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# NORTHERN IRELAND ASSEMBLY

Monday 26 January 2009

*The Assembly met at 12.00 noon (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

## ASSEMBLY BUSINESS

**Mr Speaker:** I would be grateful for the attention of Members for a few minutes. Last Tuesday evening, I drew the attention of the House to the fact that numerous points of order had been raised during that day's sitting. I indicated that I would return to those points of order that were legitimate in due course. Before I come to those matters, I will address the general issue of points of order that are raised in the House.

I shall repeat what I said last week: too often, issues are raised as points of order that would be better dealt with outside the Chamber. It is regrettable that time is spent having to deal with such issues in the Chamber; however, I am even more concerned about the tendency toward points of order being used to challenge the authority of the Chair. I cannot put it more plainly than to state that that simply will not be tolerated.

For the avoidance of doubt, Members should note that I will not take any points of order on any of the matters on which I am ruling today. If Members wish to consult me about any matter that is not clear, they should do so outside the Chamber.

I will move on to matters that were raised last week. On reading the Official Report, it appeared to me that there was some confusion in Members' minds about the difference between questions following a ministerial statement, and debates. I remind the House that although questions are provided for in Standing Orders, they are not an opportunity for debate, and long introductions will not be allowed.

There are some Members of this House who seem to want to turn ministerial statements into take-note debates. In fact, last week, several Members indicated that the statement by the Minister of Finance and Personnel, Mr Nigel Dodds, was important to the House. Every ministerial statement is important to the House, yet those Members felt the need to make long

introductions to their questions. Let me make it absolutely clear that that will not be allowed.

Members may want to make very short introductions to their questions, but they should then come to their questions. The convention in this House has always been that after a ministerial statement is delivered, the Chairperson of the appropriate Committee is called, and of course the Chairperson, because he is called as Chairperson, is allowed some latitude in introducing his question. However, it stops at that. From then on, it should be questions on that ministerial statement, and questions only. Members here who are Members of another place will tell you that that would not be allowed anywhere else.

There seems to be some confusion on this issue. There should not be. I direct Members to Standing Order 18, which sets out clearly the role of a ministerial statement to the House. This issue has been raised several times in points of order, over a long period. From here on in, I will not be taking any points of order on an issue concerning a ministerial statement, and neither will my deputies. Ministerial statements give Members the opportunity to ask questions about those statements; that is what they do. They are also opportunities for the House to hold Ministers and the Executive to account. I cannot be any clearer on the issue.

I now turn to related matters, concerning the role of the Chair during Question Time and questions on ministerial statements. The Chair has always resisted making judgements on the extent to which Ministers have answered Members' questions. Whether the Minister has given a satisfactory answer is for the Member asking the question, and other Members, to judge. If a Member is not satisfied with an answer, he or she may pursue it by way of a supplementary question, through a question for written answer, by going through the Committee, or by tabling a motion for debate.

Once again, some Members continually get up on that particular point of order, and want me as Speaker, or my Deputy Speakers, to sit in judgement on whether a Minister has answered a question to the Members' satisfaction. Members will know that that would be a total and absolute minefield for me as Speaker or for my deputies. That is something that we are not going to do. There are a number of avenues open to Members in how they might address an issue if they feel that they are not getting a genuine answer from a Minister. Once again, I make it absolutely clear that neither I nor my deputies will take any points of order on that issue again.

Last Tuesday, 18 points of order were made in the House, almost all in one debate. That must be a record for this House. Some of the Members who raised issues concerning Question Time or questions on ministerial statements sit on the Procedures Committee. My

understanding is that the Procedures Committee has been looking at a number of issues in and around questions. That is where the arguments should be made, not in this House. There is a unique opportunity within the Procedures Committee for members of that Committee to bring forward points about Question Time or ministerial statements on which they feel they can agree. They should not be raised as points of order in this House when Members sit on a Committee that is currently examining those issues.

Once again, let us be absolutely clear where we stand in this House on issues concerning whatever it may be. Most of the points of order that are raised are spurious, and Members know that they are spurious and do not relate to the business of the House that is being discussed at that time. A point of order should be absolutely clear; it should relate to the issue that is being discussed in the House at that time. Unfortunately, Members will raise a point of order and talk about almost anything. All of that needs to finish, because my job as Speaker is to protect the integrity of the House and protect the business that goes through this House. That is my role.

I will now move on to a further issue, which I touched on briefly last Tuesday: the First Minister's reference to the Clerk at Table. I remind Members again that Assembly staff should not be referred to at any time. Adverse references to staff cannot be tolerated. The House should be clear that the Chair is entirely responsible for the conduct of the business. The Deputy Speakers and I are grateful for the advice and assistance that we receive from the Clerks, but we have no doubt where the responsibility lies. I have said to some Members with whom I was discussing these issues this morning that you would almost need the patience of Job and the wisdom of Solomon to try to resolve some of these issues.

Finally, I remind the House that I will take no points of order on any of the issues to which I refer today.

I will now turn to the serious matter of expressions that were used in the Chamber last week. The First Minister indicated that, in his opinion, Mr Declan O'Loan accused him of deceit. I have reflected on the comments that were made by Mr O'Loan, and consider that although he alleged deceit, he did not allege it against any particular Member, or name any particular Member. That being the case, I am content that his comments were not unparliamentary.

Later in that debate, the First Minister made certain references to Mr Elliott, and used the expression:

"attempt to mislead and con people" — [*Official Report, Bound Volume 36, No 7, col 2*].

Although I have ruled before on allegations of misleading, I have not done so on allegations of attempting to mislead. Therefore, I will not rule its use

as unparliamentary on this occasion. However, on the basis of the guiding principles that apply to parliamentary language here and in another House, Members should, in future, avoid any language that questions the honesty or integrity of another Member. If a Member has a genuine concern about such matters, advice should be sought from the Business Office on whether any procedural approaches are available to that Member.

I will now turn to Mr Durkan's accusation that the First Minister was misleading the House. To accuse another Member of misleading the House is, clearly, unparliamentary, and as I indicated last Tuesday, I will call the Member to withdraw the remark.

**Mr Durkan:** Thank you, Mr Speaker. I was asked by the Deputy Speaker to address the offending term, so I did. I am being asked by the Speaker to withdraw the offending term, so I will. If, in my challenge to the First Minister, I used a handful of words that were procedurally incorrect, I withdraw the handful of words that are procedurally incorrect. However, my challenge to the First Minister remains a challenge that he invited after he made statements that misrepresented a ministerial colleague. I believe that the accuracy and the veracity of those statements can clearly be questioned —

**Mr Speaker:** I ask the Member to come to a close very quickly.

**Mr Durkan:** Can be questioned when set against available facts, including previous statements in this House by the Minister for Social Development. So, as I withdraw my words, which were procedurally incorrect, I ask the First Minister to withdraw his words, which were factually incorrect.

**Mr Speaker:** Order. Those are two completely different issues, and I will not allow any Member to rise on a point of order or to widen this debate. The House is grateful to the Member for withdrawing the remark. There are different avenues that the Member can pursue in how he might deal with this issue, but certainly not this morning, and not this afternoon, through this House, and I say that to all sides of the House. There are different avenues that Members and Ministers can go down for examining issues if they have a genuine concern about allegations that are made against Members or Ministers in this House.

**The First Minister:** On a point of order, Mr Speaker.

**Mr Speaker:** Let me make it absolutely clear: I said at the very start that I will not take any points of order on what I have ruled on this morning, or on what Members may say in relation to that. That would open up the entire debate, and I do not think that that would be helpful to the House. I am extremely happy to talk to Members outside the Chamber if they are dissatisfied with what has been said in the Chamber.

**The First Minister:** On a new point of order, Mr Speaker. Is it in order for a Member to indicate that the facts were misleading when that Member is not in possession of the facts, and, by his own admission, was relying on a leak from a dishonourable and –

**Mr Speaker:** Order. I would ask the Member to take his seat. Once again, I made it absolutely clear that I will take no points of order on the rulings that I have made this morning. I very much hear what the First Minister has said, and I am, as I said, happy enough to talk to any Member outside the Chamber about what avenues are available to Members with regard to what has been said or done.

**Rev Dr Ian Paisley:** On a point of order, Mr Speaker, which is not about this matter in particular. However, when a Member is told that he or she must withdraw a remark, must the Member not withdraw it unconditionally? He or she cannot say –

**Mr Speaker:** Order. Let me make it absolutely clear: Members in this House will know that when the word “misleading” is directed generally at a Member and that Member is named, I have allowed some latitude. I have allowed Members some latitude to make a short introduction and then to say what they want to say. That has been the convention in the Assembly. This afternoon, I have done the same. Yes, I could have made a strong ruling and insisted that the Member withdraw his remarks and say nothing else. However, the convention in the House has been to allow the Member to make a brief introduction and then to let he or she decide what action to take. I am on record as ruling in that way.

*12.15 pm*

I shall finish by saying that, sometimes, I approach these matters with a heavy heart. It gives me no pleasure to make the rulings that I have made this afternoon. However, I always say that the guiding principles of adherence to Standing Orders and good business of the House are very much policed by Members. Do not be mistaken in thinking that because some latitude is given, there is some weakness. Let me make it absolutely clear: if any Member oversteps the line in the House — and Members are aware when they do so — I will deal with that, irrespective of who the Member is.

As Speaker, I have given Members from all sides of the House quite a bit of latitude during Question Time, debates on ministerial statements, and so on. However, some Members continue to abuse that latitude. I wish to be absolutely clear that when Members cross the line, they must face up to that, and such matters will be dealt with. We will now move on.

## EXECUTIVE COMMITTEE BUSINESS

### Health and Social Care (Reform) Bill

#### Royal Assent

**Mr Speaker:** I inform Members that the Health and Social Care (Reform) Bill has received Royal Assent. The Health and Social Care (Reform) Act (Northern Ireland) 2009 became law on 21 January 2009.

## ASSEMBLY BUSINESS

### Suspension of Standing Orders

**The deputy First Minister (Mr M McGuinness):** I beg to move

That Standing Orders 10(2) to 10(4) be suspended for 26 January 2009.

**Mr Speaker:** Before I put the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

That Standing Orders 10(2) to 10(4) be suspended for 26 January 2009.

## EXECUTIVE COMMITTEE BUSINESS

### Financial Assistance Bill

#### Further Consideration Stage

**The deputy First Minister (Mr McGuinness):** Go raibh maith agat, a Cheann Comhairle. I beg to move

That the Further Consideration Stage of the Financial Assistance Bill be agreed.

**Mr Speaker:** Members have been provided with a copy of the Marshalled List, which details the order of amendments for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list. There are three groups of amendments. The Assembly will debate the amendments in each group in turn.

The first debate will be on amendment Nos 1, 2 and 3, which deal with imposing additional responsibilities, by notifications, approvals and reports, upon Departments to Committees and to the Department of Finance and Personnel.

The second debate will be on amendment Nos 4 to 11, which deal with the power to provide financial assistance where unsatisfactory funding arrangements exist.

The third debate will be on amendment Nos 12 and 13, which deal with schemes for financial assistance.

I remind Members who intend to speak that during the debates on the three groups of amendments, they must address all the amendments in the particular group on which they wish to comment. When the initial debate on each group is completed, any subsequent amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate.

I also remind Members that this is the Further Consideration Stage of the Bill. Under Standing Order 37(2), this Stage is restricted to debating any further amendments tabled to the Bill.

If that is clear, we shall proceed.

We now come to the first group of amendments for debate. In the debate on amendment No 1, it will be convenient to debate amendment Nos 2 and 3.

These amendments deal with imposing additional responsibilities, by notifications, approvals and reports, on Departments to Committees and to the Department of Finance and Personnel.

**Mrs D Kelly:** I beg to move amendment No 1: In page 1, line 18, at end insert

“(3A) The relevant department shall notify, as soon as is practicable, the appropriate statutory committee of any designation under this section.”



*The following amendments stood on the Marshalled List:*

No 2: In page 1, line 20, at end insert

“(4A) Regulations made under this section, if made by a department other than the Department of Finance and Personnel, require the approval of that department.” — [Mr O’Loan.]

No 3: In page 2, line 4, at end insert

“(8) The relevant department shall, within 1 year of the commencement of the scheme, provide a report on the operation of the scheme to the appropriate statutory committee.” — [Mrs D Kelly.]

It was well articulated last week, particularly by the SDLP, and also by the Ulster Unionist Party and the Alliance Party, that we have no desire to hold up the process and that we fully recognise the need for legislative cover to provide assistance in an emergency situation. In your opening remarks, Mr Speaker, you pointed out quite rightly that these amendments seek to ensure that the relevant Committee, which may fall under the legislation of any of the schemes to be introduced, shall have full sight of the scheme when it is introduced, at the point of designation. Amendment No 1 seeks to ensure that the matter is brought before the relevant Committee as soon as the scheme is initiated.

Amendment No 2 looks to the financial situation in which a Department might find itself. If there are no Executive funds or contingency funds, the approval of the Minister of Finance and Personnel should be sought, and the Executive should give consideration to where a Department’s money might come from. There is concern that this legislation will give the First Minister and the deputy First Minister the authority to instruct a Department on how it should use its money, without regard having been given to the Programme for Government or any other money having been secured. It is incumbent on the Minister of Finance and Personnel to indicate at an early stage — during the monitoring rounds, for example — what contingency fund he hopes to introduce to provide the money.

When the Executive and the First Minister and the deputy First Minister are considering the introduction of a scheme, consideration must be given to where the money will come from so that the relevant Minister has an opportunity to indicate what impact that loss of finance will have if there is no additional or new money. It is also important that the legislation should oblige a Department to provide a report to the relevant Committee within one year of the scheme’s commencement, because Committees need to have oversight.

Mr Speaker, you have spoken many times about the primacy of the Assembly and the scrutiny Committees, and other Members have said that Committees have a clear role and remit and that they welcome their scrutiny.

These amendments seek to improve the legislation and should not cause the First Minister or the deputy First Minister any concern. The amendments seek to put the relevant Committees in good stead in respect of the scheme’s introduction, outworking, evaluation and impact. That may also inform future debates concerning the Programme for Government and any decision on whether those should be mainstreamed at the next Budget round. It is our party’s wish that Members, particularly those from Sinn Féin and the DUP, will give consideration to our concerns and support these genuine attempts to improve the legislation.

**Mr Moutray:** I rise to speak on the first group of amendments that appear on the Marshalled List for the Further Consideration Stage of the Financial Assistance Bill. At the outset, I wish to state that my colleagues and I oppose amendment Nos 1, 2 and 3. Last week, the Assembly held a marathon debate concerning the Financial Assistance Bill and its context. Having read the long list of purposeless amendments that have been tabled this week, I believe that this could be another marathon debate.

I have no problem with a marathon debate. However, the same point is being made time and time again, and some Members are using the debate as a political football. Are the Members who have tabled the amendments not listening to the First Minister?

The amendments that are listed in group 1 undoubtedly attempt to use the Bill as a political point-scoring exercise and attempt to sabotage its ability to assist those who are most in need. Although those Members are trying to score points, they are hindering and deterring the Office of the First Minister and deputy First Minister (OFMDFM) and the Executive in assisting those who are most in need.

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

**Mr Moutray:** No.

Amendment No 1 requires a Department that has been designated under clause 1 by the First Minister and deputy First Minister to inform its Assembly Committee of any designation. Is that procedure not already in operation? The Members are surely aware of the ongoing liaison between Departments and Committees. That is standard protocol. Therefore, the amendment is unnecessary because it calls for the introduction of a process that already exists.

Likewise, amendment No 2 requires the Department of Finance and Personnel (DFP) to approve any regulations made under clause 1. That amendment is totally unnecessary, because the Minister of Finance and Personnel will make his views known when the Executive — I repeat, the Executive — are asked to agree a proposed scheme. Once again, duplication is being introduced.

I oppose the content of amendment No 3, which lacks purpose and rationale. The amendment, in effect, says that — and I am sure that Members will, at some stage, try to attack my interpretation — *[Interruption.]*

**Mr Speaker:** Order. I apologise to the Member. Mobile phones must be switched off, if possible. None of us is innocent; we all make that mistake with mobile phones. However, mobile phones must be switched off, if possible.

**Mr McElduff:** On a point of order, Mr Speaker, will you clarify whether that instruction is optional or mandatory?

**Mr Speaker:** Order. We are all to blame, and Members must switch off mobile phones or, at least, put them on silent mode.

**Mr Moutray:** I reject amendment No 3 on the basis that there should be a statutory duty to report on a scheme. Furthermore, that report should be made to the Assembly, rather than directly to the relevant Committee. In any event, Members should be aware that the Committee for the Office of the First Minister and deputy First Minister can, as part of its scrutiny role, seek information or an update on the operation or roll-out of any scheme at any time. Members are again choosing to play politics with the Bill rather than supporting its content and the benefits that it will bring to those who are most in need. I oppose the amendments.

**Mr Brady:** Go raibh maith agat, a Cheann Comhairle. I oppose amendment Nos 1, 2 and 3. The policy objectives and the purpose of the Financial Assistance Bill have been addressed; it will deal with emergency situations that arise extraordinarily. Amendment No 1 —

**Dr Farry:** Will the Member give way?

**Mr Brady:** No.

Amendment No 1 is superfluous. As Mr Moutray said, there was a marathon debate last week on the amendments, which are largely irrelevant. Points have been reiterated, and the debate has almost become political theatre. Some parties seem to be tabling amendments and filibustering rather than addressing the reason for the legislation. In my experience, those who are fuel poor, vulnerable, on benefits or elderly are constantly asking when they will receive the money.

The Minister previously said:

“Show me the money, and I will do the business”.

People are now asking when they will receive the money — the sooner the better, I say, because people are suffering daily as a result of all this discussion, which is really of no benefit to those people at whom the legislation is aimed.

12.30 pm

The purpose of amendment No 2 is to seek to require the Minister of Finance and Personnel and his Department to approve for other Departments money that may or may not be available. However, the Executive operate on the principle of collective responsibility, so anything that happens will be the Executive’s responsibility. No single Minister should be in a position in which he or she can hold back legislation that is most necessary.

The statutory duty sought under amendment No 3 is already in place — the appropriate Committee must consider any proposed scheme, and all proposed schemes will eventually come before the Executive. My colleagues will deal with the other amendments. I reject the amendments, which are largely superfluous and of no benefit to those people most in need. Go raibh maith agat.

**Mr McCallister:** At the outset, I totally reject Mr Moutray’s opening remarks about other parties not wanting to help those most in need. The Ulster Unionist Party has made it clear throughout the debates on the Bill that we are very much committed — as I accept that everyone in the House is committed — to helping those most in need.

**Mrs Long:** Does the Member agree that not one of the debates that has taken place on the subject has delayed fuel payments by one day? Protocol requires that the Bill go through all the legislative Stages. Mr Moutray has exposed only his own lack of understanding of the legislative process.

**Mr McCallister:** I am grateful to the Member for her intervention, and what she says is absolutely true. During last week’s Consideration Stage debate, the First Minister pointed out that it was very unparliamentary for Members to leave the Chamber during the course of the debate. Debate is not delaying the Bill; rather, it is an important part of the democratic process.

**Mr Speaker:** Order. The Member should return to addressing the proposed amendments to clause 1.

**The First Minister:** For clarification, in case anyone thinks that I want everyone to stay in the Chamber all day for the entire debate, there is a general courtesy that a Member who speaks should remain in the Chamber until the Member who speaks next has completed his or her speech.

**Mr McCallister:** I am grateful for that intervention, and I will return to discussing the Bill immediately. I am not sure whether the First Minister’s colleague Mr Moutray stayed in the Chamber until the next Member to speak had finished.

The SDLP, along with the Ulster Unionist Party and the Alliance Party, has attempted to table amendments that will improve the Bill’s democratic accountability.

The amendments would bring the legislation more into line with the power-sharing character of the unique Government institutions that we have in Northern Ireland. The amendments that were proposed last week were an attempt to ensure that decisions made in any emergency situation be made by the entire Executive, with the consent of the relevant Departments.

The amendments that the SDLP tabled for today are aimed at ensuring that the Assembly appropriately scrutinises designations of financial assistance. Despite the ill-tempered reception that the amendments received last week, the SDLP has proposed others that will improve the Bill. Amendment No 1 seeks to ensure that the relevant Statutory Committee be notified by the related Department of any designation of financial assistance under clause 1. Designations under clause 1 are subject to negative resolution, and that will result in limited, or no, opportunity for Members to scrutinise proposals. Amendment No 1 would ensure that the relevant Department would be able to examine, and have input into, proposals if appropriate.

I see no reason for rejecting that amendment, over and above the fact that, to date, the DUP and Sinn Féin have yet to accept any amendment to a Bill that received accelerated passage. Not only would amendment No 1 enable Committees to scrutinise proposals on behalf of the people of Northern Ireland, but they would be able to add their diverse, and often expert, experience, which, in many instances, would help to improve pieces of legislation that all Committees in this place consider.

**Mr B McCrea:** Does the Member share my wry sense of amusement that not only will people not accept amendments but — save for the First Minister — they will not even take interventions, so unsure are they of their positions? The point was made to Members opposite that they do not even understand the legislative process; they will not even let us debate the matter, never mind listening to what we have to say.

**Mr McCallister:** I am grateful to my honourable friend for that intervention — he is absolutely right. As the debate progresses, it will be interesting to see whether Members of the two main parties in Government — bar the First Minister and the deputy First Minister — take interventions.

All Ministers are aware of the positive input that Committees can make to proposals. It will be a lost opportunity if amendment No 1 is not accepted. I hope that the deputy First Minister will be more receptive than the co-holder of his office to the recommendations that will be made by Members today.

The deputy First Minister will probably make reference to over-legislating and over-complicating the Bill. However, amendment No 1 is an important and worthwhile addition, which the deputy First Minister

would accept if he were more in tune with the implications of accelerated passage.

Amendment No 2 seeks to ensure that the Bill does not impinge on the ability of Departments to manage their budgets and to meet their settled targets and public service agreements. The recent strategic stocktake highlighted the tight fiscal position in which all Departments find themselves. The amendment will provide Ministers with the peace of mind that they will be able to continue to manage their own budgets.

Amendment No 3 is another sensible proposal that will ensure that the success or failure of any scheme can be examined by the Assembly. For policy to be implemented successfully, it must be monitored and evaluated throughout its life and afterwards. The amendment provides an opportunity for Departments to learn from their mistakes and to share successes with other Departments, Committees and non-governmental organisations.

To not accept the amendments will make little sense. They are reasonable and constructive, and they will benefit this piece of legislation. I thank the SDLP Members who tabled the amendments, and I look forward to the deputy First Minister's response.

**Dr Farry:** I support amendment Nos 1 and 3, and I seek some clarification on amendment No 2. Today's debate is important. It is certainly well within the procedures of the House to have it as it is part and parcel of the legislative process. The debate needs to be more constructive, brief and to the point than was the case last week, when we had extensive discussions about these matters.

My party appreciates that Members can discuss amendments at Consideration Stage and Further Consideration Stage and that we do not have the guillotine system that exists in the House of Commons. In the context of Northern Ireland's divided society and the multi-party system, it is important that free and open exchange takes place, but with that comes a responsibility on Members about how they approach debates.

**Mr B McCrea:** May I check that the Member is encouraging debate and that he welcomes interventions? We recommend that the two parties to which the First Minister and the deputy First Minister belong should take interventions and listen to what we have to say.

**Mr Speaker:** Order, order. On at least two occasions during the debate, Members have almost forced others to take interventions. It is up to the Member who has the Floor whether he or she decides to take an intervention. That could be rather risky, but Members decide whether they want to take interventions. This issue has been raised on several occasions; nobody can force the Member who has the Floor to take an intervention if he or she does not want to.



**Dr Farry:** Thank you for your points, Mr Speaker. I am more than happy to take interventions, as was just demonstrated when I took one from Mr Basil McCrea.

Nevertheless, Mr Speaker's point touches on the fact that, more than 18 months into this mandate, we await the commencement of free and open debates. If Members continue to merely read out their speeches, rather than other Members having to listen to them, those making the speeches may as well just hand them to the Office of the Official Report for printing.

**The First Minister:** Surely the Member will acknowledge that conducting a debate in the Chamber does not depend simply on the occurrence of interventions. A debate consists of a Member speaking, followed by subsequent Members dealing with the comments that he or she has made.

**Dr Farry:** I fully concur with the First Minister's remarks, and his Back-Bench colleagues, and those belonging to Sinn Féin, would do well to listen to them. I recognise that the First Minister engages in debate, and such conduct should be encouraged in respect of all Members.

Returning to the substance of the amendments, it is important that we do not rehearse the arguments made last week, when there was a full debate on clause 1 and, although not to the same extent, on clause 2.

The Alliance Party takes a slightly different approach to clause 1 than it does to clause 2. We envisage that clause 1 would deal with short-term and exceptional circumstances, in which case more checks and balances would ensure that relevant Departments and Ministers act in accordance with them.

Furthermore, Mr Brady said that the Bill is designed to deal with emergency situations; however, we should focus on it dealing with exceptional circumstances. Winter-fuel payments are not emergency provisions — winter happens every year. However, circumstances might be exceptional, particularly, for example, in the present economic situation, and it is important that we make that distinction.

My colleague Naomi Long will discuss clause 2, and she will demonstrate that a different approach might be appropriate when dealing with longer-term systemic situations that pertain to delivering policies throughout Departments. I can envisage circumstances — for example, if a Department or a Minister is not operating in line with a policy direction that has been centrally agreed by the Executive — in which it might be possible, indeed, necessary, to make progress without the consent of the relevant Department or Minister.

Nevertheless, we should move more cautiously with clause 1 in order to ensure that all parties sign up to it, and that is why I am sympathetic to the thrust of amendment No 2, although more explanation is required

about whether the final “department” contained in it refers to the Department of Finance and Personnel or to the first Department mentioned. If it refers to the first Department mentioned, the amendment's drafting might be tautological, but if it refers to the second, the amendment would be acceptable to the Alliance Party. I shall await clarification at the end of the debate from those who tabled that amendment.

An argument may be made that the actions stipulated in amendment Nos 1 and 3 would happen in any event; however, there is no reason why they should not be added to the Bill to provide additional reassurance and to ensure proper reporting and accountability in Committees and in the Assembly. Therefore, the Alliance Party has no difficulty in accepting them both. Thank you, Mr Speaker, and I look forward to a free exchange of ideas among Members during the rest of the debate.

**The deputy First Minister:** Having read the Official Report of last week's seven-hour Consideration Stage, I should not be entirely surprised that an even greater number of amendments have been tabled for the Bill's Further Consideration Stage. I intend to oppose the three amendments in group 1.

Amendment No 1 would require a Department to inform its Committee that it had been designated by the First Minister and deputy First Minister under clause 1 for the purpose of creating a scheme. Amendment No 1 is unnecessary because such notification would occur in any event as part of ongoing liaison between a Department and its Committee.

During the Bill's Second Stage and Consideration Stage, it was emphasised that any regulations made under clause 1 or clause 2 would be subject to normal Committee consideration, including any proposal by a Department to make regulations using the powers provided for in the Bill. It is normal practice for a Department that is proposing to make regulations to write to its departmental Committee Clerk to advise the Committee of a proposed statutory rule.

That practice will be no different in the case of regulations being made under clause 1 to deal with exceptional circumstances. The letter to the Committee will provide sufficient information for it to carry out an informed policy scrutiny. That notification procedure is set out in the handbook on subordinate legislation.

*12.45 pm*

In addition to that formal communication, I would expect that departmental Assembly liaison officers would contact their departmental Committee Clerk to alert them immediately once they become aware that their Department had been designated under this legislation. In view of that, I reject amendment No 1, because it is unnecessary. Committees will be aware



from an early stage that a Department has been designated to make regulations under this legislation.

Amendment No 2 would require the Department of Finance and Personnel to approve any regulations made under clause 1 of the Bill. When viewed in isolation, amendment No 2 does not seem unreasonable. However, it has to be viewed in the wider context of decision-making under clause 1. As we have said in previous debates on the Bill, any proposal for a determination, designation or scheme will have to come to the Executive for consideration and agreement. The views of all Ministers — including the Minister of Finance and Personnel — will have to be considered in reaching decisions. I reject amendment No 2, because the Minister of Finance and Personnel will have made his views known when the Executive were asked to agree to a proposed scheme.

