

Official Report (Hansard)

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Northern Ireland assembly

Monday 17 January 2011

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

Members observed two minutes' silence.

Matters of the Day

Mrs Michaela McAreavey

Mr Speaker: I have received notification from the Office of the First Minister and deputy First Minister that the First Minister wishes to make a statement on a matter that fulfils the criteria set out in Standing Order 24. I will call the First Minister to speak for up to three minutes on the subject. I will then call a representative from each of the other political parties to speak, as agreed with the Whips. Those Members will also have up to three minutes to speak on the matter. The convention is that there will be no opportunity for interventions, questions or a vote on the matter. I will not take any points of order until the item of business is completed. If that is clear, we will proceed.

The First Minister (Mr P Robinson): In a very short time, in County Tyrone, Michaela McAreavey will be laid to rest. Just seven days ago and half a world away, events were unfolding which have dominated the news in Northern Ireland and far beyond. However, behind the news, there is an enormous human tragedy.

It is not uncommon that the House pauses to mark a death, usually of a public servant or a personage with a public profile. Occasionally, it is for someone who has died or been murdered here in Northern Ireland. In all of the circumstances of Michaela's passing, I believe that it is fitting that we pause to mark her death today.

This is not the time to talk about the circumstances of Michaela's tragic death, but we do want to see justice done, and we support those in Mauritius who are engaged in that task. Any life taken away by murder is a horrific event, all the more so when it is the life of a young person. The loss is even more harrowing and devastating because the victim in this case

was a beautiful young woman who was on her honeymoon.

Michaela was known to a wide circle of family and friends. From the stories that we have heard and from seeing her on television and reading our newspapers over the past week, I believe that we now all feel that we knew her. This is one of the rare tragedies that has captured public attention and united the community in grief. The families of both Michaela and John are well known and respected in the GAA, but the wave of sympathy comes from far beyond the GAA fraternity and extends to our whole community.

Michaela and John had just started married life with dreams of a wonderful future that will not now be realised. We can only imagine the nightmare that John and the entire family circle have faced over the last week. Mr Speaker, as you know, I am a father. I have a beautiful daughter of a similar age to Michaela, and I love her to bits. That gives me a sense of the loss, but only a sense, because the reality is so much more painful than the imagining. Personally, as DUP leader and as First Minister, I want to convey the love, support and condolences of the whole community to the McAreavey and Harte families.

I also wish to put on record my condolences to our Assembly colleagues Edwin Poots, who lost his mother-in-law last week; Trevor Clarke, whose mother passed away at the weekend; and George Savage, whose mother passed away last night. They, too, remain in our thoughts and prayers at this time.

Mr Molloy: Go raibh maith agat, a Cheann Comhairle. It is on a sad occasion that I stand to express sympathy on behalf of Sinn Féin. I would like to extend that sympathy to the McAreavey and Harte families on the death of Michaela, which is a sad reminder of just how

suddenly things can happen. The First Minister has expressed the sympathy of the House. The deputy First Minister and many of my party colleagues are attending the funeral this morning, which is why they cannot be here in the Chamber.

Our hearts go out to the husband, John; the mother and father, Mickey and Marian; and the large Harte and McAreavey family circles on this sad occasion. Families right across the country are thinking and expressing similar views to those expressed in the House. The fathers of daughters are thinking of the tragic circumstances of being at the joyful occasion of a wedding one day and then, in a very short time, bringing the remains home for a funeral. Our heartfelt sympathies go out to the families.

I also go along with the First Minister in expressing sympathy to the Members whose families have been grieving over the weekend and the last couple of weeks. All of this touches each family and each Member of the House. We also think of the many families right across the country who have suffered similar tragedies and have had to deal with similar situations over the last number of months and years.

The families of Michaela — both the Harte and McAreavey families — have dealt with this in a very dignified way. They have also allowed others to join in expressing their sympathies. We share with that household today as the sad event of Michaela's remains being brought to her last resting place takes place.

Mr Kennedy: On behalf of the Ulster Unionist Party and, indeed, the entire House, I want to extend my deepest sympathy to the Harte and McAreavey families. It is very difficult to comprehend the trauma and grief that they are feeling, particularly on the day that they lay their loved one to rest.

That such a young life should end in such circumstances seems very unreal and unfair. This tragedy has indeed touched many people not only across Northern Ireland and Ireland but much wider afield. I pay tribute to the very dignified manner in which the Harte and McAreavey families have conducted themselves in what must be an unimaginably difficult time.

In County Tyrone in particular, there is a great sense of loss for Michaela, who was a very popular young teacher. I am sure that the outpouring of support from across the entire

community has been of great help and comfort to both families. It is worth saying that it is crucial that the media and the public do not intrude in a way that may add to the families' grief.

I know members of the McAreavey family personally, in particular John McAreavey, the local bishop in Newry. I take this opportunity to express to him, to his nephew John in particular and to the entire family circle that the thoughts and prayers of a great many people are with them at this very sad time. May God bless and comfort them on this day and in the difficult days that lie ahead.

I, too, extend my sympathy and that of my party to the Members of the House who have also been bereaved over recent days. I am sure that, as we carry out our business in this place today, Michaela's death will remind us all of what really is truly important in life.

Mr A Maginness: I thank the First Minister for raising this matter today and for his very moving address to the House. On behalf of the SDLP, I express our deepest sympathy to the McAreavey and Harte families on their terrible ordeal and tragedy. Everyone, not just in the House but in the wider community, has been deeply moved by the tragedy. Indeed, it has created a great sense of unity in the community, where a common sadness is shared by Catholics and Protestants, nationalists and unionists. If some good has come out of this evil act, it is that we have come together in solidarity and in a bond of friendship, sympathy and understanding for John McAreavey in particular and for the respective families involved.

John and Michaela's wedding was like a fairy tale wedding. Indeed, their going on honeymoon to Mauritius seemed like a dream, but, unfortunately, the tragic events that took place changed that into a nightmare. All of us in the House sympathise very deeply with the families.

I know that my party leader and deputy leader are at the funeral today. Therefore, on behalf of the SDLP, I express our deepest sympathy to the families and, indeed, to the local communities in Tyrone and in Banbridge, County Down. I believe that, as a result of this tragic event, the community has, in fact, been strengthened, and I hope that that will continue. May she rest in peace.

Mr Ford: On behalf of my party colleagues in this corner of the House, I wish to add to the

sentiments expressed by Members elsewhere. In particular, I thank the First Minister for being the one who introduced the matter of the day and who spoke on behalf of us all. We all wish to express our sympathy not just to the Harte and McAreavey families but to their friends and, indeed, to the wider GAA community, for the loss that they feel. I had a meeting early last week with the GAA, and, from speaking to Danny Murphy and his colleagues, it was clear just how widespread a very personal sense of loss was felt in that section of our community.

12.15 pm

The loss of a child or young person will always be something that is a matter of deep sadness to their immediate family. However, given the circumstances in which this loss has occurred, so absolutely tragically and so far away, it is clear that it has touched not just those who knew Michaela and those who were associated with her through the GAA or the school but, as others have said, every part of the community.

Michaela and her family were well known and widely respected, not just in County Tyrone and County Down but throughout Ireland. Given the way that the matter has been covered, I suspect that we all now feel that we knew her and can all share in the sense of loss, whatever background we come from and whichever geographical area we come from in this community. That is why it is right that we should recognise that this morning. We assure people that our thoughts and prayers will be with not just the Harte family and McAreavey family but all those who have been bereaved in recent days.

Assembly Business

Suspension of Standing Orders

The Minister for Regional Development

(Mr Murphy): I beg to move

That Standing Orders 10(2) to 10(4) be suspended for 17 January 2011.

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

Question put and agreed to.

Resolved (with cross-community support):

That Standing Orders 10(2) to 10(4) be suspended for 17 January 2011.

Mr Speaker: As the motion has been agreed, today's sitting may go beyond 7.00 pm, if required.

Ministerial Statements

Water Supply: Severe Weather

Mr Speaker: I have received notice from the Minister for Regional Development that he wishes to make a statement to the Assembly.

The Minister for Regional Development

(Mr Murphy): Go raibh maith agat, a Cheann Comhairle. I welcome the opportunity to update the Assembly on the major interruption to water supplies arising from the recent severe weather.

Before I go into those details, I will update Members on the current situation. Thankfully, we are seeing a return to more normal conditions, and NIW has confirmed that all properties have been back on supply since last week following the interruptions over the Christmas and new year period. Rotation of water supplies has ended, calls are being answered and outstanding calls are being followed up. That means that NIW has been able to reduce its level of emergency response. Last week, I had the emergency direction, which I put in place during the incident, withdrawn.

Though NIW has returned to business as usual activities, the amount of additional water being put into the distribution system remains higher than normal for the time of year, at around 55 million litres a day more. However, that is significantly less than at the peak of the incident. Leakage detection and repair teams continue to be deployed, and other agencies, such as Royal Mail and council workers, continue to provide assistance in reporting visible leakage. Storage in the majority of service reservoirs has almost returned to normal daily trends, but that is being closely monitored on NIW's telemetry. There are no severe weather warnings in place, and NIW staff remain on a state of high alert.

NIW is also taking forward the implementation of action points and immediate lessons learnt from the incident, with a particular focus on improved customer communications. I have also asked NIW to have its major incident plan reviewed by an external expert, and NIW has arranged to have that review completed by 27 January.

The situation has been restored because many NIW staff and contractors, supported by other public bodies, worked tirelessly over the holiday period to reconnect customers to the water

supply. I want to record my thanks to all those in NIW and to the many other organisations that helped NIW to deal with the emergency situation. I am grateful for the co-operation that was so willingly offered and given.

I turn now to the emergency itself. The incidents that occurred over the Christmas and new year period took place during the coldest month in the North since records began. The record-breaking period of sub-zero temperatures over two weeks was followed by a dramatic thaw from 26 December to 27 December, which saw temperatures rise by as much as 20°C.

Such severe weather conditions, accompanied by the switch from freeze to thaw over such a quick period, were unprecedented in the North and, indeed, in most places. The leakage that that caused in the public network, together with bursts in private pipes, caused levels of drinking water held in service reservoirs to fall rapidly from 27 December and the demand for drinking water to rise sharply. Demand increased by more than 200 million litres a day. NIW's water treatment works were operating at maximum capacity during the emergency, producing 850 million litres a day, compared with the more normal annual average of 620 million litres a day. At the height of the emergency, thousands of households were without supply. To preserve minimal and critical supplies, tens of thousands of households received intermittent supplies as a result of rotation by NIW.

On the communications side of NIW's operations, 26 December saw a six-fold increase in customer calls. As a result, NIW activated its top-level emergency response. Over 27 to 29 December, 10 times that number of calls — 600,000 — were received, and communications systems were overwhelmed. In responding to the crisis, NIW deployed more than 500 staff and contractors on the ground, fixed more than 800 bursts and provided more than a third of a million litres of bottled water. It took on additional call centre help and additional water supplies from outside the North, and it worked with other public bodies through the public sector-wide civil contingencies group.

For my part, I received information and advice on the emerging situation from NIW and from my departmental officials on Monday 27 December. I was immediately in contact with the chief executive and other senior officials. I was on the ground in Lurgan and Coalisland with the

deputy First Minister on 28 December to see for myself the problems that people faced. That evening, I talked with my equivalent in Scotland, Minister Keith Brown, to discuss assistance in the form of bottled water supplies from Scottish Water. Those supplies were received by NIW on Wednesday 29 December.

As the thaw continued through 27 and 28 December, there was a stepped increase in the problems reported, and the impact of the water supply disruption started to become clearer. On the afternoon of Tuesday 28 December, my Department's permanent secretary contacted the head of the Civil Service to express his concern over the evolving situation and to raise the question of the need to convene a meeting of the civil contingences group, which is the body set up to co-ordinate public sector organisations in an emergency.

The head of the Civil Service was abreast of the issue, because he had been briefed on the developing situation by his representative, who had participated in the daily regional teleconferences hosted by Belfast City Council and local government management. Those teleconferences had been taking place daily since before Christmas, with the exception of Christmas Day. The head of the Civil Service reviewed the information available to him, and, first thing on Wednesday 29 December, he made the decision to convene a meeting of the civil contingencies group. The group met on Thursday 30 December, and, from then on, the group or its tactical recovery subgroup met daily throughout the emergency. A large-scale public sector inter-agency effort followed, with co-operation from a wide range of bodies.

Although NIW deserves credit for restoring supplies quickly where it could, it is obvious that there were very significant failings in the delivery of a basic public service. Clearly, that was the case in communication and perhaps also in planning, infrastructure and control. In the statement that accompanied his resignation, the former chief executive of NIW, Laurence MacKenzie, accepted that and recognised that aspects of the way in which NIW handled the situation could have been better. However, the Executive have agreed to review the incident, and that is now the right place to consider it.

That said, however, I have never ducked criticism or avoided answering questions around my role or that of my Department. I have apologised to

the public on behalf of my Department. I said that I was sorry that people felt let down by the service that they received. However, apologies aside, my main focus and that of the Executive have been the restoration of supplies and analysis of what went wrong and of the lessons that can immediately be learned. I will not satisfy the political opportunists whose primary interest in the incident was to see what political advantage it might afford them. Their calls for my resignation are widely recognised for what they are: cynical exploitation of people's misery and hardship.

Of course, it suits some not to understand the governance arrangements that direct rule Ministers created and I inherited in 2007. I understand the political realities behind that feigned ignorance, but the legal reality is that NIW is responsible for the delivery of water and sewerage services. In my role as Minister, I am responsible for the policy and legislative framework for appointing the NIW board to deliver water and sewerage services. That is not my opinion or my interpretation; it is what the legislation governing water and sewerage states. For those interested, article 65(1), together with article 91, of the Water and Sewerage Service (NI) Order 2006 refers to responsibility for water supply.

NIW owns the reservoirs, the treatment works, the chemicals to treat the water, the pumping stations and the pipes to supply water to customers. It employs the engineers, support staff, call centre operators and has the arrangements with contract staff necessary to deliver water. The Department does not have those resources, and it is not in charge of them. NIW's responsibility includes taking actions, making plans and having in place measures to preserve and maintain services. That is a heavy responsibility that must be discharged each and every day.

As a shareholder, I appoint people to the board of NIW to accept that responsibility, and they are remunerated accordingly. However, in case anyone was unclear about where responsibility lay for preserving services and dealing with civil emergencies, I issued a direction to NIW in August 2010 to make, review and revise plans to ensure the provision of essential water supplies in a civil emergency. That included requirements that training, backup equipment and materials, communications support and command and control arrangements be in

place. A copy of the direction was laid before the Assembly, so I reject accusations that I did not take the governance role seriously or that I was unconcerned. Various assurances that work was being taken forward and contingency plans were in place were received through normal departmental channels. The fact is that plans were in place, but those alone were not sufficient to cope with the exceptional circumstances that arose. However, as I said, the Executive have agreed the remit for a review of the emergency, including my role. I am content to await its outcome.

The Executive met on 30 December to discuss the emergency. Following that meeting, I undertook to put forward proposals for a review and to suggest immediate steps that NIW should take. On 6 January, the Executive agreed my proposal for a review by the independent Utility Regulator on the basis of terms of reference that were suggested by the regulator. Those set out that the purpose of the investigation is to establish the causes of the loss of water supply in the North during the adverse weather conditions experienced in late December 2010 and early January 2011 and to examine the performance of NIW in planning for and reacting to the event.

Some comments have been made through the media about the independence of a review that is undertaken by the regulator. I find those hard to understand. The regulator is an established independent body that already has statutory duties and powers to regulate water and sewerage services. It has experience, knowledge and access to a range of required industry skills as well as its own resources. Although the regulator has responsibilities that may overlap with the areas covered by the review, the alternative is to appoint a body or individuals with no background knowledge, experience or powers and that is dependent on my Department for appointment and resources. I believe that that would be less independent.

The Executive also agreed a second strand of the review that will be carried out by Heather Moorhead, who is the former chief executive of NILGA, and Philip Holder, who has 25 years' experience in the utilities sector with East Surrey Holdings. They will consider the broader governance issues, including my role and responsibilities as Minister for Regional Development and those of my Department in relation to the incident. The composite report, including the work of the regulator and the two

appointees, will be submitted to the Executive by the end of February, and, after consideration, the report will be published. Importantly, if any short-term recommendations are identified to improve performance, they will be implemented immediately.

As I said, I have asked for and obtained from NIW an action plan on the immediate and short-term improvements that it can make to its major incident plan. That is so that it is better prepared for any recurrence of that type of incident. Alongside that, I asked for key learning points from all public services represented on the civil contingencies group. I provided preliminary action points to the Executive for information.

I will move from the short term to the long term. Much comment has been made about the state of our infrastructure and the level of investment. I am not sure how well informed some of that is. I will have invested almost £1 billion in our water and sewerage infrastructure by the end of this financial year. Much of the investment has gone towards helping NIW to deliver the best drinking water that the North has ever enjoyed. Waste water treatment standards are also the best ever, and even overall leakage has reduced. Clearly, however, more is needed to catch up for the years of underinvestment. If justification were needed for continued investment, the recent situation demonstrates it. Unfortunately, the availability of funding will not allow us to make all the investment that we would like to over the next four years. To partially address that, I propose that additional funding be reallocated to water and sewerage from my Department's budget. I have done everything that I can as Minister for Regional Development to make sure that investment continues.

In my statement to the Assembly on 13 December 2010, I outlined proposals that were aimed at addressing the governance of the water industry in the short and longer term. I proposed a long-term review of the status of NIW, and I intend to submit recommendations to the Executive. In the short term, I proposed the amendment of existing legislation to stabilise current governance arrangements. The Executive have just agreed to my bringing forward a Bill to put short-term measures into effect. In addition, we have concluded agreements with the regulator and initiated a non-executive directors' appointments process, and officials are working

on a revision of detailed governance controls between DRD and NIW.

I do not claim that those arrangements would have prevented the recent emergency, but I believe that the structure that we inherited in 2007 has not helped. That legacy left us with a go-co model in law that is at odds with the public sector provision of water and sewerage services, which I believe most people support.

12.30 pm

It remains my view that governance arrangements should be based on water and sewerage services being delivered by a body clearly within the public service, subject to public sector controls and standards, and not set up to introduce separate water charges. I hope that those who have thus far opposed any change to the structures of NIW will now accept my argument that the organisation needs to be brought much closer to Government.

More broadly, we need to consider the roles and structures of all arm's-length bodies and whether they contribute to delivering public services. However, clearly that will be a matter for the next Executive.

I have attempted to cover all aspects of the emergency. There are many questions that need to be answered, and the public and their representatives in the Assembly are entitled to those answers. However, some of the issues are complex and require careful analysis. Leaping to conclusions will not help us to move forward, and that is why the Executive have agreed that there should be a thorough review of the incident. We need to leave space for the review to conduct its analysis and for NIW to put in place measures to ensure that our most basic service is preserved. Go raibh maith agat, a Cheann Comhairle.

The Chairperson of the Committee for Regional Development (Mr Cobain): I start by saying how grateful the Committee was for the heroic efforts by employees of Northern Ireland Water, councils and all the other organisations who worked long hours in very difficult conditions trying to bring some comfort to the tens of thousands of people who suffered during the debacle. The Committee also takes this opportunity to apologise to all customers for the hardship that they suffered over the Christmas period.

The performance of Northern Ireland Water over the past few weeks was a shameful episode for the company and an embarrassment for people in Northern Ireland. Most people, I assume, will be incensed when they learn that Northern Ireland Water had a wake-up call from the Utility Regulator just a few weeks before the crisis at Christmas. I quote from the Utility Regulator's cost and performance report on Northern Ireland Water, published on 14 December 2010:

"An exceptional period of cold weather in December 2009 and January 2010 resulted in widespread operational problems including a significant increase in the number of burst mains. The severe weather also adversely affected NI Water's ability to respond to and resolve these problems."

The company, the Department and the Minister were in receipt of the report in the weeks leading up to the crisis.

However, despite the clear warning from the regulator and despite forecasts for unusually severe and prolonged freezing temperatures, to be followed by a swift thaw, it appears that, on 23 December, Northern Ireland Water was content that it could continue with business as usual. Instead of being in a state of high alert, ready for each and every development, the head of customer service delivery sent the famous memo providing assurances that all was in hand and telling everyone to go off and have a happy Christmas holiday. The result, of course, was that there were not enough staff or senior management in place when the storm broke, leaving the organisation rudderless during the crucial first few days. The mind boggles to think that no one in the Department or in senior management in the company challenged the contents of the memo, even though the regulator had highlighted how the company struggled in less severe weather earlier in the year.

Northern Ireland Water was slow to acknowledge the scale and severity of the problem at a time when 40,000 households were without supply and 5,000 out of 6,200 calls to the call centre were unsuccessful. It was slow to escalate the response to others in the Northern Ireland civil contingency group and slow to ask for help available to it through the mutual assistance agreement with other water utilities. It appears that some members of the Northern Ireland Water management team did not know what help was available under the mutual assistance agreement, and it was Friday 31 January — six days —

before help with call handling was asked for. That help was provided within three hours.

Northern Ireland Water's internal and external communications broke down completely. At one point, only 1% of the hundreds of thousands of customers who called were getting through to the company. Even if you were one of the lucky customers who got through, there was no accurate information about areas that would be off supply, for how long they would be off and when the supply would be restored. That unfortunate situation lasted for a number of days, leading to anger and frustration among customers.

Mr Speaker: The convention has been to give Chairpersons of Committees some latitude. However, we are now running to almost four minutes, so I encourage the Chairperson to come to his question.

The Chairperson of the Committee for Regional Development: When will the Minister take personal responsibility for the debacle?

The Minister for Regional Development: I certainly concur with the Chairman's appreciation for a lot of people in NIW, some of the contractors that were engaged in the response and for people right across the public services, particularly in local government, who assisted in response to the incident and brought it to a conclusion. I also share his views and agree with some of the criticism that he has levelled against the operational performance of NIW.

He quoted the regulator. The regulator looked at the response to the cold weather spell in the early part of last year and, as is his job, made some directions to NIW, which it followed. NIW went into a category one response in the early part of December 2010. People will remember that there was an early freeze for a week or so before the more severe weather around the Christmas period. It went through that response, and it was stepped down again. NIW obviously believed that the suggestions of the regulator had worked during the response in the early part of December. Nonetheless, many of the issues that he raised will be subject to investigation. I am quite content about that.

The Chairman asked about my personal responsibility for the Department. He will know that on any occasion on which I have to take responsibility for what goes on in my Department, I do so. I have gone in front of his

Committee many times to answer questions about my role in all aspects of my Department, including NIW's performance. Representatives of that organisation were in front of his Committee for two hours last week. I watched the proceedings, and they got to the nub of where the issues lay, namely with the operational performance of NIW. I am quite happy to go to his Committee this week. I offered to go immediately after Christmas, but the Committee decided otherwise. I am quite happy to go this week and talk to his Committee about my role in the response.

We face some very serious issues. I have been pointing out for some time the issue of NIW's information-sharing with the Department, the procurement issues that we had to deal with and its operational response to an emergency situation. I have been suggesting that the organisation needs to be changed. I have not found a substantial degree of support from the Committee, particularly from the Chairperson. I hope that, rather than come out with sound bites about resignations and people taking responsibility, he and the Committee will seriously address some of the issues that I will put to them now that I have got clearance from the Executive to bring forward some emergency legislation in relation to NIW.

Mr Speaker: There is quite a bit of interest in this morning's statement, and, given the nature of it, quite a number of Members have indicated that they want to ask a question. I ask all Members to come to their question quickly. If they do so, we will get every Member in.

Miss McIlveen: The Minister has sought to micromanage Northern Ireland Water with a variety of sackings and appointments. However, this statement appears to show a chronic lack of communication between him and Northern Ireland Water, which apparently was not aware of what was available under Water UK's mutual aid scheme, which could have eased the suffering of many thousands of people much quicker. How much of that was to do with the Minister not communicating with Northern Ireland Water or his interference in appointing board members and a chief executive who clearly were not up to the job of handling a crisis?

The Minister for Regional Development: The Member has been a member of the Committee for quite some time and, therefore, understands well the relationship between NIW as an

organisation and myself. I appoint members to the board, specifically the non-executive directors. I do not employ, and I do not hire and fire people who work for NIW as an organisation. The chief executive was recruited and hired by the board. He was then recommended for appointment to the board by me. That was the situation.

The Member asked about communication. We communicate with NIW through the normal channels at quarterly shareholder meetings. As I said, I issued a direction in August last year, which, given her job in the Committee, the Member had an opportunity to scrutinise. That aimed to make sure that NIW had an emergency plan in place. As I said, a copy of that direction was placed in the Assembly Library and, obviously, with the Committee. It asked NIW to:

“review and revise such plans and take such measures as it considers necessary to ensure the provision of essential water supply or sewerage service in a civil emergency, and to ensure the preservation of services”.

That was the role and responsibility of NIW as an organisation. It was nothing to do with communications, which are quite clear, and I am sure that the Member is quite clear on where the issues and relationship lay. As I said, I observed the discussion between NIW and the Committee last week, and it seemed that the Committee members, including Miss McIlveen, were quite clear about where those issues lay.

Mr Boylan: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas as an fhreagra sin. I welcome the Minister’s statement. Will he outline his roles and actions in the crucial days of the crisis? He indicated that £1 billion has been spent already on infrastructure, but that seems to have been spent on waste and sewage treatment works. Will the money that is to be allocated in the Budget go to upgrading the mains infrastructure, which needs upgrading, including the cast-iron pipes?

The Minister for Regional Development: As I said in my statement, I was informed about the situation by telephone. I was in touch with my Department, and, on Monday 27 December, I was directly in touch with the chief executive and senior officials in NIW. The deputy First Minister and I discussed the matter on the Monday evening. We felt that it was necessary for us to go out onto the ground to assess what was going on to show a level of interest in some

of the suffering that the public were facing. From that experience, we communicated directly with NIW and with the Scottish Executive to secure an additional supply of bottled water.

We went to NIW headquarters at Westland House on the Wednesday morning, and we were accompanied by my permanent secretary and the head of the Civil Service. At that time, the Civil Contingencies Group kicked in. From then on, while recognising that people faced enormous hardship and misery and, particularly, frustration because of the communication issues, there was a marked step change in that NIW recognised the scale of the emergency that it was in and in that it sought and received additional help from across the public sector and other agencies here.

On the question about investment, 70% of the bursts happened on people’s private infrastructure, so it is not necessarily the case that investment in water mains rehabilitation was the issue. Nonetheless, all Members know that we have inherited the results of underspending in water and sewerage infrastructure. They know that, with the support of the Executive, I have invested £1 billion in NIW since coming into office. As the Member quite rightly said, a lot of that has gone into sewage treatment works because we had to deal with that specific issue, given that we were one step ahead of infraction fines from the EU because of the pollution that the sewage treatment works were causing around the shorelines. A substantial amount of that investment has also gone into water mains rehabilitation.

Members will know that my Department in particular has been hit by the capital cuts to its budget, and, as a result, I have found the capital allocations for year two and year three to be quite short. I had sought to supplement that significantly for my Department to ensure that we continue with a substantial level of investment in the infrastructure of NIW. Of course, it is a draft Budget; it is out for consultation, and I look forward to hearing views from Members and the general public.

Mr McDevitt: The Minister will be aware that article 91 of the Water and Sewerage Services (Northern Ireland) Order 2006 places a statutory duty on Northern Ireland Water to supply water to domestic premises and that, under article 93 of the same Order, people can

take Northern Ireland Water to court if they feel that they have suffered loss or damage as a result of loss of supply. The Minister mentioned that he had issued a general direction in August 2010. Will he clarify whether the effect of the general direction that he issued last week under the new powers that he took last August will continue to allow people to take Northern Ireland Water to court for any loss or damage that they suffered during the crisis, or will Northern Ireland Water now be unable to be sued by tens of thousands of people who may have suffered loss or damage during the crisis?

