wilson:** The Member is being a bit disingenuous in how he has presented it. The point that I made — I stand over it and believe that it is the best way forward — is that rules that are accepted by everyone are more robust, less likely to poison the atmosphere and less likely to contaminate relations. Therefore, the desired position for everyone in the Assembly should be to get an arrangement that everyone signs up to. In the absence of that, of course, the only alternative is to impose.

**Mr Allister:** I am grateful, but I am not sure how that differs from what I was saying about the Bill being used as a trade-off against signing up, and Sinn Féin declined. I am simply making the point that, if a future Finance Minister wanted to change Mr Wilson's guidelines to write out vetting, that too would be in the mix of trade-off in the Executive. I am saying that it is better to have it nailed down in legislation. I trust that that view will recommend itself to many in the House.

Of course, the other thing is that the guidance does not deal with and would not have dealt with the Mary McArdle situation if she had

stayed in office. Under the guidance, she still would have been in office because it brought in the vetting only for new appointees. That is one of the reasons why, useful and advantageous as the September 2011 guidance is — it is an advance on the previous guidance — it did not have the capacity to deal with the situation that presented itself. That is why my Bill, which deals head-on with that issue, is the better way forward for the present and future. Those issues will no doubt be debated if the Bill proceeds down the road of Committee Stage and other procedures.

I welcome the contributions that have been made. I urge the House to permit the Bill to proceed. I come back to the point that I finished my introductory speech with: each of us has to grapple with whether we are comfortable with arrangements that allowed the McArdle situation to arise in the first place or whether we want to create a situation that rights that wrong. If we do — I believe that we should — I urge support for the Bill.

*Question put.*

*The Assembly divided:*

*Ayes 62; Noes 32.*

## **AYES**

*Mr Allister, Mr Anderson, Mr Beggs, Mr Bell, Mr D Bradley, Ms P Bradley, Ms Brown, Mr Buchanan, Mr Byrne, Mr Campbell, Mr Clarke, Mr Copeland, Mr Craig, Mr Cree, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Durkan, Mr Easton, Mr Eastwood, Mr Elliott, Mr Frew, Mr Gardiner, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr McCausland, Mr McClarty, Mr B McCrea, Mr I McCrea, Mr McDevitt, Dr McDonnell, Mr McGlone, Mr D McIlveen, Miss M McIlveen, Mrs McKeivitt, Mr McNarry, Mr McQuillan, Mr A Maginness, Lord Morrow, Mr Moutray, Mr Nesbitt, Mr Newton, Mrs Overend, Mr Poots, Mr P Ramsey, Mr G Robinson, Mr P Robinson, Mr Rogers, Mr Spratt, Mr Storey, Mr Swann, Mr Weir, Mr Wells, Mr Wilson.*

*Tellers for the Ayes: Mr Allister and Mr Wells*

## **NOES**

*Mr Agnew, Mr Boylan, Ms Boyle, Mr Brady, Mrs Cochrane, Mr Dickson, Dr Farry, Ms Fearon, Mr Flanagan, Mr Hazzard, Mr G Kelly, Ms Lo, Mr Lynch, Mr Lyttle, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Mr McElduff, Ms McGahan, Mr McKay, Ms Maeve*

*McLaughlin, Mr Mitchel McLaughlin, Mr McMullan, Mr Maskey, Mr Molloy, Mr Ó hOisín, Mr O'Dowd, Ms S Ramsey, Ms Ruane, Mr Sheehan.*

*Tellers for the Noes: Mr McCartney and Ms Ruane*

*Question accordingly agreed to.*

*Resolved:*

*That the Second Stage of the Civil Service (Special Advisers) Bill [NIA 12/11-15] be agreed.*

*Motion made:*

*That the Assembly do now adjourn. — [Mr Deputy Speaker.]*

## Adjournment

### Craigantlet Hills: Roundabout and Dual Carriageway

**Mr Deputy Speaker:** The proposer of the topic will have 15 minutes. The Minister will have 10 minutes to respond. All other Members who wish to speak will have approximately seven minutes.