Amendment No 3 would require the relevant Department to report on the scheme, to its Committee, within a year of the scheme's commencement. The Members who tabled this amendment and amendment No 1 seem to believe that the Committees will be kept in the dark or ignored by their Departments; that will not be the case. However, if there is to be a statutory duty to report on a scheme, such a report would be to the Assembly and not to the relevant Committee.

In any event, a Committee could seek information on the operation of the scheme at any time, as part of its scrutiny role. Therefore, it is unnecessary to place a statutory duty on relevant Departments to produce a report on the operation of a scheme to a Committee. I ask Members to reject amendment Nos 1, 2 and 3.

**Mr O'Loan:** I am glad to have the opportunity to make a winding-up speech on the first group of amendments and to summarise the debate. As several Members said, a substantial debate on the Bill was held in the Chamber last week, and that debate was seen by many of us as being necessary.

I have used the words “loathsome” and “obnoxious” in relation to the legislation, but, today, I describe it as “dangerous”. That description should be taken at least as seriously, because, as legislators in a democratic Assembly, we should guard vigilantly the rights of that Assembly and its elements — particularly, in the context of this debate, its Committees. That is true in any legislature, and it is particularly true in a society that remains unstable and which has parliamentary institutions that are still subject to the test. Anyone who challenges that contention should remember that the Executive did not meet for 154 days, as has been referred to often.

Therefore, any measure that proposes significant changes to how the Assembly runs itself should be subject to close scrutiny. No one should misrepresent that as an attempt to hold up payments to those who

are in need. It is for that reason that I am disappointed in the reaction of OFMDFM and its representative parties to the amendments. If OFMDFM was of a mind to assuage the concerns of others, it would have been willing to listen to these modest amendments.

Members will know well that we sought more substantial changes. We wished to delete clause 2 and await a more considered introduction of its provisions before the relevant Committee.

OFMDFM resisted that utterly and successfully. The changes that we sought to make to clause 1 of the Bill were also rejected. We are now submitting very modest changes to clause 1, the first of which is that we want a report of the designation to be made to the relevant Committee. Secondly, we want DFP to approve the regulations. Thirdly, a report on a scheme should be made to the relevant departmental Committee within a year. The unwillingness of the parties in OFMDFM to assent to those modest changes brings no comfort to those who table the amendments, or to their parties, that they will be given a fair crack of the whip in the relationships and decision-making in the Executive.

In proposing the amendments, Dolores Kelly outlined the reasons for tabling them with absolute clarity. She emphasised that there is no desire to hold up the financial measures that will represent the first use of the Bill. Naomi Long pointed out correctly that the amendments have not held up the proceedings of the Assembly or the payments even by one day. Other factors, to which I referred earlier, have held up those payments considerably.

**The First Minister:** Would the Member like to give way on that issue?

**Mr O'Loan:** I could give way to the First Minister.

**The First Minister:** I am grateful to the Member. He is right, and, in fact, that point was raised on 18 occasions during debates on the earlier Stages of the Bill. The erroneous argument was made that the Bill required accelerated passage because the Executive had not met for 154 days. In support of that argument, the leader of Mr O'Loan's party relayed to the House leaked information that had been provided to him by some dishonourable person whom he has not named. *[Interruption.]*

I am sure that everyone agrees that someone who leaks a confidential Government document is, unquestionably, dishonourable. I am sure that the Member will accept that the document dated 2 October 2008 may not have signalled the end of the issue and that his Minister came to her Executive colleagues and said that her officials were pursuing with the Departmental Solicitor's Office and officials from other Departments whether another Department had the power to make the payments. There is a fistful of correspondence that demonstrates that right up to

December 2008, the matter had not been closed. Therefore, the challenge has been answered, and I hope that there will not only be a withdrawal but an apology from the leader of the SDLP.

**Mr Speaker:** Order. It is important to return to the debate and to the business on the Floor of the House.

**Mr O'Loan:** I have no difficulty in getting back to the debate, and I am sure that everything that the First Minister said will be studied closely. Undoubtedly, the leader of the SDLP, in due course and in the proper place, will respond.

I noted that the deputy First Minister was sent out to speak on the Bill today, but the First Minister evidently felt it necessary to come to his rescue when the nature of the Bill and its progress was challenged.

I turn now to the responses to the amendment.

**The deputy First Minister:** Will the Member give way?

**Mr O'Loan:** Certainly; I am pleased to give way to the deputy First Minister.

**The deputy First Minister:** The Member knows that the deputy First Minister does not need to be rescued by anyone.

He mentioned the Executive not meeting for 154 days, although when they finally met, they did so after reaching an important agreement on the transfer of policing and justice powers. Given that he raised that issue, he should recall the period from the summer of 1998 to the winter of 1999 when the offices of First Minister and deputy First Minister were held by David Trimble and Séamus Mallon. Under their stewardship, the Executive failed to meet for a period of 500 days.

**Mr Speaker:** Order. I must remind Members that good practice dictates that interventions must relate to the issues being debated on the Floor, which are the amendments.

**Mr B McCrea:** Will the Member take an intervention from this side of the House?

**Mr O'Loan:** I will take the intervention.

**Mr B McCrea:** Does the Member share with me the relief that the deputy First Minister does not need to be rescued, because he and the First Minister are in the same boat? Will he also join me in saying that whenever we discussed leaks and various other things, issues of public interest were involved? I recall that in another place —

**Mr Speaker:** Order. I remind Members once again that good practice in interventions is that they must relate to the business being discussed in the House.

**Mr O'Loan:** Thank you. I will be glad to pursue my own remarks.

I believe that the deputy First Minister misrepresents the historical record. If, at some point, he wishes to outline the gains that his party made during those 154 days, and his precise timetable for the devolution of policing and justice, I will be happy —

**Mr Speaker:** Order. The Member must return to the debate.

**Mr O'Loan:** I accept what you say, Mr Speaker.

I was disappointed by Stephen Moutray's responses to the individual amendments. He said that reporting the designation to the Committee was already standard protocol. If it is in place already, why is there resistance to writing this simple amendment into the Bill?

Amendment No 2 is important. In relation to the point that Stephen Farry raised, the exact wording has been properly verified by those who are competent to do so, as far as parliamentary drafting is concerned; therefore, the Member can be confident that the words, "of that department", clearly refer to the Department of Finance and Personnel. It is a necessary provision. As John McCallister said, it will give Ministers peace of mind that they will retain control over their own budgets. Again, if the two parties want to give the assurance that they are working in partnership with others in the Executive, they can support this amendment.

Without amendment No 2, we could find ourselves in the situation where the Public Accounts Committee, the Government auditor, or other oversight bodies would, later on, find themselves looking at the scheme and the regulations and saying that there were financial deficits or irregularities. DFP would be put in the position of saying that it had nothing to do with creating the scheme; it simply allocated a certain sum of money, but was not involved in how that money would be spent. That is not good Government. Amendment No 2 is valid.

Stephen Moutray — surprisingly for a democrat speaking in a democratic Chamber — was not happy that the Committee that was set up to scrutinise that activity should report on the scheme within a year. He said that it would be better if the matter were to come to the Assembly as a whole. Where is the provision in the Bill that a report be made to the Assembly as a whole? It is not there.

We have made our points cogently in relation to the amendments, and the Bill would be better if those amendments were included.

The deputy First Minister referred to existing protocols around informing Committees. He used the words, "I would expect". He believes that everything is covered by ordinary procedure. Once again, the SDLP wants much more confidence on the issue and the clarity that would be expressed by writing those straightforward amendments into the Bill.

**Mr Durkan:** I thank the Member for giving way. The deputy First Minister referred to the fact that Committees receive information and advice on subordinate legislation. However, many Committees have complained about the terms in which they receive that information, and its timing. Rather than to expect things simply to happen, it is the business of legislation to be very clear about what is required to happen.

1.00 pm

**Mr O'Loan:** I thank the Member for that useful intervention. I rest my case, and I support the three amendments.

*Question put, That amendment No 1 be made.*

*The Assembly divided: Ayes 34; Noes 55.*

AYES

*Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mr P J Bradley, Mr Burns, Mr Burnside, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs D Kelly, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCallister, Mr McCarthy, Mr McClarty, Mr B McCrea, Mr McFarland, Mr McGlone, Mr Neeson, Mr O'Loan, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage, Mr B Wilson.*

*Tellers for the Ayes: Mr D Bradley and Mr O'Loan.*

NOES

*Mr Adams, Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Butler, Mr Campbell, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Doherty, Mr Easton, Mrs Foster, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Rev Dr Ian Paisley, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.*

*Tellers for the Noes: Mr Brolly and Mr Moutray.*

*Question accordingly negatived.*

*Question put, That amendment No 2 be made.*

*The Assembly divided: Ayes 34; Noes 56.*

AYES

*Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mr P J Bradley, Mr Burns, Mr Burnside, Mr Cobain,*

*Rev Dr Robert Coulter, Mr Cree, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs D Kelly, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCallister, Mr McCarthy, Mr McClarty, Mr B McCrea, Mr McFarland, Mr McGlone, Mr Neeson, Mr O'Loan, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage, Mr B Wilson.*

*Tellers for the Ayes: Mr D Bradley and Mr O'Loan.*

NOES

*Mr Adams, Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Butler, Mr Campbell, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Doherty, Mr Easton, Mrs Foster, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Rev Dr Ian Paisley, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.*

*Tellers for the Noes: Mr Brolly and Mr Moutray.*

*Question accordingly negatived.*

*Question, That amendment No 3 be made, put and negatived.*

**Clause 2 (Unsatisfactory funding arrangements: power to provide financial assistance)**

**Mr Speaker:** Order. We now come to the second group of amendments for debate. With amendment No 4, it will be convenient to debate amendment Nos 5 to 11. I advise Members that amendment Nos 5 and 6 are mutually exclusive. Therefore, if amendment No 5 is made, I will not call amendment No 6. The second debate deals with the power to provide financial assistance where unsatisfactory funding agreements exist.

**Mr Elliott:** I beg to move amendment No 4: In page 2, line 7, after “acting jointly,” insert

“and with the agreement of the Executive Committee.”.

*The following amendments stood on the Marshalled List:*

No 5: In page 2, line 7, at end insert “( ) that exceptional circumstances exist.”. — [Mr O'Loan.]

No 6: In page 2 line 8, leave out “a” and insert “an unforeseen”. — [Mr Elliott.]

No 7: In page 2, line 13, leave out line 13 and insert “be ineffective or inadequate, and”. — [Mrs D Kelly.]



No 8: In page 2, line 16, leave out “6 months” and insert “3 months”. — *[Mr Elliott.]*

No 9: In page 2, line 25, at end insert

“(3A) The relevant department shall notify, as soon as is practicable, the appropriate statutory committee of any designation under this section.” — *[Mrs D Kelly.]*

No 10: In page 2, line 27, at end insert

“(4A) Regulations made under this section, if made by a department other than the Department of Finance and Personnel, require the approval of that department.” — *[Mr O’Loan.]*

No 11: In page 2, line 35, at end insert

“(8) The relevant department shall, within 1 year of the commencement of the scheme, provide a report on the operation of the scheme to the appropriate statutory committee.” — *[Mrs D Kelly.]*

During last week’s Consideration Stage of the Financial Assistance Bill, I noted with interest that the First Minister informed the House that clause 2 of the Bill did not represent a power grab. He said that:

“one cannot grab power that one already has. That power is already resident in OFMDFM.” — *[Official Report, Bound Volume 36, p359, col 1].*

The First Minister’s view is that clause 2 is a tidying-up exercise that makes explicit what is already implicit. He even suggested that, when undertaking that tidying-up exercise, clause 2 is the:

“more open, transparent and democratic way”. — *[Official Report, Bound Volume 36, p360, col 1].*

I thank the First Minister, because his reasoning provides the rationale for the Ulster Unionist Party’s amendment — amendment No 4 — which proposes that consent be required of the Executive Committee for the exercise of the powers conferred on OFMDFM by clause 2.

Today, the deputy First Minister may tell the House that amendment No 4 is unnecessary. He may even take a leaf out of the First Minister’s book and accuse those of us who support it of not having two brain cells to rub together, but that is not the point. Amendment No 4 is merely intended as a tidying-up exercise, and in tabling it, we are trying to be helpful and constructive to the Bill. A power grab is not being carried out by the Executive Committee; one cannot grab power that one already has. That power is already resident in the Executive Committee, and, as the First Minister said last week:

“any determination that is made under that clause goes to the Executive for agreement; any designation goes to the Executive for agreement; and any scheme that is reached goes to the Executive for agreement.” — *[Official Report, Bound Volume 36, p358, col 1].*

Given that that is the case, amendment No 4 is an open, transparent and democratic way of making explicit what the First Minister has already said. After all, who would wish to argue against making processes in the Chamber more open, transparent and democratic? To reject amendment No 4 suggests that the Member for

Foyle Ms Anderson was correct in her boast that clause 2 represents a “significant sea change”, and is not merely a tidying-up exercise; it will be saying that clause 2 is not merely making explicit what is implicit but is a significant sea change in the workings of the Executive.

The overriding message that has been picked up by the media and the public is that the Bill is exclusively designed to provide financial assistance to address emergency situations. Neither I nor my party wishes to go against that, and neither do the majority of Members. However, the manner in which the Bill has been presented has led people to believe that that is the Bill’s only purpose.

Clause 2 is not designed to address emergency situations. Regardless of all the previous protestations of the First Minister, clause 2 is designed to significantly change the role of his Department, as the Member for Foyle Martina Anderson has stated.

The Bill is called the Financial Assistance Bill, but at Consideration Stage, it appeared that the First Minister could not decipher whether clause 2 was designed to provide specific instances of financial assistance, or whether it should be used as a tool to promote his Department’s co-ordinating role on the cross-cutting themes of poverty, social exclusion and patterns of deprivation. The First Minister made much of the fact that his Department already has a cross-cutting role to co-ordinate those and other issues. Is the Bill concerned merely with enhancing policy co-ordination, or does it represent a significant sea change in the role of OFMDFM?

These devolved institutions should seek to ensure that all parties, which represent different sections of society in Northern Ireland, work together for the common good of all in light of our collective past. The role of First Minister and deputy First Minister, as representatives of the largest parties, is to co-ordinate and provide innovation on the cross-cutting themes that affect more than one Department, be they child poverty, sustainability, and the other issues that regularly come before the House. Indeed, the first objective in the public service agreement outlined on the OFMDFM website is to assist Government in making and implementing well-informed decisions and improving public services. The word used is “assist”, not “dictate”.

I disagree with the First Minister’s interpretation of clause 2. To suggest that it is a continuation of the powers of the First Minister and deputy First Minister is not correct. Clause 2 moves the role of the First Minister and deputy First Minister beyond providing co-ordination to overriding the power of Departments for any reason they deem necessary.



1.30 pm

Have the decisions that Sinn Féin and the DUP have made to date been conducive to a shared and normalised future for Northern Ireland? The Bill will give the DUP and Sinn Féin more power to produce and implement policy on an us-and-them basis. We are slowly moving away from co-operation to an enforced carve-up on all these issues.

The Ulster Unionist Party has tabled further amendments to clause 2 that will move the Bill closer to the original intention, namely, to provide financial assistance to people who are suffering from unforeseen events and actions. Amendment No 6 will ensure that clause 2 is not used as a normal policy tool by OFMDFM to override Departments and the Programme for Government. It will ensure that only poverty, social exclusion or deprivation not foreseen or factored into the Programme for Government and Departments' own schemes and policies can be addressed. Failure to accept the amendment will justify Sinn Féin's interpretation of the Bill as a sea change in the way we do business in this House.

I draw the deputy First Minister's attention to the fact that, whereas clause 2 stipulates that the First and deputy First Minister may exercise their powers when a situation exists which "requires" financial assistance to be provided, clause 1 states that they should act on an exceptional circumstance only if and when they deem it to be "desirable". The word "requires" implies compulsion; "desirable" implies a lower threshold of need. I want clarification of those terms. The Assembly should be informed why different words have been selected for each clause, and exactly what the ramifications are.

Clause 2(1)(b) states that financial assistance can be provided when the First Minister and deputy First Minister deem that existing arrangements and policies are "for any other reason unsatisfactory". That should sound alarm bells. What is meant by "any other reason"?

If the Bill is genuinely about financial assistance to people in exceptional circumstances or unforeseen situations of poverty, social exclusion or deprivation — rather than to effect a sea change in the way that the Executive create and implement policy — we must act quickly in each circumstance. However, during the Consideration Stage, the First Minister stated that:

"The time limits of three to six months will provide a discipline for the relevant Department to act promptly to put a scheme in place and to avoid any suggestion that the determination might be used inappropriately at a much later date when the original circumstances no longer apply." — [*Official Report, Bound Volume 36, p342, col 2, p343, Col 1*].

Poverty, social exclusion and deprivation are likely to be with us for the foreseeable future and many years to come. How, then, can a situation that is unforeseen or out of the ordinary be given a timescale for reaction?

The Ulster Unionist Party's amendments will clarify the intention of the Bill and give it definitive boundaries and purpose.

By reducing the time to react under clause 2, amendment No 8 reflects the urgency that should be shown in reacting to a critical situation. If clause 2 is not to be used exclusively for emergency situations, we should all ask where the money will come from.

Last week, in his ministerial statement, the Minister of Finance and Personnel said that:

"the main source of funding to address emerging pressures is expected to come from the resources that were allocated in the Budget process". — [*Official Report, Bound Volume 36, p301, col 1*].

However, we have been told that the shortfall between what Departments need to meet their Programme for Government targets and what is actually available is over £1 billion. At this stage, there will be a difficult balancing act between reduced requirements and emerging pressures. The clause has the potential to add a duplicating spending pressure to our already stretched Budget. I ask the deputy First Minister whether, if he uses the powers of clause 2 to give significant financial assistance, reductions will have to be made in other areas.

If clause 2 is to stand, it is crucial that it be used only for unforeseen circumstances of poverty, deprivation or social exclusion that require immediate action. Otherwise, the Bill, rather than better co-ordinating Government in Northern Ireland, will further divide parties and Ministers in the Executive.

**Mr Shannon:** I oppose the proposed amendments to clause 2. My colleague will speak to amendment Nos 4, 5, 6 and 7, and I will speak to amendment Nos 8, 9, 10 and 11. We want to dismiss the supposed need for those amendments as quickly as possible so that the Assembly, rather than holding things back, can get down to the business of helping the people of this Province. That is what I am about, and I hope that I can persuade other Members to be of the same opinion.

In this time of recession, people need good legislators who see their needs, and they need good legislation that will meet those needs. The Bill will show the public that we have both. I am anxious to get the Bill in place so that when the need arises, it can do the job that it is designed to do, which is to help people.

Amendment No 8 proposes to reduce the time limit from six months to three months from when a determination is made under clause 2 to the making of any consequent regulations. Given the time that is required for consultation, for example, that would mean that the relevant Department could run the risk of not meeting its proposed deadline. We all know that it can take some time for consultations to be completed and for the Assembly to approve regulations in draft form. Meanwhile, the people in the street would be worse off. I believe that amendment No 8, if agreed to,

would reduce the effectiveness of the legislation and would be a backward step.

Amendment No 9 is as unnecessary as amendment No 1, which relates to clause 1. Amendment No 9 would require that a Department that has been designated by the Office of the First Minister and deputy First Minister inform its Assembly Committee of that designation. The amendment is unnecessary because notification will take place in any event as part of the ongoing liaison between a Department and its Assembly Committee. For example, when the junior Ministers have been requested to attend the Committee for the Office of the First Minister and deputy First Minister, they have done so. Very clearly, all the Committees liaise, particularly —

**Mrs D Kelly:** I thank Mr Shannon for giving way. I am sure that he will acknowledge the fact that much of the work of the Committee for the Office of the First Minister and deputy First Minister has had to be changed because of the failure of the Office of the First Minister and deputy First Minister to send papers on time. Will he also acknowledge that that office overuses the phrases “a paper to follow” and “something to be decided shortly”?

**Mr Shannon:** I thank the Member for her intervention. Obviously, we are still bedding in and there are still things to do. *[Laughter.]*

We are not entirely happy with everything; however, we are all keen to see things move forward, and I am very keen to see that happen. I oppose amendment Nos 8 and 9 because I believe that they are unnecessary.

Amendment No 10 —

**Mrs Long:** I thank the Member for giving way. Several Sinn Féin and DUP Members made the point that their opposing the amendments will speed up the process. Will the Member state clearly how many extra days would be added to the process if the amendments were agreed to?

**Mr Shannon:** I was going to say that I am glad to accept the Member’s interventions, but that is not entirely true. In the Assembly, the DUP and the First Minister and deputy First Minister have tried to ensure that all Committees have representation. During the previous Assembly mandate, when roles were reversed, contact from the Ulster Unionist Party and the SDLP left a lot to be desired.

Amendment No 10 proposes that the Department of Finance and Personnel is required to approve any regulations that are made under clause 2. That amendment is unnecessary, because the Minister of Finance and Personnel will make his views well known to the Executive when they ask him to approve a proposed scheme.

Like amendment No 3, amendment No 11 proposes that:

“The relevant department shall, within 1 year of the commencement of the scheme, provide a report on the operation of the scheme to the appropriate statutory committee.”

If there were to be a statutory duty to report on a scheme, it should be to the Assembly as a whole and not directly to the Assembly Committee concerned. In any event, the Committee could seek information on the operation of any scheme at any time as part of its scrutiny role, especially if that scheme were to run for longer than the period that the amendment envisages. It has been made abundantly clear today that OFMDFM is not attempting to pull the wool over people’s eyes. We are ensuring that the Bill really meets people’s needs and circumstances.

The amendments that have been proposed do not give adequate protection. Indeed, they do the opposite — they merely add red tape and, in some cases, take away from the purpose of the Bill, which is to help people at times when they most need it.

I reject the proposed amendments and ask that all Members in the Chamber do the same to ensure that the Bill has the power to do what it is designed to do — that is, to step into the breach and make a real difference to the lives of those in need.

**Ms Anderson:** Go raibh maith agat, a Cheann Comhairle. I object to all 13 amendments, and particularly wish to comment on amendment Nos 4 to 11. Amendment No 4 is entirely unnecessary. The joint First Ministers have already told the House that they will be bringing proposals for an amendment to the ministerial code. That will ensure that determinations of the scheme under the Bill must be agreed by the Executive, therefore ensuring the rights of all Ministers.

Amendment Nos 5 and 6 would impose additional requirements that would, effectively, defeat the current intention of the Bill, which is to identify the capability gap where a scheme is required.

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

**Ms Anderson:** Absolutely not. *[Laughter.]*

**Mr Speaker:** Order.

**Ms Anderson:** It is abundantly clear to me that those gaps exist already. The OFMDFM Committee heard a wealth of evidence that exposed clearly the fact that the current programmes and policies are not delivering. There are programmes and policies that replicate the failed outcomes of the past. That is precisely the reason why the Committee, in its report on the inquiry into child poverty, concluded that OFMDFM, as lead office, should:

“have a role in challenging departmental Delivery Agreements to ensure the relevance and robustness of departmental targets and actions”.

I will repeat that. OFMDFM should:

“have a role in challenging departmental Delivery Agreements to ensure the relevance and robustness of departmental targets and actions”.

In fact, the Committee went even further and recommended that OFMDFM, along with DFP, should consider the introduction of a system of financial incentives and penalties to ensure that cross-departmental priorities, such as child poverty, are delivered on.

I find it strange that parties that endorsed those recommendations in the Committee now seem to feel that OFMDFM should have no role in identifying and implementing cross-departmental priorities. It is also strange that those parties argue that OFMDFM should not challenge any Department’s ability to tackle poverty yet, in the report on the inquiry into child poverty, they recommended that OFMDFM should take on that role.

Similarly, amendment No 7 would restrict the ability of the Bill to make a genuine and swift intervention by providing financial assistance to tackle poverty, social exclusion and patterns of deprivation when funding arrangements are unsatisfactory.

I must admit that I find amendment No 8 curious, but I am sure that some of the opposing parties will explain it. On the one hand, we have parties in the Chamber complaining about the alleged plot to undermine the influence and authority of individual Ministers, yet the original six-month time frame would allow sufficient time for consultation and engagement with the relevant Minister and to get the approval of the Executive and the Assembly. I oppose that amendment.

Amendment No 9 is entirely unnecessary. It is part of any Committee’s normal role and remit to scrutinise the work of relevant Departments. Any Committee can ask for the kind of notification that is referred to in the amendment at any time. The Committees should be doing that anyway, and I would have grave concerns if the SDLP feels that it needs additional legislation to carry out the role that it should have been performing for the past 18 months.

Amendment No 10 is also unnecessary, because the Bill ensures that all potential schemes must be agreed at the Executive, thereby allowing all Ministers to make their views known.

My objection to amendment No 11 is similar to my objection to amendment No 9 in that any statutory Committee can request such a report at any stage. Not only that, it is the responsibility of the Committees to get an update on the progress of any relevant report, programme, project or policy. That is what MLAs — particularly as Committee members — are paid to do; therefore, they should be getting on with their job.

In rejecting those amendments, I find it regrettable that the SDLP, the Alliance party and the UUP seem intent on trying to take over the Bill — which is, clearly, designed to tackling poverty, social exclusion and deprivation, providing much-needed assistance —

1.45pm

**Mr Ford:** On a point of order, Mr Speaker. Could you ascertain, Mr Speaker, whether it is in order for a Member to make statements about the position of another party when that party has not contributed to this portion of the debate, and when the Member is not willing to accept an intervention to clarify that point?

**Some Members:** Hear, hear.

**Mr Speaker:** I am sure that the Member will be quite able to defend his party and himself at this or future debates. I have to say again, to all sides of the House, that Members should not persist in interventions. It is up to the Member who has the Floor whether he or she wants to take that intervention. Members should not persist. *[Interruption.]* Order, Members should not persist.

**Ms Anderson:** Go raibh maith agat, a Cheann Comhairle. Maybe they understand that now.

Those parties seem intent on trying to take over the Bill — which is, clearly, designed to tackle poverty, social exclusion and deprivation, providing much-needed assistance to our people — in order to pursue their own narrow political agendas of opposing Sinn Féin on the one hand and the DUP on the other.

Yesterday’s men and women are still recovering from the shock that the people relegated them to third and fourth place. Today’s men and women have moved on to build a better society, and we are doing so without you. The vast majority of the people are standing with us because they want a new and better society for all.

**Mr Speaker:** I ask the Member to speak to the amendments.

**Ms Anderson:** Just as the people could see, at the last election, who will be delivering for them, I am confident that the people of the North will see this wreckers’ charter for what it is.

**Mr Speaker:** I must insist that the Member speaks directly to the amendments.

**Ms Anderson:** For that reason, I will oppose emotions *[Laughter.]* — this motion — and I oppose amendments —

**The Speaker:** Order.

**Ms Anderson:** I oppose amendment No 4 to amendment No 11. Go raibh maith agat.

**Mrs D Kelly:** Follow that.

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



**Mrs D Kelly:** Of course.

**Dr Farry:** I am grateful to the Member for giving way. This is an important debate. Does the Member agree that it is the convention in other Parliaments around the world — and I appreciate that we are an immature democracy, but trying to learn — that there is a proper give and take in debate with regard to interventions?

**Mrs D Kelly:** Of course, I completely endorse what Dr Farry has said. As a matter of curiosity, however, and it may be helpful for Dr Farry to know, that although Ms Anderson does not take interventions here, she prints on the Sinn Féin website something that one is alleged to have said. That is how they reply, as I have found to be the case.

With regard to the amendments, clause 2 of the Bill is entirely unnecessary, and it is a false pretence to include it in a financial assistance Bill. It is, and remains, a power grab by Sinn Féin and the DUP. In her contribution, Ms Anderson said that they have moved on, and the voluntary coalition that exists between Sinn Féin and the DUP is how this society will be governed. She suggested, rather erroneously, that our party's Minister had failed in her ability to deliver. I believe that the record shows that Ms Ritchie, as the sole SDLP Minister of the Executive, has delivered despite the fact that Sinn Féin and the DUP took £30 million off the social development budget.

