

# Official Report (Hansard)

Tuesday 14 December 2010  
Volume 59, No 2



# Contents

## **Private Members' Business**

Victims and Survivors (Disqualification) Bill: Petition of Concern .....91

## **Ministerial Statement**

North/South Ministerial Council: Health and Food Safety Sectoral Format ..... 92

## **Executive Committee Business**

Safeguarding Board Bill: Consideration Stage .....96

Damages (Asbestos-related Conditions) Bill: First Stage.....107

Construction Contracts (Amendment) Bill: Further Consideration Stage .....108

Student Loans (Amendment) Bill: Final Stage .....108

Tourism (Amendment) Bill: Final Stage .....111

Planning Bill: Second Stage .....112

## **Oral Answers to Questions**

Culture, Arts and Leisure .....131

Education .....137

## **Question for Urgent Oral Answer**

Justice .....144

## **Executive Committee Business**

Planning Bill: Second Stage (*continued*).....146

Suggested amendments or corrections will be considered by the Editor.

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to arrive not later than two weeks after publication of this report.

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Wilson, Brian (North Down)  
Wilson, Sammy (East Antrim)

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# Northern Ireland Assembly

Tuesday 14 December 2010

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

*Members observed two minutes' silence.*

## Private Members' Business

### Victims and Survivors (Disqualification)

#### Bill: Petition of Concern

*Motion proposed [13 December 2010]:*

*That the Second Stage of the Victims and Survivors (Disqualification) Bill [NIA 6/10] be agreed. —  
[Mr Weir.]*

**Mr Speaker:** As Members will already know, a valid petition of concern was presented yesterday in relation to the Second Stage of the Victims and Survivors (Disqualification) Bill. Members will also understand that under Standing Order 28 the vote could be taken only this morning. The vote will be on a cross-community basis. If that is clear, we will proceed to the vote.

*Question put.*

*The Assembly divided: Ayes 48; Noes 47.*

#### AYES

##### UNIONIST:

*Mr S Anderson, Mr Armstrong, Lord Bannside, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr Cobain, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Sir Reg Empey, Mrs Foster, Mr Frew, Mr Gardiner, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr McClarty, Mr B McCrea, Mr I McCrea, Mr McFarland, Mr McGimpsey, Miss McIlveen, Mr McNarry, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr S Wilson.*

*Tellers for the Ayes: Mr Buchanan and Miss McIlveen.*

#### NOES

##### NATIONALIST:

*Ms M Anderson, Mr Attwood, Mr Boylan, Mr D Bradley, Mrs M Bradley, Mr PJ Bradley, Mr Brady, Mr Burns, Mr Callaghan, Mr W Clarke, Mr Dallat, Mr Doherty, Mr Gallagher, Mrs D Kelly, Mr G Kelly, Mr Leonard, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mrs McGill, Mr McGlone, Mr M McGuinness, Mr McLaughlin, Mr Molloy, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mr O'Loan, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Ms Ruane, Mr Sheehan.*

##### UNIONIST:

*Ms Purvis.*

##### OTHER:

*Dr Deeny, Dr Farry, Ms Lo, Mr Lyttle, Mr McCarthy, Mr B Wilson.*

*Tellers for the Noes: Mr Brady and Mr Burns.*

<i>Total votes</i>	<i>95</i>	<i>Total Ayes</i>	<i>48 [50.5]</i>
<i>Nationalist Votes</i>	<i>40</i>	<i>Nationalist Ayes</i>	<i>0 [0.0]</i>
<i>Unionist Votes</i>	<i>49</i>	<i>Unionist Ayes</i>	<i>48 [98.0]</i>
<i>Other Votes</i>	<i>6</i>	<i>Other Ayes</i>	<i>0 [0.0]</i>

*Question accordingly negatived (cross-community vote).*

**Mr Speaker:** The Second Stage of the Victims and Survivors (Disqualification) Bill is not agreed. The Bill falls. I ask the House to take its ease as we move into the next item of business.  
*[Interruption.]*

Order. I ask Members to leave the Chamber in an orderly fashion.

## Ministerial Statement

### **North/South Ministerial Council: Health and Food Safety Sectoral Format**

**Mr Speaker:** I have received notice from the Minister of Health, Social Services and Public Safety that he wishes to make a statement.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I wish to make the following statement on the eleventh North/South Ministerial Council (NSMC) meeting in health and food safety sectoral format, which took place in the Canal Court Hotel in Newry on Wednesday 10 November 2010.

The Executive were represented by me, as Minister of Health, Social Services and Public Safety, and Michelle Gildernew MP MLA, Minister of Agriculture and Rural Development. The statement has been endorsed by Minister Gildernew. The Irish Government were represented by Barry Andrews TD, Minister for Children and Youth Affairs. I chaired the meeting, at which we welcomed some major cross-border developments in the field of child protection.

The Council welcomes the launch of the North/South child protection hub, which is a dedicated online resource to be used by policymakers, professional practitioners, researchers and educators to share and improve knowledge, develop evidence-based practice and, ultimately, assist the safeguarding of vulnerable children. We also received a demonstration of the hub, illustrating its breadth and ease of use.

Ministers also welcomed the launch of the child protection communication strategy and communiqué. The strategy aims to promote public awareness and assist everyone in their duty to safeguard children. Those aspirations are encapsulated in the communiqué, which sets out ways in which co-operation will be taken forward to protect children, safeguard their welfare, exchange information and ideas, share good practice, develop protocols and ensure promotion of common public messages.

We also noted ongoing progress on a range of child protection issues, including work to develop a joint protocol dealing with children in care and those on the child protection register who move between jurisdictions, where there are particular concerns. A progress report on other areas of co-operation in health was also received.

Under that heading, we noted the revised projected timescale for the development of a new satellite radiotherapy centre at Altnagelvin Hospital. We also noted that a conference on population-based cancer research in Ireland was held in Dublin in October 2010 and that arrangements were in place for a conference in Belfast on the value of health economics for future cancer services. That conference took place in November.

We then discussed ongoing co-operation on health promotion, drug and alcohol misuse, and men's health and physical activity. It was noted that the 'Drug Use in Ireland and Northern Ireland' drug prevalence survey that is currently being undertaken will, for the first time, contain information on mephedrone and other so-called legal highs. Ministers also noted that, to date, the arrangements for cross-border paediatric congenital cardiac surgery and interventional cardiology in Northern Ireland have been working very well.

With regard to the all-Ireland plan on suicide prevention, we noted the potential impact of the current economic crisis on suicide and agreed to the inclusion of a new action — suicide and the economic downturn — within the rolling action plan. We also welcomed the establishment of the new media-monitoring service in Northern Ireland and the completion of the all-island evaluation of applied suicide intervention skills training (ASIST).

Ministers discussed the range of research activities that are being taken forward by SafeFood, which include the cross-sectional population study on dietary salt intake, the qualitative research that is targeting the information needs of vulnerable and hard-to-reach groups on food safety and the number of new attitudinal research projects that are under way. The Council noted the continuing success of SafeFood's promotional activities and welcomed its sponsorship of an event in Belfast that focused on tackling obesity in young people. We then reviewed progress on finalising the corporate plan 2011-13, the business plan 2011 and agreed that they will be brought forward for approval at a future NSMC meeting.

**Mr Easton:** I welcome the Health Minister's announcement and the child protection and suicide prevention issues that were raised. In the light of the downturn in the economy of the Irish Republic and the cuts that are happening

there, will the Irish Government be able to keep their commitments on those projects and issues? Did the Minister raise the issue of cutting the health budgets of the North/South bodies?

**The Minister of Health, Social Services and Public Safety:** As I indicated on a previous occasion, the efficiencies required by the Department of Finance and Personnel (DFP) have been applied to North/South bodies and they have been put in place to save money. As far as the North/South bodies are concerned, the Member knows that they are established by international treaty, so there is an element of requirement there.

The Member mentioned the ability of the Dublin Government to invest in schemes in Northern Ireland, and he is aware that the main project is the road scheme in the west of the Province, which does not fall within my remit. The one that interests me is the Altnagelvin radiotherapy unit. To date, I have had no indication from Dublin that it is unable to pay for its portion of the development.

**Mrs O'Neill:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. It is particularly timely that it refers to child protection issues, given that we are about to debate the Safeguarding Board Bill.

The Minister suggested that there was a report on other areas of co-operation in health. Will the Minister provide an update to the House on any discussions he has had on moving forward on and eventually publishing the North/South feasibility study?

**The Minister of Health, Social Services and Public Safety:** I have laid out carefully in each of my statements and reports to the House exactly where we are as far as North/South working is concerned. I have covered, for example, radiotherapy, suicide, out-of-hours services, health co-operation and A&E services. Work in those areas continues.

I do not need a feasibility study. I am not going down the road of a feasibility study that was sponsored jointly by a direct rule Minister and the Dublin Government a number of years ago, because I am not prepared to engage in further bureaucracy on this issue. It is unnecessary. The principle, as far as I am concerned, is where we can co-operate for mutual benefit. Where I can see benefit to the population in Northern Ireland, for whom I have responsibility, I am

prepared to be very supportive within resource limits and probity.

**Mr McCallister:** I welcome the Minister's statement on those various issues, particularly on child protection and suicide. He mentioned men's health, obesity and salt intake in food. Has the Republic of Ireland showed any interest in the model that he has set up in Northern Ireland, namely a Public Health Agency dedicated to addressing those issues?

**The Minister of Health, Social Services and Public Safety:** It is fair to say that all Administrations in these islands are looking very carefully at the experience of the Public Health Agency. In London, Andrew Lansley has talked about changing the name of the National Health Service to the national public health service, because of the understanding of the need to be very proactive in prevention and in supporting the population to effectively support themselves.

There are areas of work around food safety that we can usefully take forward together. One of those is salt intake, and another is obesity, and there is also the diabetes time bomb that affects all of us. It is part of the work that I take forward on a North/South basis, as well as with Administrations in London, Cardiff and Edinburgh.

**Mr Gallagher:** I thank the Minister for his statement covering some crucial issues for the health sector on the island. I understand that work is in progress on children in care or on the child protection register who move between jurisdictions; however, will the Minister tell us which health authorities in Northern Ireland will be involved in taking that process forward? Will it be the health trusts or the Department? Where exactly will the responsibility lie?

**The Minister of Health, Social Services and Public Safety:** Ultimately, responsibility lies with the Department and the Minister reporting to this House. We are working on arrangements for child protection. A number of subgroups have been set up that consider internet safety, movement of children, media awareness, research, and vetting and barring, and we are taking forward those areas.

I am about to introduce the Consideration Stage of the Safeguarding Board Bill, which Members will be aware of, as it has been through the Committee. That is another step that we are



taking forward in Northern Ireland to address those particular issues. The aim is to bring the agencies responsible for delivering services together to work together. Of course, agencies are working together in the Irish Republic as well: child protection does not stop because there is a border. Perpetrators and vulnerable children are just as likely, as Members are aware, to move across the border, therefore we have regular and routine arrangements set up to enable meetings among officials to ensure that we keep on top of the issue.

**Dr Deeny:** I, too, welcome the Minister's statement. I am delighted to hear that those important health issues are discussed between North and South across this island. I welcome the online North/South child protection hub, but I would like to have some idea how it would work in practice. For example, as someone who works in a practice close to the border, if one of my colleagues in primary care was aware that someone might move, and people can move very quickly, would that person inform the Department of Health in the South, which would then inform the Department of Health here? I am worried that the delay may lead to a perpetrator of child abuse carrying out a crime here in the North before we know about it.

One point made by the Ministers' Department, agencies down South and people across the medical profession is that to have a top-rate and first-class paediatric hospital that would be renowned across the world would require a population of 5 million. It has previously been mentioned that such a facility would be in Dublin. Was that discussed at the recent meeting?

**The Minister of Health, Social Services and Public Safety:** The paediatric hospital has not been discussed. We have the Royal Belfast Hospital for Sick Children, and I have made no secret of the fact that one of the key elements that I would love to see and have the capital for would be the redevelopment of that site.

#### 11.00 am

North/South co-operation lies in the highly specialised discipline of paediatric cardiac surgery. There is a small demand for that in Northern Ireland, where, every year, around 100 babies are born with heart defects. The survival rate before the advent of paediatric cardiac surgery was around 20%. In the 20 years of the skills of cardiac surgery being applied, we have seen that survival rate jump to 80%, a truly

magnificent improvement and a testimony to the skills of the surgeons involved and to the Health Service that provides that service. However, it is a service that is vulnerable because of the small numbers involved and the need to keep up skill levels. Therefore, we co-operate in that area.

The child protection hub is a dedicated Internet resource for policymakers, professionals and researchers. It gives them one-stop access to daily updated information from the UK, the Republic of Ireland and further afield, including Europe, so that they are up to date with developments. As far as the movement of sex offenders across borders is concerned, we are in the process of developing a protocol on the movement of children. That is moving forward.

**Ms S Ramsey:** I join Members in welcoming the Minister's statement. I also welcome the all-Ireland approach taken on some issues, particularly child protection. I support the Minister's statement that perpetrators do not see a border. We should ensure that there is no border in our approach to tackling child protection and suicide.

Considering the fact that we will debate the Safeguarding Board Bill later today, will the Minister give more detail about the progress being made on child protection issues? Will he also give more detail on how practitioners will be able to utilise the hub? Specifically on suicide, I take on board the current economic crisis facing us, particularly in the Twenty-six Counties. How will the all-Ireland action plan impact on local action plans, considering that some action plans in the North seem to be more advanced than others? How will it affect, for example, the Derry action plan versus the Belfast action plan?

**The Minister of Health, Social Services and Public Safety:** Joint work on suicide is going on all the time in areas such as training, media monitoring, self-harm, data collection, public awareness campaigns and so on. It is about working together in promoting the issues and recognising the increased risks associated with the current economic climate. The reality is that unemployment and the economic recession promote suicide, and that is another issue that we look at. We are working together, and, as I have reported in the past, we have been taking steps to deal with that. In Northern Ireland, we have our own Protect Life strategy. Through that, we are also working on a rolling programme



of all-Ireland actions related to information, the Internet, research and the type of public information that Members will have seen; for example, the mask advert that has been shown on television.

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

Our work is about ensuring that the entire population, North and South, gets a coherent and consistent message. On the other issues, as I said, the hub provides access, through the Internet, for practitioners to get up-to-date information from policymakers, professionals and researchers. It is a one-stop shop that is updated daily. It provides information for each jurisdiction on child protection, court cases and experiences of cases. It does not provide a register of sex offenders, for example, because that would not be appropriate. Generally speaking, the information that it provides is available elsewhere, but this brings it together at one accessible point.

**Mr Callaghan:** Go raibh maith agat, a LeasCheann Comhairle. Go raibh maith agat don Aire as an ráiteas sin.

I thank the Minister for his statement. He is to be commended for the broad scope of work, as has been reported to the House, that is being undertaken. Protecting and developing health and well-being is of clear mutual benefit to the communities north and south of the border on the island. With specific reference to the satellite radiotherapy centre at Altnagelvin Area Hospital, will the Minister outline in more detail the revised time frame for that project, particularly bearing in mind the budgetary frameworks north and south of the border? As Budget deliberations, particularly in the North, move forward, will he assure the House of his ongoing commitment to the project and its high priority?

**The Minister of Health, Social Services and Public Safety:** That project is dependent on the Budget. Investment is required to build any development, and there are resource implications as far as running costs are concerned. The reality is that demand in that area is rising all the time. Currently, each day, roughly 250 patients in Northern Ireland receive radiotherapy at the cancer centre, and that number will continue to rise.

We observe a protocol whereby people do not wait. If a person ends up on a waiting list, he or

she could come to harm, so we do not operate waiting lists. We need to plan for that objective in the future, which means an expansion of radiotherapy. To that end, I am looking at the cancer centre in Belfast as well as at expanding the service through the provision of a satellite radiotherapy centre at Altnagelvin. The business case is through, and I am all set to go. We hear all sorts of rumours, one way or the other, about the Budget. I am not aware of where we are in that regard. To allow me to go forward, I need to know where my budget stands, but, setting budgetary considerations to one side, I am all set. It is my priority because, if we do not go ahead with that type of development and others, cancer patients will, in future, be put on waiting lists and could come to harm.

So far, I have heard nothing from the Irish Republic to say that it is having difficulties with the part of the development that would affect it, but we will have to await developments. I hope that those developments will become obvious sooner rather than later, because they are inclined to defer the project.

## Executive Committee Business

### Safeguarding Board Bill: Consideration Stage

**Mr Deputy Speaker:** I call the Minister of Health, Social Services and Public Safety, Mr Michael McGimpsey, to move the Consideration Stage of the Safeguarding Board Bill.

*Moved.* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

**Mr Deputy Speaker:** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list. There will be three debates, and we will debate the amendments in each group in turn.

The first debate will be on amendment Nos 1, 2, 7, 8, 9 and 23, which deal with the establishment of the Safeguarding Board and its committees. The second debate will be on amendment Nos 3 to 6 and 10 to 22, which deal with the powers and duties of the Safeguarding Board and its committees. The Minister of Health, Social Services and Public Safety, Mr Michael McGimpsey, has indicated that he wishes to speak to clause 12 stand part. Therefore, there will be a third debate at the appropriate point in the Bill.

Once the debate on each group is completed, any further 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. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

#### **Clause 1 (Safeguarding Board for Northern Ireland)**

**Mr Deputy Speaker:** We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2, 7, 8, 9 and 23. These amendments deal with the membership and resources of the board and its committees and with removal from office.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I beg to move amendment No 1: In page 2, line 7, at end insert

*“(including the circumstances in which they cease to hold office or may be removed or suspended from office)”.*

*The following amendments stood on the Marshalled List:*

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

*“(including provision as to which person or body provides the staff, premises or expenses)”.* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 7: In clause 7, page 4, line 10, at end insert

*“(including the circumstances in which they cease to hold office or may be removed or suspended from office)”.* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 8: In clause 7, page 4, line 13, at end insert

*“(including provision as to which person or body provides the staff, premises or expenses)”.* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 9: In clause 7, page 4, line 13, at end insert

*“(4A) Regulations may provide that committees and sub-committees must include such representatives of such relevant persons or bodies as may be prescribed or such other persons as may be prescribed.”* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 23: After clause 12, insert the following new clause:

*“Minor or consequential amendments*

*12A.—(1) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership of the Assembly), insert at the appropriate place—*

*‘Chair of the Safeguarding Board for Northern Ireland.’.*

*(2) In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation), insert at the appropriate place—*

*‘The Safeguarding Board for Northern Ireland.’.*

*(3) In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act), insert at the appropriate place—*

*‘The Safeguarding Board for Northern Ireland.’* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

**The Minister of Health, Social Services and Public Safety:** Amendment No 1 is intended to provide clarity by stating that regulations may provide for the circumstances in which the

chair or members of the SBNI would cease to hold office or would be removed or suspended from office. The amendment has been tabled as a result of discussions with the Health Committee, and I am thankful to the Committee for its input.

Amendment No 2 has been included to give greater clarity to the Bill by stating that regulations may include provisions as to which person or body provides the staff, premises or expenses for the Safeguarding Board for Northern Ireland.

Amendment No 7 has been included in line with amendment No 1 to give greater clarity to the Bill by stating that regulations may provide for the circumstances in which the chair or members of committees and subcommittees of the SBNI would cease to hold office or would be removed or suspended from office.

Amendment No 8 is in line with amendment No 2 and is intended to give clarity by stating that regulations may include provision as to which person or body provides the staff, premises or expenses for the committees and subcommittees of the SBNI. In a similar vein, amendment No 9 is intended to give further clarity by stating that regulations may include provision about the core membership of representatives on committees and subcommittees.

Finally, amendment No 23 means that the SBNI will be included in schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 and in Part VII of schedule 1 to the Freedom of Information Act 2000. It also includes the chair of the SBNI in Part III of schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, which means that the chair of the SBNI will be disqualified from membership of the Northern Ireland Assembly.

**The Deputy Chairperson of the Committee for Health, Social Services and Public Safety (Mrs O'Neill):**

Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee, I welcome the Consideration Stage of this Bill, which is timely and welcome. Having looked closely at the Bill and at what it has to offer, I am confident that it will take us a significant step forward in strengthening safeguarding arrangements and, hence, protecting our children and young people. It will do that by placing a fundamentally important part of child protection and its workings on

a statutory footing through the creation of a safeguarding board, the SBNI.

The Bill was referred to the Committee on 22 June. To ensure that there was enough time to scrutinise the wide-scoping legislation, the Committee sought an extension to 17 December. However, I am pleased to say that we finished ahead of schedule thanks to the hard work of members and the co-operation of departmental officials. The Committee received written submissions from 36 organisations and individuals, and it took oral evidence from those representing the widest possible range of interests in the time that was available to it. The Committee's report was concluded on 25 November.

**11.15 am**

The Committee's detailed scrutiny led to it recommending that the Department amend 10 of the 17 clauses, and I am pleased to report that the Minister accepted all those recommendations, which are reflected in the amendments that we are considering today. I thank the Minister for his co-operative approach and for taking on board the Committee's recommendations, and I am sure that my Committee colleagues will support me in noting the good working relationship that was established between the Committee and departmental officials during Committee Stage. We feel that that helped the process along and paid dividends when it came to agreeing recommendations and amendments. On behalf of the Committee, I also thank the Committee office team for its hard work in putting together the report.

Before I talk specifically about the first group of amendments, I shall provide a brief synopsis of the work undertaken by the Committee and an overview of the key issues that we identified as we scrutinised the Bill. There were major issues around the freedom of the SBNI to publish documents; the power of the Department to issue directions to the SBNI; the matter of how the SBNI will consult and communicate with children and young people; and the membership of the SBNI. I shall return to all those issues later.

Another important issue considered by the Committee, the appointment and salary of the chairperson of the SBNI, does not relate to the amendments that have been tabled. Many people who gave evidence to the Committee regarded the role of the chairperson as pivotal to the success of the SBNI. Time and again,

witnesses emphasised that the chairperson must possess the ability to provide strong leadership and to manage and bring together agencies from a wide range of organisations. The chairperson will require a relevant knowledge base and must be able to command the respect of the board, which will comprise senior representative agencies. There was also acknowledgement that the chairperson of the SBNI will become the public face of child protection.

The method of appointing the chairperson of the SBNI is set out in clause 1(2), which states that the chairperson will be appointed by the Department through the public appointments process. In late September 2010, during Committee Stage, the Department advertised the post of chairperson designate for the SBNI, with a closing date for applications of 21 October 2010. The Committee was very concerned that the Department had begun the appointment process before the Committee had agreed that it was content with clause 1(2). During evidence-taking, the Committee was made aware of alternative models for appointing a chairperson that have been used in England for local safeguarding children boards. Under those models, boards are involved to a greater or lesser degree in the selection of a chairperson. Other witnesses, including the Department, favoured using the public appointments process. Their view was that it would mean that the chairperson would be independent of any person sitting on the board by virtue of not being employed by any of the agencies represented and by the fact that board members would not be responsible for the chairperson's appointment. After listening to the evidence, the Committee came to the view that the public appointments process was, indeed, the most appropriate method for appointing the chairperson of the SBNI.

As I said, the Department advertised the post of chairperson designate in late September, during Committee Stage. The salary that the Department proposed to pay the chairperson caused considerable concern and debate among witnesses and Committee members. The Department set a salary at £17,060 per annum for a two-to-three-day week. Many witnesses believed that the remuneration offered was far too low to attract the right candidate. The Committee also heard from expert witnesses with experience of systems in England, where chairpersons of local safeguarding children boards are paid between £500 and £800 a day.

The Department's rationale for setting the salary at £17,060 per annum was that it is the same as that paid to the chairpersons of RQIA and the Social Care Council. It also pointed out that the chairperson will have at his or her disposal the director and assistant director, who will be paid £67,000 and £57,000 per annum respectively. The Department advised that the chairperson will line manage and direct the work of the director and assistant director, and, therefore, it sees the chairperson as giving strategic direction, with operational and administrative work being carried out by others. However, given all that, the Committee expressed concerns about the proposed arrangements, including the potential difficulty for the chairperson in directing and line managing a director and assistant director who will be on a significantly larger salary than the chairperson and the potential for the chairperson to become merely a figurehead.

The Committee wrote to three witnesses with experience of safeguarding boards in England for their views on the matter. The witnesses raised serious concerns about the Department's approach. The Committee also asked the Department to provide a list of salary scales for chairpersons of other public bodies, and it noted that many chairpersons receive pro rata more than the salary proposed for the chairperson of the SBNI. The Committee, therefore, agreed to write to the Minister to request that the Department halt the appointment process for the chairperson designate and re-advertise the post at a higher salary. The Minister replied to the Committee, stating that he was aware of the Committee's concerns and would do as it suggested. The Committee welcomed the Minister's response and requested that it be consulted again before the post was re-advertised. I understand that the Minister has agreed to that request.

I will now comment on the first group of amendments. Amendment No 1 ensures that there will be provisions for suspending or removing the chairperson or members of the Safeguarding Board should the need arise. Amendment No 7 has a similar effect in relation to chairpersons and members of committees and subcommittees. In a perfect world, we would hope that such a provision would never have to be implemented. However, the issue was brought to the Committee's attention during an evidence session with Professor Jan Horwath, who has significant experience of and



expertise in safeguarding boards in England. We welcome the input of Professor Horwath and all those who assisted the Committee. The role of the chairperson, in particular, will be pivotal in the operation of the Safeguarding Board. Therefore, it is important that mechanisms exist for removing a person from office if he or she is not performing as required. The Committee, therefore, welcomes amendment Nos 1 and 7.

Amendment Nos 2 and 8 were proposed by the Department and deal with the practicalities of the provision of staff, premises and expenses for the Safeguarding Board and its committees and subcommittees. Similarly, amendment No 9, which was suggested by the Department, stipulates that regulations will prescribe the membership of committees and subcommittees. Amendment No 23 is a technical amendment. The Committee welcomes all the amendments in the first group.

**Mr Easton:** The Consideration Stage of the Safeguarding Board Bill is a significant moment for the protection of children in Northern Ireland. Amendment No 1 addresses the membership of the SBNI. The Safeguarding Board must include representatives from the Health and Social Care Board, the Regional Agency for Public Health and Social Well-being, the health and social care trusts, the Police Service of Northern Ireland, the Probation Board for Northern Ireland, the Youth Justice Agency, education and library boards, district councils, the National Society for the Prevention of Cruelty to Children and such other relevant persons or bodies as may be prescribed. Perhaps the Minister will clarify first whether amendment No 1 means that, should any representative of such bodies resign from, leave or be removed or suspended from those bodies, they would continue to hold their position on the Safeguarding Board despite no longer being with the relevant organisation. Secondly, will he clarify whether the decision to allow such a person to remain on the board is up to the organisation concerned or the individual member?

Clause 1(2)(c) stipulates that there will be no more than four and no fewer than two independent members of the Safeguarding Board. No independent member can have any link with any of the organisations that I mentioned, and those are listed in clause 1(3). They include, as noted in amendment No 2, those who provide premises, such as a landlord, or fund the expenses of the members

of the organisations listed. That is a welcome amendment, because those members must be fully independent.

Amendment No 7 deals with the membership of subcommittees set up within and by the board. It follows amendment No 1 in relation to membership of the board held by those on the prescribed list of representatives. Again, is membership of the subcommittees of the Safeguarding Board individual-dependent or organisation-dependent? If such persons are no longer linked to the prescribed organisation, how can they continue as members of the SBNI?

Amendment No 8 refers to the regulations governing the establishment of subcommittees by the Safeguarding Board and states that the board must make provision for the establishment of such subcommittees. I support that. Amendment No 9 refers to the regulations governing committees and subcommittees set up by the Safeguarding Board. The amendment suggests that the regulations may seek to ensure that certain persons and representatives of certain bodies are members of particular subcommittees. We welcome that.

Amendment No 23 will create a new clause 12A. New clause 12A(1) will disqualify the chairperson of the SBNI from standing for the Northern Ireland Assembly while holding office. We welcome that. Clause 12A(2) will insert the SBNI into schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 and will, therefore, allow the SBNI to be open to investigation by the Commissioner for Complaints. We also welcome that.

The third part of amendment No 23 opens the SBNI to requests for information under the Freedom of Information Act 2000. People will, therefore, be able to request and acquire information from the board in line with practice in other public agencies. That amendment is welcome and acceptable, as it ensures that the SBNI complies with the legislation that governs public office and agencies.

**Mr Gallagher:** The SDLP welcomes the provisions of the Bill, particularly those that are under discussion in this debate. In Committee, there was widespread recognition that serious child neglect and child abuse remain a feature of our society. We feel that the Bill will go a good deal of the way towards helping us, as a society, to get to grips with the problems that I have mentioned.