**Mr Easton:** I have brought the Adjournment debate because it is becoming an increasingly topical issue for north Down and one that is becoming deeply worrying for the residents of the Craigantlet hills. We were aware of the initial concept several years ago, and, although we did not really know the plans that well, the idea of trying to help the health and safety of road users, pedestrians and so forth is, in some ways, a good one and something that we all need to explore for the Craigantlet hills area. I have to declare an interest, in that I use that route everyday to come to Stormont, so I have quite a knowledge of the nooks and crannies, as it were, of that road.

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

As we became more aware of the plans, we became aware of the proposed two-roundabout and dual carriageway system. I was not aware of the dual carriageway system initially, and it is something that I have deep concerns about. I also have deep concerns about the proposed roundabout near the Craigantlet Cottages, going on to the Ballymiscaw Road. I have to express concerns that that roundabout would be quite close to the cottages.

#### 6.15 pm

I believe that the current plans are flawed. I understand that the proposals will cost about £2.25 million. They are flawed for various reasons. Roads Service did the appraisal report on the current proposal in 2009, so it is now three years out of date. I believe that things have become significantly worse and that Roads Service needs to re-examine that. Also, the computer simulations that were done by the Department for Regional Development (DRD) were based on an urban flow, not a rural flow.

That is also a flawed approach in the current proposals. I believe that the computer model was programmed using the traffic flows at peak hours and not necessarily at the other hours. As somebody who uses that road every day, I know that the worst hours are between 8.00 am and 9.30 am and, when you are coming home at night down the Ballymiscaw Road, from about 4.30 pm to 5.30 pm. Even at those peak hours, at no stage between the junction of the Hollywood Road, the Craigantlet Road, going on to Whinney Hill and up to the Ballymiscaw Road, is there a backlog of traffic using that single-lane route. That is why I am totally baffled about why there is a need for a dual carriageway system between those points.

I ask the Minister to take into consideration the impact that the proposals will have on the green belt. I am looking for assurances that he does not have plans for a dual carriageway to alleviate the traffic that is currently coming from Belfast to Bangor and that there are no plans further down the road for a dual carriageway system to go across Craigantlet. People have a fear that, if this proposal goes ahead, it will open the door to that. I also ask the Minister if he can give us a rundown of what any environmental impact study has said about the proposals.

Other proposals were considered — I am not sure that they were considered seriously — such as traffic lights and a through road. The residents seem to have looked closely at those other proposals, and there seems to be some sort of consensus on a through road. I hope that the Minister may consider re-examining that as a possible proposal.

As things stand — to point out the level of opposition — we now know that the planning department has received 97 letters of objection and five petitions of objections, with a total of 263 signatures from 253 addresses. That clearly demonstrates the concerns of residents in that locality. They are not people putting three or four signatures from one house; they are all, pretty much, from different houses.

The current situation is not viable. We want health and safety measures there, but I am not so sure that the current proposals are the way forward. I believe that the £2 million could be spent in a better and more effective way and in a way that would also keep the local population happy.

I ask the Minister to look again at the decision and pull back so that we can see what we can do to improve health and safety and make sure

that we do not interrupt the lives of the residents in Craigtantlet.

**Mr Cree:** The A2 Bangor to Belfast road is one of the busiest roads in Northern Ireland with, at the last count, 45,000 traffic movements a day. Therefore, it is not surprising that a large volume of traffic heading in the same direction takes the Ballysallagh Road, which passes through Craigtantlet and its busy junction with the roads from Newtownards, Holywood and Dundonald.

Several years ago, the Department had plans for a motorway across the hills, as it recognised that the A2 was getting close to its limit and no significant improvements could be made to it. The new motorway would terminate at the Holywood Arches area of Belfast, and the Department had in its possession the necessary land. I think that the Department may have subsequently sold off the land, and it would be interesting to hear what the Department's plans are for the continuously growing commuter traffic from Bangor and, indeed, the Ards peninsula.

As an interim measure, the Department proposed to improve the Craigtantlet junction when funds permitted. I understand that that scheme was not included in the current budget but is being developed in anticipation of funds becoming available. The current proposals are not in keeping with the existing roads, and a four-lane dual carriageway with two large roundabouts some 300 metres apart is not acceptable to local residents. The Minister kindly attended a recent meeting with residents to hear their concerns.