The Minister for Regional Development: The Member's party has majored significantly on the issue of compensation but, strangely, not on the damage to Housing Executive properties and the compensation that its tenants might receive. His party seems to have a major issue to do with compensation for NIW supply. A number of questions arise when a party makes blanket statements looking for compensation for people. I have no issue with people pursuing NIW if they feel that they lost supply as a result of its activities. The SDLP has laboured the question of the damage that was done to a person's property if their private supply was interrupted or was burst. I will be interested to hear any proposals from the Minister for Social Development about burst pipes on people's properties that were not insured.

12.45 pm

Another issue relates to people who lost supply as a result of a mains failure, which is the infrastructure that belongs to NIW. The Member is correct that, under those circumstances, people can decide that they may want to pursue NIW. The other issue to which he refers relates to the direction that I made to allow NIW to rotate people's supplies temporarily to allow reservoirs to fill up. The Member thought that that was a lesser priority, when critical supplies to areas such as the Royal Victoria Hospital and other hospitals in Belfast were a point of some concern, or he thought that if we gave a direction to allow NIW to cut off supplies to people, they would not be able to apply for compensation. The priority for everyone to whom I spoke on the Executive and elsewhere was restoration of supplies and filling up the reservoirs to ensure that critical supplies to places such as hospitals were maintained. That direction allowed NIW to step outside its normal provision in respect of water supply. I

think that that was the right thing to do. The consequences would have been much more serious if we had decided that NIW had to fix the supplies itself and if we had not given them any direction to deviate from supplies and to let the Royal Victoria Hospital and other acute services suffer a loss of supply. Therefore, to try to dress up that clear and necessary direction as somehow offsetting the possibility of securing compensation or pursuing NIW for loss of supply clearly misses the point. However, the Member has missed the point so often in the past three or four weeks that it would take a separate ministerial statement to address all the points that he has missed.

Ms Lo: In addition to the failure to communicate with the public during the crisis, NIW also failed in its duty to distribute water to people who had no water for days. The initial response to open up centres and to supply water came from local councils. Will the Minister assure us that if anything such as this happens again, the distribution of water to people who need it will be actioned immediately and that engineers will be sent out to repair pipes and mains?

The Minister for Regional Development: I agree with the Member. Initially, the response was not what would have been expected, and it was compounded by communication difficulties. Therefore, although water supplies went to certain public centres, sometimes the communication was inaccurate, which meant that some people arrived when the water had not arrived, or people were not aware that water supplies were in certain locations. Therefore, a lot of lessons have been learned.

As well as drawing up the terms of reference for a review, the Executive tasked me with looking at the immediate lessons that were learned and seeking assurances from NIW on those lessons in relation to its response to the incident. I have been assured of the involvement with local government and the recognition that local government stepped up to the plate and played a constructive role and needed to be more centrally involved in the response.

If anything else happens between now and the review being conducted, there will be much greater involvement across all agencies, including local government, to ensure that that co-operation is there and, crucially, that information will be shared so that people know when water supply is available and what

emergency supplies may be available in the future. I hope that we will not go back to that type of situation, but the immediate lessons to be learned from this experience are that we need to be much better prepared, and there needs to be much better communication, particularly with local government.

Mr G Robinson: First and foremost, I pay tribute to all Northern Ireland Water staff for their sterling work over the prolonged period. The Minister states that he proposes to allocate additional funding to water and sewerage services. Where will that money be taken from? Does he feel that it is wise that 70% of his capital budget is being spent on two road projects?

The Minister for Regional Development: I presume that the Member refers to the A5 and A8 projects. I have noticed that some members of his party have certainly been vocal on the A5 project. People who live between Larne and Belfast might be surprised to know that they also have a question mark over the A8 project.

The two projects are joint ventures between the Executive and the Dublin Government, who are funding them. The projects are significant and of great importance to regional infrastructure. Mr Robinson asked about additional money. As a member of the Committee for Regional Development, he will be aware of the hand that the capital cuts have dealt us. I faced a significant shortfall for NIW of £100 million in year 2 and £100 million in year 3. The draft budget is out for general consultation and, in particular, for discussion by the Committee. The NIW infrastructure needs continued investment. I had to look elsewhere in my Department to supplement the allocation that I received. We have managed to increase that significantly, although it is still not at the level that I would like. However, when the Executive face a 40% cut in the capital budget across Departments, Departments with big capital spend will obviously bear the brunt.

Mr Leonard: Go raibh maith agat, a Cheann Comhairle. The Minister referred to one of the short-term changes to NIW's response. Can he explain other short-term changes that his Department has identified to improve NIW's resilience? Have the Executive been informed of those changes?

The Minister for Regional Development: The Department has not identified improvements to NIW's resilience; NIW has identified them itself.

At the Executive's first meeting over Christmas, I was asked to ensure that every effort be made to bring us out of that situation, which is what happened; to ask NIW's board, at its meeting, to look closely at short-term resilience issues; and to set in place terms of reference for an investigation, which I have also done.

The company's short-term resilience measures include better communication; quicker action to alert other agencies and to seek and receive the type of support that NIW needs in such circumstances; clearer and quicker use of the mutual aid system that exists between NIW, as a company, and other companies in Britain; and so on. There is a range of measures, which was communicated to the Executive, by way of information, at a subsequent meeting.

Mr I McCrea: In his statement and, indeed, in the previous answer, the Minister referred to short-term measures to improve communication. In Committee, officials admitted openly that communication was poor, to say the least. Can the Minister assure the House that he will take the necessary steps, if not to look to the future, to ensure that communication is at least brought up to twenty-first century standards so that that lack of communication does not happen again?

The Minister for Regional Development: Yes. The Member is quite correct: NIW representatives at the Committee meeting accepted major failings in communication. Failings occurred in a number of areas, one of which was the company's website, which did not have capacity to deal with the volume of hits that it received. Immediate work has been done and advice sought from NI Direct, which has much larger capacity and, perhaps, more experience and expertise to determine the type of website that is not only able to share information on a day-to-day basis but can cope with emergency situations and the impact of the volume of hits that are generated when a great number of people use the site at one time. That immediate step has been taken.

Arrangements for call centres and call handling have been beefed up in the short term in order to meet any issue that may arise between now and the end of winter. There was certainly a view that information that NIW released — in particular, on its website and perhaps even in response to calls — was more for its own engineers and staff, rather than being of any

relevance to customers who tried to get in touch with the company. That issue must be addressed.

Therefore, a range of short-term measures has been put in place to deal with communication. Help has been sought to improve it. NI Direct and other agencies that can assist have willingly offered that help. We have received solid assurances that immediate lessons have been learnt in that area, which was a particular source of people's frustration. Loss of water supply is bad enough, and it causes enough misery and hardship for people, but the inability to communicate with NIW multiplied that frustration many times over.

Mr Armstrong: In light of the effects that recent events had on Northern Ireland Water's infrastructure, will the Minister explain to the House why he has chosen not to meet the recommended level of infrastructural investment in his draft budget proposals, but is supporting the expenditure on the A5. He will know that only for the hundreds of bore wells across the Province, there could have been more problems. The infrastructure is not able to supply water to every household, but he is spending millions on the A5 project. Water is a life source for everyone.

The Minister for Regional Development:

I presume that there is a question on the allocation of spend somewhere in the middle of that. The A5 project, in particular, is an agreed project between the Executive and the Government in Dublin. It has been discussed at Executive plenary meetings and at all the North/South ministerial meetings in transport sectoral format that I have attended. It is a project that the Executive as a whole have bought into. There is not the required allocation. As Mr Armstrong is a member of the Committee for Regional Development, he will know that I have sought finance for years 2 and 3 from within my departmental finances to supplement what was, in my view, much too low of an allocation for water and sewerage infrastructure. We have managed to increase that substantially.

As I said to other Members, this is a draft budget, so I look forward to hearing from the Member and from other Committee members. His view is that we should take the money from the A5 project and put it into NIW. That is a valid view, but the A5 is a project that has

been agreed between the Executive and the Government in Dublin.

Mr Speaker: I warn Members that we are straying slightly from the statement. Please ask questions on the statement.

Mr Dallat: I will refer directly to the statement. I see that the Minister has initiated a non-executive directors appointments process with the regulator. I presume that that includes hiring and firing. Can the Minister assure the House that anyone who puts themselves forward for a position as a non-executive director will not have their reputation and standing tarnished on the basis of claims that turn out to be erroneous? Will the Minister consider making an apology to Declan Gormley and others, who feel that they were wronged when they were non-executive directors? Will he avoid new appointments until the two reviews make recommendations?

Mr Speaker: I have allowed the Member quite a bit of latitude.

The Minister for Regional Development: I never cease to be amazed by the priorities of the Member and some of his party's members. I know that some party members were engaged with their priorities on the ground, which were the restoration of supply and helping people. Other members of his party were phoning my Department in the middle of the emergency and looking for an apology for Mr Gormley.

The appointment process has been initiated. It is not with the regulator; the appointment process is carried out in conjunction with the Commissioner for Public Appointments.

I am amazed that the Member is still beating that particular drum for people who were removed as part of a procurement issue, given that the Committee, of which he is a member, has not yet concluded its investigation into that. Therefore, it does not say very much for his judgement that he has pre-empted the outcome of his Committee's investigation, as has Mr McGlone, who has been ringing the Department looking for apologies for Mr Gormley.

The chairman who Mr Dallat wanted sacked and now wants reinstated was on record as saying, I think disgracefully, that the £28 million of procurement failings, which denied people an opportunity to bid for contracts in NIW, was down to getting the paperwork wrong. I wonder whether Mr Dallat, as a long-standing member

of the Public Accounts Committee, agrees with the view that the procurement for £28 million of contracts was not done properly simply because of the paperwork being wrong. Is he still calling for Chris Mellor's reinstatement and an apology to be given to him on the back of that type of statement? If he is, it does not reflect very well on him as a long-standing member of the Public Accounts Committee.

Mr F McCann: Go raibh míle maith agat, a Cheann Comhairle. I thank the Minister for his statement. I note that he said that all supplies were back on from last week. Unfortunately, the same cannot be said for the supplies of tenants of the Housing Executive, some of whom still have no heating, are not back in their houses and are living with collapsed ceilings. *[Interruption.]* I apologise; I will go on to the question. Can the Minister explain what improvements have been made to NI Water's major incident plan? Will he outline whether the problems are related to investment or whether there is also a problem with management in NI Water?

1.00 pm

The Minister for Regional Development:

Where the particular problems lie will be the subject of the investigation. I look forward to the outcome of that, which will be considered and published in due course. As I said, we have asked for immediate improvements. We have asked NIW to review and update its major plan for response to an incident. Bear in mind that, when that response plan was put in place in the early part of 2010 and in the early part of December 2010, it survived those incidents, albeit with some criticisms and requiring some improvements.

As NIW certainly failed in its response over the Christmas period, we asked it to review and update its plan. We also asked that the plan be externally verified to create some public confidence in NIW's ability to respond. NIW agreed to that, and it intends to have the plan verified and to respond to us by the end of this month.

Mr Ross: If the Minister is not prepared to take responsibility for the way in which Northern Ireland Water handled the crisis over Christmas, is he at least prepared to take responsibility for the performance of the non-executive board members whom he appointed to oversee the performance of Northern Ireland Water, or will he tell us that that is someone else's fault as well?

The Minister for Regional Development: The Member is correct in saying that I appoint the non-executive directors. I appoint all directors to the board, although NIW recruits the executive directors and recommends them for appointment to the board. Last year, I had to deal with the then directors on the basis of the evidence presented to me. When serious procurement issues were identified to me, I took action, where I had the ability to do so, against the people whom I had appointed to the board to represent the interests of the public and my Department. I felt that it was appropriate to take such action.

As I said, the people who are largely responsible for devising response plans are the professionals who work in NIW and are well paid to devise, test and implement them. The role and responsibility of the board members will be the subject of the investigation and, as I said, I am content to consider its outcome.

Mr P Maskey: Go raibh maith agat, a Cheann Comhairle. It was an important crisis, and I know that the deputy First Minister called a meeting over the holiday period. I would be grateful if the Minister would tell us whether he raised the issue of NI Water's budgetary constraints with the Finance Minister at that meeting.

The Minister for Regional Development: I raised the issue of financial constraints plus that of the broad constraints that existed in my Department. Given that there was a 40% cut in the capital budget available to the Executive and that DRD is the main capital spender in the Executive, I anticipated difficulties. However, we had been through a lengthy process with the regulator and others to conclude the PC10 process, which identified what the regulator considered to be the requirement of NIW over the next number of years. Clearly, my initial budget allocation from the Department of Finance and Personnel fell substantially short of that requirement in years 2 and 3. I then had to look to my own resources to try to supplement that. I raised that and several other issues, specifically that of NIW, with the Finance Minister.

I accept that we all face difficulties. That is why I felt that it was important for the Executive to do additional work to identify other areas of revenue and income. We have been given a bad hand by the Westminster Government, and there is an onus on us to examine where we can find additional resources. We have managed

to identify about half of those resources, but a further £800 million have yet to be identified. The onus on all Departments and on the Budget review group is to get down to that work quickly so that we can continue to supplement our planned investment in important places, such as NIW.

Mr Campbell: The water crisis was an unmitigated disaster. The distribution centres for bottled water were inaccessible to many who were cut off from the main supply, NI Water's IT system was totally and utterly inadequate, and the chief executive had to resign. The Minister mentioned governance arrangements. He also said that there were:

"very significant failings in the delivery of a basic public service."

The buck stops with the Minister. Does he acknowledge that an inadvertent consequence of his refusal to resign and of his party's defence of the indefensible is that the entire Assembly system for the appointment and dismissal of Ministers will have to be reviewed?

The Minister for Regional Development: I agree with some of the Member's criticism of performance. However, I was somewhat alarmed by the proposals made by Mr McDevitt, who has now left us, perhaps to write his latest press release, and by the SDLP's willingness to change the system of governance here. He said that the SDLP would come back to those after the election. I wonder why they are not coming to them before the election and indicating their intention. Maybe that is some of the ugly scaffolding of the Good Friday Agreement that was referred to by his former leader.

I have heard the Member and other Members say that this would not happen in any normal system of democracy. The reality is that we do not have a normal system of democracy here, and the reason we do not have a normal system of democracy is that unionism cannot function in a normal system of democracy without abusing the power in that democracy. There is absolutely no chance that his party or other parties on that side of the House will have a veto over who is appointed as Minister here. The safeguards that were built into the Good Friday Agreement and the St Andrews Agreement, which the Member supports — it is a bit strange for him now to be criticising those safeguards — were built in for a very good reason: unionism cannot function in a normal democracy without abusing power.

We will not allow that power to be abused. We appoint our Ministers; the electorate will decide whether their performance is good enough.

Sir Reg Empey: It is widely accepted that the East Belfast constituency was one of the worst affected during the crisis. That constituency, along with others, also suffered from the flooding in 2007 and subsequently. It is my recollection that the Executive decided around late autumn 2007 to establish a single telephone number for subsequent emergencies and crises. Has any progress been made in implementing that decision so that the people can have a single point of contact for any subsequent emergency, instead of the chaos that ensued in the past few weeks?

The Minister for Regional Development: The Member should recall, because he was a member of the Executive at that time, that that was a flooding helpline, and the issue then was the flooding in east Belfast. When different agencies were responding — the Fire Brigade, NIW, Roads Service and the Rivers Agency — the Executive recognised at that time that a single flooding helpline would be required.

This was a loss of water supply issue, but I am sure that steps have been put in place in the short term for whatever issues arose from the incident over Christmas, and communication was clearly a key failing. In the longer term, however, those issues will be looked into as part of the review, which will be conducted largely by the regulator but also with the assistance of the independent persons appointed. If a single emergency line is one of the review's recommendations, that will come back to the Executive. However, the issue that the Member refers to was flooding, out-of-sewer flooding and street gullies as a result of heavy rainfall, and the telephone number was for the agencies that dealt with flooding issues.

Mr O'Loan: The independence and robustness of the review are crucial. Northern Ireland is a small place, and those at senior levels in public life form a small community who often know each other. The Facebook connection — I do not want to overstate it — illustrates that point. Will the Minister accept that, for full public confidence in the review, the two persons appointed alongside the regulator, who have a particular remit to look at the departmental function, should have been persons with no role in Northern Ireland's public or business life?

The Minister for Regional Development: The people were appointed by OFMDFM, not by me. One of them, who has been chief executive of NILGA, I assume has worked with all parties without any question.

The Member will know, as will any Member who uses social networking to advance information, that you probably have more enemies than friends on your sites. That is the case. People follow people to see what political statements are made or what political ideas or discussions are going on. That does not in any way indicate any type of relationship. So, although the Member does not want to overstate the issue, the fact that he raised it in the first place is an attempt to leave the question hanging and create some sense of a lack of independence.

The general proposition that anybody from the North cannot be trusted to be independent is incorrect. People who are asked to approach these things obviously have to give an undertaking to approach them in a professional way and that they are not conflicted in any way or bringing any baggage. We accept those assurances. Part of the problem with this place is that, for too long under direct rule, we were running to Britain, looking for people with absolutely no connection or understanding of this place to fill such public appointments. For the Member to advocate looking outside Ireland for people to fill those positions, particularly given his political perspective, is a little bit strange.

Mr Bresland: I thank the Minister for his statement. He mentioned that staff from Royal Mail and the local councils were providing help by reporting visible leaks. Does he agree that we need more local plumbing inspectors? Will he confirm that all plumbing inspectors who were available to Northern Ireland Water were called out during the crisis?

The Minister for Regional Development: I have been informed by NIW that over 500 members of staff were out on the ground. That figure includes NIW's own staff and contractors. Of course, one of the major difficulties with this incident, which all Members will be aware of, was that it happened over a holiday period when many premises were shut down. There were repeated public calls for people to inspect their premises. In one instance, we found a number of commercial or industrial premises that had been suffering from leaks for a number of days, which would have affected the supply

to between 10,000 and 20,000 households. There was a very general request put out for people to inspect their premises. I remember officials from NIW speaking on the radio during the freeze and warning people that there would be a thaw, that there would be burst pipes and that people who were off on holiday needed to regularly inspect their premises. Unfortunately, in some cases, premises were not inspected.

As I said, there were some major failings, particularly at industrial sites and even at one hospital site, which should have been detected earlier. That affected the levels of water in reservoirs and, consequently, the supply to other people, which made it a necessity to rotate supplies for longer periods. As I said, there were 500-odd people out on behalf of NIW and, as the Member rightly said, there were people from councils, building control inspectors and even postmen and postwomen reporting any leaks that they saw. That demonstrated willingness and a very good level of co-operation across all agencies. However, in some cases, the public response and people's own responsibility in the emergency fell short of what would have been expected of publicly minded people.

Mr McCartney: Go raibh maith agat, a Cheann Comhairle. Gabhaim leis an Aire as an fhreagra sin. I thank the Minister for his statement and for his assurance that the construction of the A5 road will proceed. That is a bit of an aside.

The chief executive of NIW offered his resignation, which was accepted. Many consumers would ask why he was not sacked.

The Minister for Regional Development: The chief executive offered his resignation. He was not subject to the NICS contract arrangements; he was subject to private company contract arrangements. Under those arrangements, he was obliged to provide six months' notice. The board decided to accept his resignation and to ask him to leave immediately. Therefore, he was entitled to six months' statutory pay. I wanted to ensure that that was the minimum requirement, because, given the degree of public annoyance and frustration over the performance of NIW, nothing more than the minimum that was required contractually should have been offered to the chief executive. Sacking him would have required suspension on full pay and, probably, a lengthy investigation into whether he was guilty of gross misconduct or there was simply an inept response from NIW, which may not have

provided grounds for the dismissal of anyone and would have led to the likelihood of an appeal.

When the opportunity of a resignation was presented to the board, the minimum requirement was six months' pay. That is what I wanted to satisfy myself about. I also wanted to satisfy myself that assurances were given by the former chief executive that he would remain available to assist the investigation in any way that was needed.

1.15 pm

Mr Lyttle: Does the Minister agree that it is frankly audacious for anyone to play politics with this issue? Perhaps, he will also take heed of that. This is a serious issue and, as my colleague from East Belfast Sir Reg Empey stated, East Belfast was one of the most seriously affected constituencies. I pay tribute to the NIW staff on the ground and to the community volunteers who were out delivering to some isolated people. For example, one nursing home with 40 older residents was without water for days.

Mr Speaker: The Member must come to the question.

Mr Lyttle: I will come to the question, Mr Speaker. The Minister said that there is some dispute about the accuracy of concerns surrounding the investment in our water infrastructure. Will he instruct the inquiry to investigate the adequacy of investment in our water system and report to the Assembly on that matter?

The Minister for Regional Development: We have already been through a lengthy price control (PC10) process, which is a discussion between NIW, the Department for Regional Development, the Department of Finance and Personnel and the Utility Regulator, to determine what NIW feels that it needs for the years going forward, my Department's view of that and, obviously, the Department of Finance and Personnel's view of what is available. The Utility Regulator has a specific role in identifying what it thinks are NIW's requirements. That process has been concluded, and a figure of approximately £200 million a year has been identified. We have had to set that against the reality of the capital cuts that are being brought in by the Tory Government in Britain and the 40% cut to our capital budget. That has meant that my Department's allocation to pass on to NIW is reduced and is less than that

recommended by the Utility Regulator. I have had to propose — it is a draft Budget — that additional moneys should go from my internal allocation to NIW for much-needed investment. That work has already been done and to do it again would be simply replicating a lengthy and detailed PC10 process on behalf of the Utility Regulator. I invite the Member to study that first, and, if he feels that there are still gaps in his understanding of the level of investment required, I will be happy to correspond with him.

Lord Morrow: The water service was not the only organisation that did not deliver. No doubt we can look forward to hearing from the Minister for Social Development about the shambolic nature of the Housing Executive, but we are dealing with Northern Ireland Water today. It has been said that the chief executive of that organisation has been made a scapegoat and that his is the easy head to roll. Surely the Minister has recognised that he is presiding over a shambolic organisation, namely Northern Ireland Water, which has demonstrated transparently that it cannot deliver a vital service to the consumer in Northern Ireland. Does he really need another inquiry?

I listened to the Minister's statement, and he spoke about a number of inquiries that have been initiated. Now he has initiated another one. Are we capable of learning from this experience? We heard during the crisis that we will learn from it, but I suspect that we will not and very soon we will be in another one. Can the Minister assure us that, whatever steps have to be taken, he will be up for it and there will be no hiding away on this occasion?

The Minister for Regional Development: I would not necessarily concur with the Member's view that Northern Ireland Water is a shambolic organisation. Its investment in our water and sewerage infrastructure certainly delivers, and people have been complimentary about the new treatment works that have been built and the investment that has been rolled out very efficiently on time and under the terms of the contract.

The response to the incident was not what could be accepted. I have been saying for some time that NIW is too far away from government and that it was set up for a particular purpose under direct rule — to become a self-financing privatised utility, like NIE or some of the organisations that deliver water and sewerage

services in Britain. The Executive, clearly, chose a different direction, and, although they took decisions about who would fund NIW's requirements, they did not take decisions about the organisation's structure. I have been saying for some time at the Executive table that that needs to change.

I brought forward propositions, which, thankfully, were agreed by the Executive last week, to go for short-term legislation on NIW's public accountability. In September 2010, before the issue arose, I made a statement in the House that I would undertake five different measures. Four of those measures have been completed. The longer-term relationship between NIW as an organisation and the Department and the Executive needs to be changed. That will require substantial legislation.

I intend to take a paper to the Executive before the end of this term so that the incoming Executive and Minister for Regional Development can be informed by the Executive's view of how they would like to see NIW going forward. For some time there has been a clear recognition and understanding in the Executive that NIW's financial arrangements were not suited to NIW now. There is now a clear recognition across the board that it is an organisation that needs to be changed. I am up for that type of change, and I hope that, perhaps in response to this incident, Members who were thus far resistant are now also up for that type of change.

Mr Beggs: The Minister indicated that some 70% of leaks were on private property. Does he accept that a leak in a mains pipe affects hundreds, if not thousands, of constituents? Will he indicate that an important change is needed there so that we not only manage information better and provide emergency responses but invest so that we do not face the same number of leaks again? Will that be done as the Budget stands?

The Minister for Regional Development: The Member is correct in that a substantial number of bursts were on private properties. However, that may not equate to the volume of water that was lost, and obviously mains supply affects many houses. As I said, however, at some industrial properties there were very significant bursts, which were the equivalent of mains supplies. They had been out for days, meaning that people had not checked their properties, despite public calls on all keyholders to do

so. There were some substantial leaks on the private side, but there is not yet an estimate of the volume of water lost.

A mains rehabilitation programme is ongoing. I am sure that, as part of the assessment of the incident, we will assess whether that needs more, rather than less, emphasis by considering what further incidents the infrastructure is likely to hold up against.

We have no very accurate weather predictions for coming years. We hear people saying that this will be the situation for the next six or seven years, and we hear other people with a different view. Weather prediction is a very chancy area to get a substantial degree of accuracy in. Nonetheless, we need to at least look to what the meteorologists can tell us about the future, and perhaps that will alter investment priorities.

When I came into office, the priority was around infraction costs, pollution and getting water and sewage treatment works right. It was to make sure that the prospect of EU fines, which would have substantially drained the resources available to the Executive, was headed off. That has been done successfully. I think that we need some assessment that is as good as we can get, given the precarious nature of weather prediction. If this is to be the type of winter that we are to have for a number of years, perhaps there will need to be reprioritisation and further infrastructure investment.

Mr Molloy: Go raibh maith agat, a Cheann Comhairle. First, let me thank the Minister for his statement and for coming before the House to respond. Hopefully, it will give a good example to other Ministers, such as the Health Minister and the Minister for Social Development, to do likewise.

Will the Minister congratulate Dungannon council — Dungannon having been the worst area and the first area hit by the shortage — on the work done by its staff, councillors and workers in responding to the failure of NI Water? Hopefully, he will condemn NI Water for its failure to deliver a service. To start off with, it failed to respond, and it failed to have a reserve of bottled water in place. In the Dungannon council area, for instance, one pallet of bottled water was on reserve in that time of crisis, even though there was a possibility of such a crisis occurring. The call centres had no strategy in

place except to act like the Samaritans and give people the opportunity of getting a response.

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

Mr Molloy: Will the Minister tell us how long it would take to wind up NI Water and bring it back under the Department?

The Minister for Regional Development: I have no difficulty congratulating Dungannon council, if only because it might soften relationships and encourage the gritting of paths, given that it is still a bit reluctant in that regard. I said quite clearly and publicly that I accepted that there were very substantial failings and that immediate lessons needed to be learned. The deputy First Minister and the First Minister also said that very clearly and publicly in the middle of the incident.

The response to the question about the long-term future of NIW is that, as I said, I circulated some proposals prior to Christmas to my Executive colleagues and to the Chairperson of the Committee for Regional Development on short-term legislative change that can bring much tighter control and public accountability to NIW. For the longer term, I intend to bring a paper to the Executive outlining options for NIW. Those options will be suited to the direction that devolved government has wanted to go with NIW. That will require a fairly substantial programme of legislative change. As I stated clearly last September, the purpose of that was to take the mind of the current Executive and, in doing so, to clearly inform an incoming Executive and Minister of the direction that people felt that NIW as an organisation should go.

Mr D Bradley: Go raibh maith agat, a Cheann Comhairle. Why is it that the Minister agreed an investment programme for Northern Ireland Water with the Utility Regulator on 13 December 2010 but has left the organisation £48 million short of what is required to fund that programme? Does the Minister agree that his statement clearly demonstrates that he failed to put in place adequate preparations, considering that the thaw was widely forecast for 26 and 27 December? If he will not do the decent thing and resign, will he at least apologise to the public for his failure in this matter?

The Minister for Regional Development: Yet again, we are back to the old chestnut of the SDLP on the attack. As for any failure, I was out

and about over the Christmas period, dealing with people. I am not sure where the Member was. He mentioned an apology; if he had been about or had paid attention to the media, he would have seen me standing in front of a mass of television cameras and news reporters on New Year's Eve giving a widely reported press conference during which I apologised to people. Perhaps that passed him by, wherever he might have been over the holiday period.

