

# Official Report (Hansard)

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They should be sent to:

The Editor of Debates, Room 248, Parliament Buildings, Belfast BT4 3XX.

Tel: 028 9052 1135 · e-mail: [simon.burrowes@niassembly.gov.uk](mailto:simon.burrowes@niassembly.gov.uk)

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# Northern Ireland Assembly

Tuesday 25 January 2011

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

*Members observed two minutes' silence.*

## Private Members' Business

### Caravans Bill: Petition of Concern

**Mr Speaker:** I advise the House that a valid petition of concern was presented yesterday, Monday 24 January, in relation to the third group of amendments that have been published for today's Consideration Stage of the Caravans Bill. Amendment Nos 12, 13, 14 and 15, which make up group three, concern exemptions from licensing of sites. As the petition was presented yesterday, votes on those amendments will be decided on a cross-community basis and can be taken today.

## Ministerial Statement

### Northern Ireland Housing Executive: Review of Governance

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

#### The Minister for Social Development

**(Mr Attwood):** Members will recall that I made a statement to the Assembly on 11 October 2010 announcing a fundamental review of the Northern Ireland Housing Executive (NIHE). That work is ongoing, and an interim report is expected by March. At that time, I also advised that, following receipt of information about a series of allegations and investigations into how Housing Executive staff discharged their duties, I wanted to be satisfied, as I am sure Members will want to be, that the Housing Executive board's governance systems are working effectively and that its staff operational systems are applied consistently.

At that time, I also decided that the permanent secretary should ask his internal auditor to lead a team to examine and to report on whether the appropriate information and structure is available to the board to ensure that it does, and can, effectively identify and manage risk; prevent and detect fraud and error; hold senior managers to account; and ensure that the organisation operates, and will operate, at the highest standards of corporate governance. The team will look at whether adequate controls are used to manage risk; the prevention and detection of fraud and error; performance, procurement and asset disposal, including in relation to land and property; and the procurement of repairs, maintenance, miscellaneous works and adaptations. The team will consider whether the organisation has, or can have, access to appropriately skilled and

trained staff to allow it to operate in its current form while preparing for, and implementing, both organisational and cultural change. The team will also examine whether the seven principles of public life — selflessness, integrity, objectivity, accountability, openness, honesty and leadership — are being implemented effectively throughout the organisation.

A major part of the review was carried out by a team of Northern Ireland Civil Service specialists, headed by the Department's senior internal auditor. In addition, external specialist assistance was secured through the Department of Finance and Personnel's Central Procurement Directorate for a gateway review of procedures for letting and managing Egan contracts, including controls over the prevention and detection of fraud and error. The gateway review was carried out by independent experts in that field. Moreover, the audit review team reported on an ongoing basis to an oversight panel, which was chaired by the permanent secretary and included independent membership. The purpose of that architecture was to provide a quick, robust, searching assessment of where NIHE was on contracts and governance and, critically, where it needed to be.

I first wish to address the gateway review, which was part of the twin-track review of the Housing Executive since October 2010. The gateway review was a dedicated and accelerated piece of work over a five-day period. It was a health check review of the Housing Executive's programme of maintenance, repairs, support works and adaptations for Egan contracts. At its first meeting of the new year, I briefed the Social Development Committee on the broad contents of the gateway review, and a copy of the review report was forwarded to the Committee on Friday 21 January.

As regards the gateway review of procedures for letting and managing Egan contracts, the specialist team considered it important to record that it was evident to them that NIHE is driven by a strong desire to deliver a high-quality service to its tenants and to gain equally high levels of satisfaction from tenants for the service delivered. The board and senior management at the Housing Executive have embraced the need for ensuring that the procedures in place reflect best practice. However, it must be said that extensive transformation is required.

It is useful to note that a major change in management style was effected with the move to Egan contracts. The gateway review team found that, since the early part of this century, the day-to-day contract management of suppliers has been and is conducted in an appropriately non-adversarial manner that is consistent with good practice. However, the team concluded — and this is crucial — that the culture of non-adversarial management as the primary technique for managing contractor behaviour has created a weakness in the system that will need to be addressed. That is the extensive transformation to which I just referred.

Fourteen recommendations have been made, and they include that the Housing Executive produces and adopts a new corporate procurement vision and strategy; that all future contracts be drafted on the basis of the detail set out in the procurement strategies and that a report be produced to confirm that they meet the need and, in so far as can be determined, will be enforceable; and that the contract manager ensure that processes are put in place to recognise and to collect the evidence that may be needed to enforce any provision of the contract.

I now wish to spend a short time considering some of the recommendations. The gateway review team's approach was fundamental, as can be witnessed from its very first recommendation, which is that NIHE produces and adopts a new corporate procurement vision and strategy, and from its series of sequential recommendations. In particular, recommendation E:

*"We recommend that ... attention is given to the form (detailed terms and conditions) so that the contract enables effective and enforceable management to be delivered."*

The reason for that recommendation was acknowledged in the following sentences:

*"governance surrounding contract management was poor";*

and,

*"there was a poor understanding of what needed to, or could be, done to instigate more formal contract management processes when a contractor was performing consistently badly."*

The report rightly acknowledges that the procurement team of the Northern Ireland

Housing Executive has a strong understanding of the procurement process and that its approach is sound, well managed and:

*“best practice from the point of view of probity and risk management.”*

The report also comments that the Egan approach was grounded in a partnership approach between the public body and the contractor. That principle is important; it has its place and creates a non-adversarial environment. Crucially, however, the report says that contract management:

*“has become reliant on the effectiveness of relationships with contractors”.*

I intend to address that point at some length as it is at the heart of the gateway report. All 14 recommendations are fully informed by that analysis, and the future should be strictly informed by it. The point is developed with the gateway review assessment of key performance indicators (KPIs). The Northern Ireland Housing Executive suggests that KPIs had become “the most significant control” over contracts and contractors. The gateway report did not accept that as the case under the current control regime, with KPI levels not embedded in the most recently issued tender.

Indeed, recommendations I and H state that KPIs “will not be enough to cover” any complex contracts currently being tendered. That important point is developed in the penultimate paragraphs of part 6 of the gateway review, which offers three options to contracts currently being tendered. The review states:

*“The options are:*

*For the contracts to continue and negotiations post contract with successful suppliers to reduce the risk;*

*For the contracts to be adapted as well as possible in the time available and to proceed with a reduced but present risk;*

*For the contract process to be delayed until later in 2011 with an extension of the existing contracts so that appropriate time can be given to improving the procurement”.*

That is an essential point: contracts are being tendered, but the process does not satisfy the recommendations of the gateway review. Consequently, I agree with the review that contracts currently out for tender should become a baseline for future contractual

arrangements. Legal advice confirms that it is proper to delay the contract renewal process until later in 2011, with a short extension of existing contracts until the initiation of a new tender process, as informed by the gateway review recommendations, which will lead to a new regime of contract management, compliance and enforcement.

That is the way forward. I am determined that a new discipline and rigour should be applied to contracts. That is necessary to protect tenants’ needs, the Housing Executive’s authority, the interests of the Department for Social Development (DSD), and government expenditure. It is necessary to draw a clear line between the practice of yesterday and a better way for the future.

I stress that the 14 recommendations must be implemented in real time. As a demonstration of that approach, existing contracts will be extended for a short period while a new tender and contract process is developed that reflects and honours faithfully the recommendations of the gateway review team.

The second part of the intervention that I announced last autumn was a wider governance review of the Northern Ireland Housing Executive. Its purpose was self-evident: to give me, as Minister, and, I trust, the Committee for Social Development and the Assembly, the reassurance that the Northern Ireland Housing Executive will work effectively across a number of important areas in the immediate future.

As Members know, a series of internal and external investigations into the Housing Executive raised concerns that its governance systems were not sufficiently robust. The audit and governance report is a result of my intervention last autumn. It runs to 177 pages, including a lengthy appendix and 75 recommendations, and, like the gateway review, it is a comprehensive piece of work. Its content and conclusion confirm that the intervention last autumn was necessary, proportionate and timely.

#### **10.45 am**

As I said, the report contains 75 recommendations, 16 of which relate to “critical control issues”, which is a term used by the audit team, with 59 relating to developing existing policies and practices so that latest



best practice can be embraced. I have accepted all the recommendations in full and without doubt.

The report acknowledges that there is “much evidence of good practice”. It also acknowledges that Housing Executive:

*“management are being challenged and held to account”*

and that the board has “appropriate structures” to effectively detail and manage risk.

However, the review team identified a range of critical control issues that weaken the governance structures and their effective operation. Recommendations on those include developing formal terms of reference for the board and all management committees, conducting a comprehensive review of the board’s standing orders and scheme of delegations, and reviewing risk management arrangements.

There are also a number of recommendations on land and property and on the procurement of repairs, maintenance, miscellaneous works and adaptations. For example, although the control framework that the Housing Executive established provides adequate controls over performance of maintenance works and the prevention and detection of fraud and error, there are a number of areas where controls could be strengthened. Those include recommendations on the level of information that is provided to the Housing Executive’s board and to the chief executive’s business committee, greater use of the repairs inspection unit, and a review of the KPIs that are used to measure the performance of contractors. That point was obviously touched on in the gateway review process.

The Northern Ireland Housing Executive has a number of effective human resources systems and processes in place, but there is imbalance in the workforce, particularly where the age profile of the organisation is concerned. Indeed, that has been debated in the Chamber before. If that imbalance is not addressed, a risk will be created that the organisation will lose significant knowledge, skills and experience. That point was made about the reform of another organisation in the past 15 years.

I will comment briefly on a number of the recommendations. The corporate governance recommendations are a pathway to enhance

the capacity of the board and its structures. They are the right disciplines for any significant organisation to be in the right place when it comes to its conduct. The response maintenance recommendations are a broader narrative of the gateway report. I refer particularly to recommendations 41 and 42, and I consider recommendation 42 to be critical. It says that the Housing Executive should review its procedures for the inspection of response maintenance, including whether the size sampling is adequate.

The human resources recommendations are good management practice, and the recommendations on the seven principles of public life are important. They include conclusions to be drawn when current internal and external investigations are complete. Bearing in mind the scale of potential disposal, the asset disposal recommendations are an important group. The disciplines and processes for asset disposal must be in place, as should those for response and planned maintenance. I do not intend to comment further on this part of the report, although I will answer questions on it. It is of a significant scale, and it places substantial responsibility on the Housing Executive and DSD.

I think that several conclusions can be drawn from the reports, although that list is not exhaustive. First, it was necessary, and this has been proven to be the case, for me to commission the governance and gateway reports, respectively. The reports cover a range of territory and have been conducted and completed with considerable expediency and good practice. In their totality, and with full implementation, they offer a way forward. I acknowledge the work of both the teams that went into the Housing Executive. They had to act quickly, probe deeply and draw the right conclusions. In my view, the teams that went in, as well as the external oversight team, which was managed by the permanent secretary and included an independent expert, demonstrated what can be done very quickly to assess public bodies and to create the architecture and processes to put them in a better place.

Secondly, it is essential that all the reports’ recommendations are fully implemented, and are seen to be implemented, to ensure that best practice in governance and contract management prevails and confidence deepens. That is required without prejudice to the ongoing



fundamental review of the Northern Ireland Housing Executive. Independent of the longer-term conclusions of the fundamental review, the shorter-term life of the Housing Executive must be informed, *inter alia*, by the two reports. That is why I have been provided with a draft implementation plan and why the Housing Executive is required to have a final plan endorsed by its board in February. Thereafter, I will forward the final implementation plan to the Committee for Social Development for its information.

Thirdly, the Housing Executive board and DSD must ensure that implementation occurs expeditiously and faithfully. I have accepted the reports and their recommendations in full, save, with the consent of DSD, the gateway review team or the oversight group, a rare exception where the recommendation might be slightly varied.

I welcome the endorsement of the reports by the chairperson and acting chief executive of the Housing Executive. However, my judgment is that the objective of quick and faithful implementation requires a level of oversight that is outside the jurisdiction of the board of the Housing Executive. That is why I am putting in place a new level of oversight through meetings every two months between the chairperson and vice chairperson of the board, its senior managers and me, as Minister; monthly meetings between the Housing Executive and the DSD permanent secretary and senior officials; and, critically, a panel of three people, chaired by the permanent secretary, with expertise in overseeing that important work. That latter decision borrows from a similar model that was deployed during the recent review, and it will include an independent person with expertise in providing a challenge function.

Fourthly, as was recommended by the gateway review, I shall invite the gateway team to conduct a short review of the NIHE implementation plan. I intend that that shall be done in advance of the plan going to the board of the Housing Executive in February.

Fifthly, I have instructed my permanent secretary to assess the conclusions of the gateway review against other contracts that are the responsibility of DSD. The Egan model is not particular to the Housing Executive. It emerged from considerations in the 1990s that saw Egan-type contracts being introduced across public bodies generally. Therefore, it

might be possible to apply the gateway review recommendations to other DSD contracts. If it is possible, we should do so.

Sixthly, arising from the gateway review, if there can be application to contracts anywhere in government, we should do so. That is why I am copying the gateway review to the Minister of Finance and Personnel for his consideration. The permanent secretary of DSD has raised the report with the Central Procurement Directorate to determine whether it could be more widely applied to government contracts and considered by the panel of secretaries that deals with procurement matters.

In recognition of the issues that were commented on in the media, the Assembly and elsewhere, there was a need for a quick and robust response by DSD. In doing so, I followed the lead of my predecessor in the Department, Margaret Ritchie, who, during her time in office, demonstrated resolve and rigour around housing issues, including the new oversight regime for the business of housing associations and her initiatives to deal with issues that touched on the Housing Executive. This is an important point: when the previous Minister went into office, she enhanced the size of the housing division in DSD by 100% because she identified that there was a need for a more interventionist approach that was consistent with good evidence and due process for housing in Northern Ireland. The fact that a number of housing associations are suspended from the newbuild programme and the other issues that are ongoing in respect of housing associations, for example, is a consequence of the oversight and governance regime that drills down into the life of housing associations. That regime was put in place by my predecessor.

Housing has been a success story of the past 40 years. However, it requires reform in a positive image. My decisions are a demonstration of my belief that that is what we need to do. This statement is a further demonstration of where we need to go. I trust that colleagues across the Chamber will endorse my approach.

**The Chairperson of the Committee for Social Development (Mr Hamilton):**

I thank the Minister for his statement. It contains many issues about which he and I share concern. I particularly welcome his final paragraph. Everyone on this side of the House would agree

that there is a need for ongoing positive reform across the housing sector in Northern Ireland.

Both reports refer to the procurement and management of contracts by the Housing Executive. Worryingly, the gateway review indicates that key performance indicators were demonstrably too low and that contractual requirements were apparently not enforced by the Housing Executive. The review also appears to suggest that changes were made to contract documentation without legal oversight, which, apparently, could make contracts less enforceable. Will the Minister explain how the contracts situation arose and inform us of the cost of that to the taxpayer, if it has been quantified yet?

Furthermore, will the Minister indicate whether, in his view, some of the Housing Executive's shortcomings in managing its contractors led to the poor performance that some Members and individuals across Northern Ireland experienced during the recent cold snap? Finally, the Minister outlined some changes to the governance of the Housing Executive, particularly to the monitoring of that governance. Notwithstanding the ongoing fundamental review, will he assure the House that he will not shy away from further change to the governance of the Housing Executive if, indeed, it proves to be necessary?

**The Minister for Social Development:** I thank the Chairperson of the Committee for Social Development for those questions. In particular, I welcome his recognition of the need for the reform in a positive image of the housing sector in Northern Ireland. I shall make a number of comments.

First, I will not shy away from or shirk the responsibility for driving reform. The one thing about which I was convinced before coming into this job, because of my past experience and responsibilities, and which has affirmed my views since, is the need for reform in a positive image of a wide range of public services and wider life in Northern Ireland. I am utterly convinced about it. That is not to discount or diminish the very significant contribution made by public bodies in the past 20, 30 and 40 years. In very adverse circumstances, the contribution of the leadership of public bodies, and a number of public bodies in particular, to moving Northern Ireland forward, keeping it stable and dealing with issues of need and disadvantage should, in my view, be

acknowledged and applauded. However, just because we did business in that way in the past does not mean that it is the way in which we need to do it in the future. Whether it involves the Housing Executive, housing associations or a wide range of other organisations, such as the Belfast Harbour Commissioners, we need a new phase of deep reform in a positive image. I do not mean reform in the image promoted by the Tories, which causes strain and stress. I mean reform that will liberate organisations and people so that they can deliver in an even better way for people in Northern Ireland.

The Member asked about how that situation arose, which is an important question. Indeed, in the gateway review and, more particularly, in the governance review, one of the tasks set in the recommendations was to find out why certain things were managed in the way in which they were. For example, the Housing Executive is obliged to answer a question about a 2007 report that was meant to, but did not, go to an audit committee. The answer to that question will reveal why, as the Member indicated, certain things arose. I have part of that answer. In that case, a senior manager in the Housing Executive and people on the audit side of the Housing Executive had a difference of views about the critical issue of how a paper going to the audit committee should be managed. In that moment and in that difference of view, a process that, in my view, should have been followed through was not. Consequently, a report on how to manage certain affairs did not go to the audit committee until late in 2010, three years after the matter first arose.

Whilst I have asked the Housing Executive to indicate in more detail how that situation arose, people can see that, in the Housing Executive, the balance of relationships and the balance of authority between, on one hand, the senior management team and, on the other hand, the board and its structures needed to be reconfigured. That is what those reports tend to do.

#### 11.00 am

The Member asked a legitimate question: does the gateway review give some insight into the management of heating and other contracts over the past month during the cold weather? That is a fair question and one that I asked myself, the Housing Executive and the Department. Was that a contributory factor to the difficulties that

the Housing Executive had in the initial phase of response? My answer to that is two-tiered. Yes, there may be a shadow over the response of contractors to the cold weather that arose over the past month in the initial phase, and there may be a shadow over the gateway observations on how they handled the situation. However, on the other hand — this is the more substantial point — we demonstrated over the Christmas period that, although there were issues with the initial response and the initial performance of contractors, that situation was, in my view, substantially turned round because of hands-on management from the Department and the Housing Executive to ensure that, as fully as possible, contractors fulfilled the tens of thousands of contract orders that were placed over that time. Therefore, although there are clearly issues with contract management and contractor performance — that covers the full range of Housing Executive contractors — the hands-on, active and robust management of contractor performance, particularly after the weakness of the initial phase of response by the Housing Executive, demonstrated that we can turn a situation that was not as good as it should have been into a much better situation.

**Ms Ní Chuilín:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. It is incumbent on the Minister — I appreciate that the Chairperson raised the issue — to come to the House with a statement on the failures over the Christmas period. It is not only members of the Social Development Committee who have concerns about that; I am sure that members of his own party were lobbied about it over Christmas.

I have more questions about the Minister's statement, as I am sure others do. They will proceed as they get into the detail. Given that, on appearance, there was no relationship between the Housing Executive and Land and Property Services, can the Minister clarify whether part of that ongoing review involves the disposal of land? Can he also advise whether features or elements of this investigation are connected to the issue that is subject to the internal and external investigation that is under way?

Lastly, I find it extraordinary that, on his party's watch and almost at the end of its tenure, it is only now realising that there has been systemic failure at senior management level

of the Housing Executive. That is absolutely extraordinary.

**The Minister for Social Development:** I thank the Member for her various observations. When I came to the House in the autumn to discuss this matter, a member of another party put it to me that a range of issues in the Housing Executive were not being handled or managed properly and asked what I, as Minister, was going to do about it. At that time, I made the point that at virtually no time in the previous three years and certainly not in any structured, substantial or evidence-based way, did the member of that party bring to the Housing Executive or to the then Minister for Social Development, Margaret Ritchie, the point that Ms Ní Chuilín has made about what she refers to as systemic failure.

I do not understand how Ms Ní Chuilín can say that she finds it extraordinary that it is only in the latter days of this mandate that the issues around the Housing Executive, whatever they might be, are being identified. If her party believed that there was systemic failure over the past one, two, three or four years, it had an obligation, politically and to its constituents, to bring that to the attention of the Housing Executive and the Minister for Social Development, to produce evidence that that was the case and to demonstrate that publicly and politically on the Floor of the Assembly and in the Committee for Social Development. Sinn Féin had an obligation to make that argument and prove that case, and it did not do so in any substantial, meaningful, structured, ongoing, reliable or credible way. *[Interruption.]*

**Mr Speaker:** Order. You must allow the Minister to continue.

**The Minister for Social Development:** If people are now saying that there is systemic failure in the Housing Executive, they should have been saying it six months ago, a year ago, two years ago, three years ago and four years ago. Earlier, I spoke about what Margaret Ritchie did as Minister for Social Development. There was a sense that the housing sector in Northern Ireland had, for one reason or another, become detached from government and the Department and that, by and large, it was able to manage its own affairs with less political, ministerial or Assembly oversight. One of Minister Ritchie's first actions was to create a new architecture in the Department to address that issue. You

do not increase the size of housing division by 100% if you are not putting down a clear marker and structures to ensure that there is greater governance and proper accountability and oversight of the housing sector in Northern Ireland. All of what we have been able to do since then with the Housing Executive and housing associations is a consequence of that.

The Member said that there was systemic failure in the Housing Executive, and I said that that Member and her colleagues had not made that point in any serious or credible way previously. If there are failures in any public body — in this case the Housing Executive — it is the responsibility of Ministers who are in government and in power to go about addressing that, not to stand back and watch emergencies develop and step in long after the horse has bolted. I demonstrated that responsibility on my watch, building on the work of Margaret Ritchie. You do not conduct a fundamental review of the Housing Executive unless you are asking fundamental questions about the way forward. You do not conduct a rigorous gateway review unless you think that there are issues around contract management that need to be addressed. You do not have a governance audit to the extent that we have seen in the report unless you believe that there are issues and that you will have to drill down to ensure governance in the short term of the next weeks and months and next year or two while the fundamental review works itself through.

The Member might choose the words “systemic failure”, but the report says that the Housing Executive has good processes and structures in place and that there is a challenge function from the board to senior management but that that is not all that it should be and that, in an exhaustive and extensive way, we are addressing the failures. I will not use the words “systemic failure”. In my view, there were substantial failures that needed rigorous and robust correction, and that is what we are doing.

The Member asked about the disposal of sites. As she is undoubtedly indicating, there are references in the reports to the disposal of sites, especially in the governance report. There are references to the processes for the disposal of sites generally and the process that applied to two or three disposals in particular. As I said, I have tasked the Housing Executive to have an implementation report in respect of all of those matters endorsed by the February board

meeting. I will share that implementation report with the Committee for Social Development, of which Ms Ní Chuilín is a member, and there will be full answers to all of that. However, the Housing Executive is not waiting for the February board meeting to take those matters forward. For example, the governance review stated that questions were asked about possible duplicate invoices, and the Housing Executive is already taking that matter forward.

The Housing Executive put in new systems to ensure that disposals of whatever value are handled appropriately. It has created a new principle that there should be a full economic appraisal of all disposals over £5,000 and another appraisal of any disposals of less than £5,000. The systems for the information that is given to the board of the Housing Executive and to the chief executive's committees are already in place. If there are other issues around the disposal of sites, I reassure the Member that those questions will be asked and answered.

**Mrs M Bradley:** I congratulate the Minister on commissioning the report; it shows that he has a grip on the problem and that he will deal with it properly. It will be published openly, and that is to be welcomed. The Minister said that the Housing Executive will implement the recommendations, but when will an implementation plan be produced, and will it be made available?

**The Minister for Social Development:** I thank the Member for her question. The reports are being published, and, drilling down into them, one will see the significant scale of the recommendations, as well as the acknowledgement of the good processes, structures and management in the Housing Executive. Some sensitive matters are subject to investigation and, no doubt, will be of interest to a wide range of people. Given the importance of this matter, I said that I would come back to the Assembly on it. The full report should be published and not redacted so that, as Mrs Bradley said, everybody knows where things are and where they need to be and to ensure that there is a grip on all of that.

I have been provided with a draft implementation plan. I advised the Housing Executive's acting chief executive and his senior managers that we require an implementation plan that responds fully and in detail to all the recommendations in both reports and has



a timeline for the implementation of all the recommendations, mindful that many of them are already in place or are substantially in place. That should all be done in time for the February board meeting so that a report can come to me and then go to the Committee.

At all times, everything will be subject to external oversight, initially by the gateway review team looking at the implementation plan in respect of the recommendations to ensure that they are fit for purpose. The panel led by the permanent secretary will have an ongoing, hands-on oversight accountability role for all the recommendations.

**Ms Lo:** I thank the Minister for his statement. I welcome the two reports and the fact that they have been done so speedily. I also welcome the Minister's decision to delay the Egan contract process. Members have received constituency enquiries about maintenance and repairs work.

The Minister mentioned the implementation plan that, hopefully, will be agreed in February. How long will the implementation plan take, and will there be a dedicated monitoring team to ensure that the implementation actions are taken? Also, how will that impact on the fundamental review of the Northern Ireland Housing Executive, which will, I hope, report soon?

**11.15 am**

**The Minister for Social Development:** I

thank the Member for her questions. I want to emphasise her first point, which is that that work was done speedily. It came to the Assembly in mid-October 2010 and was turned around in good time. No matter how anyone wants to interpret the content and conclusions of both reports, they are extensive and exhaustive. They cover all bases and provide a pathway forward.

The best way to answer the Member's question on how quickly all of this will be done is to take what I said in my opening statement about the gateway review's recommendations on contracts. A number of tender processes for Egan contracts are ongoing. I could let them run their course, and, at their conclusion, contractors would be appointed to carry out a number of Egan responsibilities. However, that would be done on the basis of the old regime, of which the gateway review is critical.

I am not prepared to leave it to chance or luck that, at the end of that process, the disciplines, processes and accountability recommended by the gateway review would be built into the Egan contracts. That is why, as I said in my opening statement, the third option outlined in the concluding paragraphs of the gateway review report is the one that I will take. That will bring about a new tender process for Egan contracts, which will be initiated in late summer. That tender process will implement fully and faithfully the gateway review's recommendation for the partnership model and will introduce into those contracts all necessary contractual terms and conditions, enforcement mechanisms and processes to ensure that there is a robust model that builds on the strengths of partnership and builds in enforcement disciplines. Between now and late summer, all of that will be done. With reference to Ms Lo's question, that indicates the importance of the issue and the timeline.

I dealt with the issue of the dedicated monitoring team, which is external to the Housing Executive. The Member asked an important question about how that impacts on the fundamental review. The review is due to come forward with recommendations during March 2011. That work is ongoing and substantial. Consultants appointed to do that work are extremely active in attending to their business. If the fundamental review recommends a reconfiguration of the Housing Executive's various functions and responsibilities, that will require discussion in the Assembly, agreement in the Executive and public consultation, followed by legislation. Unfortunately, as we know, in the Assembly — as is also the case in the Scottish Parliament — it takes at least two years for an idea or concept to mature into legislation. Consequently, independent of the fundamental review and any decisions that the Assembly might make in the fullness of time, the Housing Executive must put in place, now and in the weeks and months ahead, certainty and reassurance that it is able to carry out all of its functions, governance, contracts and everything in between. The fundamental review will make its recommendations, which, I believe, will be substantial and material. However, in the meantime, we must ensure that the Housing Executive reassures everyone in the Chamber and, in particular, its tenants, that, in all ways, it is fit for purpose.

**Mr Speaker:** I always encourage Members to come to their questions much sooner. In the debate, Members have been asking multiple questions. Therefore, quite obviously, the Minister feels that he must answer them all as far as possible because, on occasion, Members have accused Ministers of not answering questions.

Standing Orders are clear on ministerial statements: it is a question to the Minister on his statement. Quite a number of Members want in on the statement, so let us see if we can come to the question and the answer much sooner.

**Mr Easton:** I thank the Minister for his statement. He said:

*“Crucially, however, the report says that contract management: ‘has become reliant on the effectiveness of relationships with contractors’.”*

Will the Minister outline the concerns with the relationships and the contractors and say why it is highlighted as a major issue of concern in the report?

**The Minister for Social Development:** I thank the Member for his question. I try to answer the questions that are asked; I do not try to pick and choose the easy from the hard, Mr Speaker. Mr Easton asked one question.