At Question Time on Monday 17 September, I asked the Minister whether he would review the Roads Service proposals for Craigtantlet crossroads and bring forward a scheme that avoids the Craigtantlet cottages. In his reply, he acknowledged the issues, advised that the Planning Service was considering the application and said that the Department was awaiting Planning Service's:

*"independent view on the acceptability of the scheme".*

He also said that he had:

*"asked officials to give serious consideration to alternative layouts that had been suggested by the local residents and which would have less impact on Craigtantlet cottages." — [Official Report, Vol 77, No 3, p35, col 2].*

However, for the benefit of my North Down constituents, despite my best endeavours, the local press failed to report the Ulster Unionist input to this important issue. For that reason, I welcome this debate.

I appreciate the Minister's involvement and his undertakings, and, although 17 September was not that long ago, I look forward to any update that he is able to give the House this evening.

**Dr Farry:** I have no doubt that the Ulster Unionist Party will have a heavy input into the final decisions on this issue, not least given the identity of the current Minister for Regional Development.

I perhaps approach the issue from a slightly different perspective, but I can find some common cause with my colleagues in asking the Minister to consider thoroughly all the options. Before looking at the detail of what is on the table at present, it is important that we appreciate why we should consider road improvements on the Craigtantlet hills. I have a great fear that, in the discussions that we are having at present, we will end up losing a much-needed improvement. It is not just an issue for North Down, even though this is a North Down Adjournment debate; it also affects people coming from the constituencies of Strangford and East Belfast.

There are two points that we need to take into consideration. The first, I am unashamed to say, is the management of traffic flows and movements in the greater north Down, Ards and east Belfast area. I am not for one minute suggesting that we want to see a dual carriageway or some sort of motorway over the Craigtantlet hills, nor do I want to incentivise any more traffic to use the hills, but the reality today is that there is a significant amount of traffic going over the hills, and that is an issue that we have to deal with. For me, these road improvements are about trying to achieve a better means of managing traffic flow and to improve health and safety on what are a series of very dangerous junctions and roads on which there have been serious incidents and fatalities in recent years. The current design of those roadways and junctions acts against the natural flow of traffic. For that reason, considerable traffic backlogs build up, particularly during the morning and evening rush hours. There is a health and safety risk for drivers who are unfamiliar with those junctions. People come along unaware of the blockages that they are likely to see and, indeed, of cars that make unnatural movements. Both junctions, therefore, need to be re-engineered to better reflect the balance of traffic flows. You either

change the junctions to have a different dominant flow through both, or you put in place roundabouts that treat all the entry and exit points of the junctions evenly. For that reason, I am happy to consider roundabouts at both those junctions. I am, however, also open-minded about other solutions that others may put forward.

The aspect that is causing most concern is the notion of dualling between the two roundabouts or junctions in question. We probably all share the concern that that would, perhaps, be excessive for what is required. However, I am in no doubt whatsoever and a vast number of people in the wider area believe that both those junctions need to be re-engineered to better manage traffic flow and better facilitate health and safety. Doing that is not the thin end of the wedge. I do not see that as a slippery slope towards a dual carriageway or motorway, not least because, as I am sure the Minister will confirm, there is no more money in the pot to invest in such grandiose schemes.

We need a modest investment to make life a lot better for those who use the routes. I suggest that that would also make life easier for those who reside in the area. We had a recent precedent in north Down. Recently, Roads Service re-engineered what was formerly known as Six Road Ends. It is now a sort of four road ends plus two junctions slightly down the way, but it is, of course, still called Six Road Ends in the local vernacular. That was a wise investment by Roads Service in improving traffic flows on what was becoming an increasingly busy junction as more and more traffic sought to use the rural roads around north Down. It was important that that was taken forward.