Clearly, the regulator, the Department and NIW agreed on the budget available to NIW. There are contradictions that I have been pointing out while the Member's party has been arguing against that type of change. One of the contradictions that I pointed out was that, although the regulator can tell us, because his function is to regulate NIW as a company and as a self-financing utility, what he thinks it requires, the Executive then have to agree the amount of money that is available. Mr McDevitt is shaking his head, but, when I made those propositions to the Committee, he asked whether I was throwing the baby out with the bath water. He said that it was simply a matter of some governance issues and that some people may need to change. Now, he is a radical proponent of change in NIW. I am glad that, somewhere on the road to Damascus, he had that recent conversion.

The point that the Member makes is erroneous — that is nothing new — because he is referring to only one year in the Budget period. He made the point that the regulator agrees with NIW on what is required. The Executive are faced with a different proposition, because the Westminster Tory Government have decided that 40% of our capital can be cut. Therefore, despite what the regulator and NIW agree is the required amount, the Executive do not have that unless they cut back on other services. Given that this is a draft Budget, if the Member and his party are critical of the allocation to NIW, I am more than happy to hear from them how that can be topped up and from what areas that will come. That will inevitably mean cutting other services. Therefore, rather than simple criticism, let us have some constructive proposals. If the SDLP wants the NIW budget to be added to, it needs to tell us where that should come from.

Mr Spratt: I thank the Minister for his statement. It is my understanding that, in the past, Northern Ireland Electricity brought in engineers from the United Kingdom to help to carry out repairs in an emergency. Given

the enormity of what happened with Northern Ireland Water, was any consideration given to bringing in engineers from the mainland or from elsewhere to help with the situation? If such a situation happens again, will the Minister ensure that that is one of the priorities that Northern Ireland Water will look at?

The Minister for Regional Development:

I consider us to be on the mainland. Nonetheless, I take the Member's point. Of course, it is an operational call for NIW what resources it needs in the middle of an emergency. I do not think that anyone in this Building is well placed to make a judgement on what is required operationally. In the middle of the situation, NIW's view was that it had sufficient engineers on the ground to detect and to deal with bursts. The major problem lay in communication, in call centre capacity and the ability to communicate with customers. There was also the issue of supply of emergency water. The investigation that the Executive have agreed can look at all of that and come up with recommendations.

I am sure that all those matters can be looked at under the mutual arrangements that NIW has with companies in Britain. Indeed, water supplies came from County Louth to the Newry and Mourne area. Mutual aid and what is required in the middle of an emergency is an operational decision; it is not something on which the Department is qualified to make a call. NIW, through its expertise, has to call on what it considers it requires.

1.30 pm

Mr Bell: We have heard a lot about the chief executive. However, what steps did the board, from the chairman down, take to ensure that we had an effective and efficient response? How does the Minister deal with the supreme irony that bottled water called Only Our Rivers Run Free was sold at his party's conference when the taps in Northern Ireland did not do so?

The Minister for Regional Development: I thank the Member for that advert for our bottled water. I am sure that sales will increase tenfold as a result of his mentioning it. As a matter of fact, the problem was not with the rivers. The issue was the mains supply.

The chief executive has obviously taken a decision and offered his reasons for doing that. The board has a responsibility to satisfy itself

and to get an assurance that the people who are tasked with devising, implementing and putting in place plans and revising them as they unfold actually do that. The plan that NIW put in place was a standard type of response plan used right across these islands. It was deployed in the earlier part of 2010 and was largely successful. However, there were some areas of criticism, and the regulator made some suggestions and issued some directions around that. The plan had also been deployed in the early part of December and had been responsive.

The board was responsible for assuring itself — and the Department, through discussions with the board, assured itself — that the professionals at NIW had the plans in place, as they very clearly said throughout December, were confident that they could handle arrangements and were prepared for whatever the weather might throw at them. The Member will have heard that if he observed the Committee proceedings. However, the reality is that that turned out not to be the case. The investigation will look into that.

Mr McDevitt: On a point of order, Mr Speaker. During answers about the statement, the Minister suggested that I was not present in the House. Is it in order for a Minister or a Member to suggest that another Member is not present in the House and then not to correct the record?

Mr Speaker: That is not a point of order, and I think that the Member knows it.

Draft Planning Policy Statement 23 (Enabling Development) and Draft Planning Policy Statement 24 (Economic Considerations)

Mr Speaker: I have received notice from the Minister of the Environment that he also wishes to make a statement to the House.

The Minister of the Environment (Mr Poots): With your permission, Mr Speaker, I wish to make a statement to the effect that, following Executive agreement in December, I am now issuing two planning policy statements (PPS) for public consultation. Those are draft PPS 23, which deals with enabling development, and draft PPS 24, which refers to economic considerations.

Draft PPS 24 contains text originally included in a statement on economic considerations that my predecessor, Sammy Wilson, made in the House on 11 May 2009, and which was quashed in court on 1 October 2010. As economic implications are already a material consideration in the process of planning applications, I have decided not to afford draft PPS 24 any weight in the determination of planning applications until such time as it is published in final form, after the end of the public consultation period.

Strengthening the economy has always been at the heart of the Executive's agenda, and there is no hiding the economic challenges that we face. We must all rise to the challenges by helping to promote sustainable economic growth. My Department plays a crucial role in making Northern Ireland a better place to live, work and invest, and planning is central to that.

The Planning Bill, which is being scrutinised by the Environment Committee, will create a modern, efficient and effective planning system that will support the Executive in their efforts to promote sustainable growth that will serve the needs of all the people of Northern Ireland and ensure the right level of protection for our built and natural environment.

Planning policy also has an important role to play. I recently published PPS 4 on economic development and draft PPS 16, which will help to manage sustainable tourism development. The draft planning policy statements that I am publishing today are also concerned with economic issues.

Draft PPS 23 provides a mechanism for subsidising the restoration and refurbishment of built heritage or other assets where there are clear public benefits and where the work cannot be funded by other means. It allows a development proposal that is contrary to established planning policy to be permitted where the development or its proceeds are needed to secure the long-term future of the heritage asset in the public interest. The enabling development subsidises the cost of the work needed to secure the asset where the cost of the work is greater than the market value of the asset after the work has been completed. The work could, for example, include maintenance or major repair of the asset or its conversion to the optimum viable use. Such works constitute the principal proposal.

The justification for allowing enabling development lies in the overriding public benefit to be derived from the implementation of the principal proposal, which would otherwise have little prospect of being carried out. Enabling development is often residential development, which is permitted only to fund the restoration. Draft PPS 23 proposes policy for assessing enabling development proposals. It allows for enabling proposals that include some elements that would not normally be acceptable under other planning policies but which can be justified where there are overriding public benefits to be gained from the development.

Enabling development is already a well-established planning concept, and some proposals have been approved in Northern Ireland. Draft PPS 23 sets out clearly the circumstances in which enabling development may be considered permissible. It also provides rigorous criteria against which enabling development applications can be assessed.

Whereas planning policies on economic development, tourism and enabling development are concerned with particular types of development, draft PPS 24 is relevant to any type of development. It states:

"Full account shall be taken of the economic implications of a planning proposal, including the wider implications to the regional and local economy, alongside social and environmental aspects, in so far as they are material considerations in the determination of the planning application to which they relate."

Where the economic implications of a proposal are significant, substantial weight shall be accorded to them in the determination of that planning application. In such cases, substantial weight can mean determinative weight."

That said, draft planning policy statement 24 will need to be read in conjunction with others, and economic considerations will need to be weighed up alongside other material considerations.

There will be times when other material considerations, such as environmental or health and safety factors, outweigh the economic implications of the proposals and make it necessary to refuse planning permission. The Planning Service will assess the economic implications of any proposal on the basis of the information that is provided with the application. That means that applicants must make sure that they include in their applications all the information that the Planning Service needs. Such information will be proportionate to the scale of a development.

Consultation on draft PPS 23 and draft PPS 24 will close on 6 May 2011. I encourage everyone with an interest to write to tell us what they think. We will consider the responses very carefully before finalising the policy.

My Executive colleagues have welcomed draft PPS 23 and draft PPS 24, and I commend the policies to the House.

The Chairperson of the Committee for the Environment (Mr Boylan): Go raibh maith agat, a Cheann Comhairle. On behalf of the Committee, I welcome the Minister's statement.

The Minister is well aware of cases that are awaiting decisions that rely heavily on economic considerations. He said that that is a material consideration, but all those applications are sitting ready to go for refusal. If consideration cannot be given until the policy is in its final form, it will not be used. How does the Minister hope that Planning Service will assess and make a determination for those cases that are already sitting waiting? I welcome that planning policy statement but economic considerations are clearly not being taken seriously as a material consideration.

The Minister stated that draft PPS 23 will allow development that has overriding public benefit. Will he state who will assess that public benefit and on what criteria the assessment will be made, not just under the current planning

arrangements but when the arrangements are devolved to local government?

The Minister of the Environment: As planning policy exists, economic considerations can and should be taken into account. When my predecessor, Mr Wilson, made his statement on economic considerations, he wanted to emphasise that fact. He wanted to give guidance to planners that more substantive weight should be given to economic considerations compared with many other issues that came forward from, for example, Europe and elsewhere that were sometimes being given greater weight than economic considerations.

Unfortunately, that was challenged, and the court's interpretation of it was different from the previous Minister's. One issue was that we did not have a full public consultation. We are now going to have a full public consultation. After that is completed, whoever happens to be in this ministerial position after 5 May will be able to move this forward and make their decision on the basis of what has come back from the consultation. In the meantime, planners can still take economic considerations into account.

I turn to enabling development and the people who will make judgements on it. We will, for example, rely on the Northern Ireland Environment Agency (NIEA) to give us information on built heritage. Business opportunities — for example, significant tourist opportunities — will need to be supported by a business case and the "reasonology" as to why applicants require additional development to enable them to deliver something that considerably benefits the community. If it is a leisure facility for a district, an assessment will be carried out and that development will have to support local community needs. I trust that my answer has assisted the Member.

Mr Weir: I thank the Minister for his statement. Following on from what has been asked, I refer the Minister to the second paragraph of his statement, in which he referred to a statement by the previous Minister, Sammy Wilson. I want to ask about planning application decisions that were based on the planning policy statement that was quashed. What position are they left in?

The Minister of the Environment: Since 1 October 2010, planning offices were advised that decisions on planning applications should no longer take that statement into account. Before October, the statement was still in place,

and decisions on planning applications had, on some occasions, been considered. Therefore, in the absence of any individual legal judgement, such decisions remain valid.

Mr Kinahan: I thank the Minister for his statement. I start by declaring an interest in that I live in a historic building. The Minister's statement will be incredibly welcomed by everybody who lives in listed buildings, particularly after the recent cold weather patch did so much damage. Has the statement been put in place to replace the cuts regarding help with historic buildings, archaeology and archaeological sites that are coming through in the Budget?

The Minister of the Environment: It has not been put in place for that reason but it will help to offset some of the cuts that are coming in that direction. Unfortunately, the Westminster Government, formed from the Conservative/Liberal pact, have decided to instigate a series of cuts. That is a political decision, and we in Northern Ireland will have to take our share of those cuts.

When it comes to built heritage, we are also looking at issues such as the provision of tourist infrastructure. There are, perhaps, tremendous tourist opportunities that could help Northern Ireland but which just do not stack up financially without enabling development. It may be that there are educational or arts facilities, cultural facilities and leisure facilities that we in Government do not have the money to support but that could be supported through private development. Those opportunities may well be created. They may well be for an arts centre or for something of cultural significance, such as a museum, but that development can only happen with the support of enabling development. At the moment, we in the Executive do not have the capital investment or financial wherewithal to support some very worthy and worthwhile schemes.

Mr Dallat: I also thank the Minister for his statement. It is very welcome.

Given that all planning comes at a cost, and given that the Minister recently approved a planning application for a superdump in an area of outstanding natural beauty, will he tell the House how the draft planning policies will prevent that and how they will harmonise the best in planning and in job creation, particularly in tourism, which is very important on the north coast?

1.45 pm

The Minister of the Environment: I thank the Member for his question. As usual, he is very consistent in striking a negative note. The facility at Cam does not really have much to do with this issue, but I will deal with it anyway. Replacing a hole in the ground is not really regarded as something that will add to an area of outstanding natural beauty. Having that hole filled under International Panel on Climate Change (IPCC) regulations in a way that can be properly monitored and brought back to something that looks more natural should not really be viewed in a negative light. However, there is always opposition to those types of facilities, which I understand.

Nonetheless, these items will deal with economic issues. A group such as the North West Region Waste Management Group, for example, may say that, economically, we need to continue to create landfill and that that is the best landfill site. The Sinn Féin and SDLP members of that group may support that along with the unionist representatives, and so forth, and when all that happens, that makes a decision that adds up when it is put on my desk. Perhaps the Member would be better talking to his colleagues on that group and encouraging them not to proceed with the waste facility at that site.

Mr Lyttle: Does the Minister believe that the Northern Ireland Environment Agency has sufficient power and independence to ensure that draft PPS 23 will be applied in a way that strikes the correct balance between economic development and the protection of our built heritage?

The Minister of the Environment: As it stands, we already allow enabling development for built heritage. That has been the case on a number of occasions, and it is lifted from the policy that is in place in the rest of the UK. Through enabling development, we are looking to take that somewhat further. Enabling development is about creating opportunities to provide significant facilities that could not otherwise be provided for the benefit of the community. Those facilities may be significant at a local or regional level. Enabling development is for the benefit of the community, not developers. They may make something out of it, but the primary focus of enabling development is that it is for the benefit of the community. I, as a public representative,

will always want to fight for the benefit of the community. If others wish to take a different line, they might want to take that interesting case to the public during the elections in May.

Mr Ross: I thank the Minister for his statement. What policies can be set aside with the announcement of the new draft PPS 23?

The Minister of the Environment: When someone submits a proposal for enabling development they must demonstrate, in the first instance, why planning policy should be set aside. That is absolutely necessary to allow the Department and planning professionals to properly assess the merits of the proposal and to decide whether the benefits to the wider public decisively outweigh the disbenefits of setting aside other planning policies. Although it is for the decision-maker to weigh up all material considerations in issuing such a decision, draft PPS 23 aims to establish the instances where the relevant policy may be set aside to allow the enabling development proposal. The justification for allowing the enabling development element lies in the overriding public benefit of the implementation of the principal proposal, which would otherwise have little prospect of being carried out.

Mr W Clarke: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement, which I also welcome. Will economic weighting be given to nursing homes that are in listed buildings and that wish to expand, particularly those that are in the system awaiting decisions on the previous Minister's paper? Will the Minister outline how applications already in the system will be resolved? Furthermore, will the Minister outline the amount of jobs that will be created by implementing the policies?

The Minister of the Environment: Without getting into specific cases — I do not know which cases the Member is talking about, so I am probably on safe enough ground — the proposals are meant to support, not diminish, built heritage. If a nursing home that is in a listed building has a proposal that sustains that particular business model without detracting from the listed building, the proposal will be supported by the policy. I have to make it absolutely clear: proposals that relate to built heritage, but would end up detracting from it, will not be supported. The proposals should allow built heritage to be sustained and

enhanced, but not detracted from. Therefore, anybody drawing up proposals needs to do it on that basis.

We have not carried out an analysis of how many jobs the policies will support or create, but they generally support economic considerations. Let me make it absolutely clear in the House: Northern Ireland is under considerable financial pressure, and, at this time, we need to support business, the economy and job creation. That is why I am glad that these policies are being brought forward now.

Mr A Maginness: I thank the Minister for his statement, particularly in relation to draft PPS 24. I agree that it is necessary to attract economic development and investment. The Minister said that although “material consideration” will be given to economic decisions, “substantial weight” will be accorded to the economic elements of any planning application. Will the Minister evaluate what he means by “substantial weight”, because if that position is not different from the previous one, there is little point in having draft PPS 24?

The Minister of the Environment: Draft PPS 24, as I quoted in my statement, goes further than that. The weighting can be the determinative factor in a decision. If Invest NI, for example, were trying to attract a large company to Northern Ireland and to locate it on the top of Black Mountain, there would be a debate about whether the proposal should get planning approval. Even if the company had 400 or 500 jobs, the application would probably be refused. We cannot override environmental issues. However, if it were to be sited on the edge of an existing industrial estate, perhaps extending into the green belt, but without doing demonstrable harm, the economic factors would clearly indicate that that proposal should go ahead. Under current arrangements, the proposal would face greater challenge.

There have been incidents, such as Coca-Cola's investment in my constituency, which, by the way, took place prior to my becoming the Minister and which I supported strongly, when the proposed investment was outside existing development zonings but in the public interest. Draft PPS 24 will make it considerably easier for planners to come to that type of decision. However, we will not override key environmental issues exclusively in the interests of business, because that would, ultimately, have a negative outcome.

Mr I McCrea: I, too, welcome the Minister's statement. He referred to draft PPS 24, which states:

"full account shall be taken of the economic implications of a planning proposal".

It further states that full account will be taken of:

"material considerations in the determination of the planning application".

Will the Minister detail what he has done to progress the determination of planning applications throughout the system?

The Minister of the Environment: First, we are introducing legislative change through the Planning Bill. In addition, we are introducing a package of organisational changes and efficiency measures to bring about improvements in the handling of planning applications.

Key actions include the prioritisation of applications that are economically significant; pre-application discussion to improve the quality of applications; the streamlining of council consultation; the redirection of staff resources to meet priority demands, including the creation of a divisional support team targeted at areas of particular workload pressure; and improved monitoring of consultee performance. For example, the streamlined council consultation that was introduced to all 26 councils has reduced the average timescales for approvals to 24 working days.

Mr S Anderson: I thank the Minister for his statement. I welcome it. How are economic benefits assessed under draft PPS 24?

The Minister of the Environment: The key responsibility will remain with the applicants, because they will have to ensure that, with their application, they submit all the information that is needed by the planning authority and that the economists in the Planning Service will use to assess the positive and negative economic implications of the proposals, because, in some instances, the policy will stop development. For example, an application may create a modest number of jobs but be proposed to go beside a site where there is a facility to create considerably more jobs, meaning that the application would have a negative impact on that facility, with the potential to lose those jobs. In such instances, this planning policy gives Planning Service the teeth to say "no" very clearly.

Dr McDonnell: I welcome the Minister's statement. Although I could enjoy dissecting proposed PPS 23, my main interest is in PPS 24. Does it mean that planning decisions will be determined any quicker in the future? The framework is not the only important factor. The awful indecision and slow speed of making determinations — decisions often take years — grind people down and do significant economic damage.

The Minister of the Environment: I fully accept what the Member has said. There has been a historic pattern of elongated decision-making. In fact, I was dealing with a case this morning that has been going on for nine years. That is not satisfactory. On occasions — in fact, on virtually every occasion — not all the blame can be apportioned to Planning Service alone. Very often, a lot of it is down to the applicants and how information is provided or, indeed, poor quality applications in the first instance. Nonetheless, we want a system to be put in place through which assessments can be carried out in an effective and efficient way and in a timely manner that deals with all the issues. The Planning Bill will assist us in that.

As we move a lot of the decision-making, right up to all the major applications, back to local government, the planning system will be more focused towards meeting the needs of the community that it represents. Let us move away from the direct rule systems that were established and put in place for many years. We have our own Assembly here and our own local government. We will put the structures in place to introduce the protection in local government, and let us ensure that we proceed to pass planning powers back to local government and ensure speedier decisions.

Mr Bresland: What financial scrutiny will apply to enabling development?

The Minister of the Environment: Proposals for enabling development will be subject to the same degree of financial scrutiny, transparency and, indeed, accountability as cash grants from public funds. It will be absolutely necessary to exercise due diligence in whatever we do, because we cannot leave ourselves open to the charge that we are in the pockets of developers or are unnecessarily helping developers. First and foremost, this is about helping the public. We will not do that to the extent that developers

receive no benefit from it. However, it is primarily about delivering benefits for the public.

Mr Buchanan: I welcome the statement to the House today. Can the Minister give the House some assurances that in the drive for economic development, the environment will not be sacrificed but will continue to be protected appropriately?

2.00 pm

The Minister of the Environment: Absolutely, and the principles of sustainable development are at the heart of the planning system. That means that an appropriate balance has to be struck between the economic, social and environmental aspects of development. We already have a legislation policy to protect the environment from inappropriate and, indeed, insensitive development, so I assure the Member that the policy is not being brought about to override environmental considerations. It clearly gives economic considerations a greater weight than was the case heretofore, and that is why I am keen, at this time of recession, that we move forward with it as quickly as possible.

Mr Speaker: That brings to an end questions to the Minister of the Environment. I ask the House to take its ease as we move to the next item of business.

Public Expenditure: December Monitoring 2010-11

The Minister of Finance and Personnel

(Mr S Wilson): I am not as fit as I thought I was, because running from the canteen has left me out of breath. I want to make two statements. First, I will make a personal statement to correct some information that I gave in the Assembly on 15 December in response to a question by Peter Weir on the comparison of the health allocation in the draft Budget with the allocations to other areas of the UK. In my response I stated:

"Although most other budgets have taken not only a real decrease but a cash decrease, the health budget will, I think, increase by 7% over that period. That compares favourably with the situation in Wales, where there was a 2.5% real reduction, and in Scotland, where there was a 3.03% real reduction."
— [Official Report, Vol 59, No 3, p187, col 1].

In making that statement, I misread the Scottish real terms percentage. Instead of 3.03%, I should have said 0.303%. I wish to apologise for that, because I understand that it has caused many hours of sleeplessness to Members who were trying to work out how I calculated 3.03% instead of 0.303%. In addition, I clarify that the like-for-like comparisons with the devolved regions showed that the health budget faces a similar impact to that in Scotland.

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

I will provide a copy of the letter to the Speaker, and a copy will also be placed in the Assembly Library. I just want to make that clarification. I am sure that that will keep Members happy.

I will now move on to the December monitoring round. Mr Deputy Speaker, thank you for the opportunity to update the Assembly on the outcome of the 2010 December monitoring round. The starting point for the monitoring round was the conclusion of the September monitoring round. As Members will be aware, September monitoring concluded with a residual overcommitment of £16.8 million in respect of current expenditure and no overcommitment in respect of capital investment.

The 2010 UK spending review announced the closure of the existing end-year flexibility scheme. However, the settlement for Northern Ireland provided the Executive with a one-off facility, which granted us access to any underspends announced in the Estimates

stage in this financial year. During this round, an important strategic consideration for the Executive was, therefore, whether to allocate any reduced requirements in this year or to retain all or some for drawdown in the next financial year. Given the highly constrained public expenditure position next year, particularly on the capital side, the issue played a key part in the Executive's deliberations.

Before I go on to the outcome of the December monitoring round, I will highlight the reduced requirements surrendered and the bids submitted by Departments during the round. All the detailed figures are included at the end of the statement, which Members should have available to them. In respect of reduced requirements, Departments surrendered £28.8 million of current spending and £40.8 million of capital investment. In respect of current expenditure, the level of reduced requirements was slightly higher than it was last year at this point in the financial cycle, but it is still low in terms of recent trends. Full details on the reduced requirements are set out in the tables that have been attached to the statement.

In addition to the reduced requirements, the Executive also allow Departments to move resources across spending areas where the movement is reflective of a proactive management decision taken to enable the Department to better manage emerging pressures in their existing baselines and to facilitate better financial management. Departments that have made use of that mechanism should be commended in their efforts to deal with emerging pressures. Due largely to technical issues, it has also been necessary to reclassify some amounts between different categories of expenditure. Details of all those changes are also provided in the tables attached to the statement.

In addition to those technical changes, it was necessary to allocate a small sum of — I hope that I get it right this time — £0.3 million of current expenditure to provide budget cover to Departments that are responsible for administering statutory salaries and pensions. There is also a small technical transfer of £0.4 million from the Home Office to the Northern Ireland Executive in respect of the migrant impact fund.

Taking account of the September monitoring outcome, the net result of all the transactions was to make available £14.7 million of current

expenditure. For capital investment, the result was to make £38.2 million available for allocation or deferral into next year.

I will outline the bids and the allocations made by the Executive in a moment, but, first, I will update Members on the position relating to equal pay. Payment of the equal pay liability is now largely complete, and allocations to Departments were processed as part of the December monitoring process. The allocations were based on information from corporate HR equal pay team, and I can inform Members that the total cost of addressing the equal pay liability is now estimated at £129 million, which is slightly below the initial estimate of £131 million. However, Members should note that there are still some outstanding payments. Therefore, there is still some uncertainty over the final cost.

Departments submitted bids of £73 million in respect of current expenditure and £32.1 million in respect of capital investment. Some of those bids reflected pressures that had been identified as part of previous monitoring rounds in the current year, which were not met in full at that time. Full details of departmental bids are also attached to the statement, which has been circulated to Members.

As far as the allocations are concerned, on the current expenditure side, Departments submitted a number of inescapable bids that the Executive agreed had to be met. The largest allocation was of £16.5 million for the Department for Learning and Employment (DEL) to address the statutory student finance pressure. That has been created by additional demand for statutory student grants and allowances due to greater uptake as a result of the economic downturn. Allocations were also made to the Department of Agriculture and Rural Development (DARD), the Department for Regional Development (DRD) and the Department of Enterprise, Trade and Investment (DETI) to fund various inescapable pressures. Full details of those allocations are also attached to the statement.

Those current expenditure allocations facilitated a slight reduction in the remaining current expenditure overcommitment to £14.7 million. Given the tight in-year position, the Executive expect to use any reduced requirements that are surrendered as part of the February monitoring round to eliminate the current expenditure

overcommitment. In capital expenditure, there is a clear balance to be struck between meeting in-year bids now and deferring some or all of the reduced requirements until next year. Given the difficult capital position next year, the Executive agreed to allocate just £15.1 million now and for the remaining £23 million to be carried over into the next financial year. Of course, Members will already be aware of that, because it was announced in the draft Budget statement just before Christmas.

In fact, the largest capital allocation of £7.5 million was made to DRD to fund the A2 Broadbridge project and additional structural roads maintenance. Capital allocations were also made available to the Department of Education (DE), DEL and the Department of Health, Social Services and Public Safety (DHSSPS) to fund essential health and safety works, and, in the case of the DHSSPS, to replace medical and ICT equipment. Again, those decisions leave the Executive with zero overcommitment in capital investment.

The key consideration for the Executive in the current monitoring round was whether to defer any available funding into the next financial year. On the current expenditure side, the level of available resources was modest, and Departments submitted many competing bids. The Executive could, therefore, meet only those bids that were clearly inescapable. That has, undoubtedly, left many Ministers disappointed. However, that is inevitable when the level of bids far outweighs the level of available resources.

The Executive's focus for the remainder of the year will be to manage carefully the public expenditure position. I have, in effect, reminded colleagues of how important it is to avoid breaching departmental control totals. It is imperative that Ministers live within the resources available to them following the conclusion of the December monitoring process. The Executive's decision to defer £23 million of capital investment until next year allows us to build that extra funding into our draft Budget proposals. That will help to alleviate what will be a difficult capital position next year.

Members will be aware that the Executive were faced with £127.8 million of public expenditure reduction as part of the Government's £6 billion public expenditure reduction this year. Although the Executive were given the flexibility to defer those cuts to next year, our focus has been on

managing down the effect of overcommitment that resulted from that UK Government-imposed spending reduction. I can inform Members that, following Executive agreement, my officials have now confirmed to Her Majesty's Treasury that we will, indeed, implement our share of the public expenditure reduction in the current year. By taking those reductions now, we will avoid the imposition of further reductions next year, when public expenditure is set to become tighter.

As Members will be aware, I have highlighted continually the need to have a Budget in place as quickly as possible to allow public bodies sufficient time to plan for a challenging financial environment next year. I am, therefore, pleased that we now have a published draft Budget. However, the delay in publishing that draft Budget paper has resulted in a highly compressed timetable. I am aware that considerable criticism has been levelled at those Ministers who belatedly published their detailed budget plans.

