Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

Autism Bill: All-Party Assembly Group on Autism Secretariat

20 January 2011

NORTHERN IRELAND ASSEMBLY

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AND PUBLIC SAFETY

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Members present for all or part of the proceedings:
Mr Jim Wells (Chairperson)
Mr Pól Callaghan
Dr Kieran Deeny
Mr Tommy Gallagher
Mr Paul Girvan
Mr John McCallister
Ms Sue Ramsey

Witnesses:

Mr Dominic Bradley MLA	)	All-Party Assembly Group on Autism Secretariat
Mrs Arlene Cassidy	)	

The Chairperson (Mr Wells):
Dominic, we are extremely sorry for the delay. I suggest that members consult the clause-by-clause summary table, which outlines the various concerns raised. As in previous sessions, we will try to take questions on clause 1, then clause 2, and so on.

I welcome Dominic Bradley MLA, sponsor of the private Member's Bill, and Arlene Cassidy, who is a member of the all-party Assembly group on autism secretariat, neither of whom are strangers to the Committee. As you are aware, Dominic, the Committee has taken a range of written and oral evidence on the Bill, and the purpose of this session is for members to question you on the concerns that they have heard raised. I suggest that you make a five-minute opening introduction, after which I will allow an hour for questioning.

As you can see, Dominic, the Health Committee goes on for an awful lot longer than other Committees — we started today at 11.00 am. I apologise to you and your team for making you sit outside. However, you did not have to; you could have come in and heard some pearls of wisdom about the draft Budget. Nevertheless, I know that you are a busy man and that we kept you waiting for a long time.

Mr Gallagher:
Had it not been for me, Dominic still would not be here.

The Chairperson:
Of course, had Tommy not stepped aside from putting his question in the previous session, you would still be sitting outside in the corridor.

Mr Dominic Bradley MLA (All-Party Assembly Group on Autism Secretariat):
Thank you very much, Chairperson. I thank the Committee for allowing us to make a presentation today and for accommodating the change in time, which is much appreciated. I know that you will have a flurry of figures fluttering around in your heads after the previous session, so I will try to go as easy as possible on you. The Chairperson asked me to concentrate mainly on the clauses, and I will attempt to do that. I made a presentation to the Committee on 14 October 2010, so I will not repeat what I said on that occasion.

As the Chairperson said, I am proposing the Autism Bill on behalf of the all-party Assembly group on autism. The fact sheet that Arlene and I provided to the Committee staff earlier illustrates the tension between the unprecedented and rapidly rising prevalence rates of autistic spectrum disorder (ASD) and the limited availability of resources. That, in turn, sets the context for the focus of the Bill.

Clause 1 will amend the Disability Discrimination Act (DDA) 1995 definition of disability and insert the words “social (including communication)”. It will amend the explanatory list of daily activities to ensure that ASD is included. Practically, for public bodies that use the DDA definition of disability as guidance for decision-making, it will provide more clarity. There is evidence that that guidance is used to make decisions on disability living allowance (DLA), and there is also evidence that school discipline codes result in some pupils with ASD being punished for behavioural reactions that are part of their condition. Clause 1 will, potentially, ensure that ASD must be included in the equality Bill and when compliance with the UN Convention on the Rights of Persons with Disabilities (CRPD) is progressed. For families, the measure will give recognition to a challenging condition that has been low in the hierarchy of disability in our society.

When implemented, clause 1 has the potential to cross a range of public bodies and improve public understanding of issues such as access to services and buildings for individuals with ASD. Significantly, it will signal the beginning of the end of discrimination against individuals with ASD who have an IQ of more than 70. For families, the Bill will make a practical difference through the systematic education of the public that will flow from the adaptations to public spaces and facilities. The fact that ASD will be recognised in law will bring a level of validity to a condition that is still treated with suspicion and ignorance by some professionals and agencies. The practical benefit of clarity in law will guide decision-making on benefit entitlement, help to update disability action plans for public bodies, improve access to equality legislation and ensure automatic inclusion in the Convention on the Rights of Persons with Disabilities compliance. Families will have a reference point for service entitlement, particularly for those with an assessed IQ of 70 or higher. The physical adaptations to public buildings will assist not only people with ASD but the wider disability community.

I will move on to clauses 2 and 3 —

The Chairperson:

Dominic, if it does not interrupt your flow, it would be helpful to proceed on a clause-by-clause basis. To keep some sense of discipline, we have been breaking the discussion into three areas: clause 1, strategy and other points. We received a briefing document on clause 1, and we are, therefore, particularly keen to ask you questions on that, especially before we lose our quorum.