I fully respect the views of residents in this regard. It is important that they have their voice and that we all, not least the Department, listen carefully to what is said and take on board residents' views, comments and suggestions of how things could be done differently. It is in that context that I am happy to support the general tenor of this Adjournment debate. I am happy for us to consider alternatives to that dual carriageway. Even though I suspect that roundabouts may be the most efficient way of handling both junctions, the scale of what is proposed is perhaps more than we actually need. Beyond that, I am still happy to consider with an open mind any alternatives, but my bottom line is that we need improvements at the junctions. I want the Minister to reassure me and my colleagues that he will pragmatically look at and review what is before us and not lose sight of the importance and priority of

investment of public money in improving the junctions.

### 6.30 pm

**Mr Dunne:** I, too, welcome the opportunity to speak on the issue. It is a very important issue in our North Down constituency. It is critical that a suitable solution is found that will accommodate the commuters who use the route on a daily basis and, of course, the local residents, who have clearly expressed their concerns about the current proposals. Many of those residents have lived there for generations, and a lot of them are involved in the farming community. Also, a number of them are businesspeople.

I think we all recognise the need for improvements at this junction. There is a clear risk to all road users at what is an extremely busy section of road involving two junctions: the Ballymiscaw Road/Whinney Hill junction and what we call the Craigtantlet junction, between the Hollywood road and the main Bangor road. So, there is clearly an issue, and it is important that everyone recognises that there are accidents at those junctions. Both junctions carry a large number of vehicles per day, especially on weekdays at peak times. There is clear evidence that they are heavily used during peak times. A number of road traffic accidents have happened in the area, thankfully not serious. Minor accidents happen regularly, and I have one constituent who lives up there who phones me practically every week to tell me of another accident that has happened at the main junction with the Hollywood road.

Again, I put on record my thanks to the Minister for the number of meetings that we have had on the issue to date. He had a meeting with us at Stormont some months ago, and he had a further meeting with us on site. So, we appreciate the time that he has taken to come and look at the site at first hand. Certainly, the evidence was clear from the meeting on site that a lot of traffic is using the junctions. We also had a meeting with the Minister of the Environment, Alex Attwood, and we appreciate the feedback that we have been getting from him. There is also to be a further meeting with a senior planning officer shortly to look again at the issues raised by the residents.

One issue of concern has been the lack of consultation with residents initially. There was no effort by DRD to consult local residents prior to putting in the planning application, and that was a major mistake. The first that residents knew about the proposals was when they saw

the advert for the planning application in the local paper. That is when they became aware of the proposals. Following on from that, we had two meetings at Craigtantlet Orange hall, which were very well attended indeed and allowed the concerns of those who attended to be highlighted. At one, we had almost 100 people, and at the other we probably had around 80. So, it is obviously an issue of great concern when you get 80 or 100 people at such a meeting in mid-summer.

All issues need to be looked at. The alternatives need to be looked at very closely. We have covered that with the Minister on a number of occasions. The great concern is the size of what is proposed. What is proposed is out of character with the local area, which is rural and has been subject to strict planning policies. It was subject to the green belt planning legislation that was in place for many years and has now been somewhat relaxed. Nevertheless, planning has been extremely strict in the north Down area, and relatively little building or development has been allowed. For the residents of the area to be faced with such a proposal is extreme and certainly not what they are used to. It is not in keeping with the character of the local area, which is totally rural, as those who have visited will agree. There are a small number of houses, located mainly at the crossroads. So, it is important that anything that it is proposed is in keeping with the character of the area.

The environmental impact of the proposals is critical. The materials that will be used, the signage and the street lighting are all important. There is even talk about crash barriers being put in, which is totally out of character with the area. The impact will mainly be on adjoining properties. The residents of Craigtantlet Cottages, which the Minister has visited, will be greatly affected. The difficulties they have with traffic will be compounded. Their needs have to be respected in any proposal. One lady, who is in the Public Gallery tonight, lives directly across the road from the area.

Minister, you met her when you were out on site. From her house, she will be looking out of the window to a huge roundabout. That is unacceptable. It is bad planning, and it is not fair and not in keeping with what we want to see in an improved roads scheme.

All options need to be covered. That has been mentioned already, and I will not go into them all. The alternative new road, running down the rear of the cottages, was highlighted to you, Minister, when you were there. Roads Service has strict criteria for the provision of traffic

lights, and we are tired of listening to that when we want anything done. Seemingly, its criteria would not allow that; it is unsympathetic to having traffic lights in a rural setting. That needs to be looked at, and traffic management systems would probably need to be put in place as well.