We welcome the Department's amendment to clause 7 in relation to an individual whose membership of the board might have to cease. We are particularly satisfied with the parts of that clause that set up panels with the ability to review child deaths and carry out case management reviews.

**Dr Deeny:** I, too, welcome the Bill. Our children are our most precious possessions, and we must send out a message from the Chamber that we will do all that we can to protect them. The Deputy Chairperson has said it all. I have felt all along that, as chair of the very important Safeguarding Board is a vital and extremely responsible position, we must make sure that the right person is chosen. I had my concerns about the remuneration for that post, and, hopefully, measures will be taken to deal with that issue. It is a very responsible position.

This was an example where, as the Deputy Chairperson said, even after discussions, Committee Stage was still completed before time. That is down to good work and is a good example of how a Committee, the Minister and Department officials work well together. They were flexible, listened to our views and were very understanding. We, too, listened to their views, and together we have come up with the amendments that the Minister has referred to. I welcome them all.

**Ms S Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. Like all Members who have spoken, I welcome the Bill's Consideration Stage. The general principles of the Bill are probably some of the most fundamental issues in child protection that have come from the Department and the Assembly in a long time.

The Deputy Chairperson and other Members have covered a lot of the issues and the specifics. However, the Bill needs to be welcomed. Taking on board the issues that arose in Committee, we need to recognise that the Minister was listening, the Committee was listening and officials were listening. Together, we all came to the one point on child protection and safeguarding issues. To me, that sends out a clear message that, when things are done properly in this place, devolution works and works at its best. We took on board the issues that the NGOs raised with us, and, through our relationship with officials and the Department, we are now at the stage where there is no battle and the Minister has tabled amendments. If we had not

listened, we could have had a serious battle in the House today.

The key issue throughout all of this is independence. That came up at every opportunity and was raised with us by a large group of organisations and individuals. My instinct was that, if the Safeguarding Board did not have independence, who is to say that we could not be accused of pushing things under the carpet or of keeping things behind closed doors?

### 11.30 am

The Bill shows that we have learned the lessons of some of the most horrendous incidents of child abuse in England and Scotland, and in Ireland. We need to move forward and to ensure daily that we have taken on board the incidents and reports, and that we have learned our lessons. At every opportunity, we need to ensure the protection of children wherever they are, whether that is in the family, in institutions, in school, and so on. That is paramount to all this, so I am delighted that the Bill is here.

The other key issue in the Bill is the relationship between the Department and the board. A number of Members talked about the chairperson's appointment. The Committee raised that concern, and I appreciate the fact that the Minister has taken on board our points. When I and other Committee members heard that the publication of the annual report would happen only once the Department gave its approval, we asked what it was trying to hide. That point has been taken on board. We can learn lessons each year from the annual report. It will be up to us as legislators to take on board any concerns that are raised from it.

The Bill's general principles are to be welcomed. As I said, it has an important role to play in child protection, and as constituency representatives and legislators, we need to ensure that we move forward with the key principle of ensuring that safeguarding our children and young people is the byword of the Assembly. I welcome the Bill.

**The Minister of Health, Social Services and Public Safety:** I thank everyone who has contributed to the debate. It is fair to say that we all agree that there was a positive relationship between the Department and the Committee. We listened carefully to what the Committee said on the points that we have talked about, and we were able to accommodate the Committee's views on a number of issues.

For example, because of the Committee's views on the appointment of the chairperson and concerns about remuneration, we stopped the recruitment process. There are options in front of me on that and to allow us to go forward on a different level of remuneration.

There will be regulations on the membership of the board as it is set up and, of course, those regulations will refer to the stakeholder bodies. Those include the board, the agency, trusts, the police, the Probation Board, the Youth Justice Agency, and they will have a general duty to co-operate. Regulations need to be drafted to deal with a situation in which someone who has been placed on the board by one of the bodies as its representative leaves the organisation. The same will apply to membership of subcommittees. The board will have an independent chairperson who will have direct accountability to the Minister, and that is very important.

There was strong support for the general principle of bringing together on a statutory basis, for the first time, key operational agencies from the voluntary and statutory sectors to work together at a strategic level. That is key and very important. The amendments have been agreed with the Health Committee, and I thank it for supporting those proposed amendments during its scrutiny of the Bill.

*Question, That amendment No 1 be made, put and agreed to.*

Amendment No 2 made: In page 2, line 9, at end insert

*"(including provision as to which person or body provides the staff, premises or expenses)". — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

*Clause 1, as amended, ordered to stand part of the Bill.*

*Clause 2 ordered to stand part of the Bill.*

### **Clause 3 (Functions of the Safeguarding Board)**

**Mr Deputy Speaker:** We now come to the second group of amendments for debate. With amendment No 3, it will be convenient to debate the other group two amendments — amendment Nos 4 to 6 and amendment Nos 10 to 22 — as set out on the Marshalled List. The amendments deal with the powers and duties of the board and its committees.

**The Minister of Health, Social Services and Public Safety:** I beg to move amendment No 3: In page 3, line 1, leave out "take reasonable steps to".

*The following amendments stood on the Marshalled List:*

No 4: In page 3, line 10, leave out "the approval of" and insert "consultation with". — *[The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

No 5: In clause 5, page 3, line 30, leave out subsection (1) and insert

*"(1) Regulations may make provision as to the exercise by the Safeguarding Board of any of its functions (including provision as to further duties to be imposed, procedures to be followed and the manner in which the Board is to exercise its functions)." — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

No 6: In clause 6, page 3, line 35, leave out subsection (1) and insert

*"(1) The Safeguarding Board must, within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed." — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

No 10: In clause 8, page 4, line 28, leave out subsection (2) and insert

*"(2) Regulations may make provision as to the exercise by committees and sub-committees of any of their functions (including provision as to further duties to be imposed, procedures to be followed and the manner in which a committee or sub-committee is to exercise its functions)." — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

No 11: Leave out clause 9 and insert

*"Annual report of committees*

*9. Each committee must, within such period after the end of each financial year as the Safeguarding Board may direct, prepare and send to the Safeguarding Board a report in such form, and containing such information, as may be prescribed." — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

No 12: In clause 10, page 4, line 37, after "Board" insert "and each committee and sub-



committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 13: In clause 10, page 4, line 39, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 14: In clause 10, page 4, line 41, after “Board” insert “, committees and sub-committees”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 15: In clause 10, page 5, line 1, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 16: In clause 10, page 5, line 4, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 17: In clause 11, page 5, line 12, after “Board” insert

*“or a committee or sub-committee (as the case may be)”.* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 18: In clause 11, page 5, line 14, after “complied with” insert

*“as soon as reasonably practicable after receipt of such a request”.* — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 19: In clause 11, page 5, line 17, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 20: In clause 11, page 5, line 21, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 21: In clause 11, page 5, line 32, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

No 22: In clause 11, page 5, line 34, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

**The Minister of Health, Social Services and Public Safety:** Amendment No 3 is intended to strengthen the clause by placing a duty on the Safeguarding Board for Northern Ireland to

promote communication with children and young people. I am particularly thankful to the Health Committee for suggesting this amendment during its scrutiny of the Bill.

Amendment No 4 is included to reflect a concern that was raised by the Health Committee during its scrutiny of the Bill. The effect of the amendment is to require SBNI to consult with the Department, rather than seek the approval of the Department, before publishing any matter concerning the safeguarding and promoting of the welfare of children.

I refer members to clause 3(10):

*“The Safeguarding Board may also engage in any other activity that facilitates, or is conducive to, the achievement of its objective.”*

Although no amendment is proposed to this provision, I wish to state that it provides SBNI with a very wide-ranging power and, as such, will allow SBNI to undertake reviews other than case management reviews (CMRs). I refer to clause 3 because I gave an undertaking to the Health Committee that I would make a statement to this effect at Consideration Stage. It is also my intention to bring forward regulations under clause 3(4) that will clearly set out the threshold for CMRs and the requirement for action planning and the implementation of lessons learned.

Amendment No 5 is intended to allow for regulations to address the procedure and manner in which SBNI is to exercise its functions.

Amendment No 6 is intended to provide clarity by stating that regulations may prescribe the content of SBNI’s annual report and the timescale in which it is to be produced. I also wish to inform the House that the regulations relating to the information to be contained in SBNI’s annual report will include details of any directions that the Department issues to SBNI, along with a list of reports submitted to the Department for publication. Again, I say that because I gave an undertaking to the Health Committee that I would make a statement to this effect at Consideration Stage.

Amendment No 10 mirrors amendment No 5, in so far as regulations may also address the procedure and manner in which the committees and subcommittees of SBNI are to exercise their functions.

Amendment No 11 mirrors amendment No 6, in so far as regulations may prescribe the

content of reports of SBNI committees and the timescale in which those are to be produced.

Amendment Nos 12 to 17 are included to make it clear that reference to SBNI includes its committees and subcommittees.

Amendment No 18 is intended to clarify that any request for information made by SBNI should be complied with in a reasonable time frame.

Amendment Nos 19 to 22 are similar to amendment Nos 12 to 17 in that they are intended to make it clear that reference to SBNI includes its committees and subcommittees.

**The Deputy Chairperson of the Committee for Health, Social Services and Public Safety:** Go

raibh maith agat, a LeasCheann Comhairle. I want to comment on the second group of amendments on behalf of the Committee.

Amendment No 3 relates to clause 3(7) and concerns communication between the Safeguarding Board and children and young people. That was an issue on which the Committee received many representations. The majority of stakeholders, particularly the children's charities, were concerned that the clause, as originally drafted, was too weak and did not go far enough to ensure that consultation with children and young people will take place in a meaningful way. To some extent, the Committee was reassured by the Department's explanation that it will draft detailed regulations to set out how SBNI must consult children and young people. However, it still wants to see the wording in the Bill strengthened. After much discussion, the Department agreed to remove the phrase "take reasonable steps to", and the Committee welcomed that amendment.

Amendment No 4 relates to clause 3(9)(c) and deals with SBNI publications. That clause caused serious concerns for many of the groups that the Committee heard from. Those groups included Children in Northern Ireland (CiNI), the Parents Advice Centre, the NSPCC, the Children's Commissioner, Barnardo's, and others. There was a fear that the provision could be used by the Department to have a veto on SBNI's functioning and independence and could be used to suppress critical reports.

Given the concern, the Committee commissioned the Assembly's Research and Library Service to produce a paper on the matter, which reviewed

how other public bodies are linked to their relevant sponsor Departments. The paper found that the Department of Health, Social Services and Public Safety has similar powers of approval in relation to the RQIA and the Patient and Client Council. However, OFMDFM does not have the power to approve the publications of the Commissioner for Children and Young People. Again, there was a lengthy debate with the departmental officials on that issue over a number of weeks. They argued that the clause was a safety mechanism and not a censoring device and that it was required to ensure that reports are factually accurate and do not include statements that will raise the possibility of any legal challenge.

The Department initially proposed to amend clause 6 to state that the annual report will list, with dates, any reports submitted by SBNI to the Department for publication and which reports have been published. However, the Committee questioned why clause 3(9)(c) could not be amended to refer to "consultation" with the Department rather than "approval." The Committee was also concerned that the proposed amendment to clause 6 would not deal with a situation in which the Department asks for a report to be amended. The Department stated that communications between SBNI and the Department would be recorded in the minutes of board meetings, but Committee members made the point that someone would need to carefully scrutinise the proceedings of SBNI to pick up on such a scenario. Therefore, after much discussion, the Department finally agreed to amend clause 3(9)(c) as proposed by the Committee, by using the term "consultation" as opposed to "approval." The Committee was content with that proposed amendment.

Amendment Nos 12, 13, 14, 15, 16, 17, 19, 20, 21 and 22 ensure that various provisions relate to the committees and subcommittees of the Safeguarding Board. That is important as much of the work at a local level will be carried out by the committees, not least the five panels that will exist in the five trust areas and the child death overview panel. The operation of those panels will be vital, and it is right that the way in which they are expected to operate is set out in primary legislation. The Committee welcomes those amendments.

Amendment No 18 relates to clause 11, which deals with information that may be requested from other bodies by the Safeguarding Board.

The amendment specifies that a request for information must be complied with within a reasonable time frame. That issue was raised with the Committee by a number of groups, including the PSNI. The Committee agreed that it was content with the amendment as drafted.

**Mr Easton:** Amendment No 3 will remove the words “take reasonable steps to” from clause 3(7). Clause 3 sets out the functions of the Safeguarding Board, and if the amendment is passed, it would mean that the Safeguarding Board must promote communication between the board and children and young persons. The amendment will ensure that the words “reasonable steps” cannot be misread. Instead, a function of the board will be to ensure that there is communication between the board and the people whom it is set up to protect. Therefore, there is no ambiguity on that issue, which is to be welcomed.

Amendment No 4 will remove the words “the approval of” from clause 3(9)(c) and replace them with “consultation with.” That relates to the board’s independence, and, as the word “approval” is too strong, it has been replaced by “consultation.” The board is to be independent of the Department, so that change is to be welcomed.

Amendment No 5 bulks up the original wording of clause 5 and makes it clearer. That is acceptable.

#### 11.45 am

We also welcome amendment No 6, which is purely administrative and expands the original wording. Amendment No 10 is also purely administrative and expands the original wording regarding the functions of committees and subcommittees. Amendment No 11 replaces the original clause 9 with a more detailed and comprehensive explanation of the duty of committees. Under the direction of the board, each committee must submit a yearly report of its functions. That will allow the board to oversee the work that the committees undertook in the previous year. We welcome that.

Amendment Nos 12 to 17 propose a more specific form of wording regarding committees and subcommittees that are contained and function under the board in their co-operation with persons or bodies. It makes every level of the board accountable. There are no issues

here. It enhances the legislation and ensures that there are no quarrels.

Amendment No 18 relates to the supply of information to the board. Again, there are no issues here. It is administrative and strengthens the wording, stating “as soon as reasonably practicable”. Finally, amendment Nos 19 to 22 are similar to amendment Nos 12 to 17 in that the words are changed to include committees and subcommittees. That strengthens the wording and provides clarity in case of dispute.

#### **The Minister of Health, Social Services and Public Safety:**

I thank Members for their contributions on the second group of amendments. Similarly, I extend my gratitude to the Committee for its valuable input and helpful suggestions during the scrutiny of the Bill.

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

Amendment No 4 made: In page 3, line 10, leave out “the approval of” and insert “consultation with”. — [*The Minister of Health, Social Services and Public Safety (Mr McGimpsey).*]

*Clause 3, as amended, ordered to stand part of the Bill.*

*Clause 4 ordered to stand part of the Bill.*

#### **Clause 5 (Functions of Safeguarding Board — general)**

Amendment No 5 made: In page 3, line 30, leave out subsection (1) and insert

*“(1) Regulations may make provision as to the exercise by the Safeguarding Board of any of its functions (including provision as to further duties to be imposed, procedures to be followed and the manner in which the Board is to exercise its functions).” — [*The Minister of Health, Social Services and Public Safety (Mr McGimpsey).*]*

*Clause 5, as amended, ordered to stand part of the Bill.*

#### **Clause 6 (Annual report of Safeguarding Board)**

Amendment No 6 made: In page 3, line 35, leave out subsection (1) and insert

*“(1) The Safeguarding Board must, within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.” — [*The**

*Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Clause 6, as amended, ordered to stand part of the Bill.

**Clause 7 (Committees and sub-committees)**

Amendment No 7 made: In page 4, line 10, at end insert

*“(including the circumstances in which they cease to hold office or may be removed or suspended from office)”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Amendment No 8 made: In page 4, line 13, at end insert

*“(including provision as to which person or body provides the staff, premises or expenses)”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Amendment No 9 made: In page 4, line 13, at end insert

*“(4A) Regulations may provide that committees and sub-committees must include such representatives of such relevant persons or bodies as may be prescribed or such other persons as may be prescribed.” — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Clause 7, as amended, ordered to stand part of the Bill.

**Clause 8 (Functions of committees and sub-committees)**

Amendment No 10 made: In page 4, line 28, leave out subsection (2) and insert

*“(2) Regulations may make provision as to the exercise by committees and sub-committees of any of their functions (including provision as to further duties to be imposed, procedures to be followed and the manner in which a committee or sub-committee is to exercise its functions).” — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Clause 8, as amended, ordered to stand part of the Bill.

**Clause 9 (Annual report of committees)**

Amendment No 11 made: Leave out clause 9 and insert

*“Annual report of committees*

*9. Each committee must, within such period after the end of each financial year as the Safeguarding Board may direct, prepare and send to the Safeguarding Board a report in such form, and containing such information, as may be prescribed.” — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Clause 9, as amended, ordered to stand part of the Bill.

**Clause 10 (Duty to co-operate)**

Amendment No 12 made: In page 4, line 37, after “Board” insert “and each committee and sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

Amendment No 13 made: In page 4, line 39, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

Amendment No 14 made: In page 4, line 41, after “Board” insert “, committees and sub-committees”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

Amendment No 15 made: In page 5, line 1, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

Amendment No 16 made: In page 5, line 4, after “Board” insert “or a committee or sub-committee”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]

Clause 10, as amended, ordered to stand part of the Bill.

**Clause 11 (Supply of information requested by Safeguarding Board)**

Amendment No 17 made: In page 5, line 12, after “Board” insert

*“or a committee or sub-committee (as the case may be)”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Amendment No 18 made: In page 5, line 14, after “complied with” insert

*“as soon as reasonably practicable after receipt of such a request”. — [The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

Amendment No 19 made: In page 5, line 17, after “Board” insert “or a committee or sub-



committee". — [*The Minister of Health, Social Services and Public Safety (Mr McGimpsey).*]

Amendment No 20 made: In page 5, line 21, after "Board" insert "or a committee or sub-committee". — [*The Minister of Health, Social Services and Public Safety (Mr McGimpsey).*]

**Mr Deputy Speaker:** Amendment Nos 21 and 22 to clause 11 are technical in nature and are consequential to amendment No 17.

Amendment No 21 made: In page 5, line 32, after "Board" insert "or a committee or sub-committee". — [*The Minister of Health, Social Services and Public Safety (Mr McGimpsey).*]

Amendment No 22 made: In page 5, line 34, after "Board" insert "or a committee or sub-committee". — [*The Minister of Health, Social Services and Public Safety (Mr McGimpsey).*]

*Clause 11, as amended, ordered to stand part of the Bill.*

**Clause 12 (Arrangements to safeguard and promote welfare of children)**

**Mr Deputy Speaker:** No amendments have been tabled to clause 12, but the Minister has indicated that he wishes to speak to the clause stand part.

*Question proposed, That the clause stand part of the Bill.*

**The Minister of Health, Social Services and Public Safety:** I refer Members to clause 12, which requires core members of SBNI to make arrangements for ensuring that their functions are exercised while having due regard to the need to safeguard and promote the welfare of children. Although there are no amendments to the clause, I wish to state that I intend to develop guidance that will set out SBNI's expectations for member agencies where this duty is concerned. The guidance will be agency specific and will be developed in conjunction with the relevant agencies. I gave an undertaking to the Health Committee that I would make a statement to that effect at Consideration Stage.

**The Deputy Chairperson of the Committee for Health, Social Services and Public Safety:** Go raibh maith agat, a LeasCheann Comhairle. Clause 12(3) caused concern among groups about how it might be interpreted. The NSPCC in particular felt that that could impede its

ability to act independently in the interests of children and when challenging on matters of safeguarding and child protection.

In its evidence, the Department advised the Committee that it will issue guidance on what it expects of member agencies in delivering on that duty. The Committee wrote to the Minister asking him to make a statement to the House to assure the Committee that the Department will develop guidance for member agencies regarding clause 12. Therefore, I welcome the Minister's statement and his reassurance that that will actually happen.

**Mr Easton:** Concerns were raised at the Committee and among groups such as the NSPCC about how the clause could impede on their ability to act independently in the interests of children and when challenging government on matters of safeguarding and child protection. The Department stated that it would issue guidance on what it expects of member agencies in delivering on that duty. The Committee asked the Minister to make a statement to the House to clarify the clause. He agreed to do that, and that was clearly his intention in holding a separate debate on the issue. He has, therefore, clarified that matter in the House.

The clause is complex and needs examining. Will stakeholders, such as charities that have been established to work independently for the protection of children, be given freedom to criticise government guidance, for example? The clause states that, when exercising the duty, members must give:

*"due regard to any guidance given to them for the purpose by the Department."*

I support clause 12.

**Mr McCallister:** The concerns mentioned by fellow members of the Health Committee are welcome and have been noted. I think that the guidance that the Minister is going to publish is important, because no one here would want or expect those charities to withhold any criticism where criticism is necessary. The interests of us all are best served by ensuring that the Bill works as effectively as possible. Where there are problems, particularly in the initial stages of getting the Safeguarding Board up and running, it is important that those are highlighted. I do not think that any of us here, including the

Minister, would want anything other than for the board to work smoothly.

The way in which the Bill progressed has been an example of the Assembly working at its finest. Amendments from the Committee have been taken on board and there has been close working with the Department and the Minister.

#### **12.00 noon**

*Question, That the clause stand part of the Bill, put and agreed to.*

*Clause 12 ordered to stand part of the Bill.*

Amendment No 23 made: After clause 12, insert the following new clause:

*“Minor or consequential amendments*

*12A.—(1) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership of the Assembly), insert at the appropriate place—*

*‘Chair of the Safeguarding Board for Northern Ireland.’.*

*(2) In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation), insert at the appropriate place—*

*‘The Safeguarding Board for Northern Ireland.’.*

*(3) In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act), insert at the appropriate place—*

*‘The Safeguarding Board for Northern Ireland.’.—  
[The Minister of Health, Social Services and Public Safety (Mr McGimpsey).]*

*New clause ordered to stand part of the Bill.*

*Clauses 13 to 17 ordered to stand part of the Bill.*

*Long title agreed to.*

**Mr Deputy Speaker:** That concludes the Consideration Stage of the Safeguarding Board Bill. The Bill stands referred to the Speaker.

## **Damages (Asbestos-related Conditions) Bill: First Stage**

### **The Minister of Finance and Personnel**

**(Mr S Wilson):** I beg to introduce the Damages (Asbestos-related Conditions) Bill [NIA 10/10], which is a Bill to provide that certain asbestos-related conditions are actionable personal injuries; and for connected purposes.

*Bill passed First Stage and ordered to be printed.*

**Mr Deputy Speaker:** The Bill will be put on the list of future business until a date for its Second Stage is determined.

## **Construction Contracts (Amendment) Bill: Further Consideration Stage**

**Mr Deputy Speaker:** I call the Minister of Finance and Personnel to move the Further Consideration Stage of the Construction Contracts (Amendment) Bill.

*Moved.* — [The Minister of Finance and Personnel (Mr S Wilson).]

**Mr Deputy Speaker:** As no amendments have been selected, there is no opportunity to discuss the Construction Contracts (Amendment) Bill today. Members will, of course, be able to have a full debate at Final Stage. The Further Consideration Stage of the Bill is, therefore, concluded. The Bill stands referred to the Speaker.

## **Student Loans (Amendment) Bill: Final Stage**

**The Minister for Employment and Learning (Mr Kennedy):** I beg to move

*That the Student Loans (Amendment) Bill [NIA 22/09] do now pass.*

This a technical Bill, which amends the Education (Student Support) (Northern Ireland) Order 1998 and the Education (Student Loans) (Northern Ireland) Order 1990 by extending regulation-making powers to provide that a student loan made to a Northern Ireland borrower who enters an individual voluntary agreement (IVA) in Northern Ireland will be exempt from that IVA. It is important that we protect public money, and the amendment will align the treatment of student loans in relation to IVAs with that which applies to bankruptcy.

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

There was no opposition to the proposals through the public consultation or subsequent Assembly processes. I thank the Chairperson of the Committee for Employment and Learning and the Committee members for their assistance with the Bill. As usual, they gave it careful scrutiny, and did effective work to ensure that the consultation was carried out thoroughly and involved representatives of student bodies, including the student unions of Queen's University and the University of Ulster. I am also grateful to Assembly Members for their support during the legislative process.

### **The Chairperson of the Committee for Employment and Learning (Mrs D Kelly):**

I support the motion. I thank the Minister for his explanation of the process that brought us to this stage, and I do not propose to regurgitate everything that he said. It is a short technical Bill that closes a loophole.

As members are aware, the Committee received a draft version of the Bill, which it considered at its meeting on 19 June 2010. The Bill's First Stage was on Tuesday 25 May 2010. Its Committee Stage began on Wednesday 23 June 2010 and ended on 3 November 2010, when the Committee ordered its report to be printed. As I indicated at the outset, the Bill is short and technical. I am satisfied that the Committee gave it all due scrutiny and consideration. I thank the Minister for his comments. The Committee would also like to



thank the departmental officials in the Bill team who briefed the Committee and were more than happy to discuss any issues that members raised. I also want to thank the Minister and his predecessor for making officials available and for their own co-operation.

Members have not highlighted any difficulties with the Bill in the pre-legislative stage or at Committee Stage. Members are also aware that there were no objections in the responses to the Department's consultation on individual voluntary arrangements with respect to student loans, which ran for 13 weeks from July to October 2009. The Committee has approached the Bill as it does all work that comes from the Department for Employment and Learning. Members seek to co-operate closely with the Minister and his Department where possible to ensure that the Committee's views are heard and respected. Where appropriate, members will seek to undertake constructive dialogue with the Minister and his Department with the aim of achieving consensus and progress.

As has been highlighted, two sorts of student loan for people in higher education are paid for from public funds; mortgage-style loans for living costs for students prior to 1998 and income-contingent repayment loans for fees and living costs for students since 1998. Members will also be aware that student loans are currently excluded by provisions in regulations from a borrower's bankruptcy debts. That means that upon discharge from bankruptcy, the borrower is still liable to repay the student loan. Individual voluntary arrangements were created by the Insolvency (NI) Order 1989. They are intended to be a more flexible alternative to bankruptcy that avoids some of the restrictions that apply to a bankrupt. At present, the treatment of student loans under an IVA differs from their treatment under a bankruptcy. The Department considers that to be an anomalous situation.

Members are aware that student loans are made in non-commercial terms, with low interest rates and the obligation to repay being linked to a borrower's income level. In addition, as student loans are paid out of and subsidised by public funds, the Department does not consider it appropriate to allow borrowers to reduce or limit their liability to repay by entering into IVAs. The Student Loans (Amendment) Bill extends the Department's regulation-making powers under the Education (Student Support) (NI) Order 1998 to allow provisions to be made to exclude student

loans from IVAs. The Department rejected the option of doing nothing. The Committee is content that the Bill will ensure consistency of treatment of student loans under bankruptcy.

The Bill contains two clauses. The second clause sets its short title. The first clause contains its provisions. The clause amends the 1998 Order and the Education (Student Loans) (NI) Order 1990 by extending regulation-making powers to provide that a student loan that is made to a borrower who enters an IVA will be treated in a similar way to how one is currently treated under bankruptcy.

The Committee commenced its scrutiny of the Bill on 9 June 2010 with a briefing from departmental officials on the circumstances that had necessitated the introduction of that amending legislation. The Department also provided details of all the responses that were received in the public consultation on the policy proposals. During the briefing, officials detailed the increasing number of student loans being included in IVAs since the legal precedent had been set and the resultant loss to the public purse. The Committee requested further information from officials on the number of people domiciled in Northern Ireland who had had student loans written off by the Student Loans Company under IVAs. That was provided by the Department on 29 September 2010.

On 15 September 2010, the Committee was briefed by the Northern Ireland Assembly Legal Services on the inequality that currently exists between debtors who enter into IVA arrangements and those who are involved in bankruptcy proceedings. The briefing clarified the differences between IVAs and bankruptcy. It explained how repayment of student loans could be impacted by different forms of debt management.

On 22 September 2010, the Committee heard oral evidence from representatives of the National Union of Students-Union of Students in Ireland (NUS-USI). NUS-USI welcomed the Bill's provisions. It agreed that, in the interests of fairness, the amount of a student loan that is due for repayment should not be reduced under an IVA.

The NUS-USI stresses that the financial sustainability of the student loans system is crucial to allowing many young people to enter third-level education and that resources in the higher education sector could be used more

effectively than to meet the shortfall in student loan repayments due to IVAs.

The Committee is content with the Bill as drafted and supports the motion.

**Mr Lyttle:** As a member of the Committee for Employment and Learning, I thank the Chairperson for her summary of the Committee's position. I support the Bill on behalf of the Alliance Party.

As stated by the Chairperson, the purpose of the Bill is to close a legislative loophole in order to ensure that student loans are fully recoverable and not reduced or written off in any way by the inappropriate use of individual voluntary arrangements. Therefore, it is sensible and fair legislation. It has received the support of student representative bodies on account of the more consistent treatment of loans and efficient use of public funds for higher education that it will provide.