Mr D Bradley:

As far as possible, I will try to do that. I structured my presentation on a clause-by-clause basis, rather than on the finer subdivisions.

The Chairperson:

Have you finished your evidence on clause 1?

Mr D Bradley:

Yes.

The Chairperson:

Do you mind if we ask questions on that before you move on?

Mr D Bradley:

That is perfectly acceptable.

The Chairperson:

We received a research briefing from Tim Moore. I do not know whether you have had the advantage of seeing that.

Mr D Bradley:

I have been briefed on it.

The Chairperson:

Have you not had a chance to read it?

Mr D Bradley:

I have read some of the background material elsewhere.

The Chairperson:

You are aware of his comments that, as an unintended consequence, the Bill could weaken the DDA and that the inclusion of the word “social” could lead some people to believe that other conditions should be included. One view is that the words “mental” and “physical” already cover everything and, therefore, protect those who have autism at any end of the spectrum. Indeed, an industrial case, Hewett v Motorola, shows that to be true in case law. Given the danger that your case could be weakened by its inclusion, are you still minded to have “social” added to the DDA?

Mr D Bradley:

We are aware of the point made by the Assembly researcher and of his reference to William Hague's letter and to the Motorola case. We are perfectly prepared to examine the consequences of that and, if necessary, to withdraw the second part of clause 1. We would be interested in ensuring that the list of daily activities includes all aspects of ASD. However, at this stage, given the evidence of the researcher and other information that we have, we are willing to consider the withdrawal of clause 1(2).

The Chairperson:

It is extremely helpful that you are considering that rather than allowing the issue to cause conflict between the Committee and the proposer. I am aware of the evidence of the Equality Commission, which seems to suggest that it cannot ascertain from evidence that the present definition of the DDA precludes worthy applicants from receiving benefits from the Social Security Agency. In other words, the problem seems to be an inability, at times, to argue the strength of the case rather than of proving that the person is autistic per se. From my experience, I know children who receive DLA and children who do not. The argument is not whether ASD is defined in the Disability Discrimination Act 1995 but whether the tribunal will accept that, for example, the person requires a greater level of care or cannot walk more than 50 yards unsupervised. How do you react to that information from a respected body in the field?

Mr D Bradley:

I do not know where the Equality Commission carried out its research and why it cannot obtain that information. As a working public representative, I have seen evidence that the Disability Discrimination Act 1995 has been used as a means of excluding people with ASD from access to benefits. I will ask Arlene to provide more detail on that.

Mrs Arlene Cassidy (All-Party Assembly Group on Autism Secretariat):

We have evidence from one case that we are allowed to submit to the Committee of the DDA's definition of disability being used by a decision-maker in a judgement on the receipt of DLA. However, it may be a matter in which the policy states one thing and the operation does another. It may be that there is a deficit in the training of policy officers. That point is also addressed in the Bill.

Mr Easton:

Today, other witnesses stated that clause 1(2) would narrow the scope of the DDA and that, as a result, people with other conditions would lose out. Personally, I do not agree, but how do you counter that argument?

Mr D Bradley:

As I said to the Chairperson earlier, in light of information that we received, we discussed that earlier today among ourselves. We were briefed about the Committee's presentation from the Assembly's Research Services. We accept that that is a possibility and, if there is a danger that it would have that effect, we are willing to consider its withdrawal. Do you have anything to add, Arlene?

Mrs Cassidy:

The spirit of the Bill was intended to be inclusive, but we seem to be caught on the horns of either having minimalistic legislation or including everything. However, with regret, I support the conclusion that Dominic has reached on that issue.

The Chairperson:

From a procedural point of view, we need that view from you in writing by next Thursday, when we will formally agree a position on the Bill. Although you have been recorded by Hansard as having said that, we need a piece of paper as well.

Mr D Bradley:

We were made aware of that earlier, and we can provide that.

Mr Easton:

I agree that some children lose out on DLA. I am dealing with such a case, and I just wanted to back up that point.

Ms S Ramsey:

The group has taken a very mature approach. Arlene said that the group did so with sadness, but it is a question of building on what is there, and it can grow. As Dominic said, there seems to be, unfortunately, a split, despite everyone wanting the same outcome.

You mentioned the issue of the DDA and the Equality Commission. I am a bit concerned that, in light of the evidence, a public body did not reach the same conclusion as we did as elected representatives, community activists and groups. However, I am also concerned that we should not focus the issue of DLA solely on children, because the Department for Employment and Learning, for example, accepts that it must retrain staff working in jobs and benefits offices in the questioning of people with autism. Other Departments have noticed issues and taken action. That issue must be included.