In light of that, I informed the Executive of the need to extend the consultation period, and public consultation will run to 16 February. However, that means an even more compressed timetable for the Executive to get the Budget finalised and approved. I value the views of everyone who engages in the Budget process. However, the most important issue is that we get on with the job of finalising the Budget before the end of this financial year.

2.15 pm

I thank everybody who has engaged in the Budget process so far, and I encourage all sections of society to make their voices heard as we seek to finalise the proposals. I believe that the Executive's decisions in this monitoring round are very sensible and have contributed to an easing of a very difficult capital expenditure position next year. Therefore, I commend the December monitoring outcome to the Assembly.

The Chairperson of the Committee for Finance and Personnel (Ms J McCann): Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his statement. The removal of end-year flexibility (EYF) will make it even more important for Departments to declare their reduced requirements at the earliest opportunity. What measures could be put in place to ensure that those reduced requirements are declared at the earliest opportunity? Will the Minister update the House on any communication that

he has had with the British Treasury on the replacement scheme for EYF?

The Minister of Finance and Personnel: I thank the Chairperson for that question. Ministers were aware since June that it was important to declare reduced requirements during the December monitoring round. If we were going to carry any money forward, we had to inform Treasury in December. Any money that is declared after that, and that counts for the February monitoring round, will have to be spent this year, or else it will be lost to the Budget. The Chairperson made an important point. We will not know about the reduced requirements until the money comes through in the February monitoring round, but I hope that Departments are not carrying a lot of surplus spend that they are not going to be able to undertake before the end of this financial year. If they are, we will have to make sure that the money is allocated to Departments in the February monitoring round.

As far as the replacement for EYF is concerned, we have been in touch with the Treasury on a number of occasions and I have had meetings with Treasury Ministers. We do not yet know what the replacement scheme will look like. There needs to be some kind of replacement. For flexibility, if money is not going to be blown at the end of every year, there needs to be some carry-forward, albeit it might be much reduced because of the current economic circumstances. As soon as we are aware of that, the Committee will be informed.

Mr Hamilton: The Minister will know that the monitoring round process in its totality has its critics. However, does he agree that, as imperfect as the monitoring round process is, the ability of the Executive to use it to manage the additional cuts that were handed down in June by the coalition Government in the emergency Budget, to defer capital expenditure to next year and to reduce the overcommitment on the capital and current side proves its worth?

The Minister of Finance and Personnel: The Member has hit the nail on the head. The monitoring process, if conducted properly and if Departments declare at any early stage where there are reduced requirements, leads to much more effective spend, because we can move that money to the next best priorities that the Executive and Departments might have. The Member made an important point. The monitoring process has enabled us to deal

with the £127·8 million worth of demands that were made in June and not to have to carry it forward, because we have been able to manage it. I thank Ministers who co-operated in that way, because it enabled us to reduce the pressures that may otherwise have been imposed on us next year.

Mr McNarry: I thank the Minister for his statement, in which I noted the reference to the equal pay settlement. Last week, the Committee heard compelling evidence from retired civil servants who are excluded from that settlement. Is the pay settlement completely closed, or is the Minister willing to proceed with his Committee on the issue of those who feel that they have been excluded from the settlement in the manner that I have outlined?

The Minister of Finance and Personnel: I know that the equal pay issue has caused considerable anxiety and anger among people who have been outside the scheme, and the Member has quite rightly reflected that. However, I must make something very clear to him. As far as the scheme itself is concerned, we have met the legal obligations. Indeed, to go beyond the scope of the scheme as it is at present would actually take us outside the statutory abilities that we have to spend money on the claims that other people who retired before August 2008 would make.

According to the information that I have been given, around 8,760 staff left between February 2003 and July 2008, and 1,000 of those were retirees. So even if, statutorily, we could extend the scheme — and there is a High Court case on that — we would be including another 1,000 people in that, and, of course, the cost of that would be quite high. We already know that, for those who were affected — I think there were around 13,000 — the cost was £129 million, so there would be a huge amount of expenditure required, especially since some of them would have fairly long claims.

I know that there is a very strong lobby, but there is a legal requirement for us to abide by the pay legislation. If we were to go beyond that, we would not have the statutory responsibility to spend the money, and once we did go beyond it the question would be where do we stop and how far back do we go?

Mr O'Loan: I thank the Minister for his statement. I want to ask him about the remaining £23 million of capital money to be

carried over to next year. Is it possible that there might be further demands on that money in this year on account of the recent extreme weather? I am thinking possibly of demands from roads, from water and from the Housing Executive. If those demands were to be made in February, would he be able to meet them out of that money? I presume that, if it is carried to next year, we will have the flexibility to avail ourselves of it, but will he confirm that?

I relate that to the revelation — and the Minister was quite right when he said recently that it was only a revelation to some — that £300 million on which we thought we had flexibility is now lost to the Northern Ireland Executive. How much of that is globally lost to the Executive, and how much is attached to particular public bodies? Schools have been mentioned as an example, but are there many public bodies throughout Northern Ireland that thought they had money in their reserves and are now aware that they do not?

The Minister of Finance and Personnel: I will first deal with the £23 million capital. The capital spend in the draft Budget that went through the Assembly includes the £23 million. Of course, if the Assembly and Executive decide that that £23 million should come out of the capital spend next year and come back into this year, it is entirely possible for us to make that decision. It is not irrevocable; however, it was done after much consideration and for very good reasons. I would be very surprised, especially at the end of the financial year, if we brought £23 million or part of that £23 million back in to be spent on schemes that then had to be squeezed in at the end of the financial year.

I have been given no indication by the Department for Social Development (DSD) or DRD about the impact of the severe weather before Christmas on their budgets. Initially, it will be up to them to find that money within their existing budgets. Do not forget that, as I have already pointed out, we have the February monitoring round coming up, and there will be opportunities there — I am sure there is bound to be some money declared as reduced requirements — for Departments who have been affected by the severe weather to make bids, if those bids are deemed to be inescapable.

I do not have the breakdown of the EYF money. The global amount lost was £316 million. As the Member pointed out, some of that would have

attached to individual schools etc. However, it is money lost to Executive spend, and we are not able to draw it down. Of course, it could have been drawn down previously, with Treasury approval, for any kind of expenditure across the Executive. It was not earmarked for specific purposes. Although I am sure that the Education Minister will want to clarify the position for individual schools, I would have thought that where that money was set aside prudently by particular bodies as part of their long-term financial planning, we would not wish to disrupt that. It would probably be a retrograde step if we were to do so.

Dr Farry: Towards the end of his statement, the Minister rightly recognised the anger at the flawed consultation on the draft Budget and, in particular, the failure of certain Departments to produce their spending plans, with honourable exceptions such as Finance and Justice, despite Departments nominally having been working on them since the summer.

Will the Minister give the House a guarantee that the current consultation will be meaningful in the sense that responses from the public and organisations will be given due regard and consideration by the Executive and that there is sufficient time for the Executive and the Assembly to comply with their legal requirements and agree a Budget before dissolution?

The Minister of Finance and Personnel: The date of 16 February was set to ensure that we still could meet with our legal requirements to have a Budget by the end of this Assembly session. Indeed, as part of that agreement, the Executive have also agreed that we will have an additional Executive meeting so that we do not fall into the two-week cycle of Executive meetings, and are able facilitate the timetable. So, even with the compressed timetable and the additional week, that additional Executive meeting should give us the time to fit in all the requirements.

We have also factored into that the time needed to deal with responses. We do not wait until the end of the process anyway before we decide how we will deal with responses. By the end of next week, all the key interested parties in the Budget, for example, trade unions, business organisations, the Northern Ireland Council for Voluntary Action (NICVA) and the Consumer Council, will have been spoken to and consulted with. On top of that, the Department of Finance

and Personnel (DFP) alone has already received 17 submissions. I suspect that a lot of individual Departments have already received submissions that they have not yet sent in.

There has already been quite an interface with people about the consultation on the Budget. Committees will be doing their work in the interim. So, I am still convinced that, given the work that has been done already, the work that is planned and the responses that we have had from a wide range of organisations, the consultation will be meaningful.

Mr Deputy Speaker: As Question Time commences at 2.30 pm, I suggest that the House takes its ease until that time. Questions to the Minister of Finance and Personnel will continue after Question Time.

2.30 pm

Oral Answers to Questions

Employment and Learning

Student Fees

1. **Mr McDevitt** asked the Minister for Employment and Learning if he can confirm that there will be no increase in student fees. (AQO 778/11)

The Minister for Employment and Learning (Mr Kennedy): It is not possible, at this stage, to confirm the level of tuition fees that will apply in Northern Ireland in the future. What I can confirm, however, is that the ultimate decision will rest with the Assembly. As the draft budget for my Department indicates, the financial situation is extremely difficult, and higher education must, and will, bear a significant proportion of the necessary reduction in expenditure.

If capacity and service quality in the higher education sector are to be maintained, student fees will need to be increased. However, subject to Executive approval, a forthcoming public consultation process on tuition fees and student finance will consider the implications of any changes to the existing arrangements. Until that work is complete and responses to the public consultation have been considered, no final decisions will be taken on any potential fee increase.

I have said consistently that the opportunity to enter higher education must be based on the ability to learn, not on the ability to pay. I am, therefore, committed to minimising the impact of any fee increase on Northern Ireland families.

Members need to be aware that the issue is not simply about fees; it is about the complete package of loans, fees and repayment arrangements that will be available to students and their families. I can confirm that no students, or their families, will pay upfront fees to attend university. As at present, they will pay only after graduating and when they are in work.

Mr McDevitt: Many in the House will feel that that was a speech of surrender from the Minister. He seemed to concede that fees would

increase instead of inviting us to unite, as an Assembly, against that happening. Will the Minister acknowledge that we need a regional solution? We need to be honest with young people and with ourselves that if we are serious about continuing to grow access to university and higher education and serious about continuing to open up opportunities that are afforded by that education, we must ensure that fees are not increased in this region.

The Minister for Employment and Learning: I hear what the Member is saying. I am working very hard to achieve a Northern Ireland-based solution.

If I was irresponsible, I would tell the House that there will be no increase in fees. If I wanted to politically grandstand, as it appears some people want to, I would tell the people in this House and the wider public that there will be no increase in fees. If I was unconcerned about the quality of our universities or if I wanted to play to the political gallery — as it appears the Member wants to — and effectively to mislead the public, I would not be honest about the situation that we find ourselves in.

I am trying to deal with the situation, and I will need the help and support of all Members, because, ultimately, it will be this House that decides whether there is an increase in student tuition fees.

Mr Bell: Does the Minister agree that the people of Northern Ireland want two things? It is a balancing act between ensuring that children from low socio-economic groups can still access university on their ability to learn, not on their ability to pay and, equally, universities in Northern Ireland remaining world-class British universities. Children with degrees from the likes of a Russell Group university should, throughout their education careers, be able to take them anywhere in the world on the basis that their knowledge is recognised as world class.

The Minister for Employment and Learning: I thank the Member for his contribution. That is exactly the point, and he made it in a mature and responsible way. I thank him for that and for his role on the Employment and Learning Committee.

We are in a situation that will require balance and a mature reflection on where we find ourselves on this important issue. My guiding principle is clear: access to university should be

based on the ability to learn, not on the ability to pay. However, I have to balance that with issues of affordability and extending opportunities to potential students from all family backgrounds in Northern Ireland. We have a very good record of widening participation in our universities in that regard. We have to balance that as well as to maintain the world-class status of Northern Ireland's universities. That is why we need help and co-operation not only from all parties in the House but from key stakeholders, the universities, student representatives and everyone else who has an interest in this important matter.

Rev Dr Robert Coulter: In view of what he has said, is it the Minister's view that a failure to increase fees would have a significant impact on the quality and competitiveness of Northern Ireland's world-class universities?

The Minister for Employment and Learning: The Member makes a very good and a very real point. That is the balance that we must find. At all times, we must maintain the high-quality, world-class provision that our universities currently offer. I know that on their recent trip to America, the First Minister and deputy First Minister were being lobbied by senior people with economic potential to offer to Northern Ireland to maintain, at all times, our university provision. I take that seriously, and in these straitened economic times, we have to keep the proper focus that means that we ensure that our universities retain and maintain their excellent standards.

DEL: Savings

2. **Mr McCarthy** asked the Minister for Employment and Learning for an update on his Department's draft savings delivery plan. (AQO 779/11)

The Minister for Employment and Learning: My Department's consultation paper on the Budget settlement and proposals to reduce expenditure was published on Monday 10 January 2011. That paper sets out very clearly how I would produce savings of £144 million in my budget by 2014-15. I have sought to protect key front line services over the Budget period by squeezing out unnecessary bureaucracy and concentrating resources on front line services; bearing down on pay and price inflation while recognising the benefit of public investment in services; seeking greater contributions from service users and

beneficiaries; and looking for improvements in efficiency from the higher education sector in particular, given the generous funding that has been allocated to it over the past five years.

Inevitably, some services will be affected. Given the proposed settlement, I will have little option but to withdraw funding for adult apprenticeships; seriously consider the affordability of the return to work credit for new claimants and the scale and duration of some of our Steps to Work NVQ provision; and bring forward proposals to better target educational maintenance allowances and to increase student fees. However, that will still leave me with a potential deficit of £40 million in year one of the Budget period and £31 million in year two.

If no further resources are made available, I will have to make some further and very difficult choices in order to balance the books. Although I will seek to protect front line services as far as possible, that could mean that we will struggle to maintain parity with Great Britain in our delivery of services to the unemployed; key projects and initiatives in research and innovation will be cancelled; funding to the further education sector will reduce further, with obvious consequences on capacity; our ability to deliver our proposed skills strategy, including the STEM — science, technology, engineering and mathematics — subjects, will be severely restricted and its implementation delayed; and higher education's funding will reduce further.

Mr McCarthy: I thank the Minister for his answer. Given the importance of investment in skills to the future of our economy, as failure to invest in that area would simply contribute to a false economy, what action has he taken to ensure that education and training are maximised?

The Minister for Employment and Learning: I thank the Member for his supplementary question. I understand his point.

As Minister for Employment and Learning, I believe myself and my Department to be in the engine room of our local economy, not only in dealing with the economic downturn that we face, but more particularly in preparing for the economic upturn. That is what I have sought to do with this budget: to protect, as far as I possibly can, skills and training services and to maintain those services so that, when we get the opportunity of economic upturn, we are in a position to deal with it.

Mr P Ramsey: Will the Minister elaborate on the Department for Employment and Learning (DEL) draft Budget statement, which outlined how the implementation of the proposed skills strategy will be severely restricted by the lack of resources? Does the Minister agree that those schemes in particular are most crucial during this economic downturn?

The Minister for Employment and Learning: I am grateful to the Member for his question and agree largely with the point that he makes. The answer that I gave Mr McCarthy in some way deals with that. I am aware of the importance of all those programmes, but I find myself in a position in which I need to seriously balance the books of my Department. We have looked closely at our budget, and it is right that all sectors within my remit contribute to achieving the savings that are required of me. However, in saying that, we have sought to maintain, and we will continue to seek to maintain, all the skills and educational programmes that we have, in order that we can not only give opportunities, particularly to young people, but prepare for an economic upturn.

Mr Kinahan: In his answers to the first question, the Minister has already touched on this matter a bit but does he agree that there is a responsibility on those who disagree with the proposals to tell the rest of us how they would fund their alternative proposals?

The Minister for Employment and Learning: I understand that point entirely and thank the Member for making it. I met the Committee for Employment and Learning last Wednesday. I had not gone public on my proposals before then, because, as a former Committee Chairperson, I know the importance of treating with proper respect the Assembly Committees and their considerations. What I said then, and I repeat now, is to those who criticise my proposals: please do not bring me problems, bring me solutions.

DEL: Budget 2011-15

3. **Mr Elliott** asked the Minister for Employment and Learning for his assessment of the potential impact of the draft Budget on the business-facing activities of his Department. (AQO 780/11)

The Minister for Employment and Learning: As the Assembly is fully aware, my Department

has been at the forefront of the Executive's response to the economic downturn over the past two years, and that position will not change in the foreseeable future.

Enhancing skills levels in the economy is essential if we are to reduce the productivity gap between Northern Ireland and the rest of the United Kingdom. The skills base of the local economy is also an important factor in attracting foreign direct investment. My proposals, therefore, provide for new investment of £3 million a year for Assured Skills, a new programme designed to attract new investment into Northern Ireland.

However, owing to the scale of the reductions in expenditure required, all areas of my Department had to make some contribution to my overall savings. That includes my Department's business-facing activities. I will want to retain the training place guarantee for 16- to 17-year-olds and to maintain support for apprenticeship training for young people up to 24 years old. That means that I have to look elsewhere for savings.

Given the Budget settlement, I will, unfortunately, not be able to sustain funding for adult apprenticeships. I will also have to consider the level of financial assistance offered to employers for other employee training programmes and the level of funding provided to the workforce development fora and sector skills councils in order to identify resources to support upskilling across the economy.

I want to reassure the Member and the Assembly that I plan to protect capacity in those essential services as far as possible, but my ability to honour that commitment will clearly be determined by the resources made available to my Department when the final Budget is agreed.

Mr Elliott: I thank the Minister for his answer, and I appreciate his commitment to business-facing services.

Obviously, I want the Minister to press the Finance Minister on some matters, particularly relating to the South West College. One example is the innovation fund, which the draft Budget does not continue. I want the Minister's commitment to raising that issue with the Finance Minister to establish whether there is any prospect of progress.

2.45 pm

The Minister for Employment and Learning:

I assure the Member that I raised with the Finance Minister the importance of continuing the projects that are supported by the innovation fund. Projects such as the InnoTech Centre at the South West College are strategically important to the growth of the Northern Ireland economy. I hope that those representations will bear fruit.

Mr Lyttle: What impact will the Minister's draft savings plan have on the Connected fund and the rapid response programme, given the contribution that they make to skills, innovation and enterprise?

The Minister for Employment and Learning:

I am concerned about the impact on all the programmes that, in some cases, I have to trim back. I will continue to look at that matter closely, and I will be interested in the representations that are made during the draft Budget consultation. I encourage everyone involved, in all sectors and areas, to make a contribution and to make their voices heard so that, at a higher level, we can bring those concerns to the Executive table to ensure that the programmes that the Member mentioned, and other services that we strive to maintain, are not directly and adversely impacted.

Mr O'Loan: The Minister's spending plan states:

"important and successful initiatives in innovation, knowledge transfer and research and development will need to be curtailed".

That must come as a surprise to all of us in light of the Executive's stated focus on the economy. Will the Minister tell us whether he believes that those critical areas will be adequately funded and, if not, to what extent and to what effect they will be curtailed?

The Minister for Employment and Learning:

Obviously, in an ideal world and with an ideal Budget, I would not have wished to have had to look so critically at some of the issues that the Member raised. However, we have to live in the real world, and I find myself having to balance my budget and to make sure that we maintain, as far as is possible, the services that we provide. That remains the case, and, of course, we will be interested in other ideas and to see where, if possible, we can offset some of those decisions.

Student Fees

4. **Mr P Maskey** asked the Minister for Employment and Learning if he can confirm whether there is a need to increase student fees, following the recent draft Budget announcement. (AQO 781/11)

The Minister for Employment and Learning:

The straight answer to Mr Maskey's question is, regrettably, yes. I refer him to my answer to question 1.

Mr P Maskey: I apologise that I was not in the Chamber for question 1, but I have posed my own question to the Minister on an important issue, and it deserves a detailed answer. Fees can restrict people, including those from my constituency, which is an area of social need, from attending university. Will the Minister state how the increase in fees could benefit students in our universities, considering that the vice chancellor of the University of Ulster stated that there should be no increase?

The Minister for Employment and Learning:

I am sorry that the Member was not in the Chamber for the answer to question 1. I will repeat it, to some extent. At this stage, it is not possible to confirm the level of tuition fees that will apply in Northern Ireland in the future, but I can confirm that the ultimate decision will rest with the Assembly. The draft budget for my Department indicates that the financial situation is very difficult, and higher education must bear a significant proportion of the necessary reduction in expenditure.

If capacity and service quality in the higher education sector are to be maintained, student fees will need to be increased. However, subject to Executive approval, a forthcoming public consultation process on tuition fees and student finance will consider the implications of any changes to the existing arrangements. Until that work is completed and responses to the public consultation have been considered, no final decisions will be taken on any potential fee increase.

The Member will know that I have said consistently that the opportunity to enter higher education must be based on the ability to learn, not on the ability to pay. I am committed to minimising the impact of any fee increase on Northern Ireland families. Members need to be aware that the issue is not simply about fees but about the complete package of loans,

fees and repayment arrangements that would be available to students and their families. I again confirm that no students or their families will pay up-front fees to attend universities. As at present, they will pay only when they have graduated and are in work.

Mr Gardiner: Does the Minister agree that the Members who are in denial about the need to raise fees have a responsibility to tell the public exactly how they would fund Northern Ireland's universities?

The Minister for Employment and Learning:

I am grateful to the Member for his contribution, in which he makes an important point. I reiterate that once I am in receipt of Joanne Stuart's final report, I will bring a draft consultation to the Executive by, I hope, mid-February. I hope that that will be published in early March, subject to Executive approval. That would leave the way open for a consultation between March and May, approximately. Ultimately, there would be an Assembly debate and an opportunity for Members to vote at some point in June or July.

I have clearly indicated my guiding principle that places should be based on ability to learn, not on ability to pay. We must maintain Northern Ireland's excellent participation record for students from families with lower household incomes and our universities' excellent, world-class standards.

Higher Education: Access

5. **Mr McCartney** asked the Minister for Employment and Learning what steps he is taking to ensure that people from the 10% most deprived areas have equality of access to third-level education. (AQO 782/11)

The Minister for Employment and Learning:

My Department addresses the issue of fair access to higher education through a number of policy initiatives and a range of specific funding mechanisms.

Special project funding from my Department allows the universities to enter into partnerships with schools that traditionally have low levels of participation in higher education. Those projects include the University of Ulster Step-Up science project and the Discovering Queen's programme.

In addition, a widening participation premium is paid to the universities for students from less

advantaged backgrounds and a widening access premium is paid to them for students with learning difficulties to help with any additional costs associated with those students' needs.

My Department provides additional student support measures, including higher education bursaries and maintenance grants, and requires higher education institutions to produce access agreements, which include details of their student bursaries and funding for other outreach activities.

Furthermore, Queen's University, Belfast and the University of Ulster now recognise essential skills level 2 qualifications in literacy and numeracy as comparable, alternative qualifications to GCSEs for entry purposes. However, numeracy is at the discretion of individual heads of schools.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim leis an Aire as an fhreagra sin.

I welcome the Minister's answer and the number of schemes that he outlined. Given the Stuart report and the pending aspects of that, will he have enough finance to ensure that those schemes will continue, so that the ability to learn will not be replaced by the ability to pay?

The Minister for Employment and Learning:

I am grateful to the Member for his supplementary question. I continue to stress that my guiding principle in all this is ability to learn, not ability to pay, which brings with it protection for widening participation schemes. We have a very good record here, the best in the United Kingdom, for universities attracting and supporting students from less advantaged areas. I desperately want to maintain and to protect that.

Mr Campbell: Does the Minister agree that there is a problem when it comes to people in working-class areas accessing third-level education? Will he ensure that staff in his Department do whatever they can to assist in some of the projects that are being undertaken between the Department, local councils and others to try to effectively target those areas to ensure that there is a higher level of uptake?

The Minister for Employment and Learning: I am grateful to the Member for his supplementary question. I very much share his concern, particularly when it comes to

Protestant working-class boys. It is significant that Protestant working-class boys are among the most under-represented groups, particularly in higher education. Indeed, they are more likely to be involved in further education. Under-representation for that group is much more marked for students from urban backgrounds, from low participation areas and for students entitled to free school meals. Pupils in those categories are specifically targeted for inclusion in the special projects, which I mentioned, at the University of Ulster and Queen's University. Clearly, additional and ongoing work is required. If collaboration with others, including some of the agencies that the Member mentioned, helps, my Department and I are ready to get involved.

Mr D Bradley: Go raibh míle maith agat, a Leas Cheann Comhairle. The Minister has probably noticed that the coalition Government are suggesting that universities should pay the fees of first-year students who qualify for free school meals. Does the Minister agree that that measure does not go far enough to assist less-well-off students?

The Minister for Employment and Learning:

Although I am grateful to the Member for his supplementary question, its main focus appears to be on what the coalition Government are doing. I am concentrating on what the Northern Ireland Executive — effectively, the Northern Ireland Government — are going to do on the issue. That is why I am engaged in looking very closely at all the models that could best apply to the situation in which we find ourselves in Northern Ireland. I want to bring forward a Northern Ireland-based solution. Yes, we will look at what others are doing, and we are already looking at England, Scotland, Wales and the Republic of Ireland. However, fundamentally, we have to give ourselves the opportunity to apply a solution that best suits the needs of our situation in Northern Ireland.

Mr Cree: Does the Minister agree that widening participation in higher education is fundamentally dependent on the Education Minister addressing underachievement in our schools?

The Minister for Employment and Learning:

I am grateful to the Member for his supplementary question. Clearly, it is my very strong view that that is the case. By the time that places in further education colleges or higher education are being made available to

students, there are significant problems for too many pupils. Intervention at the earliest stage possible is a means of trying to address that. My Department will continue to work with the Department of Education on this important matter so that we can utilise the services that are available to us to maximise the potential for all our children and students.

3.00 pm

Enterprise, Trade and Investment

Mr Deputy Speaker: Questions 5, 11 and 13 have been withdrawn.

Tourism

1. **Mr Elliott** asked the Minister of Enterprise, Trade and Investment to outline how her Department educates and informs residents, living in areas of tourist interest, of the value which the tourism industry could bring to an area. (AQO 793/11)

The Minister of Enterprise, Trade and Investment (Mrs Foster): Raising the profile of tourism has been a priority during the past year. Activity has included the launch of the publication, 'Campaigning for Tourism', media coverage, television advertising and a range of other actions and initiatives involving my Department, the Northern Ireland Tourist Board and many other bodies and groups, all of which bring the concept of Northern Ireland as a tourism destination into every home.

Mr Elliott: I thank the Minister for that. Coming from Fermanagh, as I do, she knows only too well the importance of the domestic market. However, many of Northern Ireland's tourist attractions go unnoticed by our own people. Can the Minister give any indication of what the increases may be in that domestic market in financial terms? Has she any projections for the next three years?

The Minister of Enterprise, Trade and Investment: The Member is probably aware of the tourism strategy that my Department is finalising, and the projection there is that we will double the spend in relation to tourism by 2020 up to £1 billion. Undoubtedly, there has been a fall-off in the number of tourists coming to Northern Ireland, whether from Great

Britain, which is our biggest market, or from the Republic of Ireland, our second biggest market.

As I indicated in my previous answer, we have worked with the Northern Ireland Tourist Board to find ways of developing the message. We have also launched the One Voice One Team initiative, which gets everybody involved in tourism to say that tourism is there for everybody. It also aims to get private sector organisations, such as Fermanagh Lakelands Tourism, with which the Member will be familiar, to get involved with the Tourist Board to sell Northern Ireland as a good destination. There has been a lot of capital investment over the past number of years in the tourism product, now we really need to sell it.

Mr Butler: The Department's recently published budget proposals seem to show cuts in the tourism budget. Will the Minister give her assessment of how that will impact on the tourism strategy and targets set by the tourist body here to attract more people here? Go raibh maith agat.

The Minister of Enterprise, Trade and Investment: As I indicated in my answer to Mr Elliott's question, I believe that tourism is the business not just of the Northern Ireland Tourist Board, Tourism Ireland and the Department but of everybody in the private sector as well. I very much hope that the capital investment that has been put into the signature projects over the past three years will now bear fruit for us, not least across signature projects such as the Titanic Quarter project, which is making great progress, as I am sure many Members have seen as they drive past it. We also see the way that the UK City of Culture, Londonderry, has been developing over the past years. However, the Member is right: if there were more capital funds, I would certainly take them. Unfortunately, with the Budget as it is, I have to make do with what I have been given. I feel that we have been fortunate in so far as we have put a lot of capital investment into the tourism product over the past three to four years. We now need to get down to selling what we have and making sure that everyone is aware of Northern Ireland as a place to visit.