**Mr Molloy:** On a point of order, Mr Speaker. Should not the Member also speak to the Bill?

**Mr Speaker:** I have warned all sides of the House, and I am prepared to give Members some latitude when they are speaking to the amendments, but, really, some Members are almost stretching it to a point. I remind Members: please, as far as possible, try to speak to the business that is on the Floor at this moment, and that business is amendments to the Financial Assistance Bill.

**Mrs D Kelly:** Thank you, Mr Speaker, but I was merely responding to some of the accusations that Ms Anderson made. It was Ms Anderson who let the cat out of the bag when she said that the Bill was going to be a "significant sea change".

Clause 2 does have the potential to bring about a significant sea change. None of the parties are opposed to the Bill in its entirety, they do not want to see any delay, nor indeed, are they causing any such delay.

Unfortunately, Mr Shannon has left, but in answer to his question, the legislative process has not been delayed by one day. It is a matter of public record that the Committee for the Office of the First Minister and deputy First Minister agreed to the accelerated passage of the Bill. It is entirely untrue and unfair to give the impression that a delay has been caused by any of the

other parties in their attempts to make a bad piece of legislation better.

Ms Anderson suggested that clause 2 is aimed at addressing capability gaps. Surely, if there are capability gaps in the Programme for Government, or indeed, in the Budget, an annual Budget review would identify those gaps within each Department. Legislation enabling a power grab by the First Minister and deputy First Minister is, therefore, not required.

Proposed amendment Nos 4 to 11, which we support, attempt to try to ensure that the Executive remains at the heart of Government. Proposed amendment No 4 stipulates that power should not simply be confined to the First Minister and the deputy First Minister, but that the agreement of the Executive Committee is required. In an interview, Mr Molloy said that Sinn Féin and the DUP would have the majority vote in the Executive, and, as Ms Anderson pointed out, that is obviously the case as we move towards a new future which is Sinn Féin and DUP controlled.

It is entirely erroneous to suggest, as Mr Shannon did, that clause 2 is designed to help the people of the Province in their time of need. It is not about that at all; we all know that it is about directing money to areas where there is poverty, social exclusion and deprivation. Mr Kelly informed the House that the First Minister and the deputy First Minister would bring forward legislation by November 2008; surely their failure to do that constitutes a capability gap in the building of a better and more inclusive society.

I note that in the Committee for the Office of the First Minister and deputy First Minister, Sinn Féin and the DUP now accept the findings of the Lifetime Opportunities strategy, something which they have bad-mouthed on a regular and routine basis over the past couple of years because it was created under direct rule. If clause 2 is to deal, in some way, with social exclusion, deprivation and poverty, one wonders why Sinn Féin and the DUP were not doing what they were supposed to do, and why, 18 months into a new Administration, none of those strategies have been produced. For example, many Members will accept that the victims and survivors of the conflict are often disadvantaged — through the loss of the main wage earner and so on — and yet there is further procrastination in bringing forward the strategy for victims and survivors. Although that strategy is now being put out to consultation, albeit on a limited basis, no precise dates have been given.

**Mr Speaker:** Order. I must once again remind the Member to try, as far as possible, to keep her remarks to the amendments that are being discussed.

**Mrs D Kelly:** Thank you, Mr Speaker. I want to finish my last remarks by saying that a capability gap



exists within the Office of the First Minister and deputy First Minister.

Ms Anderson, and others, asked why amendment No 8 seeks to remove “6 months” from clause 2 and insert “3 months”. The purpose of the legislation is to respond quickly to emergency situations. One would have to ask whether it is really an emergency if six months is the length of time that it takes to act. Therefore, it is an attempt to improve the Bill, and to put it on the footing that the DUP and Sinn Féin have suggested that it already is. To a certain extent, we accept their rationale, but we want to improve upon it.

Proposed amendment No 10 concerns determining where the budget will come from, and relates to clause 1 in which an attempt is made to identify the money prior to any scheme being initiated. Proposed amendment No 11 is aimed at ensuring that all Members of the Assembly and the Committees have the opportunity to scrutinise the outworkings of any scheme under this initiative. Other parties will do well to remember that majorities can be created in all shapes and forms.

During his contribution to the debate on the Bill’s Consideration Stage, the First Minister suggested that it could determine who has responsibility for preschool-aged children, which could, clearly, fall upon the Minister of Education, Caitríona Ruane. That may well be an area in which the scheme might be used and action taken.

The SDLP takes its responsibilities of scrutiny and public accountability seriously. It does not sell itself out nor do deals behind closed doors for its own party-political advantage. It works for the greater good of the community.

**Mrs Long:** I rise to give the Alliance Party’s position on the second group of amendments. I will preface my party’s response to those amendments by reiterating its stance on two particular matters.

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

The First Minister refers continually to his frustration that my party does not listen to him. Mr Moutray also expressed his concern. It may be news to Members on the DUP Benches that, unlike them, the rest of the House can still exercise its right to hear what the First Minister says and not agree with him. However frustrating or novel that concept might be for them, to hear is not to obey. It is worth putting on record that the Assembly has free thought and speech: long may that continue.

The other issue is the differences between parties’ positions on clauses 1 and 2. The Alliance Party’s position on clause 2 is quite different to those of the Ulster Unionist Party and the SDLP. Had Ms Anderson conceded the politeness and courtesy of giving way, her misapprehension that the Alliance Party supports

all of the amendments in the second group could have been corrected. Clearly, however, Ms Anderson does not believe that she needs correction on any matter.

Clause 2 deals with a cross-cutting theme for which OFMDFM already has direct departmental responsibility. The policy drivers for tackling poverty, social exclusion and patterns of deprivation already exist in OFMDFM. That is its specific duty. Therefore, my party does not consider clause 2 to be a power grab, but rather an attempt to deal with the failure of all Departments to co-ordinate on the delivery of a cohesive agenda.

During the past few weeks, I have acknowledged repeatedly, both in the Committee and in debates in the Chamber, that there are major difficulties in delivery with regard to those issues because functional responsibility often rests with other Departments or multiple Departments, which leads to tensions between them on issues, such as those to which Mrs Kelly referred — childcare for school-aged children, for example. That gives rise to significant problems.

Martina Anderson rightly referred to the fact that the matter was discussed by the Committee and that it recommended that it should be highlighted. However, she failed to understand or convey the subtlety of that discussion. It is quite right that the Committee recognised the potential need for financial levers for the delivery of considered cross-cutting themes. However, it did not agree that clause 2 was the right mechanism by which to do that.

In fact, junior Minister Donaldson and junior Minister Kelly tried repeatedly to convince the Committee that no additional levers are required and that the status quo is sufficient. The Committee was not convinced. Subsequently, it stated in its report that those levers might be necessary. I recognise the need for OFMDFM controls of those cross-cutting themes. My query is whether they might also be needed for many other cross-cutting themes — community relations, equality and sustainability, for example.

My party’s consistent position is that clause 2 is not unsound in principle. It welcomes the fact that the First Minister and the deputy First Minister have attempted to tackle that capacity gap. However, it wants to ensure that the entire range of cross-cutting themes is considered fully for inclusion in such a clause and that the entire range of potential levers that can be exerted by OFMDFM and other Departments is considered. That is why my party called for that particular clause to be taken back and be subject to a full Committee Stage.

That is a subtle difference in the positions of the different parties.

2.00 pm

I will now speak about the amendments in group 2. Amendment No 4 is largely a repetition of last week’s

debate, and the point has already been made. We have no principled objection to amendment No 4, and we have already put on record our position that the Executive should act jointly. However, in the context of what has already been debated at Consideration Stage, we are not sure that amendment No 4 adds anything of substance. At Consideration Stage, my main concern was that those Ministers whose parties do not form a majority in the Executive would have precious little protection. The insertion of “Executive” into the Bill does not give those Ministers any additional protection; that is unfortunate, but it is fact.

We are not in favour of amendment No 5. We have recognised that OFMDFM already has a responsibility for cross-cutting themes, so we do not accept that exceptional circumstances must be proven for OFMDFM to be able to act on issues of social exclusion, deprivation and patterns of need. Indeed, that would be a reduction in the powers held by OFMDFM.

**Mr O’Loan:** I seek clarification from the Member. There ought to be a proper process in which an annual Budget is driven by a Programme for Government, and that Programme for Government should be revised and produced annually as a new document. The Programme for Government is the responsibility of OFMDFM in consultation with all other departmental Ministers. Given all that, what circumstance exists that could not be called exceptional, other than the annual Programme for Government? Does the Member not have concerns that a rejection of amendment No 5 would be an opportunity for parties in OFMDFM to act on matters that are not exceptional and that ought to be properly dealt with in the Programme for Government?

**Mrs Long:** The difficulty with the Member’s proposition is his statement of where these things ought to be rightly dealt with. Social exclusion, deprivation, poverty, and so on ought to be rightly dealt with by OFMDFM; that is the current situation. The issue with the Programme for Government is that, when Ministers sign off on the Budget and the Programme for Government and are not supported by their parties, or when Ministers sign off on an overall Programme for Government but do not give sufficient budgetary priority to its cross-cutting themes, there can be problems that are not tackled.

One example of that is poverty and social exclusion. It is already a priority for the Executive, but that has not led to the Health Minister and the Education Minister coming together and making a decision on who will provide school-age childcare. If OFMDFM intervention is required to make that happen, frankly, so be it. That is exactly the kind of circumstance that is not unforeseen but that needs to be tackled. It is also a valid circumstance where OFMDFM — in order to meet its departmental responsibilities — needs to have some way of making other parties in Government

work together to achieve objectives, if they have chosen not to do that.

I do not believe that there is a need for exceptional circumstance to be proved, therefore, because that would represent a reduction in OFMDFM’s current responsibilities. Furthermore, in the preface to my detailed consideration of the amendments, I acknowledged that there are flaws in the current arrangements with regard to cross-cutting issues, so I do not support amendment No 5.

The insertion of “unforeseen” in amendment No 6 is a change of the circumstances. We must accept that OFMDFM has a responsibility for tackling the issues that are referred to in clause 2. Those issues do not have to be unforeseen or exceptional for OFMDFM to act on them. Indeed, to the contrary, OFMDFM should be tackling those issues as a matter of routine. It would have been better if we had been able to write into the Bill that OFMDFM would act in direct co-operation with the individual Ministers whose Departments are affected.

The Alliance Party moved that amendment last week, but it was not supported. Acceptance of that amendment would have led to better collaboration and an enhanced Bill. Amendment No 6 does not go any way towards achieving that end and simply removes some responsibility from OFMDFM.

Amendment No 7 aims to delete the phrase “for any other reason unsatisfactory” from clause 2(1)(b). I understand and sympathise with the motivation for the amendment, but the Alliance Party and I are unsure about supporting it for two reasons. There may be reasons, other than those that are stated in the Bill, why mechanisms are unsatisfactory. The Bill states that those reasons should be ineffective or inadequate. I highlighted that matter in my response to Mr O’Loan’s intervention. For example, an individual Department with responsibility for delivering on a particular issue might not give that issue as high a priority as OFMDFM considers necessary. There might be circumstances where such issues are not prioritised. For example, issues such as school-age childcare and acute care might compete for attention in the health budget, and huge tensions could arise about which matter is more important. OFMDFM might have a particular view on that situation, and, therefore, it is important to recognise that unspecified circumstances might arise.

My second reason for having reservations about the amendment is that it is, essentially, negated by clause 4(5), which states:

“Financial assistance may be provided under this Act even though other powers to provide financial assistance exist.”

Therefore, clause 4(5) completely undercuts any attempt to ensure that the provision applies in exceptional circumstances only. Unless clause 4(5) is deleted, the amendment will not have any effect on the

provisions of the Bill. However, the Alliance Party is sympathetic to the motivation of the Members who tabled the amendment.

The Alliance Party opposes amendment No 8. Last week, we highlighted the material difference between the urgency of the measures outlined in clause 1 and clause 2. Clause 1 deals with exceptional circumstances in which an immediate response is required, whereas clause 2 deals with a different, less immediate set of circumstances. The First Minister and deputy First Minister conveyed that message previously. Therefore, regulations could, reasonably, be made and a scheme could be brought to the House within three months.

If the circumstances are exceptional and urgent intervention is necessary, three months seems to be a reasonable time period. However, the wording of clause 2 does not require it to be an emergency, and, therefore, six months seems to be a reasonable period. Six months could permit more complete consideration of measures and could, perhaps, lead to more robust and considered mechanisms than would be created in emergency circumstances.

**Mr Elliott:** I thank the Member for giving way. Does she accept that the issues provided for in clause 2 could be recurring, and that the Assembly might have to deal with them on several occasions during its lifetime?

**Mrs Long:** Yes. However, that does not affect my argument. If six months are available in which to address the issue, regulations will, potentially, be more robust and considered than those that have been established within three months, as would be the case in an emergency. However, no one wants to treat every incident as an emergency, because that would lead to poorly considered action.

**Mrs D Kelly:** Could it not be argued that clause 2 should be omitted from the Bill? That would allow a six-month consultation period under accelerated passage.

Is it also the case that many schemes cannot be introduced because of the failure of the First Minister and deputy First Minister to agree the financial situation — for example, the delivery and implementation of the Peace III fund?

**Mrs Long:** To some degree, the Member is reading my mind, because during last week's debate, I made a point about clause 2 being omitted, but the time for that argument has passed. I stated then that it would be appropriate for fuller consideration to be given to the issue. Clause 2 is more substantive and complex than clause 1, and accelerated passage is an action taken in haste that will be repented at leisure — but we are where we are. However, it is a very flawed argument to then say that because of that precedent, everything should be done in haste. I would rather that six months

were available to consider the regulations that are established under clause 2, as I am on record as saying that I would rather have had a proper Committee Stage to consider clause 2 in its entirety.

I have no principled objection to amendment No 9, which states that the relevant Department will notify the appropriate Committee of any designation; however, given that that will happen in any case, I am not sure what the amendment adds to the Bill. It does not particularly concern me, because the motivation behind the amendment is quite reasonable. Implicit in the amendment is the assumption that only one Department will be involved in the delivery of cross-cutting themes. That is quite flawed: two, three, four or even more Departments could be involved in the delivery of cross-cutting themes. One Department or a number of Departments could be involved, which is not made fully clear in the amendment.

As with amendment No 2, the Alliance Party understands the principle of amendment No 10, and some clarification has been provided on the wording. However, I want to put on record that the wording of the amendment is ambiguous. It mentions two Departments, stating:

“Regulations made under this section, if made by a department other than the Department of Finance and Personnel, require the approval of that department.”

The amendment is ambiguous about the Department to which it refers — the Department making the regulations or the Department of Finance and Personnel. I accept Mrs Kelly's and Mr O'Loan's reassurances that the Assembly Bill Office is content that that refers to the Department of Finance and Personnel.

One particular issue that relates to amendment No 10 does not apply to amendment No 2. Amendment No 2 deals with largely unforeseen and exceptional circumstances in which it is likely that additional moneys that have not been budgeted for would have to be taken into a central fund and used for emergency circumstances, whether through a monitoring round or another mechanism. It is implicit in clause 2 that the issue concerns how money is organised within existing budgets. Therefore, I am not sure that the argument for consulting DFP with regard to clause 2 is as strong as the argument for consulting DFP with regard to clause 1. However, I have no strong objection to the amendment, other than having an issue with the ambiguity of the wording.

The Alliance Party is content with amendment No 11 and has no difficulty with it in principle. However — not surprisingly — the party believes that amendment No 13 handles the issue of reporting back to the House more effectively, because more than one Department could be involved, and reporting directly to the Assembly in that circumstance is a much better way to ensure that all Members are apprised of the full extent



of activity under the Bill. There would be nothing to preclude a Committee from calling for a report from the relevant Department about the detailed contribution that that Department is making under any scheme, but an annual report to the Assembly — which could subsequently trigger those reports — would be a more coherent way to handle that reporting rather than each Department producing separate reports. I suspect that it would also be a more comprehensive report for Members, who may have concerns that what is presented to their Committee does not give them the full flavour of what is being done under the powers of the Bill.

I hope that it is now clear where the Alliance Party stands on the amendments and the reasoning behind that position. The party will not support amendment Nos 5 to 8, and it queries how the remainder of the amendments will make a difference to the operation of the Bill.

2.15 pm

**Mr I McCrea:** I oppose amendment Nos 4, 5, 6 and 7. It is regrettable that we are, once again, considering amendments that fail to offer any positive contributions to the Bill.

Amendment No 4 would require the Executive Committee to agree to any determination under clause 2 by the First Minister and the deputy First Minister. However, that amendment is not required as such agreement is already required under the current ministerial code. To make things more specific to the Bill, a draft amendment to the ministerial code has been proposed. Executive approval has been gained, but that amendment will be subject to the approval of the Assembly once the Financial Assistance Bill has been enacted. Therefore, amendment No 4 is unnecessary and should not be supported.

I welcome the fact that the Alliance Party has listened to the First Minister and now considers his views as the rest of us do. Amendment No 5 would result in an additional requirement that would restrict clause 2 to exceptional circumstances. As a result, the clause would become a more restrictive version of clause 1. It would also prevent the Bill from being of any benefit in tackling poverty situations that are not considered to arise from exceptional circumstances.

**Mrs D Kelly:** I thank the Member for giving way, which is something of a breakthrough for Members — with the exception of Jim Shannon — on some Benches. Will the Member outline when he thinks that poverty, social exclusion and deprivation will not be features of our society and why the clause would not apply to exceptional circumstances? Surely the Executive and the Assembly have a role to tackle those issues on an ongoing, routine and daily basis?

**Mr I McCrea:** The Member knows that the role of the Committee for the Office of the First Minister and deputy First Minister is to scrutinise any functions of that office. I will know exceptional circumstances when they occur. *[Laughter.]*

If the Member does not know exceptional circumstances, I am sure that her constituents will be the first to tell her.

Amendment No 6 would result in an additional requirement, which would add a further restriction to clause 2 by limiting the exercise of powers to situations that are considered to be unforeseen. The purpose of clause 2 is to allow action to be taken to tackle poverty when current funding arrangements are unsatisfactory. However, that may still be necessary in situations that are not considered to be unforeseen.

Amendment No 7 has the potential to restrict the ability to take action to tackle poverty under clause 2 by removing “for any other reason unsatisfactory” from the list of grounds for intervening — even when the arrangements that are in place to provide financial assistance are unsatisfactory. It is important to retain the widest possible powers to intervene when existing arrangements for tackling poverty are unsatisfactory; they simply cannot be cut.

The amendments in group 2 demonstrate that some people in this House are intent on playing politics with poverty. That is why there is no substance in any of those amendments, and I call on the House to reject them.

**Mr Deputy Speaker:** Order. As Question Time will commence at 2.30 pm, I suggest that the House takes its ease until that time. This debate will continue after Question Time, when the next Member to speak will be the deputy First Minister.



2.30 pm

(*Mr Speaker in the Chair*)

## Oral Answers to Questions

**Mr Speaker:** I remind Members that if they wish to ask a supplementary question, they must rise in their place; otherwise, they will not be called. Even those Members whose names are on the list that I have at the Table must rise in their place.

### OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER

#### Review of the British-Irish Council

1. **Mr Attwood** asked the Office of the First Minister and deputy First Minister to report on the review of the British-Irish Council. (AQO 1860/09)

**The deputy First Minister:** In July 2007, at a summit meeting in Belfast, Ministers tasked the secretariat of the British-Irish Council (BIC), in consultation with member Administrations, to undertake a strategic review of the Council. The review's aim was to ensure that the Council operate in the most efficient and effective manner in delivering its work programmes, working methods and support arrangements, including those for a standing secretariat. Ministers considered interim reports from the summit meetings in Dublin and Edinburgh that were held in February 2008 and September 2008 respectively.

Those reports were informed by papers prepared by the secretariat and the participating Administrations, and focused on three main strands: support arrangements, work programmes, and working methods. The strategic review of the BIC is likely to feature on the agenda for the forthcoming summit in Cardiff. A statement to update Members on the outcome of discussions will be made to the Assembly after that meeting.

**Mr Attwood:** I thank the deputy First Minister for his answer, and I look forward to reading the report.

I refer the deputy First Minister to the Hansard report of 21 October 2008, when the First Minister said:

“east-west relationships must catch up with the existing North/South structures ... the east-west relationships are catching up.”  
— [*Official Report, Bound Volume 34, p162, col 1*].

Is the deputy First Minister not concerned that implicit in that statement is the danger that, as east-west relationships catch up, North/South relationships slow down? Given the ongoing review of the BIC, is he not

concerned that at the same time as all that work on east-west arrangements is ongoing, those responsible for the review of the further expansion of North/South implementation and co-operation have not spent even one day considering how to expand North/South arrangements? Does that not give rise to deep concern about what is really happening?

**The deputy First Minister:** I am concerned only with the proper outworking of the institutions that were established under the Good Friday Agreement and the St Andrews Agreement. Officials from the BIC are working flat out to ensure that the examination and review of all those institutions is conducted in a manner that will result in their working effectively for all the people whom we represent. Many Governments are involved in the British-Irish Council.

Similarly, I want the good work that the North/South Ministerial Council (NSMC) does to continue. The First Minister and I, accompanied by eight additional Ministers, attended the meeting of the North/South Ministerial Council in Derry last Friday. We were keen to meet the Taoiseach and 12 of his Ministers who came from Dublin to attend. The responsibility for conducting the reviews of the BIC and the North/South Ministerial Council has been given to officials.

It is important that we who are in Government ensure that the outcome of those reviews is that the institutions work effectively in the interests of all the people whom we represent. It is not a matter of there being a competition between east-west and North/South; rather, it is about ensuring that officials and Ministers in those two important institutions carry out their responsibilities for the benefit of everyone.

**Mr Molloy:** Will the deputy First Minister outline the timetable for the review of the meetings of the North/South Ministerial Council, as provided for in the St Andrews Agreement?

**The deputy First Minister:** The provision in the St Andrews Agreement is for a review group to report its recommendations to the North/South Ministerial Council. The group's remit was to examine objectively the efficiency and value for money of existing implementation bodies, and the case for additional bodies and areas of co-operation in the NSMC from which mutual benefit would be derived. It was also tasked with having an input into the work on the identification of a suitable substitute for the Loughs Agency of the Foyle, Carlingford and Irish Lights Commission.

The review group consists of senior officials and an advisory panel of four expert advisers; two appointed by the Executive and two appointed by the Irish Government.

At its plenary meeting last week, the NSMC welcomed progress by the review group and noted that the expert advisers have completed their report on the

efficiency and value for money of the existing implementation bodies and Tourism Ireland. The NSMC has requested that the review group, in consultation with the relevant sponsor Departments and Ministers, consider the recommendations made by the expert advisers and submit a report to the next NSMC plenary meeting. The NSMC requested the review group to complete work on its remaining terms of reference and to submit proposals to an NSMC plenary meeting before the end of this year.

**Mr McCausland:** The British-Irish Council is important in that it brings together the constituent parts of the British Isles and is, therefore, something that we support. One of the failures of the Belfast Agreement was that it did not give sufficient emphasis to the British-Irish Council. With reference to the deputy First Minister's statement that a report will be forthcoming at the next meeting in Cardiff, will he tell us the date of that meeting and how soon afterwards we might be able to see the recommendations being implemented?

**The deputy First Minister:** I do not have the exact date, but I believe that it will take place in February.

**Mr Speaker:** Question 2 has been withdrawn.

### Meetings with the Energy Sector and Regulator

3. **Mr Cree** asked the Office of the First Minister and deputy First Minister what have been the practical outcomes of the meetings which took place in September 2008 between the First Minister and deputy First Minister and the energy sector and regulator.

(AQO 1862/09)

**The deputy First Minister:** The First Minister and I had informative meetings with representatives of the energy sector and the Utilities Regulator as part of a series of cost-of-living meetings held with stakeholder groups, including the banks, the construction industry, the social and voluntary sectors, business groups and trade unions during the autumn and the early part of the winter last year to gather information on the impact of the economic downturn on local, social and economic interests.

The meetings with the energy sector also helped us to gain a better understanding of the local energy market and the regulation process, and informed us of what actions we, as First Minister and deputy First Minister, could take to help local householders and businesses to deal with increasing energy costs. The meetings also gave a clear signal of the importance that we attach to ensuring that local energy prices are fairly and transparently set in accordance with the current legislative and regulatory framework.

Energy costs are a significant element of local households' budgets, and are a particular challenge for the most disadvantaged households. In recognition of that, the Executive announced in December their intention to provide £150 to support the most vulnerable households. We have also moved to put in place the Financial Assistance Bill, which will enable us to act quickly.

The Department of Enterprise, Trade and Investment (DETI) has primary responsibility for energy policy. Our meetings reinforced and supported the review of last year's price rises called for by the Minister for Enterprise, Trade and Investment. We welcomed the correction of prices announced by the Utility Regulator on 15 December, and we plan further meetings with some of the energy companies to explore further how they can contribute to easing the burden of energy costs on local consumers and businesses.

**Mr Cree:** I thank the deputy First Minister for his comprehensive reply. What plans does OFMDFM have to reduce Northern Ireland's dependence on one energy source for electricity generation, bearing in mind the emerging gas cartel?

**The deputy First Minister:** We are all challenged by the difficulties that have arisen recently. Those challenges and difficulties affect not only us in this part of the world, but most Governments in western Europe. We face real challenges. Many Departments, including the Department for Enterprise, Trade and Investment, are facing up to the problem of how they can put processes in place that will lessen our dependency on some delivery mechanisms. Recent events, such as the economic downturn and fluctuating prices in gas and fuel, represent real challenges for us as we move forward.

Everybody in Government — the Departments, the Executive as a whole, and, I believe, in the Assembly — is continually focusing attention on how we can ensure that we put in place sustainable mechanisms to enable us to become less dependent on a fuel supply that all sorts of factors can affect. Such situations can include different wars in different parts of the world to whatever whim a particular Government have to increase prices. For example, we witnessed the recent difficulty between Russia and the Ukraine and how that can affect not only their relationship but everyone in western Europe.

**Mr Hamilton:** An essential element of our energy future is the security of our supply, and I know that the British-Irish Council has added a work stream on energy. Can the deputy First Minister tell the House what efforts have been made through the British-Irish Council to achieve a goal of better grid connectivity, which has been outlined in our investment strategy?

**The deputy First Minister:** At the British-Irish Council meetings, very serious discussions were held on the economic downturn and on the fact that we are absolutely dependent on fuel for energy. To deal with the problems associated with recent rises in energy prices, the Executive have given £15 million to help the most vulnerable people, who are most affected by fuel poverty, and that means that more than 100,000 households on pension credit and income support will receive £150.

Some £21 million is already committed to the warm homes scheme. DETI will work with the regulator's office to explore whether scope is available for regulatory action to be taken for those living in fuel poverty, taking account of the interests of all energy customers, including businesses. The Housing Executive is investigating the potential for its acting as a broker to procure discounted energy for its tenants.

From our perspective, we are moving forward. As many Members will know, DETI published an energy-strategy document in 2004, titled the 'Strategic Energy Framework'. After a review of that framework last year, and in light of the change in world focus towards tackling the threat of climate change as well as addressing concerns around security of supply and economic development, DETI secured the agreement of the Committee for Enterprise, Trade and Investment that a new energy framework should be developed.

As a first step in the process, DETI undertook a scoping consultation, which was aimed at engaging the key energy stakeholders and garnering their views on our energy future over the next 10 years. The consultation officially closed on 8 January 2009. Feedback from the scoping paper and a number of energy-related workshops, engagement with other key Departments and the recent independent review of the energy price-setting process will inform, develop and shape a revised strategic energy framework for 2009. The draft framework will be brought before the Committee and the Executive for approval, before it is issued for full public consultation, probably in the spring.

The challenges that the economic downturn and energy issues pose exercised all the Governments represented at the British-Irish Council meeting. Given the way in which the economic fortunes of all those Governments have changed over the past number of months — indeed, over the past 12 months — it is incumbent on all of us to work in a spirit of co-operation in order to ensure that we can meet the challenges of energy delivery and security.

**Mrs McGill:** Go raibh maith agat, a Cheann Comhairle. Mr Speaker, I apologise for arriving late to Question Time, and I also apologise to the deputy First Minister.

My question is connected to the rise in fuel prices. What can the Executive do to monitor or review the current regulatory energy framework? Are there any proposals to review the regulatory system?