The Egan contracts had their birth in two reports in the 1990s. The Egan report was produced in 1998, and it was rolled out in Britain, particularly in MoD contracts. In the early part of this decade, it was rolled out in Northern Ireland. The Egan model has become the version used by the Housing Executive, government Departments and public bodies in the North.

The theme and mood in public life at that time was that, rather than government telling people that they had to perform in a certain way, they were to be encouraged to work in a partnership model. This Chamber, our Government and our society are testament to the need to have a partnership model. The partnership model is, therefore, valid and useful. The gateway report says that the partnership approach became the primary method of managing the Egan contracts and, therefore, the relationships between the contractor and the Housing Executive — and the individuals, the contractor and the Housing Executive — were paramount. The quality of

the contract was informed and influenced by the quality of the partnership and relationship, one to the other. That is what is referred to. The partnership relationship became the primary mechanism to manage the contract.

The gateway report says that that is not a good model. Even in its purest sense, Egan is a partnership model, but, at the same time, it has within it the robust mechanisms to ensure that, where the partnership does not work, where the contractor is not performing or where the public body — in this case, the Housing Executive — is not able to rail at the contractors about how they should do their business, there is written into the contract the strict terms, conditions and enforcement mechanisms that enable action to be taken to rectify a situation in which the body has been let down. In the case of the Housing Executive, it has been let down, and the tenant has been let down even more. That is the point that was being made.

As I said to Ms Lo, we are going to extend the existing contracts for a short time and remodel the contracts to ensure that we welcome and encourage partnership as a method of dealing with contractors but, at the same time, put discipline into the contracts to ensure that there are means and ways of enforcing against any contractor who fails to fulfil the letter or spirit of the contract, to make sure that they do their job properly. If they do not, appropriate action will be taken.

**Mr F McCann:** I thank the Minister for his speech. We all hope that the board of the Housing Executive will be equipped with the tools to challenge all aspects of housing development and policy at the end of this procedure.

I am surprised that the Minister was surprised that there were serious problems with maintenance contracts in West Belfast, given that he is a Member for the constituency. Local community groups met two and a half years ago to discuss this issue and the local Housing Executive management was completely aware that there were serious problems in the delivery of maintenance contracts in west Belfast and other places. My colleague was one of the first people to bring to light the question of the sale —

**Mr Speaker:** Is there a question here?

**Mr F McCann:** There is a question somewhere in there. Will the Minister tell us whether the

Egan maintenance contracts have been abused in their delivery by contractors or Housing Executive officials?

**The Minister for Social Development:** I thank the Member for his opening remarks. He thanked me and hoped that, at the end of this procedure — I do not think it is quite an operation — the board of the Housing Executive will be equipped to challenge its management. As the report states, it does challenge. However, let there be no doubt about it: it needs to challenge a lot more. I have spent a lot of time — some people would say a disproportionate amount of time — since the first week in July challenging the Housing Executive board and its senior managers about how they do many aspects of their business.

I did not use the word “surprised”, and Ms Ní Chuilín did not use the words “serious problems”. She used the words “systemic failure”. That was not about the contracts in west Belfast but about the Housing Executive per se. If Sinn Féin wants to make a point, it should at least make a consistent point. I challenge Ms Ní Chuilín on her use of the words “systemic failure”. There are substantial failures, but I am not going to beat up the Housing Executive recklessly.

In respect of the serious problems with the management of contracts, not only do I concur with the Member but my predecessor Margaret Ritchie also concurs with him. It was Margaret Ritchie who went to the Housing Executive, on the basis of advice and information that she had received, and said that she believed that the management of certain contracts needed to be investigated. As I have reported to the Chamber before, an exhaustive and extensive investigation was initiated and concluded a short while ago. As I indicated to the Social Development Committee last week, the investigation report has been passed to the contractor, who has been asked to reply by the end of the month.

Without prejudice to whether there are serious problems or not, an argument was made, and, as a consequence, action was taken by Margaret Ritchie. That process continues. I am not going to speak any further about that, because there is a process ongoing, and I have to make sure that I am on the right side of proper process in that matter. However, if there are serious problems, whether in relation

to that matter or any other, let everybody be reassured that there is more than sufficient proof that, where issues were identified, action and intervention was taken by me and by my predecessor.

**Mr Craig:** I welcome the fact that the Minister is here reporting back to us, and I welcome some of the recommendations in the report. I find it interesting that we are now looking at another level of oversight for the Housing Executive. What I cannot welcome is the fact that we needed the report. It is a condemnation of the Housing Executive and the way in which it has managed projects. In relation to the major projects and the failures that have been highlighted with regard to servicing those contracts and following up on issues and problems with them, the one thing that I do not see in the report is how outside bodies, that is, elected representatives, housing associations —

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

**Mr Craig:** — other bodies or even tenants are able to report to or give feedback on the process. That would highlight the difficulties and problems that still exist whenever a contractor has walked away from a project and left it in a state of disrepair, which the public purse is then supposed to correct.

### 11.30 am

**The Minister for Social Development:** I thank Mr Craig for his question. In my view, there are times when, in order to move good public bodies to a far better place following difficult times, you need to have quite significant oversight structures and, as Mr Bradley said, quite a hands-on approach to get a grip on things.

I accept that the structure that we are creating of ministerial, permanent secretary and wider oversight of the Housing Executive is substantial. However, that is absolutely necessary. My experience over recent months has been that there are times when you have to manage what is going on in arm's-length and public bodies more actively and robustly. That is the difference between Ministers being in government and being in power. There were examples in the recent past of Ministers certainly being in government but certainly not in power.



The Member knows that, if he brings a particular case to my attention, I try to look at it. That applies to all Members. In fact, it is in particular cases that you can begin to identify deeper issues or problems. So, if the Member is referring to a particular case when people walked away from their responsibilities, I would like to hear about it. Given the unprecedented weather over the past four or five weeks, the burdens and responsibilities that fell to the Housing Executive and its contractors and the experiences of too many tenants, I would be keen to hear of particular cases. Through particular cases I and others have identified wider weaknesses in the Housing Executive response. So, if the Member is referring to a particular case, I would like to hear about it so that we can reply in the particular as well as draw any wider conclusions.

With regard to the situation that we had in the autumn with political and wider comment, internal and external investigations and police involvement in one or two matters and given some of the headlines, it seemed to me that we needed to move quickly and decisively. That may not be a process that brings everybody with you, but it is necessary to ensure that all that should be done is getting done, and done in good time.

I came to the Assembly about this matter. I have come back to the Assembly, and I said that I would go back to Committee about the implementation plan when it is ready. I do not think that that will be the end of the conversation in the Chamber or in the Committee. If that has to develop and escalate further, I would welcome that.

I note what the Member is saying about tenants. I will look at that to see whether as a consequence of this work there is at least a wider notification, consultation or circulation of information and conclusions that can go to representative bodies, tenants' groups and other organisations for them to realise that this is a work in progress. Indeed, we welcome any observations or comments that they have.

**Mr A Maginness:** I welcome the Minister's thorough statement and congratulate him on it. Here is one Minister who does not ignore or avoid problems and does not sleepwalk through his ministry.

Given the findings of those reports, particularly about procurement, can any general lesson be learned for the public sector? Those are

pertinent to the way that procurement is carried out across the public sector.

**The Minister for Social Development:** I thank the Member for his observation that I do not sleepwalk through the Ministry. There were one or two occasions when I went into the Lighthouse Building after my children were up overnight, as Simon Hamilton would appreciate, when I wondered whether I was sleepwalking into the ministry.

My intuition tells me that there are general lessons to be learned from this. I encourage Members to spend a little time reading the reports, because there will probably be a need for a sea change in how government generally tenders, completes and appoints contractors. There is a need for a sea change.

At meetings of the Executive subgroup on the Budget, I raised questions and asked for a discussion — it has been agreed that we will have one — of how procurement in Northern Ireland works. In too many instances, procurement in Northern Ireland is process-driven and, in contrast to procurement in the European Community, does not acknowledge the need for sustainability in the appointment of tenders, which, when translated to a Northern Ireland context, would mean protection for small and medium-sized enterprises.

There is a need for a sea change in procurement. We should have competition, but we should also have legitimate mechanisms that protect indigenous suppliers and contractors, including the third sector and small and medium-sized enterprises. That is a broader point, over and above the gateway review of the Egan contracts.

I am writing to the Minister of Finance and Personnel on the issue and will enclose a copy of the report. The permanent secretary has brought the report to the attention of his colleagues in other Departments. There will be wider implications for any other Department that uses an Egan-type approach. My understanding is that, in the Department for Regional Development and the Department of Education, there is an Egan-type approach, subject to correction, as you can imagine would be required for Departments that deal with the maintenance of schools, roads etc. If there is any learning that can apply to those Departments or to any other Departments that have adopted that approach, it should

be applied urgently. That also applies to Departments that have used Egan contracts or any of the other variations in contracts that need more rigour built into their terms and conditions.

**Mr P Maskey:** Go raibh maith agat, a Cheann Comhairle. Will the Minister explain why it has taken so long to report on one of the contractual arrangements involving the Housing Executive, namely the west Belfast maintenance contract? I have been asking him and his predecessor questions on that issue since March 2009. I also raised it with the Audit Office prior to that, because I thought that that was the proper procedure that all Members were supposed to follow. I have been asking questions about that ever since. To wait almost two years for this report is too long. The Minister has let down the people of west Belfast and the west Belfast district office of the Housing Executive. What is the Minister trying to hide? Is it the lack of leadership that he and his predecessor have shown on the issue? Or, is there something more sinister involved, such as a conflict of interest between senior Red Sky officials and senior Housing Executive officials? When will we be able to see the outcome of the report's findings? I have been asking questions on the issue since 2009.

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

**Mr P Maskey:** When I asked Margaret Ritchie about the Red Sky contract, she said that she was unable to provide an answer because it was an operational matter for the management of the Housing Executive. That proves that I have been asking questions on the issue since 2009, contrary to what the Minister said.

**The Minister for Social Development:** I note the press release that has just been read out to the Assembly.

**Mr P Maskey:** I was asking questions.

**The Minister for Social Development:** I note the press release. The Member said that I am letting down the people of west Belfast, but that is not what the 'Andersonstown News' says.

**Mr P Maskey:** That is what I say.

**The Minister for Social Development:** I know that that is what you say, and we can all draw conclusions about why you say that. That is not what the 'Andersonstown News' says. The

'Andersonstown News' says that I have got the balance right.

**Mr Speaker:** I encourage Members to make their comments through the Chair.

**The Minister for Social Development:** It says that I have the balance right between taking initiatives that count for local people and being strategic. People will probably understand that the 'Andersonstown News' is not necessarily closely linked to the SDLP. It is a very fine newspaper, and it is one of the best community newspapers on these islands. The voice of the 'Andersonstown News' is not consistent with the voice of Paul Maskey, and people can draw their own conclusions about who is letting people down as a consequence.

People need to be very, very careful when talking about such cases. The Member will know that criminal investigation and proper inquiry must not be compromised.

**Mr P Maskey:** I have been asking since 2009.

**The Minister for Social Development:** As the Member is well aware, there have been a lot of cases in Northern Ireland since 2009. If we are to be exhaustive, follow due process and be seen to be independent and impartial, it takes some time to investigate such cases.

**Mr F McCann:** You said that —

**Mr Speaker:** Order. The Member must allow the Minister to continue.

**The Minister for Social Development:** I will deal with all Fra's points. People must be careful that an ongoing inquiry, such as the Member referred to, or any other criminal or internal investigation is not compromised. That is why the suggestion that people are trying to hide something is inconsistent with the facts and the ongoing process. It is simply headline grabbing for political purposes, without responsibility to bear down on the issues to get to the truth or to draw conclusions from the evidence.

There have been occasional passing comments from Mr Maskey and his colleagues about a lack of leadership. However, those do not amount to a thorough response to what Mr Maskey's colleague called a systemic failure. Such comments are a slapdash, casual and superficial approach, not a serious attempt to deal with the issue. If there was systemic failure, Members should be shouting from the

hills and demanding special meetings of the Committee for Social Development, yet they have failed to do so. Those Members should not try to cover their tracks belatedly because of their failure to deal with the issue as they now claim it should have been dealt with. They should not portray anyone as demonstrating a lack of leadership, especially not Margaret Ritchie. The ongoing investigations stem from her input and concerns.

As I said, a report on one issue was concluded some weeks ago, and the contractor concerned has until the end of the month to reply to it. Each and every time an issue arises about the Housing Executive, action is taken to ensure that anything that needs to be investigated is investigated and the truth prevails. That was also mentioned in the governance report. I have made it clear to the board, the chief executive and the chairperson of the Housing Executive that, if the evidence leads to certain conclusions about individuals inside or outside the Housing Executive, whether now or in the past, so be it. People will have to live with the consequences of where the evidence leads.

**Mr Campbell:** I apologise to the Minister for missing the first part of his statement due to unforeseen circumstances. In his statement, the Minister twice referred to the wider governance review and the imbalance in the workforce of the Housing Executive. The Minister will be aware that opportunities for employment in the housing sector were central to some of the early problems of the Troubles 40 years ago. Then we had no monitoring of the workforce, Equality Commission or rigid and robust guidelines to ensure that employers offered equal employment opportunities. We now have all those things, yet the Housing Executive has reported a year-on-year under-representation of the Protestant community in its workforce for the past 12 years. Will the Minister ensure that the wider review addresses that issue and does something about it?

**The Minister for Social Development:** I welcome the Member's question and the implication of what he said. Having rigid guidelines, an Equality Commission, equality and equality enforcement architecture in Northern Ireland has helped to move us to a situation whereby, although there is not a balance in all workplaces, there is more balance across most workplaces. I welcome what appears to be a belated endorsement of the argument made by many over the past

30 or 40 years that we needed equality law, architecture and enforcement to create a better situation.

This was a no-holds-barred process, and the gateway review and governance audit teams were explicitly and clearly instructed to say what needed to be said. It would have been easy for me, Mr Campbell, to get someone to whisper in someone else's ear and advise them not to get involved in certain issues. The people involved in the review were given a clear mandate to comment on any issues of governance, audit and contractual performance that they deemed necessary. We are in a better place. Consequently, they acknowledged, as have Mr Campbell and I and as the House has debated before, that there is an imbalance in the workforce. Consistent with best equality law and the rigid guidelines to which Mr Campbell referred, the Housing Executive has in place the means and tools to address the equality issue. That is work in progress, and I hope that it will improve the overall balance. I trust that Mr Campbell will support tackling the much wider issues of imbalance, especially in the senior ranks of the Civil Service and in other public organisations and Departments.

#### 11.45 am

We also have to deal with other imbalances. If the Housing Executive is to mature in the next phase of its life, it needs to have the internal capacity and personnel to develop and lead the organisation. An emerging problem in the Housing Executive — it could exist in a range of other organisations — is that the age profile means that a lot of people of senior rank could move into retirement in the near future or medium term, leaving a capacity and leadership gap. There needs to be succession planning to ensure that the Housing Executive's great work over the past 40 years can be taken forward by its leadership and by individuals over the next 20 years.

**Mr Brady:** Go raibh maith agat, a Cheann Comhairle. The governance report mentions a range of overspend from as little as £34 to approximately £600,000. Obviously, that is a wide spectrum. Will the Minister give us details of the numbers in between and what those amounts might total?

**The Minister for Social Development:** I thank the Member for his question, and I thank all Members who have taken part in the debate. My

sense of the discussion and questions so far is of an acknowledgement that the review has been an exhaustive and critical piece of work in moving the Housing Executive to a different place. I acknowledge that the sense that comes from all Members' questions is that the review was a worthwhile exercise and that, subject to full and faithful implementation, the Housing Executive and the housing sector will be in a better place.

I also want to acknowledge that the people at senior management and senior board level in the Housing Executive are absolutely committed to the process. When I met the chief executive of the Housing Executive before Christmas, he had, at that stage, drafted an interim implementation plan. Senior people in the organisation know that the measure of them and of their leadership is the implementation of all the recommendations. I am satisfied that they are applying themselves diligently to that task and will do so over the next four weeks.

I meant to say in my opening statement that because the review is so extensive, I am not fully on top of some issues. *[Interruption.]* I hold my hands up to Mr McCann. I will come back to the Member on particular matters that may arise. Overspend is clearly a matter that the Housing Executive board will have to address in the implementation plan. It will have to answer to me when it draws its conclusions.

**Lord Morrow:** The Minister's statement is very lengthy. It is just a pity that we did not receive as lengthy a statement outlining the catastrophic failings of the Housing Executive over the Christmas period, when it walked away and left some tenants to fend for themselves. The Minister's statement may be lengthy, but I suspect that, when analysed, it does not say a lot. Will the Minister assure us today that, as a result of his statement and the latest inquiry that he initiated, the massive expenditure by the Housing Executive will stop? He sent me an answer informing me that the Housing Executive and the Department for Social Development have spent something like £500,000 over the past three years on conferences. Does he feel that that is the best way to spend money? Would it not be much better spent on front line housing services?

**The Minister for Social Development:** I thank Lord Morrow for his questions. Throughout the past four weeks, I have said that the Housing

Executive's response was not what it should have been during the initial phase of the unprecedented weather conditions. Unlike other Ministers, before Christmas, I rolled up my arms and tried to get a grip of the situation.

**Mr P Maskey:** Arms or sleeves?

**The Minister for Social Development:** I am sorry: I rolled up my sleeves. I am a man of many skills.

I did that to ensure that the circumstances that might be developing in the run-up to Christmas were alleviated. I do not think that other Ministers did the same. Before Christmas, I tried to prevail upon London to release additional moneys to help people in need. I wrote to OFMDFM and asked for an emergency Executive meeting to help manage the situation. All of that would have added to the corporate response and the departmental responses to the situations that arose. I think that I was interventionist when it came to trying to manage the Christmas period, but I acknowledge that, even though I laid down requirements for the Housing Executive in respect of the response to the cold weather, the response was not all that it should have been in the initial phase. I said so publicly at the time, and I have said so repeatedly. I have come to Members. I went to the Social Development Committee last week to outline a number of matters and was fully prepared to speak at length in respect of the Housing Executive and housing associations' response to the cold weather. I welcome the opportunity to come back to the Committee next Thursday in that regard. To show respect to the Committee, a written statement will be released to all Members at the same time as I meet the Social Development Committee about the winter response.

The point is that there were issues in the initial phase which should not have arisen. Questions have to be asked of the Housing Executive board and, in my view, questions can properly be raised at other levels as well. However, during the subsequent phases, the Housing Executive and the housing associations, where the problem was much less acute because of the recent character of the stock, addressed issues more substantially. I acknowledge the members of the Housing Executive staff and the contractors who stretched themselves over a difficult period to deal with tenants' needs. Yes, there were times when tenants could have



expected more. I do not walk away from that. However, the full narrative of that period shows that this organisation measured up to its task despite the earlier period, whereas, clearly, other organisations did not.

I completely and utterly agree with the Member's last point. My permanent secretary and senior officials will confirm that I have interrogated DSD, the Social Security Agency, the child maintenance division, the Housing Executive and everyone in between about expenditure on conferences, travel and accommodation. It is extravagant and unacceptable. I have told them to reduce it, and it is being reduced. I sent out a further directive in my Department about two weeks ago to reduce spending on conferences and associated costs even further. I completely agree with the Member in that regard.

**Mr D Bradley:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an ráiteas a thug sé dúinn inniu agus gabhaim buíochas leis fosta as an bhealach fheidhmiúil a ndeachaigh sé i mbun na tuairiscí seo a thabhairt chun tosaigh.

I commend the Minister for his proactive approach in commissioning the reports, which, presumably, will inform the wider fundamental review of the Housing Executive. Will he give an update on that review? How will those two reports feed into the wider review?

**Mr Speaker:** Time is almost up. I must ask the Minister to make a quick response.

**The Minister for Social Development:** I appreciate that advice, Mr Speaker. The fundamental review is ongoing, as I have indicated, and an interim report will be available in March. It will be a no-holds-barred report. I have told the consultants that they need to come forward with any and all options, be they conservative or radical, when it comes to the future character of the Housing Executive. I believe that there will be a Housing Executive going forward; I am committed to a Housing Executive going forward. Its shape and configuration might be somewhat different, but that is subject to the evidence gathered and the outcome of the fundamental review.

**Mr Speaker:** That ends questions on the ministerial statement. I ask the House to take its ease as we move to the Consideration Stage of the Local Government Finance Bill.

**Mr P Maskey:** On a point of order, Mr Speaker. I know that the Minister did not mention any names when he said that individual Members were not doing their work by reading the draft report. If he looks at his own office and the questions that I have posed to it in recent years on a particular contract in West Belfast, it is clear that work was not done.

**Mr Speaker:** Order. That is not a point of order, although the Member has certainly got his remark on the record.

## Executive Committee Business

### Local Government (Finance) Bill: Consideration Stage

**Mr Speaker:** I call the Minister of the Environment to move the Consideration Stage of the Local Government (Finance) Bill.

*Moved.* — [The Minister of the Environment (Mr Poots).]

**Mr Speaker:** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list.

There are two groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 and 2 and amendment Nos 4 to 13, which deal with delegated powers in the Bill and some technical changes. The second debate will be on amendment No 3, which aims to prevent the Department from reducing mid-year the amount of rates support grant awarded to a council.

Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

*Clauses 1 to 23 ordered to stand part of the Bill.*

#### Clause 24 (Security for money borrowed, etc.)

**Mr Speaker:** We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment No 2 and amendment Nos 4 to 13. The amendments deal with delegated powers and technical changes to the Bill.

Members will note that amendment No 4 is a paving amendment for amendment No 6; amendment No 5 is a paving amendment for amendment No 12; and amendment Nos 8, 9, 10 and 11 are consequential to amendment No 7.

**The Minister of the Environment (Mr Poots):** I beg to move amendment No 1: In page 8, line 27, leave out “made subject to negative resolution”.

*The following amendments stood on the Marshalled List:*

No 2: In page 8, line 29, at end insert

*“(10) An order shall not be made under subsection (9) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.” — [The Minister of the Environment (Mr Poots).]*

No 4: In clause 27, page 9, leave out lines 33 to 35. — [The Minister of the Environment (Mr Poots).]

No 5: In clause 27, page 9, leave out lines 40 and 41. — [The Minister of the Environment (Mr Poots).]

No 6: In clause 27, page 10, line 5, at end insert

*“(9A) A council shall give the Department such information for the purpose of the calculation mentioned in subsection (5), at such time and in such form as the Department may determine.” — [The Minister of the Environment (Mr Poots).]*

No 7: In clause 32, page 12, line 9, leave out “chairman” and insert “chairperson”. — [The Minister of the Environment (Mr Poots).]

No 8: In clause 32, page 12, line 10, leave out “vice-chairman” and insert “vice-chairperson”. — [The Minister of the Environment (Mr Poots).]

No 9: In clause 32, page 12, line 12, leave out “chairman or vice-chairman” and insert “chairperson or vice-chairperson”. — [The Minister of the Environment (Mr Poots).]

No 10: In clause 39, page 14, line 28, leave out “chairman” and insert “chairperson”. — [The Minister of the Environment (Mr Poots).]

No 11: In clause 39, page 14, line 29, leave out “chairman” and insert “chairperson”. — [The Minister of the Environment (Mr Poots).]

No 12: In clause 43, page 16, line 20, at end insert

*“(2) Regulations and orders under this Act may contain such incidental, supplementary, consequential, transitory or saving provisions as the Department thinks necessary or expedient.” — [The Minister of the Environment (Mr Poots).]*

No 13: In schedule 1, page 18, line 18, at end insert

*“The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)”*

5A. In Schedule 4 (restrictions on disclosure of information), in the definition of 'chief financial officer' in paragraph 7(3), for '148(1) of the Local Government Act (Northern Ireland) 1972' substitute '42 of the Local Government Finance Act (Northern Ireland) 2011'." — [The Minister of the Environment (Mr Poots).]

**The Minister of the Environment:** A number of these amendments arise from recommendations that the Environment Committee made at Committee Stage. I thank Committee members for their helpful recommendations and their timely scrutiny of the Bill.

All the amendments in the group are technical in nature. Amendment Nos 1 and 2 concern the level of Assembly control stipulated in relation to one of the delegated powers in the Bill. Clause 24 makes provision for security for money borrowed by a council and for the appointment by the High Court of a receiver in the event of a default. Subsection (8) provides that an application to appoint a receiver may not be made unless the amount owed is £10,000 or more. As it stands, subsection (9) enables my Department to change that amount by means of an Order, subject to negative resolution. The Committee, acting on advice from the Examiner of Statutory Rules, has recommended that such an Order be subject to the affirmative procedure.

## 12.00 noon

The reason for that is that an Order under clause 24(9) would bring about a direct amendment of the Bill in respect of a jurisdiction of the High Court and should, therefore, attract a higher level of Assembly scrutiny than the negative resolution procedure currently provided for. I agree with the Environment Committee's recommendation. Amendment No 1 will remove from subsection (9) the words that state that an Order for that purpose should be subject to negative resolution. Amendment No 2 will provide for such an Order to be subject to draft affirmative procedure. Those two amendments need to be considered in tandem, and I urge Members to support them.

Amendment No 4 is linked to amendment No 6 as they are both concerned with the means of collecting information from councils for the calculation of the rates support grant. Clause 27 makes provision for the rates support grant by bringing forward the existing provision for the resources element of the general grant for the local government miscellaneous provisions.

As in the 2002 Order, clause 27(5) gives my Department the power to make regulations, subject to draft affirmative procedure, on how the grant is to be calculated. The current regulations for the general grant, which were made under the 2002 Order, include a pro forma of the information that councils need to provide for the grant calculation.

The purposes of amendment Nos 4 and 6 is to allow the means of requesting information used in the calculation of this grant to be sought by departmental determination rather than by means of a pro forma stipulated in regulations. That will allow technical updates to accounting practices that do not affect the calculation of the grant to be taken forward promptly via departmental determination and rather than through the draft affirmative subordinate legislative route. I had emphasised that the formula and calculation of the rates support grant will not be influenced by the amendment. Its purpose is to enable my Department to reflect any technical updates to accounting practices in a timelier manner and to avoid unnecessary draft affirmative legislation.

Amendment No 6 will add a new subsection, shown in the Marshalled List as subsection (9A), to clause 27, which gives my Department power to seek this information from councils via determination. As a consequence, amendment No 4 to subsection (5C) is needed to remove my Department's ability to regulate in the matter. I urge Members to support those amendments.

Amendment No 5 is a technical amendment that is linked to amendment No 12. With your permission, Mr Speaker, I will give the background to both of those amendments simultaneously. It is customary to provide that subordinate legislation made under any of the enabling powers in a Bill may contain any incidental, supplementary, consequential, transitory or saving provisions. Currently, the Bill only makes that provision regarding regulations under clause 27 in respect of the rates support grant. I recommend that it should extend to all regulations or Orders made under the powers in the Bill.

Amendment No 5 to clause 27 is technical and does not change the provision that the rates support grant regulations may include such incidental, supplementary, consequential, transitory or saving provision as considered expedient or necessary. Instead, it simply moves



the provision to clause 43, where it will apply to all regulations and Orders made under the powers in the Bill. The amendment to clause 43 is tabled as amendment No 12.

Amendment Nos 7 to 11 were recommended by the Environment Committee in the interests of gender-neutral drafting. Those amendments are technical in nature and do not involve any change of policy. Part 3 of the Local Government Finance Bill updates the legislative framework concerning payments to councillors, the greater part of which currently sits in Part V of the Local Government Act (Northern Ireland) 1972.

Clause 32 provides for the payment of allowances to the chairman and, where applicable, vice-chairman of the council. The terms “chairman” and “vice-chairman” were used in clause 32 as they refer to the offices established under sections 11 and 13 of the Local Government Act (Northern Ireland) 1972. The terms were preserved in the Bill, as introduced, in order to maintain a connection with the 1972 Act. During Committee Stage, the Environment Committee noted the use of the terms in clause 32 and recommended that the Bill should be amended to replace them with gender-neutral terms. That proposal will not change the provision permitting a council to pay allowances to its chair or vice-chair. As the Assembly is committed to the use of gender-neutral language in the drafting of legislation, I accept the Environment Committee’s recommendation. I have tabled amendment Nos 7 to 9 accordingly to amend all the references in clause 32 to “chairman” and “vice-chairman”.