In conclusion, there is no doubt that there is a need for improvement at both of these junctions. To maintain the character of the Craigtantlet area, it is critical that any scheme to meet the needs of the roads respects the local environment. Thank you, Minister, for attending the meetings with residents, and I trust that you will take on board the points made in the debate.

**Mr Weir:** I welcome the debate. Minister, it is important to realise that there is a broad consensus on the issue. There might be a slight degree of variation in the emphasis that Members from North Down put on this, but the significance of the issue to local people is highlighted by the fact that all six of the MLAs from North Down will be contributing. Although I have yet to hear from Mr Agnew, I suspect that we will be contributing a relatively similar message.

As others have done, I declare a dual interest as a representative for the area and as a commuter. Indeed, I combine my Assembly role as an MLA and the additional meetings that occur through my role as a Whip, so I suspect that I travel the Craigtantlet road as much as or more than any other Member. It is undoubtedly the case that improvements need to be made on the road, both from the point of view of road safety and the protection of commuters and from the point of view of traffic flow. There will be a consensus for that view. There is no doubt that the status quo is not acceptable, and we will find common cause with the local residents on that. Local residents and, indeed, local businesses have taken a quite a mature approach to the issue. They have not said that everything should be preserved in aspic and that there should be no changes. They are willing to embrace change, but they want to ensure that this is the correct change and one that is proportionate.

With respect, the proposed solution of two roundabouts and a dual carriageway on part of the road is excessive. The scale of it is inappropriate. It is out of character, and, to use a phrase, it is over-engineered. As such, and as has been highlighted by other Members, there is a range of criticisms of the scheme. Some of those have been borne out by the lack of early involvement from residents. Indeed,



this has led to some concerns and, perhaps, fears that will not be realised but which are understandable, given the circumstances.

As has been indicated, there is a strong feeling on the issue, and highlight has been made of the number of letters of objection, of the petition and of the number of people who attended public meetings. Minister, I know that you have visited the site. It is a largely rural area, and to have generated that level of interest in an area that does not have a large population shows the strength of feeling. As was indicated, during the rush hour in the morning and the home run around teatime, there is clearly a problem with congestion, so solutions to that need to be produced. However, for large parts of the day, there is not that level of problem, and that needs to be borne in mind as well.

The local residents have been constructive and have put forward a range of proposals. Although there has been criticism in the past, two things need to be embraced as we move forward. Whatever the problems have been with the lack of consultation, as we move forward with a review, we need a partnership approach between the Department and local residents and a solution that seeks the full involvement of local residents and can reflect their views. Reaching agreements with local residents is very much the way forward. Local residents and local businesses have put forward alternatives that are worthy of discussion and, in many cases, worthy of adoption. There are better solutions out there than those that have been put forward. Above all, when reaching a new solution — I do not believe that what is on the table at present is acceptable — we want to see balance that reflects the need to improve and change but is sympathetic to the context of Craigantlet and appropriate to the needs of commuters and residents. I believe that that balance can be found because there is a considerable amount of goodwill and people are keen to work with DRD to find solutions.

Although I do not expect that we will necessarily get an end solution today, I am keen to hear, Minister, a commitment from you to work on the two principles of partnership and balance as we try to find a solution that is broadly acceptable to all and is appropriate for its intended location.

**Mr Principal Deputy Speaker:** I call the Minister for Regional Development. Sorry, I call Steven Agnew. Sorry, Minister.

**Mr Weir:** He has got a promotion. *[Laughter.]*

**Mr Agnew:** Two issues have been outlined with this proposal: congestion and safety. Although

they are certainly connected, they have different aspects. On a wider point beyond this proposal, treating congestion by building more roads is akin to treating obesity by opening your belt. On the wider basis of how we have taken forward traffic management in Northern Ireland, that approach is, unfortunately, one that we seem to persist with. We continue to build new roads, and they continue to get congested. The number of people using cars continues to increase and we continue to underinvest in public transport. Minister, I appreciate that your budget is restricted and that you were handed close to a half-a-billion-pound road project, whether you wanted it or not. It is a decision by the Executive that my party very much laments, and it is a decision that restricts your approach to transport in Northern Ireland.