**The deputy First Minister:** The relevant legislation is the Energy Order 2003 and the Electricity Order 1992, which govern the behaviour of the energy companies that operate under licences provided by that legislation.

2.45 pm

The licence will specify, among other things, the allowed profit levels of price-regulated companies and the extent of costs that can be passed back to consumers in prices. The energy regulator's role is to check that companies are operating and setting prices in accordance with the terms of their licences.

The Department of Enterprise, Trade and Investment is undertaking consultation on a long-term strategic energy framework that will consider how to reduce energy costs, build competitive and sustainable energy markets, and increase use of renewable energy. That new framework will also consider changes to the regulatory energy framework recommended in the recent energy price review.

## Safeguarding Children

4. **Ms S Ramsey** asked the Office of the First Minister and deputy First Minister for an update on the Executive's position on safeguarding children.  
(AQO 1863/09)

**The deputy First Minister:** Child protection and safeguarding children is a key priority for us all. Last year, we re-established the Bichard co-ordination group, which is overseeing the implementation of the Bichard recommendations here, particularly the establishment of the safeguarding vulnerable groups scheme.

OFMDFM has co-ordinated a cross-departmental safeguarding policy statement that binds and integrates existing measures on safeguarding children with new actions and policies. The junior Ministers will discuss that issue with the Committee for the Office of the First Minister and deputy First Minister this week, and it is due to be considered by the Executive next month. In addition, the ministerial subcommittee on children and young people has identified safeguarding as a key priority. A cross-departmental subgroup led by the Department of Health, Social Services and Public Safety has developed work that is focused, in the short term, on the Byron Review into Internet Safety. The Minister of Health, Social Services and Public Safety sits on the British Council for Child Internet Safety, and officials from several Departments will be involved in the council's working groups.



The junior Ministers met NIO Minister Paul Goggins late last year to discuss how to improve the management of sex offenders who prey on the young and vulnerable on both sides of the border. The Minister of Health, Social Services and Public Safety is making progress on cross-border child protection measures, which is also a live issue for the North/South Ministerial Council. Indeed, it was discussed at its meeting last Friday.

**Ms S Ramsey:** Go raibh maith agat, a Cheann Comhairle. I thank the deputy First Minister for his answer. I am pleased that the issue of child protection was on the agenda at the latest North/South Ministerial Council meeting. Given the recent case reported in the media about predators — for whom there can be no hiding place — will the Minister confirm that the Minister of Health, Social Services and Public Safety attended the North/South Ministerial Council meeting and addressed it on this topic, and outline any issues that he proposes to bring forward?

**The deputy First Minister:** Child protection was discussed at the North/South Ministerial Council meeting. Unfortunately, the Minister of Health, Social Services and Public Safety was not able to attend.

**Mr K Robinson:** I thank the deputy First Minister for his answer. However, can he say whether any of the Executive's child-safety programmes have been, or are likely to be, delayed by the now-admitted £1 million black hole in the Budget?

**The deputy First Minister:** I take issue with the Member's last comment. Quite clearly, important targets are in place. Ministers, in particular junior Ministers in the Executive, are working hard to ensure that children are protected in the way that they deserve to be protected. From our perspective, it is very important to move forward in a way that will see all children protected. The ministerial subcommittee on children and young people was established in January 2008, and is chaired by the junior Ministers. The subcommittee has identified six key priorities, and established cross-departmental subgroups to develop those issues.

A holistic approach is being taken to child poverty that involves a comprehensive early-years strategy that focuses on the development and well-being of each child, including affordable access to high-quality early years provision for families in urban and rural areas of disadvantage and poverty, and provision for vulnerable young people, including those in care settings, those engaged in antisocial behaviour, and those in contact with the criminal justice system.

Other key areas include the promotion of good mental health and early intervention in addressing mental-health issues as they arise; providing care for children with autism, learning, physical and sensory disabilities,

including respite and community provision; safeguarding, including support for parents, families and carers; provision for children with special educational needs in mainstream and special schools, including transition to adulthood and the provision of appropriate health and social care intervention; and the provision of school buses, road-safety and transport issues.

The subgroups identified a small number of key priorities on which to focus, and they will report back at the next meeting of the ministerial subcommittee. It has also been recognised that childcare is an immediate priority, and an additional subgroup, which is linked to the subgroup on child poverty, is focusing specifically on that cross-cutting theme. Therefore, much work is being done, and we are determined to ensure that we meet the needs of our young people.

**Mrs D Kelly:** Has the Office of the First Minister and deputy First Minister carried out any analysis of the impact that ending Executive funds for children and young people would have? How does he intend to co-ordinate with the NIO on reserved and excepted matters on safeguarding children?

**The deputy First Minister:** The Executive have made it clear that we believe that all Departments have a responsibility for providing on the issues that the Member outlined. We have placed responsibility on all Departments to ensure that there is delivery on those important issues. I think that that is the sensible way to proceed. However, we all recognise that particular challenges affect young people and that we are duty-bound at all stages of our processes to review continually how we meet the needs of our young people.

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

## Global Economic Downturn

6. **Dr Farry** To ask the Office of the First Minister and deputy First Minister what consideration it has given to revising the Programme for Government in light of the global economic downturn.

(AQO 1865/09)

**The deputy First Minister:** The Executive are committed to the ongoing review of the Programme for Government so that we may take account of changing circumstances and to ensure that we are focused clearly on addressing key challenges. Indeed, the measures that we announced on 15 December 2008 to address the economic downturn are very much part of the ongoing review of our priorities and targets.

From the outset of the Programme for Government, we made the economy our top priority. That was underpinned by our commitment to target resources and efforts towards those with the greatest objective need. Although the economic context has changed

remarkably over the past year, that prioritisation and focus has become ever more relevant and valid — it will be much more challenging for the Executive to deliver on what were always ambitious targets. However, during these difficult times, it is more important than ever that we provide clear leadership and that we work together to deliver on the commitments in our Programme for Government.

The welfare of local people is our primary concern. The Executive are committed to doing all that they can to tackle disadvantage and inequality and to support and protect local people and businesses from the worst effects of the current economic downturn. We have made the credit crunch a standing item of Executive business, and we introduced the Financial Assistance Bill, which will enable us to react quickly to emerging problems.

Addressing the economic downturn is the top priority of all the institutions. It was discussed at the plenary session of the North/South Ministerial Council last Friday, and the First Minister and I will raise it at the upcoming meeting of the British-Irish Council. In addition, the First Minister and I have written to Gordon Brown seeking an urgent meeting to press the case that local depositors in the Presbyterian Mutual Society be protected from the consequences of the society's current financial difficulties. We also plan to meet the Secretary of State for Business, Enterprise and Regulatory Reform, Peter Mandelson, in the coming weeks to ensure that local businesses receive every possible assistance to weather the economic storm.

Today's news of redundancies at the Ulster Bank and NACCO Materials Handling Group in Craigavon further underlines the local impact of the global conditions. Our thoughts are with all the workers — and their families — who are affected by those announcements. Rest assured that the Executive will do everything in their power to help those who face unemployment and to help our economy to withstand the difficult current economic conditions.

**Dr Farry:** I thank the deputy First Minister for his answer. Has he studied the responses of Governments elsewhere on these islands and further afield? For example, the new deal announced by the Obama Administration covers issues such as social housing and investment in energy efficiency and renewables. Does he share the assessment of many that the scale of the response in Northern Ireland pales into insignificance when compared with that of other Governments? Does he also share the concern that we are being left behind because of the Executive's inability to respond sufficiently?

**The deputy First Minister:** I do not accept that we are being left behind. We all recognise that there is a very challenging situation worldwide. Indeed, many

other Governments are struggling in much worse circumstances than ours. A new American President has just come into office, and many people throughout the Western World will be very interested to see whether the initiatives that he takes to address the dire economic situation in the United States will have a stabilising effect on the economy there, and also, by extension, on economies in the Western World. Therefore, there are many difficulties and challenges. Like other Administrations, the Executive are continually facing those challenges and taking important decisions to try to weather the very difficult economic storm.

We cannot lose our nerve. A key word that is constantly used is "confidence"; if we simply lie down, we will fail the people whom we represent. We must recognise that we are going to face challenging economic circumstances over the next 12 to 18 months, or possibly even longer. It is interesting to note the absolute failure of many people to predict more than a year ago that the situation would be as disastrous as it appears to be. Equally, even in the midst of the difficulties, it appears that there are very few experts out there who can point to how long the difficult situation will last, but I know that it will not last forever — it will pass. In the meantime, we must weather the economic storm.

The Executive have taken important decisions to assist people who are facing problems, but we cannot rest on our laurels. We constantly have to review the situation to see what more we can do, but every Member knows that we are doing that in the context of a very tight fiscal situation, constrained by the Barnett formula. Like other Administrations, we are tied to the allocations that we receive.

When we put together our Programme for Government and our Budget, we did so in the context of trying to ensure that we manage as best we can across a range of Departments. However, within all that, individual challenges present themselves. For example, we, and many others, appear to be facing rising levels of unemployment, and we must see how we can meet those challenges. It will mean constantly reviewing our Programme for Government. However, as we said at the time, it was not written in tablets of stone. We must recognise that we have to meet the needs of people, and we can best do that by working together collectively as an Executive to ensure that we deliver.

**Mr Moutray:** In light of current economic conditions, will the deputy First Minister confirm that the Executive were correct to make the economy their number one priority?

**The deputy First Minister:** We were correct to make the economy our number one driver, because we all know and understand fully that if we are to have an impact on people's standards of living, we must ensure

that we have an economy that is vibrant and that delivers for the people whom we represent.

Even now, in the midst of worldwide economic gloom, it is still important that we, as an Executive, recognise the importance of building the economy in a way that will deliver for the people whom we represent. People are enduring great hardship as a result of rising energy costs, food prices and unemployment levels, so there is a real challenge for us. However, we can put in place programmes and processes that will impact on the difficulties in a way that will be beneficial to the people whom we represent.

**Mr Speaker:** We will now have a quick supplementary question from David Burnside.

3.00 pm

**Mr Burnside:** I will be quicker with my question than the deputy First Minister was with his long-winded statement. The deputy First Minister made only one specific point in his three long-winded answers to the question and the supplementary questions. He referred to the Presbyterian Mutual Society. In their representations to the British Prime Minister, will he and the First Minister, if need be —

**Mr Speaker:** Order. I gave the Member an opportunity to ask only a short supplementary.

**Mr Burnside:** Will he ask the Prime Minister to nationalise the Presbyterian Mutual Society so that the interests of its customers can be looked after?

**Mr Speaker:** Just before the deputy First Minister answers, when I said that I would allow a short supplementary question, I meant a short supplementary question. That is why I gave the Member the opportunity in the first place. The Member may not catch my eye for a supplementary question in future.

**The deputy First Minister:** It is obvious that many people who invested in the Presbyterian Mutual Society are facing a difficult situation. The Executive are sympathetic to their plight at this time, and we believe that Gordon Brown and the British Government must recognise their responsibility to ensure that those people do not incur losses to what, for many, are their life savings.

## ENVIRONMENT

**Mr Speaker:** Question 1 has been withdrawn.

### John Lewis Planning Proposal

2. **Mr Lunn** asked the Minister of the Environment for an update on the John Lewis planning proposal,

considering the comparison between it and the IKEA site at Holywood Exchange in Belfast. (AQO 1881/09)

**The Minister of the Environment (Mr S Wilson):** Given that there is no application from John Lewis for a planning proposal at present, I will have to try to read the Member's mind. Since he is here more often than the previous Member who spoke, that will be easy to do.

I assume that the Member is referring to the application that was made by Sprucefield Centre Ltd. That application is undergoing the statutory consultation. A request for further environmental information was lodged with the applicant on 2 December 2008. That information has not yet been provided, but I hope that it will be made available soon.

The stage 1 retail report that followed the BMAP inquiry must also be taken into consideration, and the Planning Appeals Commission indicated to me that it hopes to be in a position to provide that report some time in early 2009. I interpret that as meaning some time this month, so time is running out. The Planning Service will report to me shortly thereafter.

The application is not, of course, directly comparable with that which was made for IKEA, given the differences in the scale and nature of the retailing that is proposed and the locations of each site with reference to the statutory development plans.

**Mr Lunn:** I thank the Minister for his answer, given that the question was slightly wrong.

Given the fact that planning permission for IKEA was approved within about eight months, what assurance can the Minister give us that the application in the name of Sprucefield Centre Ltd will proceed with all speed? Is he minded to recommend a public inquiry?

**The Minister of the Environment:** I want to see that application proceed with all speed. The Member and others will know that I have said to the Planning Service that we ought to try to put applications — especially those that are for important economic developments — through the system within the six-month period on which we have made promises.

On the matter of a public inquiry, given that it is my responsibility and role to consider all the evidence that the Planning Service will present to me in its report, the Member knows that I would not prejudge the issue, and I will wait until that report comes. However, I assure the Member that I have asked the Planning Service to bring the report to me as soon as possible after it has the information from the Planning Appeals Commission and from the applicant on the environmental statement. I will make a quick decision on that application because I understand how important it is.

**Mr B McCrea:** Further to that answer, does the Minister recognise that he may have a conflict of interest, given that the final decision rests with him,



but that unlike his predecessors, he has chosen to remain a member of Belfast City Council's town planning committee? Given that we all want John Lewis to come here quickly, would it not be safer for him to recognise that and take steps to regularise his position?

**The Minister of the Environment:** During a debate last week, the Member admitted that I am capable of exercising independence in making decisions. Given that he gave my independence a glowing reference, I am sure that he will rest easy in the knowledge that I will consider all the facts that are presented to me and that I will assess them objectively.

**Mr Poots:** Every day, we hear about job losses and the dire circumstances that the economy is in. Given that that company wants to invest tens of millions of pounds in Northern Ireland and create around 1,500 jobs, will the Minister assure the House that the planning decision will be expedited?

**The Minister of the Environment:** I hope that I have already given that assurance. However, I express one caveat. The speed with which I can make that decision does not rest totally in my hands or in the hands of the Planning Service. The Department is waiting for a response from the Planning Appeals Commission, which, as the Member knows, is independent of my Department. I have asked my officials for a report as soon as they receive that information, so that I can make a decision. I am aware of the importance of outside investment to Northern Ireland and the role that that can play in creating jobs at a time when the recession is causing difficulties.

### Inherited Council Indebtedness

3. **Mr Storey** asked the Minister of the Environment what actions will be taken to deal with levels of inherited council indebtedness after 2011.

(AQO 1882/09)

**The Minister of the Environment:** Matters relating to local government finance are being addressed by policy development panel C, which reports regularly to the strategic leadership board. It is recognised that council indebtedness is one of the more significant issues and that it will require careful examination. When options have been further developed by the panel, recommendations will be presented to the strategic leadership board for consideration.

**Mr Storey:** I thank the Minister for his answer. Will he outline the actions that his Department would take if a dispute in relation to borrowing were to emerge among councils in the new district council areas?

**The Minister of the Environment:** The Department has already tried to anticipate that, and it has already issued guidelines to councils to try to ensure that they

do not take on any unnecessary new borrowing before the new councils are set up. The finance Bill, which will, I hope, come before the Assembly in the spring of 2009 will lay down further restrictions. For example, any new borrowing by councils will have to be agreed by the transition committees of the councils that are to amalgamate. Disputes will arise. However, if the arrangements for the new councils are to work, it is important that transition committees work together and see themselves not as separate councils for the future, but as new corporate entities.

Disputes that cannot be resolved can be referred to me for resolution. I say that with great reluctance, because I hope that I will not have to do that. If that were to happen too frequently, the new councils would face a bleak future.

**Mr Boylan:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. Has he spoken to his Executive colleagues to ensure that enough resources are available to implement the functions that are to be transferred to the councils? Would he support the Minister for Regional Development if he were to seek additional funding to bring the rural roads network up to standard?

**The Minister of the Environment:** I expend enough effort trying to get money for my own Department's functions without having to lobby for others. I am sure that the Minister for Regional Development is perfectly capable of lobbying for his own funds; I will lobby for my own Department.

As for resources for setting up the new councils, I know that councils, councillors and council officials will need to do extra work in the transition period. Therefore, £150,000 will be made available each year to each council to set up transition committees, staff them and make the necessary arrangements. Additional funding bids will be made to the Department of Finance and Personnel for the extra moneys that will be needed for the amalgamation of councils and for setting up new ones. Whether they will be successful will depend on whether we make a strong enough business case for extra money for the rationalisation.

**Mr McNarry:** I return to the question of indebtedness. Does the Minister accept that there has been a failure to regulate local government debt effectively? By how much has local government debt increased since 2007?

**The Minister of the Environment:** The debt incurred by local government amounts to £376.6 million. Since 2007, there has been no huge increase. I do not have the figure to hand; I am not a walking encyclopaedia. I will write to the Member with that information. However, I understand that the increase is marginal. This year, £30 million of local government debt will be repaid.

We must closely monitor the issue of local government debt. It would be unfair for councils that have been prudent to find their ratepayers burdened with debt from councils that have been on a spending binge. Through the guidelines that have been produced and the additional powers in the Finance Bill, we can stop councils from spending in a profligate way.

### Planning Application Backlog

4. **Mr Simpson** asked the Minister of the Environment what progress has been made in reducing the backlog of planning applications. (AQO 1883/09)

**The Minister of the Environment:** Very good progress has been made in reducing the number of live planning applications. Although the number of applications received this year has decreased by 27% compared to the same time last year, almost 18,000 applications have been processed to decision or withdrawal over the same period. As a result, the number of live applications at various stages of processing has been reduced to approximately 14,500.

Not only is the number of applications live in the system decreasing; the processing times, which relate to targets set in the Programme for Government, continue to show a month-by-month improvement. public service agreement targets for processing 70% of intermediate applications were met in November.

**Mr Simpson:** I thank the Minister for his response. He and other Members know that we are currently going through a difficult economic period. Some businesses, albeit a small number, want nevertheless to expand. Can the Minister assure us that, if businesses approach his planning officials, some form of fast-tracking can be offered so that they can create more employment?

**The Minister of the Environment:** There have been massive improvements in the time that it takes for planning applications to be dealt with. All Members of the Assembly who sit on councils know that, by the end of February, a streamlining process should be in place in all council areas.

3.15 pm

In the pilot area in Londonderry, the results have been quite startling. The processing times for minor applications have been reduced from 89 working days to 28 working days. We are now focusing on improving times for intermediate applications. Of course, we have already seen some of the benefits of fast-tracking applications. Although there is an onus on the Planning Service to deal with applications quickly, there is also an onus on applicants not to submit rubbish planning applications that require much work from planning officials to bring them up to the required standard.

As a result of pre-application discussions, proper applications are submitted with all of the relevant information. We are meeting our target of dealing with major applications in six months. That has been the case for those applications that I already mentioned — the Enniskillen project, the Titanic signature project, the IKEA project — and a number of other applications. Meeting that target has been a big improvement, and it means that builders can get on the ground and start to employ people much more quickly.

**Mr Gallagher:** It takes up to two years for wind-farm applications to go through the planning process. Given the renewable obligations for that important source of energy and the massive amounts of money that companies pay for their applications, will the Minister tell the House whether those applicants will see the time spent considering their applications reduced?

**The Minister of the Environment:** I am amazed at that question. The one thing that Members ought to do before asking a question is to carry out a bit of research to ensure that they do not leave themselves open to an easy put-down. If the Member had done his research, he would have found that the Planning Service has been so effective that it has already approved a sufficient number of wind-farm applications to meet the target that the Assembly and the Executive have set for renewable-energy production for 2012. Indeed, once those other applications have been processed — even if it takes two years — they should enable us to meet the target that has been set for 2020.

Perhaps the Member should have examined the facts, before he spoke about how inadequate the Planning Service has been in dealing with those applications. If he had done so, he would have known that we are ahead of the game. We are dealing with those applications seriously and processing them quickly. Whether applicants then build those wind farms is another matter. At least, the Planning Service and planning officers are doing the job with which they have been tasked.

**Mr Brady:** A Cheann Comhairle, I hope that my question does not amaze the Minister too much. Does the Minister see any merit in asking divisional planning managers to institute annual meetings and seminars with local planning agents, architects and advisers? That would ensure better communication and more efficient use of Planning Service resources.

**The Minister of the Environment:** To a certain extent, divisional planning officers already do much of that work. For example, the Planning Service is currently touring Northern Ireland explaining to agents and architects the background to planning policy statement (PPS) 21 and how applications will be dealt with, so that they are clear about which applications are likely to be successful and which are not. I

mentioned earlier the issue of streamlining. Before streamlining is introduced in any area, divisional planning managers will explain the process to architects and agents.

When the process was introduced in Londonderry, some of the agents and architects were so surprised that they got responses back within four weeks that they thought that the wrong planning applications had been returned. Therefore, there has been an attempt to try to explain that process.

With regard to applications, especially the major applications — as mentioned by the Member for Upper Bann — agents and architects are encouraged to come in and talk about their application before they submit it so that they are aware of the information that is required. Therefore, a lot of consultation happens already. On the matter of individual planning applications, I am encouraging planning officers to talk to agents and applicants rather than allowing things to drift and applications to rest for a long time.

**Mr Beggs:** The Planning Service recently received £2 million in additional funds during the monitoring rounds, as a result of the reduced fees that it has received. Will the Minister state the number of applications that had been expected but not received, and how that lesser number of applications has contributed to the reduction in the backlog? Given the increased cost burden of the Planning Service, largely as a result of the lack of work that is going through because of the reduction in the number of applications, does the Minister have any proposals to reduce costs in his Department?

**The Minister of the Environment:** The number of applications received by the Planning Service has fallen quite dramatically. In the last briefing that I received, I was given figures for November 2008 that showed that applications were down by approximately 40%, which is a sizeable reduction in the Planning Service's income.

The staffing of the Planning Service depends upon its income from fees, thereby resulting in some relation between its staffing level and its workload, which I believe is the right way of doing things. However, that very quick reduction in the number of applications means that it is difficult to respond by reducing the number of officers employed. Furthermore, we hoped that the reduction in the number of applications would allow us to reduce the number of live applications in the system and to clear that backlog.

A number of things can be done to try to find ways of funding the services. Although my Department received £2 million from the Department of Finance and Personnel, it did not simply go to the Finance Minister with a begging bowl — it found approximately £3 million in its own budget to help with the shortfall.

Other things can be done also, and I have spoken to officials about measures that might be taken. I do not want to outline those at present because, until we have looked at what savings they might produce — it would be wrong of me to do so. However, I assure the Member that I am aware of the drop in income from fees, which amounts to approximately £6.5 million, the impact that that is likely to have on the resources available to the Planning Service, and the need — emphasised by the many questions about it that have been asked today — to make sure that we keep the staffing complement in the Planning Service to deal with applications as they come in.

## Planning Policy

5. **Mr Gardiner** asked the Minister of the Environment what discussions he has had with Planning Service in relation to the interpretation of planning policy. (AQO 1884/09)

**The Minister of the Environment:** I have regular meetings with officials to discuss planning policy, as part of my role in making the final decision on article 31 planning applications, and in relation to issues that are raised by elected representatives and members of the public regarding specific cases or general policy queries.

**Mr Gardiner:** I thank the Minister for his answer. Will the Minister state where he stands if there are court proceedings against his Department with regard to planning applications in Waringstown in my constituency of Upper Bann? To be fair to the Minister, he did not hold the position of Minister of the Environment at the time when that decision was made.

**The Minister of the Environment:** If a court case is taken against the Department on any planning application, the Department must first go to the court to explain why that decision was taken. Very often, the courts are not interested in whether the right planning decision was made; they are interested more in whether the proper process was followed. If the proper process has not been followed, any applicant or objector should have the right to appeal to the court to ensure that a planning application is dealt with in a proper way.

I do not have a specific role in that, except that I am the Minister of the Department from which officials will go along to justify the actions that were taken.

**Mr Shannon:** The Minister will be very aware that there is increasing concern that the planning system, and indeed planning policy as expressed through planning policy statements, is not flexible enough to ensure that all potential economic development can be approved. What steps is the Minister taking to ensure that developers and planning officials can create a better understanding and relationship in order to process applications?



**The Minister of the Environment:** I believe that the planning system and other parts of Government have an important role to play in economic development in Northern Ireland. Although we, in the Assembly, are continually looking at how the public purse can deal with some of the economic issues and problems that beset society, there are massive amounts of private investment tied up in planning applications in my Department. I accept that there have been criticisms of the ability of the planning system to deal with the economic implications of some planning applications, and whether it gives proper weight to economic considerations. Members are aware that I have commented on that.

I have asked officials to look at how we can give greater weight to economic considerations when it comes to dealing with planning applications; whether through a quick revision or addenda to PPS 1, which outlines the principles of planning policy, or through a ministerial statement in which we give guidance to planning officers so that they can confidently give greater weight to economic considerations. I am exploring that with my officials. Given the current situation, the planning system ought to play its role in ensuring that economic development is permitted in Northern Ireland.

**Mr D Bradley:** Go raibh maith agat, a Cheann Comhairle. Will the Minister tell us if there has been any further work on the preparation and interpretation of draft PPS 21 by the independent working group?

**The Minister of the Environment:** The members of the independent working group have been appointed. From memory, it has to report with recommendations by the end of May 2009. During the intervening period, the group will take evidence from a wide range of people, and if the Member has got any views that he wishes to express to the group, I welcome that.

I am aware that many people expressed fears that draft PPS 21 was too restrictive: indeed, members of Mr Bradley's party claimed that that was the case. We have now had three council meetings in which recommendations on the backlog have been taken forward. Of the applications that have been taken forward to councils, 37% of the previously refused applications have now been approved. I think that that indicates that the balance is right; the fact that a substantial number of applications, which were rejected under PPS 14, are now covered by draft PPS 21. That is good news for the rural economy, because building those houses will generate work for many small builders in rural areas.

### Planning Policy Statement 15

6. **Mrs Long** asked the Minister of the Environment for an update on Planning Policy Statement 15.  
(AQO 1885/09)

**The Minister of the Environment:** Planning Policy Statement 15, which concerns planning and flood risk, was introduced in June 2006 and continues to provide effective and robust policy guidance on planning applications where the risk of flooding may be a consideration.

**Mrs Long:** I thank the Minister for his brief answer; however, I am sure that he would argue that it contained all of the detail.

Members of the Planning Service who look at individual applications have raised a point with me on a number of occasions about the level at which they get useful information from Water Service, the Rivers Agency and others, that would help them make determinations about flooding.

Does the Minister have a view on the level of co-operation that is ongoing between those different services, and as to how that could be improved?

3.30 pm

**The Minister of the Environment:** Just before Christmas, I announced the launching of the Northern Ireland flood map, which gives a strategic picture of where the flooding risks are. That was welcomed by the Planning Service, and should be a valuable tool when it comes to considering planning applications. Historical data is available from NI Water which, again, should be of use to the Planning Service. That is supplemented by the information that public representatives and local people can provide.

Roads Service and NI Water should be capable of providing the additional information required around particular instances of flooding, which are sometimes caused by inadequate drainage or other problems. Whether that information is provided on every occasion, I cannot say. My concern is that those organisations are consulted by the Department — which they are. As to whether that information is provided quickly, I think that that is for other Departments to answer.

## FINANCE AND PERSONNEL

### Frameworks Process

1. **Mr T Gallagher** asked the Minister of Finance and Personnel how he is going to deliver the construction projects affected by his announcement of the abandonment of the frameworks process.  
(AQO 1900/09)

**The Minister of Finance and Personnel (Mr Dodds):** In my statement to the Assembly on 15

December 2008, I announced that no construction project would be stopped due to the legal challenges about the use of framework agreements by the Central Procurement Directorate and the Department of Education. I announced that those projects, worth a total value of £115 million, which were scheduled to be delivered by framework agreements, would go to the marketplace on a project-by-project basis before the end of the financial year. Those projects include the South Eastern Regional College in Bangor, at £10 million, and 10 schools, ranging in value from just under £2 million to over £11 million, as is the case at Magherafelt High School.

The recently established construction industry forum procurement task group will focus on ensuring that all those projects move forward into the marketplace. In order that the construction industry can plan for the deal flow, Departments have, through the procurement task group, provided the construction industry group with a comprehensive list of all projects that are to be advertised before the end of the financial year, or are already at various stages of the procurement process.