Amendment Nos 10 and 11 also relate to gender-neutral drafting. Clause 39 provides for payments regarding public appeals and re-enacts without amendment the current provision of section 115(1A) of the Local Government Act (Northern Ireland) 1972. Amendment Nos 10 and 11 will replace the references to “chairman” in clause 39 with “chairperson” for the purposes of gender-neutral drafting and will not impact on a council’s powers to make payments in connection with public appeals. I urge Members to accept amendment Nos 7 to 11 so that the Bill may achieve consistency.

I already explained the background to amendment No 12 in my introduction of amendment No 5. However, I will summarise by reminding Members that amendment No 12 is technical and does not affect the level of

Assembly scrutiny or any regulations or Orders made under the powers in the Bill. It is simply a general provision that any regulations or Orders made under the Bill may include such incidental, supplementary, consequential, transitory or saving provisions as considered expedient or necessary.

The last amendment in this group, amendment No 13, is the addition of the Deregulation and Contracting Out (Northern Ireland) Order 1996 to the schedule of minor and consequential amendments. It will ensure that the definition of the term “chief financial officer” in that Order will refer to the Local Government Finance Act (Northern Ireland) 2011. That will not impact on policy; it is merely a matter of updating a legislative reference. I ask all Members to support these amendments.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Go raibh maith agat, a Cheann Comhairle. Thank you, Mr Deputy Speaker. Ar son an Choiste Comhshaoil, ba mhaith liom fáilte a chur roimh an Bhille um maoiniú rialtais áitiúil.

On behalf of the Environment Committee, I welcome the Consideration Stage of the Local Government Finance Bill. The Bill may not seem particularly important or relevant to the ordinary person on the street. However, having gone through a detailed scrutiny of it, I can say with confidence that the Bill has the potential to impact on every citizen in the North, because it gives local authorities more powers to handle their finances.

The main aim of the Bill is to modernise the current legislative framework for local government finance and councillors’ remuneration. It will allow district councils to have greater freedom to manage their financial affairs without having to obtain consent from the Department. However, that, of course, is a double-edged sword, and with more powers must come more responsibility.

The robustness of the audit process exercised the Committee on several occasions during Committee Stage. Before I go into detail on the amendments, I will bring your attention, a LeasCheann Comhairle, to the Committee’s recommendation that, in conjunction with the implementation of the Bill, the audit process should be reviewed and, if necessary, strengthened. We would welcome a commitment from the Minister today that that will take place.

The Bill was referred to the Committee on 28 April 2010, and, to ensure that there was enough time to scrutinise the Bill fully and effectively, the Committee sought an extension to December 2010. Even with the officials' constructive approach and the good working relationship between the Department and the Committee, it took us almost all that time to scrutinise the Bill in depth. The Committee's detailed scrutiny led to five recommendations, and I am pleased to report that the Minister has taken on board all except one of the Committee's recommendations for amendments. I thank the Minister for listening to the Committee and for taking those recommendations on board. However, I urge him to reconsider the reconsider the Committee's amendment, which I will explain in detail in the debate on the next group of amendments.

Before I talk about the amendments in detail, I wish to mention a very significant issue that is relevant to the Bill. The Committee is keen to see the inclusion of social clauses in public procurement contracts, and it questioned the Department about including the necessary legislation in the Bill. However, the Committee was delighted to learn that the restrictions to social clauses are being dealt with through subordinate legislation and that work on that is already under way. The Committee urges the Department to progress that rapidly.

I will now comment on the first group of amendments. The 12 amendments in this group have all been tabled by the Minister. However, as I mentioned, the Committee several of those amendments were recommended to improve the Bill. First, the Committee wanted to see the level of Assembly scrutiny raised to the highest level should the Department choose to exercise its powers to substitute a different sum of money for the amount at which a receiver may be appointed. The amount is currently set at £10,000, but the Bill gives the Department power to alter that. The Committee felt that, because it would directly amend the Bill in respect of the jurisdiction of the High Court, it was important that a decision to change it should come before the Assembly to be affirmed. Amendment Nos 1 and 2 make the necessary changes, and, on behalf of the Committee, I welcome the Minister's amendments to clause 24 accordingly.

I will now skip to amendment Nos 7 to 11, which have been tabled by the Department

on the Committee's recommendation. Mindful of the Executive's commitment to draft their legislation in gender-neutral terms, the Committee was concerned to see reference to "chairman" and "vice-chairman" in the Bill. Although members recognise the validity of the Department's rationale that this is in keeping with local government legislation, it called on the Department to make the necessary changes to bring the legislation into the twenty-first century. On behalf of the Committee, I therefore welcome these five amendments that achieve that.

Amendment Nos 4 and 6 were brought during Committee Stage of the Bill, and the Department explained that they will allow the information it requires to calculate the rates support grant by determination rather than pro forma. Officials assured the Committee that this would not affect the formula, the calculation of the rates support grant or the elements to be taken into account of in the calculation, but they would allow the Department sufficient flexibility to adjust the new accounting practices without having to bring subordinate legislation to the Assembly for approval each time. On the basis of that assurance, the Committee accepted the amendments. On behalf of the Committee, I support amendment Nos 4 and 6.

I turn to amendment Nos 5 and 13, as one is consequential to the other. The Committee was advised of these amendments during Committee Stage and accepted that they were to allow for the addition of a further Statutory Instrument to schedule 1. I support amendment Nos 5 and 13 on behalf of the Committee accordingly.

Amendment No 12 was also brought by the Department during Committee Stage, and the Committee accepted the Department's explanation for its inclusion. The Committee understands that it is common practice for primary legislation to contain a provision to allow orders and regulations to be made in order to include such incidental, supplementary, consequential, transitory or saving provisions as may be required. However, in the Bill as drafted, that only applied to a single clause. The amendment broadens that to apply it to the entire Bill. Therefore, on behalf of the Committee, I also accept amendment No 12. That concludes the Committees' position on the amendments in group 1.

**Mr Kinahan:** I am also pleased to speak at this Consideration Stage, especially as the Bill's intent is to make life easier for councils in managing their finances. I will be very brief. My biggest concern with these eases is around asking for extra or stronger auditing of councils. There will have to be some hand-holding of councils, which all interpret things in different ways at the moment, to ensure that they fully understand how to make the most of this new freedom and of the controls and the risk element that comes with it. I do not want the Department to be seen to be heavy handed or to be the regulator or the punisher, although it will have its position in the audit. We need very strong guidance to help councils make the most of these new regulations.

I fully support amendment Nos 1 and 2, which require draft affirmative resolution to be brought if we wish to change the figure of £10,000 above which a receiver should be involved. Amendments Nos 4 and 6 are technical amendments, which relate to the rates support grant and its determination. It is good that the Department says that it will talk to councils and will have the power, through this Bill, to determine the grant. However, the report states that in-year cuts in the rates support grant or the resources grant were unique or exceptional, yet we know that, in the Budget this year, there will be a reduction of £1.2 million in the resources grant. Those grants are incredibly important to the councils. Therefore, I ask the Minister and Department to make sure that councils know of those matters well in advance.

### 12.15 pm

We fully agree with amendment Nos 7 to 11, which deal with gender-neutral drafting. We also fully support amendment Nos 5, 12 and 13, which are technical.

**Mr Speaker:** I call Dr Stephen Farry.

**Dr Farry:** Thank you very much, Mr Deputy Speaker — I am sorry; Mr Speaker. I demoted you there by accident. I declare an interest as a member of North Down Borough Council. We regard the amendments in this group as being largely technical, although we obviously strongly welcome the gender-neutral language and wonder why it was written any other way in the first place. We give our full support to the amendments in this group, and there is probably little more to be said at this stage. We

will have more to say about the second group of amendments.

**Mr W Clarke:** Go raibh maith agat, a Cheann Comhairle. I declare an interest as a member of Down District Council. Sinn Féin supports the first group of amendments.

The main aim of the Bill is to allow councils greater flexibility to manage their financial affairs without having to go continually to the Department, which is time-consuming for the Department and councils. Having to do that brings a great deal of uncertainty to the rolling out of council plans. With that responsibility comes a greater scrutiny role, which the Chairperson mentioned. Greater audit powers may be required, and, as Danny Kinahan said, we need strong guidance for councils in that regard.

I joined the Committee for the Environment relatively late in the Bill's Committee Stage, so most of the Committee work had already been carried out — luckily enough, says the Chairperson. One of the main issues that I raised came about when a NILGA delegation gave a presentation: social clauses regarding procurement by council. When councils carry out major procurement for the likes of leisure centres, headquarters and stuff like that, meaningful apprenticeships and job opportunities should be given to the long-term unemployed from the area. I am glad to hear that the subordinate legislation will deal with that, and I look forward to it coming through the Committee.

Finally, amendment Nos 7 to 11 deal with the gender-neutral terms in the legislation. That has to be welcomed, because the titles "chairman" and "vice-chairman" are not appropriate in this day and age in relation to equality for our female colleagues who are councillors, MLAs or whatever. If women are to be encouraged into politics, a neutral atmosphere needs to be provided. When I became my council's chairman, I wanted to be known as the chairperson. That caused a great deal of difficulty, which was all down to dinosaur local government legislation. As I say, we need to promote a good neutral environment for women in council chambers. Sinn Féin supports the amendments.

**The Minister of the Environment:** I thank Members for the issues that they raised during the debate. I will cover them quite quickly. The issue of audit is always available

for review. Audit procedures need to be effective, efficient and understandable so that councils know exactly where they stand, what they are permitted to do and so forth. On some occasions, there has been a degree of confusion, which has not always led to best practice. Sometimes, there have been attempts to resolve issues in a very ham-fisted way, so audit procedures need to be reviewed constantly. Should matters arise, we would be quite happy to look at those issues.

We are finalising the consultation document on the social clauses introduced by the subordinate legislation, and it will be issued in the near future. I am very keen that local authorities are able, as far as possible, to use local businesses, so long as they provide and demonstrate value for money. However, sometimes, only very small savings — a few pence or a few pounds — can be achieved in the process. Ultimately, that leads to the loss of local jobs, which does not benefit local communities, so we will look at all that to see whether we can move the issue forward.

My officials have been working on supporting councils in the early stages of the new financial regime, and we will continue to work with our local government counterparts to ensure that councils are assisted, and, where necessary, we will offer further assistance with the introduction of the new financial regime. So, we are very happy to address the matter raised by Mr Kinahan, and I thank Members for their support for the amendments thus far.

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

*Amendment No 2 made: In page 8, line 29, at end insert*

*“(10) An order shall not be made under subsection (9) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.” —  
[The Minister of the Environment (Mr Poots).]*

*Clause 24, as amended, ordered to stand part of the Bill.*

*Clauses 25 and 26 ordered to stand part of the Bill.*

#### **Clause 27 (Rates support grant)**

**Mr Speaker:** We now come to the second group of amendments for debate. There is only one amendment — amendment No 3 — which aims to prevent the Department from reducing mid-

year the amount of rates support grant awarded to a council.

**The Chairperson of the Committee for the Environment:** I beg to move amendment No 3: In page 9, line 26, at end insert

*“and shall not be reduced during the financial year in question”.*

I shall explain the Committee's reasons for tabling amendment No 3. On 23 July 2010, during Committee Stage, the Department announced that the rates support grant was to be cut. For those more familiar with the old terminology, that refers to the resource element of the general grant. The Minister was at pains to stress that it was not a common occurrence and that it was not something that he took lightly. Nonetheless, 18 councils in receipt of a rates support grant received an in-year cut of 5·9%. The impact on councils varied, but, in total, it amounted to £1·1 million being taken out of the local government economy overnight. Not all councils receive the rates support grant, which is calculated using a formula in order to support councils whose wealth per capita falls below the national average. Consequently, only councils that are already under financial pressure receive it.

The problem does not lie in the formula. Indeed, based on submissions to the Committee, it would be fair to say that councils are generally happy with the present statutory formula under current local government arrangements. The problem lies with the fact that the grant can be cut during the financial year. As anyone here who has been a councillor knows fine well, an in-year reduction in funds is very difficult for a council to manage. Once a council has struck its rate for the year, it cannot go back to its citizens to ask for more until the following year. This was a clear case of the Department changing the goalposts mid-game, which the Committee believed was not acceptable or fair. Members certainly recognised that the Department's budget was under pressure at the time, but the in-year monitoring-round process gives more flexibility than councils have.

The Committee was informed that the Minister told councils recently that, due to the severe financial challenges facing his Department, he cannot rule out further in-year cuts in future years. That could lead to some councils that are in receipt of the highest support grants losing millions of pounds, result in rates going



up by as much as 25% and put ratepayers in those districts at a distinct disadvantage. The Committee, therefore, felt that the opportunity should be taken to prevent such a decision being taken again. Members fully acknowledged that the Department has to cut its cloth accordingly and, indeed, acknowledged the necessity for that in its recent scrutiny of the budget proposals. However, that should be done at the start of the year, allowing councils to strike their rates accordingly. The amendment will mean that once the rates support grant has been agreed, it will be ring-fenced, and the councils will be able to budget in the certain knowledge that that will not be altered during the year.

**Mr Weir:** At the start, I should declare an interest as a member of North Down Borough Council. However, other Members might have an even greater interest because, directly speaking, the rates support grant does not financially aid north Down in any way. One can draw conclusions on whether I have an interest in the matter or not.

I will oppose the amendment. However, I do not do so without sympathy towards it. I and others have been in the position of looking at finance and setting rates at council level, and, understandably, we do not want a situation in which something is imported in the middle of the rates process that could affect it. Consequently — I am sure that the Minister will agree — we should, as far as possible, avoid any situation in which there is an in-year cut; it is not something that would be embraced by the Minister of the Environment or any other Minister, because it is not good practice.

However, there is a distinction between what is broadly good practice and what should be a legislative requirement. The problem with the amendment is that it ring-fences that to prevent it ever happening from a legislative point of view. That is not the case with any other part of the Minister's budget or with pretty much any other Minister's budget. The amendment would put us in a unique situation in which one aspect of the budget could not be touched but any other aspect is open to be changed in-year. As we have seen from experience, there can be circumstances whereby a financial tsunami hits Northern Ireland, and we could end up in a situation in which we are overwhelmed by circumstances and in which action needs to be taken quite swiftly.

Perhaps a more likely situation is that we may yet get hit by another, unannounced, cut from George Osborne that is simply imposed on the Executive and through which £100 million, £200 million or £300 million is suddenly dragged back and taken out of the Budget. That has happened with the emergency Budget, and it could happen again. Consequently, Ministers — the Environment Minister no less than any other — may well be faced with having to make in-year cuts in circumstances that would not be welcomed by the Minister or, indeed, by any Minister. That would have to be faced up to and the Minister, when deciding his budget, would have to look at all the aspects of the Department and identify areas for cuts.

Are we saying that, if there are to be cuts, the support for local government will be sacrosanct and, for example, the road safety budget will not be ring-fenced but the resources grant cannot be cut by a penny? Are we to say that environmental protection is to be completely open to any degree of in-year monitoring or in-year cuts but we cannot touch local government? Are we to say that the money for waste support and similar issues can be taken away but we must legislate for and ring-fence this one aspect so that it cannot come out of the budget? That, to my mind, is not a logical position.

As I said, any Minister will strive to avoid that situation. However, some circumstances can be entirely outside a Minister's control and can overtake events. Although I think that it is good practice to not have in-year cuts, it is a step too far to legislate for that. That is why, on reflection, I believe that the amendment is unwise and we are better to not have such a rigid position but to give a little bit of flexibility to the Department, the Minister and the Executive. It is not even the case that bits of health spending or education spending are so ring-fenced that they cannot be touched from a resource point of view, so it is beyond me why this is being put in a unique position, which would be the case if the amendment went through. Consequently, although I understand the sentiments behind the amendment and its practical implications, it does not merit support, so I oppose it.

**12.30 pm**

**Mr Speaker:** The Business Committee has arranged to meet immediately upon the

lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. The next Member to speak to the Bill after Question Time will be Danny Kinahan.

*The sitting was suspended at 12.31 pm.*

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

**2.00 pm**

## Oral Answers to Questions

### Justice

#### Police Training College

1. **Mr McGlone** asked the Minister of Justice for an update on the new police training college at Desertcreat, County Tyrone. (AQO 865/11)

**The Minister of Justice (Mr Ford):** Since becoming Minister, I have made a strong case for the establishment of the joint public services college at Desertcreat. Recognising its importance to the delivery of public services in Northern Ireland, my colleagues in the Executive have joined with me in ensuring that the project goes ahead. Therefore, all the capital funding required to construct the training college has been provided in the Department of Justice's draft budget.

Subject to the Department of Finance and Personnel (DFP) approving the business case, the design, completion and procurement pre-qualification stage will take place between February 2011 and November 2011, and the detailed procurement process leading to the appointment of a contractor will be completed by April 2012. The construction of the college will begin in May 2012 and will be completed by June 2014.

**Mr McGlone:** Go raibh maith agat. I thank the Minister for his answer. It is welcome news for the constituency. I am sure that other Members, not least you, a LeasCheann Comhairle, will welcome that news. Can we have an assurance, in so far as an absolute assurance can be given, that no further delay by any Department will cause any aspect of the project to be held up and that it will happen within the time constraints outlined by the Minister?

**The Minister of Justice:** The project is good not just for the constituency; it is extremely good for Northern Ireland, although there will be particular economic benefits for mid-Ulster.

In so far as I can give an assurance, given that the Department of Justice's capital budget has now been allocated entirely, there is still work to be done in respect of the Fire and Rescue Service, which is not part of my Department but reports to the Department of Health, Social Services and Public Safety (DHSSPS). We will seek to ensure that the timetable that I have outlined is stuck to.

**Lord Morrow:** Following the statement that all the funding was in place to get on with the project, some of the Minister's colleagues tried to cast doubt on that funding. Can the Minister assure the House that the total funding for the construction of the Desertcreat police training college is now in place and that the project is going ahead?

**The Minister of Justice:** I can confirm that the capital funding is entirely in place if the draft Budget becomes the final agreed Budget. The issue that I suspect the Member is hinting at is the exact amount available for recurrent expenditure in connection with the running of the Fire and Rescue Service part of the college. My officials continue to work with officials in DHSSPS on that issue, but my understanding is that, in total, the extra funding, in resource terms, in the Budget period for the first three years amounts to £72,000, £197,000 and £92,000. I hope that the Fire and Rescue Service will be able to meet that commitment.

**Mr Lyttle:** As a member of the Committee for Employment and Learning, I am particularly concerned about how the House responds to the challenge of job creation and training opportunities for the region. Will the project create apprenticeship opportunities for the area?

**The Minister of Justice:** Under the social clauses requirement of the procurement toolkit, there is an opportunity to stipulate the level of apprenticeships or even the numbers of long-term unemployed people to be taken on by a contractor for a particular contract. Although we cannot specify which businesses in the locality might get the contract, most jobs are likely to be created from the mid-Ulster area.

Some recent examples have shown a social clauses requirement as high as one apprentice per £2 million of capital spend, which could be a significant boost for training young people in mid-Ulster for employment. I am committed to make the best possible opportunity and to use it.

## Prison Service: Governance

2. **Mr O'Loan** asked the Minister of Justice what action he intends to take to address the problems identified in the recent report by the Criminal Justice Inspection on corporate governance arrangements in the NI Prison Service. (AQO 866/11)

**The Minister of Justice:** I previously made it clear to the House that I recognise the importance of the report, and I am grateful to Dr Maguire for helping to crystallise the main difficulties and the scale of the challenge that lie ahead for the Northern Ireland Prison Service (NIPS). However, the report's conclusions came as no surprise, which is why I made Prison Service reform one of my key commitments when I took up office. Work to that effect is already well under way.

The independent review of prisons is expected to produce an interim report in February 2011. The review team is considering the overall operation of the service in order to map out the strategic direction that change must take. I am satisfied that that work, and the outworkings of any recommendations from the review, will need to bring fundamental transformation to the Prison Service. Work is also under way to bring forward the Prison Service's own strategic efficiency and effectiveness programme, which is also one of my ministerial priorities. That programme will drive and deliver change that will, ultimately, flow from the recommendations of the independent review.

Dr Maguire's report highlighted many areas for improvement throughout the Northern Ireland Prison Service. New management will help to bring a fresh perspective to how those might be tackled. I am aware that the new director general has made it a key priority to work with governors to get the basics right throughout the entire service. Change is already under way: governance arrangements are being reviewed and improved; the new director general has made senior management appointments to fill the governor-in-charge posts at Maghaberry and Magilligan prisons; and a recent agreement with the Prison Officers' Association (POA) sets out how it and management can best work together to overcome the challenges of the next few years and to deliver significantly improved, more appropriate and effective regimes for prisoners.

Effective reform of the scale that is required will need time, patience and resources. Crucially, it



will need support from every side of the House. The prize will be an effective, efficient, reliable and modern Prison Service.

**Mr O'Loan:** I thank the Minister for his answer. Given that a new director general of prisons has just been appointed, what direction has the Minister given to that new office holder in order to commence the absolutely rigorous reform agenda that is so clearly necessary?

**The Minister of Justice:** I have not given direction to the new director general on operational matters; it is up to him to manage prisons operationally. However, I will certainly work with him and with other senior managers when we have seen the outcome of the review by Dame Anne Owers, which we expect to receive in February. I will work with the director general to ensure that the review's recommendations are implemented.

**Mr Campbell:** Can the Minister assure the House and the public that whatever he does with regard to Dr Maguire's report, recruitment to the Prison Service, whether at the new Magilligan prison or at Maghaberry prison, will be carried out solely on merit and that that will be the position from now on?

**The Minister of Justice:** We need to be careful when we talk about recruitment, especially when it might be more a matter of downsizing the number of Prison Service staff. However, the key principle of recruitment to the public service is, surely, recruitment on merit. I have supported that principle throughout my entire business life, and I will certainly continue to do so.

**Mr McCartney:** Gabhaim buíochas leis an Aire as na freagraí sin. Is the Minister satisfied that, whatever the outcome of the Owers report and Dr Michael Maguire's observations, his outline budget proposals will give him the necessary resources to ensure that the Prison Service fulfils future need?

**The Minister of Justice:** I thank the Member for his question, which highlights the challenge ahead of us. The challenging budget that is being set in accordance with the draft Budget will give the Department the opportunity to deliver a more efficient and effective model that does better work to rehabilitate prisoners and for which costs are comparable to those of prison services in adjacent jurisdictions. However, the Member is right to highlight the challenge. That is why I mentioned the need to

ensure that consensus is reached in the House to implement necessary reforms.

### Security: Funding

3. **Mr Givan** asked the Minister of Justice what progress has been made in securing the bid, from Treasury reserves, for policing security needs identified by the Chief Constable.

(AQO 867/11)

**The Minister of Justice:** I have been working with the Chief Constable and the Secretary of State to secure the additional security funding that is required by the PSNI. Agreement on the devolution of justice to the Assembly recognised that access to the reserve would be possible for exceptional security pressures. That is the current situation. The Chief Constable has made a compelling case for additional funding to help to keep the community safe and to bear down on those responsible for terrorist attacks. I acknowledge the Secretary of State's support for the bid. The additional requirement is for about £245 million over the four-year period. The Executive have agreed to provide additional funding for justice of £45 million over the four-year period, and I welcome that.

I have determined that all the extra resource should go into the police budget to fund its work to tackle the security situation. The amount being sought from the Treasury reserve is slightly less than £200 million. That is in line with the amount of additional support required in 2010-11, which has amounted to £50.3 million. However, I want to stress that the PSNI has been subjected to rigorous scrutiny and challenge in respect of that bid and the use of resources more widely.

In respect of the main police grant, I have already made it clear that I have sought to protect the PSNI budget in recognition of the pressures that it faces, but all parts of the Department must make a contribution. The PSNI has accepted that it can achieve efficiencies. The draft Budget sets the PSNI the challenge of delivering £135 million efficiencies over the four years. I fully support the bid for additional resources that has been made. I have made it clear that my ability to accept the draft Budget is conditional on the additional security funding being received. I met the Secretary of State yesterday, and I have impressed the urgency upon him. I expect to hear the outcome shortly.

I know that the case is being discussed at the very highest levels of government.

**Mr Givan:** I thank the Minister for his response. It is of some concern that we have a draft budget for the Department that is based upon getting an additional £200 million-plus from the Treasury. It is, therefore, a concern that that has not been rectified. Hopefully, the security situation will not deteriorate any further. However, if we achieve the additional money for the next four years, has an assurance been given that we will be able to go to the Treasury to access yet further money from the reserves if the situation does deteriorate and extra money is needed?

**The Minister of Justice:** My understanding of the agreement that was reached between the First Minister and deputy First Minister and the previous Prime Minister is clear. Access to the reserve is possible, if required, for security funding. We have sought to ensure that the necessary funding, as currently perceived for the four years, is in place, but I do not believe that that restricts us from making a further application, should it be required.

**Mr K Robinson:** What management and accounting arrangements are in place for the additional money? Will the Chief Constable have direct and convenient access to those funds?

**The Minister of Justice:** The arrangement is exactly the same as that for all funds that are awarded to the Police Service. They will be for the Chief Constable to manage on the basis of the normal accounting arrangements that he operates under.

**Mr D Bradley:** Go raibh maith agat, a LeasCheann Comhairle. Will the Minister provide his assessment of the current security situation? What would be the consequences for that situation if the funding were not forthcoming?

**The Minister of Justice:** Mr Bradley puts me in a slightly difficult position, since I suspect that I would probably annoy Mr Bell and Mr McNarry were I to go too far down the first part of his question. I can, however, agree with him that there would be extremely serious consequences if we did not get what is seen as the minimum funding necessary to deal with the particular circumstances in which the Police Service is operating. That is why I have been pressing hard and having regular contact with the Secretary of

State. He has assured me of the discussions that he has been having with the Treasury and the Cabinet Office to ensure that the point is made at the highest level in London.

## Prisoner Ombudsman

4. **Mr McDevitt** asked the Minister of Justice for his assessment of the need for an independent statutorily based Prisoner Ombudsman. (AQO 868/11)

**The Minister of Justice:** I believe that there is a need to have an independent office to investigate prisoner complaints. In line with the reference in the Hillsborough Castle Agreement of 5 February 2010, I am committed to placing the powers with the Prisoner Ombudsman on a statutory footing. In the meantime, I am satisfied that the Prisoner Ombudsman is carrying out her functions in an open, transparent and effective manner, and I am confident that the officer's ability to operate independently of the Department and the Northern Ireland Prison Service is in no way compromised.

With the devolution of justice, we have the opportunity to develop local solutions that better suit the needs of Northern Ireland and enable us to take account of the need to make the most efficient use of scarce resources.

I am seeking the views of the First Minister and deputy First Minister on how any wider review of ombudsman services, including those of the Assembly Ombudsman, might influence decisions on the future of the Prisoner Ombudsman's office. I am also aware that the Committee for the Office of the First Minister and deputy First Minister is consulting on updating legislation to reform the Office of the Northern Ireland Ombudsman. I want to take account of any relevant developments in that area before coming to any final decision.

**Mr McDevitt:** Will the Minister elaborate on his reply and assure the House that when we talk about an independent and statutorily based Prisoner Ombudsman, we mean just that — not a subservient ombudsman of another ombudsman, but a separate, independent, standalone ombudsman, capable of meeting the real challenges of scrutiny within the prison estate and the Prison Service as it stands today?

**2.15 pm**

**The Minister of Justice:** I agree with the point that the Member is making, but he needs to be careful not to suggest that there is any restriction on the independence of the ombudsman at the moment. The reason why I said that we are reviewing the operation of the ombudsman is that given the financial stringencies that we live within, I believe that it is incumbent on every Department to look at issues such as back office co-ordination and to ensure that matters are dealt with in a way that makes most efficient use of limited amounts of public money. On that basis, I am seeking the views of the First Minister and deputy First Minister and their Committee to see what is the best way in which we can ensure that we get value for money. However, there is a fundamental issue of ensuring that there is full independence for the Prisoner Ombudsman's functions, and that is something that I am absolutely committed to.

**Ms Ní Chuilín:** Go raibh maith agat, a LeasCheann Comhairle. Given the answer that the Minister gave to my colleague regarding the Prisoner Ombudsman, does he not agree that the fact that corporate manslaughter has now been brought on to the statute book almost strengthens the argument to give statutory powers to the Prisoner Ombudsman?