Mr Bell: In the tourism strategy, it has been suggested that we could maximise the income that we receive and make even more of it than we do today. I make specific reference to areas such as Strangford, with its Christian heritage

trail and the benefits of the lough and everything else. Will she confirm that, even in a recession, this is a major growth area? How much does she expect that growth to be?

The Minister of Enterprise, Trade and

Investment: As I indicated, the 2020 tourism strategy is being finalised by the Department. It was out for widespread consultation over, I think, the past 12 weeks. I am keen that we continue to grow the tourism product here, because, in that strategy, which was backed up by work carried out by PWC last year, the thought was that we will be able to increase the tourism spend to £1 billion, doubling the spend here by 2020. I am very committed to that, as are the tourist bodies and the tourism industry in the private sector. They have had a difficult time over the past 40 years, but they always stepped up to the plate, and I am confident that they will do the same again.

Mr McHugh: A Cheann Comhairle, I refer to the situation that we have seen happen to Michaela Harte while on honeymoon out of this country. Will the Minister seek guarantees, at the very least, from those who will come over here on a damage limitation exercise following the awful happenings to that family? Something good might come out of it if we can get guarantees that our people, our young people, on honeymoon or otherwise, can visit all of the places, including where that happened and many others, in safety and that we can get some guarantees that —

Mr Deputy Speaker: Order. That has absolutely no relevance to the original question.

Manufacturing

2. **Lord Morrow** asked the Minister of Enterprise, Trade and Investment for her assessment of whether the manufacturing industry grew comparatively to that for the whole of the UK in 2010 and of the indicators for 2011. (AQO 794/11)

The Minister of Enterprise, Trade and

Investment: The latest estimates from the Northern Ireland index of production show that, over the year to the second quarter of 2010, manufacturing output decreased by 0·4% compared to an increase of 3·6% for the UK as a whole. However, the latest employee jobs estimate shows that the manufacturing sector increased by 0·7% over the year

September 2010, with increases in the past two consecutive quarters. That compares favourably to the UK manufacturing sector, which experienced a decrease in employment of 3·8% over the year. With respect to 2011, independent forecasts estimate that the manufacturing sector is expected to grow by 3·7% over the year. However, that is being driven mainly by improvements in productivity.

Lord Morrow: I thank the Minister for her detailed response. I am sure that she agrees that the manufacturing part of our economy is vital. Is there any new initiative that her Department intends to use to stimulate the manufacturing industry even further? It is vital to our economic recovery.

The Minister of Enterprise, Trade and

Investment: I thank the Member for his question. I am sure that he rejoiced with me at the opening of the new Linden Foods retail packing facility in Dungannon last week. The agrifood sector continues to grow. The subsectors of manufacturing that are linked to construction are still in a downturn, whereas those that are not linked to construction, such as the food, drink, tobacco and chemicals sectors, are growing and continue to perform relatively well. The parts of the manufacturing industry in which we have difficulty are linked to construction, and that is a much wider issue for us.

Statistics on the house-building sector were published today. That sector continues to cause us great concern, which is one of the reasons why I indicated to many construction firms that they may need to look beyond Northern Ireland for work in the interim and short term. I congratulate Graham Construction in Hillsborough on the way in which it was proactive in Scotland. It has been awarded a huge contract, which I hope will stand it in good stead.

Dr McDonnell: What is the Minister's assessment of the potential benefit that a reduction in corporation tax for Northern Ireland would have on the manufacturing sector?

The Minister of Enterprise, Trade and

Investment: The Member will know that, just before Christmas, we took receipt of the paper from Her Majesty's Treasury on corporation tax. We were disappointed that we had not been more closely involved in the development of that paper; however, we have it now. The Finance Minister and I are studying it, and we hope to

have a meeting with the Treasury Minister, David Gauke, next week.

The first thing that we need to see is how much a reduction in corporation tax will cost the Northern Ireland Executive; thereafter, we will assess whether we will be able to recoup that money and increase it in future. We are now working on figures from the Treasury to see whether something can be done in the medium to longer term. However, other matters need to be considered as well as corporation tax: capital allowances, research and development tax credits and air passenger duty, which continues to be a huge issue for us here in Northern Ireland. Those are the sorts of issues that the Finance Minister and I will discuss with Mr Gauke, hopefully next week.

Dr Farry: Will the Minister report on the initiatives that her Department is taking to promote manufacturing that is related to the green economy? I am mindful that the draft Budget contains a section on the green economy that is related solely to housing, but her Department's draft spending plans do not refer specifically to the green economy as a potential development area.

The Minister of Enterprise, Trade and

Investment: Most recently, we met Belfast Harbour Commissioners and other developers to look at how we might develop the green economy, and Invest Northern Ireland is working proactively in that area. As the Member will know, we have attended conferences with those who are interested in developing the green economy here, be that in renewables or, indeed, in developing the smart grid idea for Northern Ireland, which is something that we are pursuing with companies. Therefore, there are a lot of issues. If the Member wishes to speak to me privately about the matter, I am happy to facilitate that. Commercial sensitivities mean that I cannot spell out a lot of issues in public, but a lot of initiatives are taking place in Invest NI, which is working closely with the energy section in my Department. I am happy to speak to the Member offline if he wishes to do so.

Research and Development

3. **Mr P Ramsey** asked the Minister of Enterprise, Trade and Investment for her assessment of the local take-up of EU framework 7 research and development funding. (AQO 795/11)

The Minister of Enterprise, Trade and

Investment: Northern Ireland has a target to secure €50 million of research funding from the seventh framework programme, FP7, which operates between 2007 and 2013. To date, Northern Ireland has drawn down almost €25 million, and, as funding ramps up towards the end of the programme, we are on target to reach and potentially exceed the €50 million target. The opportunity for increased FP7 drawdown lies in encouraging greater collaboration between local industry and our universities. Invest Northern Ireland's collaborative services is pursuing that with other Departments to maximise that potential.

Mr P Ramsey: I thank the Minister for her response. I am sure that she will agree that, as local budgets tighten, it is important that we look to Europe to maximise and unlock funding. However, does the Minister agree that bureaucracy and an overload of funding information, particularly on the European Union's CORDIS website, acts as a clear barrier to participation, particularly by local small and medium-sized businesses? Will she also look at possible ways to streamline the process to make sure that it is more accessible to small companies?

The Minister of Enterprise, Trade and

Investment: I thank the Member for his question. The point is well made, because those are the very issues that we discussed with the European Commissioner for Research, Innovation and Science, Máire Geoghegan-Quinn, when she was in Belfast. During her visit, we very much pointed out that we wanted more innovation spend to come to Northern Ireland but part of the difficulty is that we are a small to medium-sized enterprise, so we need people to work collaboratively. Given that we have only two universities, our research base is obviously quite low. In addition, when people stepped forward to apply, the bureaucracy was never-ending. Therefore, although we may not get the money through for FP7, for FP8 there needs to be a focus on helping small to medium-sized economies, such as ours, to access it in a meaningful way. Hopefully, the Commissioner will take on board the representations that we made to her and they will be actioned in FP8.

Mr Frew: What can the Minister and her Department do to increase the number of research and development-based companies in

Northern Ireland? Can she give us some details of what has she done to date?

The Minister of Enterprise, Trade and

Investment: I thank the Member for his question. As I indicated, the research base in Northern Ireland is very modest and, therefore, although tens of universities and companies in England and Wales might apply, we have only two universities. Obviously, colleges can also apply, but participation is competitive, the cost of entry in up front resource commitment is high, and there is no guarantee of success. We have put all those points to the European Commission, and we have established an R&D liaison service in Brussels to link Northern Ireland more closely with the European Union. For some time since I came into this position, I have been talking about the fact that we need a strong voice at the heart of Europe, not just to deal with the issues that are before us now but to frame policies going forward, so that they are applicable to Northern Ireland and so that we can access the money that is there.

Mr Armstrong: Should the Department more proactively encourage renewable energy projects to access funding from EU frameworks 7 and 8?

The Minister of Enterprise, Trade and

Investment: We have been proactive in encouraging those involved in the renewable sectors to access money. We asked them to work together, and I was pleased that the first organisation to receive help under the MATRIX scheme was the Global Maritime Alliance, through which people in that sector came together to ensure that they had the maximum capacity when applying for funds. Therefore, we are being proactive, and I encourage all others to do the same.

3.15 pm

Petrol Prices

4. **Mr Burns** asked the Minister of Enterprise, Trade and Investment for her assessment of the increase in the price of petrol and the potential impact this may have on the transport industry. (AQO 796/11)

The Minister of Enterprise, Trade and

Investment: The recent rise in the price of petrol and diesel represents an additional constraint on the Northern Ireland economy as it emerges from recession. Although the most significant impact is expected to be on

the local haulage sector, there will also be implications for the wider economy, to the extent that rising costs are passed on to business customers. It is, therefore, essential that the coalition Government take forward their previous commitment to introducing a fair fuel stabiliser as soon as possible.

Mr Burns: The increased prices of fuel at the pump particularly affect the transport industry, but they also affect the entire Province. Therefore, has the Minister had any discussions with Westminster on how to ease the pain for every household in Northern Ireland?

The Minister of Enterprise, Trade and

Investment: I thank the Member for that question. As I said, the indications were that the coalition Government were looking at the introduction of a fair fuel stabiliser. On 6 January 2011, the Consumer Council called on them to launch a consultation so that we could consider the issues. We are disappointed that, to date, no consultation has been carried out. However, I intend to raise that issue when we meet Mr Gauke next week. The increase impacts disproportionately on Northern Ireland, because our prices are high to start with. Interestingly, we do not have the highest diesel prices; those are in Scotland and Wales. However, apart from London, we have the highest petrol prices.

Mr Campbell: I thank the Minister for her reference to the need for a fair fuel stabiliser. However, if it is appropriate, will she undertake to take the matter up with the Treasury and even at the British-Irish Council to find out whether there is a possibility of getting a fuel deal similar to the one that some of the Scottish highlands and islands managed to obtain? The same principles and a similar geographical location apply to Northern Ireland.

The Minister of Enterprise, Trade and

Investment: When the fuel stabiliser was talked about, the Government were also considering plans for a rural fuel duty to help with fuel costs in remote areas. The Member referred to Scotland, but I argue that the case for Northern Ireland is even stronger. I hope to be able to put that case to the Treasury Minister next week.

Mr Lyttle: Will the Minister elaborate on how the rural subsidies might apply to this region of the United Kingdom?

The Minister of Enterprise, Trade and

Investment: The thought behind a fuel stabiliser is that the Government could gain additional revenue as a consequence of the increase in oil prices. That could be used to offset the rise in prices at the pump through a reduction in fuel duty. Unfortunately, the Office for Budget Responsibility has looked at that and believes that the impact on the economy would not be such as to give it a taxation pay-off. I think that there has been a change in the Government's view on a fuel duty stabiliser. I hope that I am wrong, because it would benefit us here in Northern Ireland. A couple of weeks ago, the Prime Minister said that he felt that a stabiliser may be too complex. It should not be dismissed in that way, and I hope that we will be able to discuss the matter with the Minister next week.

Mr Deputy Speaker: I remind Members that question 5 has been withdrawn.

Invest NI: North Down

6. **Mr Easton** asked the Minister of Enterprise, Trade and Investment how many new businesses in the North Down area have been assisted by Invest NI since 2007.
(AQO 798/11)

The Minister of Enterprise, Trade and

Investment: Between 1 April 2007 and 30 November 2010, 323 new locally owned businesses were supported directly and indirectly by Invest Northern Ireland in the North Down parliamentary constituency. Of those projects, 15 were supported directly by Invest NI. The remaining 308 projects were supported indirectly by Invest NI through the enterprise development programme, formerly the Start a Business programme, which is delivered in conjunction with Enterprise Northern Ireland. During the same period, Invest NI also offered support to one new inward investment project in the north Down area, which plans to invest £6.3 million over the lifetime of the project. However, the project has not yet commenced.

Mr Easton: I thank the Minister for that news. In light of the economic downturn and the Tory cuts coming from Westminster, is the Minister looking at any new initiatives to boost the setting up of new businesses across Northern Ireland?

The Minister of Enterprise, Trade and

Investment: Everyone's budget has been hit,

and, in particular, my budget for capital spend has suffered quite significantly. If companies are now looking for capital spend, it may well be that I have to take the matter to the Executive to look for additional funding, unless the draft Budget is changed dramatically when it is ratified. In respect of resource, however, we will continue to search for new businesses to come into Northern Ireland and to make good the way in which other companies, such as NYSE, develop. As the Member knows from his constituency, Steria Services Ltd in Holywood has plans to invest £6.3 million and create 60 new jobs. We look forward to that development over the next while. It is a difficult Budget, and no one has got all of what they asked for from it. Northern Ireland is open for business, and we will continue to search for that business to come to Northern Ireland.

Mr Cree: The Minister referred to the cut in the capital budget. Now that INI's capital budget is likely to be reduced significantly, is she aware that land that has been owned by the Department in north Down for many years could be developed for business use?

The Minister of Enterprise, Trade and

Investment: I do not have the details about the land in north Down, but I am happy to write to the Member and take that issue up.

Mrs M Bradley: Will the Minister give us an assessment of the impact of the budget cuts on start-up businesses?

The Minister of Enterprise, Trade and

Investment: The start-up business budget comes from a resource budget and, therefore, will not be hit as dramatically as the capital budget. I want to continue with the old Start a Business programme — it is not called that now — because I have seen a good take-up of that. Indeed, many people are stepping forward who have become entrepreneurs of necessity because they have lost their job. We need to be there to support those people, and I want to support them if they believe that they can start a business.

Corporation Tax

Mr Deputy Speaker: I call Miss Michelle McIlveen.

Miss McIlveen: Thank you, Mr Deputy Speaker. I thank — sorry.

7. Miss McIlveen asked the Minister of Enterprise, Trade and Investment for an update on the potential reduction in the level of corporation tax for Northern Ireland, including the expected date for publication of the Treasury paper. (AQO 799/11)

The Minister of Enterprise, Trade and

Investment: The Exchequer Secretary to the Treasury wrote to the First and deputy First Ministers on 16 December, enclosing a draft version of the Government's consultation paper on rebalancing the Northern Ireland economy. I intend to raise that matter when the Finance Minister and I meet David Gauke to discuss the draft paper in early February. It has raised a significant number of issues for the Executive, and we are currently engaged with the Treasury and the Northern Ireland Office with the objective of the consultation paper being available for publication as soon as possible.

Mr Deputy Speaker: I call Michelle McIlveen for a supplementary, now.

Miss McIlveen: Take two; thank you. My face is probably the same colour as my jacket.

I thank the Minister for her answer. Can she provide her assessment of the recent PWC report on corporation tax and an indication of the possible costs of any reduction in corporation tax?

The Minister of Enterprise, Trade and

Investment: As Members will know, the PWC report, which was published on 7 January, was somewhat critical in relation to corporation tax, but it is a useful contribution to the debate on whether we should seek a reduction in corporation tax at this time.

Although it is clear that matching the rate of corporation tax in the Republic of Ireland would act as a significant additional incentive for inward investors, there is uncertainty about the actual outcome. Therefore, it is important that we continue to look at the option of corporation tax. We take in all the information that is given to us, but, as I said earlier, we also need to consider alternative options rather than just focusing on one issue. We need to look at other issues, such as research and development, tax credits, capital allowances and air passenger duty, which may seem like a small thing but is not when I speak to representatives from some of the airports here.

Mr Kinahan: The Minister nearly answered my question. Nevertheless, does she believe that lower corporation tax will work by itself? She mentioned a cocktail of other ideas that can come into play, but will it work by itself or do other things need to happen to encourage private sector investment?

The Minister of Enterprise, Trade and

Investment: I believe that, if we had the ability to lower corporation tax and we could take that decision in the light of all the information before us, it would be an additional incentive. However, it should not be taken in isolation. There are many reasons why firms come to Northern Ireland and invest here, be it the skills of our people or the fact that we have such good connectivity in our telecommunications infrastructure. We may need to look at other issues such as capital allowance, research and development, tax credits and training credits. It would be a much stronger proposition if we looked at a wider piece of work rather than simply looking at corporation tax.

Mr A Maginness: I welcome the Minister's careful pursuit of the whole issue. Will she comment on a recent conference called by the Irish Congress of Trade Unions at which the matter was discussed? The conclusion of the conference was quite negative towards bringing about a lower corporation tax in Northern Ireland. What is the Minister's reaction to that?

The Minister of Enterprise, Trade and

Investment: The PWC report and some other voices have been quite negative. I hope that the House will excuse me, but I cannot recall the name of the other economist who has been working with some of the trade unions and has been quite negative about the corporation tax issue. We need to put everything into the equation and study it carefully because, before those voices were heard, it was taken as a done deal that the lowering of corporation tax would be a good thing for Northern Ireland. Therefore, I do not think that we should go into it blindly. We need to listen to all the voices, take a decision in the round and look at the forecast for the Northern Ireland economy. It is always difficult to look much further than the next year or two years ahead, but some forecasters are looking as far as 15 years ahead. I am not sure how they can do that, given what has happened over the past two years.

Mr Neeson: Last week in Committee, departmental officials dealt with Budget issues. Will the Minister accept that members of the Committee for Enterprise, Trade and Investment are still very much committed to a reduction in corporation tax? Will she support the Committee on that issue?

The Minister of Enterprise, Trade and Investment: I thought that I had made it clear that the lowering of corporation tax comes in two phases. First, we are granted the power, and then we have to decide how much to lower it by. We need to take all those decisions in the light of the fullest information. That is one reason why we are disappointed that there has not been as good an exchange of information as we would have liked between us and the Treasury.

The paper started out in August 2010, when the Finance Minister and I met the Treasury Minister. At that stage, we thought that it would be a joint paper as we moved forward. As it happens, it has not been a joint paper, which is disappointing, and it does not enhance my confidence in the respect agenda about which we heard so much after the formation of the coalition Government. However, we will have the meeting next week and see what comes forward from the Treasury, and we, in turn, will have to put forward our ideas for rebuilding and rebalancing the economy.

Question for Urgent Oral Answer

Department of Health, Social Services and Public Safety

Swine Flu: Vaccination

Mr Deputy Speaker: The Speaker has received notice of a question for urgent oral answer to the Minister of Health, Social Services and Public Safety. Although the convention is that only the Member who tabled the question and the Chairperson or Deputy Chairperson of the relevant Committee will generally be called to speak, the Speaker has agreed that a representative from each party will be given an opportunity to ask a supplementary question on this occasion.

Ms S Ramsey asked the Minister of Health, Social Services and Public Safety, in light of recent deaths associated with swine flu and the public concern about arrangements for vaccination, what discussions he has had with the Joint Committee on Vaccination and Immunisation and whether he is minded to widen the policy for vaccination to include all children under five years of age.

The Minister of Health, Social Services and Public Safety (Mr McGimpsey): I begin by offering my sincere sympathies to the families of the two children who died of swine flu. My thoughts are with them, and, indeed, with other families who have suffered bereavement, at this difficult time.

In Northern Ireland, any children under five years of age who are in at-risk groups are already offered the seasonal flu vaccine; that has been the case for a number of years. The seasonal flu vaccination policy is based on recommendations from the Joint Committee on Vaccination and Immunisation (JCVI), which is an independent expert advisory committee that advises the four UK Health Ministers on matters that relate to the provision of vaccination and immunisation services. The process involves a vigorous, transparent and systematic appraisal of all available evidence from a wide range of sources.

JCVI does not recommend that the seasonal flu vaccination programme be extended outside at-risk groups. On 30 December 2010, at the request of the Secretary of State for Health in England, JCVI reviewed that position specifically with regard to healthy children who are under five years of age. JCVI confirmed that its advice remained unchanged but that the situation would be kept under review. On Friday 14 January 2011, I asked the Chief Medical Officer to write to JCVI on my behalf to request that it review that advice further. This morning, I received its response, which confirms that its previous advice is unchanged. I will continue to be guided by JCVI advice when setting vaccination policy.

Ms S Ramsey: Go raibh maith agat, a LeasCheann Comhairle. The Speaker's ruling on the question for urgent oral answer shows that it deals with a major issue that affects all our constituencies. I want to join with the Minister and, on behalf of my party, express my sympathy with the families of those who died recently of swine flu, including the two young children.

The Minister will accept that there is immense public concern. Given the fact that, last year, children under five years of age were offered the vaccination and that, this year, the advice seems to be different, is it true — and I believe that it is — that the Assembly can make decisions independently of the joint committee? If so, will the Minister consider making such a decision?

I have received information that a number of children have presented at local hospitals with swine flu-like symptoms not once, twice, but three or four times before they are tested. We need to calm people down, and I express my gratitude to Health Service staff in that regard. A great deal of confusion exists as to why, last year, children under five years of age were given the vaccination and, this year, they were not.

The Minister of Health, Social Services and Public Safety: Last year, there was a pandemic. The decision was taken early that everybody would be vaccinated. Members will recall that as vaccines became available, we began the vaccination process by treating at-risk groups and then working through the healthy population. We vaccinated those groups up to children under five years of age until March 2010, when the advice was to cease the

vaccination process. We based our response on that advice.

Two thousand and eleven is not a pandemic year. We have, therefore, reverted to normal practice for flu. We follow the advice that is provided to us. Policy is set by the Minister; however, the Minister cannot determine policy in a vacuum. Policy comes to me by way of the Joint Committee on Vaccination and Immunisation. That is an independent panel of experts who weigh up the evidence and make recommendations. A separate panel advises in the Irish Republic, and its advice is exactly the same. That is the advice that is followed by the four home countries: England, Scotland, Wales and Northern Ireland.

I agree that there has been some concern, and that concern has manifested itself since the beginning of the year. We began our vaccination process on 1 October. That process was working extremely well up until Christmas, and we were tailing off by the beginning of December. That would be expected in a normal vaccination for normal flu. Last year, we vaccinated 350,000 people. By the end of November, we were up to almost 300,000. Everything was going according to plan. Then, with all the discussion and speculation since Christmas, particularly since early January, we have seen a surge. The Health Service is coping with that surge. I share the Member's view on how well the Health Service staff cope. Imagine how they cope with winter pressures. Then, they had to cope with the fact that the water went off in a number of hospitals, and now they are coping with the vaccination programme.

The virus is the same as last year's virus. It is a mild self-levelling illness for an overwhelming majority of people. Most at risk are those in the at-risk groups, and those are well documented. The uptake rate has been very good in that area.

I would normally have expected patients to go to GPs. There are presentations with a flu-like illness in intensive care, for instance, but I am advised that they are not out of the ordinary from other flu years.

The Chairperson of the Committee for Health, Social Services and Public Safety (Mr Wells):

First, can the Minister provide us with an assurance that he and his Department are keeping a daily watch on the situation to ensure that the Public Health Agency and the trusts are ready to move if the situation changes?

Secondly, can he clarify the situation regarding the second child who died over the weekend with swine flu? The difficulty is that the authorities in the Irish Republic have decided in the interests of confidentiality not to reveal anything about the nature or otherwise of the underlying conditions of the young child. We must respect that wish, but the HSE in the Republic could reveal that there were underlying conditions, without specifying what they were. I think that that would retain the confidentiality of the patient and the family. Finally, if the situation does change, and the JCVI recommends the vaccination of under fives in Northern Ireland, is there sufficient vaccine in stock in Northern Ireland to enable that to be done?

The Minister of Health, Social Services and Public Safety:

A daily watch is ongoing and has been routine since we began the initial process back in July, when the Chief Medical Officer wrote to the service. The vaccination process began on 1 October, when I issued a press release and advice. I have put out around nine press releases; the Chief Medical Officer has written to the service seven times, and always provides updates on the situation; and the Public Health Agency has written 16. In addition, we put out a weekly flu bulletin, so that everyone is well informed. As I said, the vaccination process was going extremely well and according to plan.

The Member asked about the second child in the Irish Republic, but, because of the parents' request for confidentiality, I am loath to give further details. The wee one was a citizen of the Irish Republic. The child took ill and was taken to the nearest A&E, which was Daisy Hill, and, from there, was taken to the Royal. Tragically, the outcome was difficult and terrible for the family. I really cannot go into more detail than that. It is clearly a matter for Mary Harney and the authorities in the Irish Republic.

In relation to the other issues that the Member was talking about, concerning the JCVI and vaccination, I can tell him that I have adequate supplies of safe vaccine that will deal with swine flu, as, indeed, I had adequate supplies to deal with seasonal flu as well. I can also add, because of the concern, that if any parent is not sure whether their child is in an at-risk group, or, indeed, if they have any concern, they need to talk to their GP. Ms Ramsey made the point earlier about presentations and consultations.

If people have any concerns whatsoever they should go to their doctor.

Mr K Robinson: Although I am saddened to see any deaths as a consequence of swine flu, it is particularly tragic to hear of young children passing away at such a delicate age. I would like to express my condolences and sympathy to the parents and wider family circles of the children involved.

As the grandparent of a child who was taken into hospital at 5.00 am this morning with some indeterminate condition, I am relieved to know that the Minister, his Department and the folk in the hospital are very active in looking for the symptoms of swine flu and trying to mitigate any difficulties that a child might present. Has the Minister spoken to the Health Ministers in the other parts of the UK? What is their approach to the problem? Will he give us his up-to-date advice so that parents who are in a bit of a quandary at the moment — not just with under-fives but with young children generally — will know exactly what they should look for and what procedures they should follow if their child is to get the attention that they may need should swine flu be involved?

The Minister of Health, Social Services and Public Safety:

I can confirm that I have spoken with all the Health Ministers and that, in England, Scotland, Wales and the Irish Republic the steps and the advice are consistent. We vaccinate over-65s and under-65s in the at-risk groups. Those at-risk groups have been published relentlessly by the Public Health Agency, the Chief Medical Officer, and the Department and through the flu bulletins.

It is a sad fact that we lose people every year to flu. There are normally around 400 flu-related deaths per annum in Northern Ireland, and the fact is that every year there are people with no underlying health conditions who succumb to flu. Last year, for example, around 20% of the deaths were of people who had no underlying health conditions. If people have concerns, the best port of call is always the GP who can advise them. GPs are the ones who know people's children's history and are best placed to provide the advice and information that parents require and whatever treatment children need.

Mr Callaghan: As the parent of a very young child, my heart — like that of every Member, I am sure — goes out to the families involved in

the most recent death and all the other deaths to swine flu this winter and previously.

On Thursday, the Health Committee learned that the numbers of people present in Altnagelvin and Daisy Hill hospitals with swine flu was markedly higher than in other major hospitals around Northern Ireland. It seems to me that arming local communities with relevant information about the problem in their local area is an important part of dealing with swine flu, because it helps to create awareness, and that stimulates a reaction on the ground, with people helping to prevent the virus by being sensible and taking precautions and instilling an uptake in the vaccine. However, it seems to me that there is still a bit of a problem with localised information being brought out, including information on fatalities.

Mr Deputy Speaker: Question please, Mr Callaghan.

Mr Callaghan: Will the Minister's statement about Daisy Hill Hospital being the point of admission for that child and a Belfast hospital being the point of death become part of standard policy for the Department?

3.45 pm

The Minister of Health, Social Services and Public Safety: I am not entirely sure that I understood the question. We record on a regional basis. We are a small region, and it is important that our records are kept on a regional basis. We certainly keep a watch on a hospital-by-hospital basis, and at this time of the year, as the Member will understand, Intensive care units (ICUs), for example, are busy.

We operate as a network, but let me give the Member an example: on 16 January, of 81 people in ICUs, 26 were there with flu-related conditions. Not all those cases would have been swine flu. That gives the Member an example, which covers right across the region. In the recent case that I discussed, it would be normal for a hospital to send a very sick child to the Royal Belfast Hospital for Sick Children. That is the proper step for it to take.

