

# Official Report (Hansard)

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

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Wilson, Sammy (East Antrim)

# Northern Ireland Assembly

Tuesday 27 May 2014

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

*Members observed two minutes' silence.*

## Assembly Business

**Mr Buchanan:** On a point of order, Mr Speaker. At two previous Question Times, my name was down for a question for oral answer, and I was not present. I take this opportunity to apologise to you. For one of them, I was called away on urgent business and did not get back. For the other, I was involved in a family bereavement. I offer my sincere apologies to you, sir, for my absence on those occasions.

**Mr Speaker:** I thank the Member for coming to the House to make that apology. I understand that Members sometimes cannot be here, and there can be circumstances in which it is nigh impossible to be here. Question Time is on Monday and Tuesday, and it just a matter of going to the Business Office before 12.00 noon and withdrawing your name. That is maybe a warning for all party Whips. If Members cannot be here, they should alert the Whip, who will go to the Business Office and withdraw the name.

**Mr Campbell:** On a point of order, Mr Speaker. I am not in any way challenging your decision on my request for a matter of the day on the prolonged delay of the European election count, which is causing alarm and concern among many people, not only among those of us who were at the count yesterday but among the 625,000 people who cast their votes. We have two elections over the next two years — one to Westminster next year and one to this House in two years' time — and we need a way whereby the Assembly can convey its concern at the ongoing delay with the count at the King's Hall so that it is not repeated in the future.

**Mr Speaker:** I feel the frustration from all parties. It might be useful if parties were to come together to table a motion. That would be one way to get the message across.

**Mr Allister:** On a point of order, Mr Speaker. I apologise for my absence last Monday when my topical question to the Justice Minister was called. I had fully anticipated being here, but, unfortunately, the recording of a television

programme on the election seriously overran. At 3.00 pm, when I expected to be here, I found myself marooned in UTV, so I very much apologise for that. I have no apology to make for the 75,000 votes, which endorsed and greatly strengthened my stand in the House.

**Mr Speaker:** I appreciate the Member coming to the House, like Mr Buchanan, and apologising. I understand — I say this very sincerely — that, sometimes, it is physically almost impossible for Members to be here.

**Mr Elliott:** Mr Speaker, in the same vein, I have just been made aware that I was absent from the House for a question on, I think, 29 March. It goes back some time, and I had not been aware of it. Mr Speaker, I apologise to you and to the Minister. I was at a funeral that day, and my question was late on the list. I apologise.

**Mr Speaker:** I thank the Member for coming to the House and apologising. I want to alert the House that some Members who have been absent for Question Time have come to the Speaker's Office or to the Business Office to apologise. I am making a very clear ruling that Members need to come to the House to apologise. No doubt, this morning, after the elections, it is confession time for a number of Members. I appreciate the fact that Members have come to the House this morning to apologise.

## Executive Committee Business

### Road Traffic (Amendment) Bill: Second Stage

**Mr Durkan (The Minister of the Environment):** I beg to move

*That the Second Stage of the Road Traffic (Amendment) Bill [NIA 35/11-15] be agreed.*

First, I would like to thank my Executive colleagues for their support in bringing this Bill to the Assembly. I look forward to working with the House in taking forward and refining this important Bill. Today, we have the opportunity to debate a Bill with the potential to save lives and reduce injury on our roads. That is quite a responsibility. Reaching this significant stage has involved significant effort. In particular, I recognise the work on the Bill that was undertaken by my predecessor, Alex Attwood.

The Bill contains provisions that will affect most people in Northern Ireland. It is right, therefore, that arriving at this point has involved extensive consultation, which has informed the development of the Bill and provides us with the assurance that we have a climate of opinion that supports the proposals before us today. We have also liaised extensively with the Police Service, Forensic Science Northern Ireland and the Northern Ireland Courts and Tribunals Service to ensure that, together, we bring forward legislation that is not only right but workable.

I will set this in context. Looking back just five years to 2009, we were five months into a year in which 115 people were to die on our roads. Since then, there have been three years with fewer than 60 deaths and one year, 2012, with fewer than 50. I know that I speak for us all when I say that figures for 2014 have been a concern. Up to this morning, 24 people have died, compared with 21 at this stage last year and 16 in 2012. I firmly believe that doing nothing is not an option. There are key challenges that we must face if we are to further drive down road casualties towards a vision of zero road deaths.

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

**Mr Durkan:** Certainly.

**Mr Wilson:** The Minister makes the important point that we want to try to get road deaths

down to an absolute minimum. Does he accept that, given the fluctuating nature of the number of deaths on the roads, without all the micromanagement that is contained in the Bill, the cause of road deaths is something well without the kind of idiotic nonsense that is contained in part of the Bill, which would lead to a situation where what people do on the road is micromanaged either by his Department or the enforcing authorities?

**Mr Durkan:** I thank the Member for his kind intervention. I am not sure which particular part of the Bill the Member refers to as idiotic nonsense. However, I have a feeling that we will learn as the debate progresses.

I take on board the Member's concerns that what happens on the roads is beyond our control. However, it should certainly not be beyond our ambition to strive towards zero road deaths. Indeed, as legislators, we have a responsibility to do all in our power to reduce the number of deaths and serious injuries on our roads. That is what I am attempting to do in bringing forward the Bill, and I will be seeking the support of the House — I have the support of the Executive — to do so.

The Bill will tackle those challenges by reducing inappropriate road-user behaviours, including drink-driving, protecting young and inexperienced drivers and improving safety for those using our roads, not least our rural roads where the majority of casualties occur.

The Assembly can ensure that our people enjoy the levels of protection from drink-drivers that they would receive in most other countries. We can ensure that new drivers here are as well prepared and protected as possible for today's roads. We can ensure that people riding quads on our roads have the same protection from head injury as those on motorbikes. That is why the Bill is important and timely, and it is in this context that I turn to its provisions.

**Mr Wilson:** I thank the Minister for giving way again. Maybe he will inform the House on how many people have died of head injuries as a result of accidents on quads on the roads over the past five years.

**Mr Durkan:** I thank the Member for his intervention. Unfortunately, I do not have that detail to hand. I will attempt to ascertain that answer for him later in the day.

The Road Traffic (Amendment) Bill has five parts, comprising 27 clauses and two schedules.

Part 1 is a short section defining expressions used throughout the Bill. Part 2 deals with drink-driving, and I will look at this first. The current drink-drive limit in Northern Ireland is 80 milligrams of alcohol per 100 millilitres of blood. When convicted in court, offenders are generally punished with a 12-month disqualification and a fine. Those who reoffend within 10 years face a three-year disqualification.

The Bill will introduce two new limits: 50 milligrams of alcohol per 100 millilitres of blood will apply to a typical driver; 20 milligrams of alcohol per 100 millilitres of blood will apply to what is expressed as a "specified person". A "specified person" is a learner driver, a newly qualified driver and a professional driver; that is, someone who is driving a bus, lorry or taxi.

While a lot of work has gone into getting the limits right, they will not work in isolation. The Bill will, therefore, also introduce a new graduated penalty regime that will reflect the level of alcohol involved in the offence, with minimum disqualification periods from between six and 24 months. Repeat offenders will still face a minimum disqualification of three years regardless of the level of alcohol.

I assure members that there will be no lessening of any current penalties. New, fixed penalties will be available to punish those detected for drink-drive offences at the new lower limits. At present, there is no offence triggered at these levels. The Bill proposes a penalty system that is proportionate to the offence, acts as a deterrent, attracts public confidence and maintains levels of support and compliance. I believe that that is what the Bill delivers.

We also need effective enforcement measures. Some people still continue to drink and drive because they believe that the risk of being stopped is low and is a risk worth taking. If we change this perception, we will make progress. At present, the police can require a person to take a breath test only if they "reasonably suspect" that the driver has consumed alcohol or if there has been a collision. The Bill includes powers for police to establish roadside checkpoints where a constable could ask each driver to take a breath test. These will be conducted under controlled circumstances with authorisation at inspector rank or above. The new checkpoints will be highly visible. When drivers realise that there is a real likelihood of being stopped and tested, many who currently take that risk will make the right choice.

**10.45 am**

I am also providing for greater use of our drink-driver rehabilitation scheme for offenders convicted and disqualified from driving by making it mandatory for courts to offer such training. These courses are proven to be effective in preventing reoffending.

Why do we need these measures? Between 2008 and 2012, 66 people died and 468 were seriously injured by drivers impaired by drink or drugs. Much of our road network is rural. The impact of drink-driving is felt most keenly in rural communities: 79% of fatalities and 50% of serious injuries caused by drink-driving happen on rural roads. I think we would all agree that that is unacceptable and requires decisive action. I accept that some aspects are challenging, but we must be radical to make a real difference.

Members do not need to be reminded of the incompatibility of drinking and driving. There is a wealth of research indicating that very low levels of alcohol impair the skills needed for safe driving. Impairment begins at levels lower than the current drink-drive limit.

It is worth noting that between 2008 and 2012, drivers aged between 17 and 24 were responsible for 50% of deaths and 41% of serious injuries where alcohol or drugs was the recorded cause. For those reasons, the Bill introduces two new limits. I believe that that provides the best balance between public acceptability and tackling the risk associated with younger drivers and the responsibility borne by professional drivers.

An absolute zero limit would not be a realistic option. People who never drink alcohol can, if tested, register some alcohol in their system. It can be produced naturally by the digestive process or absorbed in some other innocent and unintentional way.

**Mr Elliott:** I thank the Minister for giving way. He mentioned alcohol and drugs use while driving. What is in the Bill to stop or prohibit people from taking drugs and driving?

**Mr Durkan:** I thank the Member for his intervention. This part of the Bill deals with drink-driving, and that is where we will focus our attention today. However, driving under the influence of drugs and impaired by drugs is a serious issue. It is something that we need to work on with the PSNI and enforcement agencies as regards their detection of people driving under the influence of drugs. I am certainly committed to doing so. Unfortunately, they are more difficult to detect than alcohol, although I am assured that work is ongoing

through the police, not just on this island but elsewhere, on measures to combat this problem.

**Mr Wilson:** Will the Minister give way, just on that point? If this is all down to a question of detection, is it easier to detect someone driving with a 14-year-old beside them than someone who is driving along the road out of their head on drugs? If that is not the case, why has he ignored the drug issue while imposing a silly restriction on the age limit of passengers for first-time drivers?

**Mr Durkan:** I thank the Member for his third intervention. We will come to the issue of passengers in another part of the Bill. I stated in my response to Mr Elliott the seriousness with which I view those driving under the impairment of drugs. If it should be detectable, it will be detected that someone is driving dangerously and recklessly, and they can be held to account for that. As regards the actual detection of the drugs in that person's system, that is not quite as straightforward as the detection of alcohol.

**Mr Ross:** I thank the Minister for giving way. He is right about the difficulty in detecting those who are driving under the influence of drugs, and that has been a subject of discussion for many years. The pupil test is not, I think, a satisfactory way of doing it.

Perhaps he can remind the House whether, rather than being ignored, there is already legislation on the books that makes it an offence to drive under the influence of drugs.

**Mr Durkan:** There is an existing offence of driving under the influence of drugs, be those prescription or non-prescription drugs. Obviously, it remains an offence to consume, and to drive having consumed, illegal drugs, and that is something else that we will need to work on with the police to rid society of this problem that plagues us and causes not just danger on our roads but a lot of misery and suffering in our communities.

Finally, on the drink-driving measures, I assure Members that, before any changes are brought in, there will be a high-profile media campaign. Drivers will be left in no doubt as to the new drink-drive limits and how they will apply to them.

Part 3 of the Bill relates to the graduated driver licensing (GDL) scheme. Put simply, GDL is a package of measures designed to provide new drivers with experience and skills, over time, in

lower-risk environments. First developed in the 1960s in Australia, and followed by New Zealand in the 1980s, GDL schemes are now common in almost all US and Canadian jurisdictions and in many European countries. International evidence shows that GDL has been effective in reducing collisions involving novice drivers wherever implemented. The quality and consistency of the evidence base is high, and reductions in collisions are seen for novice drivers of all ages.

As we are all too aware, young and inexperienced drivers are over-represented in road traffic collisions. The stark fact is that, between 2008 and 2012, although young drivers aged 17 to 24 comprised only one in 10 current car licence holders, they accounted for four in 10 fatalities and almost one third of all serious injuries on our roads for which car drivers were responsible. Further to that, there is evidence that young male drivers are four times more likely to be killed and six times more likely to kill than the average road user. The scale of the problem necessitates fundamental changes to how new drivers are trained, tested and gain experience once they have obtained their full licence.

Extensive consultation has been carried out in that area, too. Views were sought from a wide range of organisations. My officials also held a series of nine focus groups across Northern Ireland to gather young people's input. There will be opportunities for further debate, consultation and scrutiny. I have also requested a meeting with the Chief Constable to continue the dialogue my predecessor and my officials have had with the PSNI on the Bill and to facilitate detailed discussions on enforcement of specific proposals.

As I mentioned earlier, GDL consists of a package of measures. Those most commonly included are stiffer penalties for new drivers who commit offences, restrictions on new drivers, additional training or supervision periods; and requirements for a collision- and offence-free period before full licensing. A systematic review of 27 evaluations suggested that the implementation of GDL had resulted in reductions in collisions of between 20% and 40%. I firmly believe that a strong GDL scheme in Northern Ireland can and will contribute significantly to our journey towards achieving zero road deaths.

My GDL proposals consist of a number of measures to prepare new drivers for the challenge of driving on their own and to protect them and other road users as they gain experience. The package was developed with



key themes in mind, primarily that GDL should be fair and equitable, reduce offending, align with other relevant legislation, and be accompanied by appropriate enforcement and public information campaigns. At the same time, we have strived to balance requirements with restrictions, permissions with incentives, and improving road safety with retaining mobility.

Before I outline the measures, I will mention one that is not included. That is a night-time restriction for new drivers. While there is evidence to support the effectiveness of such a measure in reducing collisions, I have had to be mindful of the economic and social consequences of such an intervention. A night-time curfew would have an impact on new drivers and their ability to take up work, particularly those living in rural areas and those working in the hospitality industry.

My package of measures therefore includes lowering the age at which someone can obtain a licence from 17 to 16 and a half years, but it requires that they hold a provisional licence for a minimum of 12 months before taking a test. That effectively increases the age of full licensing to 17 and a half. There is considerable research to show that raising the age at which someone can drive alone is effective in reducing collisions. I have sought to ensure that learners are not unduly delayed from obtaining their full licence while ensuring that they are encouraged to make the most of the learning period.

Learning to become a safe driver takes time. Provisional licence holders need to be encouraged to focus on learning to drive and not simply on passing the test. The mandatory learning period will provide learners with that time to take more training, to practise and to gain experience on a variety of roads, traffic environments and in weather and light conditions. Although it increases the age at which a licence can be acquired by only six months, the measure will allow new drivers to practise for one full year.

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

**Mr Durkan:** Certainly.

**Mr Allister:** Is part of the problem with that not that the Minister is applying a blanket approach by effectively requiring every aspiring new driver to wait a year before they can pass their test? Many young people from the rural community who have grown up on farms and are very skilled with machinery, tractors and all

the rest make the transition to cars very swiftly and safely, and they can pass the test within weeks. Is the Minister not being punitive with those who have that experience and who will be and are good drivers by subjecting them unnecessarily to a protracted waiting period?

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

**Mr Durkan:** I thank the Member for his intervention. I take on board his concerns that it may be overly punitive. Indeed, he singled out those who live in rural communities, are from farming backgrounds and who may be skilled at operating different types of machinery and driving machinery on the farm. However, by introducing that mandatory minimum learning period of one year, we will be doing our best to ensure that those young people will be best equipped to drive safely on our roads when they reach the age of 17 and a half. Under existing circumstances, the person may be able to pass their test within a couple of weeks of becoming 17. However, at that stage, they will have had only — or should have had only — a couple of weeks' practice of driving a car on our public roads. In my opinion, that is not enough to ensure that they are a safe, responsible and mature driver.

**Mr Wilson:** I thank the Minister for giving way on that point. Surely the test of whether someone is competent to drive on the public road is whether they pass the test that has been set. Either the test is meaningful or it is not. If the Minister is saying that someone can pass their test and not be competent to drive on the road, the question that needs to be asked is whether the test is sufficient. Surely the way in which it is decided whether someone can drive on the road is whether that person passes the test.

Is a mechanism for ensuring that not that, if someone who is not competent tries the first time, like I did, and does not get through, they try a second time, and, if they do not get through, they try again until they do eventually get through? Is that not the way that it should be done? Otherwise, he is saying that the test is not all that meaningful.

**11.00 am**

**Mr Durkan:** I thank the Member for his intervention. I am not saying that the test is not meaningful. It is possible that driving comes more easily to someone who is adept at and used to operating machinery than it perhaps did to the Member across the hall and than it certainly did to me; I passed my test on my fifth

attempt. However, I know that the fact that it took me a year to learn has made me an extremely safe driver, and I have had no collisions in 17 years of driving.

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

**Mr Durkan:** One second.

However, the longer that someone is exposed to driving in different conditions, the more that they will become used to those conditions, and the safer they will be on our roads.

I will go back to Mr Ross now.

**Mr Ross:** I thank the Minister for giving way. While I have some sympathy for his argument, I do question the logic of having to wait a year before you can take your test, particularly given that there is provision in the Bill for a logbook, in which an individual who wants to take their test has to prove that they have had a certain number of hours of practice. Surely the two things do not have to be in the same Bill. If you are insisting that an individual builds up a certain amount of experience and are setting the criteria for the number of hours of accredited learning, surely that should stand alone? You do not need the arbitrary 12-month figure, which actually makes it a longer period. If an individual does the required number of hours to take the test within the first four or five months of holding a provisional licence, surely they should not be held back from taking their test.

**Mr Durkan:** I thank the Member for his intervention and take on board his point. However, the intention behind introducing the one-year period is to maximise the possibility or likelihood that a young or new learner driver will gain experience driving in different weather conditions. Currently, someone could learn to drive over the summer months and then be on their own, unattended and unsupervised, the first time that they come across rain, ice or snow when they are driving. I think that it is important that people get experience driving in different conditions.

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

**Mr Durkan:** Unfortunately, the test cannot create those kinds of scenarios.

**Mr Ross:** I think that Mr Wilson wants to come in again.

On that very point, is the Minister saying that, during that year, some of the accredited hours

in your logbook have to be in different seasons of the year? That is not what the legislation says. If the legislation is passed, you could very well build up the required number of hours of accredited learning within two or three months of the year. So, you could do all your learner driving in the summer. So, the way that the legislation is drafted does not actually get round the issue that the Minister highlights about giving people experience of driving in different conditions.

**Mr Durkan:** I thank the Member for his latest intervention; indeed, it is a sensible one. However, the introduction of the one-year mandatory minimum learning period is not just about the accredited learning.

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

**Mr Durkan:** It is also about the practice driving that many drivers will take, be it with a qualified driving instructor or a parent.

**Mr Weir:** I appreciate that the Minister may be reluctant to open up a third front on this. I have a lot of sympathy for the general thrust of what he is saying. However, I can see a number of flaws with this. Mention has been made of the one-year period. I think that it is very sensible to say, "Ideally, a learner driver should experience bad weather, rain, snow etc." However, to me, simply having a time frame does not seem to give any guarantees on that front. We are all aware of people who, for example, apply for their licence and then do very little about it. Such people may well do the year but only do their hours of driving in the summer. You may also get a situation in which we have —

**Mr Wilson:** If you live in east Antrim, it is always sunny.

**Mr Weir:** The Member to my side is intervening to claim that, if you live in east Antrim, it is always sunny. That is not, generally speaking, my experience, but that might be by the by. We have had large variations in weather, even over winters. Some winters have had very heavy snow, and there have been very mild winters during which you barely saw a snowflake. I can understand, particularly with a young driver, a situation in which there are concerns from parents who may well say, even during the learning period, that they do not want their children anywhere near the roads when it is snowing.

There is good sense in the idea of having to accumulate a certain number of hours. There

may be reasonable merit in the legislation in that somebody may not have enough experience on the road even if they get through the test. To my mind, setting an arbitrary time frame does not appear to hold a great deal of water.

**Mr Durkan:** I thank the Member for his intervention. I am not sure whether there is anyone still in the queue, but I will respond to Mr Weir and then try to make some progress. There is evidence that the more practice learners undertake, the less likely they are to be involved in a collision when they start to drive unaccompanied. In Sweden, the extension of the learning period from six months to two years was associated with a net reduction in collisions of 15%. Consideration was given to requiring a set number of hours and lessons. However, the Bill has settled on the one-year learning period to ensure that learners can continue to avail themselves of a mix of paid, supervised instruction and practice with family or friends.

**Mr Wilson:** Will you give way on that point?

**Mr Durkan:** OK.

**Mr Wilson:** This is one of the concerns that I have about the one-year period. Mr Allister pointed out the disadvantage to people who live in rural areas, but the one-year period is also a severe disadvantage to people who come from low-income families in which there may not be a family car, because the only way in which they will get continuous experience over the year is to take lessons or pay someone to take them out. Has the Minister considered the social inequality that this clause builds into people's ability to obtain a driving licence? One family may have no car as opposed to another family having three, which means that the mother, dad, brother or sister can take the person out. That is not the case in many other instances. How does he deal with that social inequality?

**Mr Durkan:** I thank Mr Wilson for his intervention. I certainly do not want to introduce or propose something that will lead to social inequality or perpetuate disadvantage among those who may already be deprived. However, on the point that Mr Wilson is trying to make, surely it is the case now anyway that someone without access to a family car has the opportunity to practise only through driving lessons, which means paying for the use of a car. I am not sure whether it was Mr Wilson, Mr Weir or Mr Ross who made the point that there is nothing in the legislation to say that someone could cram all their lessons into one part of

the 12-month learning period. I understand the point that he makes. However, I do not necessarily agree with it.

**Mr Wilson:** I think that the Minister is trying to evade my point. If there is to be one year of continuous experience for all the reasons that he has given, including so that people can experience different driving conditions and have a longer period on the road, someone who is from a relatively well-off background and whose family has two or three cars, which means that two or three people can take them out, need only take the minimum number of lessons and gain experience the rest of the time for nothing. If someone comes from a family where those conditions do not occur, the only way in which they can gain the experience is to pay someone to take them out to get that one year's continuous experience. I am sure that the Minister can see the point clearly. He may want to avoid it because it is a difficult point for him to deal with, but that disadvantages those who do not have, because of their economic circumstances, the same family support that can afford them the experience on the road and, therefore, they have to purchase it.

**Mr Deputy Speaker:** Order. Before the Minister continues, to be helpful, I refer to the 'Rules of behaviour and courtesies in the House'. Point 8 states:

*"An intervention should relate directly to what has just been said and not be a short speech of its own."*

It would be unfortunate if the interventions became longer than the time that a learner driver needs to become fully qualified.  
[Laughter.]

**Mr Durkan:** Thank you, Mr Deputy Speaker. I am not sure to which intervention you refer. I do not believe that I was trying to evade the question or the point raised by Mr Wilson. I believe that that is tantamount to the existing situation as regards access to vehicles. That is why I am supportive of, and will continue to be supportive of, initiatives to make driving lessons and the use of vehicles accessible to all. There are quite a few schemes, especially in my constituency, that do so and facilitate young people, and not so young people, from disadvantaged backgrounds to get heavily discounted, if not free, driving lessons.

**Mr Ross:** I thank the Minister for giving way. He has been very generous with his time. He is right in saying that the access to cars is the same under existing circumstances and what

he is proposing, but is the difficulty not when it comes to accredited learning? If the definition of accredited learning is that you have to go a professional and pay for lessons, and a minimum number of lessons or hours is set in the legislation, that could disadvantage those who are from less well-off families, whereas they are not disadvantaged from that at the moment.

**Mr Durkan:** I thank Mr Ross for his intervention. I accept Mr Ross's point; I cannot evade it or argue with it.

The programme of training will be evidenced using a compulsory student log book recording progress through the training programme. The introduction of a programme of training will ensure that new drivers follow structured learning over a sustained period. It will ensure that young people's driving experience covers the full range of conditions and improves the learning process to adequately prepare novice drivers for real-life driving. It is my belief that the log books will lead to more structured learning and give supervising drivers — for example, parents — more ownership and involvement in the learning-to-drive process.

The Bill will remove the current 45 miles per hour restriction for learner and restricted drivers — I am sure that Mr Wilson will be glad about that bit at least — and allow lessons to be taken on motorways. That will only be permitted when accompanied by an approved driving instructor in a dual-controlled car.

The R driver scheme has been in place for 40 years now, and there is a lack of evidence that the current 45 miles per hour speed restriction does anything to improve road safety. Indeed, speed restrictions prevent learners from gaining experience, practising certain manoeuvres under tuition and from being tested while driving at higher speeds. Very few other countries impose speed limits on new or learner drivers.

Under the current system, the first time that a novice driver experiences higher speeds is often alone, having removed their R plates, despite not having undergone relevant training or testing. That is inherently wrong. I believe that we must better prepare them for driving alone and at speeds appropriate to modern traffic, roads and conditions. Removing the restrictions will allow learners to be taught to understand, judge and, above all, respect speed and its potentially devastating effects. Further to that, proposals to allow learner drivers to take lessons on motorways and to include a broader variety of road types in the

driving test would be feasible only if the 45 miles per hour restriction were removed.

### 11.15 am

In the focus groups with young people, several attendees said that they felt anxious when using motorways because of that lack of experience. Many felt that lessons should be available to learn on those roads, and I agree. Novice drivers should be prepared for motorway driving before they pass the test rather than having to face that task for the first time afterwards and on their own.

I now turn to passenger restrictions. The Bill proposes that, during the first six months post-test, new drivers under the age of 24 will be restricted to carrying only one young passenger aged 14 to 20, unless they are immediate family. Young drivers carrying two passengers are twice as likely to be killed as they are when driving alone and they are four times more likely to die if they are carrying three young passengers.

Given the complexities of family life and the rural nature of much of Northern Ireland, there will be exemptions for close relatives of a driver as well as for carers and emergency services drivers. The restriction will not apply if there is a supervising driver in the front passenger seat of a vehicle. A supervising driver must be aged 21 years or older and must have held a full driving licence for three years.

It is worth noting that the Association of British Insurers has advised that, of the possible interventions, a passenger-carrying restriction on young new drivers has the greatest potential to improve the safety of young drivers and to drive down insurance costs.

**Mr Ross:** I thank the Minister for giving way again. At the beginning of his speech, he talked about ensuring that the legislation was fair and equitable. Is he not in danger of being seen to pick on young people, in particular, as opposed to novice drivers? The GDL is about recognising that novice drivers, irrespective of age, are most at risk of being in a serious road traffic incident. Is he not moving away from that fair and equitable idea by having a provision that states that there are restrictions on those aged 24 and under but not on other novice drivers?

**Mr Durkan:** I gave statistical evidence on the risk posed to young drivers and by newly qualified young drivers while they have young passengers on board. This was not plucked out

of the air and did not fall out of the sky; the proposals are based on evidence of what happens on our roads and on roads in other jurisdictions where this type of provision has been introduced.

I understand that there has been concern about the policing of a passenger restriction — Mr Wilson made that point — and the GDL as a whole. Let me reassure you: the Bill includes powers to enable the PSNI to enforce all the measures effectively. Throughout the policy development period, my predecessor and my officials carried out a great deal of consultation, which includes ongoing discussions with the PSNI on all aspects of the Bill.

The PSNI will have the power to ask for names, addresses, ages and the relationship to the driver, and can require evidence of the information given to be provided to a police station within seven days. I reassure you that the PSNI has given its support to the introduction of a passenger-carrying restriction and will continue to work with my officials to ensure that it can enforce the GDL effectively.

I see parents having a key role in enforcement. In fact, in other countries, parents are often seen as the primary enforcers, and, even where formal enforcement is minimal, such restrictions have been shown to have a positive benefit.

The final GDL element is the extension of the post-test period to two years. It is also my intention to introduce remedial courses for relevant offenders. The New Drivers Order already makes provision for a driver's licence to be revoked if he or she receives six or more penalty points during the two-year probationary period. In such cases, the driver returns to learner status and has to resit the test.

The aim of introducing courses is to give drivers the opportunity to be re-educated as an alternative to losing their licence. I firmly believe that there is value in intervening earlier to prevent unsafe driving attitudes and practices from becoming habitual. The two-year post-test new driver period will align with the existing probation period under the New Drivers Order and the lower blood:alcohol limit for newly qualified drivers. It will be necessary to introduce a new plating system because the introduction of GDL will lead to a temporary overlap with the old licensing system. Drivers qualifying under the old system will still be bound by the current R-plate restrictions for 12 months. Therefore, during that overlap period, two different plates will be required.

Having inexperienced drivers carry a distinguishing mark or plate facilitates enforcement, helps to deter high-risk behaviour and informs other road users of the relative inexperience of a driver. Notably, the young people in our focus groups felt that it would be a good idea to retain such plates. I have committed that the specifications of a new plate will be dealt with in regulations, subject to full consultation and affirmative resolution in the Assembly.

My Department continues to reach out to young people through our road-safety education programmes in schools and our advertising campaigns. We can, in parallel, effect change through legislation, supported by enforcement, including requiring certain behaviours and conditions before a full licence is awarded. That combined approach has been successful elsewhere, and I firmly believe that it is an appropriate way forward for us here.

Part 4 of the Bill deals with the mandatory wearing of helmets on quad bikes on public roads. Extending the requirements for protective headgear to quadricycles can surely only be welcomed by the Assembly. In response to Mr Wilson's earlier question, between 2006 and 2013, four people were killed and 39 seriously injured in collisions involving quad bikes. Public consultation —

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

**Mr Durkan:** In just a second. Public consultation carried out in 2012 was in favour of making the wearing of helmets mandatory for quad riders and passengers.

**Mr Wilson:** The Minister has not answered the question, of course. Four people were killed on quad bikes on roads, but my point is whether they were killed as a result of head injuries. Given the number of accidents involving quads, is this not a disproportionate and totally unnecessary response? Has he considered the very strong views of farmers who find themselves working on and off the road quite frequently, sometimes without any ability to plan whether they are going to be on the road?

**Mr Durkan:** I thank the Member for his intervention. As the Bill progresses to Committee Stage and the call for evidence, I have no doubt that I will be made aware of the views of the farming community on that and other aspects of the Bill. I look forward to hearing those views and taking them on board as we work together to shape this Bill into what it is meant to be, namely legislation that

reduces the number of deaths and serious injuries on our roads. Although it might seem like a relatively small number of collisions involving quads, with only four people being killed, I am sure that the families of those four people, regardless of whether the deaths were due to head injuries or other sorts of horrific or critical injuries, would applaud any efforts to improve safety for quad users on the roads.

There are clear safety risks, as quad bikes provide minimal protection for riders in the event of a collision. If a quad-bike rider is involved in a crash, the probability that it will result in injury to them, especially a head injury, is high. Making it mandatory for riders of such vehicles to wear a helmet will help protect them against head injuries in the event of a collision and reduce the severity of any injury.

Part 5 of the Bill contains transitional and savings provisions. To sum up, the bold measures that the Bill introduces have the potential to deliver a step change in road safety, which is what is demanded of us if we are serious about pursuing an ambition of having zero road deaths. I believe that everyone in the House wants to do everything we can to reduce casualties. I also believe that there is broad agreement on the principles of the Bill, if not on the detail.

I said earlier that balances are to be struck and I believe that the Bill can strike the right balance. I fully understand that we all need to be sure that it does, and I am committed to considering the views of the House to ensure that we arrive at the best possible package of measures. I look forward to a constructive and positive discussion on the Bill.