The Chairperson:
Members have heard what Dominic said, so does anyone have a new angle?

Mr Callaghan:
Yes. I accept what Dominic said. In coming to that decision, what consideration was given to the fact that the paper from Research Services — I accept that you have not seen the whole paper, and I do not know on which parts you were briefed — highlights the fact that the guidance in England would support clause 1(3)? Some people raised issues about clause 1(3) as well. Is it your intention, Dominic, to retain the part of the amendment to the DDA contained in clause 1(3)?

Finally, there has been much talk about the Equality Commission. I have nothing against the commission; I used to work for it. However, as with than any other body, the commission can make a judgement only on the information that it receives. The Human Rights Commission argues in favour of clause 1(2), which you are considering removing. Therefore, how did you balance your consideration of whether to let it go or retain it?

Mr D Bradley:
As I said, we met earlier today to discuss that. We receive our own advice, and we considered it seriously. As Arlene said, in light of the advice, we are, perhaps unwillingly, prepared to look again at clause 1(2). However, we are minded to retain clause 1(3), because that would become part of the list of daily activities, and it is important that we retain that.

Mr Callaghan:
The convention, which the research paper references and to which the UK Government and, presumably, other European Governments are signatories and have ratified, specifies the word

“sensory” as distinct from the physical and mental. Sorry, I will let that go, because I have lost my train of thought, and there is no point in pursuing it.

Ms S Ramsey:

It is a matter of getting the Bill through or not.

The Chairperson:

We will move on to clauses 2 and 3, and I will start the ball rolling. Dominic, we have heard from many witnesses, and there is a huge split between the various groups involved in autism. The views range from being enthusiastically in favour of a cross-departmental strategy to those who think it an absolute waste of time. I have never seen such a variation in evidence from people in the same field.

Implicit in the Department of Education’s evidence is that it is not bowled over by the proposal for a cross-departmental strategy. This morning, officials made it clear that the Department considers that it has enough power to do whatever it wants in the field. It is of the view that large-scale co-operation already happens and that, legislatively, nothing holds anyone back from what they want to do. They do not see the logic of having legislation to enable something that already happens, and they said that Departments co-operate and meet regularly.

Ken Maginnis made the same point and questioned the need for legislation. It is only fair to mention that, given that such evidence was given time and time again by various people, including some autism charities. The written submission from the Aspergers Network was vociferous in its opposition to the legislation. How do you react to that?

Mr D Bradley:

The all-party Assembly group on autism was briefed by the Health Department and the Department of Education on the same day in the same room. I asked pointedly about the level of co-operation between the two Departments, and, if my memory serves me correctly, the Departments’ response was that they met for coffee from time to time. That does not indicate a high level of co-operation between two Departments seeking to co-ordinate strategies that should be integral to each other. There does not seem to be any structured co-operation between the two Departments, and the Bill hopes to achieve such co-operation. Although there is a strategy in the Department of Education and a strategy in the Health Department, my strong impression is that there is not the structured co-operation between the Departments that is necessary.

The evidence from the Department of Education officials seems to be slightly at variance from the view of the Minister of Education, who wrote to the Committee for Education in support of the Autism Bill. We should, perhaps, place more emphasis on the Minister's view than on that of her officials, because she is the person who is responsible for the Department. Other Departments are named in the Bill, and they also have a role to play in contributing to the provision of autism services. Autism is a lifelong condition that requires a lifelong strategy. We will achieve that only through the highest level of co-operation possible between all of the relevant Departments. It is my view that that would be best achieved through the strategy that is outlined in the Bill.

The Chairperson:

I will read three comments. The Parent Carers' Council on Disability said of an autism strategy:

> "It would be a waste of resources which could be spent to help and provide services for all families with disabilities."

The Equality Commission stated:

> "the Commission is not convinced that there is a clear need for the DHSSPS to be placed under a duty to prepare a strategy on autism."

Aspergers Network said:

> "This Bill has caused huge divisions; and not only with Autism families; but also within the disability world."

Those are three players in the field who have a totally different view, and that is what the Committee finds so difficult. Some autism groups are extremely keen on an overarching, cross-departmental strategy, and others from a similar background, including the Equality Commission, say that it is not needed. Why is there such a lack of unity in the field?

Mr D Bradley:

It is not always possible to achieve total unity, but the all-party group consulted widely on the Bill. On a previous occasion, we provided you with the results of that consultation, and between 70% and 80% of responses to the Bill were positive. We consulted Professor Brice Dickson from Queen's University. Originally, he was dubious about the Bill, but, after we discussed in detail its various aspects with him, he changed his position and became supportive of it. The majority of autism charities and disability groups have no issue with the Bill. The majority of autism charities and voluntary groups, with the one exception that you mentioned, are in favour of the Bill. The evidence, therefore, is that a majority of opinion is in favour of the Bill. I accept that some people are not in favour, but, as I said, it is impossible to achieve total unity on every issue.