**Mr Gallagher:** I thank the Minister for his reply. Will all the projects scheduled to go forward in this financial year do so? If not, what will be the position around the finance that has already been allocated for those projects that might be delayed as a result of the problem around the frameworks process?

**The Minister of Finance and Personnel:** I thank the Member for his question. The projects that were to be delivered using frameworks are all at various stages of the procurement process, and no projects have been stopped due to the legal challenges. Departments have indicated that over 60 projects, with an aggregate value of around £400 million, are either to be advertised before the end of the financial year, or are already at various stages of the procurement process.

We have ensured that no projects will be stopped as a result of the framework challenges. Within the overall expenditure of £1.5 billion for the current year, it is not expected that a significant amount will be delayed or postponed. However, if some projects, for whatever other reasons, are subject to a delay, those will be carried forward into next year, and will be a matter for the Departments to manage.

I do not envisage that as a major problem in the context of expenditure of £1.5 billion. The measures that my Department announced in December 2008 will ensure that procurement of projects will not be held up significantly.

**Mr McLaughlin:** Will the Minister consider an urgent review of procurement policy in order to support and encourage local construction companies to compete for public contracts?

**The Minister of Finance and Personnel:** I am pleased to inform the House that during the past 12 months, all of the Central Procurement Directorate's (CPD) construction-works contracts have been awarded to local construction firms. I have instructed CPD to provide a report on the position of all central procurement exercises. That is encouraging.

While I have the opportunity to do so, I must also congratulate local construction firms from Northern Ireland for having recently won contract work in Scotland, which is a tremendous boost to the local economy and workforce. That is testimony to the quality of the work of Northern Ireland's construction firms.

Government clients are required to advertise publicly all construction procurement opportunities that are estimated to exceed £30,000 for construction work and £5,000 for construction-related services. Centres of procurement expertise recognise the importance of small- and medium-sized enterprises (SMEs) to the economy and encourage consortia where appropriate. Those details should reassure the Member and the House.

**Mr Storey:** I thank the Minister for expanding on how the issue is being dealt with locally. Given the fact that SMEs make up the largest sector of industry in Northern Ireland, will the Minister explain the arrangements that are in place to ensure that SMEs have the opportunity to bid for projects that are scheduled to go to the market before the end of the current financial year?

**The Minister of Finance and Personnel:** The Member has highlighted an issue that has been raised many times, and which I have taken firmly on board. As I have already indicated, all construction work that has been allocated by the Central Procurement Directorate during the past 12 months has gone to local construction firms.

I have already mentioned the requirement to advertise publicly all construction procurement opportunities. I must add that a Construction Industry Forum sustainability task group has developed proposals for promoting equality and sustainable development through sustainable procurement in construction. Those proposals, which, since December 2008, are included in all new public-sector construction contracts, require main contractors to publish opportunities in their supply chain on their websites or, where appropriate, in the local press.

In addition, the Construction Industry Forum procurement task group will consider how to further maximise the opportunities for small- and medium-sized enterprises to bid for and benefit from public-sector construction contracts.

**Mr Speaker:** Question 2 has been withdrawn.

## Budget Stocktake

3. **Mr Neeson** asked the Minister of Finance and Personnel to report on the outcome of his Budget stocktake exercise. (AQO 1902/09)

**The Minister of Finance and Personnel:** In March 2008, the Executive agreed to conduct a strategic stocktake of the expenditure plans of Northern Ireland Departments for the financial years 2009-10 and 2010-2011. The objective of that exercise was not to propose recommendations in respect of a reallocation of resources, but to set the context for subsequent in-year monitoring processes in light of emerging pressures and the expected level of available resources.

Following Executive discussion on 15 January 2009, I made a statement to the Assembly on 20 January on the outcome of the strategic stocktake exercise. In summary, the level of resources that are available to the Executive during the next two years is expected to be lower than when the Budget was agreed in January 2008. That reflects deterioration in the public-expenditure position of most industrialised economies. It means that emerging pressures can be accommodated only from a reduction in existing budgets, an increase in efficiency-savings targets for Departments, or the reduced requirements that are normally declared as part of the in-year monitoring process.

Although Departments have identified a broad range of issues in their response to the strategic stocktake, the two main issues that face the Executive in 2009-10 are the lost income from the deferral of the introduction of domestic water charges, and the cost of the Northern Ireland Civil Service equal pay claim.

Those pressures are also expected to have implications into 2010-11, when the Executive will be faced with the prospect of a reduction in the block grant from the Treasury as a result of the announcement in the pre-Budget report to increase the level of efficiency savings.

**Mr Neeson:** I thank the Minister for his response. Will he assure me and the House that all the Assembly's Statutory Committees will be involved in the process?

**The Minister of Finance and Personnel:** I am not quite sure what the Member means by "involved in the process". If he is referring to the in-year monitoring exercises, those will follow the normal course of events and procedures. The Assembly Committees will be briefed on departmental responsibilities, and they will no doubt discuss those matters and interrogate officials and Ministers.

**Mr P Maskey:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. What progress have Departments made to ensure that the

level of accumulated underspend will be kept to a minimum by the end of the year? Go raibh maith agat.

**The Minister of Finance and Personnel:** That is an important question and one to which we rightly return regularly when discussing these matters. It is important that we are not left with significant levels of underspend in Departments at the end of the financial year. All such money is returned to the Treasury, and, since easy access to end-year flexibility no longer exists, it is lost to the Executive. At a time of economic difficulties and pressures, particularly in the construction industry, it is important that that money is rolled out as planned.

Departments tell me that they intend to spend the capital investment allocations that they have been given, and I look forward to hearing about good progress in that regard. In 2007-08, reduced requirements and underspend were £400 million in current and £334 million in capital. That is more than £700 million last year alone, which puts some of last week's press headlines into context.

**Mr O'Loan:** Given the huge changes in needs and available finance since last year, is the Minister not under a duty to the public and the Assembly to give more than a survey of the financial landscape? What answers is he providing to meet the needs of the present time?

**The Minister of Finance and Personnel:** The Member is aware of the situation from previous discussions, and he will no doubt have been briefed by his Minister, who agreed to this process in the Executive. Indeed, when this matter was mentioned at the Committee at which he was present on 2 April 2008, he raised no objections whatsoever, and he acquiesced.

This is a sensible overview of where things are likely to move over the next two years. It is clear that the real pressures concern the possibility of the pre-Budget report efficiencies from Whitehall, a pressure that will come to bear in 2010-11. In London, the Opposition and the Government are vying over who can make the greatest cuts to public expenditure rates of increase. Therefore, it will be difficult for Northern Ireland, other Whitehall departments and other devolved Administrations. In that context, I had a useful discussion last week with the Finance Ministers of Scotland and Wales in which we agreed a joint approach to the Treasury in relation to these important matters that impact on our Budgets.

Growing the economy was made the priority in the Programme for Government and the Budget, and that has been entirely vindicated and validated by events. Indeed, we have allocated over £1.5 billion in capital investment, which is 40% more than in 2006-07 and more than double the £670 million that was allocated in 2003-04. The building of schools, hospitals, houses



and other major capital projects is proceeding, and £1.8 billion will be spent next year. That shows what the Executive are doing to help the economy.

3.45 pm

## 2011 Census

4. **Mr Spratt** asked the Minister of Finance and Personnel to provide an update on preparations for the 2011 Census. (AQO 1903/09)

**The Minister of Finance and Personnel:** The next census is planned for 27 March 2011. There has already been formal consultation on the topic content, and users are being kept informed of current thinking through, for example, the Northern Ireland Statistic and Research Agency's website and information days. The Office for National Statistics conducted a census test in 2007, and a rehearsal is planned for autumn 2009. Proposals for the 2011 census are expected to be published soon. Moreover, a census Order and census regulations will be laid in 2010 and will provide the opportunity for full legislative scrutiny.

**Mr Spratt:** Does the Minister agree that the census is a valuable and important exercise? Furthermore, does he agree that it is vital that preparations are conducted effectively and efficiently and in line with the rest of the United Kingdom?

**The Minister of Finance and Personnel:** The point is entirely valid. The preparations should progress as quickly as possible. As I have said in the House previously, given the new digital information age in which we live, there may come a day when some — or, perhaps, much — of the information can be obtained in other ways. However, that information can currently be obtained only through a census, which is mandated by a European regulation that imposes a duty on member states to provide census-type data in 2011.

As the Member said, that information is valuable and provides comprehensive and robust population statistics for Northern Ireland that are consistent for small areas and small population groups. The information is used extensively across the public, private and voluntary sectors and has many important applications. For example, it informs allocation of resources and policy development and monitoring; acts as a benchmark for demographic statistics; and provides the basis for population and housing projections.

**Mr K Robinson:** I have listened carefully to the Minister's general comments about the census. What new information will the 2011 census demand? Why is it necessary for the Government to have knowledge of that information?

**The Minister of Finance and Personnel:** The Department will introduce its proposals on the census.

I assure the Member that the census is designed to meet specific policy needs. As the Member is aware, the census is conducted every 10 years, and the 2011 census will be closely based on previous models. Any adding or taking out of questions will be proposed soon, and will be subject to full discussion and full legislative scrutiny. Only questions that are required to acquire sensible and useful information should be asked. The questions will be in line with those that are asked elsewhere in the UK.

**Mr McElduff:** Go raibh maith agat, a LeasCheann Comhairle. The Minister has accepted that the 2011 census will inform the programme of spending and policy direction of the Executive and the Assembly for a subsequent 10-year period, will he consider the inclusion of a question that will ascertain the community's views on constitutional matters? It is important that people have the opportunity to record their preference, whether it be for a united Ireland or for the continuation of the union with Britain.

**The Minister of Finance and Personnel:** The simple answer is no, I will not include such a question. It is not the purpose of a census to ask such a question, and, in any case, we know the answer. The people of Northern Ireland, overwhelmingly, want to remain part of the United Kingdom. Most people welcome the fact that our devolved Assembly is governing part of the United Kingdom.

## Civil Service Sick Leave

5. **Mr Paisley Jnr** asked the Minister of Finance and Personnel for his assessment of the current levels of Civil Service sick leave and what action he is taking to reduce those levels. (AQO 1904/09)

**The Minister of Finance and Personnel:** During 2007-08, an average of 12.9 days per staff year were lost as a result of sickness absence; that was down from 13.7 days in the previous year, and from a high of 15.5 days in 2003-04. Recent figures indicate that that downward trend has continued, and if it continues to do so, it is estimated that the out-turn figure for 2008-09 could be about 11.5 days. Although still short of the overall target for the year of 10.2 days, those are encouraging signs. It is also encouraging to note that the proportion of staff with no recorded sickness absence has increased from 40.7% in 2006-07 to 43.1% in 2007-08, suggesting a growing culture of attendance.

There have been significant developments over the past 12 months, with the publication of the Northern Ireland Audit Office report 'Managing Sickness Absence in the Northern Ireland Civil Service' and the subsequent report of the Public Accounts Committee (PAC). The Northern Ireland Civil Service Task Force also produced a report on long-term sickness absence.

Taken together, those reports present a formidable agenda of work, and my officials are developing a framework for implementation.

**Mr Paisley Jnr:** I thank the Minister for his helpful and informative answer. Can he explain to the Assembly any reasons for the variation in the rates of absenteeism between Departments, and can he identify where the real offenders are?

**The Minister of Finance and Personnel:** I am grateful to the Member for his question. There is no doubt that there are differences in the rates of absenteeism between and even within Departments. That can be affected by the composition of the workforce — for example, gender, age, and grade, the size of the organisation, as well as the structure and nature of the work. The statistics show that female staff and staff in the more junior grades have higher levels of sickness absence.

The Member asked about particular Departments; the most notable case is the Department for Social Development (DSD), including the child-enforcement and maintenance division and the Social Security Agency, where more than 58% of staff are female, compared with almost 30% in Department for Regional Development (DRD), for instance. The grade profile of those Departments is also different: 82% of staff in DSD are employed in the more junior grades, compared to 38% in DRD. I use that only as an illustration, but it should be said that we should not simply accept as inevitable or legitimate that some staff have higher levels of sickness than others simply because they fall into certain groups. We need to understand the reasons behind it and take action to deal with it.

**Mr P Ramsey:** Given that high levels of stress are the primary cause of absence from the workplace, can the Minister tell us what action plans he and his Department are taking forward to increase morale and motivation in the workplace, with a view to reducing stress in it?

**The Minister of Finance and Personnel:** It is of course fundamentally a matter for each Department to ensure that schemes and action plans are in place to tackle sickness absence, but the approach of the Civil Service to tackling sickness absence is based on four themes: promoting the health and well-being of staff; supporting staff when they are sick; facilitating staff returning from sickness absence; and dealing robustly with inappropriate levels of absence, including through efficiency procedures. That approach was recently scrutinised by the Audit Office and the PAC, and I will be actively considering the various recommendations. However, policies must be kept under review, and certain Departments have a much better track record than others. High sickness absence is therefore not

inevitable; it can be tackled, and it is essential that we continue to do what we can to deal with the problem.

**Ms J McCann:** Go raibh maith agat, a Cheann Comhairle. Given the comments that the Minister made about under-representation, has any progress been made to recruit more Protestant males at the lower grades of the Civil Service and more women and Catholics at the higher grades to combat under-representation?

**The Minister of Finance and Personnel:** That question is not directly related to the issue of sickness absences. In fact, it is not related at all, I think. *[Laughter.]* Nevertheless, my Department is well aware of the need to ensure that fair systems are in place that will lead to the recruitment of a balanced workforce in proportion to the make up of the community. It is an issue that we continue to monitor and work at.

All of those issues are difficult to turn around quickly because we are dealing with large numbers of employees. Therefore, we have to continue to monitor, to report and continually to keep under review the policies that are in place to deal with those issues; and if they are not working, to seek to address why they are not working.

### District Rate Increases

6. **Dr Farry** asked the Minister of Finance and Personnel to report on what assistance is being given to district councils to deal with the anticipated significant increases in the district rate in some areas due to factors beyond their control. (AQO 1905/09)

**The Minister of Finance and Personnel:** I am pleased to say that I have already announced a package of assistance for councils, as the Member well knows from his very positive reaction to it last week. That package is worth up to £8 million in the next financial year. It comprises three key elements, including allowing councils that are in a general repayment situation to offset the amount through staging the British Telecom and Ministry of Defence reductions over five years. That will result in a benefit of £3.3 million next year.

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

I will also change the way in which councils' net revenues are calculated, providing a benefit of up to £4 million next year. Finally, there will be a one-off reduction in the cost of collection to ensure that some of the additional costs that are associated with the development of new IT systems are not passed on to councils. That will provide a one-off benefit of £600,000 to councils. I believe that that is a proportionate and affordable response that will allow assistance to be provided quickly in order to cushion the impact of a

combination of factors that affect councils at this difficult time.

**Dr Farry:** The question has, obviously, been somewhat overtaken by events, but I thank the Minister for his answer. Before asking a supplementary question, I declare an interest as a member of North Down Borough Council. Does the Minister recognise that the introduction of the £500,000 cap is still a live financial issue for councils such as my own? Given that councils were asked to fund the lost revenue through finalisation figures that were presented to them only in June 2008, they have to fund the cap twice in the same financial year, and that pressure needs to be ironed out.

**The Minister of Finance and Personnel:** I hear what the Member has said, and he has raised that issue on a number of occasions because, I know, it particularly affects his own council, as he indicated. However, it should be remembered, as I, too, have indicated, that the £500,000 cap was introduced under direct rule — not under devolution. We reduced that cap from £500,000 to £400,000 to ensure that no ratepayers in Northern Ireland were paying above the average highest council tax band-payer in the rest of the United Kingdom.

From April, a reduction in transitional relief of about £1.5 million will be provided to councils over two years. That relief will have a beneficial impact in helping councils such as the Member's own. The £500,000 cap was introduced under direct rule two years ago. Given the steps that we have taken, and the transitional relief that we have brought in as a result of our measures, it is not appropriate to go back any further.

**Mr Beggs:** I declare an interest as a member of Carrickfergus Borough Council. Rates collection is one of the issues that is beyond the control of councils. For a time, the Rates Collection Agency — and Land and Property Services that took over from it — failed to monitor vacant property properly in order to determine who should be paying rates. Will the Minister assure the House that the penny products of councils that studiously monitored vacant property and reported that information to the Department will be updated accordingly, so that a fair rates burden will be shared by all? Furthermore, what changes is the Minister making to the system to ensure that a similar fiasco is not repeated?

4.00pm

**The Minister of Finance and Personnel:** I am grateful to the Member for raising that subject, which has been discussed in the Assembly and in the Committee. The Member will be aware that I have prioritised the collection of rates and the monitoring of vacant properties, and he will understand from previous discussions some of the reasons for delays, which relate to the legacy that we inherited and to the

introduction of a large number of reforms at one time. The matter is being addressed, and I have allocated extra funds to Land and Property Services (LPS) to ensure that more attention is paid to collecting arrears. Furthermore, a considerable amount of good-partnership work on inspecting vacant properties is under way between councils and LPS, and I want that work to continue.

My Department will do everything in its power to ensure that any benefits arising from those measures appear as quickly as possible on bills, which will be issued without undue delay so that councils — and, given that the rates are regional, LPS — have the maximum income.

## ASSEMBLY COMMISSION

### Elderly/Disabled Access: Parliament Buildings

1. **Mr I McCrea** asked the Assembly Commission to outline what arrangements are in place to help the elderly and disabled get from the security screening facility to the front of the building. (AQO 1920/09)

**Mr Neeson:** The secretariat goes to great lengths to identify elderly and disabled visitors to the Assembly at an early stage, and to ensure that appropriate arrangements are then put in place to guarantee a successful visit to Parliament Buildings. Those arrangements primarily entail business areas in the secretariat discreetly liaising with potential visitors, or their representatives, at an early stage of the visit-planning process. During that process, the precise requirements of groups or individuals are established, and appropriate arrangements are made accordingly.

We do not expect any elderly or disabled visitor to pass through the search unit and then have to walk, or push a wheelchair, up the hill. It is secretariat protocol that elderly or disabled people are permitted to bypass the search facility and access the Building directly through the east or west doors. The security staff on duty at the search facility will inform visitors of that procedure and advise those with mobility or other special needs that they can proceed by car or bus to the upper car parks. Occasionally, elderly people prefer to get out of their transport at the search unit and walk up the hill in order to access Parliament Buildings. We are, of course, happy to accommodate either need.

**Mr I McCrea:** I thank the member of the Assembly Commission for his answer. Unfortunately, on at least one occasion, an elderly lady has had to stop three times to recover her breath when attempting to walk up



from the screening unit. Can the Member give an assurance that that will not happen again and that the Commission will take the necessary steps — whether that is by informing security personnel or by whatever other means — to ensure that elderly or disabled people are not forced to walk up to the Building?

**Mr Neeson:** I am disappointed to hear that a visitor had such an unfortunate experience. Staff are kept well informed about the procedures. However, it is important that the visitor unit is made well aware, at an early stage, of the needs of any elderly person or those with a disability, and I can assure the Member that every effort will be made to ensure that that situation does not arise again.

**Mr Gardiner:** Has the Commission considered installing a large lift for the use of elderly or disabled people, particularly one that would allow such people access to the Public Gallery, the basement and the first floor?

**Mr Neeson:** In fact, the lifts in Parliament Buildings were upgraded in 2005. Furthermore, last summer, a disabled person's hoist was installed to provide access to the Public Gallery.

**Mr Shannon:** I am sure that Members are aware that taxis sometimes leave people at the security screening facility, and then have to reverse to get back out, against the flow of traffic. Has consideration been given to the safety of that? Will the Commission consider the construction of a taxi turning circle at the screening point?

**Mr Neeson:** The Commission reviews that issue regularly. As we develop our outreach programme, it is important that we make Parliament Buildings as accessible as possible. We will consider the issues that the Member has raised.

## Public Access to Assembly Business

2. **Mr McKay** asked the Assembly Commission what it has done to increase the coverage and availability of Assembly business to the public through all forms of media. (AQO 1921/09)

**Mr Moutray:** The Assembly Commission, through its engagement strategy, is making strenuous efforts to ensure that the business of the Assembly is available to the public. The Assembly makes use of a range of media, including the Assembly's broadcasting service, Internet site and printed publications. In addition, the Assembly works closely with the broadcast and print media to ensure that the business of the Assembly is communicated widely and effectively.

Since the beginning of the 2008-09 session, there have been 33 press releases relating to Committee and Assembly Commission business, and seven public notices have been placed in regional and local

newspapers to inform the public of Committee meetings that were to be held outside Parliament Buildings. For all Committee meetings that are held outside Parliament Buildings, media services works with the local media — newspapers and radio — to publicise the work of the meeting, to encourage attendance and to inform the local community.

From 1 January 2007 to 31 December 2007, there were over 7 million hits on the Northern Ireland Assembly website. That figure increased to over 9 million in 2008 — a substantial increase of 2.5 million hits. Furthermore, 17 Committee reports were uploaded to the website to provide public access to Assembly business. In addition, Media Services receives an average of 60 public enquiry calls each week and answers approximately 50 web mail enquiries per week, thus providing information for people across Northern Ireland.

The Assembly Commission has also taken action to improve access to the Hansard report. Now, the Office of the Official Report places on the website the first edition of each sitting day's plenary proceedings on a phased basis, and a draft edition of the Official Report is published no later than three hours after the House rises. That enables the public to access the work of the Assembly within hours of business taking place. The revised Official Report is on the website by 10.00 am the following day.

The Education Service — one of the units in the Assembly's engagement directorate — is also involved closely in promoting the work of the Assembly to the public. It has its own website, which is tailored to the requirements of the Northern Ireland curriculum, and publishes leaflets and other resources that can be accessed by the public and which are tailored for use by schools, youth groups, further education institutions and universities.

From 1 September 2008 to 20 January 2009, 162 groups availed themselves of education programmes. That represents over 5,000 participants, and 77% of those came from the primary and secondary sectors.

**Mr McKay:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Member for his comprehensive answer. Has the Commission considered placing Assembly coverage on video-sharing websites, such as YouTube? The Assembly Commission should ensure that the public is provided with as many avenues as possible to access coverage of the Assembly. A number of businesses, NGOs and individuals use those websites already. It is accessible not only to thousands of people locally, but to millions worldwide, and the Assembly should be doing more to ensure that coverage of Assembly business is put on the Internet in that way.

**Mr Moutray:** The priorities for the Commission are to make available video content from the Assembly

website, and to improve coverage of Assembly proceedings through the existing terrestrial and satellite channels. In the medium to longer term, the Assembly will engage with Ofcom to consider how the coverage can be improved yet further.

**Mr B McCrea:** Given the success of ‘Stormont Live’, despite its rather restricted timing, has the Commission considered making available a dedicated Assembly satellite channel? *[Laughter.]*

That would allow people to see every scintilla of proceedings in all their unadulterated glory? It strikes me that the House has all the makings of a good soap opera; people know all the characters. I am making the serious point that people are interested in what we have to say, and they like to see us at work. Some people watch the streaming video of debates on the Internet, but that service is intermittent and not totally satisfactory. Will the Commission consider making available a dedicated Assembly satellite channel that could possibly be shared with other legislatures and the councils?

**Mr Deputy Speaker:** At last; a cure for insomnia.

**Mr Moutray:** I am sure that the Commission will take on board the Member’s comments and get back to him.

**Mr Deputy Speaker:** Question 3 has been withdrawn.

### Visitor Access and Orientation

4. **Mr McElduff** asked the Assembly Commission how it plans to manage (i) accommodation for visitors to Parliament Buildings to ensure easy access to catering facilities; and (ii) signage and information to enhance visitor orientation. (AQO 1923/09)

**Mr Neeson:** Since September 2008, the Assembly’s gift shop, which is beside the reception area, has provided a hot beverage service for all visitors to the Building, and facilities branch has introduced light snacks, such as tray bakes, to accompany the hot beverages. Immediately on entering the Building, signage informs visitors about that catering facility. The engagement strategy includes several proposals to improve visitor orientation: the provision of a public café; the renewal of all visitor material; the enhancement of visitor orientation and information through the provision of improved signage and increased staff intervention externally and internally; and that all visitor-facing staff attend or receive a daily briefing.

In August 2008, facilities branch also devised information cards to be used by security staff at reception when welcoming visitors to the Building. The laminated cards highlighted various key facilities on entering Parliament Buildings and are available in 11 languages. Furthermore, plans are in place to erect

external signs along the front perimeter fence at the east and west entrances, and along the access road to the east side of the Building. Those signs will provide visitors with a range of information, including opening times, security contact details and directional arrows to assist access.

**Mr McElduff:** Go raibh maith agat, a LeasCheann Comhairle. I take this opportunity to praise Eurest, the company that provides catering in the Building, for doing a great job. When I asked the question, I was unaware, as would many Members have been, that the hot beverage service was available in the shop beside the front door of the Building. The casual visitor to the Building has a restricted experience.

**Mr Deputy Speaker:** Order. That is enough advertising for Eurest; ask your question, Mr McElduff.

**Mr McElduff:** I seek assurance from the Commission that the issue will appear consistently on the agenda. It can be difficult to attract causal visitors from west of the Bann, but when they come, they want as much free movement as possible throughout the Building and access to the excellent catering arrangements that the rest of us enjoy.

**Mr Neeson:** I assure Mr McElduff that the signage at the entrance to the Building directs people to the new facility. It is worth bearing in mind that the Commission is reviewing the provision of facilities for visitors to the Building. I stress that one of the Commission’s main aims is not only to increase the outreach process but to improve it. I assure him that we continually keep all such issues under review.

4.15 pm

**Mr K Robinson:** I am heartened to hear that the website is receiving about 9 million hits and that our tray bakes are about to take off as well — hopefully to the same height.

Has the Commission considered the better management, or extension, of our car-parking facilities — which are under considerable strain, perhaps due to the success of our visitor programme — so that Assembly staff can enjoy a reasonable working environment by having guaranteed parking spaces?

**Mr Neeson:** Mr Robinson has raised an important issue. He will be aware that the number of car-parking spaces was increased last summer. The Assembly Commission is aware of the need to develop good access to the Building. However, car parking for staff at Parliament Buildings is the same as that for staff in the rest of the estate, and it is a case of first come, first served.

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

## Committee Rooms: Upgrade

6. **Mr Ross** asked the Assembly Commission what plans it has to upgrade Committee rooms in Parliament Buildings. (AQO 1925/09)

**Mr Neeson:** As outlined in question for written answer 2970/09, following queries by Members over the past two years, the Assembly Commission tasked building management branch, the Information Systems Office, the Chairpersons' Liaison Group and the central Committee office with trying to identify the facilities required by Members in Committee rooms. A project has been initiated by the central Committee office of the Clerking and Reporting Directorate to implement the recommendations agreed by the Chairpersons' Liaison Group.

An accommodation audit of Parliament Buildings is due to take place shortly, which will look at the current use of all rooms and consider options to ensure that the space is being put to best use. The audit will examine the size of Committee rooms, their usage and their facilities.

As part of the Assembly's engagement strategy, the Commission intends to develop an additional Committee room in Parliament Buildings, which will have videoconferencing facilities and more seats for members of the public. Further to that, there are plans to implement improved audio and video broadcasting facilities in all Committee rooms, together with live streaming and recorded broadcasting of all Committees in public session, which will allow more members of the public to attend meetings virtually.

**Mr Ross:** I am encouraged by the Member's response, particularly with regard to having cameras to stream live Committee events. All Committee members will appreciate witnesses having the facility to make PowerPoint presentations. Can the Member give as an indicative time frame in which Committee rooms will be modernised?

**Mr Neeson:** As I said in my initial reply, the Commission is carrying out an audit of all the rooms in the Building, from the first to the fourth floors. Last week, the group that has been established to carry out the audit had its first meeting. It is hoped that the audit will be finalised by the end of March.

The issue of PowerPoint presentations is continually being looked at. The Assembly Commission wants to further develop and enhance IT services in the Building, and that work is in progress.

## EXECUTIVE COMMITTEE BUSINESS

### Financial Assistance Bill

#### Further Consideration Stage

*Debate resumed:*

**The deputy First Minister (Mr M McGuinness):** Go raibh maith agat, a LeasCheann Comhairle. I am speaking on amendment Nos 4 to 11, and I ask the Assembly to oppose all of them.