**Mrs Cameron (The Deputy Chairperson of the Committee for the Environment):** I feel duty bound at this point to declare that I passed my test on the first go. *[Laughter.]* As Deputy Chairperson of the Committee for the Environment, I welcome the Road Traffic (Amendment) Bill. The Bill is very timely and will, hopefully, help save lives and reduce casualties as, unfortunately, after many years of improvement in the safety of our roads recent statistics are not so encouraging.

In advance of the debate, the Committee was briefed on the Bill by departmental officials at its meeting on 13 May. Officials outlined the threefold purpose of the Bill: to establish a new drink-driving regime; to introduce a system of graduated driver licensing, and to make the wearing of helmets on quad bikes on public roads mandatory. The Committee is fully supportive of the proposed review of drink-

driving limits. The statistics released by the PSNI each year after its annual winter drink-drive operations make for grim reading. It would seem that the message is not getting through to some, and I hope that the measures in the Bill will go some way to addressing that.

The Bill will introduce the option of fixed penalties for drink-drive offences, but only for first offences at the new lower limits. During the consultation period, when the Department proposed the introduction of graduated penalties for repeat offenders, the Committee called for those who were found to be above the drink-driving limit on more than one occasion to be automatically banned from driving for three years regardless of blood:alcohol content levels. I am pleased that the Department has amended the Bill to take the Committee's views into account.

During the recent briefing session, members had a useful discussion with departmental officials on the proposed new blood:alcohol limits of 20 mg for specified drivers and 50 mg for all other drivers. The Committee felt that the dual limits of 50 mg and 20 mg may prove confusing to the public and to some extent contradict the current campaign advising people not to drink and drive by leading them to believe that they can safely drink some alcohol. Officials provided assurances that the education element of the Bill would be reinforced by a clear enforcement message of "Forget 20 mg: it means zero".

Some members felt that it may be more effective to have a zero limit, but officials explained that this would be difficult to administer since many people have a certain level of alcohol occurring naturally within their bodies. Officials indicated that some foods and a number of common products, such as mouthwash and over-the-counter medication, may also produce a blood:alcohol readout. The Department agreed to provide further, more detailed, examples of that, and members look forward to that clarification.

In a similar vein, Committee members queried whether it would also be possible to test drivers for evidence of drug consumption. Officials advised that this is not being considered by the Department, partly on the grounds of practical enforcement difficulties and also on grounds of cost.

Moving on to the graduated driver licensing element of the Bill, officials explained to the Committee that the package comprises a number of measures that aim to prepare new drivers for the challenge of driving on their own

and protect them and other road users as they gain experience.

### 11.30 am

We are all aware of the statistics regarding young drivers on our roads. Between 2008 and 2012, almost half of fatal collisions for which car drivers were responsible were caused by a single group of drivers: young people aged between 17 and 24, who make up only 10% of licence-holders. In addition, there is evidence that young male drivers are four times more likely to be killed, and six times more likely to kill, than the average road user. Members took on board some very worrying statistics: if a young driver carries two passengers, they are twice as likely to be killed; if they carry three passengers of the same age, they are four times more likely to be killed.

Any measures aimed at improving these statistics must be welcomed, but the Committee expressed some initial concerns in respect of one of the measures. The Bill introduces a restriction on young drivers to permit them to carry only one passenger aged 14-20 unless they are accompanied by another experienced driver. However, there are a number of exemptions to the general restriction on inexperienced drivers carrying passengers. Members felt that these were relatively complex and may prove difficult to enforce.

Members also expressed concerns about the impact of the introduction of a minimum period for holding a provisional licence on employment prospects for young people who are required to hold a full driving licence as a condition of their employment. This may also have a disproportionate impact on young people in rural areas who are unable to depend on rural transport for their journey to work. The Department has explained that it is hoped that lowering the age at which a provisional licence may be obtained from 17 to 16 and a half will provide a counterbalance to this factor. As it begins its scrutiny of the Bill, the Committee will welcome the views of young people on this aspect of the legislation.

Committee members also expressed the views of many parents when they asked if there would be a requirement to undertake a specified number of paid lessons during the 12-month provisional period. Officials confirmed that there would not be such a requirement but that it would be necessary to complete a logbook as evidence of the driving experience that had been gained. While Committee members were supportive of learner drivers undergoing longer and more comprehensive training, they also

expressed some reservations that the test requirements should not become so stringent that they effectively discriminate against those with minor learning disabilities or dyslexia.

On the positive side, the Committee welcomed the reduced insurance costs that would result from graduated driver licensing. A 15% to 20% reduction in the cost of premiums for drivers in that category is anticipated.

The third element of the Bill is to make mandatory the wearing of helmets on quad bikes on public roads. The Committee saw the outcome of the public consultation on that measure in 2012 and was content with the policy proposals at that time. Although members were aware that the Department of the Environment has the power to legislate only for those who ride quad bikes on public roads, the Committee would welcome any complementary legislation that extended this provision to private land, as this is frequently where such accidents occur.

In conclusion, as soon as the House refers the Bill to the Committee, we will be calling for written submissions from interested organisations and individuals. Members will welcome those views to inform their scrutiny of this legislation. I also look forward to a good ongoing working relationship with officials to ensure that my Committee is able to scrutinise the legislation properly. On behalf of the Committee, I support the principles of the Bill and look forward to scrutinising it closely at Committee Stage.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom labhairt i bhfabhar an Bhille seo. I rise to speak in favour of the Bill and support its broad principles. It has been a good debate so far, and some very good points have been raised. I am surprised at some Members having to take two or three goes at getting their driving test. Maybe if they had been born and reared in rural areas, they would have had a chance of passing the test first time round, like Pam and me.

I welcome any new measures that we can introduce that will reduce road fatalities and serious injuries on our roads and encourage, persuade and support road users in general and, in particular, young people. I have to say that, while I appreciate that the Department has come to us on a number of occasions — this Bill has been bounced about for a number of years, and there has been a lot of consultation and remarks and things that have been said over the past three or four years in relation to

the introduction of this Bill and these measures — looking at it today, it seems to me that it is slightly weighted towards the big stick approach as opposed to the carrot approach.

I have some concerns, which I will get into in a minute. Rural people may suffer as a consequence of some elements of the Bill, and that is something that I will certainly not support. Although I support the Bill's general principles, I think that, at Committee Stage, we will get to a point at which we can introduce some of the measures that we propose to bring forward and challenge existing measures in the Bill.

One of the major issues that I want to mention concerns the restrictions on qualified drivers. The Minister will be well aware of it, because I have mentioned it on a number of occasions. A lot of people whom I know who work in the hospitality industry are down along the border in rural areas, and they have to travel back and forward to work. I am concerned about how the proposed restrictions will impact on them, because a number are young people. Look at the restrictions. The Minister mentioned people up to 24 years of age, who can travel in a vehicle together and everything else. We need to be quite clear as to how we support businesses and young people in that regard.

A time frame of a year with a provisional licence is proposed. In the light of some of the comments that have been made, clearly rural people in general were not mentioned in Committee. Some of them have quite a good experience of driving. There is no doubt about that. Perhaps there is an opportunity at Committee Stage to look at how we can address those issues, because we do not want to create an inequality. Other Members have mentioned inequalities and certain conditions. As I have said on a number of occasions, there is no doubt that rural people are totally reliant on car travel. They do not have the big rural transport network out there. That is another factor that the House, and the Minister, must consider.

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

**Mr Boylan:** Certainly, yes.

**Mr Wilson:** Does the Member accept that there is a whole range of issues in the Bill that disadvantages people in the rural community, such as restrictions on the length of time before people can get a full licence? Indeed, many young people in rural areas, where there may not be widespread car ownership among them all, depend on friends to go out for the evening,

so the Bill would impact on them in that way as well.

**Mr Boylan:** I agree with the Member's intervention. As we go through Second Stage and hear comments from other Members, we see that there is clearly an issue. We need to look at rural people's reliance on cars and on neighbours and friends. However, as I said, the broad principles of what we are trying to do are encouraging.

The other issue that I want to raise — a Member who spoke previously mentioned it — is drug-driving. Perhaps the Minister will clarify how we will take forward that issue. Drug-driving has not been mentioned in the Bill. I know that it has been very difficult for us. It has now been two or three years since we heard and gathered different evidence and tried to address the issue. It is certainly an issue, because, ultimately, what we are trying to do is address the issues through enforcement and detection. The other element is driver behaviour, and that is something else that we have not touched on in the Bill yet, but I will come back to that. Minister, have we made any further progress on how we can address drug-driving in the Bill?

There is one other point that I want to bring up.

Clause 4 would introduce authorised checkpoints, and whilst I do not have an issue with that in principle, I am somewhat concerned, because there are still some sensitive issues about checkpoints and where they might be placed. I am concerned about whether communities would accept that type of checkpoint. So, I need further clarification on that. The Minister said that he will work with the PSNI on looking at that issue. We would need to be very careful about how we introduce and authorise those types of checkpoint in certain areas at this time. There are very sensitive issues, and the Department is well aware of that, because I brought the issue up on a number of occasions in the past as part of our discussions on the Bill.

As I said, we have been through it, we have looked at the issue, and we are now down to the Committee Stage of the Bill. I will certainly look at some of the clauses. We need to look at restrictions on authorised checkpoints and at drug-driving. I have no issues on penalties and fines and all that. I see them as positive and a deterrent, and I would certainly welcome them.

As I said, I look forward to the Committee Stage. The Committee has had a number of Bills over the past while, so we are well used to



them. With that, I support the broad principles of the Bill.

**Mr A Maginness:** On behalf of the SDLP, I welcome the Bill, and I will say that we are supportive of its principles.

Let me reflect on what the Minister said in his opening remarks when he said that:

*"doing nothing is not an option"*

and that we have to do something. Although the Bill may challenge some Members, it is an opportunity to do something to try to reduce the number of deaths and injuries on our roads.

We have had considerable and significant success in reducing the number of deaths, and that has been due to a tremendous effort by many people, but we have to continue that process; we cannot relax. We have to move towards what the Minister described as a "zero road deaths" situation. That is an important objective. I think that we have to measure all these provisions against that objective. I assume that that is the basic principle of the Bill.

We have a concept in the Bill — I am not sure whether it is a principle — that I and, I know, other colleagues support. That is graduated driver licensing. If we accept that principle — or concept, if it is not a principle — we must construct provisions around it to see how we can make progress on these matters. I know that colleagues raised concerns about the exact implementation of that concept, such as how we actually implement it and how we put shape and form to it. That is the job for all of us in the Assembly and, in particular, for the Environment Committee when it comes to consider the Bill in detail.

I am reassured by the Minister's concluding remarks that the Bill can strike "the right balance". I think that all of us in the House want to do that; we do not want to introduce unnecessary difficulties that do not improve driving performance for people, whether they are young people, older or whatever. We want to strike that balance, and that is what the Minister aims to do.

The Minister has asked for, will seek and, I hope, will obtain positive and constructive interaction with the Assembly and the Committee.

**11.45 am**

In relation to drink-driving, I welcome a reduction from 80 mg to 50. We have to support that. It is the standard limit that has been established throughout Europe, and we should implement it and support it. I have questions about the 20 mg limit, and I think that we have to explore it in more detail. I am not saying that we should or should not go for it; I am saying that we should explore it and see if there are difficulties that we can address. Let us look at it and look at it carefully. It is an innovative provision that the Minister has rightly brought to the House, and it would be negligent of us all if we were to ignore such a provision. Let us look at it in Committee and see if it meets the concerns that we have in the community about drink-driving, particularly in relation to young people and those involved in professional driving, if I can put it like that.

The Bill gives us a real opportunity to be innovative and imaginative. A considerable amount of evidence has been given to the Department on all the issues. There has been considerable consultation, and we should carefully evaluate it, take it on board and arrive at an evidence-based decision on the Bill's provisions. As we do that, we should bear in mind the objective that the Minister has set us of working towards a zero road deaths target. That is very important indeed, and we owe it to our communities across Northern Ireland to do that.

We will have to analyse carefully the provisions on meeting the driving test over a period of a year to see whether that period is too long, can be varied or whatever. Let us look at that and see how we can improve the standard of driving experience for those who are learning to drive. I know that people have argued that passing the test is sufficient. If you have passed the test in a very short time, it may be sufficient, but it may also be insufficient as you do not have the experience that perhaps would help you to improve your driving.

**Mr Ross:** I thank the Member for giving way. He has hit on a key point. The whole concept of GDL is that drivers get experience in a low-risk manner, when they begin to drive on their own. Is that not why the provision for holding a provisional licence for 12 months does not make that much sense? During that 12 months, the driver is not on their own facing real driving conditions. That is perhaps why we need to look at that again. By the same token, it is absolutely sensible that there should be restrictions on a novice driver for a period whilst they gain that experience on their own behind the wheel in real conditions.

**Mr A Maginness:** I suppose that it depends on the extent to which the learner driver is gaining experience of actual road driving over the 12 months. I understand the argument that you put forward, and it is not an unreasonable one. However, you have to balance that with the experience in other jurisdictions, and we have to analyse that carefully. I do not think that we can simply say that that is all nonsense and we will forget about it. It may well be that we come to a conclusion that a lesser period is necessary, but the graduated driver licensing approach is certainly the right approach for new drivers. If we accept that, we have to implement it in some shape or form, and that is the important thing.

Many Members raised the issue of rural drivers and rural experience. I do not come from a rural constituency, and I accept the points that colleagues from rural constituencies have made. I await discussion on that. It is important that we try to get that balance right and do not in any way discriminate against people who live in rural areas and impose unnecessary restrictions on those communities, particularly young drivers. Nonetheless, we have to look at these things carefully and in the round. We have to strike a balance between the rural experience and the urban experience. It is important for colleagues to bear it in mind that accidents on rural roads involve a disproportionately high number of deaths and serious injuries. We cannot neglect that; we have to look at and address that to see whether we can improve the situation.

From time to time, we get exercised about the use of quads, which affects not just rural areas but urban areas. The compulsory wearing of helmets will be of assistance in reducing serious injuries and in creating the notion that quads are like other motor vehicles. They are similar to motorcycles, and people who use them require some additional legal discipline, if I may put it that way. That would inculcate in people who use quads that they cannot do so freely. We have to create a situation in which people who use them are safeguarded. Therefore, the introduction of protective headgear is important in trying to create a new social discipline in the use of quads. I welcome that provision and think that it will be helpful in bringing home to people a new awareness of quads, which has been absent for some time.

In conclusion, I welcome the Bill. It is a great opportunity for the House. I look forward to working with colleagues in Committee and hope that we can reach consensus on the difficult issues raised. There are by no means any easy answers to the questions raised.

**Mr Elliott:** This is a significant Bill, and it has got quite a bit of publicity already. I want and, I am sure, everybody in the House wants the number of road deaths in Northern Ireland to be reduced significantly, if not stopped altogether. I know that that is a huge challenge for everybody here, particularly the Environment Minister and his Executive colleagues, but we should strive towards stopping all road deaths if possible.

With regard to the first issue of driving while under the influence of alcohol, I would like the Minister to deal with the lower limit of 20 mg per 100 millilitres of blood that is now proposed and give an assurance that that will not impact on those who may have a small amount of alcohol in their system naturally or by other means, as has been indicated already. I would like that assurance, and I would like to have some discussion around that. I have already questioned the Minister, and he knows my concern that, although the Bill deals with the matter of driving while under the influence of alcohol, it does not deal further with driving while under the influence of drugs, which is becoming as big an issue as alcohol. I would like to see that matter dealt with. I am disappointed that it is not in the Bill, and I would like further discussion of why it is not. I do not think that just saying that it is more difficult to deal with is a real excuse; we need proper discussion and debate on it.

**Mr Ross:** I thank the Member for giving way. Given that there is existing legislation that deals with driving while under the influence of drugs, perhaps it would be useful if he could outline what additional measures he would like to see included in this Bill to specifically tackle that issue.

**Mr Elliott:** I thank the Member for that. There is existing legislation that deals with the issue of driving while under the influence of alcohol and that is being changed, so there is no reason why we cannot change the aspects and be more restrictive on driving while under the influence of drugs.

On the proposal for a graduated driving licence, I have concerns about the requirement to hold a provisional licence for a minimum of one year, as I do not see why there is a need for one year. Some people may take one year to pass their test and to be competent driving on our roads, but, for others, it will not take one year. I recall Mr Ross bringing a motion to the Assembly some time ago and, to be fair to him, although I do not think that he was making any proposals, he suggested time frames of possibly six months or a year. If there were to

be any time limit, I would like to see it being six months or even less. Mr Wilson has already highlighted in an intervention the fact that the driving test should decide whether a person is competent to drive on our roads. In fairness, I accept that a small minimum time limit might be useful to progress that.

**Mr Weir:** I thank the Member for giving way. I appreciate and agree with the thrust of what the Member has said. As the co-sponsor of that motion with Mr Ross, I clarify that we did not make any specific reference to time frames. Time frames may be unhelpful, but there may be other avenues that could be pursued to achieve the same objective.

**Mr Elliott:** I thank the Member for that. However, to be fair, there was a specific reference, not in the motion but in the debate, to a time limit or a time frame, and six or 12 months was suggested. To be fair to Mr Ross, he was not making any specific proposals, but he highlighted the option of those two time limits.

I have concerns about putting in a time frame. It is a wee bit like other aspects that we debate, but I will not get into that, Deputy Speaker; otherwise you will say that it is not relevant to the Bill that we are discussing. I do not like arbitrary figures that have no real evidence behind them.

## 12.00 noon

The consultation covered restrictions on younger drivers and the passengers whom they can carry. A Member mentioned that, and Mr Maginness said that, although he is not from a rural constituency, he is happy to discuss the matter. I understand where the Minister is coming from, but restricting passengers discriminates against people in rural areas. There is no question about that. We need to find a mechanism to get over that. Given the number of younger drivers who are killed or seriously injured, I fully understand that the matter needs to be dealt with, and we must find a mechanism to improve the situation. Everything must be enforced and policed, and that provision will add an extra difficulty.

I accept Mr Maginness's point that the wearing of helmets on quads is not only a rural issue but an urban issue. However, whether in urban or rural areas, there is a major difference between those who race quad bikes up and down roads and a farmer who is moving stock from field to field when an animal gets out on a road and he needs to follow it and get it back in.

That problem will be discussed by the Committee and through other means. We need to look at that carefully or there could be a danger of legal cases against farmers who unexpectedly have to move stock across a road or capture an animal.

**Mr A Maginness:** Will the Member give way?

**Mr Elliott:** I am happy to.

**Mr A Maginness:** I will make a couple of points. There is great concern about injuries and deaths on farms, and the Health and Safety Executive takes it very seriously. Surely farmers should wear a hard hat or a helmet while carrying out farm work on a quad. Is that not a reasonable suggestion so that, on a voluntary basis, when farmers venture onto a public road, they are legally equipped to do so? Would that not create a healthier and safer environment among the farming community?

**Mr Elliott:** I fully appreciate the Member's thoughts. I understand that he is from an urban constituency, and the point that he has made makes it obvious that he is. When a farmer sees some of his stock on a road, he sometimes does not have the time to grab a helmet and put it on. His automatic inclination is to get his stock out of danger and prevent it causing a risk on a road on which there may be traffic. It would be difficult to implement that on a farm.

If a farmer were to move stock in a planned manner, that is a different matter, but flexibility is needed for emergencies. If Mr Maginness wants to come out on a farm to get a view on how it operates, he is welcome. I give him that invitation. He could see how things work in practice and how difficulties arise.

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

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

**Mr Wilson:** Is this not typical of people from the town trying to legislate for people in the countryside? Will the Member not accept that farmers do not race quads up and down the roads? If farmers are on a road, it is usually to take hay to a field or, as the Member pointed out, to herd cattle, sheep or whatever, and you do not do that at 30 mph, 40 mph or anywhere near it.

**Mr Elliott:** I accept that most farmers do not race up and down roads on quads, although there may be exceptions. That is the point that

I am trying to make: there is a difference between routine or emergency work and those who go out on a planned quad race up and down a road.

I am happy to support the progress of the Bill, but I look forward to further discussions on various occasions at Committee and back in the Chamber.

**Mr McCarthy:** I thank the Minister for moving the Second Stage of the Bill. The accidents and fatalities on our roads are horrendous, and many could be avoided. If the Assembly can stop the carnage, it will have been well worth it and a job well done for everyone. The Alliance Party welcomes tougher measures. Hopefully, the Bill will bring down the number of road fatalities and injuries, which have serious human and financial impacts. We support the Bill at this stage as a mechanism for bringing forward legislation on the matter. We anticipate further scrutiny on specific proposals to test their robustness.

We are highly sympathetic to the plans to lower the drink-drive limit, but the DOE's public message must always be unambiguous: if you want to drink, simply do not drive — not one glass of wine or one pint of beer. "Do not drink and drive — full stop" must always be the message. We have all seen the graphic TV ads. Who would want to be responsible for creating such carnage and suffering? Unfortunately, once it has happened, it is too late.

Although the new penalty regime for drink-driving offences provides more flexibility for the courts and police to impose graduated penalty points and disqualification, I wonder if it is the right message that those who drink-drive above the new limit but under the current limit can get away with a fixed penalty of £100 and three penalty points, whereas any driver over the current limit will continue to be dealt with by the courts.

I turn to learner and new drivers. We all know the scary statistics of young and inexperienced drivers having accidents. At face value, there is a case for the one-year requirement for learning before taking the practical test. However, I have doubts about how the training logbook can be verified if not by a registered instructor. I know that it will be an offence to forge or misuse a logbook, but those provisions will require further scrutiny.

It may be difficult for the police to enforce on the road the restriction of young drivers to only one passenger. In principle, it is supportable,

but, again, greater scrutiny will provide robustness to the proposals. I finish by asking the Minister what the merit of the two-year period is, if the 45 mph speed restriction is removed.

At this stage, the Alliance Party supports the Bill and wishes the Environment Committee well in its deliberations on this life-and-death issue.

**Mr Weir:** I support the principles of the Bill. At the outset — I hope that there will be time next week to address this — I think it is appropriate to mention and place on record my sadness at learning the news this morning of the death of my former colleague from North Down, Sir John Gorman. I am sure that all in the House will join me in that when we have the opportunity, perhaps next week, to deal with the matter in more detail. Certainly, at this stage, my thoughts are with his family.

I appreciate that no one will want me to digress too much from the Bill. As I indicated, I think that all of us can unite around the intentions behind the Bill. Consequently, the good intentions that are out there are to be welcomed. Mention was made of a wide range of initiatives in recent years that, fortunately, had reduced the number of deaths on our roads. For any family, the death or serious injury of a loved one on our roads is one too many.

With the best will in the world, it is unrealistic to believe that we will eliminate death on the roads. We have to accept that. Down the years, quite a number of measures have been taken that have led to a reduction in the number of deaths. We should remember that some were controversial at the time. Perhaps few people today realise how controversial the compulsory wearing of seat belts was a number of years ago. *[Interruption.]* I appreciate that there may be a couple of people who believe that that was not necessarily the right move, but I will not embarrass anyone by naming names in that regard. Even if we go back 20, 30 or 40 years, the extent to which it was seen to be socially acceptable to drink and drive is, fortunately, something that has been clamped down on and a range of measures has led to that reduction of deaths.

The reduction in deaths has not always been purely about road safety measures in regulations. In my opinion, the biggest leap forward has been in the restructuring of cars to make them safer. Quite often now, we drive past what appear to be horrendous road accidents where the police and ambulances are involved and cars are being towed away, but

then we hear nothing at all about them on the news. That is because the structures of cars nowadays are so protective that, in many cases, an accident that 20 years ago in a similar car would have led to a fatality now, fortunately enough, results only in minor injuries.

Obviously, the concern is that, despite the fall in road deaths, there is a danger that we seem, under current measures, to have bottomed out. To use the Minister's phrase — I hope that I am not entirely misquoting him — we need to create a new step change in reduction. From that point of view, the spirit of the Bill is something that we can all embrace.

As a Member of the Committee, I think that there are a lot of elements in the Bill that will require detailed scrutiny. To that extent, I look forward to the weeks and months ahead in which we will try to establish what we can welcome and approve in the Bill and what areas need to be changed. We need to do that on an evidence base. My initial thoughts are that many of the changes that relate to drink-driving make sense. We should embrace the concept of lower limits, and the system of random breath-testing and the greater use of educational courses are certainly worth trying.

One of the major controversies surrounds the issue of learner drivers and new drivers. A number of Members mentioned the motion that Mr Ross and I brought on the issue of graduated driver licensing. As Mr Maginness said, the concept should be embraced. However, those who looked at the debate on that occasion and those who did the research on GDL will see that a plethora of schemes have been used across the world, some of which have been more or less effective in certain circumstances. It is about providing a cocktail of measures. Within this, therefore, there will be aspects of the changes for learner drivers and new drivers that are particularly appropriate and others that may be less so, for example, looking at the way in which we deal with L-plate and R-plate restrictions.

I was taken by the notion that the pure restriction to 45 mph means that, in practical terms, there can be a lack of experience. For example, on any particular occasion, you eventually reach a situation in which someone who is newly qualified is suddenly alone on a road with a 60 mph limit or, indeed, at a future stage, on a motorway and has no experience of driving in those conditions. Alterations to that would be welcome.

We need to look at the need for particular levels of attainment of experience, which seems to be sensible, but there are other aspects of this about which I have greater concern. It has been mentioned that there is a suggestion in the legislation about a year before taking the driving test. There are other ways of doing this. Specifying time frames seems to be the wrong way of going about it. It has also been mentioned that, in different parts of the country, there are people who have gained that experience very quickly and have a degree of aptitude.

A bit like Mr Wilson, I suppose, I passed my driving test on the second go. Some who have seen me drive may feel that a lot longer may have been —

**Mr Wilson:** Did you ever pass?

**Mr Weir:** I did.

Some people have a natural aptitude for driving, and others do not. A particular concern about the time frame is whether it is measured simply as the period between someone's applying for a licence and getting the test. We all come across young people in particular who are mad keen to be out driving as soon as they are the age. They will get the licence. They will get vast amounts of driving experience very quickly, and may well have good aptitude and be able to pass the test quickly. Others may be a bit more reluctant. They may almost feel a certain pressure to apply for it as a rite of passage, then may well have a bad experience in their first couple of lessons and essentially be put off learning for a bit. There may actually be a situation where someone has clocked up a year or 18 months since getting their original provisional licence but has very little experience. Therefore, an arbitrary time frame is not one that necessarily matches circumstances properly. Again, as with all aspects of this, that is something that the Committee will want to explore.

Clearly, to address some of the concerns, one element that is sometimes used in GDL is the restriction on the number of passengers that, in particular, young drivers or inexperienced drivers can carry. Quite naturally, widespread concern has been raised on that particular issue. Mr Boylan mentioned in the debate and previously the implications for employment, for example, if that were put in place. To be fair to the Department, I think that there has been an attempt to produce some form of nuanced position on that. However, most people looking at what is proposed at present will see, at first

sight, a bit of a dog's dinner, to be perfectly honest, in terms of the restrictions and the exemptions to those restrictions. From that point of view, I am sceptical about that element of it, but we will wait and see.

Finally, I think that we need to see an evidence base on the use of protective headgear on quad bikes. I suppose, like Mr Maginness, I am a bit of a townie in that regard. I am less familiar with the position. Indeed, my experience of quad bikes is more of seeing young people trying to race about on them at 30 or 40 mph. I very much take that on board. I am sure that the Committee will listen to the rural voices of people like Mr Elliott and their farmland experience. There may well be an argument that the situation is quite different for farmers in rural areas. I also take on board what has been said and appreciate that there is a general degree of protection. The idea that there is simply a correlation between protective headgear and something that will reduce the number of deaths is again something we have to tease out an evidential basis. Many aspects of the Bill can be useful and will be a productive way forward. However, to put it at its mildest, other Members and I will certainly query a number of its aspects. My colleagues to my right and left are due to speak next. I suspect that, over the next few minutes, they may query those aspects a bit more vigorously than I have, as neither has the opportunity to test them on the evidence of the Committee for the Environment.

There is the very serious and critical issue of how we actually produce legislation that leads to a reduction in the number of road deaths and with which we can help to drive that down. It has got to be done with something that is effective and enforceable and that is where the key tests need to be applied. Although it is a much shorter Bill than the Local Government Bill, I suspect that we will face it in the same way, in that we had a Bill that was a useful template to work on, to which we then made quite a number of amendments. My suspicion is that when we move through the process of Committee Stage and scrutinise this Bill, a number of changes will need to be made to it as we move ahead.

I look forward to the rest of the debate and to the serious scrutiny that the Environment Committee can give the Bill. Hopefully, at the end of it, we will have an effective piece of legislation which, hopefully in an effective manner, protects our citizens in terms of road safety.

**Mr Eastwood:** I thank the Minister for bringing the Bill to the House. I know that his predecessor initiated the legislation, but he is otherwise engaged today, as are some other Members.

**Mr Weir:** You will soon have him back.

**Mr Eastwood:** I cannot hear you there. Sorry, Peter.

This is very important legislation, and every Member in the House appreciates that it is about safety. Even some of the more libertarian Members across the way, I think, understand that the purpose of the Bill is to save lives. Anybody who watches the news on any given weekend will know how important that is and how we have to strive every day to make our roads safer.

We have to recognise that things have improved massively in the past number of years and decades, but we have a serious issue, in that far too many of our young people and our people in general still die on the roads. One of the issues around that is the state of some of our roads. Coming from the constituency of Foyle, I know all too well that, to get to anywhere else, you have to travel across fairly treacherous roadways. We never had the opportunity to go anywhere near a motorway when we were learning to drive. Even if we had been allowed to do so, we would have had to go far too far to find one, unfortunately.

We have to understand that the Bill is a genuine attempt to save lives. We can argue over some of the details now, but we will do a fair bit of that when the Bill comes to the Committee. Everybody seems to be committed to the idea that we have to do more to achieve the goal.

We have heard quite a bit about the rural community. I, too, am a townie, but I have plenty of family involved in farming, so I have a slight understanding — not as much as some people around here — of the needs of the farming community and the wider rural community in particular. If you take any of the issues, you will see that rural areas are affected a bit more. If you take the drink-driving issue, the issue of carrying passengers, the issue of the length of time that you have to have been learning to drive before you can do your test and the quad issue, you will see that all affect rural people a bit more. That is because of the isolation, the lack of transport and a lot of other things.

What has affected rural communities a bit more is the deaths on our roads. Rural communities

across Northern Ireland, across Donegal and across Ireland have been absolutely devastated by horrendous stories about groups of young people in particular. I remember one incident around Carndonagh in Donegal where, I think, seven young people were in one car, and all but the driver were killed. The impact of such incidents on rural communities in general is much greater than that of some of the smaller issues that we can deal with as we work through the Bill.

It is good that, once the legislation is passed, we can finally say to people that no drink at all is allowed, because there is still some confusion. We can do all the ads that we want, but, until you make it law and say, "No drink is allowed before you get behind a wheel", people will continue to do it and say, "If I have one drink, I may as well have two drinks or maybe three or four drinks. I can handle it. I can handle my drink, and I can drive a car no matter how many pints I have had". We all know the devastating effect that drink-driving can have. Therefore, that is a very sensible measure that I hope we can agree on.

On graduated driving licences, we have heard the figures: 17- to 24-year-olds hold only 10% of driving licences, but they are involved in 42% of the fatal collisions that occur across the North. We need to do whatever we have to do. We can discuss the details of how many months, how many lessons or whatever, but it has to get to the stage at which people are not just learning how to pass their test but are really learning how to drive. People always tell you that you learn how to drive after you have passed your test. People could do a bit more learning before they pass their test. That makes a bit of sense.