My concern is that the proposals are motivated more by tackling congestion rather than improving safety. Although there is congestion on the Craigantlet hills, Ballysallagh Road and at Ballymiscaw — I declare an interest, we know only too well as MLAs trying to get home — I fear that we are trying to alleviate the congestion on the A2 through the proposal and to make the Craigantlet hills a more attractive alternative to the A2. However, the A2 is a dual carriageway that was built specifically to move large volumes of traffic between Belfast and Bangor, between Holywood and Belfast and from wider afield. I hope that that is not the motivation, and if it is, it is certainly the wrong motivation. The Craigantlet hills should not be seen as a second main route for transport.

Those roads are often called the Stormont corridor, and were there a bus to take me home when I leave here today, I would certainly take it. There is very good provision for me to get here, Minister, in the morning should I wish to come by public transport. The problem is that if I wish to leave after 5.00 pm, I cannot get a bus home. When I was an adviser to a politician, I was able to use that public transport. As a politician, I am restricted. Were the frequency of public transport on the route to be increased, it could improve the congestion on the Craigantlet hills and would certainly be a preferable alternative to this scheme.

I concur with what my North Down colleagues said on the issue of safety. Other measures should be explored. I am not convinced by Roads Service's rejection of the traffic lights proposal. Its rejection has more to do with the fact that traffic lights may not speed up traffic movement rather than with the idea that it will not increase safety. I believe that it would increase safety.

There is a growing consensus about the provision of a through road. That is not my preferred option, but it would certainly be preferable to the current proposals, which, as Members said, are disproportionate to tackling the safety issues on the road.

#### 6.45 pm

The lack of public consultation also concerns me. As I have seen at residents' meetings, local residents are willing to look at the issue and to accept that safety issues need to be addressed. They have engaged positively. I know, Minister, that you were good enough to meet residents' representatives, and I apologise for not being able to make that meeting. I have had reports from residents that it was a constructive meeting. In that regard, it appeared that Roads Service had made up its mind on the proposals. I hope that, with your intervention, alternatives will be genuinely pursued, and if so, I certainly welcome that. I like to prepare for all eventualities, so on that basis, I am preparing a substantial objection to the planning proposals — just in case — to cover that ground.

I welcome the comments from Members across the Floor on the removal of the green belt. I do not want to dwell on that point, but the removal of planning policy statement 14 and the introduction of planning policy statement 21 created the free-for-all that has led to this situation. That was done under the Administration of your party colleagues. With the changes in planning guidelines, it is a shame that the destruction of the green belt in North Down is now a possibility and that rural communities do not have the same protection from this type of development that they would have had in the past.

**Mr Kennedy (The Minister for Regional Development):** I am grateful for the opportunity to respond to the debate. I thank the proposer for securing the debate and the Members who contributed. I have asked my officials to take note of the Hansard report, and if I do not cover some points in my response, I will do so in writing to Members.

I note Members' comments and concerns. The overall intention is to improve safety and capacity on a very busy section of road. That is common ground. It will be a significant challenge for those who prepare press releases for the 'County Down Spectator' next week because there is likely to be some repetition.

Over the years, many representations have been made to Roads Service to make

improvements to the road network in the Craigantlet area. Since the proposals were published, genuine concerns have been raised about the nature of the scheme. Most people agree that there is merit in making improvements to the local road network to reduce traffic delays and to improve safety. We simply need to identify the most appropriate solution. I am well aware of the issues raised by local residents and public representatives. I have met community representatives and, as Members said, been out on site. I am also grateful to my party colleague Lesley Cree for raising the issue at Question Time last week.

I am also aware of the difficulties faced by thousands of motorists who use the route each day, including, it would seem, a significant amount of MLA traffic. It has been said that, at times of extreme congestion, commuters have been pulling their hair out in frustration. I believe that to be metaphorical; I certainly hope so. As Minister for Regional Development, I want to see improvements across the road network that will enhance safety, reduce journey times, provide value for money and, indeed, support the economy. So, it is important that we identify a scheme that fulfils those logical and worthy objectives without compromising the quality of the life and environment of the local community.