The Chairperson:

We have just heard from Lord Maginnis, who, as you know, carried out a major review on the issue. With him were two parents of autistic children, and they made it clear that the Regional Autistic Spectrum Disorder Network (RASDN) was totally opposed to what you are trying to do.

Mr Easton:

On a point of order, they said that RASDN was neutral.

The Chairperson:

If that was neutral, Alex —

Mr Easton:

That is what they stated.

The Chairperson:

They said that RASDN was neutral, but, for the next half-hour, I listened to them opposing the Bill.

Mr Callaghan:

It is also fair to recollect that they said that there was a variance of opinion in RASDN.

The Chairperson:

They did. However, the last half hour or their presentation left me in no doubt of their total opposition to the Bill. The Hansard report will show that to be the case. At least, Lord Maginnis and the two representatives who were with him were opposed; perhaps that is a better way of putting it.

I wish to clarify what you said about the Department of Education. In the Minister's letter to the Committee, she said that she had supported your Bill at Executive level but had then gone out to consultation on the implications for her Department. From the evidence of the departmental officials, it is clear that they are working away in the field and have done so for years. When asked by several members of the Committee whether they could think of one aspect of their work that was hindered by lack of legislation, they said that there was absolutely nothing. They said that the issue was not legislation but one of resources and, perhaps, policy. I am simply throwing out difficult questions to you, as I did to your opponents. Even the officials from the Department of Education, whose Minister supported the Bill, were not enthusiastically behind the need for legislation.

Mr D Bradley:
It does not surprise me that the group that gave evidence earlier is opposed to the Bill. I have been aware of its opposition for some time. Indeed, Lord Maginnis, as you mentioned him by name, was opposed to the Bill before he even saw it. I do not know on what his opposition is based, but one must question an attitude of opposition to something that a person has not even seen. Regardless of what was in the Bill, Lord Maginnis would be opposed to it, because he was opposed to it before it was even drafted.

The Chairperson:
Quite a few members wish to speak. Kieran, who has been extremely patient, is next.

Dr Deeny:
Thank you, Chairperson, Arlene and Dominic. The decision to reconsider clause 1(2) is a wise one. As I mentioned earlier, I chair a group for people who are sensory impaired. People in that group feel that they have been hard done by, compared with those people who are physically impaired, in getting access to the Health Service and GPs. They feel that their needs are being met under the day-to-day activities that you mentioned, Dominic.

Dominic and Arlene, you are committed to the strategy, and, as I have been a doctor for 30 years and a GP for most of that time, I have done a great deal of work with people with disabilities, including autism. In fact, I know three of my severely autistic patients very well, and two of their fathers are friends of mine. As I said earlier, we must ensure, not only in health but in education and in legislation, that we do all that we can for all disabled people.

I showed the Bill to one lady, and she picked out clause 3(1) and clause 3(3). I am concerned about those subsections. We want all disabilities to be treated well. Is there a potential for, as appeared to be the concern in Scotland, a hierarchy or a prioritisation of disabilities? That lady said that the Bill's provisions for setting out the needs for people with autism were fine but that it would be nice if we could say the same for people with cerebral palsy. Her daughter is in her 20s and has very little use of one side of her body, and many of her needs were not met as she was growing up. Clause 3(3) also refers to the needs of families, which that lady also mentioned.

That was the view of one individual, but is there not a danger that people with other disabilities will say that they also want a Bill? We are all here to try to ensure that we do the best for patients across the entire autistic spectrum. However, we must also consider whether the Bill will have any impact on other disabilities, because as a GP I try to meet the needs of every patient with a disability. Someone mentioned disability-specific legislation. Is this the first time that legislation has been drafted for a specific disability?

Mr D Bradley:
I do not think so. As far as I am aware, the DDA mentions certain disabilities. On the question of creating a hierarchy of disabilities, the Department of Education already has an autism strategy, and, not only that, there is a centre of excellence for autism at Middletown. The Department of Health, Social Services and Public Safety also has an autism strategy. Therefore, those two Departments already recognise that specific action is required to meet the needs of people with autism. The Bill seeks to ensure that the existing efforts, and the additional efforts that are needed, are co-ordinated in the most effective way. In that way, resources can be used as efficiently and effectively as possible, especially when resources are scarcer than in the past. Special consideration has already been given to autism by the two Departments. I will ask Arlene to comment.