In terms of the motorway issue, I remember passing my test on a Friday and having to drive to Belfast on a Monday. I had never seen a motorway or been behind the wheel of a car for driving on a motorway. It was an absolutely terrifying experience coming into Belfast and trying to negotiate the different lanes and different speeds of cars, and I was allowed to drive only at 45 mph.

**Mr Elliott:** I thank the Member for giving way. I accept some of what he said, particularly that there is a theory that you learn to drive properly only after you have been successful in your test and that, prior to that, you learn to do your test. However, that is the issue with the test. It needs to reflect proper driving qualities, and, if the driving test needs to be changed, so be it. I do not think that having a year, six months or three months to learn to do that will make any

difference, because all that you will do is learn how to do the test.

**Mr Eastwood:** You will also have to do a certain number of lessons, however, and those will have to be logged and all that. So, I think that there is merit in that.

It makes perfect sense to get rid of the 45 mph limit not just for motorways but in general. How can you learn to cope with driving at 70 mph if you have never driven even at 50 mph? It makes absolutely no sense at all, and that is a good idea that is in the Bill. How will somebody from Derry, for example, ever get practice on a motorway if they have to drive 50 or 60 miles to find one? Maybe we can do a bit of work to bring the motorway a wee bit closer to make that a bit easier.

I know that one of the controversial issues in this is passenger restrictions, and I hear the arguments about that. However, the international evidence tells us that it is more dangerous and more distracting for young people in particular to carry a number of passengers who are around their same age. It makes sense that we try to deal with that, and I am sure that there will be plenty of debate on that.

**Mr Ross:** I thank the Member for giving way. As somebody who did a lot of work on the whole GDL issue a number of years ago, the Member is absolutely right in saying that the evidence suggests that carrying passengers in the car distracts the driver, particularly young drivers, and makes them more likely to be involved in a traffic collision. But the same could be said for restrictions such as preventing young people from driving at night. That is because, again, the international evidence points to the fact that, if young novice drivers are driving during dark periods, they are more likely to be involved in a road traffic accident. Yet his Minister has rejected that idea, correctly in my view, because I do not think that that would be desirable. So, even if the evidence says that it will work, it is not always desirable. Would the Member go further than the Minister and have restrictions on night-time driving, or does he appreciate that, sometimes, even though the evidence suggests that it will work, it is not necessarily desirable for legislation?

**Mr Eastwood:** The Member makes a fair point. The Minister has accepted that there are other things that he could have done on night-time driving and everything else. However, I think that he is doing what he can do, what is sensible and what can be implemented. In fact,

the restrictions on passenger numbers and passenger ages will apply at night as well when there is likely to be more peer pressure with the issues that we know about. Given that most of those incidents and accidents happen at night, I think that that makes some sense. Of course, there is PSNI support for that measure.

One of the major issues that was just touched on in the debate is insurance for young drivers. We have all heard of the extortionate quotes that people have been given for car insurance, especially young people and new drivers in general. Insurance companies, whether we can believe them or not, are telling us that these kinds of improvements, as they see them, can help to bring down car insurance prices.

In terms of the quad issue, I understand that issue, and I think that we may have to look at how we can legislate for that in farming. However, I see far more quad bikes in estates around Derry than I do in Donegal or Tyrone driving around the roads. I know that they are a much-used vehicle for farmers, but one of the major issues with quad bikes is the issues that we see in estates, towns and cities. Those issues need to be tackled in a number of different ways, and this is one way that we can help to at least improve some of the safety issues.

Finally, I commend the Minister and the previous Minister for their work on this issue. They are doing everything that they can to try and ensure that we can drive down the incidents of fatalities on our roads, and I think that has to be commended. I am sure that there is broad support for the broad principles of the Bill, and we will get into the detail around it as we go forward.

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

*The debate stood suspended.*

*The sitting was suspended at 12.30 pm.*

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

2.00 pm

## Oral Answers to Questions

### Social Development

**Mr Principal Deputy Speaker:** Those who were not up all night counting votes will notice that it is the Minister of Finance who is standing in for his ministerial colleague, who is unwell. Question 11 has been withdrawn.

### Housing Repossession Task Force

1. **Ms Ruane** asked the Minister for Social Development for an update on the work of the housing repossession task force. (AQO 6186/11-15)

**Mr Hamilton (The Minister of Finance and Personnel):** The work of the housing repossession task force will be time-bound and completed in two phases. The first phase will focus on the nature and extent of the possessions issue in Northern Ireland, with a view to producing an initial research report by the end of June 2014. Minister McCausland is pleased to advise that the task force is making strong progress in the completion of the research phase. Outcomes from the research will inform the second phase of developing evidence-based recommendations for potential mitigating actions by the end of this year.

**Ms Ruane:** Go raibh maith agat. Does the Minister accept that building or providing more social homes will prevent low-income families being forced to buy properties in the rented sector and, thereby, potentially spiralling into debt and that it is more appropriate to build more social homes?

**Mr Hamilton:** I suppose that a habitual problem in the next 45 minutes will be that I often express my view, which, I am sure, will chime entirely with that of the Minister for Social Development. The Minister and his Department are on track to meet the target laid out for social and affordable homes over the current Programme for Government period — I think that it is around 8,000 homes. It is an ambitious but very achievable target that will make a considerable difference to people in Northern Ireland.



Given the times that we are in, more people are under pressure and, for them, social housing is the appropriate answer. It is not the answer for everybody. That is why I am and have been very pleased, over the past number of years, that the Minister for Social Development has pursued not just more social homes but more affordable homes. I am pleased that, with the help of my Department — the Department of Finance and Personnel — the budget for co-ownership housing in Northern Ireland has doubled over the past number of years. Last year alone, over 1,000 people were able to avail themselves of the co-ownership housing scheme in Northern Ireland. For them, owning a home was the right option. I do not think that, if you were to talk to the more than 1,000 individuals and families who availed themselves of co-ownership in the past year, you would think that they felt that they were stuck with that. That is the choice that they made, and it was a positive choice for them. A lot of the modelling looked at how much was being saved and found that the mortgage and rent payment through co-ownership was considerably less than what people were paying for private rented accommodation. For some people, social housing is the obvious answer; for others, affordable housing is the answer; and, for others, it is buying homes with, perhaps, some assistance from government and others.

**Mr Spratt:** I thank the Minister for his answers so far. Is he concerned that possible future interest rate rises may result in an increase in repossession?

**Mr Hamilton:** There is a fear or spectre of the inevitability of mortgage interest rates rising over the next number of years. A rise would be good for savers, who have been struggling because of the record low rates for such a long time, but there would be an opposite reaction among those who are on the property ladder and are paying off their mortgage. One only had to listen to the governor of the Bank of England, the weekend before last, talking about the housing market. The housing market in Great Britain, particularly in London and the south-east, is in an entirely different position from ours. There is widespread talk about it overheating and a property bubble developing. There are no such worries or concerns, at this stage, about that happening here in Northern Ireland. There is very little heat in the market, albeit that it has been changing over the past number of months.

There are understandable concerns that, if there were to be a sudden increase in interest rates, it would put a lot of people under pressure. I take some comfort from listening to

the governor of the Bank of England saying that he is not looking at sudden increases in the interest rate. He is not saying that it will happen very soon. I think that we all understand that, inevitably, it will happen at some stage in the future. It is important that those on the property ladder paying their mortgage do what I heard described last week at a Bank of Ireland event: just as the banks are undergoing stress tests, individuals should look at their household income in the context of possible interest rate rises and what that might mean for their budgets. There are obvious concerns, and people need to be cognisant of them. Those stepping onto the property ladder need to make sure that they can afford the house that they are buying and that, if there is a sudden jump in interest rates, they would still be able to afford to live in the house they have bought.

**Mr Byrne:** I thank the Minister for his answers. Does he accept that those unfortunate families living through a nightmare are being put through hell because of house repossession and having to be moved out? Does he accept that that is unacceptable? What advice can the Executive give to people suffering the loss of their family home?

**Mr Hamilton:** I absolutely agree with the Member: for those who find themselves in the unfortunate position of being unable to afford to keep up payments on their house and facing the very real prospect — the reality, in many instances — of their family home of many years being taken off them, that is not a nice situation to be in. That is why the Minister for Social Development and his Department have supported the Housing Rights Service in providing support and assistance to those in that situation. All the evidence is that, the quicker people get to the likes of the Housing Rights Service with their problems to try to work them through not just with the Housing Rights Service but with their mortgage lender, the more likelihood there is of a positive outcome to their problem.

We can all understand and appreciate that people are perhaps reluctant sometimes to accept that they have a problem. They try to carry on and muddle through, but, all the time, the pressure is building. If the Minister were here, I am sure that he would send out the message that, if you think that you have problems or if you actually have problems with paying your mortgage, engage early not just with your mortgage lender but with the Housing Rights Service, which provides an exceptional service supported by the Department for Social Development. In those circumstances, with that help and expert advice, there is always the

chance that the very scenario that the Member paints of somebody losing their family home might be avoided.

**Mr Kinahan:** I thank the Minister for his answers so far. In my patch, Christians Against Poverty has been excellent in helping people out. Does the Minister accept that we do not have enough support and debt relief to help people? Will the Minister put more effort into helping the housing repossession task force to build better contacts and making sure that everyone knows what is available?

**Mr Hamilton:** I echo what Mr Kinahan said about the charity Christians Against Poverty, which has a presence in my constituency as well. It and many others, including some of the more established names, such as Citizens Advice and the Housing Rights Service, which I mentioned, do exceptional work. Although the issue is more about repossessions than housing debt, sometimes that is triggered by debt issues in other parts of people's lives, which have a knock-on effect on the ability of an individual to pay their mortgage. In that sense, a more overarching approach is useful.

In response to the crisis over the past number of years, the Department for Social Development has helped to fund the Housing Rights Service, and my colleague the Enterprise Minister has helped to fund the citizens advice bureaux to carry out work on personal debt on her Department's behalf. Lots of work is going on. I am sure that, in response to the Member's question, we could get a fuller response to him about what is being done to knit together those different but sometimes interrelated parts of the debt problem.

## Building Successful Communities

2. **Mr D McIlveen** asked the Minister for Social Development for an update on the Building Successful Communities pilot schemes. (AQO 6187/11-15)

8. **Mrs Cameron** asked the Minister for Social Development how the Building Successful Communities initiative will benefit the areas included in the pilot scheme. (AQO 6193/11-15)

**Mr Hamilton:** With your permission, Mr Principal Deputy Speaker, I will answer questions 2 and 8 together as each raises similar issues.

The Building Successful Communities programme, which the Department for Social Development launched in October 2013,

springs directly from the vision of housing-led community regeneration as outlined in DSD's housing strategy. That vision is focused on ensuring that everyone has the opportunity to access good housing at a reasonable cost. It recognises the significant role that housing can play in helping to support and sustain economic recovery, create employment and help to regenerate some of our most deprived and neglected communities.

The six pilot areas — five in Belfast and one in Ballymena — were chosen because they represent some or all of the problems that Building Successful Communities is specifically designed to address: blight; vacant housing stock; antisocial behaviour; high incidences of reported crime; and economic inactivity. Obviously, these areas are very different from one another, and some of the specific challenges are unique to that area. The Building Successful Communities programme, therefore, cannot and will not try to implement a one-size-fits-all solution in each pilot area. That is why Minister McCausland is delighted to report that three of the six pilot areas have already established their regeneration forums. Work is now under way in those three areas to identify each area's specific physical, social, environmental and economic needs, with a view to developing a plan to address those needs. The regeneration forums in the remaining three pilot areas are expected to meet soon.

Minister McCausland knows that Members will be particularly interested in an update on the pilot in the Doury Road — I hope that I have pronounced that correctly — in Ballymena. That Building Successful Communities forum met for the first time on 1 May, and a second meeting is planned for 27 May. A Building Successful Communities seminar is also planned to take place at the 174 Trust on the Antrim Road, itself a magnificent example of the transformative power of regeneration, on Wednesday 11 June. The seminar is targeted at members of the regeneration forums and will draw speakers from across the regeneration field who will impart their experience, encouragement and suggestions for the challenges ahead.

**Mr Principal Deputy Speaker:** I remind the Minister of the two-minute rule.

**Mr D McIlveen:** I thank the Minister for his answer, and I am delighted that he mentioned the Doury Road — I will correct his pronunciation slightly on that. It is my understanding that the Housing Executive intends to put the demolition on hold. Does that mean curtains for the demolition, or does the

Housing Executive plan on demolishing the vacant properties at a later stage?

**Mr Hamilton:** With the Doury Road — that must be the Ballymena pronunciation — it is my understanding that the Housing Executive's demolition plans mentioned by the Member preceded the decision to pilot the Building Successful Communities programme in that area. In light of the establishment of the Doury Road as a pilot area, Minister McCausland has agreed with the Housing Executive that it would not be appropriate to progress current demolition plans. All plans for regeneration of the estate, including any necessary demolitions, are subject to be taken forward through the plan developed by the Building Successful Communities forum in the Doury Road. The forum includes the Helm and Triangle housing associations, which have been appointed to progress all new social and affordable housing developments in that pilot area.

**Mrs Cameron:** I thank the Minister for his answers so far. Will he confirm how long the Building Successful Communities programme will run?

**Mr Hamilton:** I thank the Member for her question. Stage 1 of the programme, which covered its set-up, staff and governance arrangements and the establishment of the forums, is now entering its conclusion. In the next month, the programme will move to stage 2, which will cover the beginning of the production of action plans and the appointment of consultants to work with each forum and to provide expertise and support in the formulation of action plans.

The Department for Social Development anticipates that stage 2 will be completed for all six pilot areas by July 2015. Stage 3, which will run until the end of 2015, will deal with the approval of the action plans, equality screening related to those actions and the securing of funding from the Minister of Finance and Personnel. I say to the Minister for Social Development, "Good luck with that".

**Mr McKinney:** Will the Minister reassure the House that the Building Successful Communities pilot scheme will comply with the relevant equality legislation?

**Mr Hamilton:** As I said in response to the previous question, equality screening, which is done in any policy, of the Building Successful Communities programme will be done at stage 3, which will run until the end of 2015.

That will deal with a range of issues including, as I mentioned, funding and equality screening relating to specific actions and action plans that are developed by the fora in each area.

**2.15 pm**

**Mr Cree:** The Minister mentioned the Doury Road. I wonder whether he is aware that over 20 families have been given notice to quit there as part of that development. Does he agree that that is not really conducive to a good project?

**Mr Hamilton:** I am sure that the Member knows I would not have that level of intimate detail on the particular circumstances surrounding notices to quit. I will certainly ensure that officials from the Department for Social Development contact the Member with an answer and explanation as to why that is the case.

## Housing: Need Calculation

3. **Mr McCarthy** asked the Minister for Social Development whether he will seek independent advice on the best way to calculate housing need following the concerns raised about the method used to calculate these figures in North Belfast. (AQO 6188/11-15)

**Mr Hamilton:** Minister McCausland has the responsibility for ensuring that access to housing is available for all citizens, irrespective of their religious or political persuasion. He has publicly and consistently highlighted the need to build more homes and improve housing conditions for everyone in Northern Ireland. The Housing Executive has a statutory duty to regularly examine housing conditions and need. In doing so, it frequently commissions independent research to inform its approach. That reflects the Housing Executive's Northern Ireland-wide remit and its long track record of determining housing need, identifying where new housing should be located and allocating housing on the basis of identified need.

**Mr McCarthy:** The Minister will be aware of the considerable concern about the Department building houses in that area from people who question whether it is about political benefits for the Minister rather than providing homes for people in greatest need. How can the Minister restore public confidence in the process, particularly among people in north Belfast?

**Mr Hamilton:** The Member's original question was about ensuring that there is independent

advice. On behalf of the Minister for Social Development, I can assure the Member and the House that the models and statistics that are produced to identify need are independently assessed and reviewed.

His concerns, which he says reflect the concerns expressed by others, are, of course, coming from one particular perspective and do not bear in mind the deep social housing need right across north Belfast. When one looks at the whole of the North Belfast constituency, one sees that there is an identified housing need of 1,994 people who are deemed as members of the Protestant community, or who identify themselves as such, and 1,988 people who identify themselves as Roman Catholic on the waiting list. I am sure that the Member is too long in the tooth to fall for the hype and propaganda of others. I am sure that he will appreciate that 1,994 versus 1,988 does not show that there is need predominantly on one side of the community versus the other and that, in fact, there is balance in the very high housing need in that constituency.

**Mr Dunne:** Can the Minister clarify what independent advice the Housing Executive receives in calculating housing need across Northern Ireland? Is it just assessed against waiting lists?

**Mr Hamilton:** No, it is not. The Member is right, as, indeed, was Mr McCarthy, to ask about independent advice. This is not a case of the Minister just sitting down and working it out himself. It is not even a case of the Housing Executive or his Department doing that. This is work that has had external independent underpinning by people who are experts in the field. For example, the most recent calculation of housing need that looked across the whole of Northern Ireland, not just north Belfast, was done in January 2013, just over a year ago. That work was carried out by Chris Paris, who was an emeritus professor at the University of Ulster and is now at the University of Adelaide. Professor Paris calculated that, to meet estimated demand, 1,200 new social homes are required per year in the 2008-2018 period.

That is work that, as I said, is not done by the Minister, the Department or the Housing Executive but is done and assisted by an independent academic from, at that stage, the University of Ulster. So, when some people are hurling around various accusations in the direction of the Minister for Social Development, what they are actually doing is undermining the work of an academic from the University of Ulster.

**Mr D Bradley:** Go raibh míle maith agat, a Phríomh-LeasCheann Comhairle. Does the Minister now concede that the use of the figures regarding housing need in north Belfast was disingenuous, referring, as they did, to the parliamentary constituency rather than the housing district? Will he outline the actions that are being put in place to address the plight of those who are in housing need within that district?

**Mr Hamilton:** I am sure that the Member would not wish to parcel up need artificially. Need is need, and need across the whole of the North Belfast constituency has been identified — as I outlined in response to Mr McCarthy — as not being predominantly in one community but pretty equal across both communities. You can identify that in district offices. Of course, there is an office called the north Belfast Housing Executive office, which does not cover the entirety of north Belfast. So, to ask about north Belfast and get a north Belfast answer does not in any way cover the entirety, or even close to the entirety, of the North Belfast constituency.

I think it is useful, right and proper that the Minister provides figures on a constituency-by-constituency basis. I know that my own Department is frequently asked for statistics on a constituency-by-constituency basis. It is not always easy, because sometimes that is not how figures and statistics are actually produced, but I think, in a situation where the north Belfast district office covers roughly a quarter — with Newtownabbey 1, 2 and Shankill also covering that area — it is only right and proper that there is a broader perspective of need, and considerable need, across the constituency, in the Protestant community every bit as much as there is in the Catholic community in north Belfast. I can see Members opposite shaking their heads. The truth of what is happening across the way is that they want to wallow in the need of one community and not have any regard for the need of other communities over a line.  
*[Interruption.]*

**Mr Principal Deputy Speaker:** Order.

**Mr Hamilton:** There is serious housing need in the North Belfast constituency, in the Protestant community every bit as much as there is — indeed, more than there is — in the nationalist community. That is a need that the Members opposite clearly wish to ignore —

**Mr Principal Deputy Speaker:** Two minutes are up.

**Mr Hamilton:** — but it is not need that the Minister for Social Development is going to ignore.

## Housing: Gerrymandering

4. **Mr Maskey** asked the Minister for Social Development, in light of the questions being raised by the media, independent non-governmental organisations and international housing experts regarding the alleged gerrymandering of housing allocations and resources in north Belfast, whether he will stand aside from his ministerial position until an independent review is undertaken to establish the facts. (AQO 6189/11-15)

**Mr Hamilton:** No.

**Mr Maskey:** I acknowledge that response from the Minister on behalf of the other Minister. I will make a point that follows on from the last discussion. I think it is very unfortunate that the issue of housing has now become seriously politicised and sectarianised in north Belfast. I put it to the Minister who is speaking on behalf of his ministerial colleague that, in a recent interview, the Minister in question stated that, although one of the nine houses recently allocated in the Oldpark area of north Belfast had been allocated to an applicant with 200 points, over half of the nine properties allocated were allocated to people with no points. Does the Minister not accept on behalf of his ministerial colleague that that makes a complete mockery of the concept of objective need?

**Mr Hamilton:** I am afraid that, without specific knowledge of the particular nine houses, where they are, who got them, what points they got them on and all of that, I am not in a position to give the Member the sort of answer that he was obviously looking for.

**Mr Wilson:** Does the Minister, like me, find the barefaced hypocrisy of Sinn Féin Members amazing? On the one hand, they call for the resignation of a Minister who has allocated resources for housing on a pattern that does not suit their sectarian prejudices and, on the other hand, they ignore the fact that their own leader has been implicated in covering up the rape of a young girl, while the deputy First Minister in the Assembly has now been implicated in murder by one of his terrorist colleagues in Londonderry?

Will he give us an assurance that the Minister for Social Development will not bow to the

pressure of Sinn Féin and that my constituents, some of whom live in north Belfast, will not be disadvantaged by spurious, prejudiced and biased reports, which are politically motivated and designed to take resources away from the Protestant community?

**Mr Principal Deputy Speaker:** I remind Members that Question Time is meant to be about the topic under discussion. It is not an opportunity for speeches, and the Member who has just spoken — a former Minister — is well enough aware of that protocol, and he is out of order.

**Mr Hamilton:** Social development questions are a lot livelier than finance and personnel questions. I might come back in future.

I agree entirely with everything that the Member said. There is lots of catcalling and howling from the Benches opposite for resignations or for Ministers on this side of the House to stand aside when those Ministers are doing their job. They are trying their best to address housing need in Northern Ireland wherever it arises, whether it be in Catholic, Protestant or whatever communities in north Belfast and across Northern Ireland.

The situation in north Belfast is such that attempts have been made down through the years to mask the fact that there are problems on the Protestant community side. Those problems have been shown to be very real by the work of the Minister for Social Development. He met frequently with the MP for the area to address the housing issues. It is not the fault of the Minister for Social Development that the DUP MP for North Belfast is incredibly active on the issue. The Minister has received no request from Sinn Féin or the SDLP to meet to discuss any housing issues in the area. So, there are some johnny-come-latelys to the issue who are now crying, gurning and complaining about it when the Minister has been doing his best to address the housing need on both sides of the community in north Belfast and, indeed, elsewhere.

**Mr A Maginness:** Is it not clear from the online newspaper 'The Detail' that Minister McCausland was intent on meeting not simply with the chairperson of the Housing Executive but with officials of the Housing Executive at a local level in order to browbeat and bully them into a political stance that suited his political agenda, instead of addressing the needs of the 3,888 people who require houses in north Belfast?

**Mr Hamilton:** To accuse the Minister of browbeating officials of the Housing Executive is a very serious accusation.

**Mr A Maginness:** I can put it in stronger terms if you want.

**Mr Principal Deputy Speaker:** Order.

**Mr Hamilton:** However, I expect nothing less from Members opposite, and particularly from the SDLP Member for North Belfast. When the SDLP was in control of the Department for Social Development, its Minister removed the ring-fence for housing provision, and that included provision for north Belfast. If there are accusations made of neglecting need in north Belfast, perhaps the Member should look much more closely at his own party. The Member's reading of the article in the online newspaper 'The Detail' is distinctly different from my reading of what it says. There is no accusation of gerrymandering or browbeating made by the newspaper. The Member should be incredibly careful about what he accuses the Minister for Social Development of.

**Mr Copeland:** I ask the Minister, on behalf of his ministerial colleague, whether he can give a commitment that the seemingly endless and partisan spat between him and those opposite will not in any way impact on the eventual delivery of much-needed housing at Girdwood?

**Mr Hamilton:** Girdwood is obviously only one part of north Belfast, and new social housing is earmarked for that site. However, the Member is getting towards the right approach. The accusations that are being thrown by Sinn Féin and the SDLP are an attempt, as Mr Wilson said, to throw up a smokescreen. I assure the Member that the Minister for Social Development will not be knocked off course from addressing the core of the issue, which is that the North Belfast constituency has a very high social housing need on both sides of the community. Addressing that need is the Minister's job, and I am sure that he will do the best that he can to address it.

**2.30 pm**

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

## **Work Capability Assessment**

1. **Mr Cree** asked the Minister for Social Development what action has been taken to

improve work capability assessments following the review of the employment and support allowance. (AQT 1161/11-15)

**Mr Hamilton:** I am not familiar with the specific details of what has been done on that. At the risk of repeating my previous answer to the Member, that information will be provided in what I am sure will now be a very lengthy letter back to Mr Cree.

**Mr Principal Deputy Speaker:** Will we try for a hat-trick? I call Mr Cree for a supplementary question.

**Mr Cree:** Yes, indeed, Mr Principal Deputy Speaker — it will be a hat-trick.

Part of the process involves the use of mental health champions. How many mental health champions are there, and what is the procedure for appointing those people to specific cases at appeal?

**Mr Hamilton:** I have always wanted to do this: I refer the Member to the answer that I gave some moments ago.

## **Welfare Reform: Public Understanding**

2. **Mrs Cameron** asked the Minister for Social Development whether he recognises that there is a general lack of public understanding about welfare reform and its potential effects. (AQT 1162/11-15)

**Mr Hamilton:** I think that there is hardly a member of the public, particularly over the past weeks and months, who could have escaped that there is a debate going on about welfare reform and how it affects people in Northern Ireland. As a sometime participant in that debate, I would perhaps be one of the first to accept that, from time to time, that debate has generated much more heat than light. I think that, while the heat has been kicked up, perhaps some of the realities of welfare reform in Northern Ireland have been missed by a great many people here, particularly those who might feel that they will be affected in one way but who, in reality, will not be affected. I am sure that that will cause considerable and perhaps some unwarranted concern for people.

I know that my colleague the Minister for Social Development was very keen to inform and to better inform the public through an information campaign. Unfortunately, the Committee for Social Development took a somewhat different

view of the merits of that. I think that that is regrettable, because I think that anything that better informs the public about anything that we do would be very worthwhile, especially for those who may be affected but who will perhaps not be affected or affected as much. That is particularly the case for an issue such as welfare reform, which is detailed and difficult even for Members to get their heads around.

**Mrs Cameron:** I thank the Minister for his answer. Given his response, how urgent does he believe that a resolution to welfare reform is in Northern Ireland?

**Mr Hamilton:** Notwithstanding the points that I made in my previous answer, I think that there is an urgent need for us to accept that, if we do not get on with dealing with welfare reform, the ramifications for Northern Ireland will be incredibly severe.

I received correspondence from the Chief Secretary to the Treasury in the past week in which he confirmed that the Treasury has already taken £13 million from the Executive's baseline spend this year. That money is now gone. So, there is no longer any debate about it being paper money, not being a real process or not happening. The money has now gone from our baseline, and the people of Northern Ireland, including vulnerable people who avail themselves of services from the health service, the Education Department and, indeed, the Social Development Department, will suffer from the lack of that £13 million to spend. There is, of course, the looming threat of a further £87 million being taken off later in the year if progress is not made on welfare reform in Northern Ireland.

I know that many Members are not fans of the proposed welfare reform. There are also many members of my party who are not fans of elements of the welfare reform agenda. We have rightly opposed those elements in Westminster, where they should be opposed. The reality is that non-progress on the basis of a package that, I have to say, is incredibly attractive versus what people in England, Scotland and Wales now have at their disposal, given that time is critical, is letting down the people of Northern Ireland and is an abject failure in leadership on the part of some in the House.

### **Housing Executive: Overpayment**

3. **Mr Rogers** asked the Minister for Social Development whether he agrees that the

assessment of the alleged overpayment of £18 million was way off the mark. (AQT 1163/11-15)

**Mr Hamilton:** No.

**Mr Rogers:** Does the Minister agree that reputational damage was done to those contractors as a result? What will the Minister do about that?

**Mr Hamilton:** The reason for my short answer was that, as the Member will know, work is ongoing on the alleged overpayments of £18 million to, I think, four contractors in Northern Ireland. The work is being carried out by the Housing Executive, which is the organisation that had the contracts. That investigative work has not come to the Department for Social Development yet, and, therefore, on behalf of the Minister, I am not able to comment at this stage.

**Mr Principal Deputy Speaker:** Ms Megan Fearon is not in her place.

### **Neighbourhood Renewal Schemes**

5. **Mr Byrne** asked the Minister for Social Development to outline the future of the neighbourhood renewal schemes, which have been so beneficial for many parts of our cities and district towns. (AQT 1165/11-15)

**Mr Hamilton:** The week after local government elections to our 11 new reorganised councils is, perhaps, an apt time to be raising that. It is my understanding, as I am sure the Member will appreciate, that the powers for regeneration, including powers for neighbourhood renewal, are to move to the new councils as of 1 April next year.

**Mr Byrne:** I welcome the Minister's response. Will any finance be allocated to the new councils to widen the scope and remit of the neighbourhood renewal schemes, particularly to smaller towns?

**Mr Hamilton:** I am sure that the Member, particularly given the stewardship of the Department of the Environment by his party colleague Mr Durkan, will be well aware that one of the overarching principles of the review of public administration is that no power or service should transfer from central government in Stormont to local government in a way that would cost local government. Detailed work is going on between the Department of the Environment and my Department to work out the exact intricacies of the funding mechanism

for various services moving forward. The principle of it being done in a cost-neutral way is important. Obviously, there will be discussions to be had in each individual Department on how that is done. The Department for Social Development will have a view on how that should be done, and other Departments might have slightly different views. I know that some discussions are ongoing, and I have, in fact, met the Minister of the Environment to discuss a particular issue of some powers transferring from DSD to local government.

Of course, moving forward, additional money starts to become the responsibility of each individual new council. It will be for the new councils, within their borrowing power and rate base, to choose their priorities. If new councils want to spend more on, for example, neighbourhood renewal, that is a matter for them. That is the essence of being in government, whether local or central. It is about making choices, and, just as we would have to make a choice if we wanted to move funding to neighbourhood renewal and take the consequences of less spending elsewhere, so, too, will local government face those realities in the years to come.

### **Housing Executive: DLO Performance and Development Committee**

6. **Mr Sheehan** asked the Minister for Social Development for an update on appointments to the DLO performance and development committee, which was advertised recently by the Department and Housing Executive. (AQT 1166/11-15)

Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I understand that the Minister for Social Development had some misfortune recently, and, in spite of the controversy earlier on here today, I send my best wishes for a speedy recovery to him.

**Mr Hamilton:** I am sure that the Minister is grateful for the Member's best wishes. Rather than giving the Member a completely inaccurate update, I will ensure that the Department communicates with him and gives him a detailed response.

**Mr Sheehan:** When the Minister is doing that, will he provide details of how many people applied for those positions?

**Mr Hamilton:** I am sure that the Department will have heard that and will ensure that the Member gets as comprehensive a response as it can provide.

### **Super-councils: Responsibilities**

7. **Mr Hilditch** asked the Minister for Social Development to outline the new responsibilities that the super-councils, rather than the Department, will deliver. (AQT 1167/11-15)

**Mr Hamilton:** Neighbourhood renewal is just one of the powers that will transfer from the Department for Social Development to local government. I am quite excited about councils getting the powers of regeneration, including regeneration of sites such as Queen's Parade in Bangor in the new North Down and Ards Council area, of which I am now a ratepayer. I will be funding the redevelopment in Bangor, and Mr Gordon Dunne will be very appreciative of those rates heading up the dual carriageway into Bangor.