**The Minister of Justice:** The simple answer is no; I am not sure that the issue of corporate manslaughter actually makes a significant impact on the question of statutory powers. The issue of statutory powers is part of the Hillsborough Castle Agreement and is in need of addressing, in any event. The important thing is that we do it in a way that ensures value for money. The arrangements are well in hand. If there is a particular crossover when, during an investigation, the ombudsman feels that it is appropriate to make a reference to the police, the ombudsman will make that reference, should that also include something such as corporate manslaughter. That is compliant with our obligations and is in place in an appropriate way. However, the overall structure of the office clearly needs to be looked at.

**Domestic Violence: Access to Justice**

5. **Ms S Ramsey** asked the Minister of Justice what measures he has considered to assist victims of domestic violence when accessing

justice, following his announcement of changes to legal aid for people applying for a non-molestation order. (AQO 869/11)

13. **Mr O'Dowd** asked the Minister of Justice what steps he intends to take to ensure that people who have experienced physical abuse within a household, who do not meet the criteria for legal aid and are lacking in financial means, have access to justice. (AQO 877/11)

**The Minister of Justice:** With your permission, Mr Deputy Speaker, I will answer questions 5 and 13 together. The Northern Ireland Legal Services Commission has responsibility for administering legal aid in Northern Ireland. As part of its programme of reform, it is considering the introduction of a change to the legal aid financial eligibility rules for those suffering from domestic violence. However, I have announced an interim action that will ensure that those who are at risk of not being able to seek an order because of the potential for having to pay will be supported in the work that they are doing. That is why I announced, given the number of incidents that occur, an immediate change to the legal aid function to provide that increased protection for victims of domestic violence.

Prior to that announcement, those seeking legal aid to apply for a non-molestation order had first to pass a fixed means test in order to receive funding. Those with earnings above the statutory threshold would not have been entitled to legal aid. I have now removed the upper earnings and capital thresholds for anyone applying for those orders. That means that no one should be refused legal aid to apply for a non-molestation order in the Magistrate's Court because of their financial status.

A contribution towards legal costs will be required from those who take advantage of that waiver, but it will be a fixed, one-off amount linked to an individual's financial circumstances and payable subsequent to a court case, rather than being required upfront, as has sometimes happened in the past.

**Ms S Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. I welcome the Minister's clarification on that, considering that the majority of people who apply for non-molestation orders are women and suffer all forms of domestic violence and abuse. I am just concerned that it will add to their suffering. I appreciate the Minister's commitment to ensure that it does not necessarily depend on financial

arrangements. Is the Minister confirming that anybody who applies for legal aid for a non-molestation order — either male or female — will not be impeded because of their financial arrangements?

**The Minister of Justice:** No; the position is quite clear. Anyone who applies for legal aid for a non-molestation order has the waiver of the upper limits, which means that they are entitled to legal aid but will subsequently have to pay a contribution based on their income and their assets. The key thing is that they can get the legal aid for the non-molestation order immediately. In the past, there have been reports of individual firms of solicitors seeking significant cash payments in advance of assisting people with orders. That is what I have sought to prevent by allowing this route into legal aid on a wider basis.

**Mr P Ramsey:** I relate this question to a case that I was involved with in my constituency recently. A young woman felt fear, worry and stress due to the fact that someone who was charged with domestic violence was out on bail. Does the Minister agree that special care should be taken to make sure that those charged with domestic violence are released on bail on the strictest possible terms to ensure the safety of the alleged victim?

**The Minister of Justice:** I am being encouraged to start to interfere in the rights of the judiciary to set the terms for bail. I will resist that temptation. However, we are all concerned to ensure that those who require protection, that is, those who are victims of violence of any sort, are given the best protection available. However, the precise details of any individual case have to be left to the relevant judge.

**Mr Cree:** I thank the Minister for his clarification on the legal aid issue. How much will that cost, and what effect will it have on his budget?

**The Minister of Justice:** Legal aid is not designed to be something that will either add to or reduce costs. Those who would perhaps not have been eligible for legal aid in the past will receive it and pay an appropriate contribution for it. We are looking at a potential cost to the Department of a few tens of thousands of pounds per annum. I think that that is entirely justifiable in the context of our seeking to protect vulnerable members of society.

## Prison Service

6. **Mr Bresland** asked the Minister of Justice what steps he intends to take to increase public confidence in the Prison Service. (AQO 870/11)

**The Minister of Justice:** Members will be aware that the Prison Service has been at the centre of a series of highly regrettable failings. Last month's report on the governance arrangements highlighted that those failings were symptomatic of deeper problems that can be addressed only through fundamental reform. I have said previously that our prison system developed in response to the issues of another day. However, although society and its expectations of NIPS have changed, the service has not kept pace with those changes.

The challenge for me, as Minister, for the leadership in the Prison Service and for the political leaders of this House is to deliver the necessary reforms to turn the Prison Service into a modern, effective and efficient service. That is why I made reform one of my key ministerial priorities, why I support the work of the strategic efficiency and effectiveness programme, and why I commissioned the review of prisons to scope out the direction that change must take.

However, change is happening already. Management has reached agreement with the POA on how to work together to deliver change and improvements; progress is being made to fill the governor-in-charge posts at all three establishments; governance arrangements are being reviewed and enhanced; and where mistakes have been made, they are being taken seriously and lessons are being learned. I have said that change will take time. Rebuilding public confidence will also take time, patience and resources. However, I am committed to driving forward reform, and I know that the director general of the Prison Service shares that conviction. I will be seeking the support of the House in that absolutely essential task.

**Mr Bresland:** I thank the Minister for his answer. Prison Service running costs are very high, and they are far higher than those in England, Wales and Scotland. Will the Minister outline how the costs for each prison might be reduced?

**The Minister of Justice:** Again, I suspect that that question will take rather longer to answer than the two-minute limit that you have given me, Mr Deputy Speaker. We have



to acknowledge that the way that prison costs are calculated in Northern Ireland makes them different to those in England, Wales and Scotland. For example, we include matters, such as headquarter functions and education, that are not included in other jurisdictions. We are also on a smaller scale, which makes things different.

However, the reality is that we still have higher costs. A key element is that the construction of the prison estate and historical reasons mean that, in many measures, we have significantly higher staffing levels than is the case in other jurisdictions. For historical reasons that we all know about, our prison officers are also paid significantly more than those in other jurisdictions. Those are the sorts of issues that need to be addressed to get the necessary reforms in place and to ensure that we can move to a system that meets the needs of the future rather than continuing to act as though it were dealing with the needs of the past.

**Dr Farry:** Does the Minister agree that public confidence in the prisons would be enhanced by a clearer understanding of the purpose of the prison system, which is not to simply lock prisoners up and throw away the key, but to rehabilitate them and ensure that the level of reoffending is much reduced, thereby enhancing community safety?

**The Minister of Justice:** It is absolutely clear that there are some people in this society who believe that locking people up and throwing away the key is the solution to our problems. Personally speaking, I do not think that we will make society safer unless prisoners who are discharged have been rehabilitated while in prison. That means that we need to spend money in a number of areas that might not have been considered in previous ages when all that mattered was the security at the perimeter.

If we are to make society safer and offer reform and rehabilitation, it is clear to me that there are a number of areas in which spending is required. Individuals might take cheap shots at such action, but it is absolutely essential to rehabilitate and reform those who are in our care.

**Mr A Maginness:** The Minister referred to an agreement between prison management and the POA, which I welcome, because it is progress. How confident is he that such an agreement will be fully honoured? It is very important that the POA plays a positive, constructive and

progressive role in the reform of the Prison Service.

**The Minister of Justice:** I entirely agree with the point that is being made. We will reform the Prison Service by engaging management and staff in ensuring that we work to make the reforms and changes that are vitally needed.

The POA, which represents the great majority of uniformed prison staff, is a key partner in that process. That is why I am extremely pleased that management and the POA are discussing a pilot on a more efficient and effective way of using staff within the different institutions. I regard that as a sign of positive engagement, and I welcome the constructive engagement by both sides on that. Obviously, I can give no guarantees on whether that process will succeed, but I will continue to work with both sides, in my role as Minister rather than as an operational manager, to ensure that that process continues.

## Security: Terrorism

7. **Mr Bell** asked the Minister of Justice, in light of the discovery of mortar devices in County Kildare, for an update on threats to Northern Ireland from terrorists in the Republic of Ireland.  
(AQO 871/11)

8. **Mr McNarry** asked the Minister of Justice for an update on the dissident republican threat.  
(AQO 872/11)

**The Minister of Justice:** With your permission, Mr Deputy Speaker, I will answer questions 7 and 8 together.

The threat from terrorists to Northern Ireland remains at a severe level. I am sure that Members will join me in condemning all forms of terrorist activity, including threats and intimidation, from whatever organisation it comes. The attack on the Derry/Londonderry city of culture office on 17 January is just one example of that distorted approach. I applaud the response of the local community to that attack.

There is no doubt that terrorists are planning and preparing for misguided operations north and south of the border. That makes cross-border co-operation absolutely essential, and there is excellent co-operation. In launching the cross-border policing strategy, the Chief Constable said that he was deeply indebted to his colleagues in an Garda Síochána for the

level of support and co-operation that the PSNI receives on a daily basis.

For my part, I had regular discussions about security matters with Dermot Ahern, the previous Minister of Justice, Equality and Reform. I look forward to working with his successor, Brendan Smith, whom I met last week. The most recent contacts with Dermot Ahern were in relation to the Garda operation in County Kildare, which Mr Bell referred to in his question. The success of such operations is in no small part due to the continued excellent cross-border co-operation and information sharing between law enforcement agencies, North and South.

The PSNI and the Garda Síochána are alert to the threat and the capacity of those groups and remain resolute in their determination to disrupt and to prevent their activities. I commend both services for their continued success in apprehending those responsible. In 2010, security force activity resulted in 210 arrests and 80 charges. To date in 2011, there have been 11 arrests and one person has been charged. In addition, 26 people associated with terrorist groups were charged before the Special Criminal Court in Dublin in 2010. To date in 2011, one person has been charged.

The commitment of the two police services to work together is reflected in the cross-border policing strategy, which was published on 13 December 2010. It demonstrates that the breadth of co-operation that exists across the full range of policing areas and the commitment of both services to ensuring that those who seek to exploit the border for criminal ends do not do so.

**Mr Deputy Speaker:** The Minister's time is up.

**Mr Bell:** Will the Minister ensure that the men and women of our Police Service are adequately resourced? Will he also ensure that the border is secured against those who would come across to tackle them with either mortars or under-car booby trap devices?

**The Minister of Justice:** As I made clear in my answers to earlier questions, I am doing my best to ensure that the Police Service and the other agencies of the Department of Justice are adequately resourced.

However, I am not sure what he means by securing the border, because, in the

circumstances in which we live, the border area is not the only area where those problems arise. What is most important is co-operation across the border between the PSNI and the Garda Síochána, and I see that being carried through at the highest level.

**2.30 pm**

## Regional Development

### Water Infrastructure

1. **Lord Morrow** asked the Minister for Regional Development to outline the estimated cost and length of time it would take to bring NI Water's infrastructure up to a European standard.

(AQO 878/11)

**The Minister for Regional Development (Mr Murphy):** European Union standards for drinking water focus on providing high quality drinking water for consumers. Although there is no single fixed EU standard for water infrastructure, challenging water quality standards continue to drive investment in water mains and treatment facilities.

By the end of this financial year, the Executive will have invested almost £1 billion in our water and sewerage infrastructure, which needs to continue if we are to catch up on years of past underinvestment. Going forward, the Utility Regulator has determined the level of investment that NI Water should make, and, despite overall budgetary constraints, I have made proposals in my Department's draft Budget to ensure that substantial levels of investment continue. As a result of the investment that has been made, the North now enjoys the highest drinking water quality compliance that it has ever had, waste water treatment standards are also the best they have ever been and even overall leakage has been reduced.

**Lord Morrow:** I heard what the Minister said, but I am not sure that he answered the question. We had a horrendous time over Christmas with what happened with Northern Ireland Water (NIW), and are continually told that it will take something like £4 billion to bring our water infrastructure up to standard — which may not be European standards. Will the Minister confirm whether there is any truth in those

figures and whether we are only currently one quarter of the way there in our investment?

**The Minister for Regional Development:** The Member is correct. There are some European standards, but they change frequently and not all of the investment that NIW makes is set against those particular standards. Indeed, if it did it would never finish its work, as the EU always improves and adds new regulations and requirements that require continued investment.

As I said, there has been an investment by the Executive and by me of almost £1 billion, which is a substantial improvement. The Member may remember 2007, when we were on the brink of infraction costs from Europe due to pollution and a large number of our water treatment facilities were not up to the standard that Europe demanded and required significant investment. We have now moved well beyond that.

A substantial investment has been made. The Member, like all other Members, will be aware that we have been playing catch-up due to a lack of investment over many decades. It is not possible to put a final figure on it, as there will be a continuous need for further investment in the water, sewerage and waste water treatment infrastructure. There has been an investment of £1 billion, and something in the region of £660 million is proposed over the next four years of the draft Budget period, which has yet to be agreed. No doubt we will need to make further investments in water and sewerage services after that.

**Mr Leonard:** Go raibh maith agat, a LeasCheann Comhairle. The Minister had just started to answer my question. Will he further outline the Department's spending plans for NI Water over the next four years?

**The Minister for Regional Development:** As I said in answer to the previous question, I am committed to ongoing investment in the water and sewerage infrastructure. However, unfortunately, as people will know, budgets, and particularly capital budgets, have taken a significant hit. The money that I was allocated in the draft Budget fell substantially short of what was required to fund NI Water in years two and three, and I have, therefore, proposed that additional funding be reallocated within my draft Budget to partially address that shortfall. If that position is agreed at the end of the Budget discussions, that will bring the total investment

over the four years of the draft Budget to some £660 million.

**Mr A Maginness:** I heard what the Minister said, but whatever way we look at it there will be a shortfall of £48 million compared to the amount that the regulator, Northern Ireland Water and the Minister agreed as necessary for the modernisation of Northern Ireland Water. How can that modernisation be achieved if there is such a shortfall?

**The Minister for Regional Development:** The shortfall is greater than the Member outlined. The agreed figure was some £200 million a year, which would have brought the total to £800 million through the allocation that I have received and the amount that I have proposed to add internally in the Department for Regional Development (DRD). In years two and three, there was a £100 million shortfall in the allocation that I received — a total shortfall of £200 million. I have allocated additional internal resources because it is important to maintain investment in water and sewerage services. Those additional moneys bring the total up to £660 million over the four-year period, if that is agreed at the end of the period.

I sympathise entirely with the Member's view, but many worthy projects — water and sewerage, roads, rail, public transport and concessionary fares — require investment. I have put forward draft proposals for consultation for my budget over the next four years, and I look forward to comments from others. However, if people are making the case that additional investment is needed in one particular area, as the Member appears to argue, they are obliged to tell me from which area the money should come.

**Mr Lyttle:** Does the Minister think that greater flexibility for NI Water's annual finance would avoid underspend and improve the organisation's ability to use all capital funds available for water network improvements?

**The Minister for Regional Development:** NIW has been fairly successful over the past number of years in spending its allocation and in making sure that projects are initiated: £1 billion is a significant investment, and the vast majority of that money has been spent on time and in accordance with plans. A couple of projects were tripped up this year by planning or land acquisition issues. Sometimes, in big capital



projects, unforeseen or unpredictable issues affect whether money can be spent.

When money is allocated to projects that, for whatever reason, do not go forward, it is the normal practice in the Executive that those moneys are surrendered. That is the case across all Departments. The Executive have the flexibility to decide then, as a whole, whether the moneys need to go back to NIW to another investment or should be allocated to another area or applied to pressures that may arise in a particular year. Last year, some of the money that was surrendered after the swine flu outbreak was reallocated.

## NI Water: Secretary of State

2. **Mr Cree** asked the Minister for Regional Development to outline any discussions that he has had with the Secretary of State for Northern Ireland about NI Water since 1 December 2010.

(AQO 879/11)

### **The Minister for Regional Development:** I

met the Secretary of State on Wednesday 29 December and again on Thursday 30 December to discuss options for assisting Northern Ireland Water.

**Mr Cree:** I thank the Minister for his prompt reply. I am glad to hear that the Secretary of State was at least aware of the situation. Can the Minister tell the House whether any assistance was offered from central government?

**The Minister for Regional Development:** When I met the Secretary of State on 29 December and on 30 December after the Executive meeting we had a general discussion about what support could be offered. I seem to recall that on the Wednesday he offered us every assistance except finance. That, of course, is the big issue that NI Water faces. The Tory-led Government in Britain is cutting finance in the form of capital allocations. We had discussions on Wednesday 29 December when the Secretary of State offered to make whatever assistance he could — other than finance — available to us, and we continued those discussions on Thursday 30 December.

**Mr Bell:** Does the Minister agree that the cuts imposed on Northern Ireland by the Conservative Government in coalition with the Liberal Democrats will pose a major problem for

us in ensuring that our water infrastructure is up to speed and ready for the twenty-first century?

### **The Minister for Regional Development:**

The Member will be aware that part of the problem that the Executive have been dealing with collectively is the lack of investment over many decades of direct rule Governments, Conservative and Labour. We have made a substantial contribution, particularly to water and sewerage services, and have moved on since 2007, when we were in danger of having to pay infraction costs and fines from the European Union for pollution. The Executive made a significant investment of £1 billion. Obviously, a 40% cut to our capital budget presents significant challenges. As Members identified during the discussion that followed my previous question, the money that the regulator agreed was required by NIW has not been made available to me under the draft Budget, because the Executive are grappling with capital cuts across all areas of departmental spending, including health, education and regional development. I have had to reallocate money internally to try to meet some of that pressure, but it is not the amount that the regulator agreed was required for NIW.

**Mr O'Loan:** Does the Minister intend to meet his Scottish, Welsh and English counterparts to seek a strengthening of the UK water mutual aid scheme? Does he have plans, or has he taken any action, to meet his Southern counterpart to discuss an all-island scheme of a similar nature?

**The Minister for Regional Development:** In relation to meeting my counterparts in Britain, the mutual aid arrangements operate between water companies, not between Departments. The Deputy First Minister of the Scottish Government and I had a conversation to try to ensure that those arrangements, particularly in relation to the Scottish water supply, were put in place as seamlessly as possible, and we tried to apply some political support for action. However, it is, essentially, an arrangement between Scottish Water and NI Water. All other mutual aid arrangements also operate between the companies themselves, not between Departments. Nonetheless, as part of the review, I expect that NIW will examine the mutual aid arrangements and, if there is any need to improve or alter them in any way, it will consider that.

As far as the South is concerned, my Department has suggested that network issues be examined as part of the St Andrews review. In the South, the water supply is operated not by a Department or an agency within a Department, but by county councils. Nonetheless, there is an argument, particularly in the border areas, for looking at whether the networks can be harmonised in any way to ensure that any loss of supply to a particular area would be sustainable. I thanked Louth County Council, which offered a supply to Newry and Mourne in the middle of the recent incident.

### Water Leaks: Business Premises

3. **Mr Elliott** asked the Minister for Regional Development whether businesses which experienced leaks on their properties during the recent adverse weather and water shortage crisis will be charged for the additional water.  
(AQO 880/11)

**The Minister for Regional Development:** I have been advised by NI Water that damage or defects that result in leakage from customer supply pipes can occur at any time of year. That is why NIW makes a considerable effort to remind customers of the need to check regularly for leaks on their properties. That message was restated continually during the recent freeze and subsequent thaw.

NIW has advised that it developed its current arrangements for dealing with payment for water lost from customers' pipes in 2008. Under those arrangements, non-domestic customers who are billed on a metered basis will be charged for the water that has been recorded by the meter, whether used or lost through leakage within the property. However, billed customers who have experienced a leak and who are connected to the public sewer can apply for a reduction of the sewerage bill, in recognition that the leaked water would not have returned to the sewer. NI Water is not responsible for the supply pipe within the customer's property and encourages property owners to protect and maintain their private pipes. It is not reasonable to expect other customers or the taxpayer to bear the cost of water wastage arising from leaks to private pipes.

**Mr Elliott:** I thank the Minister for his answer. When there is a burst in the public water infrastructure of Northern Ireland Water, everyone has to pay for it. Will the Minister give

us some indication of the amount of water that leaked from the public pipe infrastructure of Northern Ireland Water during the recent crisis?

**The Minister for Regional Development:** As the public water infrastructure is owned by the public, they should pay for leaks. It is not reasonable to suggest that the public or the taxpayer should also pay for a fault in someone's private supply.

During the recent freeze-thaw incident, 70% of the bursts were on the private side, but what that equates to in volume is still being worked out by NIW. When the figures are available, I will provide them to the Member.

**Mr I McCrea:** The Minister is aware that, following his previous statement to the House, I asked him what consideration could be given to people living in rural areas when there are leaks in their properties, particularly in an agricultural setting. In light of his previous answer, has any further consideration been given to those who are not connected to the public supply?

2.45 pm

**The Minister for Regional Development:** As I said, the difficulty is that the position that has been in effect since April 2008 — a position that compares favourably with companies operating in England and Wales — means that if the leakage occurs on the private side of the meter supply, it is an issue for the property owner. People who are attached to the public sewer can discuss that part of their bill with NIW.

I am afraid that the position is that people are responsible for their private pipes. During the freeze period, and during the thaw when problems were becoming more and more identifiable, a substantial appeal was put out for people to check their private supply to ensure that it was turned off. Indeed, where it came across leaks, NIW turned off many properties' supply itself. However, a general appeal was regularly issued for people to check their supply and ensure that it was stopped if there was a leak on their property.

**Mr McDevitt:** The Minister issued a general direction on 30 December that had the effect of denying customers their right to seek legal redress from Northern Ireland Water for damages caused as a result of loss of supply. What alternative compensation methods does the Minister propose to introduce to ensure

customer rights so that customers are not the big losers from the crisis?

**The Minister for Regional Development:** I have explained this to the Member on a number of occasions now, particularly in Committee where I had this very discussion with him. I fail to see his priorities. Rotation of supply — where NI Water deliberately stops the supply in places to maintain a certain level of supply — is a common practice in Ireland and Britain. It is done to protect vital supplies.

Mr McDevitt's priority appears to be the ability of some people possibly to pursue NIW through the courts for costs. That priority is set against maintaining vital supplies for hospitals, care facilities and other places in and around Belfast. To be honest, if the same situation were to reoccur, I think that the correct decision, time and time again, would be to ensure that NIW had the authority to stop supplies to protect vital supplies. That would ensure that people's lives were not put in danger. Mr McDevitt appears to be arguing in favour of allowing people to continue to receive their service, regardless of the consequences, so compensation claims can be pursued.

### School Transport: Adverse Weather Conditions

4. **Mr Frew** asked the Minister for Regional Development to detail the arrangements in place between Translink, Roads Service and the education and library boards in the event of adverse weather conditions to ensure the safety of pupils travelling to school. (AQO 881/11)

**The Minister for Regional Development:** Translink has an extreme weather procedure which outlines its processes in adverse conditions. Given the likely localised nature of problems, the key contact on public transport is between the local bus depot and its schools. They deal with issues such as the closing and reopening of schools, possible bus route changes and any withdrawal of services. They should also formally liaise with divisional Roads Service offices.

Education and library boards are responsible solely for the safety of pupils who are eligible for transport assistance. Boards have devised guidance for contractors, schools and parents on pupil safety during periods of adverse weather. The guidance is available on the

websites of the North Eastern Board, Southern Board and South Eastern Board, with the remaining boards to follow.

**Mr Frew:** School principals, parents, bus drivers and, indeed, Translink managers have contacted me to say that there are a number of roads that are not treated in times of ice and snow, yet are school bus routes. Can the Minister assure the House that he will review the gritting policy to include that small number of roads so that we can protect our children as much as is physically possible?

**The Minister for Regional Development:** Gritting criteria were agreed by the Assembly in 2001-02. They have been amended slightly to take into account some rural issues, particularly in relation to schools. Bear in mind that we spent twice as much last year as is normally set aside for winter, and I am sure that this year it will probably be the same again. There is a very significant cost attached to gritting roads, so criteria were set based on the number of vehicles that travel along a route. Under the criteria, school buses account for 40 vehicles. It is not possible to salt every single route on which a school bus travels, but there is certainly an attempt to provide as good a quality of service as is possible within the constraints currently in place in Roads Service.

**Ms M Anderson:** Go raibh míle maith agat, a LeasCheann Comhairle. I seek some clarity from the Minister. Does that mean that the school salting policy has been revised or adjusted during this time?

**The Minister for Regional Development:** The school salting policy has been revised during this period and, indeed, during my period in office in DRD. We asked for information from the education and library boards about which rural schools, in particular, had a difficulty opening over the winter period. In September 2009, I made a statement to the Assembly on the outcome of that examination of winter services around rural schools. In that statement, I announced that there would be enhanced communications and priority secondary salting for the 46 schools that were most affected by the weather conditions throughout the winter of 2008-09.

We asked the education and library boards themselves for information about which schools had difficulties. The names of 46 schools were forwarded to us, and those are earmarked for

particular attention. Some of those schools might not have been affected this winter, and others will have been. There is flexibility in the arrangements to ensure that it is brought to the attention of the local Roads Service division if schools are having particular difficulties with opening and getting pupils in.

**Mr Kinahan:** I will follow up on Mr Frew's question. The pavements in the areas surrounding schools can be dangerous for everyone who walks on them. Has the Minister had meetings with the Minister of the Environment to discuss resources or guidelines on how the pavements around schools, and other such public places, should be gritted in times of such awfully cold weather?

**The Minister for Regional Development:** The Department and Roads Service have worked with NILGA and spoken to local government about the priority areas for the gritting of footpaths. The Minister of the Environment issued a public statement in the earlier part of the winter that encouraged councils to become involved in that process.

It is a difficult area. Councils that are involved are faced with a question of priority. Roads Service supplies schools with salt boxes to salt the areas around their premises. There is a recognition that it can be difficult for people to come in. However, the resources that are used for that come out of the budget for road maintenance and things like that. The use of resources for whatever number of weeks of cold weather has to be weighed against the use of resources for road safety measures, traffic-calming measures, structural maintenance and so on. The Department and Roads Service have to make the choice of whether to allocate resources to this issue as opposed to allocating resources to ensuring road safety in all the other weeks and months of the year, when cold weather is not the issue.

## A2 Carrickfergus to Greenisland

5. **Mr Beggs** asked the Minister for Regional Development for his assessment of the impact of the cancellation of the proposed A2 Greenisland road-widening scheme on traffic congestion between Carrickfergus and Greenisland. (AQO 882/11)

**The Minister for Regional Development:** In recent years, Roads Service has continued

with the development of the A2 Shore Road/Greenisland scheme. However, as I have stated previously, the final statutory notice, vesting order and progression of the scheme to procurement will be subject to the availability of resources in future years' budgets. As the Member will be aware, a reduction of 40% in the Executive's overall capital funding from Treasury in the 2011-15 period means that there are now funding constraints.

My Department is now faced with the difficult task of having to allocate finite resources to numerous demands for the maintenance, management and development of the transport network. Unfortunately, when those competing priorities are taken into consideration, I am unable to progress plans to start construction on the A2 Shore Road scheme during this Budget period. The impact of the postponement of the scheme will mean that the bottleneck between Jordanstown and Seapark, as identified in the Belfast metropolitan transport plan, will remain until such time as highway improvements can be implemented.

**Mr Beggs:** I thank the Minister for his answer. However, in prioritising the roads expenditure programme, how is the Minister taking into consideration the level of daily congestion on that route at Greenisland and its effect on emergency response? Response police officers are now based not in Carrickfergus but in Whiteabbey. The A&E is no longer at Whiteabbey, and, therefore, people sometimes have to travel from parts of east Antrim not to Whiteabbey or Antrim but to the Mater or the Royal.