I am not aware of specific higher-than-regional incidents at Daisy Hill Hospital in Newry or at Altnagelvin Hospital. All hospitals are very busy at this time of year as a result of winter pressures, including flu. There was a huge increase in A&E and fracture business during the very bad

weather leading up to Christmas. We then had the problems of getting over the interruptions to the water supply. Some of our hospitals lost water, and that was a very difficult time.

There is a significant decrease in the number of children getting flu this year compared with last year. The figures are well down on where we were last year. There is no evidence to suggest that the under-5s, for example, are being disproportionately affected. In fact, the opposite is the case.

Mr Lyttle: May I, on behalf of the Alliance Party, also extend our thoughts and prayers to those families bereaved through the swine flu virus? Has the Minister's Department considered new or innovative ways to share the vital information that the public need to feel reassured about the issue?

The Minister of Health, Social Services and Public Safety: We have gone to considerable lengths to share the information. That began, as I said, with the Chief Medical Officer's letter, warning everybody about the vaccination programme, going around the Health Service in July. Vaccination from the previous swine flu year stopped on the advice of the JCVI in March or April 2010, although I could be corrected on that. However, we continued to vaccinate pregnant women the whole way through.

The new vaccination programme began on 1 October, and I issued a series of press releases about vaccination and about preventative measures, such as good hand and respiratory hygiene. From the beginning of October through to January, I issued nine press releases. The Chief Medical Officer issued seven bulletins, including letters to the Health Service. The Public Health Agency, which drives a lot of this through the trusts, issued a further 16 press releases about swine flu, vaccination and all the rest. In addition, we have the weekly flu bulletin, which is very detailed in the information that it provides.

The proof of that is in how well the vaccination programme is being taken up. We were very pleased with the way in which people had come forward to be vaccinated — until early January, when heightened speculation and comment created a surge. That presented difficulties for GPs, but they dealt with the surge, as one would expect. We have a very good system in Northern Ireland. I cannot remember the precise date, but

a short media campaign is planned soon to tidy up the end of the programme.

So, I am interested always. All that information is published on websites and in documentation that comes out across the entire Health Service, such as posters in GPs surgeries etc. I am interested to see how much more we can do. We certainly seem to have got the message over as far as those who are at risk are concerned.

I always accept that more needs to be done, particularly on issues like good hand hygiene and respiratory hygiene. If people feel ill, they should go into self-isolation, stay at home and ring the doctor. Those are the sorts of simple messages that some areas of our society appear to be slow at taking up.

Ministerial Statement

Public Expenditure: December Monitoring 2010-11

Business resumed:

Mr McDevitt: Picking up from where we left off, will the Minister confirm the figures set out in table A, which show that Northern Ireland Water declared a reduced requirement of £24.9 million in the monitoring round? Will he provide the House with any detail that may be available to him on the circumstances of that reduced requirement or on the rationale behind it?

Were any bids received from the Department for Regional Development (DRD) to indicate that it was in need of resources to prepare itself for severe weather, for example, bids on extra gritting provision and bids for extra allocation of preparedness resources for Northern Ireland Water or the like?

The Minister of Finance and Personnel

(Mr S Wilson): First, the detail of the reduced requirements from Northern Ireland Water would be best addressed by the Regional Development Minister. However, I have asked why that amount of money was returned. Where money is not used for the original purpose for which it is allocated, the Minister is obliged to return it, because that is what the Assembly voted on.

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

The information that I have been given is that it was not possible for Northern Ireland Water to spend the amount of money that it had originally planned to spend on capital investment, because, in some cases, there were planning delays and, in other cases, the downturn in the construction industry meant that better, or lower, than expected tender prices had been received. There had also been increased efficiency, which led to some reductions, and there was an increased performance in procurement. Those are the reasons that have been given to me. However, if the Member wants more detailed information, he should ask the Minister for Regional Development.

As far as the bids from the Department for Regional Development are concerned, if the Member looks at the table provided, he will see that there were a number of bids from the Department for Regional Development for the A2 Broadbridge for £4.5 million. There were

also bids for some money for roads structural maintenance of £12 million, of which, I think, £3 million was actually met.

Ms Lo: The Minister may recall that last year I asked about the £1 million received by the Housing Executive from the Home Office for the migrant impact fund. According to the Minister, as no bids came from Departments for that fund at the time, the money went into the general pot for public expenditure. Is the £0.4 million that he said was transferred from the Home Office the second tranche of the money from that fund? Will he assure the House that that money will be spent specifically on migrant initiatives by the Departments?

The Minister of Finance and Personnel: I cannot confirm whether that money forms part of a second tranche or is simply another one-off payment from the Home Office. I do not have the details of that matter to hand, but I will write to the Member. However, when money comes to us as a result of Barnett consequentials, it is up to the Executive to decide how that is spent. In my statement, I made it clear that that money became part of the pot that we had available and it was distributed on the basis of the bids that were submitted and the allocations that were made.

Lord Morrow: During a briefing given to the Committee for Justice by officials from the Department of Justice on the December monitoring round, the Committee was advised that the current forecast for the cost of police hearing loss claims in 2010-11 is £23 million. That estimate would result in a claim of £11 million from HM Treasury's reserves under the terms of the devolution settlement and an expectation that the Department of Finance and Personnel (DFP) would confirm that the remaining £12 million cost would fall to the Department of Justice. I ask the Minister to outline the current position on that matter and whether confirmation has been received that the £11 million has been provided from the Treasury's reserves. Furthermore, will he confirm that the Department of Justice will continue to have access to the end-year flexibility (EYF) stock?

The Minister of Finance and Personnel: In answer to the Member's last question, the undertaking was given that EYF for the Department of Justice would be separate from the treatment of EYF for the rest of the Budget. That access is available to that Department

with application. The hearing loss claims and the matter of the £11 million and £12 million amounts are issues that the Member should take up with the Minister of Justice, because they concern the details of his budget.

The Department of Justice's budget is ring-fenced, which means that it does not take part in this monitoring round as far as reduced requirements are concerned. The Department of Justice is allowed to maintain and keep its reduced requirements, and those moneys do not have to go into the general pot. Nevertheless, the Department of Justice does notify DFP where reduced requirements exist and how they have been allocated. That data is important for the officials in both Departments, because at some stage, of course, the Department of Justice's budget will no longer be ring-fenced and will be subject to the same monitoring arrangements as those of other Departments. At present, it is simply keeping DFP informed. We made that decision in order to allow the Department of Justice's budget to be settled and to ensure that the pressures on that Department do not have an impact on the other Executive social programmes.

Mr McLaughlin: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his statement. I also have a query about end-year flexibility. In his statement, the Minister dealt with the provision in the comprehensive spending review of access to underspends declared at the Estimates stage. It is not clear to me whether that meant access to the entire end-year-flexibility fund or simply those underspend totals that were announced at that stage.

The Minister of Finance and Personnel: I am sorry if I did not make that clear. It does not mean access to the entire amount of money, because we have lost £316 million. The provision was made for access to moneys that were not spent in this particular year and were declared by December. Those moneys were available for carry-over into next year.

4.00 pm

Executive Committee Business

Damages (Asbestos-related Conditions) Bill: Second Stage

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

That the Second Stage of the Damages (Asbestos-related Conditions) Bill [NIA 10/10] be agreed.

As its title suggests, the object of the Bill is to deal with certain asbestos-related conditions. As Members may know, there was a time when asbestos was regarded as the miracle mineral because of its heat-resistant qualities. However, with time, it was discovered that asbestos could cause a number of different conditions, some of which are fatal. Three conditions are covered by the Bill: pleural plaques, pleural thickening and asbestosis.

Pleural plaques are non-malignant, small, localised areas of fibrosis found within the pleurae of the lung. Pleural thickening is a non-malignant disease in which the lining of the pleura becomes scarred. If it is extensive, it can restrict the expansion of the lungs and lead to breathlessness. Asbestosis is a non-malignant scarring of the lung tissue that impairs the elasticity of the lungs, restricting their expansion and hampering their ability to exchange gases, leading to inadequate oxygen intake to the blood.

Earlier decisions had allowed for an award for damages for negligent exposure to asbestos that resulted in pleural plaques. However, in the case of *Johnston v NEI International Combustion Ltd*, the House of Lords ruled that pleural plaques do not constitute actionable damage for the purpose of the law of negligence. That meant that following the decision in the *Johnston* case, it was no longer possible to bring a negligence claim for the condition. The judgement in the *Johnston* case was welcomed by the insurance industry. However, there were calls for the decision to be overturned.

On 29 November 2007, the Scottish Government announced that they would legislate to ensure that the decision did not take effect in Scotland, as it was possible that the courts might look to the *Johnston* case as authority in relation to

claims in respect of other asbestosis-related conditions that do not give rise to symptoms; that is, asymptomatic conditions. The Scottish Government also decided to legislate to ensure that asymptomatic pleural thickening and asymptomatic asbestosis, when caused by wrongful exposure to asbestos, would continue to give rise to claims for damages.

The Damages (Asbestos-related Conditions) (Scotland) Act 2009, which covers all those conditions and which effectively sets aside the decision in the *Johnston* case, came into force on 17 June 2009. The Scottish Act is being challenged by the insurance industry, and I will speak to the nature of that challenge shortly.

The continuing criticism of the decision in the *Johnston* case prompted the Ministry of Justice for England and Wales to consult on the issues arising from it. The consultation raised the possibility of legislative change and, indeed, pending the outcome of the consultation, there were several attempts in the UK Parliament to secure corresponding legislation to that in Scotland via private Member's Bills. However, those Bills fell when the UK Parliament was prorogued, and, in the end, the Ministry of Justice opted for an extra-statutory payment scheme, which allows for payments of £5,000. The scheme applies only in England and Wales, and payments can only be made to individuals who had already begun but not resolved a legal claim for compensation for pleural plaques at the time of the Law Lords' ruling in October 2007. The scheme was launched on 1 August 2010 and is set to run until 1 August 2011.

My Department also consulted on the issues arising from the *Johnston* case, and following that consultation, it was decided that Northern Ireland would follow the Scottish lead and restore pleural plaques as an actionable condition. That decision was endorsed by the Executive, and on 2 December, the Executive agreed to the introduction of the Bill that is before Members and which is modelled on the Scottish Act of 2009.

Members will see that the Bill is small and targeted. However, it has already generated a significant amount of debate, and before I turn to its provisions, I wish to say a few words about the main issues that have been raised to date.

As Members will know from the explanatory documents, the Bill is retrospective. That is necessary to ensure that pleural plaques claims

that were discontinued or withdrawn post-Johnston are not time-barred and precluded from being brought before a court. It is true that most legislation is forward looking. However, there have been occasions when the UK Parliament has made retrospective legislation and, indeed, there is no absolute bar on legislation of that nature.

I mentioned that the insurance industry was challenging the Scottish Act. It is doing so on a number of grounds, one of which relates to the retrospective nature of the legislation. At first instance, the insurers' case was dismissed. However, they have appealed, and a decision on that is awaited. Having carefully considered the options, my preference is to proceed with the Bill, on which the Department has consulted, with its retrospective elements, based on the Scottish model. If, however, the insurers win their appeal in respect of the Scottish legislation, on the basis that the retrospective elements are outside the competence of the Scottish Parliament, I will reconsider those aspects of the Bill and, if necessary, propose amendments to ensure that the Bill continues to be within the competence of the Assembly.

I turn to the provisions of the Bill. Clause 1 addresses the central reasoning of the Johnston judgement by providing that asymptomatic asbestos-related pleural plaques are actionable damage that may be the subject of a claim for compensation. That clause also disapplies any rule of law, such as the common law principles referred to in the Johnston case, to the extent that their application would result in pleural plaques being considered non-actionable. It also ensures that the Bill does not otherwise affect the operation of statutory or common law rules for determining liability.

Put simply, the Bill merely allows for a claim to be submitted to a court and precludes any argument that asymptomatic pleural plaques do not constitute damage under the law of negligence. The Bill does not introduce any new arrangements, such as an entitlement to compensation, and it will still be for a claimant to make his or her case to show that a defendant was subject to a duty of care, that a defendant had breached that duty, and that a claimant has developed pleural plaques as a result of that breach. Likewise, the Bill does not stipulate the level of compensation to be paid if a claimant successfully makes his or her case. It is, therefore, for the court to determine the

appropriate level of compensation, and there is no guarantee that the level of compensation will revert to that pre-Johnston.

I mentioned that the Scots had identified the potential for the ruling in the Johnston case to be extended to other asymptomatic asbestos-related conditions. Clause 2 aims to prevent such a development, thus ensuring that claims can continue to be made with regard to asymptomatic pleural thickening or asbestosis. In clause 2(1), the phrase "for the avoidance of doubt" is used because there is, in fact, no authoritative decision to the effect that asymptomatic pleural thickening and asbestosis are not actionable. Clause 2(3) and (4) make similar provisions to clause 1(2) and (3) regarding the disapplication of certain common law principles and the continuing application of statutory or common law rules for determining liability.

Clause 3 provides that the period between the date of the decision in the Johnston case, 17 October 2007, and the date on which any change in the law comes into force does not count towards the limitation period for raising an action for damages in respect of the three conditions covered by the Bill. That means that the Bill may cover claims that were withdrawn or discontinued on foot of the Johnston case, as well as future claims. However, clause 3(1) (b) makes it clear that the clock stopped only in respect of an action that had been commenced but not determined. Therefore, for example, if a claim was already out of time before the Johnston case, this provision will not adjust the position in respect of that claim.

Clause 4 sets out the provisions for commencement and retrospection. Clause 4(1) provides that the substantive provisions of the Bill will come into force on a date appointed by the Department of Finance and Personnel (DFP) by commencement Order. The remaining subsections explain the retrospective effect of the provisions of the Bill. Clause 4(2) provides that clauses 1 and 2 are to be treated for all purposes as having had effect. This is necessary in order to fully address the effect of the decision in the Johnston case, because an authoritative statement of the law by the House of Lords is considered to state the law as it has always been.

Subsection 3 qualifies the effect of subsection 2 by providing that clauses 1 and 2 do not

have effect in relation to claims settled or legal proceedings determined before the date when the Act, if made, comes into force. So, if a claim has already been settled or determined, the Bill will not allow that claim to be revisited.

Clause 5 gives the short title of the Bill and provides that the Act, if made, will bind the Crown.

The Bill seeks to support a fundamental principle of our justice system, namely, access to justice for those who have suffered wrong. I trust that Members will recognise the importance of that principle and will offer their support to the Bill.

The Chairperson of the Committee for Finance and Personnel (Ms J McCann): Go raibh maith agat, a LeasCheann Comhairle.

I thank the Minister for explaining the general principles of the Damages (Asbestos-related Conditions) Bill, and I welcome this debate.

The Committee for Finance and Personnel has been proactive in seeking to engage with the Department on this Bill in advance of its introduction to the Assembly. As we have heard, the purpose of the Bill is to negate a decision taken by the House of Lords in October 2007, which held that symptomless pleural plaques do not constitute an injury for which compensation may be sought. Pleural plaques, caused by asbestos exposure, are a thickening of the lining of the lung.

On 7 October 2009, the Committee received a briefing from DFP officials on the outcome of the 2008 policy consultation on proposals to introduce legislation. During that evidence session, DFP officials informed members that similar legislation passed by the Scottish Parliament, which came into force on 17 June 2009, was the subject of a judicial review. The challenge was brought by several leading insurance companies that alleged that the legislation is incompatible with the European Convention on Human Rights. Although the judicial review was dismissed in January 2010, the companies have since appealed, and the Committee understands that the legal challenge is ongoing. Having undertaken its preliminary consideration of the evidence from the policy consultation, the Committee wrote to DFP, indicating that it was, at that time and on the basis of the view of the majority of members present, supportive of the introduction of legislation to make symptomless pleural

plaques a matter for compensation. In so doing, however, members noted that similar legislation introduced in Scotland in June 2009 was the subject of judicial review and, consequently, urged the Minister to take note of the outcome before proceeding here.

The Department conducted a relatively short consultation on the draft legislation. It began in July 2010 and ran over the summer holiday period, with responses due by 6 September 2010. On 15 September 2010, the Committee received a briefing from DFP officials on its initial analysis of responses to the consultation on the draft legislation. During this evidence session, departmental officials advised members that, although the insurance companies' challenge to the legislation in Scotland had failed, the insurers had appealed and the outcome of the latest challenge was unknown. DFP officials also informed members that, with regard to England and Wales, in February 2010, the Secretary of State for Justice announced that he had determined that the decision in the Johnston case should stand and that he would introduce a limited extra-statutory payment scheme. That scheme allows for a one-off payment of £5,000 to people who, prior to the Johnston case, had commenced but had not concluded a claim for pleural plaques.

DFP received 13 responses during the consultation period and one late response, which was also given consideration. Those submissions highlighted the differences of opinion on this Bill, although members noted that the majority of respondents opposed the Bill's introduction. The objections covered a wide variety of areas, including alleged incompatibility with the European Convention on Human Rights, the potential cost to the public sector and the possibility of being out of step with international best practice. Those in favour of the Bill, including members of the public, welcomed the legislation. They noted that the financial impact will lessen over time as the number of asbestosis-related diseases is expected to peak and then to subside.

4.15 pm

The Committee commissioned the Assembly's Research and Library Service to investigate the number and costs of previous and potential claims in relation to pleural plaques, and to examine whether pleural plaques is a compensable condition in other jurisdictions.

On 13 October 2010, members were briefed by the Research and Library Service on its paper. The paper considered the methodologies applied by DFP, the Ministry of Justice and the Association of British Insurers (ABI), which had also submitted evidence on costs. It concluded that it is not possible to develop a robust methodology on the basis of the available evidence. However, it noted that a proportion of the overall costs would directly impact on public finances through the liability of the Department of Enterprise, Trade and Investment (DETI) in respect of Harland and Wolff. The research paper also found that there is no clear evidence of specific legislation relating to pleural plaques outside Scotland. However, there were examples in other jurisdictions of compensation funds and arrangements around employers' liability.

The Committee wrote to the Department to highlight a number of concerns arising from the draft legislation, with particular reference to the ongoing legal issues in Scotland; potential challenge by insurance companies if similar legislation is introduced here; equality considerations; cases that had been withdrawn following the Johnston ruling; potential financial impact of the legislation; and the potential for including tariffs in the legislation to determine the level of compensation payable.

Members considered the DFP response at the Committee's meeting on 3 November 2010. At that time, the Committee became increasingly concerned about the Department's delay in introducing the Bill, given the limited time remaining for its passage. On behalf of the Committee, I wrote to the Minister to express that concern and to highlight the considerable pressure that the delay would place on the Committee in providing sufficient time at Committee Stage for rigorous scrutiny of the Bill, particularly given the Committee's current focus on the draft Budget and the completion of other outstanding issues and business.

During the pre-introductory briefing, members again questioned DFP officials on the merit of bringing the legislation forward while legal proceedings are ongoing in Scotland. Members also expressed their reservations about the timetabling of the Bill. However, acknowledging the time constraints, members agreed to publish an early call for evidence following the Bill's First Stage on 14 December 2010. At its meeting last Wednesday, the Committee received oral evidence from representatives

of Thompsons McClure Solicitors and Francis Hanna and Co Solicitors, both of which have experience in representing people affected by asbestosis-related conditions.

I have deliberately relayed to the House the history of the Committee's engagement with DFP on the Bill so that Members are fully aware of everything that the Committee has done to expedite the legislation. In doing so, I have outlined the many issues and concerns that were presented to the Committee, even before Committee Stage has officially commenced. Of specific concern are the issues around the human rights considerations. Paragraph 22 of the explanatory and financial memorandum that accompanies the Bill states:

"The provisions of the Bill are considered to be compatible with the European Convention on Human Rights."

However, that is presented without any analysis and is contrary to the concerns raised by a number of organisations interested in the legislation.

The Committee will need to give that matter careful scrutiny and has, therefore, invited evidence from the Human Rights Commission and has written to the Minister to ask that he shares the advice that he has received on the Bill from the Attorney General. Indeed, the Minister may also wish to share any legal advice that he received from the Departmental Solicitor's Office or elsewhere so that the Assembly has the full information. The Committee is also aware of the option to take independent legal advice on the human rights aspects of the Bill from the Assembly's Legal Services.

At its meeting last Wednesday, the Committee noted that all the remaining written and oral evidence relating to the Bill needs to be received this week for Committee Stage to be completed in time and to ensure that the Bill stands a reasonable chance of passing all subsequent stages under normal procedures before the Assembly's dissolution. After careful consideration, members agreed that it would not be feasible to complete the evidence-gathering within such a short time frame. To afford the Bill full and proper scrutiny, the Committee will consider requesting an extension to Committee Stage.

Finally, I should point out that, in light of the range of issues that have arisen even before

formal Consideration Stage begins, the Committee decided to reserve its position on the principles of the Bill. No doubt individual members of the Committee will wish to outline their perspectives on the Bill's principles during this debate.

Mr Hamilton: It is impossible for Members in the House to understand or to fully appreciate what must go through an individual's head when they are diagnosed with pleural plaques, unless they or a close member of their family has been through that. Certainly, when scrutinising the Bill, all the evidence that I have heard or read about pleural plaques suggests that the condition is asymptomatic. It is an injury or scarring to one's lungs that is indicative of having been exposed to asbestos. It might not, in itself, cause any pain, harm or injury. However, anxiety, anguish, concern and worry must go through the head of somebody who is told that they have pleural plaques because of what that might mean. Pleural plaques do not necessarily lead to a condition in later life, but a percentage of those who suffer from pleural plaques go on to develop other asbestos-related diseases. Nonetheless, that individual will know from that moment that they had been exposed to asbestos. They may have worked in a certain industry, but, until then, they would not have known for sure that they had been exposed to it.

Of course, as a society, we know about the cost of asbestos exposure to the personal health of, perhaps, family or friends. In particular, those involved in heavy industries, such as shipyard work, know very well about the pain, anguish, physical hurt and, let us be frank, death often caused by exposure to asbestos. It is, therefore, difficult for any of us to put ourselves in the shoes of those people.

In some ways, as legislators, we need to be somewhat distant and remote from and, in many respects, dispassionate about what goes on, and we must try to look at the issue in a much cooler, calmer and collected way. As sympathetic as I am to the individuals affected, that is certainly the approach that I have always tried to take to this legislation.

I have a number of concerns about the Bill that I have expressed at various stages when the Finance Committee, of which I am a member, has looked at it. Those concerns split into two broad areas, and I want to deal with and put them on the record. They are, on the one

hand, the process and, on the other hand, the principles and other broader issues.

On the process side, my first concern is the time available to the Committee and to the House to do their jobs of scrutiny well. I have been on the Finance Committee for nearly four years, no doubt as some sort of penance or punishment. I have been there the whole time, and I remember the Bill being talked about during the tenure of the former Chairperson, not the current one.

Mr McLaughlin: You probably deserved it.

Mr Hamilton: No doubt I did. I will probably be stuck on it for a while longer.

I remember Committee members talking about the Bill many years ago, after various cases and, in particular, the Johnston case. However, here we are, with nine weeks left of this Assembly term, only now discussing the Bill's Second Stage. I know that there are good, legitimate reasons for that. Various delays were caused, not least by the other court cases, which I will come to in a second or two.

The Finance Committee is in the midst of discussing a very difficult Budget. We have a role to play in tying together all the other Committee responses to the draft Budget, scrutinising the Department of Finance and Personnel's budget for the next four years and looking at the strategic elements contained in the Budget. So, we have all that going on — we had a lengthy meeting last week that was almost entirely dominated by that alone — and here we have a piece of legislation that will come to the Committee after today's debate. To be fair: the time available to us may not be sufficient to conduct the necessary scrutiny of the legislation.

Other legislation has gone through the House in quite quick order. However, generally, those Bills have involved little controversy. I am not talking about controversy across the Chamber, between parties or within parties, but controversy generally. This legislation has not necessarily caused conflict or controversy between us in the House, but there are others externally who would be affected by it, who have an interest in it and who want to have their say. I am concerned about our ability to give those people their proper say in the time that is available to us. I am thinking particularly of insurers

and those business organisations that have concerns about elements of the Bill.

The second process issue that I am concerned about is the ongoing court cases. In her opening remarks, the Committee Chairperson mentioned the Scottish case that has been judicially reviewed on the basis of human rights compliance. Never mind human rights compliance — you will have to ask somebody who understands all that about that — I do know that that case is going through the judicial process as we speak. Yes, I understand that we would need separate legislation for Northern Ireland. However, clearly, the outcome of the case in Scotland will have serious ramifications for what we do here in Northern Ireland.

Therefore, we need to be very mindful of that case and we might be better advised to await its outcome. I seek some assurance from the Minister as to what the ramifications of the Scottish case verdict might be.

Mr McLaughlin: The Committee has been made aware that the insurance industry, for example, would certainly take legal action if we were to enact the legislation in this jurisdiction. That is germane to the point that the Member is making about the Scottish process.

Mr Hamilton: If the Scottish judicial review rules in favour of the insurance industry's position, it may have an implication as to whether this legislation goes forward at all. Even if the Bill is passed, the intimations that I have seen in correspondence from the insurance industry suggest that it would probably take a case anyway. Therefore, if the legislation goes through smoothly in the next eight to nine weeks, we can expect that.

The Minister of Finance and Personnel: The Member is making an important point. He should bear in mind that it was a commitment from the Executive to deliver this within the current Assembly term. However, should there be a ruling by the Scottish court that makes it quite clear that the legislation as designed is not competent, I assure Members, as I said in my speech at the beginning of Second Stage, that we will revisit that retrospective aspect of the Bill.

Mr Hamilton: I thank the Minister for that point.

I want to raise three other issues, which are linked but separate, and on which I seek some assurance from the Minister. The first is about

cost. Throughout the scrutiny of the legislation, and before it even became legislation and the principle of it was being discussed by the Finance Committee, I continually raised the issue of cost and what the cost implications would be for Northern Ireland. Up to this point, it has been completely unclear as to what the cost implications are. Again, that is entirely understandable given the nature of the condition that we are dealing with. Many people who have pleural plaques do not even know that they do. Therefore, it is impossible to come up with the precise number of people who are suffering from pleural plaques, let alone extrapolate from that what the likely compensation might be. No estimate is available, not even a ballpark figure.

4.30 pm

I note that DETI has set aside some £31 million for asbestos and pleural plaques in the draft Budget, although there has been some suggestion, again in correspondence with the insurance companies, that they think that that may be on the conservative side of what may be paid in compensation. As I said, the asymptomatic nature of the condition means that we cannot possibly know that figure. However, I seek assurance from the Minister on whether he believes, on the basis of further consultation between his Department and others, that £31 million is sufficient to cover the anticipated compensation as a result of the Bill's being passed.

The second concern that I have and others share is the old floodgates argument. If we legislate to compensate in this case, in which there is an asymptomatic condition, we are legislating almost because of the anxiety caused when individuals are told that they have pleural plaques. It is not the pleural plaques themselves for which we are legislating but the anxiety caused by the exposure to asbestos, as well, obviously, as the lung damage. However, does legislating for that in this case make a persuasive case for similar conditions, in which someone may have an asymptomatic, physiological change that, in itself, perhaps highlights exposure to another poisonous material? Are we then in a position of having to compensate in such cases? Again, I seek assurances from the Minister that studies have been carried out and that he does not anticipate a rush to open the floodgates, which would lead to further similar or, indeed, completely different cases later.

My third concern is one that I share with my colleague Mr Frew. I will not steal his thunder; I will let him make his point. However, he and others have questioned whether compensation is the best way to deal with such problems. Given that the condition is asymptomatic and it is more the case that it causes anxiety or trauma, which may be of a mental nature, is monetary compensation, in itself, the best approach? Are there other means, methods or approaches that we can take better to address the problems that emanate from people suffering from pleural plaques and from becoming aware that they have the condition?