I am sure that the Member, too, in his constituency, will see the potential for places such as Carrick and Larne not having to wait, as they have in the past perhaps, for prioritisation by the Department for Social Development. That is not to knock what happened in the past; it is just the reality of having a certain amount of money at our disposal to spend on regeneration projects. Certain areas will get prioritised, and others will have to wait their turn. As I said in response to Mr Byrne, it is now up to the new councils as they settle in and develop plans for their areas to say what they want to prioritise their expenditure on. I am very excited about the possibility of many schemes that have perhaps been sitting on the shelf for a number of years being fast-forwarded and developed in pretty quick order.

**Mr Hilditch:** I thank the Minister for his answer. Does the Department have confidence that the new councils will be able to deliver those essential functions once they take over?

**Mr Hamilton:** I think that there will be a bit of a culture shock for some elected members. They will need to grasp their responsibilities very quickly, because responsibility begins on 1 April next year. Although councillors will still have to do everything that they did before and ensure that it is done to a very high standard, there are a lot of powers — planning, community planning, regeneration and so forth — that they will have to get their head around almost immediately. Good teams of councillors have



been elected across the country to serve their new district council areas, and they have to collectively realise that they have an opportunity to shape their new council areas in a way that those of us who were in local government in the past had no opportunity to do and would have been quite envious in some ways of the powers that are being bestowed on local government to reshape and regenerate their towns, cities and villages. The biggest challenge is not the capability of officials or the capability of members of councils; it is their ability to see the big picture. All our new councillors need to begin to embrace very quickly the possibilities and opportunities that the review of public administration presents to them.

## Housing: Newry and Mourne

9. **Mr D Bradley** asked the Minister for Social Development for his estimation of the current housing need in the Newry and Mourne housing district. (AQT 1169/11-15)

Ba mhaith liom a fhiafraí den Aire cad é mar a mheasann sé an riachtanas tithíochta i gceantar an Iúir agus Mhúrn.

**Mr Hamilton:** I do not have those figures to hand.

**Mr D Bradley:** Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answer, short and all as it was. In due course, will the Minister provide up-to-date figures and outline how that need is being addressed?

**Mr Hamilton:** I am very pleased to assure the Member that I will ensure that that information is provided to him.

## Culture, Arts and Leisure

**Mr Principal Deputy Speaker:** I inform Members that questions 7 and 11 have been withdrawn.

### Business Cases: CAL Decisions

1. **Mrs D Kelly** asked the Minister of Culture, Arts and Leisure how many business cases are with her Department and awaiting a decision. (AQO 6201/11-15)

**Ms Ní Chuilín (The Minister of Culture, Arts and Leisure):** I thank the Member for her question. DCAL is considering five business cases. They are at various stages, and my officials are continuing to work with the relevant

organisations to ensure that each case is of sufficient quality to facilitate a timely decision on the investment of public funds.

### 2.45 pm

In addition, DCAL has provided feedback on two further business cases and is awaiting the submission of revised drafts. Work is also ongoing in the Department on the development of a further four business cases for projects that we hope to progress in the near future.

**Mrs D Kelly:** I thank the Minister for her answer. I take it that there are nine business cases in total: the five plus the four. Will she give us a flavour of the business cases, the impact on the budget and whether the spend will be met? Indeed, what does that mean if some are to be spent within the school term timetable?

**Ms Ní Chuilín:** I am not sure about the school term timetable; I am going by own timetable. As for the flavour of the business cases, although there are nine cases today, I could go in next week, and there could be a further two. That is the nature of the progression, which is good because it means that we are moving in the right direction.

We are looking at the refurbishment of Coleraine library at a cost of over £2 million; the Arts Council gifting of musical instruments at almost £60,000; Tollymore National Outdoor Centre at almost £2.5 million; Dungiven sports provision; Omagh Riding for the Disabled Association; the Ulster canal; T: BUC; and the strategic outline business cases for the subregional stadia programmes.

### Giro d'Italia: Legacy

2. **Mr Givan** asked the Minister of Culture, Arts and Leisure what action her Department is taking to increase participation in cycling following the success of the Giro d'Italia. (AQO 6202/11-15)

4. **Mr McKay** asked the Minister of Culture, Arts and Leisure to outline her plans to build on the success of the Giro d'Italia. (AQO 6204/11-15)

6. **Mr Anderson** asked the Minister of Culture, Arts and Leisure what plans her Department and Sport NI have to capitalise on the success of the Giro d'Italia. (AQO 6206/11-15)

15. **Mr Beggs** asked the Minister of Culture, Arts and Leisure how she will ensure that East

Antrim capitalises on the increased interest in cycling following the success of the Giro d'Italia. (AQO 6215/11-15)

**Ms Ní Chuilín:** With your permission, Mr Principal Deputy Speaker, I will take questions 2, 4, 6 and 15 together.

The 2014 Giro d'Italia Big Start has certainly been a resounding success. We have once again shown the world how well we can host and enjoy major sporting and cultural events. The Giro d'Italia is a fantastic event, and the 2014 Big Start has helped to raise the profile of cycling across all our communities here.

DCAL and Sport NI are working closely with the governing body of the sport, Cycling Ireland, to deliver a number of specific actions set out in the NITB-led Giro legacy plan to develop the sport of cycling and increase participation in clubs and in all communities. These actions include the development and implementation of cycling strategies and the provision of training for leaders and coaches in cycling clubs across the North. Sport NI is also engaging with schools, through its Active Schools programme, to encourage them to develop linkages with local cycling clubs to increase participation and develop the sport.

**Mr Givan:** I thank the Minister for that response. She rightly identifies the great success of the Giro d'Italia. Will she assure the House that she will work with the Regional Development Minister so that the infrastructure can be improved across Northern Ireland to benefit those who take part in cycling? In working with the cycling clubs, will she encourage those from a socially deprived background to get into this sport, given the health benefits that often come with the activity?

**Ms Ní Chuilín:** I am quite happy to give the Member that assurance. I am working not only with DRD, as he mentioned, but with his colleague Arlene Foster and my colleague Michelle O'Neill in DARD. That is because, although we need to ensure that we have the roads infrastructure for road cycling, we also need to look at track cycling, which has become an increasingly popular sport across all social strata. Colin near Lisburn may be just outside the Member's area, but he might be aware that the VC Glendale Club has enjoyed £10,000 as a legacy of the World Police and Fire Games specifically to get what the Member mentioned: children from socially deprived backgrounds, and not only to purchase bikes and cycling equipment for them but to get them actively

involved in the sport. Potentially, there are also coaching and training programmes.

**Mr McKay:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I thank the Minister for her answer. The Giro was a great success, with scenery from the North and the entire island broadcast across the world. I suppose that the best scenes were in places such as Carnlough and Ballycastle; I do not think that there is any doubt about that. On the back of the previous answer, will the Minister outline what plans her Department has for future funding of cycling as a sport and the health benefits that it has?

**Ms Ní Chuilín:** I thank the Member for his question. I am not going to get into a dispute about which part of the island looked best but, like many others — many millions, I am sure — I saw the spectacular sight of the cyclists going through Carnlough with the horses on the beach. That was absolutely great.

I do not think that the sport's potential for health is lost on any of us. Indeed, Edwin Poots and other Ministers have been actively involved in looking at how we can use the power of sport to decrease childhood obesity and promote better health, particularly mental health.

Sport NI made an indicative award to Cycling Ireland to carry out a high-performance review in conjunction with Cycling Ulster. We will keep that under review. Thankfully, the Giro will help to increase the numbers coming to cycling and, hopefully, help others, including schools and other clubs that maybe have cycling as third or fourth cousins, for want of a better term, to get involved. That will help the business cases that are under way to make sure that we have not only the proper facilities but support for and promotion of cycling for years ahead.

**Mr Anderson:** I thank the Minister for her responses so far. She touched on some issues that I am interested in. The Giro was a great success. However, Minister, for some years, cycling has been recognised as a competitive sport for the disabled. How can that aspect of cycling be developed by the Department and Sport NI?

**Ms Ní Chuilín:** The Member may be aware that we have a very good working relationship with Disability Sports NI, which will continue. That relationship will strengthen as it takes forward its ongoing review of facilities management and the facilities for those with disabilities. Cycling and many other sports are part of that. The role of the Giro and the Olympic and Paralympic

Games helped us to bring a different degree of focus on the needs of disability sports, including cycling.

I repeat that, where there are gaps, particularly for those with disabilities, we need to make sure that, first, they have our focus, and we need to work out the rest later. Participation is for everybody, not for just those with abilities, and it is important that those with disabilities are at the very top of the objective need criteria.

**Mr Beggs:** I declare an interest as a casual and occasional cyclist. Cycling can benefit an individual's health and well-being, the environment and, indeed, the hospitality sector. Can the Minister advise us how she is building on the success of the Giro d'Italia to encourage more of my constituents to cycle and to improve facilities for those who may wish to visit it?

**Ms Ní Chuilín:** Primarily, that is a question for DETI. I am not passing the buck, but DETI has been very proactive on the tourism potential of sporting events, particularly in the Member's constituency, which is, primarily, a rural area. First, we need to get casual cyclists back on their bikes on the road or the track, whatever the case may be. We also need to get others to visit good spots across the North and, indeed, across the island, to help to regenerate the local economy. Cycling is one aspect of that and angling is another. There are other sports, and the regeneration of the economy will be supported through hosting and promoting better sporting events.

## **T:BUC: CAL Contribution**

3. **Mr D Bradley** asked the Minister of Culture, Arts and Leisure what role her Department will have in the implementation of Together: Building a United Community. (AQO 6203/11-15)

**Ms Ní Chuilín:** I thank the Member for his question. My Department has responsibility for one of the seven headline actions in the Together: Building a United Community strategy, namely the development of a cross-community youth sports programme. DCAL is designing a pilot project for implementation in 2014-15. That pilot will inform the Department's signature programme, which will be rolled out across the North in subsequent years.

The cross-community sports programme has the potential to be a vital element of the T:BUC strategy by delivering a meaningful and sustained impact on good relations through the transformative power of sport. In line with other

strategic actions, DCAL will continue to use culture, arts and sports to improve equality and good relations. In order to reflect the joined-up approach required by the strategy, DCAL will also contribute to the other headline actions, as and when appropriate.

**Mr D Bradley:** Go raibh míle maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire fosta as ucht a freagra. An bhféadfainn a fhiafraí den Aire an dtiocfadh léi míniú dúinn cad iad na spóirt a bhéas i gceist go háirithe? I thank the Minister for her answer. At this stage, will she outline in a little more detail which sports will be involved and how the programme will operate?

**Ms Ní Chuilín:** At this stage, we are looking at as many sports as possible, not just the big three, although they are very important, particularly in areas that experience a lot of social deprivation. We are talking about soccer, gaelic games and rugby primarily, but we are also looking at other sports and other programmes and particularly at coaching and training-led initiatives in those sports. Although participation in sport and physical activity is important, it is particularly about children and young people who are in the NEETS category and who need a way out. Those people, by and large, have been excellent ambassadors and role models in their sports, so we are using these programmes not only as a way of helping their career development but to introduce sports that are not traditionally played in those areas. However, given the fact that we are looking exclusively at deprived areas, we are also looking at rural areas. So, we need to make sure that whatever sports are popular in those communities, and it could be cycling or others, are included as well.

**Mr Ross:** The Minister will be aware that I have written to her about a proposed cross-community snooker initiative supported by Northern Ireland professionals Mark Allen and Joe Swail. Will she support the scheme, which could benefit from funding through the T:BUC funding initiative, and will she agree to meet me and representatives of Mark Allen and Joe Swail to see how we could move this forward?

**Ms Ní Chuilín:** At this stage, I am happy for officials to meet the Member and then meet after I get all the information. It is a good initiative and a good idea because, as I said earlier, parts of our community are much lacking in good, positive role models. Our sportsmen and sportswomen have been really good ambassadors and role models, and snooker is one of those sports. I am happy for

officials to meet and take initial soundings and I will meet the Member with the organisers thereafter. I did the same thing with boxing and there are other sporting initiatives coming to me. From what I have seen thus far, albeit at a preliminary stage, the initiative looks very good and it is good that it is joined up because we can ensure that everybody, where possible, has an opportunity.

## Milk Cup

5. **Mr G Robinson** asked the Minister of Culture, Arts and Leisure what assistance her Department has given to the Dale Farm Milk Cup 2014. (AQO 6205/11-15)

**Ms Ní Chuilín:** I thank the Member for his question. As the Member knows, primary responsibility for the funding of events, including the Milk Cup, lies with DETI in the first instance. Sport NI, as an arm's-length body of DCAL, has not received a request for funding for the 2014 Milk Cup. However, in anticipation of my Department receiving a request, a bid has been submitted for the June monitoring round for additional funding for creative and cultural development in the north-west, which will, hopefully, include the Milk Cup and the Foyle Cup.

In addition, Sport NI has met the organisers of the Milk Cup event to discuss potential support in future years. Sport NI is carrying out a post-programme evaluation of the pilot international sports events programme, and a decision on the future direction of the programme will be based on the results of this evaluation. If the programme re-opens, sports events such as the Milk Cup may be eligible to apply provided they satisfy the criteria.

Looking ahead, collaborative work between DCAL and DETI will continue to bring forward a number of major sporting events such as the Rugby World Cup to help ensure that we continue to benefit from hosting major sporting and cultural events such as the Milk Cup and the Foyle Cup.

**Mr G Robinson:** The Milk Cup is a very prestigious event that brings so many people to our Province and particularly to the north coast. Will the Minister do all in her power to make sure that funding is made available for this terrific sporting event, which attracts so many people from all over the world?

3.00 pm

**Ms Ní Chuilín:** I am sure that the Member will agree that, despite that, the Foyle Cup and that competition's being betwixt and between Departments for a number of years is really unfair. However, there is a big emphasis on the organisers of those competitions to be — pardon the pun — match fit. I know that my colleagues in DETI have worked in conjunction with my officials in DCAL and Sport NI to try to ensure that those competitions continue. As I have said, I have made a bid. I will try to bring forward support as an interim arrangement. However, I will use this opportunity to implore the organisers of both competitions — particularly of the Milk Cup, as the Member asked about it directly — to get in a bit earlier and for their funding package, which is essential for hosting the event, to be a bit more strategic.

**Mr Dallat:** I consider the Minister's answer to be positive, and I offer no criticism whatsoever. However, does she agree that the little games of ping-pong between the Departments must end and that this particular competition is far too serious to be funded on an ad hoc basis? Will the Minister do what she can to ensure that the organisers of the cup — a voluntary organisation — know what is happening from year to year? Otherwise, we will lose it.

**Ms Ní Chuilín:** I totally agree with the Member. As the competition happens in his constituency, I am sure that he will acknowledge that I, too, am fed up with the ping-ponging and have lifted the responsibility for this. It is not fair on the organisers, although they have a responsibility to get sponsorship and funding that is a bit more secure. More so, it is really unfair on the kids who look forward to taking part in the competition, their clubs and their families, who volunteer and go to considerable expense themselves to fulfil their children's ambitions to play in the competition.

I understand that such competitions — the Milk Cup in particular — are run on a voluntary basis. Therefore, I would like to see some support to get them to a better position so that they do not come at the last minute. They need to come at the start of the year, rather than at the last minute, to give us all an opportunity to see what we can do. Otherwise, it looks like an afterthought. I can say on behalf of DETI, from the conversations that I have had and the work that we have done, that it is not an afterthought for us. Both Departments are frustrated by the way in which the competitions have been brought forward.

**Ms Sugden:** How is the Minister assisting with the development of youth football in the community and voluntary sector in my constituency so that we send more home-grown talent to world-class tournaments such as the Milk Cup?

**Ms Ní Chuilín:** This is the first opportunity that I have had to welcome the Member. You are very welcome. I urge her to check her late colleague's questions on the matter, because we have supported a lot of grassroots community sport initiatives, particularly soccer, in that constituency. We have worked for not just young boys but young girls, and not just with football, to ensure that it is an inclusive process, and we will continue to do so. We have also worked very well with Coleraine Borough Council to ensure that not only competitions such as the Milk Cup continue but others that help very young children in very junior leagues become involved in sport and physical activity.

**Mr McCartney:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire. I commend the Minister for her support of the Milk Cup. In her answer to George Robinson, she talked about the Foyle Cup. Will she take the opportunity to provide an update on discussions that she has had with the organisers of that competition?

**Ms Ní Chuilín:** I thank the Member for his supplementary question. I know that DCAL officials and Sport NI have certainly had some discussions, particularly on the legacy of the City of Culture. As I said to George Robinson, a bid has been submitted in the June monitoring round on the legacy of the City of Culture, and that bid will include the Foyle Cup and the Milk Cup, hopefully.

As I have stated previously, I am also working very closely with colleagues in DETI and with NITB on a new strategy for events, which will go up to, I believe, 2020, to make sure that those competitions are given the same equality as competitions for golfing, cycling, motorcycle racing and other sports, because they attract an international audience and international competitors. It is important that we talk about and support good examples of grass roots soccer.

## Anglers

8. **Mr Kinahan** asked the Minister of Culture, Arts and Leisure what steps she has taken to streamline the engagement between anglers

and the relevant government Departments and public bodies. (AQO 6208/11-15)

**Ms Ní Chuilín:** I do not know whether it is election fatigue — you are flying through these questions — but I am sorry for the delay in getting to my feet.

I thank the Member for his question. DCAL was involved in a recent review to inform the development of a new angling strategy. 'A Strategic Review of Angling, 2013' was commissioned by Sport NI and the Tourist Board in association with the Loughs Agency, DCAL inland fisheries group and the governing bodies that are involved in angling.

The review highlights the potential to develop the sport of angling and the contribution that it can make to promoting equality, tackling poverty and social exclusion, and developing angling tourism.

The report also reflects on the current governance arrangements in angling and makes a number of recommendations, including the establishment of an angling forum to enhance engagement between the agencies, the governing bodies and the various stakeholders.

**Mr Kinahan:** I thank the Minister for her answer. It is good to have Departments working together. Angling is not just about game and coarse fishing; it is also about sea angling. Will the Minister review who she speaks to, to make sure that sea angling is fully included and that the Department talks to the right people?

**Ms Ní Chuilín:** I can certainly check, because I am sensing that the Member has a concern that some of the people whom he has talked to have been left out. If that is the case, I am happy to talk to the Member to try to make sure that those people are included in the ongoing discussions.

The Member has consistently asked questions about this. We have tried our best to include as many people as possible. Angling is a very popular and growing sport, and it is particularly important for rural communities. We need to make sure that as many people as possible have had the opportunity to become involved in this very significant review. Even if people do not feel that all the recommendations are theirs, they can certainly feel that they were included in the process by arriving at some of the recommendations that will certainly come about as a result of the review.

## Seamus Heaney Centre

9. **Mr Milne** asked the Minister of Culture, Arts and Leisure for an update on the Seamus Heaney centre in mid-Ulster. (AQO 6209/11-15)

**Ms Ní Chuilín:** Everybody must be tired, because no one at all is getting to their feet.

DCAL is supportive of Magherafelt District Council's proposal to develop a Seamus Heaney interpretive centre in Bellaghy. I have met the Member, representatives of the Heaney family and Magherafelt District Council to indicate my support for the proposal. Those discussions have been continuing at official level. At that meeting, I made a commitment to seek Executive support for the establishment of this Seamus Heaney centre, as proposed by the Heaney family, because it will be an important regional and international attraction.

**Mr Milne:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire go dtí seo.

I thank the Minister for answer. As a native of Bellaghy, I am delighted to see Seamus Heaney being recognised in such a significant way locally. I commend Magherafelt District Council and DCAL for their commitment to the project. Can the Minister give an indication of the timeline for this development?

**Ms Ní Chuilín:** I thank the Member for his supplementary. As he knows, because he led the delegation, this is intended to be a three-year project, and Magherafelt District Council will take the lead on it. It has come to my Department for support, and I am sure that it will go to others. I am aware that the council is at the initial stages of the procurement process, and planning permission is pending. Until that happens, I am unable to offer the Member a more specific timeline, but I have no doubt that we will be made aware of it in the future. It is encouraging at this stage to have so much support for the facility, which will no doubt be a major tourist attraction not just for mid-Ulster but the North and the rest of the island.

I hope that we will find out the exact details soon, and I will be happy to share those with the Member.

**Mrs Overend:** It is important that Seamus Heaney's family are at the centre of the organisation of the centre in Bellaghy. Was any consideration given to using Bellaghy Bawn? The Turf Man monument stands just outside the Bellaghy Bawn and was unveiled by Seamus

Heaney about five years ago. What sort of assessment was made and how does the Minister square the circle that the Bellaghy Bawn is now closed because of a lack of funds yet finance has been found to build a new centre?

**Ms Ní Chuilín:** Those are questions that the Member needs to raise with Magherafelt District Council and certainly not with me. I do not have the detail. The Member should know how these things happen in her constituency and what stage they are at now.

## Stadia Redevelopment

10. **Mr McKinney** asked the Minister of Culture, Arts and Leisure, in relation to the projects at Windsor Park and Casement Park, what lessons can be learned from the successful redevelopment of Ravenhill. (AQO 6210/11-15)

**Ms Ní Chuilín:** The redevelopment of Ravenhill, which involved the construction of two new stands at the Aquinas and Memorial ends of the ground and the replacement of the existing grandstand, increased its capacity from 11,000 to 18,000. This very successful project was delivered on time and within budget.

The project's success can be attributed to a number of factors: the appropriate governance structures established at the beginning and maintained throughout the project cycle; the successful partnership working between the governing body and DCAL; the approach to the delivery of socio-economic returns, which is focused on delivering maximum benefits to the local community; and maximum opportunities for the long-term unemployed and apprenticeships. The same governance structures and partnership working arrangements have been applied to the Windsor Park and Casement Park projects to ensure the successful delivery of both programmes.

**Mr McKinney:** I want to touch on one point that the Minister made. I am not sure whether she has already answered the question. Have the contracts included social clauses to offer employment and apprenticeship opportunities to those who are not in education, training or employment?

**Ms Ní Chuilín:** Absolutely. All three stadia programmes involved very robust social clauses. We are working very closely with DEL, particularly on NEETs and apprenticeships. We are also working with other Executive colleagues because these are the first robust

social clauses to come from the Executive, and I am happy to share them. It is incumbent upon us that whatever capital infrastructure we are building and developing, whether stadia, housing, education, hospitals or roads, we ensure that the contracts realise benefits for people who are worst affected.

**Mr Sheehan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Gabhaim buíochas leis an Aire fosta as ucht a freagra. I thank the Minister for her answers. Will she tell us how the new stadiums will be integrated in the local communities?

**Ms Ní Chuilín:** This is a follow-on from Fearghal's question. It is very important that we not only have social clauses, so that the people who live and sometimes work on the perimeter of these stadia are not outside looking in, but that we make sure that there are community facilities within them. In Ravenhill, for example, there will be an education centre. They are working with Aquinas and with people from the Cregagh estate. Last week, there was a meeting with people from the Cregagh partnership to ensure that they are not spectators at the development of Ravenhill, and I have every reason to believe that that will not be the case. I have also had meetings with the people at Windsor Park, the IFA and stakeholders in the community, and I did the same in west Belfast for Casement. It is about not only developing opportunities during the construction but making sure that post-construction opportunities are developed and used as a catalyst to bring other investment into those areas.

**Mr McGimpsey:** These developments are wonderful opportunities for major investment in areas of serious disadvantage. Windsor Park, for example, is in the heart of the Village. Does the Minister agree that this needs to be part of a wider redevelopment involving, for example, rehousing, education and Belfast City Council investment? All these go together and, if we have one without the other, we will lose out somewhat. Will she agree to encourage other Ministers to ensure that their Department matches what DCAL is doing in looking at redevelopment beyond simply sport?

**3.15 pm**

**Ms Ní Chuilín:** I agree with everything that the Member has said. In his constituency, he can look at the recent example of the development at Windsor Park with Belfast City Council in respect of the Olympia Leisure Centre. However, you are right: there are other

opportunities around housing, hospitals, health centres, education and community facilities with the new RPA and the super-councils. Those investments can bring in other investments and make sure that there are seamless links. For decades, those communities have not seen the investment that they should have. While it is a good start, none of us should take the attitude that that is it, and we are done. It is a start, and that is all that it is.

**Mr Principal Deputy Speaker:** That ends the period for questions for oral answer. We now move on to topical questions. The first three questions on the list have been withdrawn within the appropriate timeline.

### **Irish Language and Ulster-Scots Strategies: Publication**

4. **Mrs D Kelly** asked the Minister of Culture, Arts and Leisure for an update on the publication of the Irish language and Ulster-Scots strategies and to clarify whether the publication of one is dependent on the other's being ready for publication. (AQT 1174/11-15)

**Ms Ní Chuilín:** I thank the Member for raising the issue. It gives me an opportunity to say that the strategies are with translation services at the minute. One will not be published without the other. I will not decouple the strategies; either both go or none goes. I have given both equal status and respect and expect others to do likewise.

**Mrs D Kelly:** I know that there have been difficulties for some time in trying to draw up an Ulster-Scots dictionary. That is why I was concerned. Can the Minister indicate what budget, if any, she has for the implementation of the strategies?

**Ms Ní Chuilín:** The Member may be aware through her colleague in DOE that all Departments need to invest in the strategies. They become Executive strategies because they are part of the Programme for Government. I anticipate that the translation will be done through the summer, and we will begin again the round of discussions with Executive colleagues about what funding they will bring to the strategies. We hope to bring them forward at the beginning of a new session of the Assembly after the summer. The Member is right that it is important that the strategies be given not only equal respect but investment.

## Belfast Peace Line Project

5. **Mrs McKevitt** asked the Minister of Culture, Arts and Leisure whether she was aware of the successful preview at the Cannes Film Festival of the Belfast peace line project, a joint short movie collaboration from Ferris Entertainment and the David Lynch Foundation, based on the Troubles and the peace process in Northern Ireland. (AQT 1175/11-15)

**Ms Ní Chuilín:** No, I was not aware of it at the time, but I have since become aware of it. Not only does it give us all an opportunity to congratulate our local film and television producers, but it shores up the need to appreciate what NI Screen is doing with our local producers. Not only that, but it uses a very difficult subject that, sometimes, as politicians, we cannot or will not get our heads round; however, we can do it through the medium of the arts.

**Mrs McKevitt:** The global film industry is huge, and it showcases parts of this island that you could never buy. What support can your Department offer the likes of Ferris Entertainment, which is looking to grow in the global industry?

**Ms Ní Chuilín:** The Member will be happy to know that I have made a bid for additional funding to NI Screen, which can then help local companies. I appreciate that, sometimes, Members are asked to raise specific projects and programmes, but we need to make sure that embryonic programmes, projects and companies will get support that will help them to secure other support in future. NI Screen has been and will continue to be very supportive of them.

## Salto Gymnastics Club

6. **Mr Givan** asked the Minister of Culture, Arts and Leisure for an update on the business case for the further development of Salto Gymnastics Club in his constituency. (AQT 1176/11-15)

**Ms Ní Chuilín:** At the minute, I have no update on the business case, but I am very familiar with Salto and the work that it has done. I have been a regular visitor to Salto and Lisburn Racquets Club, which is another excellent facility in the Member's constituency. To give some reassurance to him, things are moving in the right direction.

It might be frustrating for people — in this case, for Salto — and it might seem a bit tedious, but

I need to make sure that every i is dotted and every t is crossed.

**Mr Givan:** I thank the Minister for that. I certainly understand her wanting to dot the i's and cross the t's. In the past, Sport NI often made local authorities go through business cases. Money was expended, but, at the end of the process, the money was not there to take forward a scheme, and that was lost money. Will she assure me that, once the i's are dotted and the t's are crossed, the resources for the scheme will be brought forward to implement the business case, once it is approved?

**Ms Ní Chuilín:** I assure the Member and his colleagues that, if the business case for Salto gym stacks up, I will go through the process of bidding to his colleague to get his support. I find it frustrating, and I have listened to the frustrations of councils and of clubs that have spent money, of which they did not have a lot in the first place, in preparation for this, only to be left feeling disappointed and out of pocket. I want to avoid that. I want to make sure that we do not have unnecessary bureaucracy, that everybody is taking a can-do attitude and that, if people agree to do certain bits of work, they are done in a timely fashion to ensure that projects are delivered so that you can bid for the budget and are not overcommitting yourself from one mandate to another. I am aware of Salto's position, but the Member needs to be aware of mine. I am very supportive, but I need to make sure that everything is done properly.

## Bands: Funding

7. **Miss M McIlveen** asked the Minister of Culture, Arts and Leisure for her assessment of the Arts Council's musical instruments for bands scheme and whether she will commit to future funding for the band community. (AQT 1177/11-15)

**Ms Ní Chuilín:** The Member will be aware that I have continued to give my support to the musical instruments for bands scheme, and I will continue to do that as long as everything is as it should be. There are a lot of bids from my Department in this monitoring round, unlike previous monitoring rounds. I do not wish to be disrespectful to that process, because I do not believe that any Minister should do that in the House. I have given it support and will continue to do so, and, hopefully, there will be a favourable outcome in the future.

**Miss M McIlveen:** The Minister will be aware that the recent scheme closed after a three-week opening period about which there was



very little, if any, advance notice to the community and limited publicity. Will the Minister ensure that that does not happen in the future?

**Ms Ní Chuilín:** I am disappointed to hear that, because most people who apply for the grants, particularly for small amounts of money, are heavily engaged in voluntary activity. They are probably doing everything from washing cups to making tea to providing tuition. The last thing they need is to be hit with a very late application deadline for substantial funding. I assure the Member that I will try to find out what happened, and I will happily write to her with an update.

**Mr Principal Deputy Speaker:** Mr William Irwin is not in his place.

### **Eels: Ballyshannon Kill**

9. **Mr Lynch** asked the Minister of Culture, Arts and Leisure for an update on the thousands of young eels that were killed at Ballyshannon ESB station. (AQT 1179/11-15)

**Ms Ní Chuilín:** It was with regret that I found out from the television about the substantial fish kill. The Member has raised this before, and I assure him that I have met representatives of Erne Angling and will continue to enquire about what happened and what lessons we need to learn to ensure that it does not happen again. I will continue to make representations to the ESB. I have also written to my Irish Government colleague Minister of State Fergus O'Dowd to find out exactly what we can do next, because it seems that this could have been avoided.

**Mr Lynch:** Gabhaim buíochas leis an Aire as a fhreagra. Will the Minister ensure that regular updates are provided? In this incident, the ESB clearly failed the eel population and the eel fishermen in the Fermanagh lakeland area?

**Ms Ní Chuilín:** I assure the Member that I will do that, and I will go further: I will request a meeting with the ESB to make sure that the service-level agreement and the memorandum of understanding that it entered into on the protection of eels in those waterways are protected regularly. I will keep the Member and other Members who have brought this to my attention informed of any progress.

**Mr Principal Deputy Speaker:** Thank you, Minister. As Mr Jim Allister is not in his place, I

ask Members to take their ease until the next item of business.

## Executive Committee Business

### Road Traffic (Amendment) Bill: Second Stage

*Debate resumed on motion:*

*That the Second Stage of the Road Traffic (Amendment) Bill [NIA 35/11-15] be agreed. — [Mr Durkan (The Minister of the Environment).]*

**Mr Ross:** It is always difficult to return to a debate after such a long gap, but it has been a fairly good Second Stage debate. There has been a fair amount of agreement among Members on the areas in which the Bill is perhaps spot on and other areas that need closer examination and more work.

The Minister is just coming back into the Chamber. He certainly played his part in making it a useful debate so far by giving way as often as he did. I am sure that he may regret that. It was helpful that we were able to have some clarification of issues during the debate. That makes for healthy scrutiny of legislation.