Amendment No 4 would require the Executive's agreement to any determination by the First Minister and deputy First Minister under clause 2. That issue has been dealt with exhaustively.

Before Question Time, Dolores Kelly once again tried to suggest that the Bill is OFMDFM's attempt at a power grab. I want to assure Members that that is not the case. When in operation, the Bill will, in fact, enhance the Executive's ability to act collectively. It will give the Executive the flexibility to allocate and distribute funds across all Departments in order to respond to any crisis or hardship situation. We do not restate in legislation that which is already a legislative requirement, as we explained in the debate on the Bill at Consideration Stage. Let me say again that the draft amendment to the ministerial code, which the Executive have agreed, will make their approval explicit, thus reinforcing the existing requirement to seek Executive approval for determinations, designations and schemes under the legislation.

Tom Elliott asked from where the funding for any financial assistance payable under the scheme would come. As I have just said, that will be a matter for the Executive, where the First Minister and I designate a Department to provide financial assistance. The funding required will have to be identified through existing processes for determining public expenditure. An example of that was when the Executive agreed the allocation of £15 million for fuel poverty as part of the December monitoring round.

The Bill is about managing public expenditure at an Executive level and ensuring, with Executive agreement, that resources are directed in response to exceptional circumstances and to deal with unmet social need. The Executive are already at the heart of the operation of the Bill, so I urge Members to oppose amendment No 4.

Amendment No 5 would restrict the operation of clause 2 to exceptional circumstances, and thereby significantly restrict the Executive's scope for intervention to tackle poverty and social exclusion. Sadly, the circumstances whereby almost one quarter of our children live in poverty are not exceptional, and it is those circumstances that we so urgently need to



address. This legislation is one such way in which to do that. For that reason, we would not accept such a restriction in the clause's scope.

Amendment No 6, if it were made, would require that circumstances giving rise to a determination under clause 2 aimed at tackling poverty and social exclusion would need to be unforeseen. I am sure that Members can foresee that the impact of the present economic downturn could seriously and adversely affect those areas, groups and individuals who are living in poverty or are at risk of poverty — such as lone parents or people with a disability, or areas that are already suffering from deprivation, which is made worse by rising unemployment. I am sure that Members would not want to ignore those individuals or areas, because we can foresee the difficulties and disadvantage that they experience. The amendment is, therefore, unacceptable.

Amendment No 7 seeks to restrict the Executive's ability to take action to tackle poverty under clause 2. However, before making a determination, it is important that the First Minister and I determine jointly, in consultation with our Committee, and, ultimately, with the approval of the Assembly, that existing provisions to tackle poverty and social exclusion are insufficient to effect the improvement in people's lives that we are aiming to achieve.

There may be situations wherein the limited scope of a programme means that arrangements may be adequate, and even effective, given limited objectives. That does not mean that the arrangements are satisfactory and represent everything that could, and should, be done to address a specific problem. Therefore, we should not impose a restriction or limit the scope for taking effective action, which that amendment would certainly do. For that reason, we will reject it.

Amendment No 8 would reduce from six months to three months the time limit between a determination under clause 2 and the making of the consequent regulations. Members will acknowledge that the clause 1 schemes are, by definition, of greater urgency than those under clause 2, given that they enable us to respond to emergency situations as they arise. For that reason, we proposed amendments that differentiated the time limits within which schemes had to be made after the making of the respective determination, with a lengthier period of six months for clause 2 schemes. To reduce a time limit in a manner that would effectively reduce the scope for scrutiny would be a retrograde step, particularly as the Assembly's approval must be obtained before regulations can be made. For that reason, we totally reject amendment No 8.

Similar to amendment No 1, amendment No 9 requires a Department to inform its Committee that it

has been designated under clause 2. As with amendment No 1, that is not necessary, because the Committee would be notified, in any event, as part of the ongoing liaison between a Department and its Committee.

Amendment No 10 proposes to make explicit on the face of the Bill that the approval of the Department of Finance and Personnel is required for any regulations that are made under clause 2. As with amendment No 2, it is unnecessary to make it explicit that agreement is required from the Minister of Finance and Personnel, given the need to obtain Executive approval for a proposed scheme, at which time the relevant Minister may make known his or her views. Furthermore, the Bill does not in any way diminish the authority of the Department of Finance and Personnel in respect of its Minister's role in the approval of public expenditure in general.

Amendment No 11, in the same way as amendment 3, places a duty on the "relevant department" to:

"provide a report on the operation of the scheme to the appropriate statutory committee."

I find it hard to believe that a Department would wish to provide a report to its Committee without a statutory duty being placed on it. We intend to report to the OFMDFM Committee, to the Assembly and, furthermore, to the public on the outcomes of schemes for which we are responsible.

**Mrs Long:** I thank the Minister for giving way. He said that he did not foresee a situation in which a Department would not wish to report to its Committee. Why, in that case, is there a resistance to including that requirement in the Bill as a statutory duty, if, in all foreseeable circumstances, Departments will be content to report to their Committees?

**The deputy First Minister:** Our view is that there is no need to include that requirement. We certainly intend to report to our Committee, to the Assembly and, furthermore, to the public on the outcomes of schemes for which we are responsible. We fully expect that other Departments will do the same and that they will provide details such as who benefited and the overall cost of schemes to the public purse.

It is also open to a Committee to request such information on any scheme at any time as part of its ongoing scrutiny role, particularly if a longer time frame is envisaged for the implementation of a scheme.

Therefore, amendment No 11 is unnecessary and unacceptable. I urge the Assembly to reject all the amendments.

**Mr McCallister:** Amendment No 4, which the Ulster Unionist Party tabled, was intended to manoeuvre clause 2 away from being used as a general tool with the potential of being used by OFMDFM in normal situations to override Ministers, Departments and

Programme for Government targets in furtherance of OFMDFM's political agenda. Amendment No 4 changes that tool into one that enables financial assistance to be given in unforeseen circumstances of poverty, social exclusion and deprivation.

If the issue is merely one of procedure, in the case of amendment No 4, the deputy First Minister should have no problem in making explicit the involvement of the Assembly and the Executive Committee in any decision that is made under clause 2, lest Members believe that it is — as his colleagues appear to believe — a sea change in the way that OFMDFM works.

Amendment No 5 mirrors amendment No 6, which was also tabled by the UUP. It seeks to ensure that clause 2 is not used in normal circumstances. The use of “exceptional circumstances” in amendment No 5 mirrors the wording in clause 1 and brings clause 2 more into line with the long title of the Bill.

Amendment No 6 ensures that the use of clause 2 does not override existing targets and policies that are laid out in the Programme for Government and the Budget. Departments have policies and targets to address on poverty, social exclusion and patterns of deprivation. Failure to support amendment No 6 will reinforce fears that OFMDFM is seeking a power grab and more influence.

Amendment No 7 removes the *carte blanche* approach of clause 2. If the original words are retained, clause 2 will allow the First Minister and deputy First Minister to make up schemes and regulations as they go along. During the debate on accelerated passage, in response to a question from the Member for East Belfast Mrs Naomi Long on whether the Bill would end departmental autonomy, the deputy First Minister said:

“I fully understand the Member's point, and I agree with her. When it comes to implementing the decision that will flow from the proposed legislation, it comes down to our motivation as the leaders of the two largest parties in the Executive and the Assembly.”  
— [*Official Report, Bound Volume 36, p214, col 1*].

His statement illustrates strongly the motivation of the First Minister and deputy First Minister.

With regard to amendment No 8, if the Bill is intended to address emergency situations, a Department should act quickly — three months being preferable to six months. If the Bill represents a sea change in the way in which OFMDFM acts, Sinn Féin and the DUP will reject amendment No 8.

4.30 pm

Amendment No 9 is similar to amendment No 1 and seeks to ensure powers of scrutiny for Statutory Committees on any proposal under clause 2. That is very important, because clause 2 represents a sea change in the way in which the Executive work.

Amendment No 10 is similar to the SDLP's amendment No 2 to clause 1, and it will give Ministers peace of mind that they can control their own budgets and implement their own policies.

Amendment No 11 is similar to amendment No 3, which was tabled by the SDLP. It will ensure that the policy and financial assistance can be democratically assessed by the Assembly and the public, and it will provide a window into crucial decisions made by OFMDFM.

In opening the debate on the second group of amendments, my colleague Mr Elliott said that the amendments will open up our democratic process to accountability and transparency. That is needed, because the Bill could dramatically change the role of Departments and the origin of money for financial assistance. Other Members mentioned the cross-cutting measures in which Departments must engage.

Mr Elliott mentioned a shared and normalised future, and said that he did not want a carve-up. That sentiment was rejected by Ms Anderson, who wants Sinn Féin and the DUP to be in the driving seat, which will render everyone else irrelevant. As Mr Elliott said, definitive boundaries and purpose for the measures in the Bill are required.

Mr Shannon held back his support for the amendments. Despite what DUP Members keep saying, not one day has been lost through the debates on the Bill. The Bill has not been held back, and the Members who say otherwise should encourage such democratic accountability instead of shying away from it.

I mentioned the point that Ms Anderson raised in her rejection of the amendments. I would not say that any Member is not committed to addressing poverty, social exclusion and deprivation. Our concerns about the Bill are more to do with the control that it gives OFMDFM. All parties agree that we must do much more to address poverty, social exclusion and deprivation.

Dolores Kelly said that clause 2 is unnecessary and spoke about the Budget process, which is another important point. In an intervention, Mr O'Loan asked why we have not had a Budget process. It is strange that there is always an annual Budget in every other part of the United Kingdom and even the Republic of Ireland, which the deputy First Minister mentioned earlier. Indeed, in exceptional economic circumstances, which it could be argued that we are in at present, those countries might have a Budget more frequently than that. In contrast, we have set a three-year Budget.

In Mrs Long's contribution, she pointed out that, although the First Minister thought that nobody was listening, there is a difference between listening to, and simply not agreeing with, him. Although I disagree with some of Mrs Long's interpretations of our amendments, there is a purpose to getting cross-departmental solutions.

Departments must be responsible for improving the implementation of various policy initiatives.

**Mrs Long:** Does the Member agree that almost all Members who have spoken have said that there is a need to get cross-cutting measures in place so that they function well? Had the Bill been brought through a proper Committee Stage, with open and frank discussion and debate, we would not be having the continuing reservations and concerns that people are expressing, and the distrust that people are expressing in the intent of the Bill, because it would have been clear and open to everyone to have their say, and people would have been much more confident about the intent of clause 2.

**Mr McCallister:** I thank the honourable Member for her intervention. I agree wholeheartedly, because the problem that the Bill has encountered relates to the difference between emergency measures and taking a step back and deciding on the best mechanisms for dealing with the other issues. Although we all accept that poverty, social exclusion and deprivation must be addressed as quickly as possible, those issues do not come under the category of emergency measures.

The deputy First Minister has been in office since May 2007, but now, all of a sudden, accelerated passage is needed to get the Bill through. Even in the deputy First Minister's contribution, I believe he said that a quarter of children are living in poverty, which is a shame. It is an absolute outrage that, in this day and age —

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

**Mr McCallister:** I will give way in a moment.

It is an absolute outrage, in this day and age, that that is the case. I agree with the deputy First Minister that it is a shame, and the Executive should be working on those issues instead of taking 154 days off. They should be bringing proposals and ideas to the Assembly to address the types of issues on which Members have been focusing and raising through private Members' motions for almost two years.

**Mr Spratt:** Does the Member agree that the UUP Committee members from his party agreed to the Bill's accelerated passage through the House, and, in fact, that the only person who voted against it was the SDLP Committee member?

**Mrs D Kelly:** On a point of order, Mr Deputy Speaker. I ask Mr Spratt to withdraw his comments. I did not vote against it.

**Mr Deputy Speaker:** Order. That is not a point of order, Mrs Kelly.

**Mrs Long:** I thank the Member for giving way. That is not an accurate reflection of what happened, because in addition to the members who voted in favour of accelerated passage, a number expressed

reservations about clause 2 forming part of the Bill and made note that, if possible, they would exclude clause 2 at Consideration Stage. Furthermore, I abstained from voting on the proposal to support the accelerated passage of the Bill, because clause 2 was still part of the Bill when it came before the Committee. Therefore, there was, I believe, never an issue from any Committee member about the need for the issues in clause 1 to be dealt with quickly, but clause 2 required additional consideration. Therefore, if we are going to reflect what happened in Committee, we have to reflect it in full.

**Mr McCallister:** I thank both Members for their interventions. However, at no time has anyone in the Ulster Unionist Party tried to say anything other than the version that Mrs Long gave of what went on in the Committee. Indeed, my deputy leader, Mr Kennedy, who is the Chairperson of the Committee for the Office of the First Minister and deputy First Minister, made that perfectly clear in last week's debate. As Chairperson, he reflected accurately events that took place in the Committee. Therefore, at no time did we shy away from that fact, and we always made the distinction between the major issues, which are getting financial assistance out rapidly and also cross-governmental issues, which should be being dealt with, so that a more effective way can be found to deal with them.

I hope that Members will consider the amendments proposed by the Ulster Unionist Party and support them.

*Question put, That amendment No 4 be made.*

*The Assembly divided: Ayes 23; Noes 54.*

#### AYES

*Mr Attwood, Mr Beggs, Mr D Bradley, Mr P J Bradley, Mr Burns, Mr Cobain, Mr Cree, Mr Durkan, Mr Elliott, Mr Gallagher, Mr Gardiner, Mrs D Kelly, Mr A Maginness, Mr McCallister, Mr B McCrea, Mr McFarland, Mr McGlone, Mr O'Loan, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage, Mr B Wilson.*

*Tellers for the Ayes: Mr Elliott and Mr McCallister.*

#### NOES

*Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr Campbell, Mr T Clarke, Mr Dodds, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Rev Dr Ian Paisley, Ms S Ramsey,*



Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

*Tellers for the Noes: Mr Boylan and Mr Moutray.*

*The following Members voted in both Lobbies and are therefore not counted in the result:*

*Dr Farry, Mr Ford, Mrs Long, Mr Lunn, Mr McCarthy.*

*Question accordingly negated.*

**Mr Deputy Speaker:** I remind Members that amendments Nos 5 and 6 are mutually exclusive. Therefore if amendment No 5 is made, I will not call amendment No 6.

*Question, That amendment No 5 be made, put and negated.*

*Question, That amendment No 6 be made, put and negated.*

*Question, That amendment No 7 be made, put and negated.*

*Question, That amendment No 8 be made, put and negated.*

*Question, That amendment No 9 be made, put and negated.*

*Question, That amendment No 10 be made, put and negated.*

*Question, That amendment No 11 be made, put and negated.*

### **Clause 3 (Schemes for financial assistance)**

**Mr Deputy Speaker:** We now come to the third group of amendments for debate. With amendment No 12, it will be convenient to debate amendment No 13. The third debate will deal with schemes for financial assistance.

**Mr O'Loan:** I beg to move amendment No 12: In page 3, line 13, leave out from “disputes” to “to” and insert

“data protection issues, disputes as to overpayment recovery.”

*The following amendment stood on the Marshalled List:*

No 13: In clause 4, page 3, line 37, at end insert

“(6) The First Minister and deputy First Minister shall lay a report, by means of a statement, annually to the Assembly on the operation of any schemes made under this Act.” — *[Mrs Long.]*

**Mr O'Loan:** Hope springs eternal in the human frame — I think that that is the correct quote. *[Interruption.]*

**Mr Deputy Speaker:** Order.

**Mr O'Loan:** Even though previous amendments have not been accepted, I hope that Members will examine these amendments dispassionately. I hope that

Members will see their usefulness and recognise that they would add to and improve the Bill.

5.00 pm

Amendment No 12, which relates to clause 3, would add significant and useful protections to the Bill on issues that may not have been considered previously. If that amendment is made, it will enable discussion on how schemes passed under regulations will deal with the complex legal issue of data protection. Not all Members may have realised that information that a particular Department has collected for a specific purpose can be legally used only for that purpose — that issue must be considered when a scheme is designed. Amendment No 12 does not say how that matter would be considered or what the outcome of that consideration should be, but it would ensure that it were thought about.

Likewise, there is the important issue of disputes over overpayment recovery. For example, in cases concerning tax credits and Child Support Agency awards, overpayments have been made — money has been issued in good faith, and subsequent attempts have been made to claw back that money. It is desirable that that issue be considered when the scheme is introduced. My party believes that the Bill will be better if amendment No 13 is made.

Members from the Alliance Party proposed amendment No 13, which also has the SDLP's support. I would like to think that even Members who have rejected previous amendments will support that amendment, because they have said that they would support a report to the Assembly, and that is what this amendment would secure. Amendment No 13 states:

“The First Minister and deputy First Minister shall lay a report, by means of a statement, annually to the Assembly on the operation of any schemes made under this Act.”

Some Members have previously indicated that such a report should be made to the Assembly; therefore, I look forward to their support for that amendment.

**Mr Spratt:** I intend to be brief. I oppose amendment Nos 12 and 13. *[Interruption.]* Surprise, surprise.

The SDLP has not fully thought out amendment No 12. If made, that amendment would allow data-protection issues to be dealt with in schemes under clause 1 or 2. The reason why I say that that amendment is ill thought out is that it would bring matters under data-protection legislation — Members may not know that. Data protection is a reserved matter, so, were it made, the amendment would delay the Bill — an issue about which we talked earlier. Effectively, the consent of the Secretary of State would have to be sought, and the Bill would have to be laid before Parliament at Westminster for a 20-day period. I assume that Members would not —

**Mr O’Loan:** Will the Member give way?

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

**Mr O’Loan:** If there are data-protection issues in a legal sense, which is exactly what I am saying, they cannot simply be avoided by not having words in the Bill that relate to those issues. If those issues are there to be considered, they are there to be considered. If we should be referring the legislation to the Secretary of State, we should be referring it to the Secretary of State — I do not know whether that is the case. All the more, that underlines the points that have been argued here very strongly — that the Bill should have been properly scrutinised in Committee and that this is the wrong way in which to attempt to go about enacting this particular piece of legislation.

**Mr Spratt:** I hear what the Member is saying, but that would have the effect of delaying the Bill. Members have made it very clear that they do not want to delay the Bill in any way. I think it was Mrs Long who stated today that the process must be gone through, and I agree with that. I assume that neither she nor Mr McCallister will support these amendments, given that that would delay the Bill.

Amendment No 13 would result in the First Minister and deputy First Minister having to lay an annual report before the Assembly on the operation of any schemes implemented under the Bill. Yet again, there is an issue in trying to bring about something which is inappropriate. It would be inappropriate for the First Minister and deputy First Minister to account for schemes made by other Departments. This is a common-sense matter, and I hope that the House will agree with me that that would be the case with this particular amendment.

The desire from these Benches is to help people, and to help people as quickly as possible. That can be achieved through the Financial Assistance Bill, which has at its core the motivation to get help to those in need. The public can judge the motivation of others in the Chamber, and what their sole desire is; whether it is to delay getting the assistance out or to delay the Bill, which I believe is much needed at this point in time. Many people are looking to the Bill going through this House as quickly as possible. We oppose amendment Nos 12 and 13.

**Mrs McGill:** Go raibh maith agat, a LeasCheann Comhairle. I oppose amendment Nos 12 and 13. I was not here for the debate last week — I could not be here — but I have read the Hansard report, and I very much welcome the Bill. I welcome the provisions contained therein to deal with exceptional circumstances, poverty, social exclusion and patterns of deprivation. I think John McCallister said earlier that everyone believes those matters to be important, and they should be dealt with. I wish to record my welcome for the Bill.

Today’s debate has been interesting, certainly, but when I was preparing for it, I read the Hansard report of last week’s debate. A Member said earlier that Members on this side of the House did not fully understand — I do not think that the Member even used the word “fully” — the legislative process. I think that that Member was addressing a party colleague. I want to comment on the research that that I did on last week’s debate. I sat for some considerable time — *[Interruption.]*

No. It is important —

**Mr Deputy Speaker:** Order. You may speak on this group of amendments and no others. There will be no referring back to last week; last week is done and dusted. Please speak on these amendments, Mrs McGill.

**Mrs McGill:** I will obviously abide by your ruling, but I am referring to a comment that was made by a Member in the House today in relation to the understanding of the debate on this side of the House. I wanted to use the example of my research — for some considerable time last night — to point out that it is quite difficult to understand when one reads some of the contributions. I do not want to press the point, but I want to say that I did learn —

**Mr Deputy Speaker:** Order. Nor will I allow you to press the point, Mrs McGill.

The time to make a comment about what a Member has said is after they have said it, and during the relevant section of the debate. Please continue, but keep your comments to the amendments in group 3.

**Mrs McGill:** Thank you, Mr Deputy Speaker. I will try to remember that, and I will refer to the Hansard report if I forget it.

It is my understanding — as Mr Spratt mentioned earlier — that data protection is a reserved matter.

**Mrs Long:** Does the Member accept that although we cannot affect reserved matters, we still have to abide by decisions made in the context of those matters? If, for example, data protection law applies to the UK and is a reserved matter, it still applies to us in the work that we do. We cannot change it; however, it still applies.

**Mrs McGill:** I thank the Member for her intervention. That is the point that I was about to make. I see no need to include proposed amendment No 12, and Mrs Long has made that point for me. Clause 3(i), which immediately follows on from where proposed amendment No 12 would be inserted, provides for:

“any other matter which appears to the relevant department to be necessary or appropriate for the efficient and effective administration of the scheme.”

I believe that that would cover data protection issues.

As for amendment No 13, it has already been mentioned that other Departments have responsibility

in such matters. Perhaps, therefore, it would not be appropriate for the First Minister and deputy First Minister to bring a report before the Assembly. It is important that we hear what is happening; however, there are a number of opportunities to do that, including through Assembly questions and via Committees.

In conclusion, I was going to say something about the previous debate, but I will abide by your ruling, Mr Deputy Speaker. I oppose amendment Nos 13 and 14.

**Mr McCallister:** It is good to hear Mrs McGill stand up for the rights of Westminster. I am sure that the deputy First Minister will have a word with her about that after the debate.

Clause 3 outlines the further provisions that can, and should, under certain circumstances, be included to ensure efficient and effective management of the financial assistance schemes. Amendment No 12, as tabled by the SDLP, raises pertinent issues surrounding data protection, and the implications that the Bill will have in respect of the potential sharing of information among Departments, and the use of personal data to provide financial assistance beyond benefits. There are statutory procedures that must be followed when using an individual's personal information, and that may affect the ability of Departments to implement schemes for financial assistance. I am interested to hear the deputy First Minister's response on that important issue.

I note that Mr Spratt thought that we could not support the proposed amendments, in case doing so delayed the passage of the Bill.

Throughout the debate, my party has said that it does not want to delay the payment of financial assistance to those who need it most; it wants to ensure proper democratic accountability. If any Member wants to make an intervention on that point, I am happy to give way.

5.15 pm

Amendment 13, which amends clause 4, is sensible because it will increase accountability to the Assembly; it would, however, have been better to be passed in conjunction with the SDLP's amendments Nos 1, 3, 9, and 11. Alone, it cannot guarantee that Statutory Committees will be involved at any stage of the process, although it would increase the overall democratic input of the legislative Assembly. That is to be welcomed.

In the previous debate the deputy First Minister said that he assumed that Statutory Committees would be involved. However, there must be a guarantee. I support the amendment.

**Mrs Long:** Certain Members persist in peddling the lie that the Alliance Party wishes to frustrate or delay: that is simply not the case. My party wants to make the Bill as robust as possible and to enshrine in it, with amendment No 13, a proper mechanism for reporting

and engaging with the Assembly — the need for which has been expressed by Members from all parties.

My party is minded to support both amendment No 12 and amendment No 13. However, I will listen carefully to the deputy First Minister's assessment of amendment No 12. My reading of it is that it does not impose any additional obligation; nor does it change any legislation with regard to a reserved matter. It simply highlights two key concerns, the first of which is that possible data-protection issues must be considered when schemes are drawn up. For example, there could be conflicts between Departments on data sharing or between a Department and a third-party organisation that has been called upon to deliver a scheme.

I am not sure about the point that Jimmy Spratt made; perhaps the deputy First Minister can clarify it. If data-protection and data-sharing issues arise, they will do so notwithstanding any legislation that is passed by the House. They are reserved matters. There is already primary legislation at Westminster to deal with those issues. As Members have been told repeatedly by the First Minister and the deputy First Minister, Westminster legislation takes precedence: Northern Ireland's legislation simply amends the local situation.

In that regard, the Assembly will not add obligations simply by referring to those issues in the Bill; it will merely highlight a conflict. I am interested to hear the deputy First Minister's assessment of that point.

The other key concern that is highlighted in that section is overpayment recovery. I understand Departments' obligation to recover finances that are awarded in error. That has been a source of much debate, particularly when the error is not the result of misinformation being provided by members of the public who apply to the scheme, but of ineffectual administration of the scheme by Departments.

That can cause people significant further hardship. Clause 2 targets those people because they already experience hardship and deprivation. Therefore, it is not unreasonable, in the event of overpayment or error, to ask Departments to consider how they will recover that money in a timely and fair fashion that will not add unduly to the hardship of the people whom they have assisted. There is nothing in the substance of amendment No 12 that causes me concern.

As regards amendment No 13, all parties have said in different ways that they want to maximise engagement with the House on matters that relate to the Bill and that they want the Assembly to be kept informed about schemes. The deputy First Minister and Mrs McGill said that they could not see the need for amendment No 11, which requires Departments to report through their Statutory Committees. They believe that that is unnecessary. Amendment No 11 is simply a mechanism by which Departments can keep



their Committees regularly appraised. Given that, according to certain Members, Departments intend to do so anyway, it is not particularly onerous to make that an obligation. Amendment No 11 creates a reason for a Committee to pursue the matter if its Department has failed.

Given that when we open our Committee papers we often have to follow up on issues and delays, it would be reassuring to have a statutory obligation that ensured that we receive an annual report. Amendment No 13 recognises that some of the schemes are cross-cutting; we are talking about dealing with things that may affect more than one Department. It is a scheme's totality and operations that are of interest to Members of the House. Therefore, it would be better if the First Minister and deputy First Minister would, as joint chairs of the Executive, report annually on behalf of the Executive as a whole.

That would be in much the same way that the First Minister and deputy First Minister update us on issues in the Programme for Government, not all of which are delivered by OFMDFM, which is their Department. Indeed, they also update us on cross-cutting themes such as community relations, equality and sustainability, young people and children and older people. Although delivery on those issues may be spread across a number of Departments, OFMDFM has a special responsibility for them and, therefore, the First Minister and deputy First Minister report to the Assembly. So, it should not cause any particular concern if they do so in this case.

It is feasible that more than one scheme could be in operation at any time. Therefore, it would make sense for the First Minister and deputy First Minister to give us an overview of how many schemes are in operation, how far those have progressed, how they are being delivered, and so on. I cannot see a problem with having legislation that provides for that to happen on a regular basis. Indeed, given that amendment No 11 has fallen, it would be a prompt for Committees to return to the issue if they wanted a more detailed assessment from a Department about its role in any scheme and how effective it has been within its remit.

There seems to be a circular breakdown of logic operating. On one hand, people are saying that it would not be appropriate for Departments to carry out the role individually because more than one Department may be involved and they would probably be doing it any way. On the other hand, people are saying that the First Minister and deputy First Minister cannot do it because they cannot speak on behalf of all the Departments, even though they do that frequently on cross-cutting issues.

I do not think that there is an issue with amendment No 13, and I am interested in whether the deputy First

Minister will be able to clarify the problem about specifying the issues of overpayment and data protection when he responds to the debate. I do not understand how we could have encroached on reserve matters when we are not applying to change any such issue.

**Mr Attwood:** It is odd what comes out when you least expect it. The exchange between Mr O'Loan and Mr Spratt, which took place early in the debate on this group of amendments, gave the game away. Mr Spratt said, presumably on behalf of the DUP, that the latest amendments tabled by the SDLP and others would be rejected: I presume that the deputy First Minister will confirm that in due course. It is curious, because I cannot recall any piece of legislation being passed in this Chamber without even one amendment having been accepted from, let us say, the minority parties.