At last week's Committee meeting, I mentioned something that I will repeat now, as Mr O'Loan is here today. I compliment Declan O'Loan on his choice of language in this respect. Throughout the Committee's discussions on this issue, he and I raised our legitimate concerns. Several months ago, he said that he thought that the Bill would pass but almost out of sympathy rather than through any particular support for it. I also find myself in that position. I go back to my opening comments: it is impossible for any of us to know what is in someone's head when they are told that they have pleural plaques as a result of exposure to asbestos and what that may mean for them in the future. There is a huge amount of sympathy for them, even if there are some legitimate concerns about issues such as cost and opening floodgates. There may also be some legitimate concerns about the current legislative process.

I have such sympathy, as have others. In the past days, I have been thinking about the expectation that even the drafting of the Bill and the discussions about this legislation in the past years have placed on people. I thought about that because of the evidence that we received last week, as the Committee Chairperson outlined, from two solicitors' firms. I took exception to many parts of that evidence, but I noted that one firm in particular had some 80 cases held in suspension because of the ramifications of the Johnston case. Many people's expectations have been built up and to knock those expectations, on top of everything else, would be cruel of the Assembly.

I wanted to place my concerns on the record. I have put those points to the Minister, and he has already offered some assurance on one of them. I hope that he can do so on some of the others as well. Mr O'Loan said in Committee

— he may do so again today — that he has a great deal of sympathy for those at whom this legislation is directed. I also have a great deal of sympathy for them, and I will, therefore support the Bill's Second Stage.

Mr O'Loan: I am pleased to speak on this important legislation. It should pass its Second Stage and be fully debated in Committee, but, as Simon Hamilton said, it needs to be a very full debate. All Committee members would be very assertive about that. There are problems with the timetabling, and the Bill comes to the Committee very late in the day. The time that the Committee has been allowed is now less than the normally agreed time for the Committee Stage of a Bill. The Committee will be assertive about its right to give full and proper consideration to the Bill, including hearing the views of all relevant parties to that consideration.

Many questions were raised in Committee about the Bill. Even those who, at this stage, might declare support for the Bill raised many questions, so there has been a considerable air of questioning, one may even say scepticism, about the Bill.

The Bill arises from a House of Lords judgement in the Johnston case, which was heard in 2007. In that case, five Law Lords concluded unanimously that pleural plaques were not actionable damage. It seems that the Bill is asking whether there is an adequate general law to address the issue of compensation on grounds of negligence and whether there is a unique weakness in relation to pleural plaques that makes particular legislation necessary. If we were to say that it is a general point and there is a problem with the law on compensation on grounds of negligence, the way to address that would be to alter that law. However, nobody is really arguing that. I have not heard anyone saying that, so I think that people are agreed that the general principles of the law in that area are sound. That leaves us in the position that the Bill has to pass a demanding test and that the situation regarding pleural plaques is so special and unique that it cannot be addressed by general law and needs and deserves specialised treatment in law. It may be that it needs and deserves that, which is up for examination in Committee. However, as I said, we should not make any mistake. I regard that as a very demanding test.

We should reflect on what the Law Lords said in rejecting pleural plaques as a cause for action for damages. Lord Hoffmann, who made the opening speech in the adjudication, said:

"The question is whether someone who has been negligently exposed to asbestos in the course of his employment can sue his employer for damages on the ground that he has developed pleural plaques. These are areas of fibrous thickening of the pleural membrane which surrounds the lungs. Save in very exceptional cases, they cause no symptoms. Nor do they cause other asbestos-related diseases. But they signal the presence in the lungs and pleura of asbestos fibres which may independently cause life-threatening or fatal diseases such as asbestosis or mesothelioma. In consequence, a diagnosis of pleural plaques may cause the patient to contemplate his future with anxiety or even suffer clinical depression."

He also said:

"Proof of damage is an essential element in a claim in negligence and in my opinion the symptomless plaques are not compensatable damage. Neither do the risk of future illness or anxiety about the possibility of that risk materialising amount to damage for the purpose of creating a cause of action, although the law allows both to be taken into account in computing the loss suffered by someone who has actually suffered some compensatable physical injury and therefore has a cause of action."

Furthermore, he said:

"It follows that in my opinion the development of pleural plaques, whether or not associated with the risk of future disease and anxiety about the future, is not actionable injury."

That is the argument in a nutshell.

There is no question that pleural plaques are a physiological change; they are an effect of exposure to asbestos. As one of the other Law Lords, Lord Hope, said in the same judgement:

"pleural plaques may be described as a disease or an injury ... Their physical effects cannot, in any normal sense of the word, be described as harmful."

It is important to be clear about the medical evidence regarding pleural plaques. As Lord Hope said, pleural plaques are benign; they are not and do not become cancerous. They do not, in general, diminish lung function in any way, and if they should do so, they would, of course, become actionable in themselves. We had medical evidence from Dr Shepherd,

a consultant respiratory physician, in which he made essentially the same points.

That brings me to the issues of risk and anxiety and to the concept of aggregation, the argument that, even if pleural plaques on their own are not actionable, the combined effects of their occurrence, the risk perceived by the affected person and the consequent anxiety if all those factors accumulate to something ought to be remedied in law. We need to analyse further the issues of risk and anxiety.

There is no risk from pleural plaques for the medical reasons that have been advanced, which are challenged by no one. However, they are absolute evidence of exposure to asbestos. Therefore, a person who is told that they have pleural plaques may say that they are at risk because they have been exposed to asbestos. I look at it as follows: if one compares a group of 1,000 people who do not have pleural plaques with a group who do, the incidence of serious asbestos-related diseases in the group with pleural plaques will undoubtedly be greater. One can then debate whether that is attributable in any way to the pleural plaques or whether, as others say, that is not the point and exposure to asbestos is the issue. Even in discussions about risk, there are various arguments.

There is no question that many people who are told that they have pleural plaques suffer serious anxiety, including clinical depression. However, as far as the Assembly is concerned, to some degree, that argument cuts both ways. We can respect that position as an argument for a remedy in law, but the contrary argument is that, if we make it a remedial issue, the anxiety that people feel is enhanced because they feel that, if it is so serious that it is subject to financial compensation, there must be something seriously wrong with them. That is not an easy issue for the Committee to assess on balance.

The Law Lords reject the aggregation theory. I take it that that is a principle of law. Indeed, it might be considered an argument for making the mere existence of pleural plaques actionable, because one might say that all those things ought to add up to something, so if, in law, they do not, perhaps we need provision in law to address it.

It should not be thought that the House of Lords judgement in the Johnston case was the first time that a judge found pleural plaques not to

be actionable. In an earlier hearing, Mr Justice Holland said:

"I start by rejecting any notion that pleural plaques per se can found a cause of action."

Of course, not all judges agree. The first consultation document issued by the Department contains a very useful statement by Lady Justice Smith. Before quoting from it, I shall make an aside: I thought that the initial consultation document was extremely informative and balanced in its approach, although I do not regard later contributions from the Department to be so even-handed. They are more loaded. I do not say that just because the Department was moving to a position where it was going to introduce legislation. As I say, I think that the presentation is somewhat more loaded and less clearly evidence-based.

The explanatory and financial memorandum to the Bill says:

"Following consultation in Northern Ireland ... it was decided that the law should be amended".

It does not make clear what that process was, although the Minister told us today that it was on foot of a departmental decision, which I take was his, and that the Executive endorsed that. I want to make a general comment about that. Many matters and proposals for legislation come before the Assembly. Although the Executive may agree to those, I am sure that, in every case, they recognise that, at the end of the day, the Assembly makes the law and that any proposed legislation will be subject to detailed scrutiny by an Assembly Committee and, in the end, by the Assembly in a plenary session. I make the point that it is the Assembly that will decide whether the law should be amended.

4.45 pm

I will turn to the quotation from Lady Justice Smith that I wanted to give. It very usefully presents the opposite argument to that of the Law Lords in the Johnston case. She says first of all that all the High Court judges who had previously considered the actions found in favour of the claimants and had:

"found a way of making an award."

She goes on to say:

"The intellectual processes by which they have arrived at their conclusions have differed but each has arrived at the same result. I venture

to suggest that is because, having seen the claimants and having heard their evidence, they felt it would be just to award damages and unjust not to. I also venture to suggest that most people on the Clapham omnibus would consider that workmen who have been put in the position of these claimants have suffered real harm. I do not think that they regard these consequences of asbestos exposure as trivial and undeserving of compensation."

Once again, I think that that puts the argument in a nutshell very well. However, I also think that it requires a bit of examination. It is good to hear the expression of that view, which is contrary to the Johnston case.

The man on the Clapham omnibus is much used by lawyers as a test of what is reasonable. I would like to think that, if the man on the Clapham omnibus were asked for his view on pleural plaques and legislation on them, he might say, "Excuse me, but could you tell me a little bit more about pleural plaques?". I am unsure whether that would be the exact language of the average man on the Clapham omnibus, but it ought to be the position of any reasonable person. I do not think that we can escape by saying that we should go by our first instinct. There is no escaping a detailed examination of the evidence on the matter before we come to a conclusion. Again, that is for the Committee to do.

I will make a few other points, the first of which is about the situation in Scotland. The Committee has been very cautious with the Bill and has made some reference to the situation in Scotland. On 7 October 2009, a majority of the Committee expressed support for the Bill but advised the Department to look at the Scottish situation very closely. Members obviously wanted some kind of finality on the situation in Scotland before making a final decision here. Incidentally, as the Chairperson probably said, last week the Committee was somewhat more cautious in its view and took the position of not presenting any definitive view other than to say that it will be happy enough if the Bill survives its Second Stage.

What is the situation in Scotland? As we know, the Scottish Bill was introduced and is now an Act. A judicial review was taken and failed. That is now under appeal. We know that, irrespective of the outcome of that appeal, it may go to the Supreme Court and, from there, may go to the European Court of Human

Rights. That may take some time. I have been told today, because I asked, that cases in Scotland are now in abeyance and have been stayed, pending the resolution of the legal position. I must take that point seriously, and the Committee and the Assembly ought to take it seriously. It puts a large question mark over the Assembly's deciding to proceed rather than await the outcome in Scotland. Those tests are being made for us, and it might be prudent to wait. It can even be argued that, if one were keen for legislation to go through, it would be better to wait to see the outcome because that might determine the nature of the legislation. Everyone can see the alternatives, and I will not go into them further.

I wonder whether some other remedy might be looked at — for example, a potential compensation scheme, which is referred to and, somewhat cursorily, rejected in the explanatory and financial memorandum on the grounds that the insurers will not contribute to it. I saw a remark that the Scottish expectation is that a case might typically cost £25,000. Based on past cases, awards to claimants might be expected to be between £5,000 and £7,000. The rest of the money goes into the hands of lawyers. We have to look at whether we want to create an Act from which the financial implications are that a relatively small proportion of the award will go to the people whom we are trying to assist. If we feel sympathetic to the degree that something ought to be done, should some sort of straightforward, no-fault compensation scheme, funded by government, not be considered?

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

Are we entitled to consider at all the cost to the public purse? Are there overwhelming moral or legal arguments for the legislation? If there are, we should do it anyway. I will take an issue that is not as emotional. The cost to the Northern Ireland Executive of the recent equal pay settlement was very great. It was painful, but there were legal reasons why we had to do it. I do not think that there are legal reasons for this legislation, but, if there were fundamental justice issues, I would say that we would have to carry it, irrespective of the cost. Some things it is right to do and they must be done. The arguments are so balanced that this cannot be placed in that category.

We note that the Department of Enterprise, Trade and Investment has set aside £31 million in its budget for the next four years to cover potential liability claims for asbestosis and related conditions. We do not have a breakdown between asbestosis and something that might emerge from pleural plaques, and it would be useful to have an indication of how much of that £31 million would relate to this legislation.

The Minister of Finance and Personnel: There has been an element of uncertainty around the issue, and DETI's estimate is for £1.8 million a year.

Mr O'Loan: That is useful information from the Minister. The Assembly researchers have looked at that on behalf of the Committee and found it difficult to quantify. There could be a burden on other Departments. Who knows what buildings and so on they have been responsible for? It may be that those Departments have not even considered the issue but may have liability.

We have been told that the Attorney General's view on the legislation is not available to us and that it is confidential. I was struck by the fact that the Attorney General's view on the Energy Bill, which has been going through the Assembly recently, was offered by the Minister. That view contributed to certain amendments that were made, and that is useful. We are in the early days of our relationship with the Attorney General, and it is rather important for us to know whether we can receive advice from the Attorney General. I would welcome that advice, and I say to the Minister that, if that advice is not given to us, it creates a suspicion, perhaps unjustified, that there is something in the Attorney General's advice that might make it harder to deliver the Bill.

I am happy to defer to the Minister now if he wants to tell me the Attorney General's view on the matter, or he might want to consider that. I am serious when I say that the Committee would like to know that information. I certainly do, and I think that that would be the general view in the Committee.

There is much to consider in the Bill. It is fair that it goes to the Committee for examination, but I repeat the earlier view that that consideration must not be rushed. The Committee must be given due respect and full and adequate time for examination of the difficult issues presented by the Bill.

Dr Farry: I appreciate that the Bill's Second Stage will be agreed today and that it will move forward to Committee Stage. However, like other Members, I am extremely sceptical about some of the principles behind the Bill and the implications that arise from it. Indeed, the Committee Chairperson's statement setting out the current approach and thinking is indicative of the considerable uncertainty around aspects of the Bill.

It is important that, like others, I stress my concerns regarding the timing of the Bill. The Johnston case goes back as far as 2007, which is almost four years ago. The issue has been kicking around in Northern Ireland from the time of the Department's first consultation, which was as far back as 2008. I am not aware of the Department's approach having fundamentally changed from that time. However, the First Reading of the Bill only took place before Christmas, and now, almost in the teeth of dissolution, we are trying to rush it through in order to meet the promise of the Executive to legislate within this term. Given some of the issues that still need to be properly scrutinised, addressed and potentially resolved, I am concerned about the implications of rushing the Bill and coming up with flawed legislation. Surely it would be better to leave the Bill until the beginning of the incoming term and to deal with it in a manner that is expeditious at the beginning but allows for the full scrutiny that a Committee Stage provides.

I recognise that the presence of pleural plaques is a subject of deep concern. Both inside and outside the House, there is considerable regard and understanding for the people who have been identified as having pleural plaques in their lungs. We must recognise that, for those affected, that leads to considerable anxiety about what the implications may be, and there is a wider understanding of the risks that people who worked in unsafe environments in the past have been subject to.

We also have to be realistic and accept that pleural plaques are asymptomatic and do not in and of themselves create a sense of harm. They are a pointer to asbestos exposure, but they are not an indication of enhanced risk. The risk comes from the exposure that a pleural plaque confirms, rather than the presence of the pleural plaque accentuating the risk. I believe that the points that I just made are reflected in the medical consensus. Even the lawyers who have

argued for the legislation have not disputed what seems to be the medical consensus on the issue. That said, we recognise that there is a sense of violation of bodily integrity as a result of having foreign substances appearing in the lung and that anxiety arises from that. Those are direct issues for people, and one would not wish to dispute that.

The Minister needs to address a number of issues as the Bill proceeds. In the light of the Johnston case, is it right that something that gave rise to compensation in the past must be viewed as always being compensable in the future? Our understanding may change, circumstances may change and legal frameworks may change, for example, through the passage of the European Convention on Human Rights into our domestic law.

The Assembly should also note that the Governments of England and Wales have not sought to overturn the Johnston case despite considerable pressure from the public and from elected representatives. Of course, the Scottish Government are trying to do that and have passed legislation. However, as Members mentioned, that legislation is currently subject to a legal challenge. I certainly concur with the point that the Assembly needs to take into account the implications of that process and the possibility that the finality of any decision that it takes may put it in a position in which it might face similar legal challenges. Furthermore, given that legal challenge in Scotland, to what extent has the Minister confidence in the Bill's statement that it is compliant with human rights?

5.00 pm

Will the Minister also outline what he understands to be the basis for compensation? That seems to shift around depending on who one speaks to, even when one speaks to those who advocate the legislation. Indeed, last week, during an evidence session, four different rationales for compensation were put forward in the space of around two minutes. Is it that the Assembly is trying to compensate people for exposure or for the risk that comes from that exposure? Is it that the Assembly is trying to compensate people for the anxiety that is related to the exposure or for the damage or injury that may result from pleural plaques when, in fact, the presence of pleural plaques is not in itself harmful?

It is important, therefore, that the Assembly is clear about what the legislation is actually trying to do. It must also ask itself whether the approach that it takes on the matter creates any further precedents for similar situations in which people have worked in risky environments in the past. For example, it could be argued that people who worked in pubs, clubs and bars during past decades and were exposed to passive smoking may have enhanced anxiety about having lung cancer. Does the Assembly propose to make that exposure itself compensable or, rather, to wait until lung cancer is evident and there is a clear basis for compensation potentially being sought? I am sure that people can think of similar examples.

There is also the issue of uncertainty about financial liability. It is important that we discuss the implications for the public sector and the private sector. The Bill's explanatory and financial memorandum states that the potential cost of compensation for pleural plaques would be just under £2 million. Again, the Minister confirmed that in his statement. Obviously, reference has been made to the DETI budget for the next four years and to £30 million for a range of asbestos-related conditions. It is worth making the point that both the Bill's explanatory and financial memorandum and DETI's draft spending plans for the next four years refer to the costs as being impossible to quantify at present. The figures that have been put forward are estimates. They may be conservative estimates, or they may be overgenerous. We do not know.

The Assembly is moving into a situation in which there will be a tight public expenditure framework with no certainty about what it will create. Indeed, if it creates additional financial liabilities for the private sector and the public sector, particularly in light of the, shall we say, slightly uncertain basis on which it is doing so compared with the basis for other forms of default where compensation is clearly accepted, is that a wise thing to do? The Assembly must also take into account the views of the business community on the implications of that for business confidence and, indeed, on the cost pressures to which business would be subject.

Given that anxiety is clearly present in those who suffer from pleural plaques, the Assembly must also ask whether it is correct to compensate for that anxiety and, in some respects, reinforce a misapprehension or

misunderstanding of the condition and, in doing so, take counterproductive action. Would it not be better to invest in public education on the condition and try to downplay people's unfounded worries?

There are also potential knock-on costs in the health sector, because, given the enhanced anxiety that the Bill may advertently reinforce, people will, perhaps, seek X-rays to examine whether they have pleural plaques.

There is a wider issue that we have to take into account. It relates to whether the uncertainty over the presence of pleural plaques will create a situation in which some people who may have inadvertently been exposed to asbestos will miss out, if its presence is used as an indicator for that wider exposure. Could there be a situation in which someone who does not have pleural plaques, but has been exposed to asbestos, may eventually develop a condition down the line? Do we have a situation in which there is potential for discrimination? Will people who have pleural plaques receive compensation, and will those who do not have them not receive it, even though both parties have been subject to the same degree of risk? That goes back to the issue of risk and exposure that we are seeking to compensate.

As other Members have said, it is important that we use the opportunity of the Bill to look at alternatives, if it rolls forward into Committee Stage. As a compromise way forward, although I recognise the interests and concerns in society but, equally, the potential unlimited financial implications, I have some sympathy with the idea of whether we want to encourage the parties involved to reconsider some option around a fixed sum payment. In other parts of the UK, a notion of £5,000 has been put forward for those cases already in the system. Perhaps we could look at extending the eligibility criteria for that in Northern Ireland.

We look forward to discussing the Bill in greater detail in Committee and seeing where it goes.

Mr Frew: I have great concern and sympathy for people who have pleural plaques. Even though the condition is symptomless, it is a confirmation that a person has been exposed to asbestos, which, in itself, is considerable. It is a frightening concept to have to come to terms with, and it causes great anxiety.

I worked in the construction industry and had the opportunity to work on old, large-scale buildings, such as schools, factories, warehouses and hospitals, and in the shipyard in Belfast. Having known people who had asbestos-related conditions, I am only too aware of the problems and anxieties that the conditions cause for them and their families and loved ones.

It is only right that the Assembly looks at the issue to see what assistance it can provide directly or indirectly to people with the condition. However, there is a concern that there is not enough time to scrutinise the Bill, take it through the proper processes and give it the respect and time that it deserves. We paint ourselves the biggest picture that we can in order to make sure that this is good law and that it will provide a service to the people whom it is supposed to target. We are also in a position of flux with regard to all of the legal implications. We have to be careful that we do not raise expectations and hopes. The headlining on the news or in the newspapers of such a debate could raise people's expectations. We have to be careful about what we do in that regard and in respect of the legal implications ahead of us.

We have to be mindful of the financial implications for the Government and the Department of Enterprise, Trade and Investment. It is good to see the Minister here, and I give credit where it is due to the Chairperson of the Committee for Enterprise, Trade and Investment for being present for the debate.

My colleague spoke of a floodgate opening, and a colleague from North Antrim, Declan O'Loan, said that we have to do it if it is morally right, regardless of the financial implications. I agree with that.

If I were to put myself in the shoes of someone who has that condition, I am not 100% sure that a financial payout would ease my anxiety one bit. I know that there are legal implications, in that if people were told to do something in their employment and they fulfilled those duties, but there was a lack of awareness that asbestos was there, and they were not protected as they should have been, there is an argument that they should be compensated. However, we have to remember that we are discussing pleural plaques, which is a symptomless condition. It is the people who know that they have been

exposed to it for whom I have the greatest sympathy.

As I said, I am not sure whether a financial payout would help with the anxiety. I do not think that it would assuage my fears at all. In fact, I would much rather know that the Health Service provided to us would cater for my needs and anxieties, whether through regular check-ups with a GP or consultant, regular scans or X-ray screening, or simply education to make me aware of the condition, what it might lead to and what it might not lead to.

Of course, we are talking about percentages too, as the Committee has witnessed in recent weeks. We need to look very carefully at that. I have great sympathy for the people involved, and I believe that we need to do something for them, but I am yet to be convinced on the Bill. I agree with its principles and that we need to do something for people affected, but I am not sure whether the Bill is the right thing for that. We should be able to bear that out in Committee. That is why it is important that the Committee be given the time to debate and scrutinise the Bill as much as possible. People whom the conditions affect need to get recognition, so we must concentrate on the Bill as much as we can.

Mr A Maginness: I declare an interest as a member of the Bar, although I have no particular experience of these types of cases and no particular expertise in this area. I understand that it is a difficult issue for Members and that many complex legal issues are involved. However, it has to be said that there has been extensive consultation on and discussion of the matter. The Bill's basic principle is that people who have developed pleural plaques should be compensated. If that principle is accepted by the Committee and the House, there should not be any particular problem with the Bill. Either Members accept the principle or they do not.

I hear all the points about process, lack of time, and so forth, but I do not believe that additional time is required for colleagues in the House to make up their minds. The issues have been made fairly plain in the consultation papers, the responses and during debate in Committee.

5.15 pm

I understand the anxiety of people in the House to get things right. I also understand the fact that insurers in Scotland have brought an action in the Scottish courts, and that is now under

appeal. However, we stand on our own here, and we should be able to make our own decisions. We should not be constantly looking over our shoulders at what other people are doing. We can learn from what other jurisdictions are doing, but we should not be tied to what they are doing.

As for the threat of legal action by the insurance companies here, insurance companies will always try to apply pressure. They have a clear vested interest in stopping this legislation, and we should not be intimidated by the threat of legal action by insurance companies. The Minister has made the right decision about this matter, namely that people so affected should be compensated. The Bill is relatively simple in that it enshrines that principle. To dispense any doubt, it also refers to pleural thickening and asbestosis. That is a sort of belt-and-braces clause. That, in essence, is what the Bill is about.

However, the Bill also has to refer to the period in which those actions could have arisen, and to actions previously taken that may not have continued because of the decision in the Johnston case. The Minister has reassured the House that, in effect, clause 3 deals with the retrospective nature of claims and the whole issue of retrospection.

I want to be further assured by the Minister because if somebody, for example, took an action, the Smith judgement came out, and they were then told by their solicitors and, indeed, by the defence solicitors: "Look, if you continue with this action, we are going to pursue you for costs. If you withdraw your action now, we will not pursue you for costs", would that amount to the discontinuance that the Minister referred to?

I want a reassurance that those who entered into what could be termed a contract with the defence could continue with their actions. It would be only right and just in such circumstances that those actions should be allowed to continue. So I seek an assurance from the Minister. I am sure that the Minister will reflect on what I have said, and perhaps can give further advice to the House and to me on that.

The Minister referred to actions being discontinued. If that is not the case, and if there is a situation where people have been effectively coerced or pressed into discontinuing their actions because of the question of costs and a cost liability against them if they continued, there has to be an amendment to the

Bill to cover that. It would be very important for that to be covered. It should be stated explicitly that any contract not to sue in respect of pleural plaques would be null and void. I ask the Minister and the Department to consider that.

There are other victims of pleural plaques. The relatives of people who worked in certain industries and who were exposed to asbestos have been affected by asbestos-related medical conditions, including pleural plaques. That exposure is caused by someone who comes home from work in their working clothes, takes them off and then puts them into the washing machine. A mother or another member of the family could come in to contact with those clothes and be exposed to an asbestos-related condition as a result of coming in to contact with asbestos. Therefore, there has been asbestos exposure in those situations. It would be right, fair and proper for some people, such as members of the immediate family, to be effectively covered by the legislation.

If there is negligence in any of the cases that I am describing, it continues for the person's family members. Therefore, I cannot see any argument against that on the part of either the defendants or the insurers. I ask that the Department look at the extension of liability to members of the immediate families of those affected. If the Department is in favour of that, an amendment should be tabled to make it explicit in the Bill.

There is one other aspect of the Bill that I want to refer to, although it is probably not that relevant to pleural plaques. If a workman brings an action during his lifetime, claims for loss of earnings and then dies, his family could have a case for taking an action for loss of dependency. In those cases, provision should be made for the family concerned to bring an action for a loss of dependency. That action would not be for the workman's loss of earnings; it would be for the loss of earnings that the family sustained as a result of his death due to asbestos exposure. However, that matter is perhaps not quite as relevant to the Bill as the other two issues that I raised.

There is a general argument that says that the House of Lords has made a determination on the issue, so that is the end of the discussion. People were able to sue for pleural plaques, and the courts regarded that as actionable and compensable. Where is the justice in removing

that avenue for people who have been exposed to asbestos, perhaps even in contemporaneous situations, when other people have already received awards? Where is the justice in that? Dr Farry said that just because something has been compensated for, it should not necessarily be compensated for in the future. However, that argument can be reversed to say that the condition was compensable and that it should remain so, because it is just and right that people be compensated.

As Mr Frew eloquently stated, it is a difficult and frightening situation for people to be in. Surely such people should be compensated. All of us in the House, I would say, are committed to a sense of justice. It is unjust and unfair that people should not be compensated in such a situation.

It was said during the debate that the legal profession is getting huge sums of money from the situation. Awards and settlements for asbestosis and mesothelioma are much bigger, but those for the injury — I use that term quite properly — of pleural plaques are, in fact, very limited. There is not a lot of money to be gained by lawyers or anyone else involved. That should not be a relevant determining factor when considering the Bill.

I do not believe that there will be a serious drain on the public purse. A figure of around £2 million per annum has been suggested. There is £31 million in the DETI budget, but that, as I understand it, relates largely to other forms of ill health caused by exposure to asbestos. The bulk of that money is for a liability that arises from the shipyard because of the insolvency of the insurance company that was dealing with claims. That, in a sense, is a red herring when discussing the Bill, and I want the Minister to take that into consideration.

It was said during the debate that we would be opening the floodgates, but I cannot see where that would happen. I am not certain that Mr Farry's cause of action on smoking is apposite to this type of situation. If there is a floodgate argument, let us see what it is. One cannot simply say that the floodgates will be opened if there is nothing that is identifiable. I do not see the floodgates being opened. This is a justice issue, and we should be compassionate and just. It is true that money will not fully reassure a person. It is not a remedy for a person's ill health or condition, but it does at least

provide some basic comfort to that person. It is important that such persons be properly and justly compensated.