I claim some responsibility for the process that has brought the Bill to the Floor. Perhaps that is why my colleague Mr Wilson put so much distance between the two of us. Back in April 2008, I brought a motion to the House proposing that we should investigate moving to graduated driver licensing (GDL) for Northern Ireland. In November 2008, I proposed that we should look at the drink-drive limits as well and made proposals about lowering it from 80 mg to 50 mg and looking at a level of 20 mg for novice and professional drivers. I am glad that we now have some type of legislation in the House that will, hopefully, deliver both of those things, although we need to make sure that we pass good legislation.

GDL is spoken about in many jurisdictions, but it can mean very different things. Effectively, graduated driver licensing is a menu of options that we could or should implement. There are a lot of varieties of it across the world, so we need to make sure that we get the right one for Northern Ireland. The statistics used by various Members make the point that we recognise that, for young and novice drivers between 17 and 24, there is an additional risk when they start driving cars. I think that that is universally accepted, so it is universally agreed that we need to make sure that they are as well

equipped as possible before they start driving on their own.

When I first came into the House, the motivation for my interest in road traffic issues was that, in the year when I left school, one of my friends lost his life in a road traffic collision. Two other people I played hockey with also lost their life on the roads that same summer, so I had three friends, all of whom were 18 years of age, who lost their life on our roads. That highlights the tragedy that road traffic accidents can mean, and it places a real emphasis on us to make sure that we equip young people when they get on the roads. It is about education and ensuring that they are equipped and know the dangers they face. It is about how we ensure that young people have experience behind the wheel so that, when they start driving, the risk is as low as possible.

*(Mr Speaker in the Chair)*

As I said, there is a variety of ways in which we can do that. The Minister, in his Bill, has outlined the ways in which the Department would like us to move forward. Over the past number of years, we have looked at other suggestions as well. It is important that we say that, irrespective of whether we support all the contents of the Bill, GDL works. Anybody who studies other areas of the world that operate a system of GDL could not help noticing the fact that it has an impact on traffic accidents in those jurisdictions. In the United States of America, where GDL was introduced in the mid-1990s, it has had a major impact in the states that have introduced it, with a reduction of between 15% and 20% in serious road accidents and deaths on roads. It has worked. The same can be said for Canada, New Zealand and Australia, where, I think, there was a drop of around 23% in serious road collisions.

GDL works. The first thing that we say when we introduce legislation is that it needs to be well tested. This is a tested form of legislation and I am confident that it works.

### 3.30 pm

The idea of placing restrictions on novice drivers in Northern Ireland is nothing new or controversial. We have had the R-plate system in place here since the 1960s, so it is not too innovative to suggest that novice drivers should have some restrictions placed on them. I think that the public generally appreciate the fact that this has worked reasonably well, although, as the Minister said earlier, the restrictions have been in place for some time now and there are

areas in which we need to improve. This is a reasonable time at which to do so.

Restrictions on novice drivers have been accepted because there is a recognition that inexperienced people on the roads, perhaps younger people in particular, take more risks than they need to take. Perhaps their reaction times, or ability to read the road, are not as good as those of people who have been driving for a longer period of time and they do not have general experience of driving in a range of environments. The Minister's colleague Mr Alban Maginness said that we want to have young people learning to drive in different conditions. Ideally, we would, but I am not sure how we could ever get legislation to do that. However, the point was well made.

Back in 2008, when I first raised the issue, suggestions were made and areas identified in which there could be restrictions. I raised a number of issues, and I point to my colleague, who was Minister of the Environment at one stage and who was perhaps cooler on the idea of GDL than some of his colleagues. I did not say that any of those issues specifically should be implemented; indeed, I pointed out that it would be undesirable to implement some of them for various reasons.

Some of the things that I mentioned then concerned speed restrictions, and I am glad that the Minister is looking at removing the 45 mph limit. The reason and rationale for that has been set out, in that we want to have young people gaining experience of driving at higher speeds; speeds at which they will be driving particularly on motorways or on larger roads. It is important that we recognise that. I think that the 45 mph limit can be dangerous for motorway driving, so I think that the position that the Department has included in the Bill is sensible.

The area of passenger restrictions is more difficult, but, again, it was mentioned back in 2008. It got a lot of media attention at the time, as have the Minister's proposals on this. At that stage, I remember getting hundreds of emails from young people, not just from east Antrim but across Northern Ireland, who had deep and well-based concerns, and I think that we have to recognise that.

The other issue that got a lot of media attention was night-time driving. I welcome the fact that the Minister has not included this in the Bill because I do not think it would be desirable to bring it forward. However, as I pointed out to the his colleague, if the only test that we have shows whether it would make a difference in

reducing accidents or making it safer for people, then it probably should be included, because I think that we need to have a further test on that. Mr Alban Maginness said that we should be passing legislation that helps us move closer to having zero road deaths. Where night-time restrictions are in place in the United States of America and Australasia, it has had an impact, so I do not think that we can question whether it works, but I would question whether it is practical to legislate on it and whether that would be desirable. I do not think that it is.

At the time, I remember that we had discussions like those we have had today about motorway learning and whether those in a rural community would be disadvantaged. That debate is worthwhile and important. It is important that the first time a young person drives on a motorway on their own is not on the day after they have passed their test, because that can be the most dangerous experience, particularly trying to get on to a motorway. Finding a way in which we can have further learning on motorway driving would be important.

Other areas were identified in 2008, such as that of accredited driving instructors and how many hours of accredited learning a young person should have before they can take a test. Mr Wilson, others and I have all highlighted that there are difficulties with that, although it would be very beneficial in practice. Evidence from elsewhere in the world shows that it equips young people to be better drivers when they start driving on their own, but we have to balance that against the cost. If we were to say that young people had to undertake a certain number of hours of accredited driving lessons with a professional, that could have a huge cost. We do not want to place an additional burden on those families who can ill-afford it: that is something that we have to bear in mind when we are legislating.

One of the other areas is the effective zero limit, which is 20 mg. I am very supportive of that. The lower limit helps us sell in a sensible way the message that you should not be getting behind the wheel of a car if you have taken a drink of alcohol. As other Members have already said, there is a natural level of alcohol in the bloodstream of those who use mouthwash and particular types of diabetes medicine, so it is a sensible proposal to bring forward. I remember, back in 2008, that some Members in the Chamber, not on this side but on other sides, talked about restrictions on engine sizes. That might well help slow people down, but it would not be practical to legislate

for it. Families who perhaps have only one car would not be able to fit into the legislation.

GDL is not a prescriptive package. It is a menu, and we pick the elements of it that are most appropriate for Northern Ireland. We are at Second Stage, so we are talking about general principles. The general principle of the Bill is right, and I am supportive of it. There are elements of the Bill that I am more than happy to support. However, there are other elements that the Committee in particular needs to look at much more closely and decide whether it is appropriate that they stay in the Bill.

I will go through some of the clauses. Many of them have already been discussed in today's debate, but it is important that we bring them out again. Part 2 talks about drink-driving and drink-drive limits. I am very comfortable with all the suggestions and proposals that the Minister and the Department have brought forward on drink-driving. I proposed the same back in 2008, and I am still of the view that they will be a positive development in making our roads safer.

Mr Weir talked earlier about the massive advances in car safety that there have been over the past number of decades. That has helped us reduce the number of serious accidents on our roads. In much the same way, there has been a cultural shift. Drink-driving is not as culturally acceptable as perhaps it once was. There is a general acceptance among the public that you should not be drinking and driving and that you should not be taking the additional risk.

All of us would accept that, irrespective of how little you have to drink, alcohol will impair your ability to drive when you get behind the wheel of the car. Even if it is only a minor amount and even if it slows down your reaction speed only by a fraction, it has an impact on your ability to drive and to react to circumstances. Therefore, it is a sensible enough policy to bring forward, as is the case with the tougher penalties and the graduated proposals in the Bill. That is important, and something that I very much support.

The Minister's colleague Mr Eastwood talked about the libertarian tendencies of some on this side of the House. I am comfortable enough with being described as such. It is important that we enshrine individual freedoms, choices and responsibilities. However, when it comes to drink-driving, it is, of course, not just the individual who is impacted on. That individual, by taking a risk and driving, could kill other people on the roads. It is not just about how

that individual has been impacted on but about how that individual could impact on other people. I am very much in favour of tougher penalties for those who take unnecessary risks behind the wheel.

Clauses 4 and 5 relate to checkpoints. That is one of the areas that the Committee perhaps needs to look at in quite a bit of detail and talk to the PSNI about the practical outworkings. I listened to the comments of Mr Boylan, who described how he thought that there may be sensitivities around checkpoints. Although I accept that there may be, I do not think that that, on its own, is a reason not to include the provisions in the Bill.

There is a general principle that, if an individual is stopped by the police, the police should have a reasonable suspicion that that individual has potentially broken the law or is over the drink-drive limit. That reasonable suspicion has been enshrined in our law for many decades and is something that we need to be cognisant of. The Committee may want to ensure that it investigates that issue in greater detail. However, the prospect of coming across random testing, perhaps even on rural roads, may be a deterrent to those who, at the moment, know that they should not be drink-driving but, on the balance of probability, do not think that they will be stopped and thus take the risk. If they help to prevent that, the clauses perhaps should remain in the Bill.

Clause 7 is about graduated penalty points. Again, I think that it is a sensible provision. I think that there is a distinction to be made between an individual who, perhaps from having a glass of wine at lunchtime, is marginally over the limit or finds himself between the old limit and the new limit, and somebody who intentionally goes out, drinks five or six pints of beer and then gets behind the wheel of a car. There is a distinction between the two, and I think that it is important that the legislation and the courts recognise that distinction.

Clause 13 would impose the current minimum penalty of 36 months' disqualification for those who have been convicted before of one offence within that 10-year period. I was quite strong on that when I briefly went back on to the Environment Committee in this mandate. That is because I take the view that, if you have broken the law once by drink-driving and you have been given that warning, you should learn your lesson. I do not think that there is any public sympathy for somebody who has been convicted of drink-driving and then does it again within such a short period. So, I think that it is

absolutely right that the Minister and the Department take a tough line on those repeat offenders and put in a minimum penalty of 36 months' disqualification. I think that it is a positive development in the Bill, because the lesson needs to be learnt that, if you break the law once, you should not do it again.

Part 3 of the Bill comes on to the more controversial elements, as it deals with learners and novice drivers. I think that there are areas of it that, as I acknowledged, may be proven to work elsewhere in the world but that may not be particularly practical or desirable to legislate for in Northern Ireland. I think that there needs to be a lot more thought given to that, and the Committee will want to examine it in much closer detail.

We had quite a bit of discussion about clauses 16 and 17 in particular this morning. I fail to recognise the rationale of allowing a 16-and-a-half-year-old to get a provisional licence while telling them that they cannot actually do their test for 12 months, particularly given that we are talking about having logbooks for a number of hours of built-up experience when you are learning to drive. So, I do not think that the two need to be there. I am comfortable enough with having a logbook where you need to prove that you have a certain number of hours of learning on the roads, but doing that by proving whether an individual has actually done the hours that their book says that they have perhaps needs more thought and more detail.

I just do not think that the 12 months with a provisional licence is particularly logical or sensible. I listened to Mr Maginness's points earlier when he said that that 12-month period would give you an opportunity to drive in different conditions. I am not convinced that it would, because I think that you could either front-load or back-load the hours that you spend learning to drive before you take your test. I am not convinced by the argument that that is a sensible step to take.

Mr Allister mentioned this at the very beginning of the debate. I also do not think that those 17-year-olds who have grown up on farms and who have perhaps been driving agricultural vehicles or have had the opportunity to drive on their own private land and are more suitable for taking a test earlier should be kept waiting six months until they are 17 and a half before they can take their test. In my view, if you have had the number of hours of learning and are good enough to pass the test and to drive on the roads, you should not have to wait for an arbitrary length of time. So, I think that clauses 16 and 17 need a little bit of work. Perhaps the

Committee will want to look at those clauses in greater detail.

Clause 18, which is about the minimum hours, is, as I said, a sensible enough approach. It has worked elsewhere in the world. The issue is about how we prove that. We need to ensure that, when we talk about an accredited instructor, we do not just mean professionals, who would be quite costly to take a number of driving lessons from. I think that that would have an impact on those who are less well off. Again, I think that that needs to be looked at a little more closely.

Clause 20, which I mentioned at the beginning, is about the 45 mph limit. I think that that is a sensible proposal. One of the shortcomings of our current system is that you do not have the experience of driving quicker. It has been mentioned before, so I think that that is a sensible enough proposal, and I would support it.

### 3.45 pm

I have a difficulty with the area in which there are restrictions placed on novice drivers who are 24 years of age or younger. I freely acknowledge that the evidence from elsewhere is that it has a positive impact in reducing road traffic accidents among that age group. However, I am not sure whether, in practical terms, it is particularly fair to focus on age rather than whether they are a novice driver.

I learned, in 2008, that when young people think that they are being targeted because they are young, they react very badly. However, if you explain to them that it is about novice drivers, they become more relaxed about it. So I think that, if we are to have any restrictions, and I am not sure that we should, they should be on novice drivers because they have a lack of experience behind the wheel, as opposed to young people. Otherwise, we would be taking a discriminatory position against younger people.

The Committee would need to have a detailed conversation about whether that provision is easy enough for the police to enforce. I suspect that it is because it is done elsewhere in the world. It is a matter of whether it would be an effective use of police time and effective legislation. I question that and think that the Committee should look at it in closer detail. Perhaps it is an aspect that will not make it through to Final Stage.

I am a little more relaxed about the issue of quad bikes than some, although the point was well made by Mr Wilson and Mr Elliott that, if it

would impact on the farming community doing its job, it may not be particularly desirable. I was a little more concerned when I heard the Deputy Chair say that the Committee wanted to look at regulation, or legislation, for use on private land. I would be a lot fiercer in my opposition to the imposition of regulations on the use of quad bikes and wearing of helmets on people riding them on private land. I think that that is a step too far. On public roads, it is a slightly different issue. I have not been convinced by the Minister or the Department that it is necessary and would have a positive impact. The Committee will have to look in closer detail at the impact on the farming community. Potentially, it is another area of the Bill that needs to be changed.

That said, and I do not want to sound as though I oppose the Bill, I think that GDL is worthwhile. However, to get it right and make sure that it works properly, we need to give more attention to some areas, which I have highlighted, in the second half of the Bill. I hope that those points will be taken on board by the Minister and, perhaps, addressed by him today. They will be addressed in Committee Stage.

**Mr Wilson:** We have had a good, lengthy debate on the Bill. The one party that we have not heard from is NI21, or is it NI10 and a half, now that it has been split? We are talking about road accidents etc, and I would have been very interested to hear its views on road crashes because they seem to be experts in the subject. They may not be expert in how to avoid crashes, but they certainly are experts in their impact.

During the debate, a lot of people said, because, I guess, they believe that it is the politically correct thing to say, that they support the principles behind the Bill. I have to say that I do not support those principles. The Bill, in its very essence, seeks to micromanage what people do with one of the greatest freedoms to which they, especially young people, aspire: the ability to have their own form of transport and go out and enjoy the benefits of that, whether for recreation or employment. The Bill eats away at those basic freedoms.

**Mr Lyttle:** I thank the Member for giving way. I am sure that the Member will acknowledge that there are many other forms of transport, such as cycling, in addition to the one under discussion.

**Mr Wilson:** You would easily know that that was a townie speaking.

If you live up in the middle of the Antrim hills, you would need grappling irons to get up some of the hills to go to work let alone pushbikes. Having a pushbike there is not much of an incentive or an ability to give you the freedom of mobility. I will come to that issue in a moment or two, because I believe that the Bill eats away and impacts especially on people who live in remote rural areas.

I have been in the Minister's position. One of the remits of his Department is road safety. I met and dealt with many officials who were genuine in their concern to promote road safety, but, because that was their one area of concern, they were fixated and infatuated with it. Indeed, I think that there were some of them who, if they could, would have banned people from stepping off the footpath on to the road to save lives. I am not denigrating their objective. They wanted to do their job to the best of their ability and passionately believed that, by putting restrictions in place, they could achieve that objective. However, there are other objectives and things that we have to consider when we look at legislation. In many of its aspects, the Bill has ignored some of those things.

The third thing in introduction — I knew that that would get your attention, Mr Speaker — is that we have talked about what has been done to reduce the number of accidents and deaths on the roads. I suggest, and there has been no analysis done, that the biggest factors in reducing road deaths have nothing to do with legalisation that deals with the minutiae of what people do behind the wheel. It has been more to do with improvements in road surfaces, improvements in road furniture, such as crash barriers, improvements in the technology of cars, whether it is more effective braking systems, increased stability or roll cages, or, indeed, police enforcement. It would be interesting to see whether there have been any studies that quantify whether the intrusions into what drivers do behind the wheel have been effective in reducing the number of deaths.

There are parts of the Bill that I support. One is drink-driving and the reduction in the amount of alcohol that people are allowed to consume. I think that it is important that we get the message over that you should not drink at all. We have done that through adverts etc, but there was still that remaining doubt about whether one glass of wine would take someone up to the limit. Having set the limit that he has, the Minister has made it clear to people that they should not drink at all as they will be over the limit and subject, if caught, to the penalties in the Bill. I also think that the message ought to be got over to habitual offenders that they will

face increased sanctions for behaving in that way.

There are a number of issues, and I hope that the Committee will look at them when it looks at the detail of the Bill. Having listened to the Deputy Chairperson of the Committee, my fear is that, given the mindset that was demonstrated in some of the points that she made, the Committee will want to go even further with restrictions. I was amazed at the suggestion that it might even look at imposing the wearing of headgear on quads on private land.

Does that mean that, as I tear around the forest at the bottom of my garden on the quad at whatever speed I want to and at whatever risk to my safety, someone will invade my private space and say that I have to wear a helmet? Would they even know that I was there? If that is the mindset of the Committee, I fear what the Bill will look like when it comes out of Committee. I will deal later with public roads. What jurisdiction does the Committee think that there should be and what is its attitude if it believes that law enforcement bodies should be able to come onto private land and say that people have to behave in a certain way on that land if the only person who is likely to be affected by the way that an individual is behaving is the individual himself? I worry that some of the issues that I want to be addressed will be addressed in a way that is even more draconian than the way in which the Minister wants them to be dealt with.

Let me take up a couple of points with the Minister. The first is about the logbook evidence that people have gone through a certain level of training before they do their test. There are already complaints that, even with basic training for motorcyclists, some instructors will take a different and much less systematic approach to that training than others. The costs for basic training vary greatly, and some instructors will argue that you could not do basic training at the price at which it is done if you were doing it properly. For example, if you take somebody out for a four-hour session on a motorbike — all of us who are teachers will know about this — how much is that person taking in after four hours? If people are going out on a motorbike on a wet day and are soaking wet at the end of the four hours, how much attention are they really paying and how much are they really learning?

It is not clear either from what the Minister said or from the Bill whether the logbooks are to be filled in by people who will have a monetary interest in filling them in to the satisfaction of

the individual who has paid them for the training. If an instructor fills them in, is there not an incentive for that instructor to complete them in the most complimentary way because the client has paid money? What checks will be done? Given that the Minister has said that, during one year, he wishes drivers to experience more training and more opportunities to learn about driving in different conditions and so on, can the logbooks be filled in by a person's brother, father or mother who has taken them out driving and said that they have done this, that and the other? Since there is no minimum number of training sessions, I suspect that the logbook could be filled in by a number of people. How will all that be verified? All the associated costs, of course, will be passed on to the individual. Does he have an estimate of that? During Committee Stage, maybe there will be an examination of the costs and what the Bill will do to the costs, which are already high, for people who want the required training to make them competent for the test. There are issues on that aspect. It seems to me that someone other than a competent instructor could fill in the logbook. As I said, even instructors, if they are not supervised, would have an incentive to fill in logbooks in a way that may not fully reflect the ability of the individuals who have paid for the training.

#### 4.00 pm

The second issue that I want to raise is around the test arrangements and the fact that there will be a one-year delay. I really do not understand that. The Minister, even in his response to interventions, gave less than satisfactory reasons for having the one year. It is disadvantageous to those who may, as Mr Allister pointed out, have been brought up on a farm. Whether you like it or not, they may have been driving on private land and become used to the controls of a vehicle from a very early age. They could easily go onto the road the first day they are legally able to and drive efficiently and effectively.

There is also the point, which the Minister dodged, that the one-year period disadvantages those who do not have easy access to a car and can keep getting experience over that year only by paying someone to take them out on the road. There is a real social issue there that needs to be addressed. The other thing is that many people, especially in rural areas, want to get their test as quickly as possible when they reach 17, as the age is now, because that opens the door to employment and social activities that they normally have to rely on parents or friends to take them to. Elongating the period between when they are able to get a

provisional licence and technically drive by themselves — even after that, there will be difficulties for them — disadvantages people in areas where there is not public transport and where they cannot get on their bike in the way that Mr Lyttle suggested because they are miles away from anywhere. There does not seem to be any logic to that. If they can pass a test, surely they are competent to drive; if they cannot pass a test, the period will be elongated anyway.

If the test is not sufficient at the moment to test people's competence in lots of different situations, perhaps the test needs to be changed. However, there should not be an arbitrary period. I notice in the legislation that, by order, that period could be changed. Maybe the Minister will explain that. I assume that it could be changed to a longer period. In what circumstances would the Minister and the Department decide to elongate that period? It strikes me that there are a lot of unanswered questions, and I believe that it is an unnecessary restriction.

I come to my next point, namely the restrictions on what drivers between the ages of 17 and 24 can do immediately after their test. This is one of the most bizarre bits. The Minister said that it is designed to save lives, because a lot of accidents occur when young people rake around the roads at night with friends in the car, presumably egging them on, and then they crash. That is tragic. However, if that is the problem, perhaps the Minister could explain how the police will have no difficulty in enforcing this. In the rural areas where most of these accidents happen, you would not see a policeman for 20 miles. If the problem usually occurs late at night in remote rural areas, how on earth will we find the police? The police may have assured him that they can enforce this, but the truth of the matter is that the problem tends to arise in places where the police are not present. Look at where police traffic cars are mostly found: on main roads and motorways. When it comes to the more remote areas, for goodness' sake, when rural crime occurs, it can sometimes be three or four days before the police even come near the farm from where stuff has been stolen. Yet, we are told that this could be easily enforced.

This brings me to another point: why make laws that we know are not likely to be enforced because either the resources or the ability to do so is not there? That brings the law into disrepute. This is micromanagement. If you have just passed your test, you could rake around the roads with three 13-year-olds in the back, but you could not have a 14-year-old in

with you. If you drive a van like mine, which has two seats in the front as well as the driver's seat, the Minister even proposes in legislation that you can have someone aged between 14 and 21 in the front seat but they must be accompanied by someone who is over 24. He even determines the seating arrangements. The younger person has to sit at the window, and the older person has to sit in the middle, beside the driver. This is the nonsense and micromanagement that we have in this kind of legislation. I must ask the Minister this: is this really where we want to go when it comes to reducing road accidents? Does he really believe that this will have any big impact? To me, this is intervention well beyond a level that the general public would say is proportionate to the problem that needs to be addressed. It is also disproportionate to the kind of remedy that will work. The Committee needs to look at why that is the case.

The other thing is that it seems that family members are less valued than non-family members. You can have family members in the car with you but not non-family members. What is the thinking behind that? I know that the Minister will say, "Well, family members are not as likely to egg you on". I remember that, after I had learnt to drive, nobody egged me on more than my wee brother, who sat beside me and said, "Get after him". The idea that a family member is less likely to egg someone on to drive hard is not borne out by the facts. We should look at all these restrictions.

The other thing is that the Bill creates a big problem. We recently did an exercise in one of the rural areas of east Antrim, and one of the things that people said prevented them from getting work was the fact that they lived so far from Larne or Ballyclare that they could not get there without their parents driving them and their parents were not always available because they sometimes had their own work to go to or whatever. The easiest thing was for three or four mates to use or share a car to get to where the work was available. There was no public transport etc. The restrictions that the Minister creates in the Bill will prevent that from happening. Again, it does not take cognisance of the transport arrangements that often pertain in rural areas. On the one hand, we get the Minister for Employment and Learning trying to find inventive ways of getting young unemployed people into work and into training schemes; on the other hand, we get the Environment Minister putting barriers to opportunities in the way.

One part struck me as a bit odd, and I can see this happening. If the vehicle being driven were



an ambulance, and you as the driver were taking somebody to hospital, had just got your licence and were under the age specified, you could still drive people to hospital. However, if you happened to be out working and your 17-year-old or 18-year-old mate got injured and cut an arm, leg or whatever it happened to be, and you were to transport him or her to hospital in the car, you would be committing an offence under the legislation.

The Minister is shaking his head, but if you had only got your licence and fell into the category in which you could not have someone aged 17 to 24 in the car with you, and you were driving that person solely and did not have a longer-qualified driver along with you, you would be creating an offence in this case. I take that scenario because an ambulance was mentioned, but I could go through lots of others in which the legislation would create those kinds of anomalies and difficulties.

Of course, people say that you should have knowledge of the law, but the one thing that strikes me here and is not mentioned is that the legislation does not pertain to other jurisdictions. For example — I am going to sound like a nationalist — what about people who live across the border where the restrictions will not apply and where people may not even be aware of them? They may wander into Northern Ireland with their mate in the car just after they have passed their driving test. Will those people be guilty of an offence through ignorance?

People may come on holiday from England with their mates and be driving around Northern Ireland not aware that the law here is different from that in England and Scotland. Will they be guilty of an offence or will allowances be made for them?

That brings to me to the last point I want to make, which concerns crash helmets when on quads. I have no doubt that the police have given an assurance to the Minister that they will enforce that. I can see a case, and I get this in my constituency, in which wee lads, whose parents bought them a quad, rake up and down the street on it. There may be a field at the end of the street or half a mile away. They rake up to that field, rake around the field and everything else, and they are a torture to neighbours.

Given the fact that the police in Northern Ireland have had powers for, I think, the past five years not only to apprehend such people but to take their vehicle off them, I am not aware of those powers having been exercised once. If the

police do not enforce the law as it stands, under which you could deal with people who are driving recklessly, are we likely to find that they are going to enforce a law that says you have to be wearing a crash helmet?

I would love to see how we are going to make the distinction in the legislation, because the Minister said that he has some sympathy for the points that Mr Elliott made. How are we going to make the distinction for a farmer who happens to be out on a quad in his fields, which may be associated with his house, meaning that he did not have to go on to the public road? As Mr Elliott described, he then finds that cattle or sheep have broken out, goes on to the road to round them up and comes across a police car that happens to have wandered into that part of the rural area. The farmer would be very unlucky if he found that to be the case, but let us say that he was that unlucky and gets apprehended. How are we going to tweak the law to say that that person is not guilty of an offence but some wee lad on the estate is guilty of an offence? If you are going to have the law, it is going to apply to everybody.

I think that the figure that the Minister gave me was that there have been four deaths from quads in the past five years. He did not say that those deaths were from head injuries. I can think of one death in my constituency in the past two years, and that was of someone who was killed late at night on a quad. It was not from head injuries; rather, he was killed outright because of the circumstances of the accident. A helmet would not have saved him.

#### 4.15 pm

We are going to introduce this kind of restriction on the basis of the number of deaths that the Minister outlined. Again, we have to get some proportion. Of course, any deaths that occur on the roads are unfortunate, but let me say in closing that we cannot take all risk away. When you are driving vehicles along the road, some of which weigh tons and are capable of going at 100 miles an hour, all the hazards on the roads mean that there is always going to be risk. We have to weigh up whether there are reasonable things that can be done to reduce that risk and save lives while not going so overboard on this that we impact on the freedoms of people who live in rural areas, attack young people — this is an attack on young people — and take away freedoms.

One of the freedoms for young people, as I said, is the ability to have their own form of transport. Are we going to take that away from them without knowing whether it is going to

save a large number of lives anyway? As Mr Ross pointed out, the Minister has avoided one of the issues, because he made a judgement about driving at night. Given that more young people have been killed driving in cars late at night, you would have thought that, if the real aim was to reduce deaths, that is what he would have done. He has decided not to do that. Why? Because he has weighed up the practicality of that kind of restriction against the lives that would be saved. He has decided that it is not practical, that it is too restrictive, that it would be too unpopular as well and would have an impact, as he said, on people's ability to get employment. His restriction on who you can carry in your car in daylight after you have passed your test is equally restrictive and will equally have an impact. If the argument is good enough in one case, it is good enough in another.

I hope that these are the kinds of issues that the Committee will be prepared to tackle head-on. I also hope that it will not get so caught up with the idea that this is all about saving lives that its critical faculties will go out the window. There are many things in the Bill that require very close examination, and I trust that they will get a close examination at Committee Stage.

**Mr Durkan (The Minister of the**

**Environment):** I thank all Members who contributed to the debate. There have been quite a few contributions, all of which I found extremely useful, and some of which I found quite entertaining as well. I am grateful to the Deputy Chair of the Environment Committee and to Members from all sides for their consideration of the Bill and for their contributions.

I want to respond to issues that have been raised. I assure Members that I will read Hansard to ensure that I have not missed any issues, but if I find that I have, I will write to the Members concerned. I am sure that they will get another opportunity in the House to remind me if I do not do so.

I will go through the contributions in order. Mrs Cameron, the Deputy Chair of the Committee, detailed the Committee's consideration of the Bill to date and looked forward to further scrutiny of the proposals. Importantly, she said that the new learning and testing regime must not be so overly stringent that it becomes unfairly difficult for anyone with a learning disability. I assure her and the House that the level of literacy that is required to follow the syllabus and complete the logbook will not be any greater than that required to prepare for and undertake the current driving theory test.

Mr Boylan described this as a "big stick approach" and spoke of the difficulties that some of the proposals might present for the rural community, for example the issue of mobility for work, particularly for those in the hospitality industry. It was taking that into account that led to our not proceeding with the night-time restrictions or curfew on newly qualified drivers.

Mr Wilson intervened — surprise — and spoke of young people in rural areas depending on lifts from friends to go out in the evening. Indeed they do, but evidence shows that a group of young people travelling with an inexperienced young driver greatly increases the risk of collision and catastrophe — a point that Mr Eastwood made well. That is particularly so in rural areas at night. We have to bear in mind that these restrictions are for six months, not forever. It seems that many contributors forgot or were unaware of that fact.

Mr Maginness said that we do not want to introduce difficulties for drivers for no good reason and that the Bill and its proposals must improve road safety and save lives. He echoed my remarks that the Bill must strike the right balance. While some Members spoke of the need to protect rural drivers from overly punitive restrictions, Mr Maginness reminded us, quite rightly, that the majority of collisions occur on rural roads.

Mr Elliott was of the opinion that some restrictions proposed in the legislation discriminate against those in rural communities. He spoke about the difficulty in enforcing the passenger restrictions and touched on drink-driving and the issue of driving under the influence of drugs. He would like the Bill to deal with that very serious issue. I am sure that others would as well. Driving while impaired by drugs is already an offence. Westminster is progressing legislation to make it an offence to drive with certain levels of certain drugs in one's body, but the science and equipment required make that very challenging. That difficulty, and the fact that a much higher number of casualties are caused by drink-driving, means that the focus of the Bill is drink-driving. However, I foresee a Bill on drug-driving being introduced at some stage, possibly by a future Minister of the Environment.

Mr Boylan raised concerns about checkpoints. Their use will be intelligence-led, and they will have to be planned. The date, location, starting time and finishing time will have to be clearly set out in writing and approved in advance at inspector level or above.

Kieran McCarthy made a good contribution. He welcomed measures in the Bill and the positive human and financial impacts that it could have. He spoke of the importance of the new drink-driving limit not leading to confusion about DOE's "Never ever drink and drive" message. Our central message is, always has been and always will be this: never ever drink and drive. Even at low levels, and Mr Ross made the point very well, alcohol will impair drivers.