Unfortunately, however, the increasing number of students and recent graduates who have been applying for IVAs to cope with student debt is demonstrative of the increased financial pressures that are being experienced by those wishing to access higher education. It is important, therefore, that we do not lose sight of the fact that there is an increasing level of student debt and graduate unemployment in Northern Ireland, and those are areas that the Minister, the Executive and the Assembly will have to work together to address.

Higher education is a key driver for economic growth and widened participation in society. We must, therefore, prioritise public investment in the sector to ensure that higher education remains free at point of entry and that we have fair and financially sustainable student finance systems in place if we are to allow young people from all backgrounds to benefit from third-level education and if we are to produce the skilled workforce that is needed to grow a modern knowledge-based economy. Therefore, I welcome the fairer and more efficient public investment in our higher education and student finance system that the Bill will ensure. The Alliance Party supports the motion on those grounds.

**The Minister for Employment and Learning (Mr Kennedy):** I thank the Chairperson of the Committee for Employment and Learning and Mr Lyttle for their contribution to the debate. The Committee has played an important part

in advancing the Bill. The Bill is short and technical, but it is important. It will ensure that publicly funded student loans will not be reduced by their inclusion in individual voluntary arrangements.

Once the Bill receives Royal Assent, an amendment will be required to an existing statutory rule. That amendment will be subject to negative resolution.

I reinforce my thanks to the Chairperson of the Committee and to Mr Lyttle. I agree very much with the sentiment that we should be working together not only on student debt but on student fees in the future, and we will do that. I look forward to the co-operation of the Committee for Employment and Learning, and Members. I commend the Bill to the Assembly.

*Question put and agreed to.*

*Resolved:*

*That the Student Loans (Amendment) Bill [NIA Bill 22/09] do now pass.*

## **Tourism (Amendment) Bill: Final Stage**

**Mr Deputy Speaker:** The Minister of Enterprise, Trade and Investment has informed me that she is unable to attend today's debate due to a funeral. The Minister of the Environment will move the Final Stage of the Bill on her behalf.

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

*That the Tourism (Amendment) Bill [NIA Bill 30/09] do now pass.*

**Mr Deputy Speaker:** I call Mr Alban Maginness.

**The Minister of the Environment:** Excuse me.

**Mr Deputy Speaker:** Sorry. I call the Minister.

**The Minister of the Environment:** As was said at the Second Stage of the Tourism (Amendment) Bill, the Bill is intended to amend the Tourism (Northern Ireland) Order 1992, which provides the Northern Ireland Tourist Board with the powers to encourage the development of the tourist industry in Northern Ireland. The amendments proposed in the Bill fall under three main headings. The first proposes easing the regulation on tourist accommodation and businesses by changing the frequency of the Northern Ireland Tourist Board's statutory inspection of tourist accommodation.

The second proposes a change in the mechanism for appointing the chairperson of the board, and the third provides for the transfer of tourist accommodation grants from Invest Northern Ireland to the Northern Ireland Tourist Board. Each change represents a positive step forward in tourism. I thank the Chairperson and members of the Committee for Enterprise, Trade and Investment for their careful scrutiny of the Bill and Members for their general support in its progress.

**12.15 pm**

**The Chairperson of the Committee for Enterprise, Trade and Investment (Mr A Maginness):** I thank Minister Poots for moving the Final Stage of the Tourism (Amendment) Bill. The Committee considered the principles of the Bill to be to change the frequency of the statutory inspections of tourism accommodation and certification; to change the mechanism for appointing the chairperson of the tourist board; and to make provision for the potential transfer of tourist accommodation

grants from Invest Northern Ireland to the Northern Ireland Tourist Board.

The Committee's main concerns related to the frequency of inspections, as many organisations expressed the view that the move to a four-yearly inspection from a yearly inspection might be too long and might affect the standard of tourist accommodation. However, the Department responded that, in most cases, there is little significant change in tourist accommodation, as certification is mostly infrastructure based. The change to four years would, therefore, not risk a reduction in quality and would reduce the regulatory burden that is placed on the accommodation providers, as well as reducing the overall fees for inspection.

The Committee was content with that response and was reassured that there are powers in clause 1 to change the frequency of statutory inspections through subordinate legislation. That was a suggestion from the Committee that the Department agreed to incorporate in the Bill.

There were no concerns regarding the proposed mechanism for appointing the chairperson of the Tourist Board, which was welcomed by most organisations, as it was felt that the proposed mechanism would enhance public confidence. The provision to permit transfer of tourist accommodation grants from Invest Northern Ireland to the Northern Ireland Tourist Board was a proposal that arose as a result of a recommendation in the report on the independent review of economic policy. Again, it seems a sensible and reasonable provision, and the Committee raised no concerns.

Finally, I thank Minister Arlene Foster and her Department for their work on the Bill and the helpful interaction with the Committee during scrutiny of the Bill. I also thank the Committee staff, who put their usual diligent work into helping us with the Bill.

**Mr Deputy Speaker:** I call the minister of the Environment, Mr Edwin Poots, on behalf of the Minister of Enterprise, Trade and Investment, to conclude the Final Stage.

**The Minister of the Environment:** I am grateful to the Chairperson of the Committee who has contributed to the debate and raised some valuable points, which will be taken note of. I commend the Bill to the House.

*Question put and agreed to.*

*Resolved:*

*That the Tourism (Amendment) Bill [NIA Bill 30/09] do now pass.*

**Mr Deputy Speaker:** I ask Members to take their ease for a few moments while we get reorganised.

## **Planning Bill: Second Stage**

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

*That the Second Stage of the Planning Bill [NIA 7/10] be agreed.*

Planning impacts on all our lives. We use it to shape our communities, protect and enhance our natural and historic environment and promote regeneration and growth. We are using planning to help us make Northern Ireland a better place to live, work and invest.

On 30 November, I announced in the House my proposals for the reorganisation of local government and my plans for a fundamental overhaul of the planning system. That will pave the way for the transfer of functions to the new 11 councils within a timescale and in circumstances to be determined by the Executive.

The Planning Bill sets out proposals to transform our planning system. It provides for a transfer of better, faster development plans and development management functions to councils. That means that the councils will be the planning authorities. They will have professional planners to advise them but it will be the councillors themselves who are responsible for the decisions. It will be up to councils, working with local people, to create a clear vision of what the council area should look like in the future. They will use their local development plans to show everyone how that vision will be realised and what types of development will go where. The councils will also consider planning applications and decide what can be built.

The transformation is fundamental to the development of local accountable democracy. It puts power and responsibility for the development of local areas exactly where it should be: in the hands of locally elected representatives accountable to the people. Councils will share those responsibilities with Ministers and Departments. For example, the Department for Regional Development will retain responsibility for the regional development strategy and the Department of the Environment will retain responsibility for strategic planning policies, and together those provide the policy framework within which councils will operate. The Department of the Environment will advise the councils on what practical aspects of planning it will have oversight of and performance management

responsibilities for. It will also determine the most complex planning applications.

My Department's land-use planning responsibilities are set out in Part 1. Planning is about shaping places, but it also shapes the daily lives of residents, businesspeople, workers and commuters. It impacts on their well-being. Councillors and planners need to work together to understand community needs, wants and aspirations. The Bill, therefore, requires councils to publish a statement of community involvement, explaining to the community why it is important for them to become involved with the planning processes and how they can contribute. Councils will be required, through Part 2, to bring forward 15-year local development plans that take account of the regional development strategy of planning policies and other relevant plans, policies and guidance. At the beginning of the process, the council will agree with the Department of the Environment a reasonable timetable within which its plan will be produced. Councils will be given the flexibility to work together to develop a joint plan, should they wish to do so.

Although the plans will look 15 years ahead, they should always be up to date. Councils will be required to review them every five years and they will have the flexibility to review and amend their plans as often as they need to. Each local development plan will comprise two documents: a plan strategy and a local policies plan. The plan strategy will be prepared and adopted first. It will show the big picture. The plan strategy will set out the council's strategic vision for the future of the area, along with strategic objectives and policies and a strategy for growth. Once adopted, the plan strategy will provide certainty for the development of the local policies plan.

The local policies plan will set out the detail. That document will show where the various activities may be developed; for example, where there might be housing, commercial or industrial growth. In line with its statement of community involvement, each council will work with the community throughout the planning process. Rather than simply seeking views on issues, councils will present the public with options early in the process, so that there can be meaningful and constructive discussion. Throughout the process of developing both the plan strategy and the local policies plan, councils will need to conduct a sustainability appraisal. That will need to be

published. That means assessing the economic, social and environmental impacts of options and taking those impacts into account in the decision-making process. Plans will also be subject to equality impact screening and assessment as necessary.

Before they can be adopted, the plan strategy and the local policies plan will each need to be subjected to independent examination. The purpose of the examination will be to test how sound the plan document is. The examination will consider the soundness of its content and its alignment with government plans, policies and guidance. It will also consider the soundness of the process through which the plan document was produced.

The public and interested parties will have the opportunity to make representations to the examination. People who do so will need to demonstrate why a plan document is not sound. They will have to propose a solution to the problem — a pretty novel idea — that they have identified and to demonstrate how their proposal makes the plan document more sound. That is a fundamentally better way of examining development plans than currently exists. It is about careful consideration and reasoned argument set against criteria; a simple objection will not be enough.

I know that councils, individual councillors and planning staff will do their utmost to ensure that they produce sound local development plans that meet the needs of their communities and are right for their areas. However, as Minister, I need to recognise that there may be a time when things go wrong. I need to make sure that we have ways of dealing with that. That is why I have made sure that, in the Bill, the Department of the Environment retains powers of oversight and intervention in relation to local development plans. If it seems to the Department that a council is not making satisfactory progress with the development of its plan, or if the Department believes that a plan needs to be changed, it will be able to step in and take action.

I now turn to the second major element of planning development management. In Part 3 of my Bill, I have set out the arrangements under which development will be managed by councils —

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

**The Minister of the Environment:** Not at this point; we will have a lot of opportunity to speak,



and I would rather deal with these items in the first instance so that Members have a good, wide context of the Bill.

In Part 3 of my Bill, I have set out the arrangements under which development will be managed by councils and the Department of the Environment. In crafting those arrangements, we strive to develop a system that is better and faster. Applicants need certainty. It does not matter whether they are building an extension or a multi-million pound headquarters; what they want to hear from the planning system is a clear “yes” or “no”. The proposals aim to channel resources towards the applications with the most economic and social significance, with decision-making mechanisms that are proportionate to the scale and the complexity of the proposed development. Part 3 of the Bill, therefore, envisages three tiers of development proposals, and it treats each tier in the most appropriate way.

The top tier is regionally significant applications. Those are development proposals whose realisation would impact on the whole of Northern Ireland or a substantial part of it. They include significant infrastructure, energy and industrial applications. Recent examples include the new hospital in Enniskillen and Down High School in Downpatrick. The Department will be able to prioritise regionally significant applications by having them submitted directly to it. It will also have the power to call in an application submitted to a council that may be of regional significance.

The second tier of applications are those described as “major” because they relate to projects that would have a significant impact on the council area in which they are to be developed. Major applications relate to developments such as large housing schemes or office developments, along with waste, energy or transport infrastructure.

The final tier comprises applications likely to impact on only the immediate locality. Those local applications include small offices or small residential and minor commercial or industrial developments.

Councils will determine major and local applications. Applicants submitting regionally significant or major applications will be required to demonstrate that they have engaged in pre-application community consultation with local communities. That means that developers

will have to display their proposals publicly, so that people can see what is intended and say what they think. The developers can then adapt their proposals to mitigate any negative impacts identified and to deal with community issues before they submit their applications. The outcome should be better, and applications should be dealt with faster.

Pre-application community consultation is not an optional extra. The Department and the councils may choose not to process applications if that consultation has not been done or has not been done to a set standard.

### **12.30 pm**

Councillors are busy people. It is unrealistic to expect them to determine every planning application themselves. Therefore, the Bill requires councils to publish schemes setting out the types of application that councils will normally determine and those that would normally be delegated to planning officers for decision. The flexibility will exist to transfer an application between those two categories if the council sees fit to do so. As well as speeding up processing times and keeping down costs, that will free councillors to deal with complex or contentious cases more promptly.

Neither the Department nor the councils will have all the information and expertise that they need to properly consider applications. The legislative requirement to refer applications to expert organisations, such as the Health and Safety Executive, will be expanded. I am well aware of the delays caused when consultees take a long time to deliberate. The Bill removes that roadblock by requiring statutory consultees to reply within a specified time frame. A list of statutory consultees and the time frame will be set out in secondary legislation. The time frame will be proportionate to the development hierarchy but will be in the region of 28 days for the majority of applications.

The Bill will transfer to councils the powers to designate conservation areas and to control works on listed buildings. However, the powers to list or delist buildings of architectural or historic interest and of voluntary or compulsory acquisition of listed buildings will remain with the Department of the Environment. To further protect the built heritage, the Bill creates a new offence of partial demolition of an unlisted building in a conservation area,

and it encourages development to enhance conservation areas.

From time to time, councils will have development proposals that they wish to pursue on their own or jointly with others. In such situations, councils will make planning applications to the area planning office, just like anyone else, and they will be able to grant permission for those, where appropriate. Schemes of delegation to council officers will not include applications made by councils or council members or that relate to land that the council owns or in which it has an interest. To further safeguard councils and councillors, the Bill will give the Department powers to make regulations to put in place appropriate governance arrangements and to minimise any risk or conflict of interest.

Enforcement is an issue of concern to many Members and their constituents, and Part 5 of the Bill transfers to councils the power to enforce against planning breaches in their respective areas. However, the Department will retain powers to issue enforcement notices or stop notices but only after first consulting the council for the area. Councils will have new powers to issue fixed penalty notices for the offence of failing to comply with an enforcement notice or a breach of condition notice. That is a short, sharp remedy, and it is a proportionate and effective response, in line with our better regulation agenda.

Effective performance management will be crucial to the success of the development management system. My Department will, therefore, be responsible for assessing and reporting on councils' performance, including whether their decisions are made in accordance with the respective development plans and with any advice and guidance issued by the Department.

The Bill carries forward the Department's powers to set planning fees and charges and to provide grants and bursaries. However, it will also give the Department the power to make regulations that will allow councils to set their own fees and to allow fees to be transferred from one council to another. The Department will continue to set planning fees for the first three years but will then review the position and consider whether to transfer such powers to councils.

The independence of public inquiries, hearings, examinations and the appeals process is fundamental to our democratic and

accountable planning system. The Planning Appeals Commission will continue to conduct public inquiries and hearings to inform the Department's consideration of regionally significant planning applications. It will also hear appeals against councils' decisions on major and local planning applications and conduct examinations of local development plan documents. That is a considerable and varied workload. For example, it is quite likely that all the councils' planned strategies will be ready for independent examination at around the same time. To avoid delays, therefore, the Bill gives my Department the power to appoint independent persons in addition to the Planning Appeals Commission to conduct independent examination of planning strategies; local policies, plans and inquiries; and hearings on regionally significant planning applications. The Bill also reduces the time window for lodging appeals against councils' decisions on major and local applications from six months to four months. In addition, the Bill re-enacts legislation in a way that reflects the new roles and responsibilities of the Department and councils.

My Bill will transform our planning system and planning culture. For the first time, the people and businesses who are affected by development plans will have the right to influence the plans from the beginning. There will be open and effective dialogue between the plan makers and the public. Developers will need to listen to the views of the people in the community when drawing up applications. The new local development plans should be produced in a faster and more focused way. They will be responsive and flexible. Investors will get quicker responses to their applications, which will help them to achieve the certainty that they desire. The proposals in my Bill are vital to the future of our communities and our economy.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Go raibh maith agat, a LeasCheann Comhairle. Mar Chathaoirleach an Choiste Comhshaoil, cuir m fáilte roimh an Bhille Pheanála. As Chairperson of the Environment Committee, I welcome the Bill. However, I stress that I do so with caution. The Bill is massive: it has 248 clauses, seven schedules and, I think, 15 Parts. It is the largest Bill to come to the Assembly by some 66 clauses. It is not that we do not want the legislation; we do. We have been calling for it for many years, and we have been told to expect it for several. However, I question the wisdom of



introducing a Bill of such enormity at this late stage in the mandate.

As all Members know, the Environment Committee has worked through a number of Bills over the past few years. In all cases, the Department has acknowledged the added value provided by the Committee in its scrutiny. In all of the Bills that we have scrutinised, the Minister has taken on board recommendations made by the Committee and agreed that the Committee process led to better legislation in the long run. However, each Bill that came to the Committee required an extension beyond the 30-day statutory period, whether it was a three-clause private Member's Bill or a 78-clause departmental Bill.

Each report produced by the Committee on those Bills has been based on evidence that was called for and received from the individuals and organisations most affected by the legislation, whether in respect of implementation or impact — fiscal, social or environmental. Today, however, we are considering a 248-clause Bill that, if it is to be sure of having sufficient time to complete its legislative passage, has to be considered within the statutory 30-day period.

The Minister suggested that the Committee does not need to consult on the Bill because his Department has already conducted two consultations. I do not question for one minute the depth and integrity of the departmental consultations on planning reform, but they were focused on the policy principles of planning reform, not the legislation for implementing them. No one has yet been given an opportunity to comment on the Bill as drafted. In fact, no one saw it until very recently, because the Department kept such tight wraps on it.

When the Committee calls for evidence on the Bill, it will not be consulting on the policy principles, even though many organisations may take the opportunity to rehearse their arguments in that regard. What the Committee will be calling for is evidence on the clauses of the Bill. It will ask whether the Bill will do what the Department says it will, whether it will work in practice, whether anything has been overlooked and so on. The Committee will then challenge the Department to respond to the concerns raised. As I mentioned, the Committee has to date considered eight departmental Bills. That process, invariably, has led to the Committee recommending amendments in many cases —

in fact, I dare say most cases. The Minister has agreed to make most of those as well.

I do not believe that we can overlook this vital step in the scrutiny process. We must give anyone and everyone who is affected by the Bill the opportunity to comment on it. Only in that way can the Committee gather the information that it needs to properly scrutinise the Bill and to produce a proper evidence-based report.

Just before I move on to the policy principles of the Bill, I will remind the House of the length of the Committee Stages required for previous Bills that have come before the Environment Committee: 29 weeks for the Waste and Contaminated Land (Amendment) Bill; 28 weeks for the Goods Vehicles (Licensing of Operators) Bill; 15 weeks for the Local Government (Miscellaneous Provisions) Bill; 13 weeks for the Wildlife and Natural Environment Bill; and 30 weeks for the Local Government Finance Bill. I sat through every one of those Bills. Therefore, need I go on about the time frame?

None of those Bills was more than a fraction of the Bill before us today, and I would venture to say that none will have as much of an impact on citizens in the North. How would it look if the Committee were to add four weeks to that list for a Bill that is aimed at delivering a fundamental overhaul of the planning system? Given the lack of time for scrutiny, I ask the House to think long and hard before accepting the Bill today. Having made those points, I will comment on the policy proposals put forward in the Bill.

The Committee has been involved in the planning reform process from its beginning back in 2007. It conducted a stakeholder event on the planning reform consultation in November 2009, when members took the views of organisations such as the Rural Community Network, the Royal Institution of Chartered Surveyors, the Ulster Farmers' Union and Community Places, among others.

I wish to say from the outset that members expressed support for the devolution of planning matters to councils and for greater community involvement in the planning process. Although members welcomed the devolution of certain planning matters and the introduction of a bottom-up planning consultation, they expressed concern about the necessary checks, balances and integration mechanisms required to ensure an effective, efficient, fair and transparent planning system.

Once again, I must sound a note of caution. Although everyone is agreed that planning powers should be handed back to councils, it is assumed that that will not and should not happen until councils are working within a new statutory governance framework and an ethical standards regime that ensures equality and fair treatment for all. That may seem obvious to us all. However, here we are rushing through this 248-clause Bill to bring about devolution of powers to local government, while the Department has only just released its consultation on the policy proposals that will bring about those controls. The Committee has agreed that one should not progress without the other, so I again question the reasons why we are rushing the Bill through. Given the lack of governance arrangements for councils, I ask the Chamber to think long and hard about the Bill.

Members of the Committee agreed that planning policy must be open and transparent and needs to be seen as such. Devolution of planning powers to the new councils is to be welcomed, but greater clarity is required between local and regional plans. When the Committee received a briefing on the Bill on 25 November, the departmental officials emphasised that that would be the case, and I am sure that the Committee will keep an eye on it. Members are also of the opinion that an easily identified link between planning policy statements and the regional development strategy is required. They believe that planners may have to undergo induction training to ensure proper delivery of the reforms proposed in the Bill.

In their response to the Department on the planning reform proposals, members expressed concern over the time required for preparing and updating development plans. The Committee wishes to see development plans continually updated to reflect ongoing issues rather than becoming obsolete in the short term. It was also felt that any links between community planning and development plans needed to be clearly explained and communicated to the forthcoming new councils and the public alike. Departmental officials have told the Committee that local development plans will be drawn up by councils, and that is to be welcomed. However, we must ensure that the same delays in preparing and updating the plans are not allowed to continue.

## 12.45 pm

The Committee's views on planning management were similar to those that it expressed on planning policy. The Committee felt that planning management must be open and transparent and must be seen as such. It was also felt that a proper balance must be achieved in the management of major and minor planning applications, with appropriate and robust testing at each level. The proposal to require all major applications with significant planning effects to be brought to the Minister for consideration is welcome.

I note that third-party appeals are not included in the Bill. Members recognise that third-party appeals may have many attractions, but we are also mindful of the practical problems that such appeals could cause. We recognise that any third-party appeal mechanism needs to ensure that planning delays are kept to a minimum, and we consider that third-party appeals have a wider planning significance because they enable a system of ongoing review and introduce greater democracy and participation into the planning process. However, members recognise that any third-party appeal process should, for practical purposes, have limitations imposed. Therefore, we agreed that third-party appeals should be limited to original objectors, those with a significant interest, those who contribute to the original planning application and those who pass an agreed proximity test. Departmental officials recently informed the Committee that, although the issue is not dealt with in the Bill, it will be revisited in the future, and some members have a keen interest in progressing the matter further.

As with any Bill, enforcement is the most important aspect. Members were generally in favour of greater enforcement, which could include imposing higher fines, although there was concern that breaches in planning should not lead, in general, to criminal penalties. Members recognised that, for some limited major breaches in planning policy, such as the demolition of a building, criminal penalties might be a necessary deterrent.

I welcome the Bill, but, as I said, it is unfortunate that it came to us late in the day. Many individuals, organisations and, indeed, every Statutory Committee will want to express their thoughts on the Bill, but I cannot see how there will be sufficient time to do that

effectively. We need to ask ourselves whether we want planning reform legislation at any price or good, effective planning legislation that stands the test of scrutiny today and for many years to come. Moreover, should we even think about devolving responsibility to councils in the absence of a robust governance framework to ensure fair delivery? If the House decides to rush the legislation through Second Stage, I assure the Minister and his officials that the Committee will do all in its power to fulfil its scrutiny role. In general, the Bill seeks to deliver a fundamental and long-overdue overhaul of the planning system, so, on behalf of the Committee but with reservations, I support its principles.

With your indulgence, Mr Deputy Speaker, I shall say some words as a Member for Newry and Armagh. On the face of it, the Bill seems to be good legislation, and no doubt the Minister will respond to my numerous warnings about the time that it will take to carry out proper consultation on a 248-clause Bill. However, I would like the Minister to respond to this point: he proposes to introduce proper governance and a proper code of conduct, but when will those key elements be in place? They are essential to the Bill's progress.

Mr Deputy Speaker, I know that I should be talking about policy principles, but it is hard not to refer to specific clauses. I shall, however, talk about capacity building through the legislation. Obviously, the Bill has huge potential to shift powers, but what plans does it contain to provide councils and council staff with the proper training to implement the proposals?

I have touched on local government reform. Will the Minister indicate when the legislation that will flow from that reform will be introduced? If the Planning Bill passes Second Stage today, such legislation must be introduced either before the Bill goes through or in tandem with it.

I also want the Minister to address the issue of pre-application community discussion. Although it sounds fine that the Bill will allow for a front-loaded system, will it be just a talking shop or a method of bringing information through for material consideration, with no real kudos given to the significance of that material in terms of, say, objections? We do not want a process in which people get an opportunity to object to an application but are then out the door, not having been given a strong indication that their complaint has been taken on board.

We talked about third-party appeals. How do we identify an independent mechanism for people who have been given an opportunity to speak but feel that they have not been listened to? We have seen the challenges at the minute in terms of planning appeals. How can we have a more robust system for checking appeals? I also want the Minister to comment on the major and minor applications that are dealt with in clause 27. I have concerns about the call-in process that is dealt with in clause 29, and I want the Minister to address that.

With all that said, the Committee will not shirk its responsibilities in dealing with the Bill. It is a major piece of work for the Assembly, and we will take it as it comes.

**Mr Buchanan:** As a member of the Environment Committee, I support the Bill. It is the largest Bill to come before the House, and, therefore, will require quite a bit of scrutiny by the Committee. It will be a major bit of work. There is no doubt, however, that, as Northern Ireland moves forward under a stabilised devolved Government, the encouragement of economic growth is essential. A more modern, effective and efficient planning service is, therefore, vital as we seek to drive economic growth.

For far too long, some applications in the planning system have moved at a snail's pace, to an extent that has discouraged essential development and much-needed inward investment in Northern Ireland. Now that change is on the horizon, it is important that the Assembly and the Executive strive to create a planning system that is quicker, clearer and more accessible. I know that there are some concerns about how the planning system will be funded when it transfers to councils. I note that the Minister and the Department are already looking at and consulting on a more realistic fee structure, which, I hope, will help to alleviate any extra financial burden that could be placed on councils.

The transfer of many planning functions and decision-making responsibilities to district councils brings with it added responsibility. There is a risk of corruption in councils and inconsistency in decision-making between them. I have no doubt that some hard and unpopular decisions may have to be taken. It is, therefore, essential that proper governance arrangements be put in place by the Department, with clear and concise guidelines for councillors when it comes to making decisions. There has been

some aggravation in the current planning system over the consistency of approvals between districts. It is important that any new system will address that issue to ensure that there is absolute consistency in the decision-making process, so that we do not have something approved in one area while the same thing is refused in another area. We need to ensure that there is clear consistency among the different councils.

I welcome the community input into the formulation, in conjunction with the councils, of the local development plans. To develop a plan that will address the needs and aspirations of the local communities, that must kick off at an early stage in the process. Of course, if the benefits of those reforms are to be realised, there is also a need for proper capacity building for councils and councillors and for the monitoring of their performance. The Department must keep tight oversight of that.

I note the huge interest that was generated throughout the consultation process, and I commend the Department for listening to and acting on both the positive and negative responses. That resulted in the modification of a number of proposals in the Department's original consultation paper as it sought to address those concerns. I have no doubt that, at the end of the process, the Bill will not be perfect. However, I believe that it will provide the foundations on which to develop a model that we can transfer to district councils to bring about a change to the way in which planning is delivered.

I have heard some negative comments today about timelines, tight timescales, the huge size of the Bill and how it should be delayed. However, given the difficulties with the current planning system, there is no room for delay. We must continue with the reform of the planning system. To bring the decision-making process to a local level and to deliver planning in a way that meets the needs of local communities, it must be transferred to local councils. I commend the Bill to the House.

**Mr Kinahan:** Like many others, I welcome the chance to speak on one of the most important Bills to have come before the Assembly. We all want our planning system to be reformed, particularly so that it becomes dynamic and innovative and can help to sustain our economy. We all want it to work better and faster.

The House will hear from many Committee members today. We have an enormous Bill in

front of us, and it contains an enormous amount of very good and necessary legislation. We must congratulate the Minister and the Department on all the good things in the Bill and on all their hard work.

I apologise if a lot of what I say today is negative, but I want planning in Northern Ireland to work properly. As one colleague said to me when we were discussing the Bill, it is like setting sail in a ship that you know will sink. Why are we starting now? We have only 14 weeks left, including the three-week Christmas recess. It seems to me that the Bill has been put in front of us purely because the Minister wants to show that he has dealt with planning before the election. In fact, all he has done is to give us an enormous problem to deal with. It is a trap, and the buck has been passed to the Committee. We have to accept that. We want planning to work, and, therefore, we will do our best. However, if it fails, I am afraid that it will be the Minister's fault, and we will have done our best. We all must do things properly.

The normal system allows for a 30-day statutory period with two full Committee meetings a week. Remember that an election is imminent, and we will need members of the Committee to attend meetings to achieve our quorum. If we begin work on the Bill now, there will be no oral evidence, and we will have to, as Members have heard, get through 248 clauses and seven schedules in one day. Sometimes, we struggle to complete 20 clauses, and, with the great help of Mr Trevor Clarke and his many questions, it can take a little longer.

**Mr T Clarke:** I thank the Member for identifying to the House that I play my full part in the Committee's scrutiny. That is the full role that I am elected to do, rather than being there as a token gesture and leaving meetings early or not staying the course.