**The Minister for Regional Development:** Very difficult choices have had to be made. My proposed budget is out for consultation, and I am sure that the Member and, indeed, other Members will be able to put forward their views on it. We have to weigh up the very significant capital cuts that we have received from the coalition Government in Britain. The A2 is a very worthy scheme. No one doubts the congestion there or the requirement for a scheme, which has been well established. However, that has to be weighed up against sinking a substantial part of the Department's budget over the next four years into one scheme. Doing that would involve neglecting structural maintenance right across the Six Counties and neglecting the investment that is required in public transport. Additional investment also needs to be made in water and sewerage services. Those are the



types of choices that the Department is faced with in setting a budget that is very significantly constrained by decisions taken elsewhere. I put it forward in the draft Budget. I very much appreciate that people will be disappointed that the proposal is that the A2 scheme should not now go ahead. They can certainly make their point about that. However, as I said, the Member should bear in mind that the inclusion of that scheme would have a detrimental effect on other areas of spend across the Department's budget.

**Mr K Robinson:** I thank the Minister for that very comprehensive answer. Given the level of opposition to the A5, will the Minister tell the House whether it will be possible to transfer funding for the A5 to the A2, which, as he just said, is a necessary scheme and which has been going on for such a long time? Failing that, I remind the Minister about the CAF trains that are due to arrive. Could they perhaps not be an alternative?

**The Minister for Regional Development:**

Road schemes are decided according not to popularity, but on a whole range of measures. The A5 Derry to Aghnacloy road scheme is an agreed project between the Executive, in their entirety, and the Dublin Government. Funding has been set in place and rolled out for that scheme. That continued to be the case until as late as last Friday's North/South meeting, at which all parties in the Executive were represented. I continue to approve that project. As I said, the Executive set that priority down in their dealings with the Dublin Government through the North/South arrangements.

As part of both the investment and the Department's attempt to move money around to allocate it according to priorities, there has been a continued prioritisation of investment in the additional trains. I hope that those will be in service as soon as possible, as scheduled, on the Larne line and that they will add to the public transport network in that part of the North.

**Mr F McCann:** Go raibh maith agat, a LeasCheann Comhairle. Will the Minister give details of which proposed strategic capital projects are being given priority in the draft Budget?

**The Minister for Regional Development:** A range of projects are involved, some of which I have identified. Those include the A5 and A8 schemes, which are agreed projects between

the Executive and the Government in Dublin. As regards investment in the railway, we have 20 additional trains. There is also an investment in the Derry to Coleraine line. As I outlined in response to an earlier question, there is some £660 million of investment in water and sewerage services. We have managed to protect the concessionary fares schemes, even though no money was allocated against it in the draft allocation that I received. We have also put more money in to public transport to protect jobs. The Executive agreed generally to make it a priority for Ministers to try as best they could, with the resources allocated to them and the additional resources that they identified, to protect public services and jobs. I have certainly tried to achieve that in my Department, and I hope that all Ministers have tried to do the same.

### Water Leaks: Powers of Entry

6. **Mr G Robinson** asked the Minister for Regional Development if he will consider legislation to allow NI Water engineers to gain entry to a property, with a police escort, to shut off a water supply when a leak is affecting neighbouring properties. (AQO 883/11)

**The Minister for Regional Development:** The Water and Sewerage Services Order 2006 provides a range of powers to deal with the waste, contamination and misuse of water. It allows NI Water to disconnect premises in certain circumstances where there may be damage to property. NI Water can also require remedial work to be carried out to take those steps itself and to recover expenses where there is some waste, misuse or contamination of water. In some circumstances, powers of entry already exist to inspect water fittings or to take remedial measures. In addition, it is an offence to contaminate, waste or misuse water. Although I am content that powers exist, the review into the severe weather emergency could examine that.

**Mr G Robinson:** Will the Minister tell the House whether domestic properties that are affected by a leak from a neighbouring property, such as a business property, can be supplied with priority bottled water until the leak is repaired?

**The Minister for Regional Development:** The Executive have instigated a review into the particular incident that occurred at Christmas. As regards the substantive question about



powers of entry, NIW has the power to stop a water supply to premises where it can clearly identify that water is being lost. However, it is sometimes difficult to identify the source of a leak in a building with multiple occupants. I think that there were issues with the availability of emergency supplies and with the lines of communication about how people could avail themselves of those supplies. Those carrying out the investigation into that incident will want to look at that. I hope that we will be better placed at the end of February to discuss those issues and to decide what steps need to be taken in the future.

3.00 pm

## Question for Urgent Oral Answer

### Health, Social Services and Public Safety

#### **Royal Belfast Hospital for Sick Children**

**Ms S Ramsey** asked the Minister of Health, Social Services and Public Safety, given today's media coverage on the leaked report into standards of care at the Royal Belfast Hospital for Sick Children suggesting that there may be a very real risk that children will come to harm, to outline the main recommendations in the report and to give an assurance to patients, parents and staff that the services are up to standard.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I wish to state that the reports in the media on this issue in the past 24 hours have been inaccurate and unhelpful. The review was not triggered by any serious adverse incident (SAI) but was undertaken as part of the normal performance and service improvement role of the Health and Social Care Board. The Belfast Health and Social Care Trust asked the interim management and support (IMAS) team to visit the trust's urgent and emergency care programme for children to compare it with known good practice and to make recommendations for improvements and modernisation. The IMAS team stated that it was impressed by the huge commitment and enthusiasm of clinical and managerial staff in all departments. In particular, it was apparent that there was widespread commitment to team working, multidisciplinary care and a very real patient focus. Daily inpatient reviews and consultant-delivered care were as expected in a paediatric hospital and clearly helped to facilitate timely discharge.

The team also identified that the children's hospital clearly requires redevelopment. The emergency department is cramped, with insufficient space to deliver modern care processes. The main areas identified for improvement by IMAS were medical staffing, nursing staffing levels, triaging issues,

governance and admission of children to adult wards. The Health and Social Care Board has provided additional resources to increase staffing levels, locum staff and a middle-grade doctor are in place, and the consultant post is being filled. All other recommendations have been addressed by the trust and the Health and Social Care Board.

There is no suggestion that any child has been exposed to any untoward event, and, on the basis of the report, I can assure patients, parents and staff that services in the Royal Belfast Hospital for Sick Children are up to standard.

**Ms S Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. I am highly disappointed that, over the past two weeks, I have had to use questions for urgent oral answer to get information from the Minister. I am a member of the Committee for Health, Social Services and Public Safety, but I have not seen the report that the Minister says is being reported inaccurately in the media and, therefore, cannot make a judgement.

Information in the public domain states that the report says that the Belfast Trust, when compared with other training hospitals, needs an appropriate number of senior decision-makers. It is also stated that staffing levels fall well below what is considered safe and acceptable and, indeed, were:

*“very low in comparison with other hospitals we have visited”.*

Ten months on, staffing levels have not improved. Given that it has been identified, on the basis of comparisons, that 20 additional middle-grade doctors and a number of consultants are needed, the situation has not improved. How many SAls involving the children’s hospital have been investigated over the past five years?

**The Minister of Health, Social Services and Public Safety:** The Member asked a number of questions. Given that the children’s hospital is a regional centre, SAls are normal because very sick children are referred there. Deaths, sadly, do occur, but SAls are usually referred from donor hospitals.

Staffing levels are in the public domain, but I am happy to furnish the Member with those details.

The Member refers to a report, but it was, in fact, a one-day visit by IMAS, which prompted a letter. IMAS is a consultancy made up of UK-wide National Health Service managers who make suggestions about improvements. Suggestions were made about the children’s hospital. IMAS said not that the service was unsafe but that the rota was unsafe. The rota was unsafe in that, when it was unable to be filled, locums had to be brought in.

There was an issue around nursing staff levels, which has been addressed. Similarly, there was an issue around medical staffing levels, which has been and is being addressed. Resources have been made available.

Other issues were raised about the admission of children to adult wards. If you had listened to Dr Paul Jackson this morning, you would have been able to hear him say that no child under the age of 13 was admitted to an adult ward. There are issues about accommodation, and those issues have been well made by me, over and over again. I have asked Ms Ramsey and others in this House to give me the support to build a new children’s hospital. To date, this House has failed to give me that support.

**Ms S Ramsey:** The money was there.

**The Minister of Health, Social Services and Public Safety:** I am trying to give an answer, Mr Deputy Speaker, without the heckling. This is a very serious issue, and it is unfortunate that it should descend to that.

There were also issues around the triaging of patients — those who should go to their out-of-hours service or GP surgery, those with minor injuries and those who are suitable for an emergency department. Those issues have also been addressed. IMAS has visited a number of trusts. That is normal business, because the board has been charged with performance management and improvement of the Health Service. I told the House on a number of occasions that I will improve performance in the Health Service; we are doing that, and the staff are responding magnificently.

Suggestions that an unsafe service is being operated by our clinicians, doctors and nurses in the Royal Belfast Hospital for Sick Children are entirely wrong. I think that it is very unfair on the staff, who were described as very enthusiastic, very patient-focused and skilled. They are providing a first-class service in a

building that should have been replaced long ago. It is substandard accommodation. The letter from IMAS gave some suggestions, and there is a report in the media that the service is unsafe. I note that some MLAs commented on it in the newspaper. They complain that they have not read the letter, and then they complain about the contents —

**Ms S Ramsey:** We cannot get it.

**The Minister of Health, Social Services and Public Safety:** It is available. I will publish it today. If you want, I will publish every single report, every single letter and every single piece of paper. However, I assure you, as I said yesterday, that you would need a lorry to carry away the paper.

**The Deputy Chairperson of the Committee for Health, Social Services and Public Safety (Mrs O'Neill):** Go raibh maith agat, a LeasCheann Comhairle. Today provides just another example of the flippant attitude of the Minister towards the scrutiny of the Health Committee. This is the second time in as many weeks that we have heard detailed and worrying reports in the media.

Minister, according to John Compton on media outlets this morning, you became aware of the report only in the past number of weeks. Given that the report was published in March 2010, I do not think it good enough for you, as Minister, to be made aware of something only because it was going to be made public. Perhaps you will say whether you are aware of any other IMAS investigations ongoing and what services it has been reviewing, and maybe you will tell the House more about that today.

Also, Minister; given the fact that the RQIA has a role to play in ensuring quality in the Health Service, are you concerned that it has not picked up on the serious issues that have been identified? You have referred to the fact that staffing levels were not of concern. The IMAS report states that the current staffing levels within the hospital fall:

*“well below what we consider safe and acceptable, and indeed are very low in comparison with other hospital that we have visited”.*

That is not good enough, and that is what you need to answer in the House today.

**The Minister of Health, Social Services and Public Safety:** First, talking about “worrying

reports” spreads undue alarm. It was actually a letter written as a result of a one-day visit, which made suggestions on how we could improve the service. Those suggestions have been actioned. That is not unusual. Indeed, you mentioned the RQIA, which routinely reports and carries out inspections. I do not routinely see its reports on nursing homes. I see them when they are adverse or when there are issues or major problems. IMAS has also visited and advised the Northern Trust, Southern Trust, Western Trust and the board. It advises on good practice and performance.

It is not an unsafe service. Some of the staffing and nursing levels were raised, but, as I said in my answer, there is no suggestion that any child has been exposed to any untoward event. On the basis of the report, I assure patients, parents and staff that services in the Royal Belfast Hospital for Sick Children are up to standard.

I refer the Deputy Chairperson of the Health Committee to what that Committee is supposed to be about. If she wants to micromanage the Health Service and wants every single report and letter, thousands of which are generated each week, I could probably furnish her with those. However, I do not see how that would add in any way to what the Committee is required to do. The functions of the Committee are laid down quite clearly, and I try to provide it with all the information that I can, as is required.

Ms Ramsey said that this was the second time that she has had to come to the House. If she has to ask a question, she should ask it. Alternatively, she can come to my office. The door is always open, and she has been in my office routinely. The notion that I have to stand here and —

**Ms S Ramsey:** Why not make a statement and be proactive?

**Mr Deputy Speaker:** Order.

**The Minister of Health, Social Services and Public Safety:** I can make as many statements as the Member wants. I have made countless statements to the House. However, this issue arose in a morning newspaper. As I said, that morning newspaper report is inaccurate and unhelpful. It is particularly unhelpful in respect of staff morale. They are doing their absolute best and are working very hard, which is recognised in the letter. If the Member wants to

do so, she should talk to me. I talk to her daily. I do not see any reason why she cannot do that. If she wants to do that formally in the form of a statement, I can do that by all means. However, if the Member wants statements every time a newspaper writes an inaccurate and unhelpful report, we will all be here all day every day.

## Executive Committee Business

### Local Government Finance Bill: Consideration Stage

#### **Clause 27 (Rates support grant)**

*Debate resumed on amendment No 3, which amendment was:*

In page 9, line 26, at end insert

*“and shall not be reduced during the financial year in question”. — [The Chairperson of the Committee for the Environment (Mr Boylan).]*

**Mr Kinahan:** Amendment No 3 concerns not reducing cuts in funds during the financial year. It is a shame that we had to stop earlier because a good debate was bubbling just before the break. Mr Weir made some good points that need to be refuted and discussed.

As we all know, the rates support grant is absolutely vital for councils, particularly for the less wealthy, which excludes Mr Weir's constituency and probably mine. It is absolutely vital for all the others. It is vital for their financial health and to allow them to provide the basic statutory services that all councils must provide. I accept that, from time to time, there may be a need to change funds or to cut throughout the year. However, it is wrong to do it in the middle of the year because councils will need to find the funding from other means but not the age-old one of trying to hit the Health Service, which is so vital to us all. I find the plastic bag levy slightly unusual, as it would mean that the more we spend on plastic bags, the more funds we will have. I am sure that the Minister will say more about that. There is always room for cuts in other places, but it is completely wrong to finance it from councils in the middle of the year when they do not have any means within a year, other than by cutting their plans for that year, to raise funds.

Mr Weir spoke about the possibility of a tsunami of cuts and said that we needed to act swiftly. Over the past few months, however, we have seen that we have not acted swiftly when probably the biggest tsunami ever is coming towards us. Yes, there is a need to cut back — it is sad that we have to do so — but not from council budgets in the middle of the year. I do not think that we —

**3.15 pm**

**Mr Bell:** I thank the Member for giving way. Is it not the Conservative Government, for whom he was campaigning a number of months ago, who have imposed those huge cuts on Northern Ireland? Does he not feel a sense of shame that he has brought to Northern Ireland a manifesto that has cut our public services —

**Mr Deputy Speaker:** Order. I remind Members that we are talking about the Bill. The election has not started yet.

**Mr Kinahan:** Thank you very much, Mr Deputy Speaker. If I was casting a fly, it was well and truly taken by Mr Bell. We know that the only reason why we have these cuts is the bad spending of the previous Government, which his party supported.

Going back to amendment No 3, I remind everyone that we are talking about stopping it being possible to cut back on vital funding to councils. I know that some Members who are councillors know what it is like when Land and Property Services suddenly decides that a council has not paid enough rates. On Antrim Borough Council, we had to find £1 million and then £0.5 million in the middle of a year, ending up with the council having to cut back on all the things it had been doing until we got to the absolute basics. Today, we are trying to protect councils so that we do not throw them into disarray in the middle of the year but have proper budgeting and proper consultation before setting the rates for next year. We have seen, in the process that budgets are going through at the moment, that we can plan it for the next year with cuts in other areas at the moment. I support amendment No 3.

**Mr McGlone:** Go raibh maith agat, a LeasCheann Comhairle. As a member of the Environment Committee, I, too, support the Committee's amendment.

The very idea of in-year clawback has raised an awful lot of concern on councils, particularly those west of the Bann, which are the most likely to be affected by clawbacks. In fact, that widespread and growing concern about the increase in departmental powers to make in-year cuts to the rate support grant could, if you like, in terms of its implications for management in councils, lead to chaos where schemes have already started and budgets have already been determined in compliance with an evaluation of

incoming rates and outgoing expenditure for the coming financial year as already authorised, with the consequent impact on the level of rates in each district. Therefore, the ability afforded to government to claw back some of those moneys could have serious implications, particularly in areas of higher deprivation. Of course, we know that the rate support grant is paid only to councils whose wealth per head of population falls below the Northern Ireland average. For areas of high deprivation, therefore, we are talking about targeting social need in reverse, because, at the stroke of a pen, we could open the door to the potential to inflict further deprivation, as acknowledged by the calculation of the wealth in those areas.

The internal management issues can probably be worked through in councils, but the knock-on effect for projects, communities and community and voluntary sector organisations funded by councils could be inordinate and have serious implications for areas of high and growing unemployment across the North. The districts and communities affected most by potential clawback are those least able to afford it. Therefore, in moving amendment No 3, the Committee has got it right: we cannot open the floodgates to further hardship in areas that have suffered enough, are recognised, according to the Government's assessment method, as having deprivation indices above and beyond other areas and need, therefore, to be supported. Therefore, in conclusion, from the SDLP's point of view and as a member of the Committee, I support the amendment.

**Dr Farry:** I declare an interest as a member of North Down Borough Council though, as Mr Weir said, that is probably a technicality in this case in that we have not received resource grant for quite some time. However, it is important to acknowledge that this is not just an issue of councillors fighting their own corner. I am certainly here to speak on behalf of the Alliance Party and to take a cross-Northern Ireland perspective on the issue. It is important to acknowledge the differences in the relative rates base across councils in Northern Ireland, and it is important that central government funds are used to equalise, to an extent, the lack of equalisation in rates bases in different councils to, at least, provide the potential for parity in how the citizens of Northern Ireland receive government services.



Like others, I noted Peter Weir's comments with interest. My party is inclined to support the Committee's amendment because it sends a positive signal to local government as a whole. Mr Weir cites the concerns about the potential for clawback to happen during the in-year monitoring process and that, although no one particularly envisages that, it is important that the flexibility is on the books. In return, I could cite many other examples across government, not just in councils or the Department of the Environment, where there are already inescapable pressures or contractual obligations. Whenever government faces such a clawback, there are areas that are, for those reasons, off limits. It is important that we do not send a signal to the councils that they are simply there for picking off. As others have said, councils have a responsibility, in turn, to plan their own budgets for the year and to fund local community groups and other organisations as well as provide continuity of services from those budgets. Therefore, it is important that councils have some degree of surety.

Mr Weir set out an economic catastrophe on a huge scale, and, to some extent, we have had a major economic disaster over the past number of years. Councils already suffer in a range of ways outside the context of any potential clawback of resource grant. For example, we already have a situation where there is variation of the rates base through the penny product, which is based on the property market. That impacts on areas such as building control fees and can have a major impact on councils. Furthermore, councils receive money from other aspects of government and arm's-length bodies for other functions that can already be clawed back in-year or through which grants can be withheld. Therefore, there are quite a lot of ways in which councils suffer during economic downturns, just as central government does. We should not make that any worse. We already have a situation where the Department has identified the resource grant as an area for potential savings.

I could almost accept the argument that it is important for the legislation to be flexible. However, we have to accept the wider context of the tension between central government and local government, and it is important that we send a signal of partnership, as far as possible, and, indeed, try to develop wider contact between central government and local government. In some respects, it does not really

matter to me whether services are funded by the local rates or by taxes. Ultimately, people pay out of their pocket to fund government services regardless of whether a council or central government provides them, with the one rider that we do not control the block grant, which is linked to overall taxation, but have some influence over levels of rates.

At present, more and more functions are being passed to local government, and there are already Bills working their way through the process, including the Dogs (Amendment) Bill, the Welfare of Animals Bill, the Clean Neighbourhoods and Environment Bill and others that are further down the pipeline such as those on planning responsibilities, all of which will make local government fulfil more and more functions that were previously fulfilled by central government or not fulfilled at all. However, there is a concern about the funding that will come with those functions. There is also a desire to ensure that no undue burden is placed on the ratepayers. Again, I could accept a shift in taxation towards the local rates, as long as that was done transparently and not as part of a stealth agenda.

In turn, if we were to ask local government to do a lot more without necessarily providing the finance, the expectation would be that the Assembly and, particularly, Ministers and the Executive would not then point to the fact that they were running very tight budgets and that rates in local government were rising well above the rate of inflation and it needed to get its act together. It would be wrong for us to end up in that situation, because we have to disaggregate the reasons why rates were going up at local level. Would it be because of inefficiencies in local government, which would be very wrong and would need to be addressed? Alternatively, would it simply be a reflection of the fact that local government was being asked to take on more responsibilities and there would be a shift in the balance between central government and local government, which some of us would welcome as an enhancement of local democracy and something that is benign?

The notion of what happens in-year and with the resource grant is part of a wider picture. It is important that we build a sense of partnership between the two levels of government in Northern Ireland, that we see that we are all working towards the same objective and that we do not have the situation where people are

being cut short and abandoned or where fingers are being pointed in either direction.

**Mr W Clarke:** Go raibh maith agat, a LeasCheann Comhairle. I declare an interest as a councillor on Down District Council, which receives the rate support grant.

I support amendment No 3. In summer 2010, the Department announced the cut to the rate support grant. As a councillor, I know that that brought great anxiety to and great pressure to bear on the council. The rate had been struck, plans had been put in place, and officers from different departments in the council were then faced with the great difficulty of having to cut front line services.

Eighteen councils received the rate support grant, which was cut by 5.9%, resulting in £1.1 million being taken out of councils' financial plans when, as I said, councils had already set their budgets. We are talking about front line services being affected. Sometimes that is glossed over to mean something different, but, usually, community projects and front line services are seen as easy options to hit. That must be borne in mind. A cut such as that definitely puts the councils in a serious position, especially when it happens in the middle of a financial year.

As has been outlined, the grants support councils that have less revenue for each person in the population. The grant subsidises the council to deliver services on the ground for ratepayers. Those services are essential and — I will say it again — are front line services. The formula is very fair, as it takes a number of factors into account, including unemployment, the working population and areas of deprivation, as well as a lot of other issues. Councils already find it difficult, and, as Mr Farry said, responsibilities are coming from central government to local government. Those will increase with the enactment of the Dogs (Amendment) Bill, the Welfare of Animals Bill, the Planning Bill, the Clean Neighbourhoods and Environment Bill and the High Hedges Bill. Indeed, the functions in a number of different pieces of legislation are coming to local government.

I understand that the Department has to deal with cuts to its budget, but councils do not have that flexibility in the financial year. They cannot bid for extra resources to the Executive or the Assembly, so there is no recourse for

local government but to cut services. We felt that we had to take the opportunity to protect vulnerable councils and ratepayers. A number of members of the Committee, including those on the opposite Benches, found that cutting the support to vulnerable councils in the west was totally unacceptable.

Therefore, the Committee took the decision to bring the issue to the Floor of the Assembly so that we can air our concerns and express our serious reservations about it.

In conclusion, any reductions to the grant should be carried out at the start of the year, and councils can then cut their cloth accordingly. The intention of the amendment is to ring-fence the grant once it has been agreed. It will bring certainty to the process for local government and for everybody concerned. Sinn Féin supports the amendment. Go raibh maith agat.

### 3.30 pm

#### **The Minister of the Environment (Mr Poots):**

I have given careful consideration to the amendment proposed to the rates support grant, which is currently called the resources element of the general grant by the Chairperson of the Committee for the Environment. It is reflective of recent correspondence between my Department and councils, in the wake of the reduction to the funding for the grant in July 2010.

I have considered the amendment, which seeks to protect from in-year reductions the funding for the rates support grant to councils. In the current financial climate, when we face significant reductions to the levels of public funding, there remains a degree of uncertainty in respect of what funding will be available for the delivery of vital public services. Therefore, I cannot support the amendment.

The setting of budgets and allocations is part of a wider budget process, and rates support grant funding cannot and should not be automatically exempt from that overarching process. In practical terms, the amendment is overly restrictive and financially imprudent, impairing my Department's freedom to manage the effects of changing financial circumstances over all its business areas by exempting any one area of spend from the cuts during the financial year.

I will give a brief history of what happened in the last year. Our Department had its funding set for the year and had no intentions of making

any cuts to councils or anybody else. However, lo and behold, we got a new Government — the Conservative/Liberal Democrat Government. The franchisee — the Ulster Unionist Party — is to my right, and the Alliance Party, a Member of which was speaking a moment ago, is the sister party of the Liberal Democrats. They imposed the cuts on the councils and the people of Northern Ireland, not this Department.

Some Members spoke in a very hypocritical fashion about the cuts to the councils when it was their sister parties that imposed those cuts on the people of Northern Ireland. They should hang their heads in shame for the stance that they are taking on this issue. We, the people of Northern Ireland, have to bear the cuts that they have imposed on us. The SDLP cannot get away with it either because it is the sister party of the Labour Party, and it was the Labour Party that got us into this financial mess. If Mr Kinahan wishes to look at the record, he will identify that his party's MP voted more often with the Labour Party than the DUP ever did. We were the real opposition in Westminster.

The impact of the cuts on our Department was 6%. We had a meeting with representatives from the councils, and officers from Ards Borough Council told us that the impact on their council was 0.27% of its overall budget. Strabane District Council was worst affected at 1.12%. Derry City Council was also represented, and we were told that the impact on it was 0.23% of its budget. Does anybody here want to make a rational argument as to why any of those councils could not absorb that degree of a cut within the year when we as a Department were cutting by 6%?

If Members go into the Lobbies to vote in favour of the amendment, they will be saying that it is a good idea to cut the road safety budget and the budget on environmental regulation, which will potentially put us into a position of infraction proceedings, but it is not a good idea to ask councils or local government to share some of the burden that is involved here.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Will the Minister give way?

**The Minister of the Environment:** I will give way in a moment.

I mentioned that Derry City Council's reduction was 0.23%. A Member submitted a question to

me about staff who are paid more than £50,000 per annum. Derry City Council has 21 members of staff who are paid more than £50,000 per annum.

Compare that with Lisburn City Council, which is actually larger: only six members of its staff are paid over £50,000 per annum. With regards to budget, it would be extremely easy for some councils to find the necessary finance in-year. A great deal of fat exists in local government, and councils are quite capable of absorbing the miniscule cuts asked of them. I am happy to give way.

**The Chairperson of the Committee for the Environment:** I thank the Minister for giving way. I must challenge him on his point that it is a good idea to cut the road safety budget. Minister, it is up to you to outline your budget. The Committee will scrutinise it. The buck stops with you with regard to what you bring forward. If you suggest that the road safety element of the budget will be cut, that is up to you. However, the Committee will challenge that. At no point did I, or any other Member, say that it was a good idea to cut the road safety budget. Go raibh maith agat.

**The Minister of the Environment:** I certainly did not say that it was a good idea to cut the road safety budget in-year. I said that if my Department is asked to find funding and it excludes one element of its budget, that puts an onus on the rest of the Department. Therefore, it is you people who will walk through the Aye Lobby to support the amendment who will be saying that it is OK to cut the road safety budget.

Just imagine if there were another crisis in health that was even more significant than swine flu, that a call was made to Departments to find funding to support the Department of Health and that a future Minister of the Environment said: "I cannot cut a particular element of my budget, so you can count me out". Would Mr Farry's party say that it was a good idea to cut the budgets for policing and the Prison Service but not the budget for local government to support the Department of Health in such a crisis? God forbid that republican terrorists actually achieved something and caused real damage in the community, and the Assembly had to put significant funding into policing. Would the Department of Health, which Mr Kinahan would

want to defend, have to stump up money to support the Department of Justice while local government would not have to do so? Members, you really must look at the matter logically instead of trying to score political points that will not benefit the public or ratepayers in the long term.

**Mr Kinahan:** The Minister is missing the point. There is fat in councils that needs to be cut. Minister, you are playing politics by asking Members whether we want to see this or that cut. Cuts could be made in plenty of areas. What Members are trying to get across is that although councils have ways of making in-year cuts, you will not see that happen until the end of the year. Therefore, why not wait until the end of the year and budget properly for the following year? Councils could make cuts where possible out of fat in the middle of the year and budget correctly for the next year. That would, therefore, be only a short stop-gap for six or nine months. That could be done easily.

**Mr Deputy Speaker:** Before the Minister responds, I remind Members that they must make all comments through the Chair: the only "you" in the Chamber is me. *[Laughter.]*

**The Minister of the Environment:** Thank you very much, Mr Deputy Speaker. The longer the debate goes on and the more I make my case, the more pathetic, perverse and stupid I find the arguments in favour of the amendment. The Assembly should not go down that route; it is not good legislation.

It is difficult to change one's position after one has stated it publicly. However, I ask Members to reflect that if they do that and the Assembly faces a future crisis or the Tory/Liberal Government go the way of the Fianna Fáil/Green Government in the South and has to introduce several Budgets in one year and impose cut after cut, are Members really saying that only local government should be exempt? Are we saying that the Department of Health, the Department of Justice and the Department of Education are not exempt and nor is any other Department? Are we saying that we can cut their budgets but that the only budget we cannot cut is that for local government?