Dr Deeny:
Before you do, I make the point that people with other disabilities might say that there is a law to ensure that people who suffer from autism and their families are looked after throughout their lives and that their needs are met, but that there is no law for their child, who has, for example, Down’s syndrome, cerebral palsy or muscular dystrophy. Will the Bill create a problem in the disability community in that autism will be seen as being favoured by the introduction of legislation solely to meet the needs of people with ASD?

Mrs Cassidy:
The Autism Act 2009 in England already sets a precedent, although it is very different from what this Bill proposes. This is a single disability Act in England. The situation is difficult for people who have disabilities that are hidden, invisible or tend to fluctuate. Special measures were taken,

as highlighted in the evidence that was presented this morning by the Assembly’s Research Services, to amend the DDA to recognise MS and HIV and to accommodate the difficulties that are faced by people with specific disabilities.

Throughout the period of lobbying, a number of conditions were quoted. Dr Deeny mentioned cerebral palsy as an example. To a certain extent, physical disabilities fall into the main mental and physical disability categories. We have met representatives of Disability Action. Many of us who now work in autism worked professionally in the general disability sector before specialising. The last thing that anyone round this table wants to do is to prioritise one disability over another. However, autism is a matter requiring special attention, and we have met representatives of Disability Action, the Equality Commission and the Human Rights Commission. There is unanimity that the Bill will bring clarity and that it is a matter for special attention. The submission from the Human Rights Commission highlights that.

Mr Easton:
May I raise the issue of cost?

The Chairperson:
That is the next topic; we are still discussing the strategy.

Mr Easton:
The one element of the Bill that I particularly like is the fact that it will force all Departments to take a joined-up approach. Despite Departments saying that they speak to one or two agencies here and there, that joined-up approach is lacking. Do you not consider that that element alone merits the Bill’s going forward?

Mr D Bradley:
Yes. I agree with you that government and government services are more effective if they are joined up rather than delivered from separate silos. The purpose of the Bill is to ensure that those services are joined up and are available to people with autism throughout the course of their lives. The Bill will guarantee that people with autism receive the services that they need and that the trauma of major life transitions, which are particularly problematic for people with autism, is lessened as much as possible. That will be one of the major advantages and achievements of the Bill.

The Chairperson:

I remind members that this is a chance to test the witnesses rather than to issue declarations of support. We will have an opportunity next Thursday to discuss the Bill, and, if members are in favour, they can speak passionately for it then or, indeed, against it.

Mr Callaghan:

You have taken the wind out from under my sails, Chair. I want to touch on the duty to co-operate. Dominic, I do not know whether you are aware that, prior to Second Stage, the Department of Health, Social Services and Public Safety provided an informal briefing to the Committee. I think that is an accurate recollection to say that the Department stated that it did not have a clue what was contained in the Department of Education’s strategy. When we probed the officials on that, they defended that utterance by saying that that was because the Department of Education was developing its strategy, and, therefore, it was not a deficiency on their part that they did not know about it. Is the point of the duty to co-operate not to become involved at an early stage? Much of what they said was about the strategy creating bureaucracy.

The Chairperson:

Is this a critical question, Pól?

Mr Callaghan:

What do you have to say to that?

Mr D Bradley:

If one Department already has a strategy in place, other Departments should use that to implement the lessons that have been learned from it. Other Departments should further ensure that the necessary linkages between the various aspects of the two strategies are made, and those linkages should be made early and should be effective. That type of co-operation is extremely important from the point of view of cost, because, through close co-operation, Departments can avoid the duplication of costs, which may exist currently in education and health. An effective, joined-up strategy can help to reduce costs rather than add to them. That is an important consideration, as we are all aware at this time.

Mr Callaghan:

As I am sure you are aware, the Committee is caught in a pincer movement. Some people come at us saying that the Bill is far too much and will create undue bureaucracy, and, equally legitimately, other people say that it is not enough. One of the issues raised as a criticism of the Bill's not being strong enough is that the Department of Health, Social Services and Public Safety is designated as the lead Department, but what happens if another Department fails to honour its commitments in the strategy? Clause 2(7) states that the other Departments "must co-operate", but what is the sanction for not doing so? Is the sanction that the Minister for Health, Social Services and Public Safety tables a report to the Assembly as part of a review, as set out in clause 2(9), or is it envisaged that there will be some other mechanism through the Executive or otherwise?