I have been elected by the people to scrutinise Bills, so, whether it is a Bill from a Minister from my or any other party, I am pleased to do that. I thank the Member for putting that on the record.

*(Mr Speaker in the Chair)*

**1.00 pm**

**Mr Kinahan:** That was meant only as a mild joke, because the Member does bring a great deal to the Committee, and he really does make sure that we scrutinise matters.



If we scrutinise matters in the same way that we have done in the past, it will take all those 14 weeks of scrutinising 248 clauses to get through it. The Wildlife and Natural Environment Bill has only 36 clauses, and our scrutiny has taken seven months.

We want proper written evidence, and, if we conduct our scrutiny normally, we will have four weeks for written evidence to come back. That includes the three weeks over Christmas, so we are unlikely to get good evidence back in that time. If we go the normal way, we can just get it through, but, to reiterate the point: that means no oral evidence, no proper written evidence and probably no chance to discuss the clauses as fully as we need. We really do need good wide-ranging scrutiny.

The Committee has seven or eight other Bills going through at the same time as well as normal Committee work. A two-week extension would give us two full days, allowing for one and a half days of oral evidence. That would give us between three and five presentations when there probably should be 20 or 30. We would be trying to get through 248 clauses in two days, which is a bit better, but we may have to consider whether we need to meet five days a week for two or three weeks to make sure that we do it properly. We can extend written evidence by a week to five weeks, but three of those weeks are still during recess. We can get the Bill through in time but not in a particularly good form. With a one-month extension, we could not get the Bill through at all unless we were to look at doing something like five days a week.

We know that wide consultation is needed on the Bill. We know that every council will be very concerned about all the matters that are in the Bill. There is a mass of stakeholders, and we need to give each of them a chance to give us evidence. The Committees and the Departments here need to have their say. Considering all the people who need to be consulted, it does not look as though we will be able to do it properly.

The Bill is designed to fit in with local government reform and with the future financing of councils. We know that those will not be put in place before the end of this Assembly mandate, so why on earth are we trying to do this in a hurry now, when it should be the first thing that the next Assembly does when it comes in? We need the Bill, and that is why we are doing it now, but it is so late in coming

to us. We have got this horribly wrong, but I reiterate that I, the Committee and everyone here will do our best to get it done properly. I hesitate to say this as it counters my argument slightly, but we may find a quick way of doing things in the current mandate, and that may become a way of doing things quickly on all the other Bills. We must be constructive in all that we do.

**The Chairperson of the Committee for the Environment:** I take on board the Member's comments, but we must consult properly, take proper evidence and have a proper and informed discussion to come to a proper result, because this is a major piece of legislation. I know that the Minister will say that I sound a bit negative, but the Committee for the Environment will have completed its consideration of nine Bills, so we are well used to conducting scrutiny of legislation.

**Mr Kinahan:** I welcome that, and I take the point on board. We need to conduct the scrutiny properly, and when I suggest doing things quickly, I suggest looking at the other things that are outside our scrutiny to see how we can shorten how we do certain matters in the Assembly.

I said that I do not want to be negative all the way through the Bill, and I welcome so much in it, particularly the linking up of the regional development strategy, getting the community involved and councils drawing up local development plans with their planning strategies and having their local policy plans. However, that is a hell of a lot to throw at councils.

As we know, councils should have been given much more, one illustration of which is in the area of local transport and roads. We had plans, and I hope to see plans through the review of public administration (RPA) when it comes. As I have already said, we really should be doing this in tandem with the reform of local government and not before it.

Community involvement is one of the most important matters introduced in the Bill. However, that is not as easy as it looks. I welcome the idea of talking to the community, but who is the community and how will we get to speak with them? It is only local community groups? Will those groups be registering? How will we ensure that we are getting a full representation of the whole community? How will we deal with areas in which there is a gatekeeper, one community run by one person

where no one else gets a say? How will we open the door to getting everyone else involved? How will we deal with the zealot who does not want anything done in his backyard? A lot of complications come with it, but I welcome the fact that we are going to involve the community right from the beginning.

Another point is whether community groups will be able to bring in their own specialists. If they are, will councils be able to use the same specialists? Will there be conflicts of interest there?

I wish I could say that I have read every bit of the Bill and fully understood all that is in it. However, I can say that there is encouragement in the Bill to get councils working with each other. I am slightly concerned that powers are given to the Department to force councils to work together. In this country, if all councils are encouraged to work together, we could see the unionist councils working together and the nationalist councils working together. We have to make sure that all councils work together for the better of Northern Ireland.

We know that it is not just councillors but everyone in councils who will need training. A councillor will need to know how he helps to make decisions on planning, where he stands legally and, sometimes, morally, and what the best for his constituency is. A lot of training is needed and that training needs to go into a lot of detail.

The same goes for the public. At the moment, the public will happily ring their councillors. However, we need to ensure that the public know exactly what is going on, because ringing a councillor may now mean that, from that moment, that councillor will have to withdraw from making a decision.

I hesitate to say it, but there is an element out there that does not trust councillors. When I had been here for only a few months, I raised that matter in a question to the Minister. He said that we can trust every council, and I hoped and thought that he was right. However, we then fell into the matter of The Lock Keeper's Inn, and with that other issues came out, including the £5 strip of land and what was perhaps behind the Dundonald green belt. There is a lot of concern among the public; they do not trust us.

Those working in councils will need training and guidance. A great deal needs to be done. They will have great concern about resources. Where

is the money going to come from to help them to run the new systems, train the new people and get everything pulling together in councils? Will the guidelines mentioned in the Bill be ready?

Where will the resource for the Planning Appeals Commission come from? Will it be able to carry out its new role? How will it be trained and when will it be ready so that everything can work together at the same time?

I will now rattle through a lot of incredibly important matters. They are much more technical matters that people will need to be trained in to learn how to deal with them. For example, hazardous waste; listed buildings, in which I declare an interest; completion notices; trees and tree preservation orders. The issue of trees has already been raised on the hedges side of things, and there is a mass of important matters concerning trees. I know of one development that was built around five protected trees, which was absolutely the right thing to do. However, over the next 20 years, the residents in the development did not like the trees and saw them as dangerous. Therefore, all the trees were cut down. That sort of thing goes on all the time, and it is yet another small matter that we need to consider.

Another issue that must be considered is that of enforcement notices, and the one thing that always seems to fail in the planning system is proper enforcement. We need the right number of people doing it and quickly, but it must also be properly resourced. Along with that come the penalties and the compensation. Therefore, there is a mass in the Bill that must be properly scrutinised.

The last of my concerns is about the ethical standards regime, and I was keen to see that document today. When will that regime be put in place? At the moment, the public have a completely wrong opinion of councillors, and they feel that brown envelopes are being passed out there. They are not, or, at least, I have never seen one. We must ensure that everyone sees what happens in councils as being fully open and transparent, and that means proper training and everything else being put in place. I am concerned that we are trying to do this far too quickly.

I return to the point that I made at the beginning of my contribution, and, rather than being negative, I congratulate the Minister and the Department on the Bill and on everything that is

in it. However, I think that the timing is wrong. I want to see the Bill work, but I have great doubts about whether we will be able to do it properly. One person in my family always told me either to do things properly or not at all. Another family member told me that there was no such word as “can’t,” and that represents the clash that we have today.

I was concerned when Mr Buchanan said that the Bill will not be perfect. I want it to be perfect, and I want to see proper planning powers in place. If the Bill fails, it will not be the fault of the Committee for the Environment but of the Minister. With enormous reservations, I support the Bill.

**Mr McGlone:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for introducing the Second Stage of the Planning Bill. Members from the SDLP supported the devolution of planning and other matters to local councils in the context of the review of public administration, which would have seen those matters being considered under the key elements of equality, good governance and finance.

I have a number of questions that I want to put to the Minister today, and I am sure that he will reply to them. First, to what extent are the proposals on planning reform reliant on RPA being fully implemented? Furthermore, what assurances can he give to councillors and their officers about the commitments that have been given to date, and what have those commitments been? Moreover, will the Minister outline in detail how he intends to meet the legislative timetable that was set out in his 30 November 2010 ministerial statement on local government and planning reform? Those are all key matters.

Mr Kinahan and the Chairperson of the Committee for the Environment, of which I am a member, said earlier that if something is worth doing, it is worth doing it right. We should not rush legislation, because that will lead to poor legislation.

We also must remind ourselves where we came from. Many housing and planning powers were removed from local authorities because they were being abused. Indeed, we have a range of fair employment legislation because powers were also being abused in the field of employment. Equality is the central issue for the SDLP in what emerges from the Planning Bill.

In a question for written answer, I asked the Minister of the Environment:

*“what measures he intends to put in place to ensure that fairness and equality are central to the operation of Local Government; and...how his Department intends to monitor delivery on this issue.”*

The Minister replied:

*“In my statement to the Assembly on 30 November I said that I want, through the proposed new governance arrangements, to ensure that councils pursue equality and fairness.*

*The key elements of these proposed new arrangements are first, a tightly defined list of methods for ensuring the sharing of power and responsibility between the political parties represented on a council. Second, the operation of checks and balances, in the form of a call-in procedure and the availability of qualified majority voting, to protect the interests of minorities.*

*These measures would be in addition to a council’s statutory obligations in relation to section 75 of the Northern Ireland Act 1998.*

*To ensure the delivery of inclusive local democracy, to protect the rights of minorities, to prevent any direct or indirect discrimination, and to promote the need for equality of opportunity I propose that the new governance arrangements would be provided for in legislation.”*

The Minister referred to the current consultation on the local government reform policy proposals, which aim to introduce a new governance framework to provide for efficient, fair and transparent decision-making across local government. However, given that the RPA appears to have lapsed, at huge cost to the taxpayer, those proposals now seem meaningless. If the local government reform proposals, on which the Department has done a considerable amount of work, and the commitments therein to safeguard and protect minorities have not been delivered, how can the reciprocal planning and associated protections be delivered in full?

### 1.15 pm

I speak of minorities irrespective of who or what they are. In parts of the North, there will be unionist minorities, nationalist minorities and other minorities that were not there 30 or 40 years ago, when there was discrimination at the heart of local government. That is the context of where we are today. In planning, equality must be delivered and rights must be protected. Housing, industrial development and a range of other things must be protected against any form



of abuse, either by an individual or individuals who are in councils or associated with them.

I will come to it later on when I go through the clauses, but the call in of applications, which is referred to in clause 29, appears loose and, indeed, weak and poorly defined. I highlight that in today's debate, because it appears that a considerable amount of further work is required to safeguard rights and equality in the decision-making process.

It has always been regarded as fundamental that, under the RPA, any transfer of functions to local councils should be cost-neutral. Many ratepayers will seek assurances from the elected representatives — councillors and MLAs — who saw the Bill through that their rates bill will not be higher as a consequence of a potentially poorly negotiated process of delivery from the Department to local authorities. The Department has claimed that, as a whole, the Bill's proposals will be cost-neutral to the planning system. I would like the Minister to elaborate on the basis for that statement. Indeed, parties and, in particular, ratepayers will require evidence of how that conclusion has been reached.

As representatives of the public, taxpayers and ratepayers, we should not think for one second that whatever comes about through a legislative process should place a further burden on ratepayers. The Minister's announcement of the proposals has caused considerable concern in various sectors of the construction industry, especially the proposals for a hike in planning fees. People need assurances that the transition from the Department to local authorities will be cost-neutral. We need to hear the basis for that conclusion and the context in which it was reached. That is the outline of the SDLP's stance on the introduction of the Bill. It must happen in the context of equality and cost-neutrality. We also need clarity on the review of public administration.

I will now comment specifically on the Bill's clauses, in no particular order other than numerical. Clause 5 refers to sustainable development. It says that sustainable development should be included as part of the planning process and that local development plans should have regard to policies and guidance issued by the Office of the First Minister and deputy First Minister, the Department of the Environment and the

Department for Regional Development. There is delay in the implementation of any sustainable development strategy from the Office of the First Minister and deputy First Minister, which will probably put in context any commitment by the Department of the Environment to the advancement of sustainable development proposals with local development plans.

Clause 10 refers to independent examination. I need a bit of clarity on the definition. Will the Minister outline how independence is defined by the Department with regard to the process of examining area plans? I presume that the definition will be more or less the same as it is at the moment, although there is reference in the Bill to individuals being appointed to fulfil certain aspects of planning processing. I am interested to hear what types of individuals will be appointed and what sort of role or capacity they will fulfil. That is just to satisfy my own curiosity.

The intervention by the Department in clause 15 is in regard to local policies or plan strategies and allows the Department to act if it thinks that a plan strategy or a local policy plan is unsatisfactory. I am interested to hear how it could be defined as "unsatisfactory".

Clause 17 refers to joint plans. Again, that is a practical outworking or management issue. Joint plans between two councils could lead to problems if the respective area plans are at different stages of advancement. Some area plans are way behind, and others may be at the point of a public inquiry. In my own area, I can think of examples in which one plan is starting to lapse and the other has not fully passed through the public inquiry process. I am thinking of the ramifications of that and whether it is even doable — and, indeed, the circumstances under which the Department would consider joint plans being worthwhile. I honestly do not know how they might work.

Clause 25 is about the hierarchy of developments. Although the concept seems relatively OK and sounds good as a buzzword, it appears that there is little substance in the Bill about the definition of that hierarchy of developments. The hierarchy proposed in the Bill is significantly different to the hierarchy of developments that already exists in area plans, as defined by the Department of the Environment. I am interested in hearing how the Department defines or expands on that hierarchy of developments.

Clause 27 is on pre-application community consultation, which is a good idea —

**Mr Speaker:** Order. The debate during a Bill's Second Stage is supposed to be on the principles of the Bill. The Member is going through the individual clauses of the Bill, which is really the job of the Committee. I am very conscious that there are 200 clauses in the Bill. I am prepared to give the Member and the House some latitude. However, I am also being very careful and being fair to the Minister. It would be unfair for the Minister to try to second-guess what the Committee might decide on these clauses. The Second Stage of any Bill is about the general principles of the Bill.

**Mr McGlone:** I thank you for your patience, as ever, Mr Speaker. I assure you that brevity will be my watchword. *[Interruption.]*

I thank the Minister — he knows this as well. With your indulgence, Mr Speaker, I will move on very quickly; I have only got a couple more points to make.

Clause 29 is about the calling in of applications by the Department. Again, as I said earlier, much more expansion is required as to when that may happen. That is key, as I said earlier, to equality and good governance in local councils for all people. I cannot overemphasise that enough.

Finally on that particular point, the simplified planning zones do not have a lot of simplicity about them. That requires a lot more expansion.

To make the final overall policy point, I emphasise the context of the review of public administration. I also emphasise the need for equality to underpin and be at the heart of the decision-making measures in the Bill. It is crucial to remember where we came from. We need to learn from the harsh lessons of the past because we do not want a further morass to come up and bite us. Therefore, the context of the review of public administration is transparency, good governance, and, ultimately, equality for all. Thank you for your indulgence, Mr Speaker.

**Ms Lo:** The Alliance Party reluctantly supports the Second Stage of the Bill. It is clear that the planning system needs reform. It needs more local accountability and community involvement. Decision times are too long compared to our neighbours. The Committee for Social Development went to Dublin a couple of years ago, and we were staggered to find that there

was a six-week turnaround time there. Obviously, delays in planning hinder inward investment and economic development.

Although we support the Bill to enable a quicker and clearer planning system, we have major concerns over the timing of the legislation and the timescale for adoption. The passage of the Bill by the end of this mandate is possible, but it is a very difficult and challenging time, and the Committee Stage would be rushed. As I understand it, during the lifetime of the Assembly, virtually no Bill has gone through its Committee Stage within 30 days. The Department of Justice Bill was one exception, but it was very short, and it made operational political agreements that had already been made elsewhere.

The Planning Bill is certainly not short, and there is likely to be considerable interest from people in wider society who may wish to make their views known to the Committee. The Minister could have introduced the legislation earlier in the session, leaving more time for proper consideration, or he could have left it until early in the next mandate. After all, there is no intention of the Bill being operational from April 2011.

I will now comment on some specific aspects of the Bill. I welcome the provisions for the transfer to local councils of the majority of functions and decision-making responsibilities relating to local development planning, development management and planning enforcement. The linkages between those functions will help to produce more cohesive and responsive policies and practices. I hope that that will lead to improved connections between regional, local and neighbourhood priorities and policies, and reduce uncertainty and unnecessary overlap. It is essential to have a local approach for local development.

As the Minister is aware, my constituents have had a lot of concerns over planning in South Belfast. Many of them have been concerned about planning officers considering applications on their individual merits, and not taking into account the cumulative effect on residential or environmental amenity and the character of their area, resulting in population intensification and strain on infrastructure. I hope that the Bill will bring some improvements to that situation. I also hope that the local knowledge of councillors may prove useful. That may be

addressed by councillors' localised knowledge and the council local development plan.

My constituents also have expressed concerns about the capacity in local authorities. We need good investment in training in local authorities. There needs to be a strong code of conduct and ethics to ensure that councillors are not subject to undue influence from developers or businesses.

The Department also needs to ensure consistency across councils in the decision-making process.

### 1.30 pm

There is a lack of clarity around departmental oversight powers, and perhaps the Minister can clarify that. It is not clear how the Department will monitor or evaluate decision-making in councils. In addition, how will consultation take place between the Department and councils on applications of mutual interest, regardless of whether it is deemed as major or local?

I want to talk about planning control. I welcome the onus placed on developer applicants to consult the local community in advance of any major application. That may reduce prolonged third-party objections. I am also quite concerned about the opportunity to make or grant retrospective planning applications. I know that that is now the practice, but will that encourage development without permission? We have seen so many examples in south Belfast of people going ahead with construction without planning permission. I suggest no retrospective planning application for newbuild, for example.

I welcome the introduction of completion orders, which could address issues with unsightly construction sites or overgrown gardens. We see many examples of those in south Belfast. The Minister visited Piney Hills and saw a really bad example there. They are eyesores in local communities, sitting there for years waiting to be developed.

Finally, on enforcement, I am disappointed that temporary stop notices are not applicable to residences. Many of my constituents would want to see those in residential areas. We support the principles of the Bill, but with reservations.

**Mr T Clarke:** I support the Bill. I know that it involves a considerable workload, and many Members addressed that. We have 14 weeks to go. However, when I was sitting here listening to Danny Kinahan, I was wondering whether we

should close this establishment and help the under-pressure Health Minister by turning this into a retirement home. We have 14 weeks left in this Assembly, and most of the contribution from himself or the Chairperson of the Environment Committee suggest that we should do nothing. Let us just go into limp mode for 14 weeks. Let us limp home over the line and come back after the election completely reinvigorated and ready to start business again. That is the message that is coming across today.

Yes, we have 14 weeks, and there are more days in the week than some Committees may have given to the business in hand. Many in the wider public believe that councils already have more planning powers than they currently do. I welcome the Minister's proposals and the opportunity to scrutinise them in the Committee.

No disrespect to Patsy, and he may not have been the worst, Mr Speaker, but I felt as if we were scrutinising the Bill today. However, I was glad of your ruling on that. I recognise that there is a lot of work to do, given the number of clauses. However, if we look at the explanatory note, that work started in 2007, when we talked about reforming planning. We are now in 2010. It is disappointing that the Ulster Unionist Party wants to stall the process even further. We did not get clarity on the reason for that.

There is a process to start. If it takes us longer and we cannot get it finished by the end of this term, that will be unfortunate. However, let us get started. The Committee had a meeting one night last week to discuss the Bill informally, and some members, including myself, said that we are open to coming in extra days.

Councillor Kinahan referred to — sorry, not councillor Kinahan; he could not cope with that post any longer, and had to resign from it. The Member for South Antrim referred to recess being in a couple of weeks. So what? Let us call the Committee back. Does the world come apart just because Christmas is coming? I am quite happy for us to get only Christmas Day and Boxing Day if it means that we can push in a bit more work. We are criticised all the time for the lack of work that goes on in the Assembly. Let us do more and be seen to do more.

**The Chairperson of the Committee for the Environment:** I want to clarify the issue on the Committee's behalf. The Committee for the Environment has scrutinised almost nine Bills. It will not shirk its responsibility. I simply reminded

Members about the length of time that we will have. We had a good discussion the other night. We will give it a go. If the Bill passes Second Stage, that is fine and we will do that. I just want to clarify that and correct the Member on that point. He is entitled to his two days off. I am sure that the Speaker will give him those two days off should he need them.

**The Minister of the Environment:** It is a Saturday and Sunday.

**Mr T Clarke:** I would rule out Sunday. Obviously, I have principles about Sundays in particular. In response to the Committee Chairperson, I should say that, maybe if Sinn Féin had not stalled Bills for so long in the Executive, we would not be sitting here looking at this with 14 weeks left before the end of the mandate.

**Mr Speaker:** Order. I am very much of the opinion that we are straying away from the general principles of the Bill. Maybe we could return to the Bill's general principles.

**Mr T Clarke:** I respect your ruling, Mr Speaker. However, the fact is that we would have been here sooner had Sinn Féin Ministers not held the Bill up in the Executive. That aside, we are where we are. As has been rightly identified, there are 14 weeks until the end of the mandate. As I said, that means that we have a choice: we can either turn the Chamber into a retirement home or we can put our shoulders to the wheel and start to do the work that we were elected to do. I prefer the latter, obviously. The Ulster Unionists have been in limp mode for many years. If they want to continue to be so, that is fine. Certainly, I have been elected by the people of South Antrim to work for them. Equally, so have other Members.

The reason for devolution was to have locally elected people making local decisions. The way that devolution can be distributed is for councils to have more power to make decisions. If a survey of the wider public were carried out at present, it would show that many people think that councils have more power than they actually have. Therefore, the Assembly can right that wrong through the Bill. For those reasons, I welcome it.

**Mr W Clarke:** Go raibh maith agat, a Cheann Comhairle. I welcome the opportunity to participate in the Second Stage debate on the Planning Bill. An important aspect of the Bill is the greater role of community participation

at the beginning of the planning process. Obviously, that is refreshing and a breath of fresh air. It is what people on the streets want to see. As elected representatives, we see at first hand the strained relations that arise due to controversial planning applications. People become entrenched and relations break down. At the end of that process, when people seek backing from their elected representatives or ask them to take one side or the other, they are put in an impossible, no-win situation. The Bill is extremely important.

I declare an interest as a local councillor. For a long time, at local authority level, I have called for people to be facilitated at the very beginning of the process and for all stakeholders to be brought together to see whether compromise could be reached. The Bill endeavours to do that. Obviously, there will be difficulties. However, if, at the beginning, local authorities, community groups and all other statutory agencies can get around the table with the developers, at least some problems could be ironed out or there could be further consultation to bring some resolution.

The Planning Bill sets out the legislative framework for the transfer of a reformed and fit-for-purpose planning system for district councils. I believe that Danny touched on that. It will give local politicians the opportunity to shape the areas for which they are elected.

As others said, the Bill is large and complex. It has 248 clauses and seven schedules. People have asked whether we have time to scrutinise such a Bill. There will be big interest in the community and from different Departments. A vast range of people with a vast range of interests will be involved, and the process will take time. I would rather be positive. I always try to be positive. I think that people are in a better state of mind if they are positive rather than negative. I think that we should give our best efforts to progressing the Bill. I am willing to give my best effort. I know that there will be an extra workload for Committee members and staff. People talk about coming back over Christmas, but we have to understand that people have staff and families. It is not as simple as telling people not to bother taking their Christmas. I am not saying that to be negative; it is a fact of life. People's welfare and rights have to be looked after as well.



**Mr T Clarke:** What relevance do the Member's staff and constituency office have to scrutinising the Bill in Stormont?

**Mr W Clarke:** I was not talking about the constituency offices; I was talking about the staff who facilitate the Members here.

If Committee members are prepared to give a couple of full days, we could progress the Bill through Committee Stage. If we are serious about doing it, I think that we can do it. That is the way that I will be coming at the Bill.

The Planning Bill is an exciting Bill, and a lot of good work can be done through it. Planning affects everyone in our constituencies. It affects our economic well-being and our environment. It will be a good Bill to work on, as was the Forestry Bill, which I enjoyed working on. The Planning Bill will be the next Bill for me to enjoy. I have worked through some hard Bills in the Committee for Agriculture and Rural Development, so it will be refreshing to get something very interesting.

It is my understanding that the district councils will prepare local development plans for the council areas and that those will replace the Department of the Environment's development plans. That has to be welcomed by everybody. I am sure that all Members have had difficulties with area plans. They are slow. I know that they are slow in South Down, and I am sure that Margaret Ritchie will agree with that. They do not seem to represent the views of councillors or the community sector. By the time that people have gone out, collected evidence, consulted, maybe collected more evidence and gone into a public inquiry, the information that they gathered is out of date. By the time of the public inquiry, there is new evidence for the next plan to be collected. Therefore, the process is cumbersome and frustrating for everyone involved. For example, in my town of Newcastle, housing was built on zoned land, and the process of collecting the evidence for that was still going on, even though the houses had been built already.

Officials briefed the Committee recently. I welcomed the opportunity to hear them at first hand. It was my first experience of that, because I joined the Environment Committee only recently. They talked about the local development plans, which they said will encompass two documents: a plan strategy and a local policy plan. The officials said that the local policy plan must be

prepared in agreement with the timetable decided with the Department and that it must take account of the regional development strategy. Before the local plan preparation can begin, relevant district councils will be required to have in place a declaration of community involvement. "Community involvement" — there are those words again. As I said, early dialogue with the community is fundamental in the process.

I welcome the powers for councils to work jointly, if they so wish, when preparing local development plans and the sustainability appraisals. That will ensure that resources and expertise are shared, if required.

The officials touched on the sustainability appraisal, which, in addition to the environmental effects of a plan, will involve an assessment of its socio-economic effects, and it will run throughout the plan preparation process. That will take in matters such as health, integrated transport, education proposals, flood prevention, including soft engineering flood prevention, town open space, community woodlands, waste management solutions in a community housing estate environment, planning all solutions for the likes of waste management, delivering community services and town micro-business parks. That is a vast array of subjects that can be considered at the local development plan stage and built into the sustainability mechanism. After all that, the planning process will, hopefully, deliver a faster development plan system.

It will continue in a similar vein for community engagement. I do not apologise for continuing to mention community engagement; it is essential throughout the planning process. Pre-application consultation will be made a mandatory requirement for all major and regional development proposals. That is a very important aspect. I have been involved in pre-application issues with councils, and I think that that approach has worked very well in resolving a number of issues that would have caused great difficulties had that approach not been taken.

#### 1.45 pm

Other Members spoke about the need for an effective enforcement system, because enforcement is extremely slow at present. It will be interesting when we transfer the powers to councils, because councillors certainly lambast the Department for not speeding up enforcement and criticise the Department when it suits them, if they come under pressure from a constituent



with a large family circle. That is a luxury that they have now, but it will be difficult for them to do that when planning comes under their control.

I have touched on the issue of enforcement for a wee while. People are extremely concerned about enforcement. Even as an elected representative, when I phone the Planning Service I can get no details of what is happening in the enforcement of cases, due to data protection. That can go on for six, seven, eight, or even nine years, with people looking for an issue to be resolved, whether it is a replacement dwelling or whatever it might be. The process is very frustrating. The proposal for fixed penalties to be introduced for councils will speed up a lot of enforcement issues — the minor ones, at least.

The Committee Chairperson and Danny Kinahan both spoke about the considerable amount of training that will be required by councillors, particularly to learn about planning, in their capacity as elected members. What provision will the Minister be putting in place for specialised training? At the end of the day, councillors will be designing community-based local plans, and that will require a good deal of training. It will not be done in a couple of days of seminars. We need to get it in place now so that people can go on long-term training courses. We need to be working towards providing a university-level module. The resources need to be put in place now.

I declare an interest as a local councillor. A colleague and I were asked by the council whether we wanted to do a two-year course, which would cost around £2,000 to £3,000. We said that we would like to do it, but when the matter went to the full council we were told by the other elected representatives that it was too much money and they would not allow us to do it. It was a strange scenario: we were asked by the council to do the course and then when it went to the chamber they said that we were not allowed to do it, probably because we come from a political party that is in a minority. Mr McGlone mentioned equality, and that is just one small element that is still going on. It is not across the religions; that was from our own religion.

The Committee Chairperson referred to third-party appeals. What is being proposed is that, if we do front-load the system, all stakeholders should be involved at the beginning. I would imagine that we would get a well-informed decision at the end of that process. However,

there will be a sizeable percentage who will not be satisfied, and I think that we all know that.