**Ms Ní Chuilín:** You may get used to it.

**Mr Attwood:** That comment gives the game away again. From a sedentary position, the Sinn Féin Whip said: "get used to it." On this group of amendments, the message being sent out by Mr Spratt and Ms Ní Chuilín to the Chamber and to the people of Northern Ireland is: get used to it. Get used to the fact that when legislation is tabled on the Floor of the Assembly, and reasoned amendments are tabled by the minority parties, not one of those amendments will be accepted; get used to it.

**Ms Ní Chuilín:** I know that you were working yourself into a point there, but —

**Mr Deputy Speaker:** Order. Will the Member refer all her remarks through the Chair and not directly to another Member?

**Ms Ní Chuilín:** I was making the point that if a Minister who is responsible for introducing legislative frameworks to deliver services to people in most need is incompetent, the House will take whatever action is required to provide a remedy; so, get used to it.

**Mr Attwood:** If that is the Sinn Féin Whip's best response to my point, that party should be worried. My point was clear and explicit. In the dying hours of the debate, Mr Spratt said that the DUP will not accept any amendments from the minority parties, even the reasonable amendments that were tabled by Mr O'Loan. Through that response, Sinn Féin was explicitly telling the SDLP, the Ulster Unionist Party, the PUP, the Alliance Party and the people of the North of Ireland to get used to power being in the hands of the DUP and Sinn Féin, to get used to their views not being heard or acknowledged, and to get used to the fact that sensible amendments that will improve the legislation will be rejected.

That scenario is bad enough. However, Peter Robinson said that the legislation is the "most important piece of legislation" to come before the House.

Furthermore, it has been granted accelerated passage. Given those points and in the event of such sea-change legislation, I would expect some acknowledgment — however small — that the legislation can be improved through one of the many amendments that the other parties tabled. However, that did not happen. Not one has been accepted, and we are told to get used to it.

My second point betrays the DUP and Sinn Féin most. Amendment No 12, which was tabled by the SDLP, refers to overpayment issues, which Mr O’Loan, Mr McCallister and Mrs Long outlined. We know that clause 3 is particularly relevant for the constituencies that are in greatest need. From our experience in our constituency offices, we also know that overpayment issues and overpayment recovery sometimes arise with benefit uptake and payments to those in need. Therefore, Members should be acutely aware that further issues over the recovery of payments could arise as a result of clause 2, which introduces mechanisms to deal with poverty, need and social deprivation. It seems natural and organic that a Bill that addresses issues of poverty and deprivation should contain a mechanism that legislates against further impediment and burden being placed on those in need. However, even that amendment was not accepted.

**Mrs McGill:** I thank the Member for giving way. I was not going to say that the amendments are not reasonable, but I hope that he agrees that the provisions of the amendments are accounted for elsewhere in the Bill. We are not saying that our way on overpayments must be followed and that the Bill does not address that point; I believe that the Bill will address those issues. Of course people are concerned about that matter.

**Mr Attwood:** I have a great deal of regard for the Member for West Tyrone. I sit on a Committee with her, and I know that she fights vigorously for her constituency, and I know about the issues that she tackles. However, I am mindful that she was not in the Chamber last week, and I assure her that the Bill does not contain such provisions.

Given that I am saying that to her, and reassuring her about that, could I suggest to her that if that is the case, will she now, on behalf of Sinn Féin, acknowledge that that provision is not in the Bill, that it should be inserted into the Bill, and that one way, at this very last minute, to change the Bill so that it will protect people who already have a heavy burden, would be to amend the Bill? Does the Member agree with me that given that that provision is not in the Bill, it would be better now if she and Sinn Féin changed tack and supported the amendment?

5.30 pm

I hope that the deputy First Minister has more to say, and I invite him to say more in that regard, given

that a member of his party seems now to accept that what is not in the Bill is not in the Bill, and what should be in the Bill should be put in through the SDLP amendment.

**Mrs McGill:** I thank the Member for giving way. It is my view that the Bill takes account of that, as I said in my earlier contribution.

**Mr Attwood:** I hear what the Member says, but on this occasion, the Member is wrong. Therefore, I say to the Member, and to the deputy First Minister, let us get it right. Let us accept that amendment, so that, given that there is a common commitment in the House to help those who live in deprivation and who are in poverty, there is still yet another protection for them in the event that this legislation should result in them being in a situation of overpayment.

The third point that I want to make is that the Bill demonstrates the dogmatism of Sinn Féin and the DUP. That is reflected in amendment No 13, which, at a very minimum, suggests that it would be sensible for the First Minister and deputy First Minister to deliver a report, by means of a statement, not once a week, once a month, or once a quarter, but once a year — four times in the lifetime of this Assembly, in the event that the legislation is relied upon in the future life of this Assembly. Once a year. The Northern Ireland Policing Board must table a report once a year, as must the Police Ombudsman, the Electoral Commission, the Probation Board, the Justice Agency, the PSNI, every council in the North, and the Assembly Commission — yet it is not good enough for the First Minister and deputy First Minister to table a report once a year in respect of this legislation.

What makes the First Minister and deputy First Minister so precious? Why is it that a minimum standard that informs the life of every single public body in the North is a standard that the First Minister and the deputy First Minister think does not apply to them? Why are the standards for everyone else, but not for two people in Northern Ireland who are meant to be the political leadership of this part of the world? What makes them so exceptional and special that they do not have the obligations that every other person in a leadership role in a public body has? I ask the deputy First Minister to explain that.

Why, in regard to an exceptional piece of legislation, in which there is heightened public interest, and certainly heightened political concern, is it not thought appropriate and worthwhile for the First Minister and deputy First Minister to report once a year to the House? If, when the legislation about the Police Ombudsman or the PSNI was being tabled, I had suggested that they had to report once only every four years, can you imagine the hysteria that I would have faced from the DUP, Sinn Féin and others for saying

that there are public officials in Northern Ireland who do not have the accountability requirements of others.

I would have been, rightly, knocked back, but the SDLP, rightly, did not make such a preposterous proposal. However, by rejecting amendment No 13, the First Minister and the deputy First Minister are saying that they are different. Therein lies the essential truth behind this Bill. By rejecting that amendment, the First Minister and deputy First Minister are acting in a dogmatic, centralised and powerful way. They think that they do not have to live up to the standards of anyone else who has that level of responsibility and who must report once a year, every year.

The First Minister and deputy First Minister refuse to include provisions to protect those who are vulnerable in a situation of overpayment, and the Sinn Féin Whip told us to “get used to it”. In the last minutes of this debate — when there are fewer Members in the Chamber — it is odd how some of the self-evident truths of this Bill become clear.

Let me tell the First Minister and deputy First Minister that we do not live by the standards of “get used to it”. People in Northern Ireland will have heard loud and clear — from the mouths of the authors and the supporters of this Bill — that they should get used to the nature and character of DUP and Sinn Féin power in this part of the world. The people have been told that if they do not like it, they can lump it.

**The deputy First Minister:** Amendment Nos 12 and 13 cover data protection, dealing with disputes regarding overpayment recovery and reporting arrangements. The latter has also been discussed in the context of reporting to Statutory Committees, which was proposed in amendment Nos 3 and 11.

Although I agree that issues of data protection may arise in the course of implementing schemes, the Bill is certainly not the vehicle for resolving such issues. As has already been pointed out, data protection is a reserved matter. It cannot be dealt with in the Bill without the consent of the Secretary of State and the Bill being laid before Parliament for 20 days. We cannot be sure that the Secretary of State would give his agreement. Even if that agreement was forthcoming, it would inevitably delay the Bill’s passage and — ultimately — the fuel-credit payments that we wish to make urgently through this legislation. I assure those who raised the matter that any data protection issues that may arise will not be ignored and will be settled within the existing legal framework.

Amendment No 12 also proposes that clause 3 should specify that schemes will cover disputes regarding the recovery of overpayments, and that was also mentioned. That is unnecessary as the list of issues in clause 3 for which a scheme can provide is neither exhaustive nor mandatory. The legislation

could, therefore, deal with disputes about overpayment recovery as it is currently drafted.

Amendment No 13 proposes that the First Minister and deputy First Minister should report annually to the Assembly on the operation of any schemes that are made under the legislation. I agree with the Alliance Party Members: accountability is essential throughout the process of implementing and developing the schemes. We have no difficulty with the intended outcome of the amendment. However, accountability for the operation of any scheme rests with the designated Department — not with the First Minister and deputy First Minister.

Furthermore, I expect that the Minister responsible would wish to evaluate the impact of schemes in line with good-practice guidance. We intend to report to our Committee on the outcome of any schemes that OFMDFM implements. I fully expect other Ministers to do likewise, without the need for the legislation to place that duty on them.

**Mr Ford:** I appreciate the Minister giving way. We certainly accept the point that he made about individual Ministers reporting to their individual Committees. However, the purpose of the amendment is to seek a wider report on the overall operation, which can only be done by the First Minister and deputy First Minister jointly reporting to the Assembly as a single body. He has not answered that point.

**The deputy First Minister:** The point that I am making is that it is expected that individual Departments, like my Department, would report to their Committees and to the Assembly. Indeed, if that were not to happen, the Executive would ensure that such reporting mechanisms were included in regulations governing particular schemes, and that is why we reject the amendments.

I reassure Alex Attwood that dealing with overpayments is possible under the Bill as currently drafted. Concerns expressed on that matter have been dealt with.

**Mrs D Kelly:** It is most regrettable that, once again, attempts by parties on this side of the House to give an honest appraisal of the legislation and, where possible, to improve it have been totally ignored by the DUP and Sinn Féin.

The deputy First Minister said that he sympathises with the Alliance Party’s attempt, using amendment No 13, to improve accountability; however, many of the proposed amendments sought to improve the accountability of the First Minister and the deputy First Minister, the ability of Committees to scrutinise their Departments, and the House’s ability to scrutinise legislation. Nevertheless, he and the First Minister remain bullish in their attitude towards rejecting those amendments. One wonders whether the deputy First Minister’s sympathy for Alliance Party amendments is



a continued attempt to woo that party into breaching d'Hondt in the devolution of policing and justice powers. Perhaps the deputy First Minister will respond to that point on another day?

I was somewhat surprised by Mr Spratt's comment about the SDLP's audacity to play politics in an institution such as this — an institution to which we were elected as politicians. In the past few days, a lot of smoke and mirrors have been employed in the debates about this legislation, and there have been suggestions that the SDLP, the Alliance Party, the PUP and the Ulster Unionist Party have been seeking to delay it. Clearly, that has not been the case.

My party has great difficulty with clause 2, and in order to protect the most vulnerable people in our society, we attempted to improve clause 3 by dealing with data protection matters. In spite of that, no one will listen to us. However, there is continuing confusion on the Benches opposite between reserved matters and the regulations and improvements that we can make under our own volition.

During her contribution, Mrs McGill said that she carried out a lot of research last night — her Sunday evening must have been very boring. Even having undertaken that level of research —

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

**Mrs D Kelly:** Yes, surely.

**Mrs McGill:** I thank the Member for giving way. I am looking at you, Mr Deputy Speaker, because I am wondering whether I am allowed to respond. I was talking about a debate that was held last week, and the Member is referring to that.

**Mr Deputy Speaker:** The Member will not be able to influence the debate last week, so if Mrs Kelly is happy to allow an intervention, the Member is permitted to intervene.

**Mrs McGill:** I was not present during the debate last week, so I read the Official Report in order to inform myself about the Bill, and I was informed of it by some of the contributions.

**Mrs D Kelly:** I am not sure whether Mrs McGill expects me to reply to that comment. Nevertheless, I was attempting to point out to her that if she had read and understood the contributions and concerns of those who tabled the amendments, she would appreciate that nowhere does the legislation oblige the First Minister or the deputy First Minister to make a statement.

If Mrs McGill is arguing that it would be up to other Departments and other Ministers to issue such statements, she has failed to recognise that the DUP and Sinn Féin have used the cross-cutting nature of OFMDFM's responsibilities, particularly in tackling poverty, social exclusion, deprivation and children and

young people as their arguments in favour of the Financial Assistance Bill. Due to the cross-cutting nature of their remit, it is clear and right that an amendment such as amendment No 13 be tabled today. Therefore, the First Minister and deputy First Minister should be expected to make an annual statement.

5.45 pm

In his response, the deputy First Minister said that he was sure that such a statement would be made but that he did not believe that there should be an obligation on either him or the First Minister to make one. However, as Members said today and in previous debates, OFMDFM does not have Members' trust, because, as some Members said today, papers to the Committee often do not follow on time and decisions are held up. Several decisions and strategies were held up long before the 154-day logjam; decisions have been lying somewhere in the bends of OFMDFM since last spring.

The First Minister and deputy First Minister — and the DUP and Sinn Féin — should not be frightened of such an obligation. Surely making such a statement is in the interests of good accountability and good scrutiny.

Alex Attwood and Declan O'Loan explained the reason that it was necessary to table amendment No 12, which was tabled by the SDLP and which proposes to insert into clause 3 the words:

“data protection issues, disputes as to overpayment recovery”.

Hardly a day goes by that my constituency office — like, I am sure, those of other Members — is not contacted by people who are worried about overpayments. Given the experience that we have with child tax credits and overpayments in particular, and the financial hardship, pressure, strain and worry that they place on individuals, I do not understand why amendment No 12 would not be accepted.

I think that it was Mr Spratt who suggested that Ministers should table only competent legislation that does not require amendments. The Member should be aware that the First Minister and deputy First Minister tabled amendments to the Financial Assistance Bill, so they have admitted that the legislation required amending. Furthermore, following the accelerated passage of the Commission for Victims and Survivors Bill, the First Minister and deputy First Minister tabled amendments. Therefore, it is an established precedent that Ministers who introduce legislation may table amendments.

The bullish attitude that was displayed by Sinn Féin and the DUP in not listening to the concerns of others was regrettable. No one showed it more clearly than Carál Ní Chuilín. She told the House and the public to “get used to” DUP and Sinn Féin rule without any recognition of the contribution that other parties might

make by suggesting how legislation might be improved. If something does not fit in with Sinn Féin or the DUP's view of the world, it is not accepted, and that is tough on the rest of us. Such an attitude is coming from a party that cried for years that its electoral mandate should be honoured and upheld. However, it is not taking on board the views of other parties now, particularly those of the SDLP, which has a proven track record on the delivery of social justice and welfare issues on behalf of the people.

*Question put*, That amendment No 12 be made.

*The Assembly divided*: Ayes 24; Noes 53.

AYES

*Mr Attwood, Mr Beggs, Mr P J Bradley, Mr Burns, Mr Cobain, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs D Kelly, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCallister, Mr McCarthy, Mr B McCrea, Mr McGlone, Mr O'Loan, Ms Purvis, Mr P Ramsey, Mr Savage, Mr B Wilson.*

*Tellers for the Ayes: Mrs D Kelly and Mr O'Loan.*

NOES

*Mr Adams, Ms Anderson, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr Campbell, Mr T Clarke, Mr Craig, Mr Dodds, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Rev Dr Ian Paisley, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Weir.*

*Tellers for the Noes: Mr P Maskey and Mr Moutray.*

*Question accordingly negatived.*

**Clause 4 (Financial assistance)**

*Question put*, That amendment No 13 be made.

*The Assembly divided*: Ayes 23; Noes 53.

AYES

*Mr Attwood, Mr Beggs, Mr P J Bradley, Mr Burns, Mr Cobain, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs D Kelly, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCallister, Mr McCarthy, Mr B McCrea, Mr McGlone, Mr O'Loan, Ms Purvis, Mr P Ramsey, Mr Savage, Mr B Wilson.*

*Tellers for the Ayes: Mr Lunn and Mr McCarthy.*

NOES

*Mr Adams, Ms Anderson, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr Campbell, Mr T Clarke, Mr Craig, Mr Dodds, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Rev Dr Ian Paisley, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Weir.*

*Tellers for the Noes: Mr Brolly and Mr Moutray.*

*Question accordingly negatived.*

**Mr Deputy Speaker:** That concludes the Further Consideration Stage of the Financial Assistance Bill. The Bill stands referred to the Speaker.

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

## PRIVATE MEMBERS' BUSINESS

### Welfare of Animals Act

## COMMITTEE BUSINESS

### Statutory Committee Membership

*Resolved:*

That Mr Tom Elliott replace Mr Ken Robinson as a member of the Committee for Education. — [Mr Cobain.]

**Mr Deputy Speaker:** The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer will have 10 minutes to propose the motion and 10 minutes to make a winding-up speech. All other Members will have five minutes. One amendment has been selected and published on the Marshalled List. The proposer of the amendment will have 10 minutes to propose and five minutes to make a winding-up speech.

**Mr Elliott:** I beg to move

That this Assembly calls on the Minister of Agriculture and Rural Development, in light of recent events, to review the welfare of animals legislation as a matter of urgency to ensure that animal-welfare standards are at least equivalent to those in the rest of the United Kingdom.

I rise to address the very serious issue of animal welfare. The Ulster Unionist Party decided to propose the motion for several reasons, the first being that the current legislation lacks the provision for an offence of keeping an animal in conditions that are likely to cause it suffering. At present, action can only be taken if cruelty is apparent and demonstrable.

Several cases involving animal-welfare issues have been highlighted in the press in recent weeks and months.

We have encountered serious cases at Little Acre Open Farm, at Katesbridge and elsewhere. In the community there is great concern that current legislation does not meet the requirements of the Department, the agricultural sector or those who keep animals. We want the legislation tightened up — the current Northern Ireland legislation was enacted in 1972 and needs updating. The Department of Agriculture and Rural Development's consultation process on the matter ended in December 2006 — more than two years ago.

Since then, there has been ample time to implement new laws, or at least to begin the legislative process, but neither has happened. I understand that the Minister wants new animal-welfare legislation introduced on an all-Ireland basis, or for legislation in Northern Ireland and the Republic of Ireland to correspond. I have no problem with the Republic of Ireland's bringing its legislation up to our standards. That is no reason, however, for delaying an update to Northern Ireland's legislation. We want our legislation brought into line with the rest of the United Kingdom, and particularly with that in England and Wales, which was improved and updated in 2006.

The SDLP has tabled an amendment to the effect that we should have legislation similar to that in the



Republic of Ireland. However, the Republic's legislation dates back to 1911, which predates partition. At least we have had updates since then. Therefore, there is no point in our trying to equate our legislation to that of the Republic. We must move forward our process. If the Republic wants to catch up, that is up to the people of the Republic, and we will have no objection to their doing so. We must not be hampered by a delay in legislative proposals in the Republic. Its consultation process has just finished, so it may be four years before it brings its legislation up to a standard comparable to ours. We cannot wait on the Republic.

On the occasions when farms are visited and animal-welfare issues not recognised, some blame the Department of Agriculture and Rural Development's (DARD) officials. However, it may be the Department that is falling down in that instance. It may be the case that, when they are out testing cattle, that is all that DARD officials are allowed to do. It is hard to understand how departmental officials visited a farm on nine occasions and saw nothing amiss on many of them, despite the evidence of serious animal-welfare problems on the premises. If animals are lying dead or dying, I fail to see how officials can miss it, even if they are there for another purpose. When there, they should be able to address all issues. We must ensure that, when they are out on farms, departmental officials have the authority to ensure the welfare of animals on the premises.

New legislation should produce certain outcomes. We want to ensure that departmental officials and agencies such as the USPCA can remove from premises animals whose welfare is neglected.

We also need to ensure that the legislation allows officials from the Department or from other organisations to take action against conditions likely to cause suffering to animals. Voluntary organisations that deal with animal-welfare issues in the Province do a very good job under very difficult circumstances, and under the poor legislation that already exists.

When someone is found to have caused animal suffering, it is important that the legislation prevents not only that person, but also those premises, from retaining or keeping animals under their control in the future, or certainly for a certain length of time. Otherwise, one can never be sure that a similar situation will not happen again on those premises, perhaps by a family member or by the person who was caught the first time.

Therefore, it is important that we move this process forward. Although I have no difficulty with the Republic of Ireland legislation coming into line with ours, what I really want to see is progress on our own legislation. Can the Minister tell me where is the review of the Welfare of Animals Act (Northern

Ireland) 1972 that started many years ago? We need to see progress on that, and we need to see it now.

**Mr P J Bradley:** I beg to move the following amendment: At end insert

“and the Republic of Ireland.”

My South Down constituency colleague John McCallister and I are, perhaps, more aware of instances of animal cruelty than any other Member in the Chamber, because over the past few years in South Down, Stephen Philpott, of the USPCA, has been regularly featured on television, regrettably having to speak from a South Down venue. Therefore, we are very familiar with the problems.

I absolutely agree with the content of the motion. The SDLP's amendment allows for the fact that everything is far from perfect across the water or in the Republic. I concede that the new regulations that were introduced to replace 100-year-old regulations in the United Kingdom are a step in the right direction, and we would benefit if those regulations were replicated here.

I recently listened to a talk given by Professor Patrick Wall, of University College Dublin, to the North of Ireland Veterinary Association at its annual meeting in Magherafelt. In an informative address on animal welfare and health, he spoke about the issues surrounding the November dioxins scare. He praised the legislation in the Republic that allowed for effective traceability and immediate compensation for loss. I know that we are not debating the dioxins case this evening, but it should not be allowed to go unnoticed that there are differences between animal-related regulations that apply North and South.

Currently, the hands of the USPCA are tied. Its officials, as Mr Elliott said, are acting under outdated regulations that deal with only suffering animals. The old saying that prevention is better than cure is very applicable in this debate. It could be claimed that the key word in the motion — and, indeed, in the amendment — is “urgency”. It is the view of the SDLP that the Minister should act immediately to introduce legislation that incorporates the best of the regulations that apply in the United Kingdom and the best that apply in the Republic of Ireland. Calling for the best of both worlds, which we have attempted to do in our amendment, is worthy of support.

We need legislation now that prevents anyone from owning or operating any form of activity that presents conditions likely to cause suffering to animals, whether on farms, in kennels, in stables or in circuses — indeed, everywhere that animals are contained, be it in the open or housed.

I thank Mr Elliott, Mr McCallister and Mr Savage for tabling this motion; it is regrettable that there is a need to do so. However, while cruelty to animals is

still the practice of a few, we must do what we can to address it. Finally, it might be worth the Committee for Agriculture and Rural Development debating the issue again, and to learn from USPCA professionals about the regulations that apply across these islands with a view to creating regulations that will be admired by all.

The amendment offers the opportunity to construct all-embracing regulations that will, hopefully in the not too distant future, eliminate the scourge of animal cruelty.

**The Chairperson of the Committee for Agriculture and Rural Development (Dr W McCrea):** In March 2006, I called on Angela Smith, as the Northern Ireland Minister with responsibility for this matter, urgently to introduce legislation to protect animals from unnecessary suffering. I said nearly three years ago that we needed a short timetable for the introduction of legislation and that we needed actively to engage on this matter.

6.30 pm

We were told at that stage that the Department was undertaking consultation into the Welfare of Animals Act (Northern Ireland) 1972; an Act that is so obsolete that, as the USPCA said, it would allow for the packing of 500 small mammals or birds into the back of a car in strong sun. An offence would not be committed until those animals began to die. Never mind the distress and obvious pain that would be endured, the animals would have to die before action could be taken — all because of loopholes in an Act that is more than 35 years old.

When responsibility was passed to the Northern Ireland Assembly and I was appointed Chairperson of the Committee for Agriculture and Rural Development, one of the first things that the Committee did was to call on the Minister and her Department to review the legislation to prevent dogs being bred for fighting and to prevent the despicable suffering that those animals and others must endure to line the pockets of their owners illegally.

The Department was called to appear before the Committee on several occasions. We were told that the matter was under review, and we are still being told that nearly two years on. On each visit to the Committee, the Department was asked what it was going to do to protect the animals of Northern Ireland. We were told that the matter was being considered on an all-Ireland basis and that the Department was waiting for a response from its counterparts in the Department of Agriculture, Fisheries and Food in the Republic of Ireland. The Department waited while more animals suffered, while unscrupulous criminals got richer and greedier, and while everyone else begged for action to be taken.

We are still waiting. We are no further on than we were two years ago when the Committee called for action. We are no further on than we were three years ago when I called on Angela Smith for action. We are no further on while elsewhere in the United Kingdom action has been taken and legislation was introduced nearly four years ago.

The Committee for Agriculture and Rural Development has been consistent in calling for cruelty to animals in Northern Ireland to stop and for punishments to fit the crime, which would act as a real deterrent. The Committee is considering a separate piece of legislation — the diseases of animals Bill — and has recommended that the Department introduce mandatory prison sentences for those who deliberately infect animals; a recommendation that we believe to be very significant. It will be significant because we are providing the Department with the means by which to tackle a real and significant problem with real and significant tools.

I assure Members that the deliberate breeding of dogs for fighting or in sickening conditions is no less significant. I assure the House that when the legislation comes before the Committee, we will be no less stringent in calling for appropriate sentences for those heinous crimes, and that the tools that we provide to the Department or other authorities will be no less significant.

Animals are suffering in Northern Ireland today as we speak, and they are being afforded no protection. Offences are being committed against animals in Northern Ireland today; offences that lead to unspeakable torment, pain and anguish to animals. We cannot accept that.

I repeat the call that I made in 2006, but not as it was made then, as an elected representative to a direct rule Minister; this time, I make the call as an elected representative of the Northern Ireland Assembly and as Chairperson of the Committee for Agriculture and Rural Development. We need a short timetable for the introduction of legislation, and we need to engage actively in that matter now. The Committee for Agriculture and Rural Development is more than willing to receive any such legislation that comes before it.

Regarding the amendment, Mr P J Bradley says that we need legislation and we need it now — if we wait for the Irish Republic, unfortunately, we will delay the legislation. We need legislation in Northern Ireland now. Let us look after our own position. I support the motion.

**Mr Doherty:** Go raibh maith agat, a LeasCheann Comhairle. I am in favour of the motion and of the SDLP's proposed amendment. I am aware that the Department of Agriculture and Rural Development has been in touch with a wide range of stakeholders,

seeking their views on all of the issues concerned and on how those should be brought forward. The Department has been in touch with officials in Britain and in the South of Ireland. In 2006, the Scottish Parliament updated its animal-welfare legislation, and, in 2007, England and Wales updated theirs. Unfortunately, they did not liaise properly, and I would not like to see such creeping partitionism enter into our debate. On the island of Ireland, it is necessary that we liaise with the South and with officials in Britain.

The legislation has to deal with issues such as dogfighting, puppy farms and circus animals.

**Mr T Clarke:** How can the Member square that circle? A 'Spotlight' programme showed that dogs were being imported through the Republic of Ireland. Clearly, there is a large loophole in the Republic of Ireland, whereby dangerous dogs can be brought into Northern Ireland through the back door.

**Mr Doherty:** I agree with the Member; that is why we have to liaise and consult, in order to close all the loopholes on the island so that that does not continue. I thank the Member for his intervention and for allowing me to highlight that point. As I said, dogfighting must be dealt with.

**Mr Lunn:** I support the motion and want to express my party's frustration at the delay in bringing forward such legislation. We agree completely with Mr Elliott and Dr McCrea; this should have been done a long time ago. We do not accept the Minister's view that it is important to move in tandem with the Republic of Ireland. There is no need to do that; we are quite entitled to lead the way. Good legislation that we can copy has been in place in Scotland and England since 2006. If that legislation does not meet all the demands of the organisations concerned, it certainly meets most of them.

The Minister's desire to wait for the South to move is illogical and extremely frustrating for Members who want to see a legal requirement placed on those people who keep animals to do all that is reasonable to ensure their welfare. We want an end to the situation where keeping an animal in conditions likely to cause suffering is not against the law. Stephen Philpott from the USPCA said that:

"there is no legal redress for a dog forced to survive in a yard littered with its own filth, an animal never groomed, walked or socialised. Only when the sores appear and the vet is ignored, can we involve the PSNI".

At that stage, it is often too late to save the animal; I am sure that Mr Philpott has seen many such cases.

We want an end to some of the practices that have been mentioned, such as circus animals, dogfighting and hare coursing. I regard hare coursing to be a stain on our national pride and something that should have been outlawed years ago, north and south of the

border. It is worth asking: if we are going to move with the Southern authorities, will they take the same attitude toward hare coursing? Will they stand up to the greyhound lobby in the South as is necessary? Major issues surround the treatment of greyhounds while they are racing, and their treatment after they have finished racing is fairly terminal.