Mr D Bradley:

Clause 3(6) gives the Department the power to "make regulations" in relation to the "content of the autism strategy." That is a strong power that enables the Health Department to ensure that other Departments co-operate with it in the implementation of the strategy. Originally, we envisaged having an autism commissioner as part of the accountability mechanisms. However, after discussions with various people and in light of the harsh economic times in which we live, we considered that the cost might have negative implications. Therefore, we designed the accountability mechanisms around those that exist currently, which include this Committee and the Assembly. The Bill places a requirement on the Department of Health, Social Services and Public Safety to report every three years on the implementation of the strategy. Therefore, as well as the power to make regulations, Departments will be answerable through that triennial report to the Assembly. That will give a strong impetus to ensuring that Departments live up to the regulations that are initiated by the Department of Health, Social Services and Public Safety and to the duties that come with those.

Mr Callaghan:

Finally, I will ask you an unfair question, but if you were to have an answer, it would be constructive. The Department says that work is going on at official level, such as at ministerial level and at sub-ministerial working groups. It states that clause 2 will give rise to additional costs for the review, monitoring and implementation of the strategy, as opposed to the resulting services, which are covered in clause 3. Has anybody been able to ascertain how much money is spent currently on the various autism-related strategies? What would be the cost differential in having a single, streamlined integrated strategy?

Mr D Bradley:

There is a report titled ‘Autism: The Costs’. Arlene is very familiar with that, so I will ask her to respond.

Mrs Cassidy:

Before I do, my understanding is that several Assembly questions on that point are pending. There is a freedom of information request about what proportion goes into administration in the current system and what goes into services, but it has not been responded to. I do not have the answer to that, but I would be interested in finding out, as we all would.

The report was submitted for consideration by Autism NI/Parents Autism Lobby at the evidence session. It contains some analysis, but focuses mainly on what it costs society not to provide services.

Mr Callaghan:

For current purposes, that is more relevant to clause 3 in so far as —

The Chairperson:

Yes, but I do not mind your drifting into that area.

Mr Callaghan:

Will we leave that point for our discussion on clause 3, Chair?

The Chairperson:

OK.

Dominic, have you seen the letter from the Minister of Finance and Personnel dated 17 January on the issue of cost?

Mr D Bradley:

No.

The Chairperson:

It is very short. It states:

> "I wrote to the Health Minister in November 2010 supporting his position on this Bill. I share Mr McGimpsey's concerns particularly about the lack of information on costs and the absence of a finance clause taking account of direct and wider impacts on funding. Given that I do not believe this Bill is needed at present I will not be offering amendments. This response has been copied to the Health Minister."

The Bill states that there will be no significant costs, but, this morning, Dr Briscoe said that even the training of 25,000 civil servants would cost £1·8 million. You say that the Bill has no significant costs, but it calls for civil servants to be trained in dealing with people with autism. How does that square with what you are saying?

Mr D Bradley:

I presume that some of that cost is already being met by the system, because public servants in the Department of Education and the Department of Health, Social Services and Public Safety already receive some autism training. A level of training is probably provided by other Departments, such as the Department for Social Development, although that may not be sufficient. That might be the global figure for the overall costs, but, as I said, some of that is already being incurred by Departments. There may be an extra cost, but it would not be at the level of £1·8 million.

Mrs Cassidy:

In any case, that cost is inevitable, because the prevalence of autism, including among adults, is rising. It is a question of planning for the future progressively year on year. The cost appears frightening when presented in that way.

I support Dominic's point about the training that already happens. Certain disability organisations are involved in training, and those contracts are already in place. The point is that autism should be included in that training, so it is a matter of tweaking existing practice and making sure that autism is not excluded. As with everything, it is all about the implementation. With common sense and good strategic heads, I have no doubt that those costs can be tackled.

The Chairperson:

Why does the Bill state that training will be for "Civil Service staff" rather than for public servants?

Mr D Bradley:

That is a good question, and I am glad that you raised it. It has been raised with us by others, and it is a possible change that we will consider making to the Bill.

There are financial costs, but we do not believe that they are huge. However, if the Bill were not to progress, there would be a huge human cost to people with autism, whose needs, heretofore, have not been met. Therefore, although there will be financial costs, there will also be a huge human benefit for people with autism, whose quality of life, throughout its various stages, will be improved by the provisions in the Bill.