However, zero tolerance does not require zero limits. There are a number of reasons why we want the law to operate under prescribed limits. Absolute zero would bring practical difficulties: for instance, people who never drink can produce small amounts of alcohol in the digestive process. We want to catch people who knowingly and deliberately break the law. Twenty milligrams per 100 millilitres is seen as the de facto zero and a practical minimum drink-drive limit. That is because cough syrups; naturally occurring alcohol caused by bacteria in the gut; the small measures used for religious ceremonies; and certain foodstuffs and mouthwashes all may contain small amounts.

We want drink-drive laws to be publicly acceptable, because, generally, if a law is viewed as acceptable, people are more likely to comply with it. We do not want to lose the very strong public support and compliance that we have built up over the years for our drink-drive laws. Our 2009 public consultation suggested that a reduction from 80 milligrams to 20 milligrams for all drivers might be just a wee bit too dramatic.

Mr McCarthy also spoke of the restrictions on young drivers. I fear that he might have misunderstood some of the proposals on passenger restrictions, although, in fairness, they do initially seem quite convoluted. I am sure that all Members concur with that.

There was a query about why we should increase the post-test period to two years. The main rationale for introducing a two-year post-test new driver period is that, as several studies have shown, the heightened collision risk for new drivers levels out only after the first two years of solo driving, and there is no evidence that speed restrictions on learners or novices improve road safety.

Mr Weir pointed to the plethora — I think that he used that term — of GDL schemes that have been introduced and used across the world. We need to look at what works, what does not work so well, what would work and what is workable here. He thinks that many aspects of the Bill are good; however, he also queries

quite a few aspects, which is fair enough. He has a suspicion that a number of changes will be made to the Bill, and I have a suspicion that he is probably right.

Mr Eastwood spoke of the need to learn to drive rather than to learn to pass the test. He spoke of passing his test on a Friday and how terrifying it was having to drive on the motorway up to Belfast on the Monday. Having got a lift or two from Colum in the past, *[Laughter.]* I can certainly assure the House that it must have been terrifying indeed.

Mr Eastwood also spoke of the implications for insurance. The Association of British Insurers insists that these proposals could and should result in the cost of insurance premiums being driven down, which everyone would and will be glad of.

Mr Ross spoke of his record in the House of promoting GDL and advocating new drink-drive limits. His contribution therefore was, unsurprisingly, well informed and measured. Education and experience are key to reducing the number of collisions involving young drivers. He pointed to how well GDL works in other jurisdictions and shared with us his first-hand experience of the susceptibility of new young drivers and their passengers to serious collisions on the road. He agrees that many, if not all, elements in the Bill would be beneficial, but he reminded us of the need to strike the right balance to ensure that we get the right package. He has concerns about the implementation of passenger restrictions, despite acknowledging the effectiveness of such measures elsewhere.

Mr Wilson made more than one contribution, but his formal contribution was quite informative. I am not going to join him in slugging off NI21. We had a bit of a "Carr" crash of our own in Derry. He said that he opposes the basic principles of the Bill — he is the only contributor today to do so — and that the Bill eats away at people's basic freedoms. I am not sure whether I have met any of the officials to whom Mr Wilson referred, but I agree with him that we need to look at wider societal issues and impacts rather than just road safety in isolation.

Education, legislation and enforcement have all played an important role in reducing the number of deaths on our roads as have, undoubtedly, improvements in engineering, as Mr Wilson stated. That is the engineering of vehicles and our roads.

**4.30 pm**

Mr Wilson raised concerns about logbooks and how they might be open to abuse and even fraud. Logbooks are, to a degree, self-enforcing. If a learner has not completed the training but has updated the logbook, it follows that he or she will not have the prerequisite knowledge and skills to take and successfully pass the driving test. In addition, the Bill includes powers to revoke a licence and impose a level 3 fine for a person found to have produced a forged logbook, therefore deterring candidates from filling in their logbook without the required training. The logbook can be verified by a driving instructor or supervising driver, who could face fines, as well as obvious professional reputational damage, should they —

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

**Mr Durkan:** Go ahead.

**Mr Ross:** I take the point about the logbook in the context of a professional driving instructor and how there could be evidence that they went out driving with a young person for the instruction element. However, if one of the people who can sign the logbook is a parent, how would the Department or the courts determine whether parents were telling the truth when they signed off on the logbook? Is that not one example in which the practical implications of the legislation cannot be enforced?

**Mr Durkan:** It could certainly pose practical difficulties. However, if the logbook has been forged, and, for example, a parent signs off that little Sammy can do a three-point turn and then, on the day of the test, it transpires that, although Sammy might do the odd U-turn, he is incapable of doing a three-point turn, it will become evident that the logbook has been forged. The parent might argue that he had done it OK yesterday. I take the Member's point that enforcement could and probably would be extremely difficult.

Mr Wilson articulated further concerns, including about enforceability, but legislation is not and should not be about catching people. It is about stopping people doing things that put themselves and others at risk. I also want to clarify that there is no category in which you cannot have a passenger between the ages of 17 and 21. He gave an example of someone who had hurt their arm and said that you could not drive them to hospital if they were between the ages of 17 and 21. You are allowed one passenger between the ages of 17 and 21. You are not allowed multiple passengers.

**Mr Wilson:** What if they ran into each other on a quad, and they both broke their arms? *[Laughter.]*

**Mr Durkan:** Mr Wilson did warn us that he had many more possible scenarios. Indeed, there are an awful lot of permutations, quite a lot of which I have put to my officials over the past week. At one stage, it seemed as if we were doing old 11-plus questions when we were talking about three passengers in a car travelling at 45 mph and A is related to B but not to C. *[Laughter.]* I can understand fully where Members are coming from.

Mr Wilson had concerns about motorists coming over the border. Sorry — he was concerned about those who might be unaware of the new restrictions. That is a fair point. Quite a number of our neighbours who visit Derry, and who are very welcome, seem to remain unaware of parking restrictions in legislation here. There would be a full public information and education campaign.

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

**Mr Durkan:** Yes.

**Mr Wilson:** Do you regard this as partitionist legislation? *[Laughter.]*

**Mr Durkan:** Certainly not.

Mr Wilson said that we cannot take all risk away. We cannot, but we have a duty to reduce risk, and I believe that we can do so. The legislation is not, as Mr Wilson states, about attacking young people. It is about protecting them and letting them gain the experience and the confidence to protect themselves. Like all contributors and me, he is looking forward to Committee Stage and further scrutiny of the Bill.

In conclusion, I again thank Members for their contributions to the debate on the Road Traffic (Amendment) Bill and for the questions and issues that they have raised. We must not underestimate the enormity of the responsibility of this House to do whatever we can to save lives and reduce injuries on our roads. I am confident that the bold measures in the Road Traffic (Amendment) Bill have the potential to do just that. Having listened to the valuable contributions to the debate, I will leave confident that this House will accept the challenge involved in pursuing an ambition of zero road deaths.

I and my officials look forward to working closely with the Environment Committee as it begins its detailed scrutiny of the Bill, which, I have no doubt, will prove to be equally valuable. I commend the Bill to the House.

*Question put and agreed to.*

*Resolved:*

*That the Second Stage of the Road Traffic (Amendment) Bill [NIA 35/11-15] be agreed.*

## **Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014**

**Mr Durkan (The Minister of the Environment):** I beg to move

*That the draft Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014 be approved.*

I am pleased to bring before the Assembly the first piece of subordinate legislation to be made under the powers of the Local Government Act (Northern Ireland) 2014. The regulations will be made under sections 38 and 124 of that Act and section 20 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010. The legislation requires that the regulations be laid in draft and approved by a resolution of the Assembly.

The purpose of the draft regulations is to provide for the operation of the shadow period between 26 May 2014, when the 11 new councils were established, and 1 April 2015, when the 26 current councils will cease to exist and the 11 new councils will take on their full range of functions.

The Secretary of State for Northern Ireland agreed to bring the local elections forward to 22 May in order to facilitate the transition between the existing and new councils. The resulting shadow period will give the 11 new councils time to prepare themselves to hit the ground running on 1 April next year. During that time, the 26 current councils will continue to be responsible for service delivery, while the new councils will make the key decisions necessary for their operation from 1 April.

The draft regulations provide for the new councils to use the shadow period to prepare for the discharge of their functions after 31 March 2015. That will include organisational design issues, including the establishment of committees and subcommittees, appointing key staff, and agreeing budgets, schemes and plans such as corporate and business plans.

The new councils will also strike the rate for 2015-16 during the shadow period, as provided for by the Local Government (Boundaries) (2008 Act) (Commencement, Transitional Provision and Savings) Order (Northern Ireland) 2013. The regulations will place a duty on existing councils to provide information and assistance to their new council during the

shadow period. That includes the provision of premises, facilities and staff. Costs incurred by new councils during that time will be apportioned among their predecessor councils in line with the population of each existing district within the new council area. For example, if the existing Armagh City and District Council makes up 30% of the population of the new Armagh, Banbridge and Craigavon district, that council will meet 30% of the costs of the new council. However, in the case of the new Belfast district, 100% of its costs will be met by the existing Belfast City Council.

A duty has also been placed on Northern Ireland Departments and the Housing Executive to provide information to new councils in cases where it is required for the discharge of their functions. The regulations make provision for new councils to make appointments to positions of responsibility in respect of the shadow period and for the four-year term of the new councils commencing on 1 April 2015. The regulations will apply the provisions of the Local Government Act in relation to the allocation of positions of responsibility and committee positions in new councils.

Although the new councils will not be able to appoint councillors to external positions of responsibility during the shadow period, an exception has been made in respect of appointments to the partnership panel as well as policing and community safety partnerships (PCSPs) and district policing and community safety partnerships (DPCSPs). The exemption in relation to the appointments to PCSPs and DPCSPs has been included at the request of the Department of Justice. This is needed to allow councillors to participate in the selection of lay members on those bodies so that they can be fully operational in advance of 1 April next year.

Following on from the provisions in relation to positions of responsibility, the regulations also require certain mandatory provisions to be included in a new council's standing orders. One relates to the procedures for filling positions on more than one committee at the same meeting to ensure that the principles of proportionality are upheld and allow that committees are broadly representative of the political make-up of the council. This provision was added to the regulations in response to comments made during the consultation process. It will prevent any one political party holding all the positions on a committee of a council.

The other mandatory standing order prescribed by the regulations relates to decisions that may

be taken by a qualified majority. The Local Government Act specifies most decisions that are subject to a qualified majority, but the standing orders include two additional ones: decisions that are subject to call-in on the basis of disproportionate adverse impact on any section of the inhabitants of its district under section 41(1)(b) of the Act, and suspension of a council's standing orders.

The regulations make provision in relation to the continuity of exercise of functions of councils from 1 April 2015. This is necessary to provide a smooth transition to the 11 new councils and ensure that business conducted by the 26 councils can continue uninterrupted after that date.

The regulations will also provide for the winding up of the existing councils after reorganisation has taken place and will allow new councils to make by-laws during the shadow period, although these will not be permitted to come into operation until 1 April 2015.

The Local Government Act provides that councillors of the 11 new councils must observe the new code of conduct made under the powers conferred by the Act. The regulations extend that requirement to councillors of the 26 existing councils. This will ensure that there is a level playing field across both sets of councils and will help prevent confusion in relation to the activities of councillors who hold a seat on an existing and new council.

Finally, the regulations provide for the new councils to produce the statements of accounts of statutory transition committees, once they cease to exist 28 days after the election.

The timescale within which the regulations have had to progress through their Assembly procedures has been extremely tight. I am sure that Members will appreciate the need to have the provisions in place as early as possible in the shadow period so as to allow new councils the maximum available amount of time to make their preparations in advance of 1 April and to assist them in navigating the complex issues that need to be resolved ahead of the reorganisation date.

I take this opportunity to thank the Environment Committee for its assistance in allowing the regulations to be debated today. I think we are all aware of the detailed and complex programme of work that the new councils must complete in advance of 1 April next year. These regulations are an important step in giving them the tools they need to do the job.

I ask the Assembly to approve the draft regulations.

**4.45 pm**

**Mrs Cameron (The Deputy Chairperson of the Committee for the Environment):** The Committee was briefed on the draft Local Government (Transitional, Supplementary and Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014 at its meeting on 19 May. It would be remiss of me if I did not point out at this stage that Committee members were extremely unhappy at receiving the documentation so late. In fact, the Committee was asked to consider the consultation responses, together with the SL1 for the regulations, by post. That did not afford the opportunity for full and proper scrutiny. It was reluctantly, and in recognition of the imminent local council elections, that the Committee agreed to hold an additional meeting to scrutinise the regulations.

Members expressed some concerns around the process of nominations to committees. Officials advised the Committee that a new regulation 7 has been inserted as a result of comments received to the consultation. It provides for the new councils to have mandatory standing orders in place for the date of their creation. That, in turn, will allow for the new councils to appoint more than one committee at the same meeting. Schedule 3 to the regulations was inserted to provide the mechanism for councils to do that by prescribing the process to be followed if more than one committee is to be appointed at the same meeting. That provides that no one party can hold all the seats on a committee and that the political make-up of each committee should broadly reflect the political make-up of the council. A further provision in schedule 3 permits the Department to insert another standing order, which specifies votes that must be taken by a qualified majority.

I commend the Department for listening to stakeholder comments in the consultation responses and acknowledging them by making the necessary changes for those who wish to utilise the provision. Officials also advised the Committee that guidance is to be issued to all councils on d'Hondt, Sainte-Laguë and single transferable vote (STV). That will be very useful, particularly for those joining councils as new members.

The Committee also heard from officials that meetings have been held with the new chief executives to explain how the voting systems will operate to ensure the smooth running of the first few meetings of the new councils.

Although the Department did not communicate the information on the regulations to the Committee in a timely manner, it is reassuring to some extent to learn that chief executives are being briefed ahead of these important changes and that relevant guidance is to be issued as soon as possible.

**Mr Milne:** Go raibh maith agat, a Cheann Comhairle. New regulations on transitional arrangements give councils the power to discharge their functions in the period of handover from the old to the new councils. The regulations that we are discussing provide clarity to make the process as seamless as possible and flexibility on a practical level as to how things might work out during the important period of local government change.

Under the shadow council arrangements, there will now be a statutory requirement for the old and new councils to be able to discharge their duties in a way that does not compromise their autonomy. The old council will be able to continue to deliver on its statutory duties to provide for a seamless and uninterrupted delivery of services to the ratepayers, while, at the same time, supporting the development of the new fledgling council structures, which will be live from April 2015.

The transitional arrangements as specified in the regulations clarify the function of the new shadow councils. The temporary modifications relating to by-laws will impose a duty to assist in the preparations for the new councils coming into effect. Importantly, the regulations will also provide for a code of conduct, as well as stipulating how positions of responsibility will be filled, including the appointment of councillors to committees during the transitional period. Regulations will provide guidance on the winding-up of business of the old councils, such as guidance on the final statements of accounts and on finalising the business of the statutory transitional committees. All in all, the arrangements contained in the regulations will provide the legislative clarity required for a successful transitional period.

I congratulate all councillors elected over the weekend. I expect the regulations to be a valuable asset in providing clarity to them. They will also be of value to the newly appointed chief executives and senior management teams as they navigate their way through the oncoming period of change. I wish them, their staff and all the elected representatives all the very best for the period ahead. I welcome the new regulations.

**Mr Elliott:** Thank you very much, Mr Speaker. As you know, I am not a great lover of this Bill overall. However, these regulations obviously have to be put in place to get the new councils going.

There are queries about a couple of aspects that perhaps the Minister could address when he gets back on his feet. I know that when officials appeared before the Committee, there were indications of discussions with the chief executives about how the process for the appointment of positions of responsibility and to committees would work. Perhaps the Minister could elaborate on what those discussions have entailed and what the advice is for the chief executives on the appointment process.

There are also queries on councils' standing orders and whether guidelines will be given to chief executives on the formation of those standing orders, as well as on what is required for a qualified majority. I am pleased to note that some clarification has been given on the appointment of committees, in that the appointment of positions to more than one committee will not be made at one meeting. I welcome those aspects, but I seek the Minister's clarification on those elements of the Bill.

**Mr Weir:** I was not aware that I was due to speak, but I welcome these regulations. The Minister has put in place the main piece of legislation, and it is therefore important that we have these regulations. Where guidance is to be given, it is useful that it will help steer the new councils through this transitional phase in an appropriate manner. I think that it is important that we are not overly prescriptive and that councils have the opportunity to find their own way. As such, I welcome the proposals, having been with the Environment Committee when the regulations were put forward. I think that it is important that they are there to provide that guidance, particularly in the early days of the transition period, and I urge the Assembly to support that.

**Mr Durkan:** I thank everyone who contributed to this afternoon's debate, and let me add that it was a nice, short debate. I would like to address some of the issues that were raised. There were not too many, fortunately; nowhere near as many as in the previous debate.

First, Mrs Cameron, the Deputy Chair of the Committee, spoke of the Committee's disappointment at its late receipt of the regulations. I take personal responsibility for that, apologise for it and assure the Deputy Chairperson and other Committee members

that I will do my best to ensure that there is no repeat of that situation.

I join Mr Milne in congratulating those who have been elected to the new councils. Mr Elliott admitted to being no great lover of the Bill, and he had a couple of queries about positions of responsibility and advice to chief executives. Draft guidance has already been issued to the new chief executives about the mechanisms for appointing councillors to positions of responsibility and about the model standing orders. They have been apprised of and kept abreast of that information and will continue to be so.

It is worth noting that these regulations will allow my Department to provide for the existing and new councils' activities during the shadow period. This is a key step towards the reorganisation of local government, and I thank the Deputy Chair and other Members for their support.

**Mr Elliott:** I thank the Minister for giving way. On a point of clarification, he said that guidance on standing orders had already been issued to chief executives. Will that guidance also be made available to the Environment Committee?

**Mr Durkan:** I thank the Member for the intervention. I will ensure that that guidance is made available to the Committee at the earliest possible opportunity. I intend to build on and to maintain the good working relationship that my officials and I have with the Committee. We have been working pretty well up until this recent blip, for which I accept responsibility. Again, I thank Members for their support.

*Question put and agreed to.*

*Resolved:*

*That the draft Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014 be approved*



## Local Government Code of Conduct for Councillors

**Mr Durkan (The Minister of the Environment):** I beg to move

*That the draft Northern Ireland local government code of conduct for councillors be approved.*

Part 9 of the Local Government Act (Northern Ireland) 2014 establishes the new ethical standards framework for local government. The framework will consist of a mandatory code of conduct supported by mechanisms for investigation, adjudication and appeals. This is an important document, and it is therefore appropriate that, before the code of conduct can come into force, it must be laid before, and approved by resolution of, the Assembly.

The draft code is consistent with the seven Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership; and the five additional principles already adopted by the code of conduct for Members of the Assembly of public duty, equality, promoting good relations, respect and good working relationships.

I am aware that the code of conduct of the Northern Assembly is under review. I will consider whether any changes should subsequently be made to the principles set out in the councillors' code of conduct in light of any amendments made to the MLA code. If necessary, a revised code can be brought to the Assembly at a future date.

**Mr Ross:** I appreciate the Minister giving way. Given what he has just said, will he explain to the House why neither he nor any officials from his Department approached the Committee on Standards and Privileges to get an idea of the changes proposed and the rationale for why they would be made? That might have helped to guide the Department in putting together the code of conduct that we have before us today.

**Mr Durkan:** I thank the Member for his intervention. I have to plead ignorance. I was unaware that there had been no communication between the Committee on Standards and Privileges and my officials on the matter. However, we are working on a code of conduct for councillors. If any changes were proposed and then adopted in the MLA code of conduct, we may look at that in the future. I am not ruling that out. However, first, there would need to be proposals, and those would need to be accepted or adopted.

The draft code for councillors outlines the legislative basis for the code; identifies and provides clarification on the principles of conduct that will underpin the code; and outlines the rules of general conduct expected of councillors. The code also outlines the rules for the registration, disclosure and declaration of interests and for lobbying and decision-making. It also provides clarity on what is expected of councillors in planning matters.

To further support councillors, training on the code of conduct is being taken forward at a regional level and arranged primarily through the Local Government Training Group. The office of the Commissioner for Complaints will also be involved. Initial training is due to begin as soon as practicable and will be delivered in conjunction with councillors' induction.

I will briefly outline each part of the code. Part 1 is an introduction to the code and states when it comes into force. It identifies the legislative background to the introduction of the mandatory code and highlights the general expectations of the public of the conduct of their local government representatives. In addition, it provides councillors with information on relevant guidance that will help them to understand their obligations under the code.

Part 2 clarifies that the code will apply to all councillors: those elected to the 26 existing councils and those elected to the 11 new councils. It will also apply to a non-elected person who is appointed to a council committee. That part also clarifies when the code will apply and provides information on how it will be enforced.

### 5.00 pm

Part 3 sets out the principles that will apply, while part 4 sets out the rules of general conduct, covering such issues as the use of position and resources, disclosure of information, the rules relating to expenses and allowances and the registration of gifts and hospitality. Part 5 provides the rules relating to the registration of interests, while part 6 relates to rules on the disclosure and declaration of interests provided for in sections 28 to 31 of the Northern Ireland Act 1972.

Part 7 sets out the rules relating to lobbying and access to councillors. It encourages councillors to promote clarity, openness and transparency in any business with which they are connected. Part 8 sets out the rules when participating in meetings or reaching decisions. All decisions that have to be made in the course of council

business should be based on the merits of the facts presented.

Part 9 of the code relates to planning matters. Recognising the importance of planning issues and the need to ensure that planning decisions are taken openly and fairly, it was agreed under the previous RPA arrangements that a section relating to planning would be incorporated into the code. However, it is important to stress that all the rules and behaviours in the code will also apply to planning.

Councillors are understandably nervous about those new powers, how and when they can speak to developers, what role they have to play for their communities and how they ensure that they do not bring themselves or the council into disrepute. I recognise that taking on planning functions is one of the key challenges facing the new councils and that ensuring the necessary culture change will not be easy. In addition to the training that I have previously outlined on the code, councillors will be supported through capacity building and training, and through guidance on planning matters brought forward by my Department. That planning guidance will be issued for consultation after the summer recess, and it will be important that we take the time to get it right.

I strongly encourage councils to ensure that all councillors do their best to attend those training sessions on planning, particularly councillors who will sit on planning committees. Attendance after every training session will be recorded and sent to respective councils. Those who are unable to attend their local event will be encouraged to register for the same session in another venue. Capacity building and training will be undertaken through role play scenarios as well as formal training sessions. We will make use of the experience of our colleagues across the water and from the Republic to make the training as realistic as possible.

It is important for councillors to recognise that their role in planning has changed fundamentally. No longer will they just be consultees on planning applications and, if they are members of a planning committee, no longer will they be able to lobby freely on behalf of their constituents as they wish. Those are significant changes, and we must get the right messages across. There is a risk that members will choose not to sit on a planning committee as they fear that it will hinder their ability to lobby on behalf of their constituents. However, in my opinion it would be a mistake for councillors not to grasp the opportunity that they now have to make decisions for their areas

and to influence how those areas grow and change.

Councillors should not be afraid of those new powers. On the contrary, they should grasp them with both hands. For the first time in decades, councils will be responsible for drawing up their own local development plans and making local decisions that affect local people. Being on a planning committee does not mean that you cannot talk to developers or communities. It just means that you must approach any meeting with an open mind and not make a decision or declare how you would make a decision until you have heard all the evidence and arguments at the committee meeting.

Alternatively, if a committee member feels that he or she cannot remain impartial over a particular application, they are free to lobby on behalf of their constituents as long as they take no further part in the decision-making process.

I encourage all concerned to look closely at the draft guidance when it issues for consultation and make their comments known to the Department. It is important that we take the opportunity to get this right.

Parts 1 to 8 of the code will apply immediately after it has been approved by the Assembly, while part 9 will apply from 1 April 2015, when planning functions will be transferred to the councils. That will enable the current set-up for the approval of planning applications to continue unchanged until that time.

In approving the draft mandatory Northern Ireland local government code of conduct for councillors, the Assembly will establish a key element of the new ethical standards framework for local government that will encourage openness, transparency and public trust in our councillors, who, in a new era for local government, will deliver improved outcomes for all our communities. I ask the Assembly to approve the draft Northern Ireland local government code of conduct for councillors.

**Mrs Cameron (The Deputy Chairperson of the Committee for the Environment):** The Committee was briefed on the draft code of conduct for councillors at its meeting on 19 May. That was an additional meeting, held at the request of the permanent secretary, specifically to consider the code. It would be remiss of me not to highlight, once again, that members were extremely unhappy to receive the documentation at such a late stage. We felt that the Committee was not being afforded its opportunity for full and proper scrutiny.

Reluctantly and in recognition of the imminent council elections, the Committee agreed to hold an additional meeting to scrutinise the code.

Departmental officials advised the Committee that, as a result of the consultation on the code, the requirement for councillors to report breaches of the code was removed from the final version. Officials also explained that the term "spouse", which is used in the disclosure of interest, is to be updated by a declaration of any pecuniary interest, direct or indirect. On behalf of the Committee, I welcome those changes. The removal of the requirement for councillors to report breaches of the code is a sensible change, as it would have been difficult to monitor. It would have placed an unreasonable burden on councillors. The second change, relating to the term "spouse", is also sensible, as it is an outdated term in modern society.

The Committee welcomes the Department's commitment to delivering guidance and training on the code in conjunction with the local government training group and the Commissioner for Complaints. Members also welcomed the clarification that provisions are being made in the regulations that existing councillors and those on the new councils will be subject to the code. Members expressed concerns about the appeals process. There is still uncertainty about whether another Bill is needed to introduce an adjudication panel. Officials told the Committee that, in the interim, the Commissioner for Complaints would investigate and adjudicate until such time as the alternative process was set up. The Department has indicated that it is in the process of seeking legal advice on exactly what is required, and, on behalf of the Committee, I ask that that situation is resolved as quickly as possible.

Members also questioned officials on the planning aspects of the code and were pleased to hear that the guidance was well developed. Responsibility for planning decisions is obviously a major change for councillors, and guidance on it will be essential to ensure that the change is handled well. Members will be keen to scrutinise the guidance in further detail when it is finalised.

**Mr Boylan:** Go raibh maith agat, a Cheann Comhairle. Cuirim fáilte roimh an díospóireacht seo agus ba mhaith liom cúpla focal a rá. I welcome the debate and want to say a few words. Before I welcome the code, I must say that I am a bit disappointed that we missed an opportunity. I am sorry that I missed the Minister's answer to Mr Ross's question.

The Committee on Standards and Privileges is reviewing the code for MLAs. Lessons could be learned from that, and there may be some things that will be included in this code of conduct. That was an opportunity for us. I recognise that we are under a wee bit of pressure on this matter, and we are moving things forward, but we should have taken the opportunity to work together to include some issues in relation to this code and the review of our own code.

That said, the Committee has come under pressure on the time frame, especially these last two debates. We find ourselves debating two issues today that have to be moved forward, and we recognise that. I want to raise a couple of issues that come out of the code. When I sat on council, I remember clearly some of the older councillors complaining when the Planning Service was making decisions. It is one of those issues where you should be careful of what you wish for, because it is now their opportunity. Having said that, I want councillors to embrace it, but I also want them to have the best opportunity to make decisions on behalf of their communities.

Members of the Committee have talked about capacity building for many a long day. The Minister has been back and forward to the Committee and has given assurances that it will be done. I welcome some of his comments today about capacity building. The reality is that the general public feel that the people they have elected at council level are getting planning powers and will be able to deliver on planning. Although they will be under pressure, we have to ensure that we give the councils the proper recognition and protections so that they can make decisions. The Minister mentioned some of those issues, but I want to get clarity on when the statutory guidance will be there for that and when the training will start. The Minister mentioned some issues on training. I welcome that, and I certainly support councillors and recognise their role and the pressures they will be under now and in the future. There is no doubt that it will be a challenge for them.

Will the Minister clarify the point about capacity building for councillors and staff? I know that staff will transfer from the Planning Service, but there will also be a certain number of administrative staff in councils. During the process of the elections, I spoke to many staff who have some concerns about the transfer of all these powers. I know that is maybe not the right time, but perhaps the Minister could talk a wee bit about training for staff on some of those matters, particularly planning.

Another issue that has come to my attention is that, under the code of conduct, the requirement to attend meetings would probably be only for statutory meetings. Issues are being raised because, with the new powers, we will have new committees with a role to deliver for their communities. Will the code impact on the requirement to attend meetings of the other committees, or will councillors have to attend only statutory meetings? I think that the regulation states that, if you miss a certain number of meetings, it will call into question whether you are carrying out your duties. Will that also apply to the transfer of the new powers and the committees that are set up under them? Will you clarify that point for me, please?

I welcome the code. I know that the councils and councillors will have a difficult job, but I wish them well. I would like to see the statutory guidance on planning matters as quickly as possible because it is one of the major elements that most of the new councillors are concerned about.

**Mr A Maginness:** I will make a few brief comments on the code of conduct for councillors. There is a great challenge for the new councils and councillors in administering the new local government units. It is a very exciting challenge and one that everybody should welcome. However, with enhanced powers comes increased responsibility. Therefore, it is right and proper that a statutory code of conduct be put in place and that councillors be aware of those responsibilities and the need, in carrying them out, to be sensitive to the code. They should see the code not simply as a big stick that central government or society at large is using in relation to councillors' conduct but rather as a helpful guide to the conduct of councillors as they carry out their duties. So, I see it as support for councillors as well as, to some extent, a warning not to indulge in inappropriate behaviour as councillors and to conform to a code of conduct that gives them the necessary support in carrying out their duties.

### 5.15 pm

There is one aspect that, I think, is unfortunate, and it is a result of the amendment to the Local Government Bill in relation to the appeals process. The amendment made to the Bill by the House has created a difficulty, in my view, for the Commissioner for Complaints, the ombudsman. During the sessions in which we considered this aspect of the Bill, it was indicated to the Committee that the

Commissioner for Complaints was unhappy about the idea of his decisions in adjudication being appealable to a court of law. He saw that his position was established under the constitution and he had a position of strength under the constitution where his decisions could not effectively be second-guessed and that only by way of judicial review could a decision of his be overturned. He was concerned about his constitutional position being eroded, and that has led to difficulties in relation to the implementation of any appeals system in relation to misconduct by councillors. Yes, the Commissioner for Complaints can investigate and is very happy to investigate, but, by virtue of the inclusion of an appeal process, the Commissioner for Complaints feels inhibited from participating, at least on a permanent basis, in an adjudication process. This is a problem for all of us, and it has led to the Department taking further legal advice. It may well be that a further Bill will have to be introduced on foot of the situation that has arisen and which we will have to address at a later stage, I assume. This is an unfortunate situation, and I believe that we have created it ourselves and must address it in some way to remedy it. It is important that we are cognisant of this and look at the situation to see whether we can, in fact, remedy it. It is unfortunate, and I believe that we have created the situation. It is a difficulty that seems to me to be difficult to resolve.

I will conclude there, but I want to say that the opportunity for the new local government areas are great. I hope that the newly elected councillors will avail themselves of the new powers and the new opportunities that are there and will do so on the basis of partnership and consensual government at local level to enhance all the interests of the community across the board, so that we can create a vibrant new local government that will enrich all our communities politically and economically.

**Mr Elliott:** Obviously, I feel that the code of conduct is required for councillors, not only to protect the wider public but to protect the name of the councillor. I hope that it works to better effect than a code of conduct for some other elected representatives, which seems to have been allowed to pass through or does not have the weight attached that it should have at times. However, that will come about when we see the workings of the code.

The code of conduct got quite a bit of debate in Committee for various reasons. We needed to be certain that complaints could not be made against a sitting councillor in the run-up to an election that perhaps put that councillor at a

serious disadvantage. There was a genuine thought process around that.