The Minister must take heed of the public's frustration. Regularly, the media reports, in horrific detail, on examples of the neglect of animals on a grand scale and on individual acts of cruelty toward all types of defenceless animals. Not all of those acts will ever come to light; however, legal right of access based on public concern could help, and that should have been in place before now.

I doubt whether the Minister or the Department has a problem with the five freedoms, as declared by the Animal Welfare Federation Northern Ireland and others. Nevertheless, I will just repeat them. They are freedom from thirst, hunger and malnutrition; freedom from discomfort, pain and injury; freedom from disease; freedom from fear and stress; and freedom to express normal behaviour. No one objects to those freedoms, so why the delay?

I have here photographs that show what can happen to a dog when it is neglected. It is suffering from trauma to the tip and every joint of its tail; indeed, some of its tail has rotted away. It is underweight and emaciated. It has dermatitis and dermatosis. It has a lesion on the bridge of its nose that would make you sick, and it has hookworm and sarcoptic mange.

I mention that particular case because that dog has been held by the state in custody since September 2007 under dangerous-dogs legislation. It used to be a well-behaved household pet. I do not know whether it was dangerous: that is what the argument is about. However, it has never bitten anyone and there is no record of aggression. It has been changed from being a healthy animal to an emaciated wreck while in the care of the state. It has been kept in solitary confinement and has suffered in a way in which the legislation that we now demand would never have allowed.

There are examples galore and there will be more while we wait for the Government to take action. It is particularly annoying to see the Government of another jurisdiction acting on a matter on which we should be taking the lead. I hope that the Minister is not allowing her politics to overrule her compassion on this matter. I urge her urgently to bring forward legislation that is based on the British model.

**Mr Newton:** I thank Mr Elliott, Mr McCallister and Mr Savage for securing the debate. I will approach it from a slightly different angle to that of other Members — from the perspective of abuses of wild animals, particularly those that are used in travelling circuses.



There was a time in this country when barbaric sports such as bear-baiting drew large crowds, when wild bears were tormented to make them react in a violent way for entertainment. Thankfully, society has moved beyond that point. My party colleague the Rev William McCrea referred to organised dogfighting, which was, at one time, common, open and thought to be acceptable. I welcome the fact that all right-thinking people now reject that as a sport. Cockfighting was a centuries old blood sport in which two birds that were bred specifically for fighting fought to the death. Society also rejected that bloody so-called sport, and moved on.

Each of those activities was recognised as a cruel and nasty form of animal treatment, and society demanded an end to that type of animal exploitation. However, there is a form of so-called entertainment that is still active — although it is in decline, which I welcome — which many people find unacceptable and for which people have been taken to court as they pose as animal lovers. I refer, of course, to the animal menagerie, or, indeed, the travelling circus.

For too long, those outdated forms of perverted amusement have travelled the length and breadth of the UK, the Republic of Ireland, and across Europe, touring once-magnificent wild animals in beast wagons for hours on end. A circus is a commercial business activity that trains wild animals to carry out tricks that are not natural to them and which require many hours of degrading, routine practice until the animals, in the eyes of the whip-carrying trainer, get it right.

It is probable that any travelling circus that comes to Northern Ireland will meet all its legislative obligations on animal welfare, but only because the legislation is so out of date. During recent years, however, there have been revelations about how circus animals are ill-treated in order to force them to perform for the paying public. In fact, some of those once-proud and mighty animals do not take easily to riding on each other's backs and jumping through hoops and, therefore, must rehearse until they meet the trainer's demands.

A touring circus spends many hours moving from location to location, and the animals are caged while they travel in the beast wagons. They are confined for hours with little time for exercise. It is impossible for a travelling menagerie to give animals the amenities that they need. Animals such as lions, rhinos, hippos and elephants are shipped in beast wagons across the seas on long gruelling journeys and moved from Italy, France, or Germany to the UK or Ireland.

6.45 pm

I encourage parents to consider the welfare of animals before they visit any travelling circus. There are many successful circuses that do not use wild animals; those that do are an antiquated relic of an earlier period. I

welcome Belfast City Council's unanimous decision to ban animal circuses from performing on council property. Some councils in GB and the Republic of Ireland have also taken that decision.

It is time for the Assembly to give this matter serious consideration and for the Minister to address it in the manner that other Members have suggested. The legislation is out of date; it is more than 30 years old, and it is minimalist in its content.

**Mr Shannon:** I support the motion that has been tabled by the Ulster Unionist Party. Wearing my other hat, I declare an interest as a member of Ards Borough Council, which is also aware of the problem. I was horrified to see the media reports on the breeding of puppies. I will focus on the Province's puppy farms, where dogs are regularly treated disgustingly before being sold on.

The term "puppy farm" conjures images of little puppies bounding around in the sunshine in fields and playing away to their hearts' content. That is the 'Jackanory' way of looking at it, but the reality is very different. I read a description of a puppy farm that disturbed me greatly. It stated:

"A puppy farm is hard to define, since it could be any size, any location and any number of dogs involved — it does not have to be on an actual farm!"

The puppies do not bound aimlessly around, they are confined and mistreated.

"A puppy farm can also have a license issued by the local council and sell puppies that are registered with the Kennel Club and come with 'pedigree' certificates... The best way to describe a puppy farm is to say that it is a place where puppies are bred, purely as a way to make money, with little or no regard for the health and welfare of the dogs involved... since responsible breeding is actually an expensive business."

I realise that some puppy farms are legal and conform to the requirements of UK legislation, but that is by choice rather than by law. Those puppy farmers voluntarily allow councils' environmental health officers to visit, but there are a great many other puppy farmers who look upon it as a business. They will cut as many costs as possible so that they can make the maximum profit, and they do not care about the suffering or if a few puppies die in the process.

Cost cutting includes: breeding from bitches too often and from too young an age; cramming dogs into unsuitable kennelling and feeding only enough for them to survive and breed; not giving proper veterinary care or vaccinations; and putting pups up for sale when they are too young to leave their mothers.

Tha laa' surroondin dug fermes anither leevstock metters haes bin lauched at as fu' o' loopholes an no tuch enough fer tae tak oan tha proablum. In scrivven woark fae tha USPCA wi' regerds tae leevstock

wull-bein, it's cleer whut they think. Tha 1972 wullfare o' animals is past it's sell bi' date.

The law surrounding puppy farms and other animal-welfare issues has been criticised as full of loopholes and not tough enough to properly tackle the problem. The USPCA is clear in its view that the Welfare of Animals Act (Northern Ireland) 1972 is past its sell-by date. The most glaring omission is the absence of an offence of keeping an animal in conditions that are likely to cause suffering. That is the sort of change to legislation that we want to be made. Our welfare officers are limited to doling out advice that often falls on deaf ears, rather than affording proper protection to animals that are being kept in shocking conditions.

In the UK, a new law deems it an offence to keep animals in conditions that do not meet basic welfare standards. Trevor Lunn referred to the five freedoms, which are all basic things that we take for granted. However, animals in the Province do not have that protection.

I have been told that the new legislation across the water has led to a dramatic increase in prosecutions by the RSPCA. However, in the Province, the USPCA has no power to prosecute and, therefore, offers no real threat to those who mistreat animals. If new law was introduced, the USPCA could investigate matters and recommend court action. The USPCA wants the new law for Northern Ireland, which was first proposed under direct rule, to match up with new legislation on the mainland. As other Members have said, that must be done urgently in order to stop the suffering of many animals in the Province who are being abused and neglected.

It is important that the Republic of Ireland is changing its legislation. Earlier, my colleague Trevor Clarke mentioned the cross-border trade; it is worrying that animals can cross the border but ignore the legislation in the Republic. The USPCA said that the fact that keeping an animal in conditions likely to cause suffering is not against the law in Northern Ireland is crazy. Under current legislation, the onus is on the USPCA to prove that the animals have already suffered before it can intervene and close down the premises. It must play a waiting game until the animal shows evidence of suffering or dies.

Despite an update to the law in England and Wales in April 2007, similar changes have yet to be introduced in the Province, which operates under an antiquated law that came into force in 1972. We must act urgently and make changes in order to end inhumane treatment. There is an old saying that a dog is a man's best friend; we must do a much better job of taking care of him and her, and it must begin now.

**Mr Savage:** I support the motion that stands in my name and that of my two party colleagues. I echo their

calls for the Minister of Agriculture and Rural Development to review the animal-welfare legislation urgently in order to ensure that animal-welfare standards are, at least, equivalent to those in the rest of the UK.

As we speak, an animal-welfare issue is ongoing. Last week's edition of the 'Lurgan Mail' contained a report of a horse that was tied up and left in unsatisfactory conditions, tethered to a lamp post on a path at the rear of Legahory Court and Burnside in Craigavon. The horse is in a poor state and has no access to food, water or adequate shelter. It is abundantly clear that that is an animal-welfare issue. However, under the current legislation, it is not an offence to keep an animal in conditions that are likely to cause suffering. That is a major issue.

As the law stands, action can only be taken if cruelty is apparent and demonstrable. Furthermore, there is ambiguity as to whether it is legal to seize an animal. In the newspaper report, a USPCA representative explained:

"Our hands are tied. It is a source of frustration and embarrassment for our officers. The law shortchanges the animal it's meant to protect."

The police and the USPCA are prevented from intervening until an animal is suffering — such as being on its knees, unable to get up, and so on. In this day and age, that is totally intolerable. I have highlighted the case in the House in order to demonstrate the inadequacy of the legislation. I want the Minister to respond to that, and I ask her to do all in her power to ensure that the animal is passed to the USPCA for proper care and safe keeping.

We cannot wait for the Republic of Ireland to get its act together; its animal-welfare regulations are a century out of date. Furthermore, what guarantee is there that the Republic of Ireland will get its house in order on the issue any time soon?

The Department of Agriculture and Rural Development's consultation ended over two years ago, but has yet to be published or acted upon. We cannot procrastinate any longer. We must act now — not tomorrow, next week or next month — and enact legislation that will support the industry.

When people abuse the situation and the welfare of animals, it must be the time to bring in legislation, and to do so immediately. I ask the Minister to use her good offices to introduce legislation to protect the animals of this country.

**Mr G Robinson:** I am pleased to be able to support the motion, as it will address a long-standing gap in legislation in Northern Ireland compared with the rest of the United Kingdom. I am especially pleased as I believe that it will have a positive impact on the disgusting practices of puppy farming, fighting dogs and cruelty to pets.

I am sure that all Members heard of the awful case in Coleraine, where a pet retriever was so viciously treated that it died. The individual who carried out the mistreatment was sentenced to only six months' imprisonment. That conviction was a welcome result for all who were shocked by the brutality of the case. However, it was a clear-cut case, where prosecution was easily justified. In other cases those who enforce the law have their hands tied by weak legislation. Updated legislation, at least equal to the rest of the UK, is now essential.

We must all remember that despicable practices such as puppy farming can still be legally carried out here. Not only does that cause suffering to the animals involved in the breeding production line, but much heartache is caused when a sickly new pet dies shortly after arriving at a new home. I also believe that puppy farming is strongly linked to the dogfighting scene. If we can in some way stop the puppy farms, we may also have a big impact on the breeding of the dogs that are forced to fight to pleasure their own owners and a paying crowd of blood-seekers.

As we are all aware, the global economy has suffered a downturn. There is evidence to show that, at such a time, pets can be discarded because of the expense of keeping them, especially if they are old or sick. New legislation would enable stronger enforcement to be carried out. If someone decides to dump a dog, and that person can be traced, there will be effective legislation with which to deal with the individual in the appropriate legal manner.

I see a change in legislation as the only way in which we can protect innocent creatures from exploitation. By strengthening the legislation to at least equal that of the rest of the UK, we would be protecting the proportion of animals that are abused for profit, or due to economic reasons. I support the motion.

**The Minister of Agriculture and Rural Development (Ms Gildernew):** Go raibh maith agat, a LeasCheann Comhairle. I thank the proposers of the motion and the amendment for raising the issue of animal-welfare legislation. I agree that there is a need to protect animals from unnecessary suffering and cruelty. It is something that I feel strongly about and is a matter that I have been working on addressing since coming into office.

It is my intention to introduce legislation on the issue as quickly as possible, but there is also a need to ensure that the legislation is robust and adequate, and does not leave loopholes, either here in Ireland or between here and Britain. We need to get the legislation right, and I am very grateful to have the opportunity to debate the subject and to hear the views of Members. The debate also gives me an opportunity to outline to

Members the actions that I have taken to date on animal welfare, and my plans for the future.

I am, of course, already aware of many of the issues raised by the Members who have spoken. Although the primary responsibility for the welfare of an animal rests with its owner or keeper, I agree that there is a need to provide protection to animals through robust and enforceable legislation. As has been pointed out by a number of Members, animal welfare in the North is governed by the Welfare of Animals Act 1972. Until very recently, animal-welfare legislation in England and Wales was spread over some 23 Acts of Parliament, going back to the Protection of Animals Act 1911, which was itself a consolidation of nineteenth-century legislation. As a result of significant judicial criticism of the language of that legislation, a new Animal Welfare Act came into force in England and Wales in 2007, and in Scotland in 2006.

Unlike in Britain, animal-welfare legislation had, to some degree, already been simplified and consolidated by the Welfare of Animals Act 1972. That Act makes it an offence to cause unnecessary suffering or cruelty to an animal, and the owner of an animal can be judged to have permitted cruelty if he has failed to exercise reasonable care and supervision in order to prevent an animal suffering.

*7.00 pm*

In addition to general welfare legislation, the Welfare of Farmed Animals Regulations 2000 set out minimum standards for all farmed animals and provided a framework for species-specific standards. That legislation requires owners and keepers of farm animals to take all reasonable steps to ensure the welfare of their animals, and to ensure that they are not caused any unnecessary pain, suffering or distress. Therefore, anyone who is responsible for a farmed animal must ensure that the animal's needs are met.

Some people have suggested that the legislation that relates to the welfare of non-farmed animals — such as companion animals or pets — is not as robust as that for farm animals. To a certain extent, I agree with that view. It is one of the reasons that I have been considering what new legislation is needed.

My Department consulted on proposals for new animal-welfare legislation in late 2006. As that exercise was carried out under direct rule, I wanted to take time to fully consider the issues that were raised and the points that were received at that time. I agree with Members — particularly with Mr Shannon — about the very important role that the USPCA plays in relation to education and highlighting animal-welfare issues. However, the USPCA does not have enforcement powers — those lie with the Department of Agriculture and Rural Development and the PSNI.



Following an initial review of the comments — which clearly showed support for new legislation — my officials and I met a range of key stakeholders, including the NI Companion Animal Welfare Committee. That body is made up of a number of groups, including the Blue Cross, the Dogs Trust, Cats Protection, the Animal Welfare Federation and the USPCA. That group has the support of several MLAs, and I welcome, and am grateful for, their interest in this issue.

Discussions have also been held with the Animal Welfare Federation, the Captive Animals' Protection Society and the Kennel Club, as well as a number of other interests. All those meetings were exceptionally useful and informative. I found discussions with welfare groups in Britain particularly insightful as they have first-hand experience of how the Animal Welfare Act 2006 worked on the ground, and of some of the flaws that are contained in the legislation. In addition, my officials continue to meet with the PSNI to discuss aspects of the enforcement of animal-welfare legislation.

The comments that were made to me in those discussions — and in correspondence cases from members of the public — mirror many of the issues that were raised by Members today. For example, we heard calls for legislation to include a specific offence of failing to provide a duty of care for animals. I have also been asked to consider the level of penalties for cruelty offences, and there have been calls for further regulation of activities such as travelling circuses, greyhound racing and puppy farming. Those issues are central to my ongoing consideration of what new animal-welfare legislation may be needed.

With regard to the need to ensure that all animals are subject to a duty of care, Trevor Lunn highlighted the five freedoms. Those are a fundamental principle that already underpin EU legislation on the protection of farm animals. The principle is set out in the Department's codes of recommendation for the welfare of livestock. The codes aim to encourage all those who care for farm animals to follow the highest level of animal husbandry. It is clear that owners of all animals should be required to take all reasonable steps to prevent unnecessary suffering from happening.

I also agree that the level of penalties that is currently available to the courts is not a sufficient deterrent to provide adequate protection for animals. Involvement in the so-called sport of dogfighting is one area that comes to mind in which higher penalties are being considered. That is an absolute necessity, in my view.

A further issue is that of puppy farming, which was mentioned by Mr Shannon and a number of other Members who have spoken. The regulation of commercial dog breeding in the North is far less onerous than the legislation that covers the breeding

and selling of dogs in Britain, where such activities have been illegal since 1999. That legislation was not fully replicated in the North at that time as there was no evidence of puppy farmers operating here. Consequently, puppy farming remains legal here — provided that dogs are kept in premises that are registered with the local council and meet the minimal requirements that are set out in the Dogs Order 1983.

I have been concerned about that issue for some time. I want to deal with that in new legislation that will mirror that of Britain and end the intensive farming of puppies here. Puppy farming is an all-Ireland problem, so I also plan to raise that matter with Ministers in Dublin.

I was very interested in the comments that Robin Newton made in relation to circuses. In answers to a number of Assembly questions over recent months, I have stated that my Department's role in circuses is very limited.

The Welfare of Animals Act 1972 allows for the protection of all animals, but there are no specific provisions for the welfare of animals in circuses. Nevertheless, many people are concerned about that matter, so I am actively considering whether there is a need for further regulation. That would require primary legislation, which would take time, but the Assembly should nevertheless consider it.

Members spoke about other matters, particularly the incidents at Katesbridge and the open farm near Loughbrickland. In recent months, in response to Assembly questions, I have advised Members that I have commissioned an independent review of the actions taken in Katesbridge, and as part of my consideration of that review, I will reflect on any issues raised concerning Little Acre Open Farm.

Of course, when we see images of squalor and filth on farms, or of rotting carcasses, we are right to be concerned that animals might be suffering. However, in itself, that is not sufficient evidence that an offence has been committed. Veterinary surgeons must be objective in assessing evidence and coming to a judgement about what is likely to constitute a case of welfare abuse. When DARD staff inspect farms, they can only report on what they find on the day, so they might not witness animal-welfare problems. Members must appreciate that animals can get sick and die quickly, and that that is not proof that abuse has occurred or that an offence has been committed. Having said that, I will take on board any lessons that can be learned from these cases, with regard both to enforcement and to the safeguards required in the legislation.

In addition, in recent months, my officials have been liaising with the PSNI and USPCA, and consideration is being given to how enforcement

agencies can work together to ensure the best possible protection for animals.

On Friday, my officials became aware of a welfare case involving a horse in Craigavon, and they immediately referred it to the local PSNI, because, with regard to non-farm animals, the police are responsible for enforcing the 1972 Act. I understand that local officers are aware of ongoing difficulties in the area, and they were expected to follow up on recent complaints earlier this afternoon. I have asked to be kept informed of developments.

As I said, it is an offence to cause unnecessary suffering to any animal, and an owner can be judged to have permitted cruelty if he fails to exercise reasonable care to prevent unnecessary suffering. It is also an offence to abandon an animal, and the PSNI has the power to seize an injured or sick horse, or, in the worst cases, to have it destroyed in order to prevent further suffering.

There are no specific requirements in legislation to license farms that are open to the public. However, all owners and keepers of farm animals are required to comply fully with the 1972 Act and with the Welfare of Farmed Animals Regulations 2000. Inspections to ensure compliance are carried out by the Veterinary Service, which also investigates welfare complaints made by members of the public and carries out targeted farm inspections where welfare issues have been identified.

I am considering setting up an early-warning and intervention system for farm-animal welfare cases, and I hope to discuss that with farmers' representatives, the USPCA and the PSNI. Such a system would be one way in which DARD could work closely with those agencies to identify and address real, and potential, cases in which the welfare of farm animals might be compromised. The objective would be to provide a framework within which problems could be identified before they become serious.

Under the 2000 regulations, inspectors can serve an improvement notice to a keeper stipulating the steps necessary to improve the welfare of his or her animals. That is an effective tool for ensuring that an animal's needs are met. Failure to comply with a notice can lead to a prosecution, and I am considering extending powers to serve improvement notices to keepers of companion animals.

In the past, I have stated that it is important that animal-welfare legislation be broadly compatible throughout the island of Ireland. Indeed, that is a key component of the draft all-island animal health and welfare strategy. It is important to note that, based on experiences in Britain, where some difficulties have arisen due to differences between English and Scottish legislation, several welfare representatives, particularly

British organisations, have expressed support for an all-island approach. As I said, puppy farming, the control of dangerous dogs and dogfighting are matters that must be tackled on an all-island basis.

I welcome the publication of outline proposals for new animal disease and welfare legislation by the Department of Agriculture, Fisheries and Food in Dublin.

Work on our legislation is ongoing, and my review of animal-welfare legislation is nearing completion. I will examine all the evidence presented to me, and I will consider the scope for new legislation in the North in line with available resources.

I hope that my statement has dealt with Members' concerns sufficiently, but I will read the Hansard report to check whether there are any issues that I have not covered. I have attempted to describe the actions that I have taken on animal welfare, and I have informed the House of discussions that I have held with key animal-welfare stakeholders from here and Britain.

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

**The Minister of Agriculture and Rural Development:** Not at the moment.

I welcome Member's comments this afternoon, and I will reflect upon those. However, Members must remember that we are working on the legislation in the North; we are certainly looking at the legislation in other areas, but we are considering our own legislation.

I have also been reviewing animal-welfare legislation across the board. Therefore I support the motion and the amendment. It is incumbent upon the Department to review the legislation as quickly as possible. Go raibh míle maith agat.

**Mr Deputy Speaker:** I call P J Bradley to make a winding-up speech on the amendment. He has five minutes.

**Mr P J Bradley:** I will not take five minutes, Mr Deputy Speaker.

I am disappointed that some Members found fault with the amendment; said that I said things that I did not; and spoke of actions that I did not seek or promote. If they read the Hansard report, they will find that they accused me of saying things that I did not say and of seeking actions that I did not seek.

Of the Members who spoke in the debate, I pay tribute to Jim Shannon for his sincere and genuine contribution. He was keen to address animal cruelty; he did not politicise it in any way, and, for that, I thank him.

My amendment makes common sense, and there is no reason for Members to vote against it. I am not asking that we replicate the rules or regulations in the United Kingdom or the Republic of Ireland. Rather, I am asking that we introduce legislation immediately that contains the best of all worlds. Let us take the best

from the legislation in England, which, as we heard, is inadequate; from Scotland, which has its faults; likewise, from Wales; and from the Republic of Ireland, although it is behind the times. We should take the best bits from the legislation in those countries and introduce it as our own. That will mean that our legislation will be as good as there is on these islands. I do not understand how anyone who is serious about the issue can vote against that. I urge the House to support the amendment.

**Mr Deputy Speaker:** I call John McCallister to give the winding-up speech on the motion. He has ten minutes.

**Mr McCallister:** It has been interesting to listen to the debate. There is general agreement that something must be done on the issue quickly. Since the end of direct rule and during the early stages of the devolved Administration, we have continued to debate this important issue, but no progress has been made.

My colleague Mr Elliott moved the motion and highlighted that there is a lack of effective legislation. He said that it was necessary to tighten up the legislation. No progress has been made on animal-welfare legislation in Northern Ireland since 1972. DARD consulted on the matter more than two years ago, but since then, there have been no developments.

The House has no difficulty with an all-Ireland approach. However, the problem with P J Bradley's amendment is that if the Republic of Ireland were a shining beacon of hope on animal welfare, we might well look to them to provide leadership on the issue, or we might consider what parts of their legislation would be beneficial to us. However, the bottom line is that their legislation dates from 1911 — long before the creation of the Republic of Ireland. That means that they have never legislated on animal welfare, and that does not instil any confidence that they are taking the issue seriously.

All Members who contributed to the debate have said that we need to act on the issue quickly rather than wait, and that is why my colleagues and I object to the inclusion of the Republic of Ireland in the motion.

I accept P J Bradley's comments about the problems experienced in South Down. That is why it is imperative that animal-welfare legislation is reviewed, and we need not wait years for the Republic of Ireland to catch up.

7.15 pm

Dr William McCrea, the Chairperson of the Committee for Agriculture and Rural Development, was also strongly in support of shortening the timetable for legislation, and he also pointed out that any loopholes in the Welfare of Animals (Northern Ireland) Act 1972 must be closed. The Committee has been trying to push the Minister to act. Despite having been

briefed by witnesses and officials, the Committee has not seen any action on various issues, including breeding dogs for fighting and the introduction of tougher sentences. Dr McCrea was critical of the notion that the Assembly should even consider waiting for the Republic of Ireland to legislate.

Mr Doherty mentioned legislation that was introduced in the Scottish Parliament in 2006 and in England and Wales in 2007. He also talked about liaising with the Republic of Ireland and the rest of the UK, but why should we delay the legislation? Mr Doherty and the Minister are MPs in Westminster and had they taken the seats to which they were elected, they could have pressed for the legislation there.

Mr Lunn recounted some personal stories, and he also passed on to me some harrowing photographs of the abuse of dogs. He shares other Members' frustration at the delay in taking action, and he sees no need or reason for the Assembly to wait for the Republic of Ireland to act. The Assembly has the legislative authority for Northern Ireland.

**Mr O'Dowd:** I apologise for not being present for the entire debate. I am concerned that simple xenophobia is among the reasons that some Members may be considering voting against the amendment. Is the Member aware that the Republic of Ireland has prepared legislation to the extent that it will be presented to the Minister next month? Surely the Assembly would be wise to study that legislation to ensure that harmonious action is taken on the welfare of animals on this island.

**Mr McCallister:** I thank the Member for his intervention. If he thinks that the Republic will be ready to present legislation next month — and I have no reason to doubt him — why is the Minister not following suit and presenting legislation to the Assembly next month? I have not reached the stage of talking about the Minister's contribution, but she gave no timetable for legislation. She said that she listened to Members' concerns, and we have no reason to doubt that she is serious about, and committed to, addressing the issue. However, the logic that follows from Mr O'Dowd's point is that the Assembly is also almost ready to legislate, but the Minister did not mention any timetable for that. If the Minister wishes to tell the House when the legislation will be ready, I am happy to give way to her.

To return to Mr Lunn's contribution, one of his key phrases used in reference to the Minister was not to:

“allow politics to overrule her compassion on the matter.”

Mr Newton took a different approach and spoke about cruelty to circus animals. He said that some councils have not permitted circuses in their areas. It would be useful to raise that issue at European level; I am happy to write to my colleague Jim Nicholson MEP about that.



Mr Shannon spoke about how outdated some puppy farming is and how he wants it to evolve — and we all know that a dog is a man's best friend.

My colleague Mr Savage highlighted the lack of legislation and said that the Assembly must act much more quickly to progress that. He also mentioned a particular issue in his constituency.

The Minister outlined the concerns and gave Members some of the background to the legislation, such as the Protection of Animals Act 1911 that was updated in England and Wales in 2007, and other reasonable measures that have been taken. Again, I return to the point that the Minister spoke about wanting to take her time to produce robust and effective legislation, which is fine because that is what we all want.

The purpose of the motion is to try to ensure that DARD and the Minister move on the issue. We want to see that happen. The Minister has been in post for nearly 20 months; consultation started in late 2006, and it is now early 2009. Therefore, it is not unreasonable for the Assembly to ask her about the legislation. If her colleague Mr O'Dowd is correct and the Republic is further ahead than us, she should want to catch up.

In response to Mr Newton, the Minister said that DARD has a limited role in circuses. However, having observed DARD for several years, I am not sure how true that is.

The general mood of the House is that it would like to see the legislation moving forward at a much faster pace.

The Ulster Unionist Party has genuine concerns about Mr P J Bradley's amendment to include the Republic of Ireland. We have the legislative competence to do it here; let us get on with it. The real evil is not partition, it is animal cruelty.

*Question, That the amendment be made, put and negatived.*

*Main Question put and agreed to.*

*Resolved:*

That this Assembly calls on the Minister of Agriculture and Rural Development, in light of recent events, to review the welfare of animals legislation as a matter of urgency to ensure that animal-welfare standards are at least equivalent to those in the rest of the United Kingdom.

*Adjourned at 7.22 pm.*