I will go through the list of cuts: 0.22%; 0.23%; 0.5%; 0.58%; 0.27%, and so on. They are miniscule; they could easily be absorbed. Any council that has not put in place a prudent

finance regime to absorb such cuts in one year should question its finance officer.

All of the councils were well capable of absorbing it, and the piece of legislation that is being proposed through the amendment is damaging to good governance, and Members should reflect on that.

**The Chairperson of the Committee for the Environment:** Go raibh maith agat, a LeasCheann Comhairle. Following that soapbox effort, I will try to bring some sense into what we are trying to do. I will go through Members' comments, and I will leave the Minister's comments to the end so that we can see exactly what he was trying to explain to the House.

Mr Weir talked about the problem with the amendment. He said that ring-fencing could not be done from a legislative point of view and that, perhaps, it was not good practice. He sat on the Committee with me for the past four years, so I will not be bringing up anything about legislation. It is up to the House to legislate, and there will be an opportunity to change that at any time. I want to take that a wee bit further. In a couple of years' time, when there is a proper transfer of powers to local councils, they can look at their budgets and implement them in whatever way they wish.

Mr Weir also talked about local government being sacrosanct. He must have had a bit of a rehearsal from the Minister, because he mentioned road safety. The Environment Committee has been very strong in supporting money for road safety and rolling out the road safety programme. The Committee will not support reducing money for road safety, and it should not be used as an argument in the House. The Minister mentioned taking away money from road safety to give to councils. That is not the argument.

Mr Weir also said that it was good practice not to have in-year cuts. In the Assembly, there is, at least, an opportunity through the monitoring system to recover some moneys. Councils, however, strike their rate and set their programme for the year at the start of the year; they get only one crack at it. The Minister's suggestion about having that is a wee bit unfair.

Mr Weir also talked about flexibility. Flexibility is OK within central government, but they do not have it at local government level.



Mr Kinahan talked about how vital the funding is for local councils. He also gave examples of what has happened in his council area. I agree. His main argument related to the fact that this whole thing is about trying to protect in-year cuts. Minister, your colleague Mr Weir mentioned tsunami. I know that your budget is not one of the biggest in the House, but you said that £1 million is a substantial amount of money from your budget to be dished out to councils on a yearly basis. It is not a substantial amount of money. The actual benefits of that money to the councils are tenfold.

**The Minister of the Environment:** In the past few days, one council that did need it has decided that its chief executive is not being paid enough in this financial year. It has increased the chief executive's wage to over £100,000 a year. That is a rise of over £10,000. It does not seem as if there are starving councils out there, when you see examples of that type of behaviour.

**The Chairperson of the Committee for the Environment:** Far be it from me to comment on an individual council. Obviously, you have had an opportunity to discuss that with councils in recent days. We are trying to secure the funding. It is not the case that any of the councils have said what they need. You are playing politics with it. Maybe you should take a look at trying to run your budgets properly and financially.

**Mr Deputy Speaker:** I remind Members to make their comments through the Chair.

**The Chairperson of the Committee for the Environment:** I am sorry, Mr Deputy Speaker. Mr McGlone talked about the serious implications, especially for deprived areas. I think that he is right in what he says about deprived areas. That is an issue in itself. Not all of us come from affluent areas such as north Down, as Mr Weir does. I think that there is good support for what Mr McGlone said. He also spoke about employment opportunities on projects in the community. That would have an impact in local areas.

### 3.45 pm

Mr Farry once again spoke very well, and his main point, which is an important one, was about working in partnership. That is an issue that we should be looking at. Mr Willie Clarke clearly outlined what the amendment is about. It is about ring-fencing money at the start of the

year to give the councils an opportunity to set their own budgets.

Then the Minister spoke, and went into a political rant. Maybe he is trying to indicate that all Members should go home, look in the mirror and say that we are all stupid. He referred to the House and asked whether we are all stupid, or words to that effect. Minister, maybe you should look to your own budgets. It defies argument to say that the amount is miniscule in relation to council budgets. If that is the case, why are you so concerned about giving out so little money?

**Mr Deputy Speaker:** I remind the Member to address his remarks through the Chair and not across the Chamber.

**The Chairperson of the Committee for the Environment:** Sorry, Mr Deputy Speaker; OK. I would like to think that the Members of the House will see a bit of common sense, support the amendment and give local councils the opportunity to properly outline their budgets for the year.

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

*The Assembly divided: Ayes 53; Noes 33.*

### AYES

*Ms M Anderson, Mr Armstrong, Mr Attwood, Mr Beggs, Mr Boylan, Mrs M Bradley, Mr PJ Bradley, Mr Brady, Mr Burns, Mr Butler, Mr Callaghan, Mr W Clarke, Rev Dr Robert Coulter, Mr Doherty, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Ms Gildernew, Mrs D Kelly, Mr G Kelly, Mr Kennedy, Mr Kinahan, Mr Leonard, Ms Lo, Mr Lyttle, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr McCallister, Mr F McCann, Mr McCarthy, Mr McCartney, Mr B McCrea, Mr McDevitt, Mr McElduff, Mr McFarland, Mrs McGill, Mr McGimpsey, Mr McGlone, Mr M McGuinness, Mr McKay, Mr Murphy, Mr Neeson, Ms Ní Chuilín, Mr O'Dowd, Mr O'Loan, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Mr K Robinson, Ms Ruane, Mr Sheehan .*

*Tellers for the Ayes: Mr Boylan and Mr W Clarke.*

### NOES

*Mr S Anderson, Lord Bannside, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr Craig, Mr Easton, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr McCausland, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray,*



Mr Newton, Mr Poots, Mr G Robinson,  
Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey,  
Mr Weir, Mr S Wilson.

*Tellers for the Noes: Mr T Clarke and Mr Ross.*

*Question accordingly agreed to.*

**4.00 pm**

**Mr Deputy Speaker:** Amendment No 4 is a paving amendment for amendment No 6.

*Amendment No 4 made: In page 9, leave out lines 33 to 35. — [The Minister of the Environment (Mr Poots).]*

**Mr Deputy Speaker:** Amendment No 5 is a paving amendment for amendment No 12.

*Amendment No 5 made: In page 9, leave out lines 40 and 41. — [The Minister of the Environment (Mr Poots).]*

*Amendment No 6 made: In page 10, line 5, at end insert*

*“(9A) A council shall give the Department such information for the purpose of the calculation mentioned in subsection (5), at such time and in such form as the Department may determine.” — [The Minister of the Environment (Mr Poots).]*

*Clause 27, as amended, ordered to stand part of the Bill.*

*Clauses 28 to 31 ordered to stand part of the Bill.*

**Clause 32 (Allowances for chairman and vice-chairman)**

*Amendment No 7 made: In page 12, line 9, leave out “chairman” and insert “chairperson”. — [The Minister of the Environment (Mr Poots).]*

*Amendment No 8 made: In page 12, line 10, leave out “vice-chairman” and insert “vice-chairperson”. — [The Minister of the Environment (Mr Poots).]*

*Amendment No 9 made: In page 12, line 12, leave out “chairman or vice-chairman” and insert “chairperson or vice-chairperson”. — [The Minister of the Environment (Mr Poots).]*

*Clause 32, as amended, ordered to stand part of the Bill.*

*Clauses 33 to 38 ordered to stand part of the Bill.*

**Clause 39 (Public appeals)**

*Amendment No 10 made: In page 14, line 28, leave out “chairman” and insert “chairperson”. — [The Minister of the Environment (Mr Poots).]*

*Amendment No 11 made: In page 14, line 29, leave out “chairman” and insert “chairperson”. — [The Minister of the Environment (Mr Poots).]*

*Clause 39, as amended, ordered to stand part of the Bill.*

*Clauses 40 to 42 ordered to stand part of the Bill.*

**Clause 43 (Regulations)**

*Amendment No 12 made: In page 16, line 20, at end insert*

*“(2) Regulations and orders under this Act may contain such incidental, supplementary, consequential, transitory or saving provisions as the Department thinks necessary or expedient.” — [The Minister of the Environment (Mr Poots).]*

*Clause 43, as amended, ordered to stand part of the Bill.*

*Clauses 44 to 48 ordered to stand part of the Bill.*

**Schedule 1 (Minor and consequential amendments)**

*Amendment No 13 made: In page 18, line 18, at end insert*

*“The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)*

*5A. In Schedule 4 (restrictions on disclosure of information), in the definition of ‘chief financial officer’ in paragraph 7(3), for ‘148(1) of the Local Government Act (Northern Ireland) 1972’ substitute ‘42 of the Local Government Finance Act (Northern Ireland) 2011’.” — [The Minister of the Environment (Mr Poots).]*

*Schedule 1, as amended, agreed to.*

*Schedule 2 agreed to.*

*Long title agreed to.*

**Mr Deputy Speaker:** That concludes the Consideration Stage of the Local Government Finance Bill. The Bill stands referred to the Speaker.

## **Waste and Contaminated Land (Amendment) Bill: Final Stage**

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

*That the Waste and Contaminated Land (Amendment) Bill [10/09] do now pass.*

I do not intend to rehearse the provisions of the Bill in detail. Instead, I simply remind Members that the main purpose of this important Bill is to legislate for a partnership approach between the Department of the Environment and the local government sector in dealing with illegal waste activity in Northern Ireland.

The Bill provides the Department and councils with the legislative authority to deal effectively with fly-tipping and waste, and it strengthens the enforcement powers of departmental and council officials. In addition, the Bill makes necessary amendments to existing legislative provision for the introduction of a contaminated land regime in Northern Ireland, mainly to reflect lessons learned through operational experience in England and Wales, and a minor amendment to the Producer Responsibility Obligations (Northern Ireland) Order 1998 to provide an inclusive definition of the Department's powers of entry and inspection.

The Bill was introduced in the Assembly on 22 March 2010 and completed its Committee Stage on 4 November 2010 with the production of the Committee for the Environment's report. I take this opportunity to thank the Chairperson of the Committee and the other members for their detailed scrutiny of the Bill and for the recommendations contained in their report. I am glad to say that I was able to take those recommendations forward as amendments at Consideration Stage. I also thank Members for their very helpful contributions to the debates on the Bill throughout its passage in the Assembly.

The Bill is sound and effective. However, I recognise that legislative change alone will not solve the problem of illegally deposited waste in Northern Ireland. The respective roles of my Department and councils in dealing with fly-tipped waste also need to be established. Otherwise, even after the enactment of the Bill, there will simply be confusion about who does what. Therefore, I advise Members that my Department is consulting the local government sector on a fly-tipping protocol, which will set out clearly the responsibilities of the Department

and councils. I also wish to reinforce previous commitments that I gave to the Committee: I do not intend to commence the relevant provisions until the fly-tipping protocol is in place.

In conclusion, although it is clear that there is further work to be done, I believe that the Bill will build on previous legislative provision to help to combat the serious problem of illegal waste activity in Northern Ireland. I commend the Waste and Contaminated Land (Amendment) Bill to the House.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee for the Environment, I welcome the Final Stage of the Waste and Contaminated Land (Amendment) Bill. The process has taken a long time to get to this point, but, hopefully, the Bill will prove fruitful for the Department and, most importantly, for the people of the North of Ireland, when it goes on to the statute books and is implemented.

On behalf of the Committee, I wish to thank the departmental officials and the Minister for the close working relationship that we maintained throughout the passage of the Bill. That helped in no small way to ensure that we reached a successful conclusion. I also thank the Committee staff, who worked tirelessly on the Bill. Having looked at the Committee's entire legislative programme for the current session, I am sometimes amazed that we managed to complete anything, but with the assistance and guidance of the staff, we achieved our goal, and I am grateful to them. I am sure that I speak on behalf of all Committee members on that matter.

The Waste and Contaminated Land (Amendment) Bill will, undoubtedly, contribute to the continuing work to address waste problems in the North. I remind Members that the Committee made six recommendations following its detailed scrutiny of the Bill, and the Minister incorporated four of them as amendments. They related to: the level of fines for fixed-penalty notices; the power to alter the amount of the fixed-penalty notices; the powers of entry and investigation; and appeals against remediation notices. Those are important aspects of the Bill and, as I indicated during Consideration Stage, they are a clear recognition of how legislation can be enhanced for the greater good when scrutinised in a fair and objective manner.

However, it is fair to say that the Committee's key focus was on the need for a partnership approach between the Department and local councils to tackle illegal waste activity. Members, many of whom are or have been councillors, are aware that the delegation of powers to local councils does not always come with the commensurate increase in resources to exercise those powers. Therefore, it was necessary that the Committee spend some time teasing out that issue.

The requirement for an agreed protocol between local councils and the Department is particularly important to the Committee. The Committee acknowledged that such a protocol could not be addressed on the face of the Bill, but it is of such importance and, in the Committee's opinion, so fundamental to the successful implementation of the Bill, that I must refer to it. Let me emphasise that I mean an agreed protocol and not one produced by the Department, or that is in the interests of, or for the benefit of, the Department. A protocol agreed between councils and the Department will have much more resonance than one that is foisted on councils by the Department. The Committee believes that that is part and parcel of a transparent, partnership approach and a necessity for the delineation of responsibilities. Who does what, and under what circumstances, is a refrain that we hear time and again, and the Committee hopes that the protocol that is out for consultation will ultimately address this issue and make it clear to local authorities, representatives and most importantly citizens, just who has responsibility for clearing up illegally dumped waste. The Committee also hopes that this will not result in buck-passing by the Department and councils, and that a collaborative approach can be established and maintained to enhance the prevention, clean-up and overall enforcement of the Bill's provisions.

Only last week, near but not in my constituency, I hasten to add, citizens and councils were in confusion over who should address the problem of illegally dumped turkey parts. All that citizens wanted was that the revolting and stinking waste was removed, yet that responsibility appeared to be being passed from pillar to post, from the NIEA (Northern Ireland Environment Agency) to the council, with neither willing to take responsibility for solving the problem, never mind trying to find out who had caused it.

I hope that the Bill will provide clarity in future problems of that kind. As I said when speaking on the Bill, the Committee would like the Minister's commitment that those aspects of the Bill that relate to the enhanced waste-monitoring functions of local councils will not be enacted until the protocol has been agreed with them.

Related to the protocol is the need for guidance on a range of issues. The Committee became aware of a lack of clarity on issues such as the different approaches needed in handling domestic and commercial waste; dealing with hazardous waste; waste dumped on land that is unregistered or unoccupied; and that ever-difficult issue, landowner liability. The Committee hopes that those issues will be addressed through clear and unambiguous guidance or will be stated clearly in the agreed protocol.

The Committee is confident that the Bill has the potential to make a significant impact on how we manage illegally dumped waste. In an era of austerity, this potential can be realised only by collaboration between councils, relevant bodies and the Department. On behalf of the Committee, I am pleased to support the Bill. Go raibh maith agat, a LeasCheann Comhairle.

**Mr Kinahan:** I, too, congratulate the Minister, the Department and those colleagues on the Committee — who were there for much longer than me — in pulling the Bill together and getting it this far. I look forward to seeing it working for the councils.

I spent two and half hours yesterday walking around a river in my neck of the woods where fish had been killed through another spill. We have to get the point across to some people that they cannot pollute our natural resources, and that those who do so will have to be punished.

Therefore, I welcome that the Bill allows us to fine people and means that councils can issue fixed-penalty notices. As usual, there is a "however". I raised this point with the Minister at various times this week. Councils must be given the necessary guidance on how to act quickly when working with fixed-penalty notices so that we do not have delays and long arguments over whether it is legally possible to do something and so that all councils are acting in the same manner. The fly-tipping protocol is a very clever mechanism, and I look forward

to seeing it in place. I know that it will be implemented as soon as it can be.

#### 4.15 pm

I want to talk today about the matter that I raised in my amendment at Consideration Stage, which was on the quality of recycled waste. I am very disappointed that the Bill's remaining legislative stages have occurred so quickly after the Christmas recess. We discussed the issue of the quality of recycled waste in Committee and decided not to proceed with the amendment. Since then, however, we have been lobbied a bit stronger and a bit harder. From a European point of view in particular, we need some form of recycling standard, and we need to find a way, which must be affordable, for that standard to fit councils. As we see in a piece on the BBC website's science and environment pages, a large amount of our waste is of a low standard. As a result, instead of going off to be recycled, it is going into landfill, which goes against every other target that we are trying to meet. Today, therefore, I am asking the Minister whether he will try to find some way of introducing measures that will allow us to have standards in recycling. I fully support the rest of the Bill and congratulate everyone on their good work.

**Mr McGlone:** Go raibh maith agat, a LeasCheann Comhairle. Thank you, Mr Deputy Speaker. I thank the Minister and his officials, along with, of course, the Committee staff, for the work that they have put into the Bill.

I support and welcome the Bill. I must confess that when Mr Kinahan introduced in Committee the issue of the quality of recycled waste, I was a bit blinded by it. I was not fully aware of what the issue was. However, I subsequently took some soundings. The quality and standard of recycling done by many of our councils — how they recycle and the huge investment that they put into it — is probably second to none. In fact, I am sure that the Minister could refer to the site at Magherafelt in the Mid Ulster constituency, which he has visited.

However, on foot of the information that I received from businesses in the sector about the quality of recyclables that are provided to them to churn out quality recycled materials, it is extremely important that we learn from the report that emerged on 13 January and that is available on the BBC website. If it is not fully sighted of it, a copy of the document by the

Institution of Civil Engineers (ICE) has been provided to the Department. The article on the website states that councils in Britain:

*“are focusing too much on the quantity of recycling rather than quality.”*

That is the very issue that Mr Kinahan raised in Committee. The article continues:

*“This is tending to produce a poor-quality stream of recyclable material. Because of this, the lower-grade material sometimes has to be sent to landfill”,*

which is becoming a self-perpetuating problem, with increased loads going to landfill.

The report states that the waste industry has to change its culture so that the focus is not only on increasing the quality of recycled materials but on retaining the quality and value of reusable materials. In fact, the report goes on to say that that syndrome, as the BBC article refers to it, is particularly acute with paper recycling. One of the main paper mills in the UK has been rejecting some British recycled paper because shards of glass in the paper have been tearing the mills.

We need to see more action on the quality control of materials that are coming to be recycled. We were not successful with the amendment, which, in fact, was withdrawn, but the Department needs to have some sort of oversight role to drive up standards, to ensure that recycling goes on and to ultimately ensure that more waste does not wind up in landfill, thereby incurring further costs for ratepayers and the rest of us.

I think that the Department has a key role to play in driving up and helping to monitor standards. It also has a key role to play in making sure that there is another tier of quality assurance. As we heard at the Committee, it is not enough to leave the matter to the regulation of the market. However, we do not need to go into that. It is not enough to get the material on the nearest boat to China. However, it is important that the Department, as the Department of the Environment, drives up those standards and ensures that recyclables are there, we have quality rather than quantity and we do not see a repeat of what has emerged from the report of the professionals in Britain.

I support the Bill, and I thank the Minister for the time that he has spent on it. I look forward



to the full implementation of the Bill, with those riders.

**The Minister of the Environment:** I thank the Members who participated in the debate. I will deal with a number of the issues that arose.

The first is the implementation of the legislation in advance of the fly-tipping protocol being put in place. I made it clear previously that the fly-tipping protocol needs to be agreed so that it can be put in place in conjunction with this piece of legislation. Therefore, although we do not want to hold the legislation back, which I do not think will be necessary, there will be an imperative to have the fly-tipping protocol agreed so that we can move forward on that basis. Partnership between us and local authorities is needed to ensure that waste and contaminated land is dealt with more effectively and on a sound basis so that, in future, we can hold our heads up high in how we do things.

The quality of recyclables was also raised. That is an area where we should not put the cart before the horse. We have particular targets to meet. However, I do not want just to meet those targets, I want to exceed them, because that drives value for money. We can move to recycling 50% of waste, and we can go beyond 50%. The gap between the material that is recycled and that that goes to landfill is made up with energy from waste. It would be considerably cheaper for us to maximise the amount of material that is recycled before we go down the route of getting energy from waste.

Significant investment will be required to ensure that we reduce the amount of material that goes to landfill, which is the least desirable option. However, although I support getting energy from waste, considerably more can be done in recycling. We will look to exceed the target by a further 20% and to move it up from 50% to 60% by 2020. We are not letting the EU guide us in this matter; we are being guided by common sense and our own research.

The quality of recyclables will be an important issue. There are two elements to the quality of recyclables. The first is that it will be maximised if the public source-separate the material. The second element is that a fairly significant quality can be achieved if the right machinery and equipment is used to separate material that comes into a plant in a co-mingled fashion. The market is not going to accept rubbish. It has been pointed out, for example, that mills are

refusing to accept paper that is contaminated with glass. That type of material is of no benefit to anyone. Therefore, the market will resolve a lot of the issues itself. If the material cannot be sold, it does not have a value and will have to be sent to landfill. There is no point taking in material in the first instance if there is no economic use for it.

I am still very keen to drive forward what we are doing in recycling. I think that it is the right thing to do. We should be headed towards recycling a significant quantity of material — around 60%. We need to encourage business. If business knows that it is getting the material, it also knows that it can invest in good quality equipment to separate and divide it.

There may still be room for that source-separated material as well. If those businesses are competitive, I have absolutely no doubt that they will still be around, and I would very much like that to be the case. However, it is a competitive marketplace, and rather than trying to impinge on that, we must allow the market to find the point from which it can exercise its own values.

I welcome the fact that the legislation has reached this point. As Members know, my Department is responsible for about a quarter of the legislation that will go through the House during the remainder of this session. I will now have one less Bill to contend with. I greatly appreciate that, as I appreciate the support of the House in bringing the Bill to this stage.

*Question put and agreed to.*

*Resolved:*

*That the Waste and Contaminated Land (Amendment) Bill [NIA 10/09] do now pass.*



## **Commissioner for Older People Bill: Royal Assent**

**Mr Deputy Speaker:** I inform Members that the Commissioner for Older People Bill has received Royal Assent. The Commissioner for Older People Act (Northern Ireland) 2011 became law on 25 January 2011.

## **Student Loans (Amendment) Bill: Royal Assent**

**Mr Deputy Speaker:** I inform Members that the Student Loans (Amendment) Bill has received Royal Assent. The Student Loans (Amendment) Act (Northern Ireland) 2011 became law on 25 January 2011.

## **Tourism (Amendment) Bill: Royal Assent**

**Mr Deputy Speaker:** I inform Members that the Tourism (Amendment) Bill has received Royal Assent. The Tourism (Amendment) Act (Northern Ireland) 2011 became law on 25 January 2011.

## **Energy Bill: Final Stage**

**The Minister of Enterprise, Trade and Investment (Mrs Foster):** I beg to move

*That the Energy Bill [NIA 23/09] do now pass.*

As I said at Second Stage, the Energy Bill is intended to update the current legislation applying to the natural gas sector in Northern Ireland to enable that sector to benefit from the policies and legislation that have already been successfully implemented in the electricity sector. The Bill's other main purpose is to create a special administration scheme applicable to gas and electricity sectors.

I want to take a few minutes to provide a brief overview of the key provisions contained in each of the main parts of the Bill. First, the Bill will introduce guaranteed standards of performance for gas companies, and those will provide customers with specific, measurable, achievable, reliable, and, indeed, timely standards to gauge the level of service being provided by different natural gas companies. Guaranteed standards will help to create a level playing field for customer standards and make it easier for customers to compare competitive offers.

Secondly, the Bill will establish a criminal offence of damage to gas plants. That will cover anyone who intentionally or recklessly damages, or allows to be damaged, gas equipment used for conveying, storing or supplying gas and will include, for example, tampering with a gas meter. The Bill will also allow gas companies to disconnect premises and/or remove gas meters when an offence has been committed.

Thirdly, the Bill will make provision for deemed contracts between gas companies and customers. Such a contract will exist between a consumer and a gas supply company where no written or verbal agreement has been exchanged, for example, when a change of tenancy occurs, and someone moves to a different property. Where a contract has not been expressly agreed, a deemed contract will provide a sound and binding basis for suppliers to supply customers, and it will provide them with a clear basis on which to charge for that supply.

Fourthly, the Bill will extend the powers of entry for gas companies to enter premises where, for example, meter tampering is suspected.

At present, gas companies here are allowed access only when checking meters and other fittings in the event of an identifiable danger to life and property, such as a gas leak.

Fifthly, the Bill will clarify the meaning of “store” for the purposes of existing gas storage provisions in the Gas (Northern Ireland) Order 1996. The provision will clarify that, for the purpose of the Order, it is only the operator of a gas storage facility, not the user, who stores the gas.

A further clause relates to the appointment of meter examiners and provides for the Utility Regulator to delegate gas meter stamping and testing functions, as necessary, to an appropriate body that is best equipped to perform such tasks, for example, the National Measurement Office.

Finally, the Bill will provide for the introduction of a special administration scheme for the natural gas and electricity industries in Northern Ireland. That will safeguard supplies to customers by local electricity and gas networks in the event of company insolvency. Each provision presents a positive step forward for the natural gas industry and its customers.

#### 4.30 pm

I thank the Chairman and members of the Enterprise, Trade and Investment Committee for their careful scrutiny of the Bill, particularly their suggestions in Committee that led to some minor amendments that helped to provide clarity. I also thank Members generally. We had a good Second Stage debate on the Bill's progress.

#### **The Chairperson of the Committee for Enterprise, Trade and Investment**

**(Mr A Maginness):** I thank the Minister for moving the Final Stage of the Energy Bill. The Committee welcomes the Bill, which will update the legislation applying to the natural gas sector and enable the creation of a special administration regime applicable to the gas and electricity sectors.

The Committee considered the principles of the Bill to be: first, to safeguard customer interests through the provision of guaranteed standards for performance for gas licence holders; secondly, to provide a sound and binding basis on which suppliers will supply customers where gas supplies are taken in the absence of agreed contractual terms; thirdly, to extend the powers

of entry to premises for gas companies so that they broadly align with the powers available to electricity companies; and fourthly, to help to ensure the interrupted operation of gas and electricity networks through the introduction of a special administration regime relating to network companies that are threatened with insolvency or become insolvent.

The Committee had concerns about the Bill's detail. However, the Minister and her officials addressed most of those concerns to the satisfaction of the Committee during Committee Stage. I thank the Minister and her officials for their attention to the issue.

The Committee, however, was not entirely satisfied that the use of the term “by culpable negligence” in relation to damage to gas plant, which was originally included in clause 10, was wholly appropriate. At Consideration Stage on 13 December 2010, the Minister brought an alternative proposal to the House. The proposal to replace the term “by culpable negligence” with the word “recklessly” was accepted by the House and the Committee.

Irrespective of any disagreement that there may have been, I commend the Bill to the House.

**Mr Cree:** We have had a full and frank discussion throughout the Bill process. I am pleased to say that the Ulster Unionist Party will support the passage of the Bill.

#### **The Minister of Enterprise, Trade and Investment:**

I thank the Chairperson of the Committee and Mr Cree for their support for the Bill. We had a full and frank discussion about some of the issues that came before the Committee, particularly on the topic of “recklessly” versus “by culpable negligence” and what have you. We came to a good place on that issue.

The Bill brings the natural gas industry up to date with the other industries, including electricity, and puts in place the special administration scheme for gas and electricity. I commend the Bill to the House and look forward to support across the Chamber.

*Question put and agreed to.*

*Resolved:*

*That the Energy Bill [NIA 23/09] do now pass.*

**Mr Deputy Speaker:** Members may take their ease for a couple of minutes.

## **Safeguarding Board Bill: Final Stage**

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I beg to move

*That the Safeguarding Board Bill [NIA 25/09] do now pass.*

I am pleased that this important Bill has reached its Final Stage. I introduced it to the Assembly on 8 June 2010, and I believe that the subsequent process of discussions and debate has been extremely productive. I thank the Committee for Health, Social Services and Public Safety and other Members for their careful and detailed scrutiny of the Bill. I will briefly reiterate its main purpose and aims.

The Safeguarding Board Bill will provide a legislative framework for the creation of a new safeguarding board for Northern Ireland, with a safeguarding panel in each of the five health and social care trust areas. That arrangement will, for the first time, bring key agencies from voluntary and statutory sectors together on a statutory basis to safeguard children and promote their welfare.