I want to deal with specific areas of the code of conduct, and those are paragraphs 2.7, 2.8 and 2.9. Paragraphs 2.7 and 2.8 are very specific and quite clear as to what applies to councillors. However, paragraph 2.9 gives a much wider remit. I am not objecting to that or disagreeing with it, but I am concerned that paragraph 2.9 could leave paragraphs 2.7 and 2.8 in conflict. It states:

*"conduct which could reasonably be regarded as bringing your position as councillor or your council into disrepute".*

That has a much wider remit than paragraphs 2.7 or 2.8, and I am concerned that it may leave the code more open to challenge. I am not disagreeing with the concept, the theory or the ethos, but I would like confirmation from the Minister that he believes that those paragraphs can sit quite well together and that there will be no conflict around them. A councillor may be charged under one paragraph, yet there may be a get-out clause under another, and I do not want that to happen. I wanted to read that into the record and would like a response from the Minister.

**Mr McCarthy:** I thank the Minister for tabling the motion. The Alliance Party is pleased that a regional local government code of conduct will be in place for the new councils come April 2015.

The Alliance Party has long supported the introduction of a regional code of conduct. We have too often felt that a council's own standards are too varied and that the enforcement of poor conduct is inadequate. The draft code of conduct is an acceptable code for the immediate future. The Alliance Party submitted additional proposals to the Minister, but the code of conduct is more or less in line with the party's views on the high standard of conduct that the public has a right to expect from elected local government representatives. That has particular relevance in Northern Ireland, as we still occasionally and unfortunately see and hear some councillors making overtly sectarian and inciting remarks or otherwise wholly unacceptable and, at times, illegal remarks and comments. Hopefully, we will soon see an end to such nasty remarks.

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

**Mr McCarthy:** Sure.

**Mr Ross:** I listened carefully to what the Member said about inciting or illegal comments. Of course, the Member will want to acknowledge that, irrespective of any code of conduct that exists, either in the House or for councillors, if somebody makes illegal comments, the courts will deal with that individual.

**Mr McCarthy:** Absolutely. I agree with the Member. Hopefully, given the new code of conduct, we will see an end to any such comments and remarks.

The Alliance Party believes that the code of conduct should be reviewed after a period, especially as it relates to planning. There has been considerable concern about the role that the new councillors will play in planning. Indeed, the Minister referred to that in his remarks and to the fact that party donations still remain secret in Northern Ireland. For Alliance, that does not negate the need to devolve planning to local authorities, but it demonstrates the need to explain to councillors what their precise role is. I would prefer that that be backed up in the code of conduct.

At this point, I congratulate all our new councillors who were elected last week and wish them every success for the future. I also thank those who were unsuccessful for their contribution to their communities over the years and for their service. Alliance has always aspired to have its councillors — in fact, all councillors — act in everyone's best interests, regardless of the part of the community they feel that they draw their support from. Their actions should reflect that. This, of course, is especially important now that councils will be acquiring these new, additional powers. New councillors must exercise power to the highest standard of conduct. With that, and on behalf of the Alliance Party, I support the Minister and his motion.

**Mr Ross (The Chairperson of the Committee on Standards and Privileges):** I welcome the opportunity to make some comments, or observations, on behalf of the Committee on Standards and Privileges. I welcome that there are a few other members of the Committee in the House this evening who, I am quite sure, will have similar observations or will support what I say.

I think that it is important to say that it is part of the narrative now in all political chambers that we need a robust code of conduct. We hear it all the time. Perhaps what that means is something more difficult. I suspect that the Minister will find implementing the code of

conduct that he has in front of us today quite challenging at times as well. Indeed, Mr Elliott talked of his dissatisfaction about the code of conduct that relates to Members of this House. Perhaps that highlights the tensions that exist between getting a code of conduct that protects Members' rights to freedom of speech while ensuring that Members treat each other with respect. Those sorts of tensions that exist in the code of conduct that we have for this House will also, I am quite sure, be felt at local government level.

We also have to ensure that we have a code of conduct in place that deals with the realities, as opposed to the perceptions. To satisfy all those is, again, quite difficult. Foremost in all the considerations needs to be a code of conduct that is enforceable, and the Committee on Standards and Privileges has certainly concluded that. We do not want a code of conduct that is not enforceable, because that leads only to frustration amongst the public and, perhaps, other Members.

**Mr Elliott:** I thank the Member for giving way. While it is important that members are protected, whether they are councillors or Assembly Members, it is much more important to ensure that the wider public are protected in any code of conduct and that they get the best possible value out of their elected representatives. There must be no discrepancies in that.

**Mr Ross:** I absolutely agree with the Member. That is the challenge that we have.

I will make some observations about the process that we are involved in and the code for councillors that is in front of us today. The Northern Ireland local government code of conduct for councillors lays down 12 principles of conduct that must be observed. They comprise the original seven principles that were formulated by the Committee on Standards in Public Life and the five additional principles that are in the Assembly's own current code of conduct. However, as the Minister acknowledged and as I have said previously, the Committee on Standards and Privileges is involved in reviewing the existing Assembly code of conduct. As part of that review, we are considering the status, the definition and the number of principles that there are. Indeed, those are the same principles that the Department of Environment just adopted for its own code.

Our initial thinking on these principles and other aspects of the code have been set out in our issues paper, which was sent to all Members

and put out for consultation in the usual way. I take this opportunity to thank all those who responded to that consultation paper. We look forward to considering the comments that were made.

One of our review's key objectives is to ensure that the structure of the new code makes clear the difference between any aspirational sections and those sections that are mandatory and enforceable. That is a key consideration of the Committee on Standards and Privileges. Although our current code has separate sections on principles and rules, this separation does not reflect a consistently applied distinction.

### 5.30 pm

While some of our current principles are abstract and more easily understood as aspirational, others impose a definite obligation in the manner of a rule. We have, therefore, proposed that the new code of conduct provide for aspirational principles and enforceable rules. The principles will be taken into account when investigating an alleged breach of the rules but would not, in themselves, form the basis of an admissible complaint.

This changed approach is already embodied in codes in the House of Commons, the House of Lords and the Scottish Parliament. However, it is not an approach recommended by everyone. Our former interim Commissioner, who in his role as Northern Ireland Ombudsman will investigate alleged breaches of the councillors' code, has made the case for enforceable principles. He believes that complainants should be able to rely on an alleged breach of a principle even when there is no alleged breach of a rule. I do not think that that is necessarily what members of the Committee on Standards and Privileges think. We take a different view. In light of these different views, it might be helpful if the Minister clarified for the House this evening the exact status of the principles in the code of conduct for councillors and whether he believes that they are enforceable rules or separate from the rules. That is an important distinction.

The Assembly's current code was agreed in 2009, and, since then, things have moved on. The seven principles of public life, which were lifted from the current Assembly code of conduct by the authors of the new code for councillors, have since been redefined by the Committee on Standards in Public Life, the body with statutory responsibility for advising on standards across the United Kingdom. In its report, 'Standards Matter', which was published

in January 2013, the guardian of the seven principles recommended new definitions to bring them into line with best practice and changing public perceptions.

This means that the new code of conduct for councillors will incorporate the seven principles of public life along with the outdated definitions. Tomorrow, the Committee on Standards and Privileges will meet Lord Bew from the Committee on Standards in Public Life and discuss with him the revised seven principles. Perhaps the Minister will set out why he did not want to use the updated descriptions and, indeed, whether he has given consideration to any of the other conclusions in the 'Standards Matter' report.

In addition to the seven Nolan principles, the code for councillors includes the Assembly's five additional principles. Our concern with those is set out in the issues paper that was published and distributed to Members. We think, for example, that the public duty principle of upholding the law should be reclassified as an enforceable rule. We also noted that we do not have any enforceable rules for the principles of equality and good working relations, although, of course, much of what is covered by these principles is addressed in statute, to which Members are subject in the same way as any other person. That is the point that I made to Mr McCarthy when he commented on councillors potentially using illegal language. Mr McCarthy is the former Deputy Chair of the Standards and Privileges Committee, so he will know that, irrespective of any code, if Members go outside the law in making illegal comments, the courts will deal with that.

As a Committee, we do not necessarily see the case for imposing additional obligations on Members under these headings. However, we are open to looking at it again and at what their inclusion in the code of conduct for councillors is meant to achieve. The Minister may wish to acquaint himself with our thinking on all five principles for the purpose of determining their practical significance, if any, for councillors exercising their functions.

Although the code of conduct for councillors cites the Assembly's current principles, the Department did not first approach us to ask whether doing so was prudent. Had it done so, we would have been happy to share our concerns and experience of trying to adjudicate on whether a Member had breached a code of conduct. I find it surprising and concerning that the Department did not think to write to the Committee on Standards and Privileges in this

House, given that it was lifting many parts of our existing code of conduct. Doing so would have helped the Department to get a better and more up-to-date code of conduct for councillors and, perhaps, to avoid some of the difficulties that it will inevitably find itself in.

An argument was made to the Committee that, where appropriate and meaningful, there should be some consistency between the Assembly's code of conduct and the Department's code of conduct for councillors. If this is the case, surely it would apply only to sections of our respective codes that we are mutually happy to recommend. The Committee is still considering what should go into our new code of conduct. In doing so, we are, of course, open to representations from the Department on any point that it wishes to make to us.

In conclusion, I ask the Minister to instruct his officials to liaise with the Committee on Standards and Privileges so that we can share some of the information and findings that we have had, which will help him to make sure that in future the code of conduct for councillors is more enforceable and more satisfactory for councillors and members of the public.

**Mr Weir:** Along with others, I want to indicate my broad support for the code of conduct which, in that broad sense, is helpful. That support comes with certain caveats, as was mentioned by Mr Ross. To that extent, I see this code of conduct as being, perhaps, the best guess at this particular point. However, perhaps within a year's time or whatever — one of the problems has been that it has been a slightly rushed job, and I think the Committee found that. We were left in a position where, effectively, because the code needed to be in place before the establishment of the new councils, we had to rubber-stamp elements of it without the level of scrutiny that, ideally, we would have liked to give it. From that point of view, changes will ultimately be needed, and it is important that there is a bit of reflection on those.

As the Chair of the Committee on Standards and Privileges indicated, there are things that, on a bit more examination, may well need to be changed. That means that at some later stage we may have to have another set of regulations in that regard. That is particularly true of section 9, which deals with planning. There is a window of opportunity there, which is perhaps where both these issues could be covered.

The transfer of planning is roughly a year away, and it is important that that section is got right. I understand that, at least to get things up and

running, there was significance in getting a code of conduct delivered, but where there is a little bit more opportunity to examine it and ensure that it is right, we need to take that. The window of opportunity that has opened up to ensure that we get the planning side right can also be used to review all the detailed operation of other elements of the code of conduct.

I want to touch on a couple of areas that are contained within. I agree with Mr Elliott's comments earlier. It is important to have the greatest level of clarity that we can provide, because that is for the better. The role of councillors has been mentioned in particular, and if there is any inherent contradiction in paragraphs 2.7 to 2.9 of the code we need to get that out in the open and clear it up, by way of guidance or whatever. I would not want to see councillors inadvertently stumbling into a situation without realising that they have breached the code. It is important that we get a degree of clarity there.

There are two aspects of the code that I wanted to touch on, both of which have been mentioned already. Mr Maginness talked about the unfortunate situation of adjudication. We may be left with an unfortunate situation, but I have to say that the House took the right course of action, which is to say that if someone is potentially being penalised in a way that could effectively wreck their career, to have no real route of appeal seemed to be perverse in the extreme, so it was right that the House put that in place. There are one or two solutions to that. I still do not take fully at face value the objections from the Commissioner for Complaints, whose attitude has ultimately, to be perfectly honest, been somewhat precious. The idea that Mr Frawley or any successor is like the mighty Caesar, whose word becomes law and should be utterly unchallengeable and unappealable, seems to me to go a little bit too far. However, there is another alternative solution.

Again, I am a little bit disappointed. To be fair, it may not be the Department's fault; it may be a fault in getting information back. This issue was flagged up quite some time ago, even before the amendments were put in. It was clear that it was flagged up, for example, by the Northern Ireland Local Government Association (NILGA) and others and it was very clear that the vast majority of the Committee and, indeed, the House, were in favour of some form of appeal mechanism. There seems to have been a little bit of slowness in formulating that, or at least a lack of acceptance that an appeal mechanism was going to be put in the legislation.

If it is the case that the approach of the Commissioner for Complaints is to simply say that, whatever the interim position is, in the long run, we are saying no to this, and if it takes another piece of legislation to find another mechanism by which to put in place that appeals mechanism, then so be it. If it requires us to have an additional piece of legislation to ensure that it is got right, surely that is a much better position than simply saying that, actually, because it would be a little bit unfortunate, we should not go down the route of appeal. The House has spoken on that.

**Mr A Maginness:** Will the Member give way?

**Mr Weir:** I will give way, yes.

**Mr A Maginness:** I have listened very carefully to what the Member has said. I did not want to intervene. However, he seems to suggest that the Commissioner for Complaints is, in some way, personally aggrieved and is being precious about the situation that he finds himself in, where, in fact, his adjudications could be appealed. That is not the position. He has made it plain that he sought and received legal advice in relation to appeals of any adjudication that he would give. He was advised very strongly that it would be contrary to the constitutional position of an ombudsman to permit that type of appeal. That is a uniform position throughout these islands. I venture to suggest that it is the position throughout Europe. Therefore, it is a very important consideration for us to take note of and not to describe as simply the commissioner's "being precious". That undermines the Member's own argument as well as the position of the Commissioner for Complaints.

**Mr Weir:** I thank the Member for his intervention. However, to quote Shakespeare:

*"that which we call a rose  
By any other name would smell as sweet".*

I have to say that, in my view, the commissioner is being precious on the subject. To believe that their position should be utterly unappealable does not hold water. Indeed, if we were to draw an analogy, the previous speaker mentioned the Committee on Standards and Privileges and our trying to ensure that we have codes that are fairly compatible between MLAs and councillors.

Even on the Floor of the Assembly, we have appeals mechanisms for any sanction in the Assembly. Quite frankly, whether the commissioner is being precious or it is simply a



matter of finding a different mechanism by way of legislation, whichever route it is, so be it. As has already been cited in the Bill, we cannot have a situation in which someone can face a sanction without any form of appeal. That is just a perverse obstruction of the law. So, it is not something that I regard as unfortunate. It is something that we are trying to get right.

I welcomed that officials from the Department indicated that the hollowing out, if you like, of the issue of the appeals mechanism was linked in with the sanctions issue. We cannot have a situation in which there is a sanctions mechanism without an appeals mechanism alongside it. That would go very much against the spirit of what the House has passed. Indeed, if we had some sort of mañana attitude towards an appeals mechanism while instituting a sanctions regime against councillors, that would be the wrong approach.

Another issue that I just want to touch on, maybe from a slightly different perspective, is section 9 on planning applications. Here is where it is certainly the case that good training will be needed. I think that that is acknowledged by everyone because of the change of position of councillors with regard to planning. I think that Mr Boylan said, "Be careful what you wish for." There may well be councillors who will take that view.

When planning is devolved, although there will be a clear-cut right for councillors, operating through councils, to take those decisions, that will also, rightly, create a set of responsibilities that will be placed upon them. It will mean that there is a level of restriction. As the Minister indicated, there is no question that you cannot ever meet someone who is either an objector or a developer, but there is, if you like, a clear line that people have to take and indeed a point at which, because of that, they may simply have to hold their hands up and say, "No; I cannot take part in this planning decision". That is fair enough.

The culture shift for many councillors who have been there for many years will be dramatic, but it can be dealt with by way of training.

#### 5.45 pm

I should mention one concern that I have about paragraph 9.9 on decisions contrary to officer recommendation, and that is that I believe that councils could fall into one of two traps. People have to approach any decision on the basis of a genuine commitment to making a proper planning decision. The first danger is that a

council or councillors could be very cavalier, completely ignore officer recommendations and make a decision not based on proper planning grounds. That would be clearly wrong. However, my suspicion is that the concern will be at the opposite end of the scale, because many councillors, particularly initially, will feel so bound by an officer decision that they will not dare challenge it at all, even if they have legitimate grounds to do so, and will not be robust enough about the recommendations. If there are genuine and good reasons for a decision to be overturned, it should be overturned.

**Mr Elliott:** I thank the Member for giving way. I fully accept his point, which we talked about in Committee and which the Member raised in Committee. Does he agree that, because there is still the possibility of surcharge against councillors in Northern Ireland, they fear that as well? Councillors will not want a council to get a huge fine, which may then be levied against them through surcharge?

**Mr Weir:** That is undoubtedly right, and that issue needs to be dealt with. In the past, I have seen, not so much with planning issues, council officers sometimes use the ghost of surcharge or the threat of surcharge simply as a device to get councillors to back down on an issue when perhaps there is no particular threat of that. They will say, "If you do this, there is always a danger of surcharge", and then councillors will simply back off on whatever the issue is.

It is right that the right relationship is there. In the wider context of the code of conduct, councillors need to have an appropriate questioning attitude so that they do not simply ignore advice and are, on the other hand, prepared to query it when needs be. It is also right that there is a right and proper professional relationship between councillors and officers so that, on the one hand, councillors do not simply ride roughshod over officers and, on the flip side, that officers are not given so much deference that councillors feel almost afraid to say no to whatever an officer says. It is about striking the appropriate balance. That will be one of the key challenges for councils and councillors. That already exists in a range of areas, but it will be there in the issue of planning in particular. Consequently, I think that the key paragraphs of 9.9 and 9.10 are right in what they say about potential decisions. It is important that a balance be struck and we move in a practical way so that councillors can make genuinely good decisions on behalf of constituents.

That said, I suspect that we will come back to the planning issue and, indeed, some of the other issues that Mr Ross raised. However, I believe that what is here is a good best guess at what will be there and that it allows councils to move ahead. It is a significant piece of the jigsaw. Indeed, having a code of conduct that applies across the board to all councillors is a right step. I commend the code to the House.

**Mr Agnew:** I speak on behalf of the Green Party in Northern Ireland but also very much informed by my experience on the Standards and Privileges Committee.

My first point is about the transparency of political donations, which I, as a party representative, have made consistently. On page 15, under the rules relating to the disclosure and declaration of interests, it refers to pecuniary interests, direct or indirect. It needs to be more explicit that that should include donations to a councillor's campaign and donations to a local group. While much of this will be based on codes in other jurisdictions, we have to look at the specific jurisdiction of Northern Ireland, which is unique in not having transparency on donations to political parties. That raises concerns for many about planning issues. The Minister referred to openness and transparency, and this is one area in which that is being denied to the electorate, so it is absolutely key that we ensure probity in decision-making on planning and other matters. It needs to be explicit and go beyond the reference to direct financial interests and make it clear that it includes financial interests in a councillor's campaign, which may not be directly to a councillor, or, indeed, in a local group. This could certainly be a way of indirectly influencing decision-making. Although we cannot, through the code of conduct, change the regulations set by the UK Government on the declaration of political donations, we have to recognise that we are in an unfortunate situation in which we do not have that level of transparency. We must introduce it where we can, through the code of conduct, by requiring members to declare what is not required by their party, which is donations to their campaign or local party group.

Mr Ross mentioned the Standards and Privileges Committee review of the code of conduct that governs Members in this House, and I echo his comments that we need to work in tandem on the development of the two codes. We know the mistakes that we have made with our own code and what we need to put right. Some of that, of course, will be a matter of opinion, and there will be consensus on other points, but there are certainly pitfalls.

Mr Ross referred specifically to the principles, and I concur that careful consideration needs to be given to what is a principle and what is a rule and to what is enforceable and what is aspirational. We do and should expect high standards of our elected representatives, but, equally, in trying to present the highest ethical and moral standards to the public, we must not disillusion them by setting the bar in such a vague way and so high that nobody could reasonably be expected to meet the level of expectation or, indeed, that there is never any enforceability. If somebody is found to breach a code of conduct, sanctions of some sort will be expected, and we may not even be able to adjudicate because the principles are vague or contradictory. The tension between the right to freedom of political expression and the need to abide by the principle of respect was mentioned. There has been tension — we have witnessed it in Committee — between those two aspects of our current code, and it is important to set out clearly in any code where the lines are and what is acceptable and what is not.

I would welcome the principle of not using bullying behaviour being in the code, but, again, there will be a tension in applying that. I believe that I have witnessed bullying behaviour in this House, but what I perceive to be bullying behaviour others might perceive as robust debate and the cut and thrust of political life. It is important that consideration be given to where the line is drawn and the point at which challenge and the cut and thrust of debate become bullying. For me, it is bullying when it becomes personal rather than being about political opinion and when it is persistent and sometimes to do with force. I welcome the fact that it is in paragraph 4.13, but clarity is needed on what we mean by bullying.

Another issue that I get particularly vexed about has come up with our own code of conduct. When is a Member not a Member? When is a Member acting in a capacity as an MLA and when is a Member acting as a private individual? I have consistently argued that, if there are overtly political actions, the Member should be reasonably assumed to be acting as an elected politician.

It is right that we have protections for private life. There are times when we should be able to take our political hat off and have time with our families and friends. There should be a time when we can rightly say to constituents, "I am not acting as a politician here. I am here in a private capacity. This is my private time". If somebody wants your services, I can say, "I can meet you at another time". Equally, I

believe that the code of conduct for this House is too narrow in saying that you are an MLA and a politician only when you are performing duties within or of this House. There are some very overtly political acts. For example, I refer to rallies or demonstrations. It is hard to divorce yourself from your political and elected role when you are making clear political statements or are involved in clear political acts.

I welcome the code as laid out. The scope goes further than the Assembly code. I welcome that, but I add a word of caution that clarity is required. We do not want to see councillors being judged to have acted in breach of the code in a situation where it is unclear and they thought that their actions were outside its scope. So, clarity is required.

One of the issues that I would like the Minister's guidance on relates to parts 7 and 8, which deal with lobbying and decision-making. It is right that we are very careful of the power and nature of lobbying and that we put protections in place to protect the public trust in councillors to act on behalf of the community rather than a vested interest. However, some of the rules seem odd given that, regardless of our role as councillor or, in our case, MLA, we are elected on a political mandate. The rules include not organising support for or opposition to a particular recommendation on a matter being considered. It says that you must not lobby other councillors on the matter being considered and that you must not comply with political group decisions on the matter being considered where those differ from your own views.

I will take the last point first. If you went to your electorate on a manifesto that you had signed up to and were elected on and you disagree with something that is in it personally but were elected on the basis of that manifesto, I do not think that it is unreasonable for the party and, indeed, the electorate to expect you to adhere to that manifesto. I worry about that.

**6.00 pm**

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

As I declared, I whip myself. Whilst the political whip system makes people concerned about the restrictions it can place on personal moral views — and I think that those can and should be facilitated in some cases — the electorate should know that when they elect you on a manifesto, that is what they get. You may happen to disagree with something in it, but I am wary of putting in a rule that says you must

act according to your own conscience and not according to what you promised your electorate. That is one I have concern for.

I move now to not lobbying other councillors. Again, how far do we go with that? Is it saying that if you are sitting in a party group meeting, you should not persuade your party colleague of your opinion? What do we mean by lobbying in that regard?

The draft code of conduct states that you must not organise support for or opposition against a particular recommendation on the matter being considered. Again, I wonder how far that goes. My councillors will certainly have been involved in standing shoulder to shoulder with constituents in protests that have taken place before a council meeting. I would be worried that we are asking our councillors to be too detached from their constituents.

Certainly in planning issues it is important that the planning committee members are one step removed from the lobbying that goes around on planning decisions in particular, but there is also general decision-making. Councils will take a lot of decisions that will have great levels of public interest, and I do not see harm in a councillor standing shoulder to shoulder with their constituents on an issue, which, perhaps, again, was in the party manifesto on which they were elected. I may be misinterpreting these, but it seems that it could be restrictive as regards a councillor engaging in political activity outside the council. As I said, I am, perhaps, misinterpreting or being overly sensitive about this, but I look for the Minister's guidance.

Overall, I welcome the fact that there is a comprehensive code of conduct. Other Members have indicated that it needs to be kept under review, because whilst these things are always written with good intentions, practical application can, sometimes, show unintended consequences.

Certainly, I cannot fail to mention the new Green councillors who have been elected in the past week. They stood on a manifesto of working for the common good, and I think the local government code of conduct for councillors will give guidance for all councillors to act in such a manner.

**Mr Durkan:** I thank all those who contributed to this evening's debate. A couple of issues have been raised, and, in summing up, I will do my best to address them. Should I fail to do so, do not worry; I will check Hansard and get back to the Members who raised them.

The Deputy Chair of the Committee, Mrs Cameron, again raised the issue of the late receipt of papers by the Committee. Again, I apologise for that. Consultation on the code effectively ended on 2 May. A departmental response and synopsis of responses was sent to the Committee on 13 May. I put on record my appreciation to the Committee for arranging a special meeting on 19 May to consider the departmental response, the synopsis and, indeed, revised draft of the code.

Though the situation was far from ideal, it was important to have the code in place as soon as possible after the election. I assure the Deputy Chair, Members here and members of the Committee that the situation arose because of a particular set of circumstances — the closing date of the consultation; giving proper consideration to the responses; revising the code as a result; and referring the code to the Committee for its consideration — all within a very condensed timescale, given the date of the election.

Mrs Cameron and others thereafter spoke of the need for the situation around the appeals process to be sorted out. I am pressing to get the necessary legal advice on the issue in the near future to clarify whether a new adjudication model should be applied. Under the Local Government Act, the commissioner will carry out investigation and adjudication, but I will address the issue of whether an alternative adjudication process is required when I have received the necessary legal advice.

Mr Boylan and, later, Mr Ross raised the issue of the MLA code of conduct. They asked whether I would consider making amendments to the councillors' code of conduct in the light of any amendments that may be made to the MLA code. I assure Mr Ross that my officials will keep me informed of any developments on the MLA code and that they will engage with the Committee on Standards and Privileges better in the future so that I can consider bringing forward any changes to the councillor code. The draft code reflects the principles that currently apply to MLAs. I will consider whether any changes should be made to the councillors' code should any changes be made to the MLA code. The opportunity will exist to do so, and I will come to that in a wee minute.

Mr Boylan asked about the status of the guidance for the code and when it will come into effect. The guidance is supplementary to the code. It is there to expand on and explain planning issues to councillors. Members should always refer to the code of conduct in the first instance when considering what their behaviour

should be. Guidance will be issued for consultation after the summer recess, and it will be subject to Committee scrutiny. It will come into effect at the same time as the planning section of the code, which is from 1 April next year.

Mr Boylan also asked about capacity-building. The capacity-building and training programme will include planning staff as well as councillors and council officers. Training has already commenced for elected members, although, technically, they were not elected members when it started. Training for staff will commence as soon as is practical following the recent election. Events will run through the summer and continue until the transfer of planning powers on 1 April next year. If necessary, they will continue thereafter.

Mr Elliott and Mr Ross queried the relationship between paragraphs 2.7 and 2.9 of the code, which are about bringing the position of a councillor or council into disrepute. The code applies when a councillor conducts the business of a councillor and when acting, claiming to act or giving the impression of acting as a councillor. It also applies when conduct could reasonably be regarded as bringing the position of a councillor or council into disrepute. Councillors are entitled to a private life, as, one hopes, are MLAs, but it is important to recognise that —

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

**Mr Durkan:** Certainly.

**Mr Ross:** Before he moves away from the issue of bringing a council into disrepute, I want to say that this very much highlights the issue that I raised about a difficulty that we have. Will the Minister outline to the House what his understanding is of "bringing a council into disrepute"? Is he of the view that some of the principles contained in the councillors' code of conduct are enforceable rules as opposed to aspirational elements? The issue is with what disrepute looks like.

**Mr Durkan:** I thank the Member for the intervention. The question is this: what is disrepute? Is what I believe to be bringing the position of a council into disrepute the same as what you might believe? We will have to work with the new councils on that through their own standing orders.

In my opinion, any action that would damage the good name, reputation or image of a council or councillor or that would bring into question

their integrity would bring that council or councillor into disrepute. Again, those are very subjective terms. So, it could go on, but I believe that it is vital that we make that code enforceable and that it is not left full of loopholes that serial offenders, shall we say, can escape through.

**Mr Ross:** I thank the Minister for giving way. I think that it would be useful to the House if he could clarify this point. Is it his view that the principles in the code of conduct should be enforceable rules, as opposed to being aspirational? That is the point that I was making.

**Mr Durkan:** That is my view.

As I said, councillors are entitled to a private life, but it is important to recognise that there are circumstances in which private behaviour can affect the reputation and integrity of the elected politician or, indeed, the council on which they serve. That requires an appropriate response, but there should be a clear public interest to do that. Councillors require the public that they serve to place their trust in them, and the code attempts to provide the transparency to meet that aim.

To return to a review of the code of conduct, the code reflects the principles that currently refer to MLAs. I will consider whether it should be revised as a result of any changes to the MLAs' code, and I will ask my officials to liaise with the Committee on Standards and Privileges and to report to me on the outcome. I apologise that they have not done so prior to this.

I alluded to the fact that an opportunity may exist for me to review the current code before 1 April 2015 to ascertain whether any changes should be made, taking account of any lessons that are learned during the 10-month shadow period, as well as the review of the MLA code of conduct. That would also give the Environment Committee an opportunity to consider in detail the planning aspects of the code before it becomes operational on 1 April 2015 and to take account of planning guidance. It could also prove to be an opportunity to add the greater transparency that Mr Agnew spoke of and that the public demand.

Mr Agnew would also like to see bullying behaviour better dealt with in the code. I think that that is a fair point, and if he has any more criticism of it, I will see him outside. *[Laughter.]* In response to a point that Mr Agnew made, there is no harm in councillors standing shoulder to shoulder with opponents or proposers of a scheme, and there is nothing in

the code to prevent them from doing so. These are questions that I have also been asking for some time. However, if they are members of a planning committee and decide to do that, they should subsequently remove themselves from the quasi-judicial decision-making process.

In conclusion —

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

**Mr Durkan:** Yes.

**Mr Ross:** Just before the Minister finishes, let me say that I asked him a further question about some of the principles that he included in the code of conduct for councillors, which was based on the original principles set out by the Committee on Standards in Public Life. However, in January 2013, that Committee published the 'Standards Matter' document, which updated those principles.

Will he advise the House why his code is based on the original principles as opposed to the updated ones of last year, given that they come from the Committee on Standards in Public Life?

**6.15 pm**

**Mr Durkan:** I thank the Member for his intervention — sort of. *[Laughter.]* I see nothing wrong with the principles in the code. I do not think that anyone could argue very much with them or see a need to change them at this time. We will see how it works. As I said, I will look at how the review of the MLA code of conduct goes. I am willing to look at this in 10 months' time to see whether it needs updated. If it does, I will have no problem doing so.

**Mr Agnew:** I thank the Minister for giving way. He referred to my remarks on concerns about standing shoulder to shoulder with constituents. I acknowledge that section 7 refers largely to quasi-judicial decisions. However, section 8 comes before the section on application of the code of conduct to planning matters and seems to refer only to general decision-making. "Rules relating to decision-making" is the title, and it refers to:

*"participating in meetings or reaching decisions regarding the business of your council".*

I am concerned that section 8 seems to refer to any decision of the council. It seems odd to me that a politician could not organise support for

or against a particular recommendation on a matter being considered. I completely agree with it for quasi-judicial decisions or planning decisions where a member is on the planning committee, but that general comment could relate to any decision.