I am sorry that I missed the Minister's contribution at the beginning of the debate: I was at a protest about farm-gate prices down at a Tesco store. What mechanism will be in place in the absence of a third-party appeal? Being positive, I am confident that there will be a vast improvement in the planning system due to the front-loading and the pre-application community consultation. You will be glad to hear, a Cheann Comhairle, that I am nearly finished. Councils will set the conditions in a particular area, and, if the developer agrees to adhere to those conditions, we will resolve the vast majority of planning applications at local level.

In conclusion, I concur with Mr McGlone's remarks about equality issues. I am not having a swipe at anybody, but the Bill must have, at its heart, equality built in. As with all legislation that passes down from this House to local authorities, equality must be the premise.

Wrongs were done, but I will not get into that or dwell on it. It is not a part of the broad principles of the Bill, as the Cheann Comhairle would tell me. There were abuses in planning, housing allocation, employment and policing. That must never be allowed to happen again to any section of the community.

**Mr Givan:** I support the Bill. I do so as one who is not a member of the Environment Committee, so I will not have the privilege of working my way through the 200-plus clauses that the members of that Committee will have.

There is a particular responsibility on the Chairman of the Environment Committee to ensure that this Bill not only gets proper scrutiny but is driven through its Committee Stage and brought back to this Chamber so that it becomes law before the end of this mandate. In the Justice Committee, we have a very large Bill, but I know that our Chairman will drive that Bill forward. It may not look the same as it did when it entered the House, but the Justice Committee will get the job done on the second-largest Bill to come through the House. Members who have complained about the amount of work —

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

**Mr Givan:** I will give way once I have kept going on you for a little longer.

Danny Kinahan made a lot of points about the hard work that will be needed. He is concerned that, because there is insufficient time, that will not happen. However, it is imperative that it does happen. Members of the Environment Committee need to give a clear lead and get the Bill through.

**Mr Kinahan:** The Member seems to misunderstand my point. We will work incredibly hard on the Environment Committee, and I know that the Chairman will drive it forward, just as the Member says it is done on the Justice Committee. We will get there with this, and I hope that the Member sees that we do.

**Mr Givan:** I welcome that retraction of what Mr Kinahan said earlier, which was that he thought that it might not happen because of a shortage of time.

However, Mr Speaker, you will be pleased to hear that I move on to the Bill. I want to pick up on a couple of points that some Members have touched on. The local development plan is a positive step. Councils, as opposed to the Department, will take this forward, and they are best placed to do so. They have a grass-roots connection with the community, and they can draw on experience of what the community wants and put together a development plan that will be what the people want for that area.

I welcome that there will be a specific timetable for that to happen. That has been a problem. Members know that their own area plans often get bogged down. A lot of areas are still waiting for their plans. Lisburn has been caught up in the Belfast metropolitan area plan (BMAP) for more than eight years at a cost of over £8 million. That plan has been subject to scrutiny by the Planning Appeals Commission, and we are still waiting for it to come in. So I welcome the fact that local councils will be able to develop those plans. I welcome also the commitment that the Minister gave in response to a question. I put it to him that Lisburn should be able to put forward its own area plan and that the Belfast metropolitan area should no longer develop plans for constituent councils. It will be able to put forward its own plan, rather than be stuck in what has been a very large and complex process for the Belfast area.

Developers who want to put forward a regionally significant application will be required to have a pre-application community consultation. It is so often the case that large applications

are put in, and then there is a reaction. Other Members have said that this Bill starts to put the emphasis on the front-loading of the system, whereby developers engage first of all with the community, outline to people what they would like to do in the area and take on board their views before an application is submitted. That will go a long way to reducing the objections to and continued appeals against applications. I welcome that commitment to pre-application consultation with the community.

I welcome the inclusion of simplified planning zones. That has the potential to benefit our economy. Councils will be able to identify in their area land zoned for specific purposes. If zoned for industrial use, the council will be able to work up the detail of what would be expected if a planning application were to be made. It will fulfil the conditions related to that zoning, so that when the council, Departments or agencies go out seeking business from companies, whether in Northern Ireland or in foreign markets, they can say that particular planning conditions are in place in that area. The business can make an application, and approval will be almost automatic because the process, by and large, will have already been carried out. That inclusion will be beneficial to our economy at this time.

I welcome the fact that enforcement powers will transfer to councils. Often, as Members who are councillors know, when we complain to the Planning Service about unapproved building and ask for enforcement, we feel as though we have been let down. The transfer of that power to councils, which will allow elected members to go to their council enforcement officer, will, I believe, offer a much more responsive approach than exists now. In the current system, planning enforcement officers are not, ultimately, employees of the council and are, therefore, not accountable to it. That enhanced accountability will go a long way to improving enforcement.

The Bill states that the Planning Appeals Commission (PAC) will continue its role and does not recommend that any changes be made to it. The Planning Appeals Commission is, of course, an independent body and operates at arm's-length from OFMDFM. Members have touched on this previously, but, in my view, the PAC does not operate in the most efficient way. It deals with article 31 applications one at a time, as opposed to setting up a system whereby such applications could be assessed concurrently to allow the consideration of a

greater number. That, to me, would be a better system. It is important that the PAC develops a fit-for-purpose model, so that when greater powers go to councils, which can also work on development plans, it can, if asked to examine an area plan, carry out that work as efficiently and quickly as possible.

Councillors will need to be suitably trained. There has been some criticism, and an issue was raised about whether they will be up to the job. Some Members said that they have no evidence for such negativity. Those same politicians go on to throw mud at other politicians and suggest that, somehow, something is wrong, but have absolutely no evidence to substantiate that. They then wonder why the press picks up on that negativity. Too often, politicians are too quick to attack fellow politicians in the pursuit of cheap, petty political point-scoring. We need to have a mature discussion about the role of councillors when they take on planning.

I note that the Alliance Party reluctantly supports the Bill. However, before saying that the Alliance Party was a reluctant supporter, the Member for South Belfast said that the party welcomed much within in the Bill that was positive. That party gave no reason for being a reluctant supporter.

The SDLP Member for Mid Ulster and the Sinn Féin Member for South Down said that equality had to be at the heart of the Bill. Planning policy and proper planning must be at the heart of the Bill — it is a Bill about planning. Equality, ethical standards, the call-in and protection of minorities will be dealt with in the reorganisation Bill, which should have come to the House for scrutiny a lot earlier. Again, Sinn Féin held that up, but we are now moving on it. However, when it comes to call-in, I expect that those measures will relate to planning policies, not to equality and the protection of minority groupings. We need to keep the focus on what the Bill is about, which is planning.

Equality is important, and I am all up for that. We need more equality, particularly in the recruitment of police. However, I am straying from the point. The Bill is about planning, and I think that it will go a long way to help with that. The Environment Committee must put its shoulders to the plough and do the work to get the Bill through. Were the Committee not to scrutinise the Bill and bring it back to the

House, it would fail the people who need this legislation.

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

**Mr Givan:** I cannot give way because the Speaker will call me to order as we are moving into Question Time.

Let us get the Bill through Committee Stage, back to the House and enacted.

**Mr Speaker:** As Question Time begins at 2.00 pm, I ask Members to take their ease.

*The debate stood suspended.*

2.00 pm

## Oral Answers to Questions

### Culture, Arts and Leisure

#### Rowing

1. **Mr McClarty** asked the Minister of Culture, Arts and Leisure what plans he has to mark the achievements of Coleraine rowers Alan Campbell, Richard Chambers and Peter Chambers. (AQO 749/11)

**The Minister of Culture, Arts and Leisure (Mr McCausland):** I am fully aware of the achievements of Coleraine rowers Alan Campbell, Richard Chambers and Peter Chambers, who have all enjoyed a very successful year. The achievements of Alan and Richard were marked in the past, when they were invited to a reception in Parliament Buildings in October 2008 for athletes from Northern Ireland who competed in the Olympic Games that year. Alan was also invited to my annual sporting reception in January 2010, which acknowledged his gold medal during the 2009 World Cup. Both rowers were part of the Great Britain team that were the overall winners of the 2010 World Cup. Between them, they contributed two gold and three silver medals during the World Cup regatta series in Lucerne, Munich and Bled. In addition, Peter won a silver medal at the 2010 under-23 world rowing championships in Belarus. The names of all three athletes have been added to the list of invitees to the 2011 annual sporting reception at Parliament Buildings, which will mark the outstanding achievements of Northern Ireland athletes throughout the year on the national and international stage.

**Mr McClarty:** I thank the Minister for his response. The East Londonderry constituency is more than blessed with world-class sportsmen and women, be they rowers, ice skaters or golfers. To that end, I implore all Members to vote for Graeme McDowell on Sunday night in the BBC's 'Sports Personality of the Year', and, on this occasion, it will be quite legitimate for Members to vote early and vote often.

Will the Minister consider the creation of a Northern Ireland sports academy, the members

of which might include all sportsmen and sportswomen of distinction who could advise the Minister on the development of sport in Northern and help to lead that development?

**The Minister of Culture, Arts and Leisure:** The Member is probably aware that the development of sport in Northern Ireland is very much in the remit of Sport NI, which is able to draw on a wealth of experience from present and past participants in a wide range of sports.

**Mr Dallat:** The Minister will be aware that success in rowing or any sport places serious demands on parents in particular. The parents of those successful rowers from Coleraine, who have rowed not just for Northern Ireland and Britain but for the Republic of Ireland, have made an enormous contribution. Surely, the Minister must have given thought to how families can be assisted, particularly in preparation for the Olympics in 2012.

**The Minister of Culture, Arts and Leisure:** The general practice is that support goes to the athlete rather than to the family, but I recognise that successful athletes in many different sports are largely dependent on the voluntary support that they receive from their family circle.

**Mr Hilditch:** Will the Minister tell us what receptions he has hosted for sports since taking up office?

**The Minister of Culture, Arts and Leisure:** In addition to the annual sports reception, I have hosted receptions for members of the Northern Ireland World Police and Fire Games team; the Dwarf Athletic Association Northern Ireland, which hosted the 2009 Dwarf World Games; AP McCoy's 3,000 national hunt wins; Northern Ireland members of the Olympic skeet shooting team; the successful teams in the schools cup finals for rugby, GAA, football and hockey; the 2010 North West 200; the fiftieth anniversary of the Irish Indoor Bowling Association; and members of the Northern Ireland Commonwealth Games team.

**Mr Brady:** Go raibh maith agat, a Cheann Comhairle. Are the criteria for holding receptions for individual and team achievers applied consistently across sports? Does the Minister award the same recognition to success in Gaelic sports as he does to other sports?

**The Minister of Culture, Arts and Leisure:** The answer is yes. As a good example, the



successful schools in the schools' cup finals for rugby, GAA, football and hockey were all invited to Stormont.

### Public Record Office of Northern Ireland

2. **Mr K Robinson** asked the Minister of Culture, Arts and Leisure what assurance he can give that the lifts in the new Public Record Office, which slowed down the transfer of records from the old office, will not slow down the delivery of documents to the public. (AQO 750/11)

**The Minister of Culture, Arts and Leisure:** The transfer of records has not slowed down at any time during the relocation. In fact, I recently announced that the new building in the Titanic Quarter will open to the public well ahead of schedule. The lifts in the new Public Record Office (PRONI) building have been and continue to be fully operational during the exercise of moving the records from the Balmoral Avenue site. The number of lifts in the building has not impacted on the transfer of the documents. Furthermore, the most popular records have been placed in the first-floor storage facility in the new building. As the first floor is where the public will request and view records, staff will not use a lift to retrieve documents in the majority of cases.

**Mr K Robinson:** I thank the Minister for that somewhat reassuring answer. Will he indicate how the public, as users of the Public Record Office, were involved in the building's design? What elements of the design derived from their suggestions, given the genealogical tourism potential of the building, which represents a significant investment from the Executive?

**The Minister of Culture, Arts and Leisure:** The Public Record Office engages with its customers regularly. The experience of the Public Record Office in providing an excellent service over many years, coupled with consultation, certainly influenced the design of the new building. Having seen it, and as a past user of those resources on many occasions, I believe that it is very well designed and will most excellently meet the expectations and requirements of customers.

**Mr McCartney:** Go raibh maith agat a Cheann Comhairle agus go raibh maith agat don Aire as an fhreagra sin.

The Minister said that he has seen the new building. Will he outline or detail any plans

of the Public Record Office to establish an outreach programme to ensure that all parts of the North, and, indeed, the island of Ireland, have access to the building and the records?

### The Minister of Culture, Arts and Leisure:

Outreach is increasingly achieved through the Internet. Right across the Province of Northern Ireland, we have a wide range of locations where people are able to access the Internet. More and more homes are able to access the Internet. The reality is that people are able to access records from the Public Record Office more widely all the time. That is the most effective form of outreach. I encourage people to visit the building. If someone is doing substantial research, I think that they will want to visit the place. However, more records are going online all the time.

**Mr Burns:** I concur with the Minister that the Public Record Office is a great asset to the people of Northern Ireland. Will the Minister give his assessment of the limited correspondence and enquiries service that will operate during the move? Will he give a firm date for when the new office will be open?

### The Minister of Culture, Arts and Leisure:

During the period in which the documents are being transferred, the Public Record Office of Northern Ireland continues to carry out its statutory work, including responding to FOI requests and requests for court documents. It will also deal with the release of documents under the 30-year rule. At the same time, as I have indicated already, it is increasing the quantity of material that is going online. To further mitigate the disruption to users during the period, PRONI is offering a limited off-site microfilm service at Cregagh Library in Belfast. That site provides family history researchers and professional genealogists alike with a means to access all microfilms that are at Balmoral Avenue.

I recently announced to the media that the new Public Record Office building will open to the public on 30 March 2011. That is well ahead of the original scheduled opening time, which was planned for May or June 2011. I am sure that the Member will be pleased to note that it is well ahead of schedule. That is a fantastic achievement. The careful planning, dedication and hard work of staff and partners have ensured that that will happen. It should be noted that, during the process, they decanted



40 km of records, which totalled 3 million items. It easy to understand why it was such a substantial undertaking.

### Commemorations

3. **Dr Farry** asked the Minister of Culture, Arts and Leisure to outline how the commemoration of events on the island of Ireland over the next decade can be best taken forward in keeping with commitments on equality and a shared future. (AQO 751/11)

**The Minister of Culture, Arts and Leisure:** I have considered the issue of commemorations, and I am keen to assist those who wish to commemorate events in a creative, exploratory, multidimensional, educational and inclusive manner.

In January 2010, I convened a meeting with senior representatives from my Department's relevant arm's-length bodies with the aim of developing a strategic approach to the commemoration of upcoming events. That group recommended that my Department and its arm's-length bodies should focus on a limited number of key themes, namely the Plantation, the Titanic and 2012-2022. My Department will not be making any new or additional funding available for commemorative events.

In September, I wrote to my Department's arm's-length bodies and the Public Record Office of Northern Ireland and asked them to facilitate communities wishing to arrange events linked to the key themes through the provision of accommodation, records, artefacts, staff and informational technology. I also asked the arm's-length bodies to work together where possible to ensure value for money. As Minister of Culture, Arts and Leisure in Northern Ireland, my responsibility and focus are primarily on the significant historic and formative events that took place here.

**Dr Farry:** I take great encouragement from the Minister's use of the word "inclusive". However, will he assure the House that that means more than simply respect for separate but equal, whereby different parts of the community celebrate events of interest to them, and that we will have a single shared framework through which we try to promote common understandings and to share experiences and interpretations across the divide in our society?

**The Minister of Culture, Arts and Leisure:** I am sure that the Member will recall, as I have said this on many occasions, that when I took over in the Department, I indicated that a commitment to a shared and better future would underpin everything that I sought to do. In that context, I agree with what I think the Member is trying to say, which is that if we start to explore history, different experiences may be opened up and many of the myths that have bedevilled us in the past can be exploded, and we can then maybe move towards that shared future in Northern Ireland. I hope that he finds that answer encouraging.

**Mr Campbell:** Given the nature of the question tabled by the honourable Member for North Down, will the Minister outline his Department's responsibilities for commemorations in the Irish Republic?

**The Minister of Culture, Arts and Leisure:** As the Minister of Culture, Arts and Leisure in Northern Ireland, I have no responsibility for commemorations organised in the Irish Republic.

**Mr Campbell:** Thank you.

**Mr Leonard:** With those previous questions in mind and without the interruptions, will the Minister outline how he will ensure that —  
[*Interruption.*]

**Mr Speaker:** Order.

**Mr Leonard:** Mr Speaker, is it in order for Members to behave like children?

Will the Minister outline how he will ensure that people who regard themselves as Irish and live in the North are respected and included in the commemoration of political events from 1912 to 1922?

**The Minister of Culture, Arts and Leisure:** The commemoration of events in Northern Ireland during that formative period is indeed open to everyone here in Northern Ireland.

**Mrs D Kelly:** Will the Minister tell the House how his Department will specifically assist those who wish to commemorate the 1916 Easter Rising?

**The Minister of Culture, Arts and Leisure:** At the last Question Time, I gave a very brief outline of the history of 1916, which the Member obviously did not hear. However, I will simply point out, by way of explanation,

that all that really happened in Ulster during Easter 1916 was that a rather small delegation journeyed by train from Belfast to Tyrone and that the leader of that delegation managed to shoot himself in the hand on the day. *[Laughter.]*

**Mr Speaker:** Order.

**The Minister of Culture, Arts and Leisure:** That is not exactly much to mark. Given that the SDLP very much sees itself as representing the tradition of constitutional nationalism as opposed to militant republicanism, its Members will, of course, remember that, in that era, it was the dominant nationalist tradition. Indeed, Joe Devlin was the successful candidate in West Belfast, beating one Eamon de Valera.

**2.15 pm**

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

## Community Services

5. **Mr Craig** asked the Minister of Culture, Arts and Leisure whether he considers the protection of front line services in the heart of the community to be a priority. (AQO 753/11)

**The Minister of Culture, Arts and Leisure:** The outcome of the UK spending review has left Northern Ireland with cuts to its current and capital expenditure budgets. My Executive colleagues and I need to agree on how that allocation will be shared among Departments. Of course, I am fully conscious of the need to protect front line services in the community where possible, and the planning scenarios that my Department is developing reflect that. I have requested that my officials undertake a review of all arm's-length bodies funded by my Department. Necessary mechanisms will then be put in place to deliver any changes needed and to ensure that, wherever possible, front line services are protected in the current difficult financial climate. However, I must emphasise that the savings required are such that front line services will inevitably be affected.

**Mr Craig:** Does the Minister think that the North/South language agencies deliver an efficient and effective service for their respective communities, and is there room there for efficiencies?

**The Minister of Culture, Arts and Leisure:** The Ulster-Scots Agency's statutory remit is to promote Ulster-Scots culture, heritage and

language, which it meets through funding organisations and overseeing programmes and projects. Foras na Gaeilge's statutory remit is to promote the Irish language, and it is reviewing its funding framework for the Irish language sector, with a view to achieving significant benefits in relation to value for money and the effective delivery of its statutory obligations.

I have concerns about the effectiveness of those North/South agencies, and I have discussed those concerns with Minister Carey from the Irish Republic. I have asked my officials to work up short- and long-term options to address my concerns as a matter of urgency in order to provide public confidence about value for money in both agencies.

**Mr McNarry:** Given that a Budget announcement may be imminent, can the Minister say, compared to the current status, what proportion of front line services in sport, the arts and leisure he hopes to save?

**The Minister of Culture, Arts and Leisure:** As the Member more or less indicated in his question, it is premature to comment until figures are finalised, and it would be almost impossible to do so.

**Mr McNarry:** You must have a bit of hope.

**The Minister of Culture, Arts and Leisure:** The Member may believe that he has prophetic skills, but I certainly do not have them.

**Mr P Maskey:** Go raibh maith agat, a Cheann Comhairle. In my constituency of West Belfast, there are a number of community arts and culture bodies, including festivals and sports organisations. Does the Minister agree that they are very important and provide good value for money? I hope, and I hope that it is also his hope, that those programmes continue to be funded in the future.

**The Minister of Culture, Arts and Leisure:** I accept totally and agree about the importance of culture, arts and leisure in the community. I believe passionately that those things enhance the quality of life in people's respective communities. No matter what sector of society one looks at, some are particularly efficient and others are less efficient. There is variation: that is the way that the world is. Nevertheless, we want to ensure that, as far as possible, the service that is provided to society by culture, arts and leisure is maintained.

**Dr McDonnell:** I thank the Minister for his answers so far. However, did I misunderstand him, or was his answer to Mr Craig ambiguous? Did the Minister imply that he does not consider the protection of the Ulster-Scots academy to be a priority?

**The Minister of Culture, Arts and Leisure:** I do not know whether there is a difficulty as regards hearing or whatever. I did not even mention the Ulster-Scots academy.

## 2012 Olympics: Training

6. **Mr Hamilton** asked the Minister of Culture, Arts and Leisure to outline the efforts being made to secure the usage of training facilities in Northern Ireland by 2012 Olympic teams. (AQO 754/11)

**The Minister of Culture, Arts and Leisure:** A pre-games training camp subgroup, chaired by Sport NI, has been established, with representation from DCAL, the Northern Ireland Tourist Board, Invest NI, Disability Sports Northern Ireland and local government.

Sport NI is working closely with the governing bodies of sport, local authorities and key contacts to ensure that Northern Ireland's facilities are appropriately promoted. I have made up to £100,000 a year available to Sport NI to assist Northern Ireland in attracting international athletes for pre-games training. Although a number of national Olympic and Paralympic committees are considering Northern Ireland as a destination for their 2012 pre-games training camps, it is important to be realistic about the sorts of countries and sports that we are likely to attract and the associated benefits. In any case, it is unlikely that final decisions will be made by most countries and most teams any earlier than spring 2011.

**Mr Hamilton:** I thank the Minister for his update on the work that has been going on and the efforts that have been made to attract teams to Northern Ireland. Will he outline what he perceives to be the potential benefits for Northern Ireland of attracting and hosting pre-games training camps?

**The Minister of Culture, Arts and Leisure:** We need to be realistic about the benefits of pre-games training camps to Northern Ireland. The benefits are primarily in building relationships with the countries from which those teams come. Some teams will want quite a degree of

seclusion when they are training and might not be as open and accessible to people watching them as others might be. Until we know what teams are coming and in which sports, it is hard to give a definitive answer to that question. However, one of the benefits is the development of relationships with other countries. On that basis, it is possible to develop business or economic contacts.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. Go raibh maith agat a Cheann Comhairle agus tá ceist agam don Aire. Will the Minister accept that, on the basis of the evidence so far, we are the net losers in the whole London Olympics 2012 experience? Sports lottery funding has been diverted away from community sports, no venues have yet been selected as training bases for teams and very few contracts, if any, have been awarded to local companies. Will the Minister not accept that his Department's handling of this matter has, so far, been an unmitigated failure?

**The Minister of Culture, Arts and Leisure:** It is clear that Barry McElduff is in a very miserable mood today. First, let us consider the business benefit to Northern Ireland's economy. Contracts worth millions of pounds have been awarded to Northern Ireland companies. That is good news, and surely even Barry McElduff can manage to be encouraged by that. It is a sad indictment of him that he cannot even find some encouragement in the fact that millions of pounds of contracts have been awarded and jobs secured for Northern Ireland.

Secondly, work is ongoing to bring pre-games training camps to Northern Ireland. As I have said already, many different countries and teams will be looking for training locations. Some have already made their decisions, but many have not. We should focus, as I said in a statement the other day, on the important work that is being undertaken, led by Sport NI and supported by my Department, tourism bodies and other agencies, to ensure that we get the maximum benefit. Instead of griping and gurning, surely we should be dedicating ourselves and refocusing our efforts. My Department is making very strong efforts to support Sport NI, which takes the lead on that particular work.

**Mr O'Loan:** The Minister's officials have kept postponing their appointment with the Committee to discuss this matter. I understand that the subgroup that he referred to, which is

led by his Department, to address the matter has, in fact, rarely met. Can he contradict that, and can he tell us, apart from mere intentions, what activity is taking place to deliver the stated objective?

**The Minister of Culture, Arts and Leisure:** First, contact has been made and conversations have been held with a number of countries. That is how we get countries to come here. We make contact with them, we talk to them and we encourage them. Staff from Northern Ireland have been out in some of those countries to visit teams and sporting bodies to try to develop contacts. I have met some folk from those countries who have been to Northern Ireland. Therefore, it is not a case of future activity; there has been a lot of activity. I suppose that, as a new arrival on the Committee, the Member may not be aware of that.

### District Probate Registries

7. **Mr P Ramsey** asked the Minister of Culture, Arts and Leisure for an update on PRONI's efforts to digitise and publish online the three district probate registries of Armagh, Belfast and Londonderry from 1858 to 1900. (AQO 755/11)

**The Minister of Culture, Arts and Leisure:** I am glad that the Member asked that question, and I refer him to the departmental press release of 29 November 2010 in which I announced the launch of the will calendar resource. In total, 93,388 will images have now been made available for the three district probate registries of Armagh, Belfast and Londonderry for 1858 to 1900. That is one of two digital resources that PRONI has made available in recent weeks. The other is a series of wedding images that PRONI launched on the social networking site Flickr, and I direct the Member to [www.proni.gov.uk](http://www.proni.gov.uk), where he can search and browse both new applications from the comfort of his own home, as well as the many other online resources that PRONI provides.

My Department is committed to making more online resources available, and I want to single out for special mention Northern Ireland Screen's digital film archive, which contains over 70 hours of material from Northern Ireland's past and is accessible in 19 locations. Northern Ireland Screen also provides regular outreach presentations to display the archive to older people's groups, historical societies, community groups and schools.

**Mr P Ramsey:** I thank the Minister for such a detailed response. Given the interest from the community groups that the Minister named, and also from students, will online access be free to all those users?

**The Minister of Culture, Arts and Leisure:** If the Member is referring to the digital film archive, it is available at 19 locations. The will resource is available, and my understanding is that it is free. I will confirm that with the Member.

**Mr Sheehan:** Go raibh maith agat, a Cheann Comhairle. Tá ceist agam don Aire. What effort does the Public Record Office make to provide services in the Irish language for the benefit of users who want to do their business through the medium of Irish?

**The Minister of Culture, Arts and Leisure:** That is the first time that that issue has been raised, which is quite surprising in view of the way in which some people seem to have a fixation with it. Since virtually everyone in Northern Ireland is perfectly fluent in English, and since the only folk who have any difficulty are people from some immigrant ethnic communities, I do not perceive any problem. Everyone, including the Member who asked the question, is perfectly fluent in English; that was perfectly obvious when he spoke.

### Libraries

8. **Mr I McCrea** asked the Minister of Culture, Arts and Leisure, in light of the comprehensive spending review, what priority he will give to funding for libraries. (AQO 756/11)

10. **Mr O'Loan** asked the Minister of Culture, Arts and Leisure, in light of the anticipated budgetary constraints on his Department, whether he has any plans to review the provision of library services, particularly in rural areas. (AQO 758/11)

**The Minister of Culture, Arts and Leisure:** With the Speaker's permission, I will take questions 8 and 10 together. I recognise the valuable contribution that libraries, including those in rural areas, make in many areas of people's lives, and I will do my utmost to protect them and the other front line services for which my Department has oversight.

As Members will be aware, the Executive have yet to decide on individual Departments' budget allocations, and I am, therefore, considering



a number of planning scenarios. Despite that delay, I have tasked my officials with identifying potential efficiencies across all of my Department's associated arm's-length bodies, including Libraries NI. It is important to note that Libraries NI was established as a result of the review of public administration. That change brought together the public library services that were previously provided by the five education and library boards into a single organisation, and thereby generated administrative savings of approximately £1.8 million in this comprehensive spending review period and ongoing forecast savings of £1.5 million.

The Health Minister said the other day that his was the only Department that had made savings through the RPA. He was wrong. We have made substantial savings through Libraries NI. That organisation is currently reviewing its service provision across the entire public library estate, including libraries in rural areas.

The review is a three-stage process: a review of the library estate in greater Belfast; a review of the library estate in the rest of Northern Ireland; and a review of mobile library provision across Northern Ireland. Stage one of the review was implemented in the summer, and Libraries NI now plans to commence the second stage of its review. The reviews are operational matters for Libraries NI, the board of which includes councillors from my party, the SDLP, Sinn Féin and the Ulster Unionist Party. I assure Members that I have been and will continue to be kept fully informed as the reviews proceed.

**2.30 pm**

## Education

**Mr Speaker:** Questions 1, 7 and 8 have been withdrawn.

### Education and Library Boards: Procurement

2. **Ms J McCann** asked the Minister of Education for an update on the investigations into the procurement practices in the North Eastern Education and Library Board and the South Eastern Education and Library Board. (AQO 764/11)

**The Minister of Education (Ms Ruane):** Thug mé le fios don Tionól, sa ráiteas scríofa ar

an 23 Samhain 2010, gur chuir mé tús le fiosrúchán seachtrach ar na himthosca um fháil Thionscadail Ard Schoil Mhachaire Fíolta agus an obair a bhain léi.