The Bill provided me with a valuable opportunity to create a more cohesive approach to safeguarding children in Northern Ireland. The Bill will strengthen current arrangements by introducing a statutory duty to co-operate across all agencies involved with children and families and a duty to make arrangements to safeguard and promote the welfare of children.

The Bill also supports a wider safeguarding agenda, which includes prevention and early intervention. It is also about acknowledging and understanding that protecting children is often about helping to address the needs and problems of vulnerable adults and parents whose ability to care for their children has been compromised.

The safeguarding of all children cannot be guaranteed, but a long term, continuous, collective effort is needed. The establishment of the safeguarding board will bring the required change of thinking, practice and culture that will ensure that agencies that work with children and families more effectively discharge their responsibilities to safeguard and promote the welfare of children and to work together to improve outcomes for them.

It is the responsibility of society, communities and individuals to do everything possible to

protect the most vulnerable, especially children. When talking about protecting children, it is only right to acknowledge the hard work and dedication of professionals from the range of organisations involved in their safeguarding. It is not Ministers or MLAs who will make quality judgements about the most appropriate intervention that will make the greatest difference to the life chances of a vulnerable child where such intervention is deemed necessary; it is the professionals at the front line who are properly trained, resourced and motivated. We owe a great debt of gratitude to all those professionals who work to protect children from abuse.

I am very encouraged by the level of consensus that the Bill has enjoyed in the Health Committee and in the House. In addition to the widespread acceptance of the principles of the legislation, there has been a detailed and rigorous scrutiny of its clauses. I thank the Chairperson and members of the Health Committee for their extensive and considered evidence-taking. I also thank those who provided written and oral evidence to the Committee. That resulted in helpful suggestions for amendments and a comprehensive report that was published by the Committee on 25 November 2010. I also wish to convey my thanks to Members for their valuable input and comments during the various stages of the Bill, and to the various agency representatives on the SBNI stakeholder reference group, whose contribution has helped to shape this legislation.

I look forward to giving effect to the legislation and establishing the SBNI. The new arrangements are an important step forward, and we should seek to use this important opportunity to build on the best and look to the future. The safeguarding board will operate in a challenging environment that will require member agencies to work together against a background of diminishing investment and competing priorities to deliver a brighter and safer future for all our children.

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

**(Mrs O'Neill):** Go raibh maith agat, a LeasCheann Comhairle. On behalf of the Committee, I welcome the Final Stage of the Bill. The Bill is timely and welcome. Having looked closely at it and what it has to offer, the Committee is confident that it will take

us a significant step forward in strengthening safeguarding arrangements and hence protecting our children and young people. It will do that by placing a fundamentally important part of child protection and its workings on a statutory footing through the creation of a safeguarding board, the SBNI.

The purpose of the safeguarding board is to co-ordinate and ensure the effectiveness of all organisations that are involved with children and to promote the welfare of children. It will replace a number of structures that were previously known as the area child protection committees. It appears that those committees, although well meaning, had no real teeth or focus. Their lack of legislative basis meant that they sometimes struggled to move forward. The Bill will obviously correct that situation.

The Bill has been significantly improved and strengthened because of the amendments that the Health Committee persuaded the Department to make. The Committee's detailed scrutiny led to it recommending that the Department amend 10 of the 17 clauses. I thank the Minister for the co-operative approach, which he recognised in his contribution, and for taking on board the Committee's recommendations.

A number of the amendments that were made deserve particular mention because of their importance to the Bill. An amendment was made to clause 3(7), which concerns communication between the safeguarding board and children and young people. This was an issue on which the Committee received many representations. The majority of stakeholders, particularly the children's charities, were concerned that the clause was originally drafted in too weak a fashion and did not go far enough to ensure that consultation with children and young people will take place in a meaningful way. To some extent, the Committee was reassured by the Department's explanation that it will draft detailed regulations that set out how the SBNI must consult with children and young people. However, we still wish to see the wording strengthened on the face of the Bill. After much discussion, the Department agreed to remove the phrase "take reasonable steps to", and the Committee believes that that amendment significantly shores up clause 3.

Another important amendment was to clause 3(9)(c), which deals with publications of the

SBNI. The clause caused serious concern for many of the groups that the Committee heard from, including Children in Northern Ireland, the Parents Advice Centre, the NSPCC, the Children's Commissioner, Barnardo's and others. There was a fear that it could be used by the Department to have a potential veto on the SBNI's functioning and independence and to suppress critical reports. After much discussion, the Department agreed to amend clause 3(9) (c) as proposed by the Committee by using the term "consultation" rather than "approval". That is a significant change to the Bill, and it will ensure public confidence in the SBNI's independence and ability to take on the role of being a critical friend to the Department.

The Committee is delighted to see the Bill come to its Final Stage. The protection of children is everyone's business, and the Assembly can congratulate itself on getting this Bill onto the statute books before the end of this mandate. Go raibh maith agat.

**Mr Deputy Speaker:** I call John McCallister.

**Mr McCallister:** Thank you, Mr Deputy Speaker — *[Interruption.]*

That was a quick return. I congratulate the Minister on moving the Final Stage of the Safeguarding Board Bill. It is no surprise that the Minister has managed to successfully navigate this significant piece of reform through the legislative process of the Assembly, but he should be commended on his achievement. I also place on record my thanks to my Health Committee colleagues, who have worked together very well and contributed greatly to shaping and improving the Bill where necessary. They certainly have an important role of scrutinising the legislation.

The safety and protection of children and young people has long been recognised by Government as an issue of paramount importance. The Executive are breaking new ground to ensure that some of the historical abuses that have come to light in recent years do not happen again. To that end, I congratulate the entire Executive for agreeing to hold an inquiry into historical institutional abuse in Northern Ireland.

**4.45 pm**

As we head into this difficult budgetary period, how we invest in and protect our children must be a measure of the type of government and



society that we want to have in the future. Therefore, setting up a statutory safeguarding board that is focused on interdepartmental, inter-professional, and inter-agency co-operation, with an emphasis on prevention and keeping children safe is a significant achievement for the Minister, the Executive and the Assembly.

In recent years in this place, we have heard much talk about, and emphasis has been placed on, early intervention and prevention to help children in our society and ease pressure on institutions. However, despite much talk, very few Departments have actually delivered meaningful change. Today, the Minister is bringing legislation before us that, when it completes its passage, will make meaningful change to children and vulnerable families.

The objective of the safeguarding board for Northern Ireland, apart from securing statutory provision, will be to co-ordinate and ensure the effectiveness of what each person or body represented on the board does to safeguard and promote the welfare of children. The body will promote awareness and the need to safeguard the welfare of children. It will keep under review the adequacy and effectiveness of its member agencies and it will undertake improvements to provide information for the safeguarding board, thus ensuring improved outcomes.

The Bill will improve accountability, with the Minister reporting to the Assembly once a year. It will also give independence and added accountability on child protection issues in Northern Ireland, which should be welcomed strongly on all sides of the House.

Protecting the most vulnerable children is a serious responsibility for the Minister, the Assembly and society. Therefore, I congratulate the Minister again, and I thank colleagues on Health Committee.

**Mr Gallagher:** I welcome the legislation, which will shortly give statutory effect to the new regional safeguarding board. The Minister said something that we all know: there are no guarantees in the protection of children. Nevertheless, the legislation has reached this stage against the backdrop of the increased number of child abuse referrals to the authorities.

A number of high-profile incidents involving injuries and, in some cases, the deaths of young children have piled further pressure on

the hard-pressed, professional people in the health authorities who work so hard to ensure that our children are safe. On behalf of the SDLP, I acknowledge that work. In addition, I thank the staff for their co-operation throughout the Bill's time in Committee, and, of course, I thank the many individuals who gave evidence and the many bodies that work closely on child protection issues.

Concerns were raised at various times, particularly about the independence of the chairperson and members of the new board. There were also issues around the important principle of accountability. Nevertheless, the high level of co-operation among all those involved, particularly between the Committee and the Department, should reassure the community. When issues arose, everybody worked positively and managed to overcome them, which got us to the stage that we are at today, where the Bill marks a significant improvement in the protection of vulnerable children in this community.

**Mr McCarthy:** On behalf of the United Community group in Stormont, I rise to support the very important Safeguarding Board Bill. I pay tribute to the staff, the Minister and the Committee for getting us to the Final Stage. Our children are precious and must, at all times, be loved, nourished and protected. I, like every man and woman here, adore our children and grandchildren. My wife and I are blessed with four beautiful grandchildren: Matthew, Laura and Shay McCarthy and Cara O'Prey. At this moment, Cara O'Prey is running around my wife's feet in Kircubbin. They are all precious and priceless. I am sure that every Member will agree with me.

Every family should welcome the Bill. This is what devolution is about, and it is a good news story. I hope that, after the pelting that our Minister has taken in recent times, he can get on to 'The Stephen Nolan Show' tomorrow and spread the good news. The Bill will protect our children and is coming from the Assembly, of which we are all part. If possible, let us put that story out in the morning.

**Ms S Ramsey:** Go raibh maith agat, a LeasCheann Comhairle. I think that Frank Mitchell might take offence at that; his show is becoming the biggest in this statelet. I agree with Kieran; this is a good news story. We are involved in politics; one minute it is bad, and the next minute it is good. It is good that we can



have a mature debate. I am trying to get back into the Minister's good books for this week.

In all seriousness, I want to take the opportunity to thank the officials, the Minister and the Department. The Bill could have led to clashes between the Committee and the officials, but a mature debate took place. The Bill generated a lot of interest and a lot of concern, and we came to the decision based on the input from the Minister. It shows that when we work collectively on those issues, we can come to agreement.

It is important that we welcome the legislation, because it is about protecting and safeguarding children and vulnerable adults and ensuring that the proper structures are in place. The Minister always goes on and says that he is the only one who implemented the review of public administration (RPA). If we bring new procedures in, it is important that they are designed to ensure that we deal with all the madness that can be out there. Therefore, the Bill is a fundamental and positive response to the whole issue of the safeguarding of children. It offers an opportunity to take a more regional approach to some issues. I do not want to go into past cases, but trusts and other groups sometimes looked only within their own silos and did not take on board issues that could be happening up the road.

I will deal with the specifics. Case management review is provided for in the Bill, and it is important that we focus on the learning and improvements in that regard. One of the main issues that came up was the annual report of the SBNI. The Minister should, in his remarks at the end, outline how he intends to take that forward. Although we want to be as open, transparent and accountable as possible, that issue created some difficulties in the Committee. The people who were involved with the Bill are genuine, so I do not think that it was their intention to cover anything up. However, the more open, honest and transparent that we are, the easier it is for us to do our job.

The work plan for the SBNI will be challenging, and we all have a duty, role and responsibility on that. The fact that that organisation has been set up does not mean that we can all rest on our laurels. It is about a collective partnership. We all have an interest in ensuring that our children are safe at all times, regardless of what they are doing in their lives. Will the Minister confirm whether the SBNI will take a lead role

on developing the North/South work on child protection? I commend him and his Department for taking the issue by the neck — for want of a better phrase — and running with it.

I would hate to see that we had good arrangements in place in the North and that, because of some issues in the South, predators could look at how they could use loopholes in the law.

We will have ongoing discussions on that, but I will end on a positive note by saying that it is a great piece of legislation and it has shown that collective work can and must be done with the community and voluntary sector, with us as legislators and with the people who work at the coalface. When we come together and put our collective shoulders to the wheel, we can come up with the best legislation to protect all children.

#### **The Minister of Health, Social Services**

**and Public Safety:** I thank all Members who contributed to the debate. The progress of the Bill has been assisted greatly by informed and constructive input, both in the House and in the Committee. The Bill's proposals are far-reaching and offer a real opportunity to do things better, to promote innovation, to improve performance and accountability across all the agencies represented and to create a renewed sharper focus on safeguarding children. I reiterate that the Safeguarding Board Bill is not a rebranding exercise. The establishment of a safeguarding board is a serious and radical attempt to improve co-operation and co-ordination between all organisations involved in safeguarding and promoting the welfare of children and to ensure that they are performing their duties effectively. We will now have measures designed to improve interagency co-operation on child protection at the highest level across a range of agencies.

I will comment on some of the points that were made. The board will play an important part in North/South work. Of course, the lead rests with the Department and the Minister through the North/South Ministerial Council, but the board will play an important and invaluable role in promoting child protection.

Concerns were raised about the power to issue directions around the annual report. It is quite clear that, among other things, the regulations will set out that the annual report must include details of any directions that are issued by the Department and a list of reports that are

submitted to the Department for publication, including the date of submission to the Department.

The Bill, as it stands to be voted on by the Assembly, is a clear example of a Minister and a Committee working together successfully with a shared aim of improving safeguarding arrangements for children in Northern Ireland. I will, of course, continue to work with the Committee as we make arrangements to implement the Safeguarding Board Bill and develop the relevant regulations.

In conclusion, I again thank all Members who debated the Bill, whether in the Committee or in the House, for their helpful contributions, considered advice and positive attitude towards this important legislation.

*Question put and agreed to.*

*Resolved:*

*That the Safeguarding Board Bill [NIA Bill 25/09] do now pass.*

## Committee Business

### **Allowances to Members of the Assembly (Repeal) Bill: Further Consideration Stage**

**Mr Deputy Speaker:** I call on Rev Dr Robert Coulter to move the Further Consideration Stage of the Allowances to Members of the Assembly (Repeal) Bill.

*Moved. — [Rev Dr Robert Coulter.]*

**Mr Deputy Speaker:** As no amendments have been tabled, there is no opportunity to discuss the Allowances to Members of the Assembly (Repeal) Bill. 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.

# Private Members' Business

## Caravans Bill: Consideration Stage

**Mr Deputy Speaker:** I call the sponsor, Mr John McCallister, to move the Consideration Stage of the Caravans Bill.

*Moved.* — [Mr McCallister.]

**Mr Deputy Speaker:** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list. There are three groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 3, No 11 and Nos 19 to 25, which deal with residential sites and include amendments relating to the powers of the Department to make orders and successors in title.

**5.00 pm**

The second debate will be on amendment Nos 4 to 10, 16 to 18 and 26, which deal with seasonal sites and include amendments relating to implied terms in seasonal agreements. The third debate will be on amendment Nos 12 to 15, which concern exempting certain land managed by the Housing Executive for use as a caravan site from the requirement to have a site licence.

I remind Members who intend to speak that, during the debates on the three groups of amendments, they should address all the amendments in each group. Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill.

### Clause 1 (Application of this Part)

**Mr Deputy Speaker:** We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2, 3, 11 and 19 to 25, which deal with residential sites and include amendments relating to the powers of the Department to make orders and successors in title.

## The Minister for Social Development

**(Mr Attwood):** I beg to move amendment No 1: In page 1, line 8, leave out “3” and insert “12”.

*The following amendments stood on the Marshalled List:*

No 2: In clause 4, page 3, line 42, at end insert

*“(6) The Department for Social Development shall—*

*(a) not later than 5 years after the coming into operation of this Act, and*

*(b) at least once in every period of 5 years thereafter,*

*review Parts 1 and 2 of the Schedule and determine whether it should exercise the power to make an order under this section.” — [The Minister for Social Development (Mr Attwood).]*

No 3: In clause 5, page 4, line 7, leave out subsections (3) to (5) and insert

*“(3) The following subsections apply where a person entitled to the benefit of and bound by a residential agreement dies at a time when that person is occupying the caravan as that person's only or main residence; and in those subsections—*

*(a) that person is referred to as ‘the deceased’;*

*(b) references to ‘the beneficiary’ of the deceased are to the person entitled to the caravan by virtue of the deceased's will or under the law relating to intestacy;*

*(c) references to ‘a travellers' site’ are to a caravan site provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (caravan sites for members of Irish Traveller community); and*

*(d) a beneficiary of the deceased is a qualifying person if the beneficiary satisfies the Housing Executive that the beneficiary—*

*(i) is a member of the Irish Traveller community (within the meaning of Article 5 of the Race Relations (Northern Ireland) Order 1997); and*

*(ii) intends to occupy the caravan as the beneficiary's only or main residence.*

*(4) The agreement has effect for the benefit of and is binding on any person residing with the deceased at the time of death who is—*

*(a) the surviving spouse or civil partner of the deceased; or*

(b) if there is no surviving spouse or civil partner so residing, a member of the deceased's family.

(5) If—

(a) there is no person falling within subsection (4); and

(b) the agreement relates to a caravan on a caravan site other than a travellers' site,

the agreement has effect for the benefit of and is binding on the beneficiary of the deceased, but subject to subsection (7).

(6) If—

(a) there is no person falling within subsection (4),

(b) the agreement relates to a caravan on a travellers' site, and

(c) the beneficiary of the deceased is a qualifying person,

the agreement has effect for the benefit of and is binding on the beneficiary of the deceased.

(7) A residential agreement does not have effect for the benefit of or bind a person by virtue of subsection (5) in so far as—

(a) it would, but for this subsection, enable or require that person to occupy the caravan; or

(b) it includes terms implied by virtue of paragraph 5 of Part 1 of the Schedule.

(8) In relation to a residential agreement—

(a) any reference in this Part to the owner includes a reference to any person who is bound by and entitled to the benefit of the agreement by virtue of subsection (1); and

(b) subject to subsection (7), any reference in this Part to the occupier includes a reference to any person who is entitled to the benefit of and bound by the agreement by virtue of any of subsections (2) to (6). — [The Minister for Social Development (Mr Attwood).]

No 11: In clause 10, page 7, line 43, at end insert

*"(12) Proceedings for an offence under this section may be instituted by the district council in whose district the site is situated." — [The Minister for Social Development (Mr Attwood).]*

No 19: In the schedule, page 12, line 29, leave out "reasonable" and insert "proportionate in all the circumstances". — [The Minister for Social Development (Mr Attwood).]

No 20: In the schedule, page 12, line 34, leave out "reasonable" and insert "proportionate in all the circumstances". — [The Minister for Social Development (Mr Attwood).]

No 21: In the schedule, page 13, line 1, leave out "reasonable" and insert "proportionate in all the circumstances". — [The Minister for Social Development (Mr Attwood).]

No 22: In the schedule, page 14, line 11, leave out "the rate of 10%" and insert

*"a rate not exceeding 10% of the sale price". — [The Minister for Social Development (Mr Attwood).]*

No 23: In the schedule, page 14, line 15, at end insert

*"(11) In relation to a caravan on a travellers' site (within the meaning given by section 5(3)(c)), this paragraph applies with the omission of—*

*(a) sub-paragraph (9); and*

*(b) in sub-paragraph (10), the words 'Except to the extent mentioned in sub-paragraph (9),' — [The Minister for Social Development (Mr Attwood).]*

No 24: In the schedule, page 14, line 30, leave out "the protected site" and insert

*"any protected site of the owner". — [The Minister for Social Development (Mr Attwood).]*

No 25: In the schedule, page 15, line 5, at end insert

*"or to any amenities on the site". — [The Minister for Social Development (Mr Attwood).]*

All the amendments in this group have the endorsement of the Executive. Members will concur with me that it is appropriate and timely to acknowledge the contribution and resolve of John McCallister in tabling this legislation. He said to me this morning that it has been a labour of love or perhaps more a case of hard labour for the past three years. I indicated this morning that it takes two years to pass legislation through the Assembly from concept stage to Royal Assent. However, in these circumstances, it has taken three years. In the fullness of time, I trust that the legislation, which reflects the will of the Assembly, will be adopted.

*(Mr Speaker in the Chair)*

It is worth commenting that Members who put forward private Member's Bills seem to be single-minded. There seems to be a single-



minded character behind people such as Dominic Bradley, Pat Ramsey, Dawn Purvis, Daithí McKay and John McCallister, all of whom have sponsored private Member's Bills in the Assembly.

I also want to put on record my thanks to the Committee for Social Development, the Committee for Enterprise, Trade and Investment and the Committee for the Environment for their scrutiny of the Bill. In particular, I thank the Committee for Social Development, which led on that scrutiny process. It has been extensive, exhaustive and demanding. I know that because I get copies of the minutes of the Committee for Social Development, and I read them. Any Minister worth their salt will try to anticipate where their Committee is going next. I know how much time and effort was put into and the probing nature of the Committee's inquiry and its consideration of the Bill. I want to acknowledge that and to acknowledge the helpful way in which it dealt with what turned out to be a complex and challenging undertaking.

The Caravans Bill was intended to provide security of tenure for residential caravan owners and improve existing consumer protection for owners of static holiday caravans. That was the concept and the impetus behind the Bill in its original form. However, many Irish Travellers also live on caravan sites, and many of the Bill's protections rightly also extend to them. The Bill was not initially designed with Travellers particularly in mind, and many of the amendments in this group play an important part in ensuring that the Caravans Bill takes proper account of the somewhat different nature of Traveller caravan sites and the somewhat different needs and character of Travellers.

Part 1 of the Bill was designed to provide security of tenure for those who live year round in a static residential caravan on one site. As it stands, Part 1 applies to all residential caravan owners who are entitled to station their caravan on a protected site for more than three months. The amendment to clause 1 will increase that period to 12 months. That is reflected on the Marshalled List. Amendment No 1 to clause 1 reinforces the message that Part 1 is intended to apply only to caravan sites that are designed for long-term residential use, such as private park-home sites and service sites for Travellers that are provided by the Housing Executive, not the transit and emergency halting sites provided by the Housing Executive as temporary

accommodation to support the traditional nomadic Traveller lifestyle. Many Travellers wish to continue to follow that tradition. It is important that that is recognised and supported with the provision of appropriate transit and emergency halting sites. However, that does not fall within the scope and competence of the Bill. Without the amendment, there is a danger that some users of transit sites could seek to inappropriately claim tenure rights on those sites, which could eventually lead to such sites being silted up and unavailable for their original purpose and would, thereby, frustrate the Traveller community in living out its chosen way of life. That would be counterproductive and would, over time, stifle the free expression of Travellers' traditions.

It is important to remember that Travellers on transit sites will enjoy the protections of Part 2 of the Bill, as amended, and that all Travellers on Housing Executive sites will be protected from eviction without due process under Part 3. I want to reassure the House about that. Amendment No 1 has the support of a wide range of stakeholders, including the Committee for Social Development and the Northern Ireland Human Rights Commission.

Amendment No 2 introduces new subsection (6) to clause 4. That amendment was suggested by the Committee, and I thank it for that. The amendment will place a duty on my Department to review the operation of the main provisions of the Bill that relate to the residential caravan sector at least once every five years. In order to understand what that means, I refer Members to Parts 1 and 2 of the schedule to the Bill, which outline matters that are relevant to those who are protected under the Bill's provisions.

Amendment No 3 is needed to ensure that full use can be made of pitches on service sites for Travellers. It is a particularly detailed and lengthy amendment. I refer Members to the Marshalled List. During Committee Stage, the Housing Executive expressed concern about provisions on inheritance of residential Traveller caravan pitches when no one is living with the caravan owner on their death. I believe that that matter occupied and preoccupied the Committee and others for quite a while. The Housing Executive contended that clause 5, as drafted, could mean that, in such cases, a much needed pitch on a service site could remain unused. The amendment would prevent that by allowing any Traveller who inherits a caravan

on a residential site to live on that site. If that person fails to do so, there is a mechanism by which the Housing Executive can recover the pitch. Amendment No 3 also corrects anomalies in the Bill and allows all non-resident inheritors of residential caravans either to sell or gift the caravan and seek to assign the residential agreement.

Amendment No 11 is to clause 10 and inserts new subsection (12). It was requested by the Northern Ireland Local Government Association. I am happy to facilitate its wishes. The amendment will provide district councils with powers to prosecute for offences that relate to illegal evictions from residential caravans sites. That is a core protection for the consumer. Given that councils have a similar role for illegal evictions in the private rented sector, that amendment seems sensible. I have long believed that good law and enforcements create a safety net for persons, families and communities. In that regard, this is consistent with that approach.

Amendment Nos 19 to 21, which are to paragraphs 4, 5 and 6 of Part 1 of the schedule to the Bill, are technical amendments. They were recommended by the Attorney General in light of relevant case law and will ensure that the Bill remains within the legislative competence of the Assembly. Essentially, they replace "reasonable" with "proportionate in all the circumstances".

Amendment No 22 to paragraph 8 of Part 1 of the schedule corrects a drafting oversight and ensures that commission on the sale of a residential caravan is set at a maximum of 10%. I think that the original draft set it at 10%. As the Bill stands, a traveller living on a Housing Executive service site could be required to pay the Housing Executive 10% commission on the sale of their caravan. Given the different nature of traveller sites, that is inappropriate. Amendment No 23 to paragraph 8 of the schedule removes that requirement.

Amendment Nos 24 and 25 are the last amendments in the group. They are designed to provide the Housing Executive with greater scope when it comes to repairing or improving service sites for travellers. The amendments, as Members can read, broaden the range of works for which the resiting of a residential caravan can be sought through the court to include works on site amenities and allow the

site owner to seek the temporary relocation of a caravan to another site in their ownership to facilitate, for example, major repair works. Although both amendments apply to all residential caravan sites, in practice they are likely to be of benefit only to the Housing Executive.

**The Chairperson of the Committee for Social Development (Mr Hamilton):** Before addressing the amendments in this group and with your indulgence, Mr Deputy Speaker, I wish to make some general remarks. However, before I start into those and having looked around the Chamber, may I say that I cannot believe that there are not more Members in the Chamber? I thought that the thought of talking about caravans and the images that that would bring to people of going on holidays would have brought more people in here on a damp and dreary late-January evening to put a bit of cheer into what we do here. There must be more pressing business elsewhere.

When I was elected to this place three and a half years ago, I never thought that I would walk away at the end of the term with such an extensive knowledge of the intricate details of caravans and know the difference between a protected site and an unprotected site. That information will probably reap rewards in some pub quiz in later years. It is the sort of detailed education that I never thought that I would receive in this place.

As the Minister has said, the Committee for Social Development has carefully and seriously considered the Caravans Bill. As the House is aware, Committee members have undertaken a longer than expected Committee Stage, reflecting both the careful scrutiny of the Bill and consideration of the wider consequences of the passage of this private Member's Bill into law.

I thank members of the Social Development Committee for their contribution to the debate in Committee and to the content of the Bill report. As the Minister has acknowledged, you will see the real input of the Committee in many of the amendments that are before the House. I also place on record the Committee's thanks to the sponsor of the Bill for his useful submissions to the Committee, as a non-member of the Committee and, latterly, as a member. I congratulate him on his success in progressing the Bill to this stage. John will be able to testify that I was an early supporter of the Bill. I heartily congratulate him on having the tenacity

to keep at it. I am sure that he will agree that there were many stages when he thought that the Bill was doomed. He might refer to that later. It is a tribute to him that he has been able to keep it going, and I look forward to its passing into law.

I also thank the witnesses who provided such illuminating written and oral submissions and the departmental officials who provided a fast turnaround on some very detailed Committee queries. Sometimes, as we go through various stages of the passage of Bills through the House, we forget about the stakeholders outside the Assembly who take a lot of time to carefully consider their input into the Bill process. Many of the amendments that are being discussed and which will become part of the Bill when passed owe their origins to those stakeholders and their input into the process. Without them, in many respects, we would not be able to do this work.

### 5.15 pm

Owing to the nature of the Caravans Bill, the Committee for Social Development required input from the Committee for Enterprise, Trade and Investment and from the Committee for the Environment. I want to record my thanks to those Committees for their speedy deliberations and timely contributions to the Committee Stage of the Bill. Finally, I thank the staff of the Social Development Committee, who facilitated formal evidence taking, clause-by-clause scrutiny and the production of the Bill report.

I will now make some general remarks about the Bill. Parts 1 and 3 give additional rights and protections to people who use their caravans as their main or sole residence. The rights and protections in question are generally already available to caravan owner-occupiers in the rest of the United Kingdom. Those rights include the provision of residential agreements, the right to quiet enjoyment of a caravan and protection from eviction or the application of unfair contract terms.

The Committee noted that the number of caravan owner-occupiers in Northern Ireland who will be affected by those parts of the Bill is quite small, possibly about 400 individuals or families on some four so-called protected sites. The Committee also noted testimony from caravan site owners that residential agreements and related protection may in some cases already be in place.