**Mr Durkan:** I thank the Member for his intervention and appeal to Mr Ross to do anything that he can during the review of the MLA code of conduct to stop Members organising hundreds of people to send emails to other MLAs. *[Laughter.]* There is absolutely no desire to emasculate or depoliticise the role of councillors. I know that most elected representatives really enjoy that role, and some are better at it than others. The code goes some way to allaying concerns that I had about the transfer of the planning function to councils. My initial concern was that the very councillors who are probably best equipped to deal with the new function are those who will be most reluctant to accept a position on the new planning committees, given the many years' experience of planning decisions that they have built up on the lobbying side. However, this code has allayed those concerns, and I hope that it can do the same for you, Mr Agnew.

This mandatory code of conduct will set high standards of behaviour that will be expected of all councillors and persons involved in council business. It will support the manner in which they conduct themselves in undertaking their official duties, and in maintaining working relationships with fellow councillors and others, when they carry out their functions. I thank the Chair of the Committee and other Members for their support for the motion.

*Question put and agreed to.*

*Resolved:*

*That the draft Northern Ireland local government code of conduct for councillors be approved.*

## **Finance (No. 2) Bill: Legislative Consent Motion**

**Mr Hamilton (The Minister of Finance and Personnel):** I beg to move

*That this Assembly agrees that the provisions in the Finance (No. 2) Bill dealing with air passenger duty should be considered by the UK Parliament.*

The Chancellor, as part of his Budget statement 2014, announced a reform to air passenger duty (APD) that will result in a reduction in APD destination bands from four to two, effective from 1 April 2015.

That will come about as a result of a merging of the long-haul bands B, C and D. The Government's intention was that a reduction in the rate of APD levied on the current band C and D routes to the band B rate should help contribute to the UK's growth opportunities by cutting APD rates on flights to many emerging market destinations, such as China, India and Brazil.

That reform in effect brings the overall UK banding structure more into line with the approach taken in Northern Ireland, where the same rate is applied to the current bands B, C and D, although, as Members will be aware, we reduced the rate we apply to those direct long-haul routes to zero. Therefore, with the 2012 Finance Act having already devolved the rate-setting powers for direct long-haul flights to the Assembly and with the current rate set at zero, this reform does not really impact Northern Ireland. There are not expected to be any direct financial consequences. Legally, however, these reforms have changed the legislative competence of the Assembly by amending the banding structure to which it can set the rates of APD.

One issue that was raised by the Finance and Personnel Committee concerned whether agreement to this motion would potentially restrict the powers of the Assembly. There will be a slight limiting of the Northern Ireland Assembly's ability to set different long-haul rates, given that there will now only be one rate to set. However, we currently do not have any flights from Northern Ireland to destinations associated with bands C and D. Also, the main objective of the Executive in obtaining devolved powers in that regard was to eliminate APD to maintain the Belfast to Newark route and to improve the attractiveness of the region's airlines so that we could perhaps improve our connectivity. Therefore, it is not a concern.

Returning to the motion, given that the Assembly currently has no powers to legislate in relation to the APD banding structure, consent of the Assembly is therefore required to allow Westminster to legislate for the reform of APD as described in the Finance (No. 2) Bill.

Before turning to the debate, I would like to take this opportunity to thank the Finance and Personnel Committee for its consideration of the evidence supplied relating to the legislative consent motion (LCM) and for the publication of its report on the matter. Having got the support of the Executive and Committee, I would now welcome support from Members on the motion.

**Mr McKay (The Chairperson of the Committee for Finance and Personnel):** Go raibh maith agat, a LeasCheann Comhairle. I support the legislative consent motion before the House. There is no doubt that air passenger duty has a negative impact. It is something that the Committee has looked at for some time now. The Committee produced a report in regard to the issue of APD. It has a negative impact in terms of tourism, economic growth and competitiveness, given that we are living on an island and there are particular circumstances here in comparison to across the water and, indeed, the European mainland.

In the South, of course, the tax is not paid as it is in the North. That puts Belfast and Derry airports at an immediate disadvantage. We all know of cases where friends and family fly from Dublin as opposed to a more local airport because of cost, and also because of choice. Dublin has a greater choice because airlines are more likely to open routes there given that there is not that particular disincentive.

PricewaterhouseCoopers has also looked at the issue in great detail and has said that air passenger duty has a greater impact on the North than elsewhere for three reasons: geographical separation; threat to route connectivity; and, of course, the threat to tourism. So it is an issue that is quite important to those working within tourism here in the North, and also an issue in terms of business development and economic growth.

The Minister wrote to the Committee on 25 March to give advance notice that, due to the Finance (No. 2) Bill being introduced at Westminster, he intended to lay an LCM in respect of the proposed changes to long-haul flights by abolishing APD bands C and D from 1 April next year. As has been pointed out, the Finance Act 2012 devolved to the Assembly powers to set APD rates on direct long-haul flights for destinations in bands B, C and D.

Following the devolution of that power, the Assembly introduced the Air Passenger Duty (Setting of Rate) Bill to set the APD of such flights to zero from 1 January 2013. So, while there is no direct financial or economic impact of the reform, the Finance (No. 2) Bill will legislate to reform the bands to which the rates set by the Assembly will apply.

That has a bearing on the legislative competence of the Assembly.

At its meeting on 9 April 2014, the Committee received a briefing from the Department on the proposed LCM. The Committee queried whether approval of the motion could have the potential to restrict any future scope for the Executive to increase APD on some long-haul flights, including flights of private jets or those of a certain distance. In response, the Department advised that approval of the motion would not restrict setting the APD rate for private jets, but pointed out that there would be a "slight limiting" of the Assembly's power in setting the rate for long-haul flights, since it would be limited to only being able to set one long-haul rate. However, the Committee noted that that would not present an issue in practical terms, as the long-haul rate is already set at zero here, with the aim of boosting the local economy through increased tourism and business investment.

Looking at the bigger picture, the Committee has, over recent months, taken a keen interest in a study, undertaken jointly by the Department of Finance and Personnel and the Department of Enterprise, Trade and Investment, that aims to identify opportunities to improve air connectivity in the North for tourism and key business markets. That work, which has been influenced by the Committee's previous examination of air passenger duty, presents an opportunity to confirm the further steps necessary to improve air access to the North, and thereby unpin its position as a tourist destination and suitable region for business investment. However, the message from the key stakeholders, in particular the main local airports — the Committee actually went to Belfast International Airport to listen to stakeholders at one of its meetings — has been clear for some time: in order to remove the competitive disadvantage that they experience in comparison with their counterparts throughout the rest of the island, measures need to be taken to address the air tax differentials and also on structural Government support for establishing and maintaining key international air channels into the North.

At its meeting on 9 April, when the Committee was briefed on the latest phase of the joint DFP/DETI air connectivity study, officials advised that:

*"Essentially, the terms of reference and the objectives of this report are to look at factors that influence passenger route-making decisions and what we could potentially do to improve our connectivity. The report does not take the next step to see what the implementation issues would be, should we be directed in any way towards APD."*

It would seem, therefore, that the ongoing study will not establish the costs of addressing the air tax differential, but perhaps the Minister can clarify that point. In any event, there is a need for the competitiveness and connectivity issues to be prioritised as matters for urgent and coordinated action by the Executive and the Ministers responsible.

At its last meeting, the Committee for Finance and Personnel agreed its report supporting the proposal, and it was circulated to all MLAs in advance of the debate. Therefore, on behalf of the Committee, I support the motion.

**Mr D Bradley:** Go raibh maith agat, a LeasCheann Comhairle. I support the motion. Members will recall the time when the flight from Belfast International Airport to Newark was under threat and the Executive acted promptly to remedy that situation and to have the power devolved to set APD at zero for long-haul flights, and that is the case here.

As has been said by the Minister and the Chair, the LCM to some extent affects the legislative competence of the Assembly, but only in a very limited way and not sufficiently to require the SDLP to oppose the legislative consent motion. Indeed, one of our manifesto commitments is to ensure the devolution of air passenger duty powers to Northern Ireland to allow our airports to be price-competitive and to draw more of the island's tourists directly here.

If we are to grow our tourist industry — Tourism Ireland and the Northern Ireland Tourist Board are doing a very good job in that regard as we have seen from recent events — we must do everything possible to assist the industry in any way we can. It is imperative that our tourist industry can compete on an even basis across the island, and the imbalance in air passenger duties outside of long-haul flights puts our tourist industry at a disadvantage.

**6.30 pm**

The price differential between flights to Dublin and flights to Belfast and Derry means that the natural choice for travellers is to fly to an airport in the South, as it is the cheaper option. However, that is only half the battle and, speaking previously in the House, I have outlined the need for the Assembly and the Executive to pursue, through devolution, a significant deepening of the economic and fiscal powers at their disposal. I will not go into that in detail again, as I am sure that there will be opportunities in the next week or so to pursue those matters further. Suffice to say that I can support the legislative consent motion.

**Mr Cree:** I also support the motion on behalf of the Ulster Unionist Party. I have to say that the whole essence of air passenger duty is flawed. It began life as an environmental tax, was subsequently replaced by other taxes, and is now purely a fundraising exercise for the Government. It affects passengers leaving from here. It is much cheaper to leave from Dublin — I think that the tax there was €3 and it is going to zero — so it is actually a punitive tax as far as we are concerned. We do not have direct rail links like the rest of the United Kingdom.

However, the Chancellor has made the reforms. Of course, the number of bands that we are talking about has gone from four to two; the provisions in the Bill have changed the situation and we have to follow it. It is very straightforward: we should approve the legislative consent motion. I certainly support it.

**Mr Hamilton:** Mr Deputy Speaker, through you, I thank Members for contributing to the debate on the provisions in the Finance (No. 2) Bill that deal with air passenger duty and for the range of views that have been aired across the House.

Mr Cree put it quite succinctly and summed up the essence of the legislative consent motion much more easily and quickly than I. A decision has been taken at Westminster that affects our legal position — it is quite a technical LCM in that sense — and we have to follow suit. I thank him, the Chair of the Committee, Mr Bradley, and the entire Committee for its support and the support that has been expressed in the House.

Although it is a very technical debate that has been brought about by a technical change, it has at least allowed us to air some views about APD. I think that there is unanimity around the Chamber that air passenger duty is having a detrimental impact on Northern Ireland — more so than on other regions of the UK. I echo my



call on the Westminster Government to recognise the negative impact that it is having on Northern Ireland and to take appropriate steps to do away with the duty entirely. We would then not have LCMs like this to worry about.

I would caution against throwing all our eggs into one basket and saying, as the Chair did, that, because we have APD and it is zero in the Irish Republic, that is the only reason why new flights go from Dublin. There is, of course, a range of reasons. Dublin is Dublin. It is a much bigger city and is a national as opposed to a regional capital. There is a range of other reasons why airlines will want flights to go in and out of that airport.

It is not just because of the absence of APD, although I accept that that is a factor, particularly because flights are attractive and airlines can manipulate prices.

Mr McKay mentioned the air connectivity study. It is the aim of my Department and DETI to publish that this summer. The Member mentioned cost, which is a critical factor in the discussions, and I have expressed concerns about it. Given that it is a Westminster tax, they should recognise the negative impact it has on the Northern Ireland economy in particular, and the cost implications of doing away with it should rest with them. We will have to consider costs carefully, and they are being considered, not perhaps as part of the study but as part of other work that the Department is doing. An air connectivity study will be a more high-level document that will look at a range of issues, not just APD, that affect our connectedness as a region.

With all that said, I thank Members for their constructive comments and their support today, and I now invite them to support the motion.

*Question put and agreed to.*

*Resolved:*

*That this Assembly agrees that the provisions in the Finance (No. 2) Bill dealing with air passenger duty should be considered by the UK Parliament.*

## Committee Business

### Review of the Northern Ireland Assembly Business Week

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

**Mr G Kelly (The Chairperson of the Committee on Procedures):** I beg to move

*That this Assembly approves the Committee on Procedures' report on its review of the current organisation of the business week of the Northern Ireland Assembly.*

Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee on Procedures, I am pleased to bring to the House today the Committee's report on its review of the current organisation of the business week of the Assembly.

It may be useful to begin by reminding Members of the origins of the review. In 2012, the Assembly and Executive Review Committee (AERC) carried out a review of the number of Members in the Assembly. Among other findings, the AERC report noted that, from the evidence gathered, it was apparent that there was some variety of practice in the scheduling of parliamentarians' business in other legislatures. The AERC concluded, therefore, that there may be opportunities to enhance Assembly effectiveness in this regard. Consequently, in September 2013, the Committee on Procedures agreed to undertake a review of the current structure of the business week. The review was timely, given that the current arrangements for the Assembly of two plenary days, two Committee days and one constituency day is an established routine.

The aim of the review was to establish whether any opportunity existed to enhance Assembly effectiveness and further its family-friendly aspirations through better use of time during the normal business week. An important aspect of the review was the comparison of models of the organisation of the business week in other legislatures at Westminster and in Scotland, Wales and the Dáil. The Committee found that each legislature had its own unique structure, suited to its particular needs. Having examined each of the models in the other legislatures, the

Committee concluded that the structure of the business week in this Assembly would not be enhanced by adopting any aspects of the models used elsewhere.

As part of the review, the Committee also sought the views of the Executive Committee, parties represented in the Assembly, the Business Committee and the Speaker. Views were sought about the strengths and constraining factors of the current arrangements for the business week. The Executive's response highlighted a consensus that the current organisation of the business week is effective and provides an appropriate balance for Ministers and Members of plenary, Committee, departmental and constituency business.

The Committee also considered views on family-friendly aspirations to ascertain whether current arrangements were inclusive. There was consensus among respondents that family-friendly considerations were important and should be taken into account when possible. The Executive expressed the view that the current structure of the business week is already broadly in accordance with family-friendly aspirations and went as far as to suggest that changes were more likely to impact negatively on such practices rather than to add to them. It was clear from other responses received that there was no compelling case for a change to the current arrangements.

The Committee considered the times within which the Assembly operates and concluded that the current times, as set out under Standing Orders, adhered to family-friendly aspirations. The Committee reflected that there was sufficient flexibility within the current system to facilitate late plenary sittings for the passage of business if required and that that had been necessary only on a few occasions. Therefore, the Committee concluded that the current organisation of the business week is fit for purpose and recommends that no changes be made to the current organisation of the business week of the Assembly.

Other issues were identified throughout the review, and I will mention them briefly. A number of respondents suggested that there may be value in varying the structure of the business week over the course of a mandate to make it more responsive to the peaks and troughs in plenary business. However, an alternative view suggested that it was better to ensure sufficient flexibility in standard arrangements to facilitate fluctuations in business over the course of a mandate than to

try to predict peaks and troughs. The Committee considered the proposals and agreed that trying to predict when and how the business week should be amended to meet plenary sitting variations was undesirable and therefore recommended that a standard business week be set for the duration of a mandate with no attempt to predict fluctuations.

Another issue raised was the practice of scheduling Committee meetings during plenary time, specifically during Question Time. One respondent suggested that the practice should be stopped entirely. The Committee examined the extent to which this occurs at present and noted that such scheduling affected only three Committees. Of those, only one meets weekly, namely the Committee for Agriculture and Rural Development. The Assembly and Executive Review Committee normally meets every two weeks and not during Question Time, and the Audit Committee meets only around four times a year. Therefore, the Committee concluded that, although the scheduling of Committee meetings during a plenary time is not ideal and should be discouraged, changing the structure of the business week to accommodate extra time for Committee meetings would not be desirable.

Other suggestions were made during the evidence-gathering stage, such as deferred voting, but those were outside the scope of the review, which was to simply review the structure of the Assembly week in relation to the balance of plenary, Committee, party and constituency business.

I thank members of the Committee for their considered deliberations during the review and all those who made a contribution. I commend the report to the House.

**Mr G Robinson:** As a member of the Committee on Procedures, I wish to thank all those who informed the Committee's deliberations on this topic. It is greatly appreciated that so many did a sterling job on our behalf. I also pay tribute to the staff of the Committee who helped to draw up the review of the current organisation of the business week.

It was important for the Committee to examine the way in which Assembly business is conducted to see whether there were areas that could be improved on. Looking at other legislatures ensured that we had the possibility of sensible comparisons. Although some areas of the business week were given specific mention by consultees, it was decided that things should continue as they are at present. That does not rule out the possibility of changes

in the future if and when they are required. I feel satisfied that the examination of the Assembly business week has been constructive. However, at present, I agree that no changes to the current arrangements are required. From a personal point of view, the only small change that I would have made would have been to adjust Tuesday's lunchtime break from 12.30 pm to 2.00 pm to 12.30 pm to 1.15 pm. Again, however, that could be an issue for another day.

The Speaker advised the Committee against making changes to plenary sittings based on the pattern of sittings at one particular point in the mandate. In my opinion, that is wise advice from the Speaker, because private Members' business or Executive business may be more common at one particular point in the session for various reasons, but both types of business are dealt with.

Although it is interesting to learn about the business model used by other legislatures, my interest is the Northern Ireland Assembly, and I feel that no change is necessary at present. That is based on my belief that there is a balance to the current arrangements, and I do not believe that change is required at present. I therefore ask all Members to approve the report from the Committee on Procedures.

#### 6.45 pm

**Mr McCarthy:** On behalf of the Alliance Party, I support the Committee's recommendation in relation to the review of how our business is carried out in the Northern Ireland Assembly. Like other Members, I take the opportunity to thank all who took part in the review, which led us to the conclusion that our business week is fit for purpose and we should carry on fulfilling our duties in the Assembly to our constituents, as we have been doing since its inception.

I also put on record my thanks to the staff of the Committee, the Assembly and the Business Committee for the excellent and efficient manner in which they carry out their duties. As a former member of the Business Committee, I know that their work prior to meetings is extremely useful. With the cooperation of the Business Committee members, Order Papers are agreed and delivered without delay to all Assembly Members.

The Committee invited evidence from all interested parties and received 12 submissions in total, for which we were extremely grateful, particularly to our local parties. A number of suggestions and alternatives were submitted. However, having gone through the

submissions, which we very much appreciated, the Committee decided that we should continue with no change. However, now that the Committee has carried out the review and recorded people's thoughts, there may come a time when change is necessary. We will then be able to revert to the evidence gathered in the review and take action, if required.

The review and the report before us have been a useful exercise, with good ideas and suggestions being produced. Indeed, seeing the arrangements in other Assemblies was also very useful. I support the Chair of the Committee in his contribution this afternoon, and I support the motion.

**Mr Clarke:** I welcome the opportunity to conclude today's debate on the Committee report on the review of the current organisation of the Assembly's business week. I thank the Committee Chairperson for opening the debate and the Members who contributed to the debate.

As the Chairman mentioned, the purpose of the review was to establish whether any opportunity existed to enhance Assembly effectiveness and its family-friendly aspirations through better use of time during the normal business week. As you have heard, the Committee, to inform itself, sought the views of the Executive Committee, parties represented in the Assembly, the Speaker and the Business Committee. The Committee also looked at the practices of other legislatures to see whether arrangements applied there could be transferred to the Northern Ireland Assembly with a view to improving its overall effectiveness.

The review was solely focused on the current organisation of the business week and not the scheduling of business, as that is a matter for the Business Committee. Other issues were raised throughout the review that fell outside its remit. One such issue was deferred voting. The Committee agreed that it would be more appropriate to consider that issue separately, as it did not affect the structure of the business week.

I thank the two Members who contributed to the debate. I suppose that it is timely that we are talking about the business week and its effectiveness, but we have very few Members in the Chamber this afternoon. However, I thank the Members who did stay. My colleague George Robinson referred to his personal opinion, and I think he raised it today again in Committee, but there has been a good debate about the way forward, and that is the report's conclusion. I thank George for his contribution.

I also thank Kieran for his contribution. Like George, he referred to the fact that we can make changes in the future if we believe that they are necessary. However, as things stand, the Committee is content with business as it is. There were no major disagreements on how we take that forward. Wearing another hat, Kieran mentioned that he was a former member of the Business Committee, so he understands the complexities faced by members of that Committee and how important that time is for them to organise the business and the other stuff that happens in the Assembly.

On the basis of the evidence presented, the Committee concluded that the discharge of core tasks and the effectiveness of plenary meetings and Committee work are challenged by the time and the capacity of Members and the support of resources available to them. Evidence provided by parties and other stakeholders recognised this, but the overwhelming indication was that the current organisation of the business week was fit for purpose. That is why the Committee has recommended that no changes be made to the current organisation of the business week.

The Committee noted that the current arrangements indicated equal importance to plenary and Committee business, with two days being set aside weekly for each. The Committee also considered the hours within which the plenary sitting takes place, as set out in Standing Orders, including the later start on Mondays and the break for lunch on Tuesdays. The Committee concluded that family-friendly aspirations were realised and allowed for other business to be conducted in Parliament Buildings, such as party meetings, all-party group meetings and engagement events.

The Committee gave consideration to varying the business week over a mandate and to the prevention of the concurrent scheduling of Committee and plenary business. The Committee concluded, however, that changing the structure of the business week to accommodate extra meetings was undesirable and that the standard business week be set for the duration of the mandate, given the difficulties in trying to predict fluctuations. Therefore, I commend the report to the House.

*Notice taken that 10 Members were not present.*

*House counted, and, there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

*Question put and agreed to.*

*Resolved:*

*That this Assembly approves the Committee on Procedures' report on its review of the current organisation of the business week of the Northern Ireland Assembly.*

*The sitting was adjourned at 6.55 pm.*

## WRITTEN MINISTERIAL STATEMENTS

*The content of these written ministerial statements is as received at the time from the Ministers. It has not been subject to the Official Report (Hansard) process.*

### CULTURE, ARTS AND LEISURE

#### Fish Kill at the ESB Power Station on the River Erne at Ballyshannon

*Published at 12:00 noon on Wednesday 21 May 2014*

**Ms Carál Ní Chuilín (The Minister of Culture, Arts and Leisure):** I wish to advise members of this Assembly of my concerns in relation to a recent fish kill involving the loss of a substantial number of juvenile eels (elvers) at the Ballyshannon power station operated by the Electricity Supply Board (ESB).

The ESB hydro-electric plant at Ballyshannon on the River Erne represents a significant barrier to the passage of migratory fish including wild Atlantic salmon and the European eel. In order to mitigate against the risk ESB is required by European law to manage methods to ensure safe fish passage and to comply with the EU Eel Management Plan (EMP's) for the catchment.

As part of its commitment ESB, manages a "trap and truck" eel conservation fishery on the Erne to by-pass the dams. While the arrangements agreed with Inland Fisheries Ireland (IFI) and my Department have worked well in the past, I am aware that there was an incident last year which resulted in elver mortalities at Ballyshannon, as a result of a failure by ESB to maintain the fish trap.

I have been advised of a further incident at Ballyshannon, which occurred over Easter, with the reported loss of approximately 100kgs of elvers from the Erne system. This has happened at a time when eels stocks are under considerable pressure throughout Europe and the loss is significant bearing in mind that the total elver run in the Erne system for 2013 was only 215kgs.

When informed of this incident, my officials immediately raised their concerns with the Department of Energy, Communications and Natural Resources (DECNR) and IFI and requested an urgent report from ESB. The responsibility for this fish kill lies solely with ESB and I am far from satisfied that the company is carrying out its responsibilities in relation to compliance with the EU Eel Management Plan.

My Chief Fisheries Officer met with ESB and IFI officials in Ballyshannon on Wednesday 7 May and the IFI is currently undertaking a formal investigation and is assessing what sanctions are appropriate in the circumstances.

I have also written to Mr Fergus O'Dowd TD, Minister of State at the Department of Energy, Communications and Natural Resources to express my concerns and calling on ESB to be held to account. I have also sought his support in formalising protocols with ESB to ensure that the arrangements on all fish passage issues on the Erne are in place.

I will keep members of this Assembly updated on developments.

# HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY and JUSTICE

## Mental Capacity Legislation for Northern Ireland

*Published at 12.00 noon on Tuesday 27 May 2014*

**Mr Poots (The Minister of Health, Social Services and Public Safety) and Mr Ford (The Minister of Justice):** We are today launching a public consultation exercise on the preparation of new mental capacity legislation for Northern Ireland.

The consultation document includes the draft clauses of a new Mental Capacity Bill which apply to the civil population, alongside policy proposals relating to those subject to the criminal justice system.

### Background

At present, there is no specific legislation governing mental capacity in Northern Ireland. Instead, the common law continues to be the main source of law governing mental capacity issues in relation to health and welfare interventions. New capacity legislation is needed to clarify the law but also to introduce additional protections for what are some of the most vulnerable people in our society.

Currently, separate legal authority is provided under the Mental Health (NI) Order 1986, to detain persons for the assessment and/or treatment of mental disorder provided certain criteria are met, regardless of whether or not they have capacity. This, the Bamford Review of Mental Health and Learning Disability concluded, has a stigmatising effect on persons with a mental disorder.

A key recommendation of the Bamford Review, therefore, was the development of a single legislative framework for the reform of mental health legislation and the introduction of capacity legislation in Northern Ireland. It is precisely this that the new draft Mental Capacity Bill sets out to achieve. It will introduce, for the first time anywhere, a single statutory framework governing all situations where a decision needs to be made in relation to the care, treatment (for a physical or mental illness) or personal welfare, of a person aged 16 or over, who lacks capacity to make the decision for themselves.

The current Mental Health (NI) Order 1986 will therefore no longer apply to persons aged 16 or over. In terms of scope, this new framework will have a very wide application, covering routine matters such as helping to wash and dress a person, right up to the most serious things, like depriving a person of their liberty for their care or treatment.

This is an innovative approach. No other jurisdiction has taken this major step towards equal treatment for people with mental disorder, giving them the same rights as anyone else in society. The proposals published by the Department of Justice will take us even further, by extending the framework to those subject to the criminal justice system.

### Draft Civil Provisions

The key civil aspects of the proposed new framework include:

- The enshrining in statute, of what is referred to as the common law presumption of capacity. This is the general rule that all persons, aged 16 or over, are presumed to have capacity to make decisions for themselves, unless it is established otherwise.
- Promoting the need to help and support people to exercise their capacity to make their own decisions where they can.

- Enabling people who have capacity to put in place future decision making arrangements (such as a new Lasting Power of Attorney) to make not only financial decisions on their behalf, but also health and welfare decisions, should they lack capacity to do so themselves at some point in the future.
- Putting on a statutory footing the common law doctrine of necessity which applies where a decision needs to be made about the care, treatment or personal welfare of a person lacking capacity and no alternative decision making arrangements have been put in place by the person. This provision will provide those carrying out health and welfare interventions with protection against civil and criminal liability provided they have properly established that the person concerned lacks capacity, they act in the person's best interests, and other applicable safeguards are met.
- Requiring significant additional safeguards to be put in place where the intervention proposed is serious. These safeguards are designed to protect the person who lacks capacity and go beyond the best interests test currently provided for under common law. Extra safeguards must also be put in place for 16 and 17 year olds in recognition of the fact that they are considered a "child" under international law and the Children Order (which will continue to apply).

### **Department of Justice proposals**

Department of Justice proposals are for the three key stages of the criminal justice system to be brought into line with the capacity-based approach. They are designed to ensure a consistency in approach between the health, civil and criminal justice systems.

The three key stages covered in the proposals are:

- The police's ability to remove persons from a public place who are in need of care or control to a place of safety;
- Courts' ability to deal with those either unfit to plead or in need of particular healthcare based disposals; and
- Prisons' ability to transfer prisoners in need of in-patient treatment to and from hospital along with the responsibility for them when they are in hospital.

These are the key means by which persons are either diverted from a criminal justice pathway or more properly located in a healthcare or treatment environment where that is the most appropriate way forward.

In terms of accepting or rejecting treatment at each of these stages, it is proposed that where a person can make such a decision, that decision will be recognised. Where the person lacks the capacity to make such a decision, the principles of the Bill will be applied. The rights of those lacking capacity will be protected in the same way as they would for a person in the community.

The Bill's proposals are about capacity to make decisions about care, treatment or personal welfare – not around capacity to choose, for example, arrest, imprisonment or another court disposal. Persons who have carried out an offence are not in a position to determine whether or not they ought to be detained for the offence itself. That is a matter for the courts and detention for offences carried out can still be imposed regardless of capacity.

The criminal justice system will therefore retain its over-arching statutory powers and independence around the detention of people who have carried out offences. Risk and public protection will remain

a key feature of the criminal justice proposals alongside our duty of care to vulnerable people within the justice system.

The draft Bill also contains a number of important civil justice proposals which flow from the Bamford Review. These include an enlarged jurisdiction of the High Court in relation to the welfare and healthcare of persons lacking capacity. The Bill will also create a new Office of the Public Guardian, which will supervise court-appointed deputies; register Lasting Powers of Attorney; and deal with representations about how deputies and attorneys exercise their powers. The Bill will also make some changes to the functions of the current Mental Health Review Tribunal. The Tribunal will, for example, be able to hear applications about the appointment of a nominated person in certain cases. It will also have a wider scope than at present, beyond applications in relation to the detention of persons with mental disorder.

### **Children under 16 years of age**

The consultation paper also contains a section dealing with issues relating to children under 16 years of age (to whom the draft Bill does not apply). We acknowledge concerns raised by some stakeholders to date, including some members of the Health Committee who, while generally supportive of the need to progress this legislation, question whether children under the age of 16 will be adequately protected.

We wish to make it clear, that the Mental Health Order will be retained, as a temporary measure, for children under the age of 16 who need to be detained for the assessment and/or treatment of mental disorder. That Order will be amended to strengthen the important protections it already contains, drawing where appropriate on those available in the draft Bill for those aged 16 and over subject to the same intervention while making them more child-focused. Work on these additional protections is currently ongoing and stakeholders have been fully engaged in that work.

It is right to acknowledge that emerging capacity in children should be given careful consideration but we hope the Assembly will appreciate that the position in relation to children is even more complex and indeed, deserving of particularly careful consideration. That is why it is proposed that a separate project to consider the wider legislative framework relating to children in light of the Bill should be taken forward in the next Assembly mandate.

That said, the principles of the Children Order as they currently stand should not be underplayed. They made very significant changes to developments in child welfare practice and are still as relevant today as they were in 1995. Indeed, the provisions and protections of this existing framework which, not least, require a child's welfare to be given paramount consideration, will remain in place when the draft Bill is enacted.

We would like to assure the Assembly of our commitment to consider any proposal brought forward by stakeholder groups during this consultation that would better protect children pending the outcome of the proposed separate project.

### **Conclusion**

It would be remiss of us not to acknowledge that getting to this point has been a collaborative effort involving many people and organisations. We are very grateful for the significant contribution made so far by those in the community and voluntary sector, other government Departments and the wider health and social care and criminal justice families. We are confident that the benefits of having adopted such an inclusive approach will be evident for all to see in the draft legislation.



This is a once in a generation opportunity to reform this important area of law and we would encourage everyone with an interest, to contribute any ideas and views through this consultation process that will strengthen the draft Bill in any way, prior to its introduction into the Assembly. It is important that we get as many views as possible to make it a sound and operable piece of legislation in Northern Ireland for generations to come.

This consultation exercise will run for a period of 14 weeks and will close on 2 September 2014. During this time there will be a number of public consultation events held across Northern Ireland, the details of which will be published in due course. Thereafter, we hope to introduce the Bill in the Assembly in early 2015, and for it to have completed its Assembly stages by the end of the current mandate. We encourage all those with an interest or role to play to engage with us to meet this important deadline, in order to provide additional protections for vulnerable members of our society.

The consultation document is available on both the DHSSPS and DoJ websites at the following links:

[http://www.dhsspsni.gov.uk/index/consultations/current\\_consultations.htm](http://www.dhsspsni.gov.uk/index/consultations/current_consultations.htm)

[www.dojni.gov.uk/current-consultations](http://www.dojni.gov.uk/current-consultations)







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