In my written statement of 23 November 2010, I informed the House that I had initiated an external investigation of the circumstances around the procurement and work associated with the Magherafelt High School project. In my statement, I also advised that I had commissioned a comprehensive investigation of the operation of a measured-term contract and wider procurement practices in the South Eastern Education and Library Board. Both investigations are in progress and involve a substantial programme of work. I will, of course, keep the Assembly updated on the investigations and subsequent actions arising. I expect to have a report prior to Christmas on each of those, at which time I will decide what further steps are needed. However, as these are live investigations, it would not be appropriate for me to comment further at this time.

**Ms J McCann:** I thank the Minister for her answer. I understand that she cannot go into detail, but there are problems. Does the Minister believe that this is symptomatic of wider issues in the boards?

**The Minister of Education:** Níl seo soiléir faoi láthair ach socróidh mé ar chóir na athbhreithnithe a shíneadh nó nár choir nuair a gheobhaidh mé torthaí na bhfiosrúchán seo.

It is not clear, but, on receipt of the findings from the investigation, I will determine whether the reviews should be extended.

**Mr I McCrea:** The Minister highlighted the economic appraisal for Magherafelt High School. She will also be aware that the primary school and nursery unit is being held back because of that issue. Can she give an idea of when the Department will release that information to allow the board to go out to tender?

**The Minister of Education:** I will respond in writing to the Member on that. As the Member is aware, that is one of the 13 schools that I approved in August, but I hope that all those schools will be on site.

**Mr Armstrong:** Given the uncertainty surrounding the Budget, has the Department of Education advised any school not to proceed any further in the procurement process for school newbuilds?



**The Minister of Education:** With respect, I am not sure how that links to the question. Suffice it to say that my Department is ensuring that all our procurement adheres to our statutory duties and to equality. It is important that all the parties here support our proposals to ensure that education gets the funding that it deserves in any Budget settlement.

**Mr O'Loan:** These are very serious cases, and I read the Minister's written statement with considerable alarm and concern. Is it not possible that there is some responsibility on the Department for these matters? Would the investigation not therefore need some independent element?

**The Minister of Education:** The investigation is independent. Of course the Department has a role to play in stewardship. Is leis na Boird Oideachais agus Leabharlann í an fhreagracht fála san earnáil rialaithe.

Responsibility for procurement across the controlled sector rests with the education and library boards, and the Department has regularly sought and received assurance that procurement practices are in line with best practice as set out in CPD guidance. My Department holds regular accountability meetings with the boards at which procurement issues are discussed. Once my Department has become aware of issues, I have acted immediately and swiftly.

### Educational Underachievement

3. **Mr Moutray** asked the Minister of Education what action she has taken to address educational underachievement, particularly among working-class Protestant boys. (AQO 765/11)

**The Minister of Education:** Tá míbhuntáiste oideachasúil le fáil i measc Protastúnach agus Caitliceach, buachaillí agus cailíní agus i mionlaigh eitneacha.

Educational disadvantage exists among Protestants and Catholics, boys and girls, children of no religion and children from our ethnic minority communities. I have interconnected policies to tackle underachievement, promote equality and raise educational standards. Those policies include Every School a Good School, the revised curriculum, the review of special education needs and inclusion, the Achieving Belfast and Achieving Derry programmes, the entitlement framework and the literacy and numeracy

strategy, which I will launch shortly. Those policies provide a greater proportion of young people with the qualifications, skills and attributes to have a choice in their future that includes further and higher education, while reducing the number of school leavers not in education, employment or training.

Research and the latest PISA statistics show that the transfer test distorted the curriculum and caused teachers to use fewer teaching strategies, leaving some children uninterested and demotivated. Transfer 2011 has put an end to those detrimental impacts.

**Mr Moutray:** On 26 January 2010, in an Assembly answer to my party colleague Mervyn Storey's question on underachievement, the Minister identified literacy and numeracy as key factors in this issue. However, this year's chief inspector's report said:

*"There is little evidence within the 14-16 cohort in particular, that the literacy and numeracy requirements of learners are being adequately addressed."*

Is it not the case that the chief inspector's damning indictment is, in fact, a damning indictment of the Minister? Why are we still waiting for the Department to bring forward —

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

**Mr Moutray:** Why are we still waiting for the Department to bring forward a literacy and numeracy policy?

**The Minister of Education:** I am delighted by the Member's interest in educational underachievement, and I welcome that. It is important that parties stand up for young people who are being disadvantaged and discriminated against. I am glad that the DUP has shifted on its policy on underachievement. In its 1989 election manifesto, education not manipulation — *[Interruption.]*

**Mr Speaker:** Order.

**The Minister of Education:** I will quote directly from that, as I have done before, because it is interesting for people to see where it comes from:

*"We believe that selection at 11 should be ended. The 11-plus procedure is educationally unsound and socially divisive and places unnecessary strain upon children at a very early age."*

Perhaps the DUP should return to what was rightly included in its election manifesto in 1989 — *[Interruption.]*

**Mr Speaker:** Order.

**The Minister of Education:** That is the way in which we can really bring about changes for young people between the ages of 10 and 16.

**Mr O'Dowd:** Go raibh maith agat, a Cheann Comhairle. It is welcome to see “big house” unionism concerned about working-class Protestants in this instance. *[Interruption.]*

**Mr Speaker:** Order.

**Mr O'Dowd:** Will the Minister further outline her assessment of the recent PISA report and its implications for our educational system?

**The Minister of Education:** Is é PISA an clár le haghaidh measúnaithe ar Dhaltaí Idirnáisiúnta agus tá an clár eagraithe tríd an Eagraíocht um Chomhar agus Fhorbairt Eacnamaíochta (OECD).

PISA, which is organised by the Organization for Economic Co-operation and Development (OECD), is a survey of how 15-year-olds perform in reading, maths and science. The survey runs every three years, and, in 2009, 65 countries participated, including 33 OECD members. Members will be aware that the results were published on 7 December 2010.

The results show that the reading and maths performance of our 15-year-olds is not significantly different from the OECD average, which is nothing to be proud of. We lag behind the highest performing systems and continue to have a significant body of underachievement. I want us to be much better than average for all our young people. Performance in science is above the OECD average, which is to be welcomed. However, we still have considerable room for improvement.

It is clear that the progressive countries, in which academic selection is not a major factor, are capable of significantly outperforming us time and time again. Those countries include Scotland, Estonia, Finland, Canada and New Zealand. The policy of the Department of Education is to have a non-selective system of post-primary transfer, and schools that continue to use breakaway tests need to review the PISA results carefully. I am convinced of the value of benchmarking our system internationally and of learning from the best.

**Sir Reg Empey:** Has the Minister given any consideration to the coalition Government's pupil premium initiative, which targets support at children from deprived backgrounds throughout their education?

**The Minister of Education:** We will look at any proposals that are brought in North or South or in England, Scotland and Wales. We will evaluate them to see if they are useful here, and we will discard what is not useful. In this part of Ireland, we need to ensure that we have the best possible policies and support our disadvantaged and working-class young people. That is what I am doing in this Department.

**Mr P Ramsey:** I welcome the Minister's earlier talk about the literacy and numeracy strategy for Northern Ireland and her recognition of the importance of that strategy. Will the Minister outline what the delay has been in producing that strategy? Will she give us a date when it will be published?

**The Minister of Education:** We have taken time to ensure that we get that important strategy right. As the Member will be aware, I set up a task force on literacy and numeracy. That task force did some important work and presented me with a report, and we are now working on the strategy. We worked hard to address the issues that were raised during the consultation, and the Committee for Education has already seen a summary of the consultation responses — earlier than usual.

Bhí muid ag oibriú lena chinntiú go bhfuil an straitéis ar aon dul leis na polasaithe tábhachtacha eile d'fhonn go mbeadh cur chuige comhleanúnach ann sna scoileanna.

We have also worked to align the strategy with other key policies to ensure that we have a coherent approach for schools. That includes the introduction of revised assessment arrangements to support our curriculum, with a specific focus on progress in literacy and numeracy. In addition, we are giving careful consideration to the targets that we set in coming years for raising literacy and numeracy standards.

### **Malone College, Belfast: Sports Facilities**

4. **Mr Spratt** asked the Minister of Education whether she will provide funding for new sports facilities for Malone College, Belfast. (AQO 766/11)

**The Minister of Education:** Tuigim go maith na deacrachtaí a bhíonn ag an gColáiste agus é ag feidhmiú gan a áiseanna spóirt féin. I fully appreciate the difficulties that the college has experienced in operating without its own dedicated sports facilities. However, due to uncertainty over the resources available for future development, it is not possible to provide a time frame on the way forward for such projects.

As the House will be aware, there has been historical failure to invest sufficiently in our schools. Given the size and value of the schools estate, there is a pressing need for significant investment to maintain the integrity of the estate and to renew its infrastructure. We now face challenging positions regarding investment in the schools estate. The rate at which we can build schools and provide facilities such as those proposed for Malone College is dependent on the available resources.

I want to build schools, and I have demonstrated that, when resources are available, I can deliver projects. Since May 2007, my Department has completed 50 major capital school projects, representing an investment of over £426.4 million in our schools estate. Six major capital projects are currently on site, which represents a further investment of £90.5 million, and a further 13 projects are getting ready to go on site. I assure the Assembly that I will continue to press my Executive colleagues to release additional funding for investment in the schools estate.

**Mr Spratt:** Malone College is an excellent example of an integrated college, and it has children from the Donegall Road area and west Belfast together. Does the Minister think that it is acceptable that the children who attend the school have to travel to Lisburn to avail themselves of sports facilities? Will she do her best, at her earliest possible convenience, to ensure that that is remedied?

**The Minister of Education:** Obviously, the best situation would be for our schools to have the resources that they need, and I want our schools to get that. In my previous answer, I detailed the significant investment that has been made in our schools estate, but there was historical underinvestment. Is it acceptable that there was historical underinvestment and that direct rule Ministers handed back more than £150 million in capital money? Of course it was not. That money should have been used to build up the schools estate. Thankfully, we have spent 99.9%

of our budget in the last three years. I want to continue to do that, but, as the Member will be aware, we need resources for the capital budget.

**2.45 pm**

**Dr McDonnell:** Does the Minister accept that that is just one of a number of schools across south Belfast that are greatly restricted in delivering the required service by refurbishment or rebuilding needs? That adversely affects children because the schools fail to deliver to their full potential and to ensure that children develop to their full potential.

**The Minister of Education:** I accept that it is one of a number of schools, not just in south Belfast but right across the North of Ireland. We have made significant advances in school building, but we have a way to go. We need further resources. I look forward to support for the school investment programme from all the parties and Ministers in the Assembly.

**Ms Lo:** Does the Minister accept that it is discrimination for those children to not have proper indoor sports facilities?

**The Minister of Education:** I have answered that question. All young people should have the best possible facilities. I look forward to support from the parties when I fight for more resources for the capital programme.

### Early Years (0-6) Strategy

5. **Mr Leonard** asked the Minister of Education whether she will extend the period of consultation on the draft early years (0-6) strategy. (AQO 767/11)

**The Minister of Education:** Bhí roinnt moltaí ann go bhfuil tuilleadh breithnithe agus díospóireachta de dhíth ar an réimse tábhachtach seo, agus gur chóir síneadh a chur leis an tréimhse chomhairliúcháin ar an dréacht Straitéis Luathbhlianta (0-6). There have been a number of suggestions that this important area needs further consideration and debate and that the consultation period on the draft early years (0-6) strategy should be extended. I want to ensure that there is a full and frank consideration of the issues. I want all interested parties to know that they have had the opportunity to contribute to the debate and have their voices heard. Therefore, I announced last week that I have extended the consultation period on the draft strategy to 31 January 2011.

**Mr Leonard:** Go raibh maith agat, a Cheann Comhairle. I welcome the Minister's answer. Does she agree that, even though the extension of the consultation period will create a slight delay, listening to all the voices will, in time, be an investment?

**The Minister of Education:** I thank the Member for his comment. I agree that it is important that we take the time to get this right. I listen to the Committee and to people such as Michelle O'Neill, who made very strong representations to me on this matter. The extension will delay the strategy slightly, but it is worth taking the time. It is imperative that the strategy meets the needs and requirements of all children. As can be seen from the views that have been expressed in the consultation to date, there is a wider context to the subject of early years education that has raised concerns. In recognition of those concerns, I seek a meeting with ministerial colleagues from the Department of Health, Social Services and Public Safety and the Office of the First Minister and deputy First Minister to discuss the wider context of the strategy and to seek their views on how we will move forward.

**Mr Campbell:** Given the Minister's announcement just now of the extension of the consultation period, how does the timeline fit in with the fact that the House will probably have risen for the pre-election period by the end of March?

**The Minister of Education:** I announced the extension last week. My officials are working very hard, and we have set up meetings with various Ministers. We plan to work very quickly and take into account the consultation and responses to date. We will continue to focus on the strategy, but we need to take the time to get it right.

**Mrs M Bradley:** Given that we do not yet have the result of the consultation on the special educational needs strategy, has a time limit and date been set for the nought-to-six strategy, which is another very important strategy?

**The Minister of Education:** With respect, that relates to another matter. We are talking about the early years strategy. I will write to the Member about her question.

## Teachers: Substitute Cover

6. **Mr G Robinson** asked the Minister of Education whether she will fully implement the

eleven recommendations in 'The Management of Substitution Cover for Teachers: Follow-up Report'. (AQO 768/11)

**The Minister of Education:** Cuirim fáilte roimh fhoilsiú na Tuarascála PAC agus déanfaidh mé measúnú ar mholtaí an Choiste go huile is go hiomlán. I welcome the publication of the PAC report and will consider the recommendations fully. The 11 recommendations will be addressed in a detailed memorandum of reply. That is being prepared and will set out a considered response to the issues raised. The memorandum of reply will be laid in the Assembly two months after the report's publication. In advance of the memorandum being laid in the Assembly, it would be inappropriate to comment in detail on the 11 recommendations in the report.

**Mr G Robinson:** Given the alarming figure of £66 million that was spent on substitute teachers in 2008-09, what is the Department doing to reduce the number of sick days taken by teachers, specifically those who suffer from stress?

**The Minister of Education:** I agree that £66 million is a lot of money. It is important that, as well as decreasing the number of sick days, we put in place support for our teachers. Actions have been taken to manage teacher attendance. The key actions include a new managing attendance policy, which was agreed at the teachers' negotiating committee and was issued to all schools in April 2008, and the extension of an independent 24-hour confidential telephone counselling service to all teachers from April 2009. Schemes to improve the flexibility of teachers' working patterns have been developed, including a temporary variation of contracts and a flexible working scheme.

The Department has set challenging targets for each employing authority to reduce the average level of teacher sick absence to six days per teacher by March 2011. Some employing authorities have already met that target.

In addition, work is ongoing through the teachers' negotiating committee to produce guidance on tackling violence against teachers. A health and well-being strategy is nearing completion, and the Department has begun quarterly workshops with all employing authorities to discuss strategies to manage teacher attendance and to share best practice.



**Mrs O'Neill:** Go raibh maith agat, a Cheann Comhairle. What measures are being taken to encourage newly qualified teachers into employment, as opposed to schools re-employing prematurely retired teachers?

**The Minister of Education:** I am on record in the House as saying that newly qualified teachers should be getting opportunities and that schools should not employ retired teachers. We need to give our young teachers opportunities. Many of our newly qualified teachers are unable to find permanent posts, primarily due to falling rolls. Recognising that, my Department has reduced the overall intake to initial teacher education courses from 880 in 2004-05 to 663 in 2010-11. We also ring-fenced places in certain areas where there was a need for teachers, such as the Irish-medium sector, the STEM areas and early years and special needs provision.

My Department has repeatedly issued circulars to schools, exhorting them to give preference to newly qualified teachers and experienced non-retired teachers who seek employment. The Department has also advised employers that retired teachers should be re-employed only to provide short-term cover if newly qualified teachers or experienced non-retired teachers are unavailable. In addition, schools have been advised that they should recruit to vacancies on a permanent rather than a temporary basis, unless the vacancy is clearly of a temporary nature.

Although decisions on whom to appoint to any teaching position in a school rest with the board of governors as the employer, the Department has put in place measures to help to restrict the re-employment of retired teachers. For example, it has limited the reimbursement of centre costs to pay point 4 and abated the pensions of retired teachers who are re-employed. Recent changes to the teachers' premature retirement compensation scheme are expected to effect a reduction in the numbers of teachers who retire prematurely in future years.

**Mr Kinahan:** Does the Minister believe that the significant increase in the incidence of substitution cover has had a negative impact on pupil learning and achievement?

**The Minister of Education:** Obviously it is very important that there is continuity in teaching. There will be situations, particularly where a workforce is largely female, that lead to higher levels of substitution for various reasons, such as maternity leave. We need to ensure

that all teachers in our classrooms are trained to the highest standards, are good teachers and provide good leadership in our schools. However, it is important that we support our teachers and that we manage substitution and sick absence.

**Mr Speaker:** Questions 7 and 8 have been withdrawn.

## PISA Survey

9. **Mr Boylan** asked the Minister of Education when she expects to receive an update on our educational performance compared to other countries that are members of the Organization for Economic Co-operation and Development. (AQO 771/11)

10. **Mr McElduff** asked the Minister of Education for her assessment of the main findings, in relation to our students, of the programme for international student assessment survey carried out by the Organization for Economic Co-operation and Development. (AQO 772/11)

**The Minister of Education:** Is é PISA an clár le haghaidh Measúnaithe ar Dhaltáí Idirnáisiúnta agus tá an clár eagraithe tríd an Eagraíocht um Chomhar agus Fhorbairt Eacnamaíochta (OECD). The programme for international student assessment is organised by the OECD. It is a survey of how 15-year-olds perform in reading, maths and science. As I said earlier, it runs every three years. The results from PISA 2009 show that the reading and maths performance of our 15-year-olds is not significantly different from the OECD average. Performance in science remains above the OECD average, but we have considerable room for improvement. PISA shows clearly that progressive countries where academic selection is not a major factor are capable of outperforming us to a significant degree. It is important that we continue to benchmark our system internationally, learning from the best, because we aspire to be at the top end for all our young people, not just some of them.

**Mr Speaker:** Minister, before I call Cathal Boylan for a supplementary question, can I confirm that you are grouping questions 9 and 10 for answer?

**The Minister of Education:** Yes, I am. Sorry.

**Mr Boylan:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for her answer.



Does she agree that we need to continue to invest to improve outcomes?

**The Minister of Education:** Absolutely. We need to invest to improve outcomes. We need to invest at every level of our school system, and we need to ensure that there is equality at every level. We need to continue with the jigsaw of reforms in education, and we need to ensure that we continue to support our young people. Although the number of 16-year-olds who leave school without qualifications has decreased, it is simply not good enough that 9,500 such young people leave every year. That figure was 12,000 in 2007, so it has gone down, but we can never become complacent. We have to continue to invest.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. What countries achieve the best results for young people leaving school? Very often, I hear the Minister referring to New Zealand and Finland, but I would like to hear more about that.

**The Minister of Education:** Go raibh maith agat as an cheist sin agus foilsíodh tuairisc PISA ar 7 Nollaig 2010. In the North, we have a mean score in reading of 499. That is not significantly different from the OECD average of 493. Nine countries had significantly higher mean scores, and 16 countries had mean or average scores that were not significantly different. The top performing OECD countries in reading were Korea, Finland, Canada, New Zealand, Japan and Australia. In maths, the top performing OECD countries were Korea, Finland, Switzerland, Canada, the Netherlands and New Zealand. In science, 10 countries had significantly higher scores. Those included Finland, Japan, Korea, New Zealand, Canada and Australia.

Selection is creating polarisation. There are good results at the top end, and poor results at the middle and bottom end, and that is where we really need to change things. That is what Finland, Canada and New Zealand have shown.

**Mr Craig:** The Minister named countries that have better achievements than our own, and I heard the Minister refer to the fact that academic selection is the big bugbear. Will the Minister acknowledge that all the countries that have been listed have a single education system, and, in Northern Ireland, we have four separate systems? That has a lot more to do with our results in comparison with those other countries.

**The Minister of Education:** As I said, it is refreshing to hear the DUP talking about sharing education, particularly given some of the comments that it made on integrated education. The DUP's manifesto from 1989 is quite interesting. It states:

*"We are totally opposed to the deliberate discrimination which is being practised by the Government against State schools."*

Obviously, I was not in post at that time. It went on to say:

*"While the state sector is being starved of cash the Government is giving preferential treatment to so-called integrated schools."*

3.00 pm

## Question for Urgent Oral Answer

### Justice

#### **Prison Service: Criminal Justice Inspection Report**

**Mr Speaker:** I have received notice of a question for urgent oral answer from Ms Margaret Ritchie to the Minister of Justice. Although the convention is that, generally, only the Member who tabled the question and the Chairperson and Deputy Chairperson of the relevant Committee are called, I have agreed that a representative of each party will be given an opportunity on this occasion to ask a supplementary question.

**Ms Ritchie** asked the Minister of Justice what urgent measures he is undertaking to tackle the problems of gross inefficiency in the Prison Service outlined by the Criminal Justice report.

**The Minister of Justice (Mr Ford):** At the outset, I stress that the measures that I will refer to in this answer are not a knee-jerk reaction to today's report. Rather, work on those measures has been under way for some months. Indeed, reform of the Prison Service has been a key priority since I took up office.

Members will be aware of numerous critical reports on the Prison Service in recent years. Dr Maguire's report, which was published today, draws together the main issues and crystallises for us all the sheer scale of the challenge that lies ahead. It was with that challenge in mind that I commissioned the independent review of prisons to look at the overall operation of the service so that we could map out the strategic direction that change must take if we are to have the service that society in Northern Ireland wants and needs.

The review team has made much progress already, and I expect to receive its interim report early in the new year. Along with that work, I am committed to the Prison Service's own strategic efficiency and effectiveness programme, which I announced when I set out my ministerial priorities in June. That programme is due to launch in 2011, and

it will be the engine to drive and deliver changes that will ultimately flow from the recommendations of the independent review.

Change is already under way. A recent agreement with the Prison Officers Association (POA) set out how the POA and management can best work together to face and overcome what will be the unprecedented challenges of the next few years so that the Prison Service can deliver significantly improved, more appropriate and more effective regimes to prisoners. It is encouraging at this early stage in the change process to see the POA and management taking a joined-up approach to those challenges. That is exactly what Dr Maguire said was the way forward.

Members will acknowledge the sheer scale of the challenge that lies ahead for all of us. It will need time, patience and resources. Crucially, it will need support from every part of the House if we are to be able to deliver the fundamental reforms necessary to transform and modernise our Prison Service and turn it into a model of excellence in which all society can take pride.

**Ms Ritchie:** I thank the Minister for his response. I know that this problem is not of the Minister's making and that it is a legacy issue. However, significant inefficiencies were identified in the latest Criminal Justice Inspection report. I heard Dr Maguire on the radio this morning. I also understand the budget pressures on the policing side of justice. However, what, in millions of pounds, is the Minister's estimate of the savings that he could achieve in the Prison Service over the next four years? Does he agree that those savings must be available to the Executive for other priorities?

**The Minister of Justice:** I understand that the Member and her party suggested a potential saving of £14 million from the Prison Service budget. I must say that I find that somewhat unambitious. The Prison Service management and I would hope to make significantly greater savings over the four-year period.

However, I think that the Member has not understood the concept of ring-fencing as it is currently applied to the Budget. Under the ring-fencing proposals that we face and on which there may or may not be more information later today, the Department of Justice is taking a slightly bigger percentage hit than the average for all other Departments. That is because of the way that it is linked, through ring-fencing, to the Ministry of Justice and the Home Office

as far as they relate to England and Wales. In that context, ring-fencing means that the Justice budget will remain within the Department of Justice. It is not something that will then be allocated across to other Departments.

The Member may wish to protect the budget of the Department for Social Development, of which she was Minister previously. However, I am afraid that in the context of ring-fencing, she should not seek funds from the Department of Justice.

**Mr Givan:** The Criminal Justice Inspection's report makes no strategic or operational recommendations. Instead, it is a toxic and demoralising report. It attacks the role of the Prison Officers' Association, which, in fact, has been to the fore in putting forward suggestions for positive changes to the prison regime. Does the Minister believe that the Prison Officers' Association is, as it states in the report, "the elephant in the room", or that working with it is like, "wading through treacle"? Rather, that attitude towards the Prison Officers' Association is the failure. Those with that attitude, who, clearly, include Members on the opposite Benches, need to engage constructively and positively with that trade union. Does the Minister agree with the comments about the POA in the report?

**The Minister of Justice:** The Member referred to the fact that there are no formal recommendations in the report. That is absolutely the case. The report outlines how the Criminal Justice Inspection sees the state of the Prison Service. Of course, the report is likely to inform the work of Dame Anne Owers's team in its strategic review of the Prison Service's operations.

The Member quoted specific references to the Prison Officers' Association. It is clear that, at times in the past, the association operated in ways that suited the past, as, indeed, did Prison Service management. In my original answer, I highlighted work that has been done by Prison Service management and the POA to look at different ways of working; to seek a joined-up approach; and to look, in particular, at a six-month pilot of a new, more efficient way of working with regard to deployment of staff in prisons. Therefore, the Prison Officers' Association currently works with management to seek to improve problems that were highlighted by Dr Maguire.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. Go raibh maith agat a Cheann

Comhairle agus buíochas don Aire don fhreagra sin. I want to point out that Sinn Féin will table a motion in the Assembly that will allow all Members to have a better say on the report and, perhaps, to explore some issues that have been mentioned.

In a headline way, the report points to an alarming lack of leadership, accountability, communication and performance management. After a series of reports, we all know what is wrong with the prison system. We also all know that radical restructuring needs to be carried out. All that remains is to find out is how that should be done.

I ask the Minister to reassure the House. He has asked for support. He will get my party's support. However, will he ensure that the Owers review team's recommendations will be implemented in full and that the Assembly will not have to come to the House again to look at another report that gathers dust on a prison system that refuses to engage, implement recommendations and, indeed, gives the POA a disproportionate say in matters that relate to the Prison Service?

**The Minister of Justice:** I thank Mr McCartney for his supportive words. The only assurance that I can give is that I will take the Owers report extremely seriously. I will ensure that its conclusions are taken on board by the Department of Justice and are used to seek appropriate resources to carry through its recommendations. It will, of course, be a matter for the Executive, as a whole, to decide on resource allocation.

**Mr McNarry:** I am sure that when all the reports are in front of the House, all Members will support a position that tells us that there is now a Prison Service that is fit for purpose. There is no doubt from this report that the Minister has serious difficulties to resolve. He has already indicated that he needs extra funds to implement reforms that he has identified so far. It cannot be forgotten that there are also management problems to be confronted. Can the Minister tell the House what effect the inability to appoint a governor of Maghaberry Prison is having on all Prison Service staff and their general morale?

**The Minister of Justice:** The Member referred to the Minister having serious difficulties. That may or may not be accurate. I made it absolutely clear that we as an Assembly have serious

issues to address with regard to the reform of the Prison Service. That is an issue on which I do not shirk my responsibility, but it is not an issue for me alone; it is an issue for all of us.

In that context, and in view of the fact that a substantive governor has not been appointed for Maghaberry jail, Mr McNarry asked about the morale of prison officers. I was at Maghaberry last week, and I saw examples of very positive work being done by a number of staff under the direction of the acting governor. I believe that that good work will continue and improve.

**Dr Farry:** I am not terribly sure why the Minister has been asked to respond urgently to what is an ongoing policy matter, albeit a very important one, rather than a particular event. Nevertheless, in welcoming the Criminal Justice Inspection report, does the Minister agree that the reform of the prison system is about more than finding cash efficiencies, important as that is? Does he agree that it is also about better offender management, leading to reductions in reoffending and, ultimately, better community safety?

**The Minister of Justice:** The Member highlights the point about reforming the system. There are, undoubtedly, cost issues, but there are huge issues about ensuring that the Prison Service, which was, to a considerable extent, the creation of another day, adapts to the changes in society, the different responsibilities that are now placed on it, and the work of the rehabilitation of prisoners rather than their mere incarceration. That is a task that I see being carried out in small efforts when I visit all three institutions, but it is clear from the report that the organisation as a whole needs to live up to the example of the best work that is being done in the different prisons.

**Mr Speaker:** I ask the House to take its ease before we return to the Second Stage of the Planning Bill.

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

## Executive Committee Business

### Planning Bill: Second Stage

*Debate resumed on motion:*

*That the Second Stage of the Planning Bill [NIA 7/10] be agreed. — [The Minister of the Environment (Mr Poots).]*

**Mr Beggs:** I declare an interest as a member of Carrickfergus Borough Council. I welcome the content of the Bill, and I am glad that the new legislation has finally been published. Planning requires a complex balance between the various interests, and it is vital that we get that right. In putting a new planning system together, careful scrutiny of the Bill is vital in ensuring that that balance is achieved. It is regrettable that it is coming forward so late in the day and that so little time will be available for that careful scrutiny. It will put great pressures on the limited Assembly time that remains. I used to be a member of the Environment Committee, and I wish the current members well with the huge task of scrutinising the 248 clauses. It is vital work, and it must continue.