The proposals are under consideration by Planning Service, and we await its view on the overall planning acceptability of the scheme. Although I think that that is still a useful exercise, I have, at the same time, asked officials to give serious consideration to the alternative layouts that local residents have suggested and that would have less impact on Craigantlet Cottages. I will consider the outcome of that work before making my decision on the way forward.

I do not need to detail the present scheme, as Members are aware of it, except to say that the Whinney Hill section is carrying approximately 8,000 vehicles a day and the Ballymiscaw Road is carrying nearly 10,000 vehicles a day. Although it is not part of the strategic network, it has considerable volumes of traffic when compared with the main A2 Belfast to Bangor road, which carries 36,000 vehicles a day in this general vicinity.

The route also provides an important alternative in the event of accidents or incidents that may cause delays on the A2 Bangor Road. However, it might be said that the roads in the Craigantlet area were not designed to carry this volume of traffic and that they need to be upgraded to cater for that traffic demand. An

extensive history of collisions is particularly associated with the junctions in the area. On occasion, those collisions have resulted in serious injuries for road users. The current road infrastructure is clearly insufficient to deal with the existing traffic volumes, and it is expected that traffic growth on the route will continue over the next 15 years. Not surprisingly, Roads Service has received many requests from Members and other elected representatives to introduce road improvements in the area.

Contrary, I think, to some reports, the scheme does not include a dual carriageway or construction of a road on the scale of a motorway. I think that Mr Easton raised this, but it is not the first stage in a plan to introduce a wider road improvement scheme for those roads either. Possible layouts, including a through-route proposal to join the Ballymiscaw Road to the Ballysallagh Road, were considered. I will be interested to see how the residents' proposal, which includes one roundabout and a new road to bypass the Craigtlet Cottages, performs in comparison.

Roads Service has estimated the cost of those improvements at approximately £2 million. However, no funding has been identified for its delivery within the current Budget period up to 2015. Whatever form an improvement scheme takes, it will be developed to improve road safety and reduce delays, both of which are issues that will make a positive contribution to the local economy. I think that all Members are agreed on the need for a scheme. During design development, consultants that Roads Service engaged carried out a detailed assessment of the environmental impact of the proposed scheme, and, in developing the submitted scheme, a wide range of alternatives was then considered. Those options included traffic signals, either full time or part time. I have heard some criticise traffic signals, saying that they should be advanced as a solution here. It is a rural area. Traffic signals generally slow traffic down. So, we need to give careful consideration to that. The options also included the construction of a through road with priority junctions; the construction of a new road linking on to a single roundabout; and two roundabouts with different layouts for the link road.

Each of the proposals was considered for its effectiveness in dealing with collisions and delays, as well as for its associated environmental impacts, costs and benefits. Although I am satisfied that the layout proposed by my Department will improve road safety and reduce delays, I am mindful that there may be an alternative solution that minimises the

impact on the local community. The option tabled by local residents at a recent meeting would connect the Ballysallagh Road to the Ballymiscaw Road and take traffic away from the Craigtlet Cottages area. I have, therefore, asked officials to consider that option in more detail and to advise me of the outcome. I will not be making any decisions until that work is completed.

It is important to advise Members that the current proposals are being considered by Planning Service. It is appropriate that it considers our proposals in light of all the associated concerns and objections raised, independent of my Department. That, I think, will give a good indication as to whether the submitted scheme is acceptable, in principle, with regard to planning and the potential impact on the environment and the local community.

As I have said, I have been pleased to meet community representatives on a number of occasions, and I understand the local issues. Whichever scheme proceeds, there will be further consultation with local representatives and with those directly affected by the scheme, so that all their concerns and requirements can be fully considered and accommodated at the detailed design stage.

In conclusion, I assure Members that although I am committed to improving road safety and journey times in the area, I genuinely have an open mind as to which option is the best solution.

*Adjourned at 6.56 pm.*







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