The Chairperson:

That brings me neatly to a fundamental point. We have been lobbied massively on this matter, including through e-mails and cards — I received more postcards on this issue from your organisation and its friends than I have received birthday cards in my life. From speaking to many groups, the common theme is the sense of frustration, particularly among those who care for autistic children, about the lack of delivery of services to meet their needs. We accept that that frustration is prevalent throughout the country. Some people say that they want us to support the Bill, because they think that it will solve that problem. I wish that life was as simple as that. There may be some false expectations because, as the Health Department officials said to us today, the Bill does not contain a mechanism to force service delivery. It includes a mechanism to force the delivery of a strategy, but it will not guarantee that Mrs Smith, who looks after autistic children, will receive the services that she clearly and desperately needs. One of my questions, and, strangely, the Department made the same point, is why did you not seek to include something more specific in the Bill to force more than a strategy?

Mr D Bradley:

The idea behind the strategy is to deliver efficient and effective services to people on the ground. The strategy will be a framework. In a private Member’s Bill, it is impossible to be totally prescriptive about what a strategy will deliver and how it should be delivered. If we were to do that, we would end up with a huge Bill that would take the Committee longer than it has allotted to deal with this one. In legislation generally, it is not the practice to deal with every aspect of a service. We have to leave it to the professionalism of people in various Departments to formulate those for themselves. As I said, the Bill contains an accountability mechanism, and, if services are not being delivered, Departments will have to answer to the Assembly.

The Chairperson:

You could end up with all the Departments getting together to produce a strategy that gathers dust or is utterly meaningless because it does not improve service delivery. The Assembly might criticise Departments for that, as it does in other fields, but I do not know what could be done beyond that. The point was made that the English Act contained a mechanism to improve service delivery, particularly to parents. You might continue building up a head of steam, which everybody thinks is wonderful, and you might have a party when you get your Bill through. However, on the ground, real improvements might not be delivered to those whose home situations have tired them out. There are people who can no longer cope and cannot get respite care or any form of home help. That is the danger of a Bill that does not deliver anything concrete beyond a document in two year’s time.

Mr D Bradley:

Clause 3(3) states:

> “The autism strategy must set out how the needs of families and carers of persons with autism are to be addressed.”

The Chairperson:

It sets that out, but it does not say that it has to be done.

Mr D Bradley:

It is certainly implied that it has to be done.

The Chairperson:

I suspect that the phrase “subject to the availability of finance”, which is the get-out clause in all such matters, will appear somewhere in the strategy.

Mr D Bradley:

There is no 100% guarantee with any strategy or Bill. We have gone as far as we possibly can in the Bill to ensure that the services delivered will be efficient and effective, but there can be no 100% guarantee. The Bill offers the best guarantee possible that Departments will address the needs of people with autism and that they will do so through a co-ordinated approach. There is a mechanism for Departments to be held to account. I am not aware of any Bill that goes into the type of detail that you suggest is needed to ensure the 100% delivery of services to meet each and every need.

The Chairperson:
There could be a clause calling for a review of the effectiveness of the strategy in three years' time or some mechanism that would allow us to check what progress has been made. That is common.

Mr D Bradley:
That is included in the Bill.

The Chairperson:
Sorry. You are right, and it is to happen every seven years.

We now move into the territory of the rest of the Bill. We have considered the DDA, the strategy and the costs. Do members wish to raise any other points? Technically, our role is to go through the objections to the Bill clause by clause and question witnesses about them. I tried to dig out as many of those objections as I could, but I do not think that we have covered all of them.

I have to ask you a difficult question, Dominic. What is your reaction to the overwhelming decision to ditch the Scottish Bill by 109 votes to 5? It was an incredible, even overwhelming, majority, and it was not achieved through party Whips nor through a decision by the governing party. Clearly, the vast majority of MSPs took the decision that they were not happy to go down that road. Does Northern Ireland not have a lesson to learn from that?

Mr Bradley:
If you do not mind, I will ask Arlene to respond to that question.

Mrs Cassidy:
As members know, there is a Celtic Nations Autism Partnership, the Scottish element of which campaigned for a strategy. Therefore, our understanding is that a strategy is its preferred option. Within the Celtic Nations Autism Partnership, there is an understanding that certain jurisdictions do not need legislation to achieve joined-up working because their political structures are sufficient.

The Chairperson:

That is an interesting point. Given that legislation is not required in Scotland, it is clear that government, through its own volition and without the big stick of legislation, can deliver the sort of joined-up approach that you want. Why can Northern Ireland not go down the non-legislative route?

Mrs Cassidy:

I refer you to the original report by an Assembly researcher Vincent Gribbin, which considered a strategy for Northern Ireland versus legislation. The conclusion of that report was that Northern Ireland's particular governance structures require a legislative imperative to compel Departments to work together. Such an imperative is not needed in other jurisdictions. In Wales, for example, the equivalent of three of our Departments came together behind a strategy, and that was a Welsh Assembly decision. That is similar to what is happening through the process of the Bill. The Bill simply requires Departments to work together, which they did voluntarily in Wales, and as I hope that they will do in Scotland.