Planning legislation is vital to our economy and businesses and to protecting our local environment. It is equally important to families who may wish to adapt their homes or who may feel threatened or endangered by a neighbouring development.

There are many positive aspects to the Bill. Local decisions are to be returned to local public representatives, as is the case in most other councils throughout the United Kingdom. That must be welcomed. However, further detail is required on precisely how that plan would be rolled out. That will have to be addressed by the Minister and the Department as the Bill proceeds.

I agree with Members who mentioned the issue of governance and training for councillors. It is vital that councillors fully understand their new role in that decision-making body.

### 3.15 pm

On the issue of local development plans, I personally benefited from a trip to Scotland, when I visited a number of councils there to learn of their process, which was a much-

improved system compared to what we presently have, but which we are moving towards in the legislation. There is the issue of a rolling plan. It is not just something that is parked at one moment in time; work on it can continue on an ongoing basis, and the cycle is much shorter.

I am well aware of the inordinate length of time that the Belfast metropolitan area plan has taken. I believe the process started in 2002 with consultation with councils, a detailed consultation period, then the draft plan, a further consultation and then an inquiry stage. I think it is now at judicial review. It is very cumbersome, and it looks as though it will be finalised 10 years after it started. It will be out of date by the time it is finished and formally introduced. That is not an acceptable process with which to develop area plans. The economy is changing, the environment is changing, and it is important that there is a much more rapid response to the needs of our community.

In my own area, covering the Larne section of east Antrim, consultation occurred on the Antrim, Ballymena and Larne area plan; I think it was 2004 or 2005. I responded to that process and made a contribution. Some work appeared to occur on that plan and then, because of pressures on the planning system, that work came to an end. I understand that the Antrim area in particular has a very out-of-date plan, so it is important that something is put back on the road so that the needs of local communities are addressed. It is unfortunate that the Planning Service went forward with the system in the past, put effort and investment in it and got the involvement of the community, and essentially then pulled the plug on it. It is important that a better building block is put in place; something that will deliver. What is being presented certainly has the potential to bring about a significant improvement on what we currently have.

Other aspects of the Bill are worthwhile — simple things like changing the multiple amounts for retrospective applications. That will, of course, encourage people to apply before developing, and that will be an important signal to give. On the issue of simplified planning zones, I am aware of a large development in my constituency on a brownfield site where the developer spent a huge amount of investment and time working with a wide range of public bodies to try to get planning permission. He found the comparison with the system that

he had operated in other parts of the United Kingdom to be dreadful.

The current system is actually costing investment, costing jobs and wasting money on bureaucracy. We can have an efficient planning system by adjusting the requirements, while still dealing with all the issues that have to be dealt with. Everyone has to have an understanding that it must be done efficiently. I think particularly of an incident when one individual was off sick at one stage and everything just stopped for several months. I was shocked to learn that, but processes clearly have to be in place with all statutory bodies to ensure a speedy turnaround. The idea of a simplified planning zone will allow that early planning and discussion to occur and make it much simpler for appropriate development to occur in such areas.

There is the issue of planning agreements, which will enable community benefit to occur. Again, that has already been enacted in other parts of the United Kingdom over many years but has not been able to operate here. If investment can come forward to bring about community benefit, to improve local towns, etc, and that can be agreed by local public representatives in taking such decisions, that is entirely appropriate.

Others have mentioned the issue of local enforcement. There is likely to be a much better response to enforcement of planning policy with that local responsibility.

I notice also mention in the Bill of fixed penalty notices, which is a straightforward method of avoiding bureaucracy that sends a clear message to those who have not followed planning law. I welcome that.

The issue of front-loading — the pre-application community engagement — is also worthy, and I am pleased that it is in the Bill. I hope that this means that when plans are ultimately developed, they will be less contentious and enable improvements to occur but take on board local community concern.

Three years ago, in November 2007, the then Minister of the Environment, Mrs Foster, made a speech at a conference which launched the review of Northern Ireland's planning system. It started an awfully long time ago. The report by Professor Greg Lloyd was the basis for a consultation process which involved public meetings in the summer of 2009. That is also



a long time ago, almost 18 months. Why has it taken so long to get here? It seems that this very significant, bulky and detailed legislation has arrived here at the eleventh hour. Detailed scrutiny will be required.

At that time, the RPA process was continuing, and there was an understanding that the planning process was being developed in conjunction with the 11 new council areas. In the mid- and east Antrim area, transition committee meetings had occurred with senior Planning Service management to discuss the training needs officers and councillors looking forward to the devolution of planning powers next May. All that activity was on the assumption that the 11 councils were going to be. However, that is not the case, as we know. As of June this year, the proposals for the 11 councils appear to be parked. It is surprising that, on 30 November, Minister Poots indicated that he was introducing a Bill at the earliest opportunity and:

*“In transforming the planning system, I will strengthen local democracy by devolving planning powers to the 11 new councils”. — [Official Report, Vol 58, No 4, p169, col 1].*

I find it strange to have the 11 councils regularly referred to when the boundaries have yet to be agreed. If they were agreed, I would fully understand. However, care must be taken not to invest further in an 11-council model if the boundaries are not agreed. It could be a waste of further public funding. It is important that that issue is addressed.

The Minister also stated:

*“Rationalising the six existing divisional planning offices into five area planning offices designed around the 11 council clusters will provide for an affordable, effective and consistently robust service across Northern Ireland”. — [Official Report, Vol 58, No 4, p171, col 1].*

That is a good thing to aim for but, again, if the 11 councils are not finalised or nailed down, is the Minister organising to the right shape? I do not know, and I suspect that no one knows. It costs money to adjust and reorganise, so I would have thought that there needs to be a finalising of the council structure before further investment.

In this new planning process and the structures that are being developed, there have been huge pressures on the Planning Service, as we all know, and staff are being made redundant.

Is this new system affordable? Have we got to the stage where the Planning Service is breaking even, or is it still requiring huge amounts of public funds? Is that burden to be passed to ratepayers? What will happen in the future? Clarity is needed on that issue. Let me reinforce: it is important that all the various aspects of this jigsaw come together: the financing and the shape of local government, as well as the details of the planning legislation. There is a lack of accountability in the planning system in Northern Ireland.

The Planning Service consults councillors and councils, but, ultimately, councils have no powers, just a limited right to delay and, perhaps, defer a decision or to bring forward some additional points. Very rarely does a dissension at council result in a change to a planning decision. Councillors are in the worst of all worlds. They are often blamed for bad decisions but are powerless to stop them being made. It is important that an education process operates in tandem with the new legislation so that everyone involved in it understands their role. Likewise, it is important that the public understand the legislation and role of everyone involved.

An enormous amount of work will be required before planning can be devolved to local government. As I said, the first thing that should have been done is the finalisation of the 11-council model or some other model. A question arises over whether the Planning Service can be devolved to the 26-council model as it currently exists. If it can, what additional costs would be involved? As I said earlier, the issue of training must also be addressed.

Another important aspect is the additional demands that will be made on councillors' time, knowledge and understanding in such a system. As someone who has decided not to stand for re-election in next year's local government elections, I have to say that those who intend to continue with their dual mandates as councillors and MLAs and who choose to double-job must take cognisance of the additional time pressures that will exist in the new system so that they can carry out both duties effectively. However, I wonder whether that will be possible in the long term.

The Minister of the Environment and his predecessors have had three and a half years to do something positive about local government reorganisation and planning reform, yet here

we are now, with very limited time left in the life of this Assembly and with huge pressure being placed on the Environment Committee to carefully scrutinise this Bill, which it must do. I hope that there will be no undue delays in that process. I hope that the public will have an adequate opportunity to feed into the scrutiny in order to help to identify any flaws in the Bill. It is very easy for a drafting error to be made or for something to be hidden away that someone has not seen. So, I hope that those who have a particular interest in this area will look carefully at the Bill and communicate with the Environment Committee as it scrutinises the Bill so that it can be improved upon and so that we get the best Bill that we can.

I emphasise that full public scrutiny should occur. It is required, and it is essential that the Environment Committee does not skim over this. The hours will have to be put in, and only time will tell whether we have sufficient time left in the life of this Assembly to enable that to happen. I hope that the Committee will be able to achieve that objective. I wish the Bill well.

**Ms Ritchie:** There is absolutely no doubt that this legislation on planning matters is significant and quite hefty. Those of us who are public representatives — some of us have been for a considerable time — know that the current planning system is cumbersome, lengthy and tedious. There are considerable delays in processing planning applications, whether for a single dwelling in the countryside; an extension to a dwelling; a simple porch or sunroom; a major planning application for a housing development; a manufacturing complex; or a business or retail outlet. Those considerable delays have had a major impact on the economy right throughout Northern Ireland.

That was always the anomaly in the Executive's number one priority of promoting the economy while we had a planning system that was difficult, tortuous, tedious and cumbersome. In some respects, it is welcome that we are seeking to reform that planning system. However, with that welcome comes considerable caution.

### 3.30 pm

We are deeply concerned about the impact of some of the Bill's provisions surrounding the review of public administration and linked directly with equality provisions, enforcement and staffing. I feel that the Minister has put the cart before the horse. I do not necessarily

question his political judgement, but what is the Minister really about on this issue? I suggest to the Minister that it would have been much better and more politically correct had he brought about planning reform in the context of the review of public administration. Is it the Minister and the DUP's tactic to introduce RPA via the back door? The Minister must answer that serious accusation, because that is what is being said out there in the wider population. We all know that progress in implementing the review of public administration has stalled, and it is worrying that the Minister appears to assume that planning reform can be implemented under an 11-council model, when delivery on RPA is no closer. In fact, it seems further away. Obviously, neither the DUP nor Sinn Féin was able to come to a particular conclusion.

Although we in the SDLP accept that reform of the planning system is necessary, this raises serious concerns about whether the DUP is trying to introduce, as I said, RPA through the back door by, again, putting the cart before the horse and without accepting what we feel are the clear stipulations that we put down in the past in the Committee, in the Chamber and in other places on governance, equality, costs and other key principles. Unless we have those in place, we will not have a proper and equitable local government system that is fair to everybody.

**Ms Ní Chuilín:** I may be interjecting too early, but I am interested in the Member's views of her party's concerns around equality, particularly in local government, when, as Minister, she was prepared to transfer neighbourhood renewal to local government without implementing those equality mechanisms. I would like to hear her thoughts on that.

**Ms Ritchie:** I thank the Member for her intervention. However, as she will understand, the debate is clearly about planning and local government. Planning has been a contentious issue for many years in local government. As the Member is only too well aware, it is an issue that has been bedevilled by political considerations. In my previous role, I did not take lightly my decisions on neighbourhood renewal. I was thinking clearly of the community and the capacity of councils, in that particular instance, to deal with them. However, when dealing with planning, we must have all the

equality, equity and ethics provisions in place. To date, I have not seen those.

We are also concerned about the impact that transferring planning functions will have on local government if sufficient resources are not also transferred. My colleague Mr McGlone, a Member for Mid Ulster, asked on what basis the Department could claim that, as a whole, the proposals in the Bill will be cost-neutral to the planning system. So far, we have not seen any demonstration of that, and we would like the Minister's view on that and his answer to the question.

In fact, I have submitted questions to the Minister on the Bill's equality provisions. We need very certain assurances on those issues. Those guarantees were hard fought for way back in 1973, at the time of the Macrory model of local government. The principles of equity, equality and power sharing have to be enshrined in any system for it to work properly, effectively and in the best interests of the community.

Another issue is third-party appeals. Way back in 1995, in another place, the second report of the Northern Ireland Affairs Committee — its first was about the economy — was on the planning system and the need for reform. One of its recommendations was that there should be a third-party appeals system. It is laughable but also quite sad that, some 15 years later, the Minister has still not adopted the report's recommendation, which clearly stated the need for a third-party appeal.

Another issue relates to the parallel document on the reform of planning and local government about which the Minister issued a statement several weeks ago. It is do with the status of the divisional planning office in Downpatrick. I tabled a question asking the Minister to confirm its status because, like my constituency colleague Mr Wells, I am deeply concerned about the dilution of that office, and I question the political reasons for it. It raises a host of implications for the location of staff, the distance travelled to work and the Executive's commitment to decentralisation. We can see clear echoes of the Minister of Finance and Personnel's rejection of Bain without Executive agreement. If equality provisions and proper governance and ethical arrangements are to be in place and if we are to take on board the need for rural proofing and the principle of local accessibility to services, rural areas must be serviced in the same way

and must have the same access to Planning Service as urban areas.

There must be a consistency of approach across councils. Strict guidelines and appropriate checks and balances are necessary to ensure that all local planning decisions are compliant with regional policies and are applied consistently across all council areas. For far too long, planning officers made inconsistent planning decisions. That happened regardless of whether it was an application for a single house in the countryside, a major planning application or an application for mineral development that was assessed at headquarters. When the decisions of different planning divisions on similar applications were compared, the respect for the countryside or the needs of applicants was not always uniform. There must be consistency.

Finally, strict procedures, guidelines and oversight mechanisms must be developed and put in place to ensure that nothing untoward happens and that the best decisions are taken on the basis of planning reasons alone. The best equality measures must be put in place, and there must be proper respect for the environment and for community aspiration and identity.

**Mr Humphrey:** I support the Bill. I am not a member of the Committee for the Environment, but I declare an interest as a member of Belfast City Council. Many Members will have served or continue to serve in local government. It is clear that the planning system is slow and defective, and it has lost the confidence of elected representatives and many in the wider community.

Development is important. However, development after proper consultation is what we need here. Earlier today, I had the opportunity to meet some residents from the Ligoniel historical group, which is based in Ligoniel village in North Belfast. They were speaking to me about new housing developments in that part of the constituency. They feel that they have not been properly consulted about the construction of over 200 new houses, with few or no amenities for the community that has to live beside them. They also feel that there has been scant regard for their views and concerns and that the village has been destroyed. Huge damage, which is irreparable, has clearly been caused to the environment in that area.

As a fairly new Member of the House, I was disappointed when I listened to the media, as I have done in recent years, and heard Members talking about this Bill being brought to the House too close to the end of the mandate, even though there are 14 weeks of work still to be done. The general public will not understand that, given their perception of this place, nor will the media, which have been unkind to the Assembly at times. We need to bear that in mind.

As someone who sits in local government but not on a planning committee, I hear clearly the frustrations that local councillors have with the process. Locally elected representatives are basically ignored and feel powerless in the whole scenario. As Mr Beggs mentioned, many times, local councils get the blame for decisions that are not theirs to take. Effectively, all councils have the power only to defer decisions. It is, therefore, a good thing and important that new powers be given to elected representatives in the new councils.

I will give Members an example of a ridiculous decision that was taken in Belfast. The Aurora building, which was to be built on Great Victoria Street, had the backing of all six parties in Belfast City Council. It was agreed unanimously, and the leaders of the six parties met the planners. The building would have been hugely significant and would have provided a major boost to the construction industry and the local economy and secured jobs for hundreds of people. However, the application was flatly refused, even though every elected representative in the civic government of the city supported it. The system simply does not work, and reform is, therefore, essential. As other Members said, training for local councillors is also hugely important to ensure that those new powers are managed properly and that decisions are reached properly.

As someone who is keen to protect the built heritage of our city, I welcome the more than 20 clauses that will protect older buildings in Belfast. Sadly, many such buildings have been lost due to blight and the Troubles. The clause that makes provision for enhancing conservation areas is hugely welcome. Areas around Queen's University and St Anne's Cathedral will be protected, and any work done there will be sympathetic to the construction and architecture that currently exist. The clause that makes partial demolition an offence is also welcome.

We must be pleased about that, because we have lost too many old buildings.

I am also concerned — I welcome the Minister's presence in the Chamber — about older buildings that leave public ownership when people purchase them for £1 and then do nothing with them. In my constituency, Crumlin Road courthouse and Carlisle Memorial Church have not been developed and are falling into disrepair. Another winter will pass and the elements will affect those two beautiful buildings, which must be retained. Even closer to where I live, the house of DI Nixon, a former Member of this establishment when it was a Parliament, has been allowed to fall into disrepair. That building was of significant historical interest and importance to the greater Shankill area, but it has now been flattened and will be replaced with inane, nondescript apartments. Of course, across the city, we have lost lots of detached and semi-detached dwellings that were destroyed during the building boom for the erection of more apartments, many of which lie vacant. There has to be a joined-up approach, and I welcome the Bill and what it will do.

### 3.45 pm

I have listened to many members of my council, particularly those who represent east Belfast and south Belfast, talking about how the lack of planning affects their constituency. In particular, they talk about houses in multiple occupation and the effect that irresponsible landlords have in areas such as Laganbank. The planning powers to address those concerns are simply not there.

In the 1970s and 1980s, as the Northern Ireland Troubles continued, planners and government were understandably happy to see new buildings being erected. Many such buildings can be seen across the world; they have no architectural merit and bring nothing to this city. Indeed, many of them have been replaced. To ensure that new buildings boost cities, towns and rural areas across Northern Ireland, we need to put in place a quality planning system, and the House supporting the Bill will enable us to get to that point. We have to learn from the mistakes of the past. I support the Bill.

**Mr Dallat:** At this late hour, all the good wine has flowed. The term "not fit for purpose" has been used several times. I remember that that phrase first got into legislation when the Government felt it necessary to outlaw the sale



of dodgy goods. The present planning laws fit into that category: they are not fit for purpose. That is one very good reason to support the proposed legislation. However, with 248 clauses, we need to be assured that we will have time to deal with it, even if we meet on Christmas Day, which I can assure Members is on a Saturday, rather than a Sunday.

The Bill must address many issues on which the existing legislation is deficient. The SDLP will only endorse legislation that is fit for purpose and faces up to the issues of the past, which we have discussed on many occasions here, in the Environment Committee and across the 26 council areas. Of course, the Department claims that only 40 clauses contain anything new. However, I am intrigued by what is not in the Bill. To give universal support to this bulky document would be a bit like going on a mystery tour without knowing the destination. Indeed, for those who live in or around Portrush, it would be like going on the ghost train, with all the spooky images of what might jump in front of you. We have been there before, and we are not going back.

The review of public administration has come up time and again, and understandably so, because it was always understood that the new planning legislation would dovetail nicely with the RPA, which the Minister has not been successful in implementing. I cannot find anywhere, for example, anything saying that minorities will be protected by the new councils. One new boy who has yet to get a mandate told us that that is OK and, if we believe what we hear, it will happen. As an old codger at this game, I have been there before, and I am not going back. I want things in writing and in legislation.

The Minister told us a few times that the Bill must be cost-neutral. With Sammy Wilson as Finance Minister, I can understand why he would want to say that. However, unless Santa comes early, somebody will have to pay for it. I can see the local ratepayers getting another thumping at a time when they cannot afford it. If central government is going to change the laws, it must pay for that rather than passing the cost onto ordinary people who are struggling for survival.

We need to know whether there will be 11 councils or 26 councils. Has there been some secret agreement that the SDLP does not know about? I suspect not, but I know that there are rumours about all sorts of dodgy deals. Nevertheless, we have no agreement on the

number of councils. Having served on one of those councils for 33 years — I know that you are a member of the same council, Mr Deputy Speaker — I would not sleep at night if I thought that it had control over planning. We all know what it did in the past. There should be no planning by the back door.

My party leader and other Members talked about third-party appeals. What say do people who make third-party appeals have? If the Minister lived on the north coast, he would see the bad planning in Portballintrae, Portstewart and Castlerock and even over the border in Donegal. Communities were ripped apart and devastated, and the people who knew about that and had made third-party appeals had no say whatsoever. Very often, the arguments in the council chambers were that certain developments would create employment and bring millions of visitors into the area and the shops would be bustling. That did not happen. In recent times, even the people who lived in those villages have left them because there is no one to talk to. The Minister will probably tell us that there is some other mechanism to deal with that issue. However, it is all encompassed in planning.

It is not just seaside resorts that have been the victim of bad planning. Town centres across the North are suffering serious decline because of reckless out-of-town planning that sucked the life out of them and left no provision for their reinstatement. God knows, I know of plenty of examples of that, such as Dungiven, and the same thing has happened in parts of bigger towns, such as Limavady and Coleraine. We are all up for planning reform and the sooner the better, but only after full scrutiny, consultation and the best resources being made available to ensure that future planning is fit for purpose.

**Mr Callaghan:** Does the Member find it incredible that the Minister is asking that this hefty tome be passed through the Assembly's statutory processes by the end of March 2011, which is, as a Member from the Minister's party informed us, 14 working weeks away? The High Hedges Bill, which, I can reassure any Member who has not seen it in a while, is but a fraction of the size of the Planning Bill and has far fewer fundamental implications for the future of our community, has been with the Committee for the Environment since May 2010. By my rough calculations, that is more than 20 working weeks of Assembly time, allowing for recesses



and breaks in the interim. Perhaps the Member can tell me how he can square the circle of processing this Bill by March 2010, with all the implications and detail that that would require, when the High Hedges Bill has taken even longer to pass through the same Committee?

**Mr Dallat:** Another colleague, who is sitting in front of me, recently used the expression, "That does my nut in", when he was talking about having to wear his tie. If I see the High Hedges Bill again, it will do my nut in. We have been obsessed by it, and yet, as Pól quite rightly points out, we have extremely limited time in which to deal with the Planning Bill, which is a hefty document.

Somebody referred to jigsaws, which was apt. The Minister has the missing part of the jigsaw and, until he gets it out from under his table, he cannot really expect there to be an awful lot of confidence in what is happening. We need to be certain that planning is open, transparent and accountable, and, as Members have said, it has to pass the equality tests enshrined in legislation. We have listened to empty promises before and will not do so again. The SDLP is, without a doubt, up for it. However, as I said, we will not go on that mystery tour, will not go on the ghost train in Portrush and will not buy a pig in a poke. Having memories like elephants, we still have nightmares about the past, when the table at which decisions were made was behind closed doors. Very often, those were not the closed doors of local friendly councils.

**Mr B Wilson:** The Planning Bill is probably the most important Bill to come before the Assembly, as it will affect all planning decisions for decades to come. To develop our economy, we need a new planning system, as the present system is not fit for purpose. No one is happy with the present system, whether they be developers, councillors, environmentalists or residents. In saying that, I do not blame planning staff, whom I have always found to be efficient, helpful and very professional.

The planning system was drawn up to address the problems in Northern Ireland in the 1970s. The system is unnecessarily bureaucratic, lengthy, inflexible and undemocratic and is not suitable for the twenty-first century. It is necessary to carry out a fundamental reform of the system, and, therefore, I welcome the Bill. However, given its size and scope, it is disappointing that the Bill has been introduced

so late in the session. Like Members who spoke previously, I am concerned that we will not have adequate time to debate many of its important clauses and will not be able to hear from as many of the stakeholders who want to give evidence as we would like.

I declare an interest as a member of North Down Borough Council for the past 30 years. In that time, I have probably dealt with 30,000 planning applications, attended hundreds of site meetings and given evidence to dozens of Planning Appeals Commission inquiries. I have experienced all the frustrations of the present planning system. As a result, I have no doubt that there must be major reform of the system. It is undemocratic, and there is great frustration among councillors and the public, whose views are often ignored.

I shall give a recent example. The Planning Service has failed to protect our built heritage. Over the years, I have sat in the council chamber as hundreds of applications were approved that were, in fact, acts of environmental vandalism. In many cases, the applications were opposed by every member of the council and hundreds of objections were submitted, yet planning permission was still granted. That cannot be acceptable.

**Mr McGlone:** Does the Member accept that the Planning Bill does not alter policy but merely changes the venue for decision-making? The policies will remain the same. I am not making an argument for the policies to be adapted and changed by councils. However, the policies will remain the same: a different outfit will simply make the decisions.

**Mr B Wilson:** I accept that the policies will remain the same. However, councils will have new impetus, and there will be a different emphasis on making early decisions and on improving the decision-making process.

**Mr McCarthy:** Correct me if I am wrong, but the Minister said that, although the 11 new councils will make the decisions, the DOE can, at the end of the day, have the overriding power to make an alternative decision.

**Mr B Wilson:** I thank the Member for his intervention. There are issues with the details and with exactly what decisions the Department will retain. It is important to clarify those matters and to outline how the Department can call in different applications.

As a result of the present situation, we in north Down have seen leafy suburbs destroyed and turned into concrete jungles, picturesque villages dominated by apartments, and mature native trees felled to enable another row of townhouses to be crammed in. Although I support the return of planning powers to councils, it is essential that there are appropriate safeguards to ensure that the powers cannot be abused by councillors. I will come back to that point later.

#### 4.00 pm

I have some concerns with the Bill. Although it is full of aspiration to achieve a new efficient Planning Service, there are few details of exactly how that will be achieved. The role of planning is to facilitate development while protecting the environment. In the Bill's explanatory and financial memorandum, there is much emphasis on efficiency and effectiveness but little on protection of the environment. It is not clear that the Bill has got the balance right, and it appears that it has not, because no provision for third-party appeals is included. Ms Ritchie raised that issue. The legislation is biased in favour of applicants, who are given the right of appeal to the Planning Appeals Commission. Even if objectors have the full support of the council, as has been the case on many occasions in north Down, they have no right of appeal. The new Bill should have included third-party appeals to give equal rights —

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

**Mr B Wilson:** Yes.

**Mr Beggs:** The Member said that, even if the objectors were to have the full support of the council, they would have little power, and the application would still go through. Does he agree that, under the new system, that would change and that, if the full support of the council were with an objector, permission would not be granted on planning grounds?

**Mr B Wilson:** The present system is undemocratic, and I hope that the new system should be much more democratic. I welcome the transfer of enforcement powers to local councils. That will be welcomed by residents.

There is a widespread public perception that the Department does not have the will or the resources to take action against breaches of planning law. In fact, there is a massive backlog

of enforcement cases that could be resolved if adequate resources were made available. If the Department had the will, some of the surplus planners who are now being redeployed or made redundant could be allocated to clear up the enforcement cases. Two years ago, I raised the case of trees that were felled at Myrtle Lodge, Bryansford, in Newcastle, even though they were covered by a tree preservation order (TPO). That case has not yet been resolved. There is a backlog with enforcement, and more resources could be given to that.

I have no doubt that, if that power were transferred to councils, they would take much more energetic action. The failure to reach early resolution on such cases reinforces the public perception that developers can get away with ignoring environmental laws. The transfer of responsibility for enforcement to the councils will help to restore public confidence. Will the Minister confirm that the full power to prosecute under TPOs will be transferred from the Department to the councils?

I support the Minister's decision to go ahead with the proposals on the basis of the existing 26 councils — an issue that has been raised on a number of occasions. It is perfectly acceptable to go ahead with the 26 councils. As I have argued on many occasions, the RPA has failed to meet any of its objectives. In particular, it has failed to identify any significant savings and would cost £150 million upfront to implement. To go ahead with reorganisation now would be financially irresponsible and result in large cuts to other services. The reforms can apply just as easily to the 26 councils, and I support their going ahead.

I wish to raise a number of issues relating mainly to Parts 2 to 5. The Green Party welcomes Part 2, which concerns local development plans. There should be more local and council involvement in the preparation of local development plans. The involvement of the council and the preparation of the statement of community involvement will give local people more influence and ownership of their plans. However, it is essential that local councils co-operate in the drawing up of plans, particularly in the greater Belfast area.

A major development in one district council area can have a significant impact on neighbouring council areas. Under the new Ards area plan, for example, there is a development of thousands

of houses on the Bangor side of Newtownards. The people who live in those houses will use the Rathgael Road in Bangor, which is already gridlocked, to get to Belfast. Ards Borough Council is improving thousands of houses, but the infrastructure that those houses require is in Bangor. Therefore, when drawing up those types of plans, consultation should take place between councils.

**Mr Callaghan:** Does the Member agree that, if such proposals were to go ahead in border areas, it may be useful for there to be a statutory duty for councils to consult with the planning authority on the other side of the border, just as would happen within the Northern Ireland region?

**Mr B Wilson:** I thank the Member for his intervention. I am not sure whether we could enforce a statutory duty. However, it would be a good code of practice to consult other councils across the border.

We must learn lessons from BMAP and not ignore our experience. Each council is responsible for the delivery of its own plan, but should consult neighbouring councils. I am pleased that clause 17 provides for that option.