The Minister of Finance and Personnel: I thank all Members who took part in what has been a very thoughtful debate. Although almost all Members who spoke indicated their support for the Bill, they raised a lot of legitimate questions that I can possibly answer today. That will allow Members to proceed with the scrutiny of the Bill at Committee Stage with some confidence.

I want to make it clear at the outset that this is a short but focused Bill. As the last contributor to the debate indicated, it is designed to give redress to ordinary working people who, because of their employer's negligence, have been damaged in some way. It is important that we bear that in mind. It is something that the Executive have committed themselves to doing. Moreover, I know that some Members raised the issue of timing. I want to address those issues if I can.

5.30 pm

I will turn first to the comments made by the Committee Chairperson, who is not in her place at the moment. She indicated that, by and large, the Committee had been supportive of the Bill and the work to date, and I thank the Committee for that. She, along with a number of other Members, including Mr O'Loan and Mr Farry, asked whether I was happy that the Bill is legally competent. There were also requests to hear the Attorney General's views on it. As Members well know, it is convention that the views of the Attorney General are not shared. The Attorney General gives advice to Ministers and the Executive that is not available under FOI, which, again, is indicative of the fact that it is not for sharing.

At the end of the day, it is the responsibility of a Minister to make a decision, based on the legal advice that they are given, as to whether a Bill is legally competent. When doing that, he or she will take into consideration the views of the Departmental Solicitor's Office and the Attorney General. In this case, I am happy to say that, in light of all the information that is available to me, in my view, the Bill is legally competent.

Indeed, one only has to look at the way in which similar legislation has progressed in Scotland. The Scottish Executive, a body with similar powers to this body, deemed it to be

legally competent. The Scottish equivalent of the Attorney General deemed it to be legally competent. The courts, as far as the challenge has gone in the courts in Scotland, have deemed that the Scottish Parliament had brought forward legislation that was legally competent. This legislation reflects what was brought forward in Scotland. Therefore, on all those grounds, I am satisfied that the Bill is legally competent. I hope that that answers the questions that have been raised by a number of Members on that issue.

The second issue raised by the Committee Chairperson, which was also reflected by a number of other Members, was the timing of the Bill. She asked why it was being brought towards the end of the Assembly term. She suggested that it was being rushed and was, therefore, not being allowed the degree of scrutiny that a Bill of its nature should be given.

The Member for Strangford Mr Hamilton pointed out that when he was put — well, he described it as being punished — on the Finance Committee four years ago, this issue was being discussed. He is quite right. The Bill has taken some time. However, the Committee has had the benefit of the consultation on the general policy and the follow-up by officials who talked to members about the results of that consultation. There was then the consultation on the Bill itself and the follow-up by officials, as well as all the consultation responses.

Members have asked why we would rush the Bill through at the end of this Assembly mandate. Again, I will point out that all the timings for the Bill meet with the requirements in Standing Orders and give the Committee the proper time. I would not wish it any other way. The Bill is not going through by accelerated passage. It is going through the normal process. A Committee is allowed, under the Standing Orders of the Assembly, a certain amount of time to deal with legislation. All the background information has been available for a long time, so the issues have been well aired.

The quality of today's debate has been very good, and the points that have been raised demonstrate Members' depth of knowledge on the various arguments. That indicates that in no way can Committee members say that they cannot fully appreciate the implications of the Bill. Therefore, I believe that Committee members are well equipped to deal with the

work that they must do at Committee Stage to bring the Bill to a satisfactory conclusion.

The Executive are committed to this legislation, and we have met the requirements for consultation. I would like to have received clearance from the Executive sooner. That has not been the case, and that is true of some other Bills. However, given the commitment, the work that has been done, the expectations that have been raised, and the expertise that the Committee has acquired on the Bill, it is perfectly reasonable to say that the time that is remaining in this mandate should be sufficient to deal with this matter.

The Committee Chairman and others raised the issue of what exactly the cost of this measure will be. The insurance industry has said that the costs have been underestimated and will be much higher. However, I would have thought that if the insurance industry knew that the costs had been underestimated, and it had some hard evidence to that effect, representatives would have made it available.

A wide range of estimates has been provided. I do not want to misquote the figures but there is, I think, a multiple of about five between the lowest and the highest amount of money that the insurance industry has estimated. That shows that, really, it is a bit of a guess. I accept that, because of the nature of the disease, we cannot be sure of the number of people who will be affected, but we have made our best estimate. Indeed, I think that research by Committee staff indicates that the figures that we are looking at are probably not too far away. However, the Assembly's Research and Library Service papers, to which I may return, show that the figures are difficult to estimate.

I turn to Mr Hamilton's points. He raised the issue of timing, and I hope that I have given him a clear answer on that. He and a number of other Members raised the issue of what happens if, although the Scottish Parliament and the lower courts have deemed the legislation competent, the appeal court decides that it is not. I made it clear that I believe that, if that happens, we still have time to make a decision to change the provisions of the Bill that refer to retrospective decisions and its general retrospective nature. However, as I think Mr Maginness pointed out, the court process could go on for years. It could eventually go to the European Court. What do we do in the

meantime? This is a policy that has been decided by the Executive, that we believe is competent and that we believe reflects the views of the Executive and the Assembly. Do we simply sit back to wait for the whole judicial process to be spun out or do we clearly show our intention that we believe that this is the right thing to do, that we should reinstate the decisions that have been made in the past and the actions that were available to people in the past? Do we simply sit and wait for the courts to decide what our policy should be? I would have thought that Members would want to be in control of the legislative destiny of this House and, therefore, make the appropriate choices. Of course, if amendments have to be made in light of future legal decisions, we will have to deal with that.

Mr Hamilton also raised the issue of costs. As I indicated, the estimates that DETI has at the minute amount to £1.8 million a year. I accept that they are estimates. However, they are based on figures that the Scottish Parliament has produced on compensation per case and the number of cases identified in Scotland, with a pro rata reduction for the population of Northern Ireland. Given that, in the past, the industrial composition of Northern Ireland was very similar to that of Scotland, we would expect to see the same kind of pattern here. Therefore, I do not think it an unreasonable judgement that the costs envisaged for Scotland can be scaled down to produce the figure of £1.8 million.

Mr Hamilton and Mr Farry raised the issue that the Bill might open the floodgates and that all kinds of unforeseen forms of compensation might then descend upon us here in Northern Ireland. The Bill is very focused. It makes clear what we believe should be compensated. We refer also to the historical situation, whereby it has been only those with pleural plaques who have had the opportunity to get compensation.

Dr Farry: I appreciate the Minister's point that the Bill is tightly defined around one particular condition. I will let Mr Hamilton speak for himself, but my point is that if we endorse in one piece of legislation the principle that exposure to something or the risk of something is suitable for compensation even when no physical harm is caused, it will create public pressures in other circumstances that may, in turn, create demands for the House to legislate similarly.

The Minister of Finance and Personnel: The last sentence of the Member's intervention indicates where the safeguard lies. The House would have to take a conscious decision to introduce legislation for similar conditions. It could not be forced to do so, but it would have to take a conscious decision to do so, because it would, in that case, be a political decision.

The Bill was not drawn up on some whim or fancy. The background to the Bill is that, historically, employers were compensating and were forced to compensate people for negligence that led to their contracting pleural plaques. Historically, that was the situation. Indeed, their insurance premiums reflected that liability, and I will come to that point later. The reason why this legislation is now before the House is not because of a general principle that if one is exposed to something that is harmful, there should be compensation. Historically, that was the case. It was accepted. Premiums were paid by employers to the insurance industry to reflect that. Payments were made, and suddenly, as a result of a decision by the House of Lords, that was snatched away. If the Member is fearful that we are opening the floodgates, let me say that we are only doing so in so far as Members of this House might decide to extend the legislation in the future. However, I imagine that the same kinds of argument will have to be gone through. I want to look at the background and why pleural plaques in particular were deemed to be suitable for compensation and actionable. I will come to that point in a moment or two.

I will finish with one last point that Mr Hamilton and Mr Frew made, which is whether money is the best way to compensate people for the impact of pleural plaques. It was almost presented by a number of Members that if we give people compensation, we should not do other things, such as informing them through literature, leaflets or advice from the Health Service that the anxiety that they have about pleural plaques might be misplaced. I do not see it as an either/or option. I hope that those measures will run in parallel as we seek to assure people. In his introduction, Mr Hamilton talked about how people were scared, worried and anxious. Mr Frew made exactly the same points about the various thoughts that people may have as a result of their exposure to asbestos. I think that the two approaches can run in parallel.

5.45 pm

In his usual way, Mr O'Loan was forensic in making his points. I actually enjoyed listening to his speech. He knocked on the head the lie, or fear, that Members may have about not having enough time between now and the end of the Assembly term to scrutinise the Bill, acquaint themselves with all the arguments and make proper decisions on it. He demonstrated that there is a deep level of knowledge of the issues involved. He talked about whether there is enough time, which I mentioned and do not want to emphasise again. I hope that I have made the point that I believe that the time left allows us to comply with Standing Orders and will enable proper scrutiny of the Bill.

Mr O'Loan asked about the legal basis on which the compensation was formed and why we treat pleural plaques in this way. He asked whether the principles on the law of negligence are sound and, if so, whether those are not enough. He questioned why special consideration has to be given to pleural plaques. He also talked about people who ride the Clapham omnibus. I have travelled on omnibuses in Clapham and across all the other parts of London, but I have to say that I have never heard a discussion of the nature that he described. Mr O'Loan said that the man on the Clapham omnibus would ask not only whether it should be compensable but why should it be compensable. He said that there would be a great discussion on pleural plaques. Those are not the types of conversations that I hear on buses in London, but we will leave it there for the moment.

Mr O'Loan talked about the legal basis for compensation. First of all, medically, there is an acceptance that pleural plaques are injuries for which people should be compensated. Indeed, medical books refer to pleural plaques as a disease. That is why one of the Court of Appeal judges L J Smith said that the bodily change in the form of pleural plaques amounts to an injury.

He quoted Justice Holland to try to back up his case that compensation should not be made. However, what Justice Holland actually said was that the level of payment was too high. He reduced it from £7,000 to £4,000 or whatever. Justice Holland ruled that the permanent penetration of the chest by asbestos fibres, coupled with the associated anxiety, could properly cause a form for action. Therefore, even those whom the Member quoted to

defend his doubt about whether compensation should be payable have made the judgement that compensation is justifiable on the medical basis that it is a disease and a penetration of a person's body by harmful substances. Justice Holland did judge, though, that the level of compensation was too high given the circumstances.

Mr O'Loan: I may be correcting the Minister by saying that Mr Justice Holland very clearly said that he did not count pleural plaques on their own as actionable or as being worthy of action. However, as the Minister quotes him as saying, when the anxiety factor is added, and both are taken together, there is justification for action. In other words, he would appear to be accepting the concept of an aggregation approach. I said that that is one thing that the Committee will have to consider. Given that the law, which is ultimately determined by the House of Lords, says that an aggregation approach is not the proper one, the mere presence of pleural plaques might be deemed to merit an action. That is one of the key areas of debate for the Committee to look at.

The Minister of Finance and Personnel: I am sure that the Committee will look at those issues. Nevertheless, it was deemed that pleural plaques were actionable and eligible for compensation.

Mr O'Loan also raised the issue of compensation and of whether it would be better to have a compensation scheme, like the one in England and Wales, where a certain amount of money would be paid out. I noticed that Mr O'Loan did not glance at the Member for North Belfast who is sitting beside him when he said that. However, he brought a smile to that Member's face when he said that we do not want lawyers to get fat fees. At that point, there was a broad smile spread across the face of Mr Maginness, who thought that that is a great idea. His speech perhaps reflected that later on.

My point is — Mr Farry also raised this — that the cost of such a compensation scheme would fall totally on the public purse. That would be unfair, because the premiums that the insurance industry has got from and charged to various employers over the years have reflected the risk that was being factored in for a long time before the Johnston case. Payments were being made, and, therefore, I think that it would be unfair. The insurance industry would be quite

happy if we introduced compensation, because it would pocket the premiums and we would bear the cost. However, that is not really fair or reasonable.

A compensation scheme has been accepted in England, which indicates that, even without such legislation, there is an acceptance that payments should be made. However, what that would do here is ensure that although those who are in the system would be eligible for compensation, anybody who had not already made a claim would not be eligible for compensation, thereby ruling out a lot of people. I do not think that that is a reasonable way forward on the grounds that it would rule out certain people, would cost the public purse and would provide the insurance industry with a windfall. Those are reasons why we did not go down that route.

Mr Farry raised a number of points. First, he said that just because it was right before does not mean that it is right for ever. Mr Maginness probably answered that better than I can. Nevertheless, we have to bear in mind that even in England and Wales, where such legislation has not been introduced, nobody is denying that there should be some form of compensation, and compensation is, in fact, paid there. The Scottish Parliament's view is similar to ours. As Mr Maginness pointed out, it could be said that the right that was removed should not have been removed.

Mr Farry also raised the issue of whether the Bill is compliant — I have dealt with that — and whether compensation would be paid on the basis of negligence, injury or the impact on the individual. I have made it quite clear that pleural plaques are defined as a disease. The basis for compensation is, and has been, regarded as where damage has been done to people as a result of negligence. The real basis for compensation is where people who have a duty of care for their employees did not fulfil that duty of care and, as a result, their employees were damaged. That was the basis for compensation, and would be the basis for future payments if the Bill goes through.

Mr Farry also raised the issue of people who may not have been diagnosed with pleural plaques, but who may, down the line, as a result of their exposure to asbestos — I think that that was the term that he used — contract a disease. Those people would be eligible for

compensation in that case anyway, because they could make a claim. Therefore, I am not so sure that the Bill would disadvantage them in that way.

Mr Frew dealt with the issues of time and how we can give greater comfort to people who find that they have contracted pleural plaques. I hope that I dealt with those issues.

Lastly, I come to Mr Maginness, whom I thank for his much more warm-hearted support of the Bill than, perhaps, other Members who said that they support the Bill, but who then raised, albeit legitimate, questions. I thank Mr Maginness for his much fuller support for the Bill. However, he did raise the issue of people who have continued, on the advice of their solicitors, to pursue employers for costs. I am not sure whether that is covered in the Bill. I do not have an answer to that. Mr Maginness has raised an important issue that I will probably have to look at during the passage of the Bill. I thank him for that comment from his area of expertise. That is something that we need to look at. I have already covered many of the other points that he raised in my previous remarks.

I thank Members for their contribution to the debate. I look forward to the work of the Committee in ensuring that the Bill is properly scrutinised. The Executive and I believe that this is an important Bill that addresses a problem for many working people whose lives have been blighted as a result of their employers' negligence. Those people deserve proper compensation. The Bill, if passed, will reinstate the position that those people had before the Johnston case, a position that I believe is still defensible.

Question put and agreed to.

Resolved:

That the Second Stage of the Damages (Asbestos-related Conditions) Bill [NIA 10/10] be agreed.

Mr Deputy Speaker: That concludes the Second Stage of the Damages (Asbestos-related Conditions) Bill.

Employment (No. 2) Bill: Consideration Stage

Mr Deputy Speaker: I ask Members to stay in their places otherwise we will lose our quorum and be unable to proceed with business.

I call the Minister for Employment and Learning to move the Consideration Stage of the Employment (No. 2) Bill.

Moved. — [The Minister for Employment and Learning (Mr Kennedy).]

Mr Deputy Speaker: No amendments have been tabled to the Bill. I propose, therefore, by leave of the Assembly, to group the Bill's 18 clauses for the Question on stand part, followed by the Question on the four schedules and the long title.

I will now put the Question. The Question is that clauses 1 to 18 stand part of the Bill.

Notice taken that 10 Members were not present.

House counted, and there being fewer than 10 Members present, the Deputy Speaker ordered the Division Bells to be rung.

Upon 10 Members being present —

Mr Deputy Speaker: OK, let us try again.

Clauses 1 to 18 ordered to stand part of the Bill.

Schedules 1 to 4 agreed to.

Long title agreed to.

Mr Deputy Speaker: That concludes the Consideration Stage of the Employment (No. 2) Bill. The Bill stands referred to the Speaker.

Energy Bill: Further Consideration Stage

Mr Deputy Speaker: I call on the Minister of Enterprise, Trade and Investment to move the Further Consideration Stage of the Energy Bill.

Moved. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Mr Deputy Speaker: As no amendments have been tabled, there is no opportunity to discuss the Energy 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.

Waste and Contaminated Land (Amendment) Bill: Further Consideration Stage

Mr Deputy Speaker: The Speaker has been advised that the Minister of the Environment is unable to be in the House this evening and has asked Minister Foster to move the Further Consideration Stage of the Bill.

Moved. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Mr Deputy Speaker: As no amendments have been tabled, there is no opportunity to discuss the Waste and Contaminated Land (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.

Safeguarding Board Bill: Further Consideration Stage

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

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

Mr Deputy Speaker: As no amendments have been tabled, there is no opportunity to discuss the Safeguarding Board 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.

Committee Business

Autism Bill: Extension of Committee Stage

Mr Deputy Speaker: As the Member is not in his place, the item of business falls.

Adjourned at 6.03 pm.

Written Ministerial Statements

The content of these written ministerial statements is as received at the time from the relevant Ministers. It has not been subject to the official reporting (Hansard) process.

Regional Development

Review of the Regional Development Strategy: Consultation

*Published at 9.00 am on
Thursday 6 January, 2011*

The Minister for Regional Development

(Mr Murphy): I am pleased to inform Assembly members that consultation on the review of the Regional Development Strategy (RDS) will commence on 6 January 2011 for three months until 31 March 2011.

As the spatial strategy of the Executive the RDS informs and supports the PfG, Budget decisions and the Investment Strategy for Northern Ireland. It provides an overarching strategic planning framework to facilitate and guide both the public and private sectors.

Whilst the original RDS, *Shaping our Future*, which was published in 2001 had much to commend it, the speed and direction of change in our society and economy requires a new approach. The revised RDS therefore addresses key challenges on climate change, rebuilding and rebalancing the economy, population growth, the location of jobs and houses, infrastructure provision and the protection of our natural and built environment.

The Executive's top priority is the economy. A new regional economic strategy is currently being developed focusing on rebalancing and rebuilding of the economy. It is essential that the spatial and economic strategies, are aligned in order to achieve maximum benefit for the Region. This means that decisions on the location of key infrastructure projects must be based on strategic principles.

The Investment Strategy seeks to ensure that the Region gets the right infrastructure in the

right place to enable equality of access and to ensure that public services are delivered more efficiently and effectively. The RDS is not in itself a bidding document; rather it aims to provide context and evidence, as well as a framework and guidance, for where development should happen.

The RDS therefore provides an important policy and evidence base on which ISNI draws conclusions about the shape and configuration of future service provision. This helps to address key questions such as where and what size public facilities like schools and hospitals should be to cater efficiently to public needs and secure the best value for the public purse.

Tackling climate change and promoting sustainability both continue to be priorities for the Executive. The revised draft RDS places a strong emphasis on sustainable development, social cohesion and the sensible use of resources, while caring for the environment. The recently published Sustainable Development Strategy recognises the central role the RDS has in providing long term policy directions from a spatial perspective. A new Regional Transportation Strategy is being developed which will complement the RDS with an emphasis on sustainable transport and cutting greenhouse gas emissions.

In summary, the key elements of the consultation document are:

- The importance of Belfast City, the heart of the Metropolitan Area, as the driver for regional economic growth and the focus for administration, commerce, specialised services and cultural amenities.
- The significant role which Derry has to play as the hub of the North West. Derry City has a pivotal role in cross-border and international relationships and is already the main urban centre in the North West

and a gateway to America and Europe. Securing a strong and vibrant Derry city is important to the economic and social wellbeing of the North West.

- The identification of sub-regional centres and the importance placed on them to benefit from, and add value to, balanced regional economic growth, in line with the cross-cutting theme in the new Economic Strategy.
- The importance of critical mass to attract growth through the identification of clusters of settlements.
- The need to sustain the overall strength of the rural community living in small towns, villages, small rural settlements and the open countryside.
- Housing figures for District Council areas designed to give an indication of what might be needed from 2008-2025.
- An integrated approach to ensure that decisions on land use and transportation are integrated; this is designed to develop compact urban areas making best use of existing infrastructure and services.
- A new emphasis on how to reduce dependence on the car and change travel behaviour – a theme which will be a key focus on the new Regional Transportation Strategy which is a sister document to the RDS.
- The importance in all aspects of forward planning to address the consequences of climate change; this means an even greater focus on where people live and work and how transport and energy needs are planned.

During the consultation we will be running a series of public events around the Region. I welcome your contribution to the consultation process.

The Consultation document and associated Impact Assessments are available on the Internet at www.drdni.gov.uk/shapingourfuture/

However if any member would prefer a personal hard copy, it can be obtained by contacting Louise Fitzpatrick on (028) 90540642.

Please note the above statement is embargoed until 9am on Thursday 6 January 2011.

Social Development

Proposals for Reform of Disability Living Allowance

*Published at 12.00 noon on
Friday 7 January, 2011*

The Minister for Social Development

(Mr Attwood): You will recall that on 23 November 2010 I made a statement to the Assembly about the welfare reforms being proposed by the Westminster Government. At that time, the specific proposals for Disability Living Allowance were not available.

I wish to advise Members that a consultation document has since been presented by the Secretary of State for Work and Pensions on Disability Living Allowance reform (6 December 2010). The document sets out the Westminster Government's argument that Disability Living Allowance is, as they see it, not fit for purpose and goes on to propose a new benefit, Personal Independence Payment, to contribute to the extra costs of overcoming the barriers faced by people with a disability to leading full and active lives. The London government considers that the Personal Independence Payment will be underpinned by a new objective assessment which it is claimed will help identify those who face the greatest need in a more consistent and transparent manner.

The consultation document asks for views to inform the policy for reforming Disability Living Allowance and introducing a new objective assessment.

Members will be aware that we have the highest percentage of Disability Living Allowance claimants per head of population compared to England, Scotland and Wales. I am very concerned at how these proposals could impact not only on individuals but on wider communities here. My concern has recently been confirmed in recent days by the Institute for Fiscal Studies, when their research, commissioned by the Law Centre, and the Economic and Social Research Council, concluded that people with low incomes in Northern Ireland will be disproportionately affected by the welfare and tax reforms proposed in the June 2010 Budget, due to the higher reliance on DLA and higher number of families with children.

To ensure that people here have the opportunity to make their views known on the proposals, I have issued the consultation document in Northern Ireland with a covering letter setting out my concerns. I urge everyone with an interest in this very important issue and MLAs to take this opportunity to make their views known.

A copy of the consultation document is available at www.dsdni.gov.uk/consultations.htm. Hard copies will be available from the Library.

The response of politicians, the people and community of Northern Ireland is crucial in this consultation. I believe in reform, in simplifying the benefit system but I oppose benefit cuts masquerading as reform, and I am gravely concerned that the welfare profile in Northern Ireland and the particular circumstances are not acknowledged or fully understood by parts of the London administration. DLA is a central and necessary element in welfare practice in Northern Ireland. I would urge all to respond.

Enterprise, Trade and Investment

NI Economic Strategy: Consultation on Priorities for Sustainable Growth and Prosperity

Published on Thursday 13 January 2011

The Minister of Enterprise, Trade and Investment (Mrs Foster):

I wish to advise Assembly members, on behalf of the Executive sub-committee on the economy, of the launch of the first phase of a consultation exercise on developing an Economic Strategy for Northern Ireland.

The Executive sub-committee was established last year and one of its key tasks is to oversee the production of a co-ordinated economic strategy to grow the economy in Northern Ireland.

In the consultation document launched today, the Executive sub-committee focuses on the medium to longer priorities associated with export led growth, and also on short-term employment based priorities in order to rebuild the economy as we emerge from recession.

The intention is that the responses to this initial public consultation will inform the development of the full NI Economic Strategy later in 2011. The full strategy will include the specific actions that NI departments will take to grow the economy and reduce the reliance on the public sector.

The need for this two stage approach is due to the UK Government's intention to produce its own consultation paper on rebalancing the Northern Ireland economy, including possible mechanisms to change the corporation tax rate. Any such changes could fundamentally change our entire approach to the Economic Strategy.

Economic Context

It has been well documented that the Northern Ireland economy has lagged other UK regions in terms of relative economic prosperity. This reflects some significant and longstanding structural weaknesses such as low levels of innovation, entrepreneurship and workforce skills, as well as a reliance on declining industries which have resulted in low levels of productivity and employment.

Aside from these longer term challenges, the economy is also faced with some very significant near-term pressures. In particular, the Northern Ireland labour market has been severely affected by the economic downturn, with unemployment increasing by 147.9% over the past three years. This represents the largest increase in unemployment of all UK regions during the recession.

The impact of the 2010 Spending Review and the reductions in State Aid limits means that there is less scope for the Executive to provide financial support to businesses. While all of these factors are serious in their own right, when taken together they highlight the need for the Executive and the Assembly to work together to agree on a set of priorities to grow the economy in Northern Ireland.

The consultation document outlines some of the significant steps we've already taken to grow the private sector in Northern Ireland. For example:

- Since April 2008, Invest NI promoted 3,935 new jobs with salaries above the Northern Ireland Private sector median;
- Over the last decade, there are now over 90,000 additional people in the labour market with Higher Professional and Technical and degree level qualifications and a greater proportion of pupils leaving school with 5 or more GCSEs at grades A*-C;
- Through ISNI, there has been £1.358bn planned investment in the productive / transport pillars during 2008-11 period.

Framework

The consultation paper outlines five strategic priorities that have been identified as a means of helping deliver the longer term priority of rebalancing the economy towards more sustained private sector growth. These include:

- i. stimulating innovation, R&D and creativity;
- ii. improving employability and the level, relevance and use of skills;
- iii. competing in the global economy;
- iv. encouraging business growth; and
- v. developing our economic infrastructure

These priorities have been informed by a major research programme undertaken by my Department. Encouragingly, these priorities are

not materially different from those identified in the current Programme for Government.

However, the recession has had a significant and ongoing impact on the Northern Ireland economy and the labour market in particular. In response, the Executive Sub-committee on the economy proposes that the strategy should also include two short term employment themes to tackle the impact of the recession on the local labour market and build on the initiatives that the Executive has already taken. The two short term themes are:

- i. improving employment opportunities and employability; and
- ii. promoting employment.

The Executive Sub-Committee on the economy recognises that the current focus of economic development policy is on supporting indigenous firms to be more competitive through improvements in innovation and workforce skills, as well as the attraction of high value added FDI projects. This continues to be the major and correct focus.

It is also clear that effective implementation of any economic strategy requires us to identify and co-ordinate the contributions from all Northern Ireland Departments and their agencies; local councils; the UK Government; community & voluntary sector organisations; the private sector (including social economy businesses) and the trade unions.

Timelines

Given the challenges we face, it is an imperative that all key stakeholders are given the opportunity to input as the strategy develops. That is why we are launching this first phase – to gauge the views of stakeholders on the proposed framework for the Economic Strategy.

The consultation asks the public and key stakeholders for their views on whether the priority themes outlined in the strategy are correct. It asks which of these themes should have the highest priority and seeks suggestions from consultees for actions which could be included in the strategy under each of the identified priorities.

This initial consultation will run for a period of six weeks and will close on February 24 2011. During this time officials from those Departments represented on the Executive sub-

committee on the economy will engage directly with key stakeholders including the business community, local government and the trade unions.

As outlined earlier, the intention is that the responses to this initial public consultation will inform the development of the full NI Economic Strategy which will include specific actions that NI departments will take to grow the private sector economy and reduce the reliance on the public sector.

The draft economic strategy will be subject to a full period of public consultation and will also be subject to the appropriate range of exercises, including screening for equality impact, rural proofing and environmental / sustainable development impacts.

The consultation document is available on the internet on both the nidirect and DETI websites at the following links:

<http://www.nidirect.gov.uk/index/information-and-services/government-citizens-and-rights/government-1/public-consultations/featured-consultations.htm> ; and

<http://www.detini.gov.uk>.



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