Mr D Bradley:

Earlier, someone, and I am not sure whether it was the Chairperson or another member, said that he had questioned the Department of Health, Social Services and Public Safety about the extent of its knowledge of the Department of Education's work on autism. He discovered the Health Department's ignorance of what was happening in the Department of Education. If there was a sufficient degree of co-operation between Departments on the issue, there would be no need for a Bill. However, that level of co-operation is clearly not happening between the major Departments and the other Departments that need to be involved. That is why we need the Bill here in Northern Ireland. As Arlene said, that level of co-operation is available in Scotland. Unfortunately, it is not available here, and, perhaps, we adopt more of a silo approach. The Bill hopes to encourage Departments to break down that mentality.

The Chairperson:

I asked that question of the Department this morning. It is a valid argument.

It is 6.10 pm. My next appointment is in Banbridge at 8.00 pm, and, therefore, I have to leave at about 7.00 pm.

Mr Callaghan:

May I ask a quick question about the detail of a clause?

The Chairperson:

Is your question on the miscellaneous end of the Bill?

Mr Callaghan:

I did not get to ask a question on clause 3. Clause 3(2) states that the strategy:

> "shall include the health care, educational and social needs of persons with autism."

Interestingly, the references in the presentations from the Department of Health, Social Services and Public Safety and the Department of Education almost invariably, with a couple of minor exceptions that were stimulated by members' questions, were always to each other, as opposed to other Departments. However, there are issues for umpteen Departments, including the Department for Employment and Learning, the Department for Social Development and the Department of Agriculture and Rural Development.

The word "social" is used in clause 3(2). However, the explanatory memorandum does not explain what it considers "social" to mean. As the promoter of the Bill, Dominic, what do you believe that it should encompass, and why did you not include words such as "training" or "housing"? If being more specific helped to stimulate a cross-silo mentality in the two big Departments, would you consider that?

Mr D Bradley:

Are you asking why I used the word "social"?

Mr Callaghan:

First, what do you mean by "social"? Secondly, why did you not specify, for example, training or housing? Would you think about being more specific by going beyond healthcare and education? I have listened to testimonies from different witnesses, and the legislation is almost viewed as a silo-busting Bill between the Health and Education Departments. That tends to reinforce the point that many people, although not everyone, regard the Bill as being about children, and that is particularly the case when education is mentioned. If training or housing needs were mentioned, that might broaden how the Bill is perceived.

The Chairperson:
Do you have a question?

Mr Callaghan:
I have put a few questions.

Mr D Bradley:
Pól asked what I meant by “social”, which I accept is a wide term. Perhaps he is right that a more specific definition might be required. The National Autistic Society, for example, suggested that we should, perhaps, have included a reference to employment. “Social” covers a vast area and could include, for example, the leisure and sports responsibilities of the Department of Culture, Arts and Leisure. There is also a need for supported housing to enable people with autism to live independently. We could, perhaps, give that further consideration. The problem is that we might end up with a fairly long, but still not exhaustive, list.

Mr Callaghan:
With all due respect and deference to our mandarin class, some departmental officials might interpret “social” as referring to the Department for Social Development and, as a consequence, not take on any responsibility. Even a word such as “other” might help. If Dominic or the Committee were minded to submit amendments that refer to, for example, employment or training, other issues could be included.

Mr D Bradley:
That is a very useful suggestion, and it is one that we will certainly consider.

The Chairperson:
Dominic and Arlene, thank you very much. Once again, I apologise for keeping you waiting for so long to defend your Bill. As far as you are concerned, the pain is over until the Bill reaches the next stage, which will be when the Committee report goes to the House.

Mr D Bradley:
May I ask a question before we finish? If we were to consider amendments other than those that we touched on today, would the Committee wish to be informed of them?

The Chairperson:

Yes, unless the amendments are purely technical or grammatical. If they are substantive amendments, we need to know about them, because next Thursday is our last opportunity to come to a conclusion on the Bill.

Mr D Bradley:

Does the Committee required the wording of those amendments or just an indication of what they might be?

The Chairperson:

Yes, we definitely need the wording — you have a week.

Mr D Bradley:

Chairperson and Committee members, thank you very much for the opportunity to present to the Committee. If there are no further questions, may we leave?

The Chairperson:

Before you do, Mickey Brady wanted to make it clear that his leaving was not a walkout or a boycott. He would have stayed had he been able to, but he had to attend another function.

Mr D Bradley:

I met him outside, and he apologised to us. Thank you.