The present situation in north Down is totally unacceptable. The previous north Down and Ards plan expired in 1995 and is now 15 years out of date. We still await the completion of BMAP, which will supersede that. The draft BMAP plan sets out measures, such as those that councils have been talking about, to protect our local villages, and it designates Helen's Bay and Crawfordsburn as areas of village character. Those measures were included in the draft plan that was published in 2004 but is not yet in operation. Over that period, a number of architecturally important houses have been demolished and replaced by apartment blocks, and we lose more and more of our built heritage every year. If BMAP is not adopted soon, there will be nothing left to protect. That would not have happened if North Down Borough Council had had the responsibility of drawing up the plan.

We support Part 3, which details the transfer of planning control to councils. However, we have reservations and will require some assurances on whether the necessary safeguards have been provided to prevent the abuse of power.

If the transfer of planning control to councils is to be successful, it will require a total

transformation of the culture and role of the councillor in planning matters. It would be unacceptable for a councillor to campaign for a particular planning application at the same time as being involved in the decision-making. Members of planning committees cannot be seen to be biased in making their decisions.

As other Members said, there must be intensive training for councillors. Members of planning committees, for example, should not discuss planning applications or give any opinion prior to hearing the evidence of the committee. There must be no whipping system or attempts to pressurise planning officers. A code of conduct based on the Nolan principles should be drawn up. Councillors must be impartial and perceived to be impartial. Anyone involved in making planning decisions cannot take part in the campaigning in which all councillors are, at present, involved. Councillors involved in planning decisions must keep above the debate until they hear the evidence. That way, those councillors will be perceived as being impartial.

The emphasis in Part 3 of the Bill appears to be on getting quicker decisions. However, previous experience shows that, in cutting the time required, one reduces the opportunity for consultation and limits the power of objectors. Therefore, that emphasis should be balanced with a more comprehensive form of neighbourhood notification and the requirement to post a notice of planning application on the site, as is the case in the Republic of Ireland and in some parts of England.

We also believe that the legislation should include the right of the applicant and objectors to address planning committees. Indeed, that right is included in the planning legislation in Scotland and England.

Although the Bill will transfer responsibility for development control to councils, it is not clear exactly how councils will exercise that power. That raises a number of questions, which I assume will be dealt with later through subordinate legislation. However, I will perhaps put those questions to the Minister now. How will the various categories be decided? Will the practice in England and Scotland, where 90% of planning applications are decided by planning officers and never reach the full council, be implemented here? We have to decide which applications will be dealt with by planning officers and which ones will be referred to the

whole council. When the applications reach the council, will it be the full council that makes the decision or will it be a planning committee with delegated powers? Will every councillor be involved in the decision? That is an important issue. There is a practice, particularly in Scotland, whereby planning committees, which are made up of a portion of councillors, make the decisions. However, they can call for a local review if the application is turned down. Local review committees can be set up which include other councillors who were not on the original planning committee. Perhaps we should look at how councils make decisions.

Clause 30 deals with pre-determination hearings —

**Mr Deputy Speaker:** Order. Will the Member please keep to the main principles of the Bill, rather than going through it clause by clause? The Member will have another opportunity to go through the Bill clause by clause.

**Mr B Wilson:** The point that I was trying to make is that we support the principles of the Bill as long as there are safeguards, which would be included in the subordinate legislation. It is important to emphasise the need for safeguards.

We welcome the transfer of planning powers to local government. Until we feel confident enough to take over responsibility for planning, we have not reached full maturity as a democracy. Those issues should be decided by local councillors and local representatives. However, given recent controversies, I am somewhat concerned. The public perception of public dealings in the past year is one of dishonesty, and, if we transfer planning powers to local councils, we must ensure that we retain public confidence in the integrity of the planning process. Therefore, it is essential that we adopt safeguards to prevent the abuse of power. Following the rows last year about expenses and planning, the public perception of politicians is not high, and planning has always been a controversial issue.

We can look at the experience of the Irish Republic. Charlie Haughey's re-zoning, the handing out of brown envelopes and the Flood tribunal all related to the abuse of planning powers. At the time of the Macrory report in 1970, I recall evidence being given to the effect that one of the issues that resulted in the transfer of powers away from local councils was local government abuse of those powers. Therefore, councils' abuse of planning powers is a long-standing issue.

#### 4.15 pm

I hope that those details will be included in subordinate legislation, as they are important in ensuring safeguards and integrity in the planning process. Without safeguards, I would not support the transfer of planning to local councils.

I will raise many other important issues when the Bill comes to the Environment Committee. I look forward to playing a part in bringing forward the Bill, which will facilitate development for decades to come while promoting sustainability and protecting our environment.

**The Minister of the Environment (Mr Poots):** A number of concerns were raised in the debate. I hope that I will be able to deal with them comprehensively while seeking not to go on too long.

The first issue that was raised was timing, which Cathal Boylan and a series of other Members discussed. They asked why this is being done now. Powers will not be handed over to councils in May 2011, so what is the rush? They suggested that we should take our time, do the thing right and allow it to happen in the next Assembly term. I make it clear that I am a reforming Minister. We were sent to the House to make changes. The end of a four-year Assembly term is coming up in April 2011. How many changes have been made? The public are looking to see the added value of devolution. What are we doing that would not have been done under direct rule? I, for one, intend to give the public something to think about. I will not be a Minister who has sat for a number of years without delivering very much. *[Interruption.]*

**Mr Deputy Speaker:** Order.

**The Minister of the Environment:** Therefore, I do not make any apologies for the fact that the Environment Committee has been the busiest Committee in the House. In fact, I am being good to the Environment Committee. When members of the Environment Committee go to the doors at election time, they will be able to give a response to anyone who has been listening to a radio programme a lot or to something else that implies that politicians do nothing. They will be able to say that we have put through 10 pieces of legislation in the past couple of years. They will be able to say, "Minister Poots, thank you very much for giving us the opportunity to defend ourselves at the doors." I am being generous to the members



of the Environment Committee by giving them plenty of work to do. They will have a very defensible position when they go knocking doors at election time.

The Bill comes in conjunction with reforming, updating and making relevant the planning policy statements. Wholesale change to the planning system and the Planning Service will be enacted as a result of the work that I have been doing as Environment Minister. Again, it is the right thing to do.

It is not our intention for councils to take over planning in May 2011. From listening to Ms Ritchie and others, I thought that we were back to the days of McCarthy in America. They see reds under the beds everywhere. I assure the House that the Bill is not about DUP policy. A lot of it comes through the Department and is basic common sense. Powers will not be handed over to the councils until we work on the local government (reorganisation) Bill. Anyone who was in the House a number of weeks ago will know that we cleared that Bill to go out for public consultation. It will be able to be drawn up as legislation and can then proceed early in the lifetime of the next Assembly.

There is a difference between the proposed legislation to reorganise local government and the Planning Bill. If it goes through, there are actions in the Planning Bill that will be very helpful to the politicians in the Chamber and the people whom they represent. For example, many of the area plans are out of date. It currently takes an average of six-and-a-half years to do an area plan.

Mr Beggs mentioned the Belfast metropolitan area plan. When I sat on the Environment Committee some 10 years ago, I said that what was being proposed in the BMAP was not a good idea. We were told that the plan would be turned around in three years or so, yet, 10 years later, it has not been. Of those 10 years, the Planning Appeals Commission has been responsible for five. I am not saying that to attack the Planning Appeals Commission, because it has had a considerable amount of additional work to do and has doubled its workforce in an attempt to deal with that.

However, independent examiners should be brought in, and a proper protocol used to ensure that they have the necessary capacity and skills and do not have a particular interest. Bringing in independent examiners to do some of the work

of the Planning Appeals Commission will ensure that we get decisions from the PAC in a way that does not clog up the planning system, because the PAC will have a mechanism to offload work whenever it becomes overloaded. It is basic common sense to bring in additional help or to subcontract work to someone else. Although the PAC will and should remain the first port of call for those types of inquiries, bringing in independent examiners will ensure that the planning system does not become clogged up. It will also ensure that we do not have planning appeals or public inquiries running for 10 years. In the past, as a consequence, that meant that their relevance was undermined before the PAC reports were published.

When I said that it takes six-and-a-half years on average for a public inquiry into an area plan to be heard and concluded, I should have listed the plans that need to be replaced. The Belfast urban area plan, the north-east area plan, the Fermanagh area plan, the Armagh area plan, the Antrim area plan, the Strabane area plan and the Banbridge/Newry and Mourne area plan all need to be replaced. Thankfully, the Banbridge/Newry and Mourne area plan is moving ahead, as are the Magherafelt area plan, the BMAP and the northern area plan. We can see an end to those area plans in sight.

Should we decide to sit on our hands and say that we are not proceeding with the Bill? If so, dear help the folks in Fermanagh, Armagh, Antrim and Strabane, because, unless we make real changes and have the opportunity to make them, they will not see area plans for a very long time.

Timing was mentioned. Rowel Friers could have had some fun with some of the Members who spoke. I can picture him drawing them dressed in their Santa costumes, on a carriage towed by a couple of snails, saying, "Whoa, boys! Take it easy. Slow down, now." We have work to do in this House. Let us get on with that work.

Mr Trevor Clarke was a bit mean-spirited in advance of Christmas when he said that he wants only Christmas Day and Boxing Day off. They fall on a Saturday and a Sunday, while New Year's Day also falls on a Saturday, so I thought that I would be generous and give the Committee New Year's Day off as well. Therefore, I am being even more generous than Mr Clarke by allowing Committee members additional time off over Christmas.



To be serious, we have until 14 or 15 February to turn this around. I know that that is challenging and that I am asking a lot of the Environment Committee, but I honestly believe that it is in the best interests of this little country and its people, whom we are here to serve, that we get this work done and demonstrate that we are making decisions that benefit the wider public.

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

**The Minister of the Environment:** Yes, and I am happy to give way to any Member who asks. Mr McCarthy asked me to give way during my opening statement.

**Mr McCarthy:** I cannot remember what I was going to ask.

**The Minister of the Environment:** You may remember later.

**Mr Kinahan:** I welcome what we have heard from the Minister, but, as I understand it, the reason why we are being given the Bill now, with so little time, is so that we can get those area plans working. Will you promise that it will be pushed through and that it will replace those area plans so that they are working at the earliest opportunity?

**The Minister of the Environment:** The legislation gives us the ability to deal with the area plans much more efficiently than is currently the case. I will go through the issues that were raised. With regard to whether the legislation can be got through before dissolution, I wish that it had come before the House much earlier. I have control over a degree of that, but a degree of that is out of my control, because you have to get Executive approval. I would have much preferred the reorganisation Bill to have been done in conjunction with this Bill, as opposed to waiting until afterwards. However, we can do the Planning Bill first. We can bag it, and then do the reorganisation Bill, which will bring in the governance and ethics issues before the transfer takes place. All of that can be done. In this process, not every piece has to be on the same train track at the one time.

Although I accept that the timetable is tight, and I appreciate the work that the Committee has done thus far and the heavy legislative programme that it has, the public has an expectation that we in this House deliver, and it is important that we send out that message. If that means working additional hours and

extra days in the week on the Environment Committee, it is well worth doing and it is a good message to be sending out.

A number of weeks ago, someone spoke on the radio about the House closing down at 2.00 pm or 3.00 pm on a Monday afternoon. I suspect that we will not be closing at 2.00 pm or 3.00 pm very often come January. It might be 2.00 am or 3.00 am, as opposed to 2.00 pm or 3.00 pm. However, my officials have also had a considerable amount of work to do in drawing up the 10 pieces of legislation, and they will continue to work closely with the Environment Committee and seek to facilitate the good staff in the Committee through the process as best they can with the issues that are raised with us.

With regard to the need for equality, as I said, I launched policy proposals on 30 November. Those looked at new governance arrangements, aiming to ensure that councils operate to high standards, that they pursue equality and fairness with a framework of checks and balances, and that there is openness and transparency in the way that they conduct their business. They are looking at an ethical standards regime for local government, a mandatory code of conduct for councillors with supporting mechanisms for investigation and adjudication of appeals. One section will be dedicated to planning. The code will also be supplemented by guidance for councillors when dealing with planning matters. That will include issues such as lobbying of planning officers by councillors.

A statutory planning audit function is included in the Planning Bill. Councils will have to comply with all the equality legislation, and, as public authorities, councils are subject to sections 75 and 76 of the Northern Ireland Act 1998, to the Human Rights Act, and to the other anti-discrimination legislation.

With regard to how we link the legislation with the local government reform proposals, we have to make certain assumptions. Planning reform can go forward on the twin track. Planning can transfer to the 26 councils or the 11 councils when they are established. It can be transferred seamlessly from the 26 councils to the 11 councils in 2015, as I trust that the review of public administration will be complete by that point.

We also looked at capacity building for councillors, and a number of Members raised that issue, including Cathal Boylan, Willie Clarke, Paul Givan and Anna Lo. The Department recognises that

there is a critical need to ensure that there is sufficient capacity of all key players and stakeholders if the benefits of the reforms are to be realised. We are already making progress through the introduction of streamlined council consultation and early work on development plans. The Department will continue to work with other sectors, particularly through the local government reform implementation structures.

**Ms Ritchie:** I thank the Minister for giving way. Will the Minister confirm how those checks and balances will be put in place and implemented? It would be greatly appreciated if he could clarify that further. Could he also clarify the position of Downpatrick divisional planning office in the new arrangements?

#### 4.30 pm

**The Minister of the Environment:** I am happy to come to the matter of the Downpatrick planning office.

We will have a local government ombudsman to deal with governance issues. Each council will have a standards and privileges committee, much like the House. Should it not be able to deal with an individual, the matter can be sent to the ombudsman. That can be dealt with through a suspension from the council or a five-year ban on standing for election to the council. Substantial and strong legislation is to be introduced through the local government (reorganisation) Bill and subordinate legislation, which can deal with those issues.

The Downpatrick office will remain open. It will be a sub-office of the Craigavon office and will take on responsibility for the current Down District Council area and the Newry and Mourne District Council area. Yes, there will be upheaval and staff changes. Some staff will move to Belfast to deal with planning applications from Ards, north Down, Castlereagh and Lisburn. Other staff will move from Craigavon to Downpatrick. There is no intention whatsoever to close the Downpatrick office. The proposals being made can be rolled out to either 26 or 11 councils.

**Ms Ritchie:** I thank the Minister for again giving way. Will he confirm the staffing implications of making the Downpatrick office a sub-office?

**The Minister of the Environment:** The divisional planning officer will be based in Craigavon, with the sub-office in Downpatrick. Obviously, the complement of staff that is required to deal with

Newry and Mourne District Council and Down District Council will be the staffing complement. That will be a reduced staffing complement from what is currently the case. However, there is no intention whatsoever to close the Downpatrick office, and there will be a fairly significant complement of staff in that office.

I understand why the Member raised that issue, and she is quite right to do so. Mr Wells already raised the issue with me. I understand that there is concern in the Down District Council area about any reduction in services. We already had the issue of the hospital and so forth, so there is a sensitivity there.

The actions that we are carrying out mean a reduction from 10 divisional planning officers, or that equivalent role, to five. Someone said earlier that that rationalisation will cost us money. It is saving us £677,000. We are also saving a considerable amount of money by the reduction in planning staff that has taken place. We raised fees by 15% last year, and a further 2.9% this year. We intend to restructure fees, which will bring in a further £3 million to £4 million.

All those mechanisms are being put in place to ensure that when planning powers are ready to be handed over to local government, they will be financially capable of providing that service without placing an additional burden on the ratepayers, which is not what we are about.

I was dealing with the issue of capacity building for councillors when Ms Ritchie asked me to give way. I wanted to say that other bodies, such as the Royal Town Planning Institute, are considering their role in how that is played out. They are prepared to assist us in training councillors.

There is also work to do with individuals who lodge planning applications. I know from personal experience, and from the experience of many Members, that people who lodge planning applications and take fees off the public do not always serve the public well.

Very often, councillors sort out planning applications — and receive no fee, I might add — but those who are paid to do the job do not do it particularly well. When we work through all of that, there may be an opportunity to ensure that there is a means by which to address the issue of individuals who do not do a good job for the public.

It will be up to councils to drive forward local development plans as quickly as possible. Each council will be required to agree with my Department a timetable for the adoption of its local development plan. That will specify key milestones and timescales for the plan preparation process. Adoption of the plan strategy will be a particularly important milestone. Councils will be expected to progress their plans in accordance with their timetables.

Local development plans will be monitored and kept up to date. Councils will have to review their plans at least once every five years to see whether any changes are required. If a review identifies that changes are required, a revision to the plan should be made. For major revisions, it may be necessary to replace the whole local development plan. However, when more minor changes are required, the local policies plan could be altered as long as it did not deviate from the planned strategy. Those measures allow for adjustment to the local development plan to be made in a timely manner.

Mr McGlone raised the issue of the appointment of independent examiners and how that would be done. The Department sees it as critical to have the flexibility, which I referred to earlier, to appoint external examiners, regardless of the resources that PAC may have, as there may be unforeseen circumstances in which large numbers of plans are submitted at the same time. The Department will bring forward a process for appointment of independent examiners that will ensure that they are appropriately qualified and, indeed, independent.

Mr McGlone was one Member who raised the issue of potential for joint plans. If two or more councils wish to prepare a joint local development plan that covers all of their districts, they are free to do so. They can choose to prepare a joint plan strategy, but separate local policies plans, or they could prepare a joint full local development plan. The Department will also have the power to direct two or more district councils to work together to prepare a joint plan. That power is required in the event that council districts are so closely linked functionally and spatially that it is necessary for them to work together. The Department would consult the councils involved before it issues any such direction.

As regards transitional arrangements, it is important that there is a smooth and effective

transition from the old plan system to the new system following the transfer of planning functions. Subordinate legislation would be put in place to ensure that.

Oversight of plans was raised by Anna Lo. There are occasions when the Department would be required to take action at particular stages of the plan preparation process. That would be required for the preparation of the timetable, when the Department and the council must agree the terms of the timetable. A departmental direction would also be required prior to the council's adoption of a development plan document.

In addition, there may be instances when the Department considers it appropriate to be able to intervene, if necessary, in the local development plan process to ensure orderly and consistent development of land and the planning of that development. That could take place in two ways. The general intervention power would allow the Department to intervene where it considers it necessary. For example, it may intervene before the development plan document is submitted for independent examination, if it requires changes to be made. The Department would also be able to exercise its default power to take over plan preparation when it considers that a council is not making satisfactory progress. Those powers of intervention and default could be used at any time in the plan preparation process. However, it is expected that they would be used rarely and only as a last resort. The intervention powers are similar to those in other parts of the UK jurisdiction.

Another issue is how that is linked with community planning, which is another essential part of the RPA process. It could, probably, be delivered by the 26 councils in advance of the transfer to 11 councils, and that could be very effective.

One of the functions of the new local development plans will be to deliver the spatial aspects of the community plan. It has also been decided to put in subordinate legislation a requirement on councils to take into account the community plan in the preparation of the local development plans.

I move on to the hierarchy and the rationale behind the creation of the three-tier hierarchy. There was a feeling that many developments were going through the planning system in an undifferentiated way. A planning application for a porch, for instance, was going through

with an application that could create several hundred jobs. We felt that we had to look at developments differently, according to their importance and complexity. The Department will deal with the regionally significant applications in a similar way to the current article 31 developments that the strategic projects division at headquarters deals with. Beneath that, will be the major applications. Those applications seem to be taking longer than they should to go through the planning process. You all complained to me about it, so let us do something about it. There will be a strong definition in the subordinate legislation as to what constitutes a major application. Beyond that are the local developments, which make up the bulk of all planning applications received. It is considered that the process for those should mirror their relative simplicity, including proposals for schemes or officer delegation, and the hierarchy aims to address that.

I move now to the development management and how pre-application consultation will work. That is a fairly critical issue, because planning is vitally important to the ordinary folk on the street. It is important to the Northern Ireland public who elect us to serve them and to deliver for them. Developers will engage with the local community over a minimum 12-week period on major or regionally significant planning applications. The planning authority will advise the prospective applicant on whom they should consult and on what form that consultation should take. The planning authority is the local council. When the application is submitted, it will be required to be accompanied by a report showing how the developer approached pre-application consultation and how they amended their proposals to take account of the views expressed. If the planning authority does not feel that the applicant has done everything, it can request more information. If the developer does not provide the correct information, the planning authority can decline to determine the application.

Pre-application discussion will give communities a real opportunity to influence the detailed content of planning applications that affect them and it will require a significant cultural change on the part of the development industry.

I have no intention of the pre-application discussion becoming a box-ticking exercise for developers. It needs to be a meaningful consultation in which real and significant

problems are identified and real and significant changes are made to make the planning application broadly acceptable.

**Mr McCarthy:** This is not the question that I wanted to ask originally but is on the point that the Minister has just talked about. I speak as a councillor with 25 years' experience on Ards Borough Council. Experience tells me that, when developers are refused planning permission, even when they have consulted, they go back and consult again and again; they do not give up consulting until they get what they want. Is your new Planning Bill —

**Mr Deputy Speaker:** Will the Member refer all remarks through the Chair?

**Mr McCarthy:** Sorry, Mr Deputy Speaker. Will that be allowed to continue with this Bill? If it is, it will cause more expense for the ratepayer whom we are trying to protect?

**The Minister of the Environment:** Rather than ratepayers being asked for their views halfway through the process, they will be asked for their views before the process starts. That is what is important here. Before the developer can lodge a planning application, they have to engage with the public. The planning officers working on behalf of local government will scrutinise the planning proposals and the efforts that have been made with the community, and if it is deemed that the developer regarded the process merely as tokenism and a box-ticking exercise in which they wholly ignored the views of the local community, the developer will not be able to lodge the planning application.

Let the public have their opportunity, and let developers realise that the public voice will have to be heard when we are dealing with planning applications. There will be a cultural change, and it will be a shock to the system for some of those people. Some of them have already moved on and are more au fait with dealing with communities, but it will be an awful shock to the system for some, but I do not mind.

#### 4.45 pm

Some Members talked about the way in which the call-in process will be used. The nature and scope of a proposed development may raise issues of such importance that it is deemed reasonable for the Department to call in that particular application for any such development from the district council and, in effect, take over



the role of decision-making. Clause 29 of the Planning Bill will empower the Department to make directions requiring applications for planning permission to be referred to it, instead of being dealt with by the district council. That direction may be given either to a particular district council or to district councils in general and may relate to a particular application or to applications of a class specified in that direction.

The intention is only to intervene or call in an application under certain circumstances and not to cause unnecessary delay to district councils in issuing decisions. For that reason, notification criteria will be applied to certain major applications, requiring the district council to direct that application to the Department.

The type of third-party appeal that we are looking at is wholly different from what people might perhaps perceive it to be. There is a third-party appeal system in the Republic of Ireland, which we have looked at and in which a lot of onus is put on the third parties in relation to the financial burden and the potential holding back of planning applications. I think that we have devised a system where the public have an opportunity, one which is very cost-effective, to get in there at the start of the scheme and make a real difference. That is better than coming in at the end of the scheme and trying to make changes at that point.

We do not believe, at this point, given the type of third-party appeals that might be available to us, that going down the route of third-party appeals would contribute to the objectives of planning reform, would improve efficiency or processing or provide greater clarity for either the developers or the community. We think that it would be detrimental to the streamlined planning process that we have introduced, and which has been so effective. Around 50% of planning applications have been turned around in eight weeks; I am hoping to increase that to 60%. Third-party appeals would not provide value for money for the users of the planning system.

In my view, the alternative to third-party appeals is to enhance local democracy through the transfer of planning functions to councils, to have better early community engagement through the reformed planning system and to have a statement of community involvement in the pre-application discussion.

Some Members want to know what exactly the simplified planning zone means. It is a tool for

stimulating and encouraging economic growth, investment and job creation. It achieves that by granting a blanket planning permission for particular types of development. Any conforming development proposed within the zone will not require a separate planning application, thus ensuring speed and certainty for firms and businesses wishing to locate there. Simplified planning zones may be particularly appropriate for areas in need of development or redevelopment, such as run-down industrial sites and inner-city areas. We are looking at a 10-year lifespan.

It is important, particularly when we are weighing up the potential of having a lower corporation tax and trying to drive forward our economy through inward investment, that we can actually have decisions that are responsive to the needs and that we can indicate to people who are considering making an investment that they can have a decision, potentially within weeks, or certainly in a few months.

In relation to consistency in the decision-making between councils, when drawing up the local development plans and determining applications, councils must operate within the Northern Ireland-wide policy framework established through the legislation, the regional development strategy and the planning policy statements. The purpose of local government and planning reform is to make sure that local decisions are made at the local level. Councils will seek to make decisions that are right for their own areas, and there will inevitably be differences between councils in the decisions that they make.

That is what local democracy is about. I suspect that the council in north Down may have a slightly different perspective on planning from that of the council in Omagh, and the needs in north Down will be different from those in Omagh. Therefore, there will be a degree of flexibility.

As regards the affordability of the planning system, I dealt with a series of things that we are doing. The number of planning applications has dropped from almost 28,000 to fewer than 20,000, and we are attempting to rebalance the books in a very structured way. As opposed to it all coming from staff cuts, we are ensuring that equitable fees are paid throughout.

As to the cost of funding the reform, the new system will operate on the same basis as the current planning function. There will be a

combination of income-based and non-income-based funding. At this stage, it is not possible to be precise about the cost implications for a number of reasons, particularly because issues about how local government organisational structures into which the planning functions will be delivered are still to be settled. Once the future delivery mechanisms and models for local government are finalised, officials will examine the future funding of the planning system in the light of both the reform initiatives and the decisions made as a result of the review of public administration.

How do we manage the performance of the councils? I am currently consulting on a new service delivery and performance improving framework for local government. That will include a revised expansive statutory duty that currently exists for councils, requiring them to secure best value for money and to continuously improve the performance of services that they deliver to ratepayers.

In relation to planning functions, the Bill gives my Department powers of oversight and intervention. It empowers the Department to conduct an assessment of a council's performance on some or all of its planning functions, including its decision-making on planning applications, and recommendations for improvement would be published. If the council does not implement the recommendations, the Department may issue a direction requiring it to do so. In the last resort, if a council is failing in its duties, my Department could use its powers of intervention, for example, to progress a local development plan.

I turn to the issue of enforcement powers, which was raised by Mr Kinahan, Mr Boylan and Mr Wilson. Enforcement resources in the Planning Service will transfer to district councils, so we are not looking at any diminution of the resources or finances that are available. That will enable enforcement to continue effectively under the remit of the district councils and ensure a streamlined transition of responsibilities.

During the past number of years, considerable efforts have been made to improve enforcement. Strong enforcement powers that complemented those already in place were introduced in 2003 and 2006, bringing Northern Ireland broadly into line with the rest of the UK. Those provided for an increase in the fine for

non-compliance with an enforcement notice from £5,000 to £30,000. The introduction, through this Bill, of new fixed penalty notice powers, together with the new powers for charging a greater fee or multiple of the normal fee for retrospective planning applications, will help to strengthen enforcement powers further.

I have sought to cover a wide range of issues, and I trust that I have dealt with most of the issues which Members have raised in a fairly reasoned way. In closing, let me say that the Assembly has been doing well over the past number of months, in particular. A course of work is being done. We have something like 30 Bills on the agenda. There is a considerable amount of work to be done by this House. I am proud to be a Member of this Assembly, and I will be proud to defend it when people come out to challenge us. We can stand tall on our record of delivery across a range of issues.

The particular Department in which I have been asked to serve the House has sought to make considerable changes in respect of legislation and its day-to-day running. I get somewhat wearied with the number of individual applications that come to my door, because I do not think that we have a sufficiently democratic process at this point. However, in saying that I get wearied, I am not seeking to discourage Members from bringing them. It is important that they do.

However, it would be much more effective if, instead of having one person who can call in the Planning Service and ask it to explain its decisions, we involve local people who understand the issues and concerns of local communities, whether those concerns and issues involve people in south Belfast or north Down who are concerned about period dwellings being pulled down and apartments being put in their place or someone in a rural area who thinks that planners are not recognising an infill opportunity or following policy on a replacement opportunity. They may involve farms; there may be a very clear reason why a proposed site on a farm cannot be adjacent to the farm unit. As Minister, I should not have to deal with those issues. It would be much better if they were dealt with by our councillors, who can respond to and reflect on the needs of their community.

I urge the House to drive forward this agenda of change in planning. In that way, we can have a system that can deal with planning applications

in a much more timely, consistent and effective way, and we can work together with our planners, who are good people, to ensure that we deliver what the public needs.

*Question put and agreed to.*

*Resolved:*

*That the Second Stage of the Planning Bill [NIA 07/10] be agreed.*

*Adjourned at 4.56 pm.*





Published by Authority of the Northern Ireland Assembly,  
Belfast: The Stationery Office

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ISSN 1463-7162

Daily Editions: Single copies £5, Annual subscriptions £325

Bound Volumes of Debates are issued periodically during the session: Single copies: £90

Printed in Northern Ireland by The Stationery Office Limited

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ISBN 978-0-339-50450-9



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