Members of the Committee and witnesses at Committee Stage raised concerns about inappropriate management practices in the residential caravan sector. That said, the Committee received evidence from the Trading Standards Service that those cases were exceptional and represented a minority experience for users. I am sure that, in later contributions, some Members, particularly from some constituencies, will talk further about some of those negative experiences. Following the evidence taking and after careful consideration, what Members wanted to see was consistently good management standards in the residential caravan sector. As a means to that end, the Committee welcomes Parts 1 and 3 of the Bill.

As the House will recall, at Second Stage the Minister advised that the protections in parts 1 and 3 will apply to Travellers living in caravans on what are described as Northern Ireland Housing Executive-serviced sites. Following the Minister's remarks and during Committee Stage, the Committee considered the impact of the Bill on Travellers staying in all types of Housing Executive caravan sites. Given the absence of any explicit reference to Travellers in the Bill, Members were surprised to learn from the Housing Executive that the Bill as drafted could also have important ramifications for Travellers on Housing Executive transit and emergency holding sites.

It became clear to the Committee that, in many regards, the Caravans Bill is not a simple read-across from similar legislation in Great Britain. The arrangements for the private residential caravan sector and the provision of services and sites for Travellers differ in Northern Ireland from those in other jurisdictions. The conundrum facing the Committee could therefore be described as follows: first, how to improve the rights of those in the private residential sector by bringing the law into line with the rest of the UK while not damaging an important local tourism industry, and, secondly, how to extend those rights and protections without placing an insupportable burden on statutory authorities providing services and sites for Travellers wishing to pursue a nomadic lifestyle.

The Committee carefully considered how the Bill will affect Travellers and concluded that the relationships between organisations, including the Housing Executive, district councils, the Department and other government bodies,

involved in meeting Travellers' accommodation needs are complex and subject to conflicting pressures. The Committee sought to satisfy itself that the Caravans Bill will not significantly alter those relationships or pressures.

Part 2 refers to caravan owner-occupiers who use seasonal sites. That group, who are often families with young children, enjoy caravanning as a holiday activity and regularly return to favourite caravan sites in some of the most beautiful parts of Northern Ireland, including the Strangford constituency. The Bill provides some basic protections for that group, including the provision of a statement of terms and conditions. As I said previously, the Trading Standards Service described that sector as generally trouble-free. That said, members of the Committee recounted certain experiences of their constituents that supported the view that the introduction of the new protections, along with existing consumer law, was both timely and necessary.

As above, the question of the seasonal sector presented another conundrum. The Committee wished to provide additional important protections to consumers, but, again, members did not wish to disadvantage or damage a key local industry. I think that the majority of members feel that the Bill, with certain amendments and existing consumer legislation, will just about set the right balance between those two important considerations.

The Committee's management of those unexpected and difficult questions shows the value of a Committee Stage and the importance of the diligent scrutiny of members of the Social Development Committee and, indeed, of the other Committees that I mentioned.

I will conclude my general remarks. The Committee recognises the importance of caravanning as a holiday activity for many people and believes that the basic protections in the Bill are necessary and will generally bring the regulation of the industry into line with the rest of the United Kingdom.

With regard to the residential caravan sector, the Committee also recognises that only a small number of people on privately owned or Housing Executive sites will be affected by Parts 1 and 3 of the Bill. Nonetheless, although the Committee views the protections that are provided as necessary and fair, it believes that

a review of the effectiveness of that part of the Bill will be necessary in a few years' time.

I now turn to the relevant amendments in the group. Amendment No 1 refers to the qualifying period. As part of its consideration of the amendments in this group, the Committee considered proposals relating to the complete exemption of Housing Executive transit and emergency halting Travellers' caravan sites from the provisions of Part 1. Members noted the Housing Executive's concern that the application of those provisions might lead to a reduction in the availability of suitable pitches for Travellers wishing to pursue a nomadic lifestyle. The Committee also noted advice from the Human Rights Commission about the incompatibility of complete exemptions with human rights legislation. Members noted that wide-ranging exemptions from Part 1 might wrongfully deprive Travellers of certain protections available to caravan owner-occupiers on privately owned caravan sites.

The amendment is to balance the enhancement of the rights of those who use caravans as their main or sole residence against the operational difficulties facing caravan site owners. The amendment allows for improvement in protections for residential caravan owner-occupiers to come into effect, while the increase in the qualifying period is designed to limit the less appropriate application of those protections.

The Committee wanted the Bill to provide protections to Travellers with longer-term tenancies on service sites while ensuring that sustainable provision continued to be made for Travellers requiring short-stay caravan pitches on transit or emergency sites. The Committee felt, therefore, that a small increase from three months to one year of the qualifying tenancy period was an appropriate and fair way of balancing those two important considerations.

The Committee accepted the assurances of the Department and the Housing Executive that the amended Bill would not lead to a reduction in the provision of short-stay caravan pitches for Travellers on Housing Executive sites or to site management difficulties that might necessitate other severe mitigating actions including widespread evictions from such sites. The Committee also accepted departmental assurances that the risks associated with legal challenges to the nature of tenures on transit and emergency sites were limited. Given the



departmental assertions that I have just listed, the Committee agreed to accept the Minister's amendment to clause 1.

I now turn to clause 2. During its deliberations, the Committee noted concerns raised by witnesses, both site owners and caravan owner-occupiers in the residential sector, about the effectiveness of the Bill's provisions. The Committee welcomed the provisions, which give important protection for caravan owners who use their caravan as their main or sole residence. However, the Committee felt that the Bill should not add unnecessarily to the bureaucratic burden on site owners. As those provisions are new to Northern Ireland, members agreed that a review of the effectiveness of the provisions of Part 1 was essential. The Committee encouraged the Department to develop an amendment that would include a statutory review less than five years after commencement. Therefore, the Committee is happy to endorse the ministerial amendment to clause 4 relating to a statutory review.

Amendment No 3 relates to clause 5, headed "Successors in title". The Committee noted evidence from the Northern Ireland Housing Executive that suggested that the application of the successors in title provisions to the Housing Executive's Travellers' caravan site would be inappropriate. The Housing Executive argued that the provisions could allow users of Traveller sites to will access to a pitch to an individual who was not resident on the site. As a consequence, the pitch could lie vacant despite the high demand for such Traveller accommodation. The Committee again considered the Human Rights Commission's advice on the incompatibility with human rights legislation of proposed exemptions from that provision. The Committee therefore agreed that an appropriate approach was to accept the departmental amendment, which would limit the application of the successors in title provisions for Housing Executive Traveller sites.

The amendment permits the Housing Executive to apply some restrictions to the application of a successors in title provision in respect of access to a pitch when the inheritor is non-resident on the site in question. The Committee felt that that was a good compromise that did not adversely affect Travellers' rights greatly yet allowed the Housing Executive to continue to control provision of those sites. Consequently,

the Committee agreed to accept the Minister's amendment to clause 5.

I now move on to amendment No 11. The Committee received evidence from the Northern Ireland Local Government Association and district councils suggesting that councils should have the power to investigate and prosecute complaints of harassment and eviction among residential caravan owner-occupiers. The Committee felt that, as councils have responsibility for the enforcement of other tenancy legislation, the extension of powers of investigation and prosecution relating to harassment and eviction was reasonable and appropriate. The Committee again encouraged the Department to bring forward an amendment that would allow councils to undertake that role. The Committee is, therefore, again happy to endorse the ministerial amendment, in this case to clause 10, relating to investigations and prosecutions by councils.

I now move on to amendment Nos 19 to 21. Following publication of the Committee's report on the Caravans Bill, the Committee noted the three very short technical amendments that had been tabled by the Minister. It is understood that those are, as I said, technical in nature; they refer to the termination of residential agreements and reflect recent case law in England. The Committee indicated that it was generally happy with those amendments.

I move on to amendment No 22. The Committee noted suggestions that the limit on the commission charged on caravan sales by residential site owners should be either increased from 10% or based on a market valuation of the caravan rather than on the actual price paid. At Second Stage, some Members also suggested that commission be done away with entirely. Some members of the Committee had quite a lot of sympathy for that suggestion. As I indicated, Committee members want to strike a balance between helping residents of protected caravan sites and not damaging an important local tourist industry. With that in mind, the Committee agreed that it would not support amendments in that regard.

The Committee recognised that the proposed commission limit of 10% on actual sale prices was in line with industry practice in Great Britain. The Committee, therefore, accepted the Department's suggestion that the Bill be amended to clarify that the amount of

commission charged on a caravan sale should be 10% or less of the price paid rather than always being 10%. The Committee is, therefore, happy to endorse the ministerial amendment to the schedule relating to a limit on commission.

Amendment Nos 23 to 25 to Part 1 of the schedule deal with Travellers' commission and essential works. The Committee noted with interest evidence from the Human Rights Commission that suggested that it would be inappropriate for commission to be paid to the Housing Executive by Travellers upon the sale of their caravans while on a serviced, transit or halting site. The Committee, therefore, agreed to support the Minister's amendment to the schedule to that effect.

The Committee gave careful consideration to evidence from the Housing Executive that suggested that further exemptions to the Bill were required in respect of essential works to Travellers' caravan sites. The Housing Executive argued that the Bill should be amended to permit the Housing Executive to relocate Travellers to other sites, rather than just other pitches on the same site, while essential works are under way.

The Housing Executive also sought amendments to indicate that upgrades to Travellers' amenity blocks constituted essential works, which will allow the Housing Executive to relocate Travellers to other sites while such works are under way. Those amendments reflect the concerns that the Housing Executive has in respect of the Bill.

The Committee was amenable to changes to the Bill that would ensure that the Housing Executive was able to maintain the provision and operational control of sites for Travellers. It is worth noting that those amendments to the schedule affect not just Travellers' service sites but privately owned residential sites.

The Committee accepted departmental advice that the relocation provisions were unlikely to be used by private site owners and that caravan owners could insist that the alternative site is comparable to the original and that their caravan be returned to the original site on completion of the essential works. The Committee, therefore, agreed to support the Minister's amendments to the schedule in respect of commission on Traveller sales and essential works.

That concludes my remarks on behalf of the Committee. I was just giving the House a flavour of what the Committee deliberated in respect of those clauses. I want to briefly make a couple of comments in a personal and party capacity. First, the first group of amendments is a clear example of my strong belief that the Committee Stage is a vital component of our legislative process. Although the amendments before us are invariably in the name of the Minister, many of them owe their origin to the work that the Committee has done. The Minister has already reflected that, but it is worth putting it on the record again that many of the amendments improve what was, essentially, already a very good Bill. Credit is due to the Committee and to the stakeholders who gave evidence to the Committee. That shows the strong influence that Committees and this House can have. I am sure that you would agree, Mr Deputy Speaker, that the Committee work that goes on here sometimes goes unappreciated out there. Some people wonder what on earth Committees actually do, but here is a very solid and sound example of the Committee's work having an influence, a real bearing and changing legislation.

### 5.30 pm

I also want to discuss amendment No 1, which will alter the qualifying period from three to 12 months. The Bill's sponsor and I were concerned when that issue first arose, because it looked as though it could be the issue on which the Bill floundered. Thankfully, we managed to get through that, but it looked as though the issue could have caused the entire Bill to fall flat on its face.

I must put on record, as I did previously during a Committee meeting, that the Housing Executive raised its concerns about the issue with the Committee at an extremely late stage in the process, after the Committee had completed its consultation on the Bill. The Bill's sponsor will, no doubt, tell the House exactly how long the Bill has taken. The process had been ongoing for a long time when, suddenly, the implications of the Bill's being passed as drafted and the negative effect that it would have on the Housing Executive's management of its Traveller sites were brought to the attention of the Committee. No doubt, such situations happen regularly and will happen again. However, the Committee was presented with a tale of woe about how unworkable Traveller sites and the

Housing Executive's work on those sites would become. Committee members were placed in the invidious position of not being able to go ahead with what they believed was good legislation because of one element. Had the issue been raised at a much earlier stage, the problem could have been overcome, and Committee members could have been saved the two weeks of their lives that they spent debating it.

Having received assurances, the Committee is now content with amendment No 1. After hearing the initial tale of woe, the Committee was subsequently told by the Housing Executive that amendment No 1, which changes the qualifying period to 12 months, would not make its operation and management of Traveller sites any different than they are today. The Committee was also given assurances that it would be made clear to Travellers moving on to sites that their tenancy would be time limited. We all know what happens in practice, with transient or halting sites sometimes taking on the characteristics of permanent sites, and we also understand why that is the case. However, as long as it is made clear to those moving on to those sites that their tenancies are for a limited period, we should be able to overcome some of the problems. The Committee has been given those assurances and takes them on face value.

The first group of amendments and the part of the Bill to which they relate, deal with a specific problem. There are a couple of protected sites in my constituency and in the constituencies of some of my colleagues. There have been problems with those sites, and Members who have experienced many more such problems in their areas will be able to speak much more acutely about those.

The first group of amendments strengthen what was already good legislation. I look forward to those being accepted by the House and passed into law. I also look forward to those who live on protected sites benefiting from those positive aspects of the Bill.

**Mr Easton:** The first group of amendments covers residential sites. I beg the Speaker's indulgence for a moment to pay tribute to the Bill's sponsor for introducing it. He knows that the issue is dear to me and particularly to those residents of the Seahaven caravan park in Groomsport who were treated appallingly.

The sooner the Bill is passed, the better their protection will be.

I will take each amendment separately. Amendment No 1 refers to clause 1 and clarifies to whom and for what Part 1 applies. That amendment will change the length of time for which a caravan owner occupying a residential site will be protected. The amendment will increase the period for which a caravan on a site can remain an owner's only or main residence from three to 12 months. I welcome that change, as it will protect caravan site owners from those who may wish to abuse the legislation. The three-month period was just too short a timescale.

The Committee considered at length proposals relating to the exemption of Northern Ireland Housing Executive Travellers' caravan sites from the provisions of Part 1 of the Bill. Members noted the Housing Executive's concerns that the application of those provisions might lead to a reduction in the availability of suitable pitches for Travellers who wish to pursue a nomadic lifestyle. The Committee considered advice from the Northern Ireland Human Rights Commission about the compatibility of such exemptions with human rights legislation.

The Committee agreed that the Bill should provide protections to Travellers with long-term tenancies on serviced sites while ensuring that sustainable provision continued to be made for Travellers requiring short-stay caravan pitches on transit and emergency sites. The Committee, therefore, felt that a small increase from three months to one year in the qualifying tenancy period, as suggested by the Department, was an appropriate and fair way to balance those two important considerations. The Committee accepted the Housing Executive's assurances that the amended Bill would not lead to a reduction in the provision of short-stay caravan pitches for Travellers on Northern Ireland Housing Executive sites or site management difficulties that would necessitate a change in eviction policy or practice for Travellers who stay on such sites.

The Committee also accepted departmental assertions that the risks associated with legal challenges to the nature of tenures on transit and emergency sites were limited. Consequently, the Committee agreed to the text of the amendment as proposed by the Department. Furthermore, the Committee agreed that,

as amendment No 1 adequately addressed the concerns of all stakeholders about the Bill's impact on Travellers, other proposed amendments, which would have altered the role and responsibilities of the Northern Ireland Housing Executive in the provision of Travellers' caravan sites were unnecessary.

The Committee concluded that the relationship between organisations, including the Housing Executive, district councils, the Department and other government bodies involved in meeting Travellers' accommodation needs, were complex and subject to conflicting pressures. The Committee was satisfied that the Bill will not significantly alter those relationships or pressures. The Committee agreed that it was content with clause 1 as amended.

Amendment No 2, to clause 4, ensures that Parts 1 and 2 of the schedule are reviewed no later than five years after the Act comes into operation and every five years thereafter. The amendment will provide protections for site owners and caravan owner alike. Committee members agreed that in order to ensure the effectiveness of the Bill, an amendment should be made that would require the Department to undertake a formal review every five years.

Amendment No 3, to clause 5, deals with successors to titles of caravans; namely, those who have lived with a caravan owner who has died. The Committee considered suggestions from witnesses that reassurance should be provided to accommodate a very small number of very elderly caravan owner-occupiers about arrangements whereby they can pass their caravan on to a family member on their death. I welcome the amendment because it will provide protection for caravan owners and their families.

Amendment No 11 deals with the protection of caravan owners from unlawful eviction and harassment. The Committee considered evidence from the Northern Ireland Local Government Association and from some district councils that suggested that councils should have the power to investigate and to prosecute complaints of harassment and eviction made by residential caravan owner-occupiers. The Committee felt that, as councils have responsibility for the licensing of residential caravan sites, the extension of existing powers of investigation and prosecution relating to complaints of harassment and eviction was reasonable and appropriate. Therefore,

the Committee agreed to put forward the amendment.

Amendment Nos 19, 20 and 21 change the use of the word "reasonable" in the schedule to "proportionate in all the circumstances". Those are purely changes in the use of language. Amendment Nos 19 and 20 deal with those aspects of the schedule that deals with the termination of an agreement by the owner of the land.

Amendment No 22 deals with the sale of caravans. It clarifies the amount of commission paid on the sale of a caravan by removing the phrase "the rate of 10%" from the schedule and inserting:

*"a rate not exceeding 10% of the sale price".*

Although the amendment provides clarity of interpretation, I felt that the rate should have been set at 5%.

Amendment No 23 deals with protected sites owned by the Northern Ireland Housing Executive and relates to people from the Travelling community. The Committee received evidence from the Northern Ireland Human Rights Commission that suggested that it would be inappropriate for commission to be paid to the Northern Ireland Housing Executive by Travellers on the sale of their caravans while on a serviced, transit or emergency site. The Committee agreed to support the Department's amendment to that effect.

Amendment No 24 would change the wording in paragraph 10(1) of the schedule that refers to the re-siting of a caravan. The words would be changed from "the protected site" to:

*"any protected site of the owner".*

Amendment No 25 would insert into paragraph 10(4)(a) the words:

*"or to any amenities on the site".*

Amendment Nos 24 and 25 are a response to evidence from the Northern Ireland Human Rights Commission that indicated that proposed amendments would not be compatible with human rights legislation. The Committee, therefore, agreed the text of amendment Nos 24 and 25 as proposed by the Department.

I commend all those amendments to the House.



**Mr McCallister:** At the outset, let me thank Minister Attwood, his predecessor Minister Ritchie, the Chairman of the Committee and Committee members. I was elevated to sit on the Social Development Committee at the start of November last year. However, I am not sure whether that was a promotion or a punishment on the part of our new party leader.

As other Members said, this project has been bigger than I ever envisaged. Again, as others mentioned, getting to this stage has been like riding a roller coaster. On some days things went very well, but on others, a phone call or an e-mail would make me realise that they were not going too well at all.

I am grateful for the support of Minister Attwood and the Committee in dealing with all the issues that have come up. For a private Member's Bill, this is a fairly significant piece of legislation. I am encouraged by the support and warm words from all sides of the House. I will try to lift the mood of the House, as Mr Hamilton suggested. I am surprised that he has invited us all to a pub quiz. That shows a new DUP if that party is heading towards doing that.

As the Chairperson of the Committee said, when the issue of Travellers first arose, the Bill was not designed either to advantage or disadvantage them. It was not designed to affect them. However, as we got into the Bill, we realised the value and absolute necessity of having a Committee Stage in the Assembly, because that is where the line-by-line detailed scrutiny is and has to be done. In a piece of legislation such as this, we can see the value that that makes and adds to the Bill.

The Chairman mentioned that the Northern Ireland Housing Executive presented this issue to us at a late stage. Coming to us only in September caused problems, because the Bill had been with the Committee for some time. I am always keen, as are other members, to comply with our human rights obligations. Indeed, we see it as a necessity. I recognise that the United Kingdom, in European terms, does not have a very proud record in its dealings with and treatment of the Travelling community. Therefore, when this issue came up, amendment No 1 was the best way that we could deal with issues that the Housing Executive raised.

At the start of this process, I did not realise that there were so many sites or types of site.

Those include protected and unprotected sites, service sites, halting sites and emergency sites. All those issues came up. Amendment No 1 was necessary to give the Housing Executive more time to deal with the very real issues and pressures that it faces, and to keep the Bill compatible with the human rights legislation. It is a very welcome amendment, and I am grateful to the Minister and his officials in DSD who helped to work on this and who co-ordinated it with the Housing Executive. I am also grateful to the Human Rights Commission.

#### 5.45 pm

The broad thrust of the amendments is that they are either technical in nature or improve the Bill. The Committee and the Department worked closely to improve the Bill. I certainly support amendment No 1. Amendment No 2 will provide for a periodic review of the legislation. It is important that we look at the legislation after a time to see how effective it is and what changes, if necessary, a future Assembly and a future Minister might want to bring in to add to and to improve it if necessary.

I support and recognise the need for amendment No 3, which deals with successors in title. It is entirely appropriate that that amendment was tabled.

The breadth of the consultations that I, the Department and the Committee carried out brought in NILGA's advice and led to amendment No 11 being tabled. The Assembly is at its best when we are working in partnership to get the best result for our constituents — the citizens whom we serve.

As the Minister said, amendment Nos 19, 20 and 21 are of a technical nature, and they came about very much on the advice of the Attorney General. I am very happy to support those amendments.

Amendment No 22 deals with the rate of percentage of fees. That issue was widely debated before the Bill was even drafted, again when it was drafted and then right through its Committee Stage. I am well aware of Mr Easton's views on the matter. He shared his views with me on many different occasions. In suggesting a rate of 5%, he drives a very hard bargain. As the Committee Chairperson said in his contribution, the purpose of the amendment was about finding a balance, not wanting to do any damage to the industry, and accepting

normal practice and the agreed percentage in other parts of the UK. That is why we would be keen to support amendment No 22. Indeed, I would have tabled such an amendment to make sure that the 10% rate was the maximum. It is an important amendment to pass.

It is entirely appropriate, under amendment No 23, that Travellers be exempted from the percentage commission, and I do not think that anyone can object to that. I also support amendment Nos 24 and 25.

This has been an excellent process of scrutinising the Bill. The amendments are broadly technical in nature and serve to improve it. Therefore, I support the first group of amendments.

**The Minister for Social Development:** I thank Members for contributing to the debate on the first group of amendments. I join a number of Members in acknowledging the work of Committee for Social Development officials and Department for Social Development officials. As Mr McCallister indicated, there were moments, especially towards the end of last year, when it appeared, if only for a moment, that the Bill was at a tipping point and was tipping out of sight rather than being kept on the tracks. It was the diligent work of many Members, aided by departmental and Committee officials, that kept the Bill on track. There were dangers in the latter part of last year that we would not be standing here today at Consideration Stage.

I should declare an interest, because my parents had a caravan in Ballycastle. It was on a private site with no protections of any sort whatsoever. My parents might have experienced a lack of protections. We then moved to a great site in Cushendun that was managed by Moyle District Council. As Members indicated about other sites, there was nothing but good and best practice at that site in Cushendun. Legislation would not necessarily have been required to protect the interests of the people on those sites, because the standard of service and commitment was very high. Therefore, I have personal and family experience of caravan sites in north Antrim.

I acknowledge the Chairperson of the Committee, who gave a very useful and accurate narrative of the scope of the Bill. I concur with him about the value of Committee Stage. If you look, Mr Speaker, at today's Order Paper, you will see evidence — perhaps as much today as

on any day in recent times — of the Assembly's legislative function beginning to develop, embed itself and mature. A number of Bills, at various stages, have been before the Assembly today. Although that may be as a result of the rush of legislation in the last eight weeks before purdah, it nonetheless demonstrates an Assembly that is getting into its stride compared with heretofore.

The Committee Stage of the Caravans Bill is a good example of how a Committee has worked through a Bill with diligence and resilience and got to a position where we have a high level of agreement, subject to the later debate on many of the Bill's provisions. I reiterate to Mr Hamilton and Alex Easton the reassurances that departmental officials gave about various provisions and the potential, or otherwise, for legal challenge.

I concur with the personal comments of the Chairperson of the Committee, Simon Hamilton, about the lateness of the Northern Ireland Housing Executive's input on one or two provisions of the Bill. That represents a wider issue, namely that public bodies in Northern Ireland are still adjusting to the democratic interest. They are still not fully in sync with the Northern Ireland Assembly's legislative authority. After all the years of direct rule, and given the hesitancy of the first phase of devolved Administration, public bodies have still not fully adjusted to the democratic interest that is reflected through the Northern Ireland Assembly. There have been some good examples of that over the past short period of time. It is evidenced, in particular, by the process of legislation, including Committee Stages. There seems to be a feeling that it is good enough to come in at the eleventh hour. Well, that is not good enough. The legislative authority of the Assembly will require increasing accountability and demands of public bodies as we go forward. We saw an example of that at the beginning of today's Assembly business with the statement on the governance and gateway review of the Housing Executive.

I also acknowledge and appreciate the comments of John McCallister about the input of the Department and its officials in trying to keep the Bill on track and reworking it to address the somewhat unanticipated issues that have arisen since First Stage, which was three years ago or something. I concur with him about all the new provisions. I am pleased to

sponsor the amendments, if you like, on behalf of the Department and the Executive. However, that is only fulfilling the wishes, intention and good work of the Committee. Simon Hamilton was right to make that point. I may be speaking to and endorsing the amendments, but they are substantially a result of the good work of the Committee, aided by officials from my Department and elsewhere.

I conclude my remarks on the first group of amendments by saying that the Bill is more substantial than was anticipated. However, as a consequence of the Bill, if it gets through the final stages and receives Royal Assent before the election, a substantial number of people — although not everybody by any means — especially on the Traveller side will have the shield of the law to the protect their interests around caravan and other Traveller sites. That is a good day's work for the Assembly.

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

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

*Clauses 2 and 3 ordered to stand part of the Bill.*

*Amendment No 2 made: In clause 4, page 3, line 42, at end insert*

*“(6) The Department for Social Development shall—*

*(a) not later than 5 years after the coming into operation of this Act, and*

*(b) at least once in every period of 5 years thereafter,*

*review Parts 1 and 2 of the Schedule and determine whether it should exercise the power to make an order under this section.” — [The Minister for Social Development (Mr Attwood).]*

*Clause 4, as amended, ordered to stand part of the Bill.*

### **Clause 5 (Successors in title)**

*Amendment No 3 made: In page 4, line 7, leave out subsections (3) to (5) and insert*

*“(3) The following subsections apply where a person entitled to the benefit of and bound by a residential agreement dies at a time when that person is occupying the caravan as that person's only or main residence; and in those subsections—*

*(a) that person is referred to as ‘the deceased’;*

*(b) references to ‘the beneficiary’ of the deceased are to the person entitled to the caravan by virtue of the deceased's will or under the law relating to intestacy;*

*(c) references to ‘a travellers' site’ are to a caravan site provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (caravan sites for members of Irish Traveller community); and*

*(d) a beneficiary of the deceased is a qualifying person if the beneficiary satisfies the Housing Executive that the beneficiary—*

*(i) is a member of the Irish Traveller community (within the meaning of Article 5 of the Race Relations (Northern Ireland) Order 1997); and*

*(ii) intends to occupy the caravan as the beneficiary's only or main residence.*

*(4) The agreement has effect for the benefit of and is binding on any person residing with the deceased at the time of death who is—*

*(a) the surviving spouse or civil partner of the deceased; or*

*(b) if there is no surviving spouse or civil partner so residing, a member of the deceased's family.*

*(5) If—*

*(a) there is no person falling within subsection (4); and*

*(b) the agreement relates to a caravan on a caravan site other than a travellers' site,*

*the agreement has effect for the benefit of and is binding on the beneficiary of the deceased, but subject to subsection (7).*

*(6) If—*

*(a) there is no person falling within subsection (4),*

*(b) the agreement relates to a caravan on a travellers' site, and*

*(c) the beneficiary of the deceased is a qualifying person,*

*the agreement has effect for the benefit of and is binding on the beneficiary of the deceased.*

*(7) A residential agreement does not have effect for the benefit of or bind a person by virtue of subsection (5) in so far as—*

(a) it would, but for this subsection, enable or require that person to occupy the caravan; or

(b) it includes terms implied by virtue of paragraph 5 of Part 1 of the Schedule.

(8) In relation to a residential agreement—

(a) any reference in this Part to the owner includes a reference to any person who is bound by and entitled to the benefit of the agreement by virtue of subsection (1); and

(b) subject to subsection (7), any reference in this Part to the occupier includes a reference to any person who is entitled to the benefit of and bound by the agreement by virtue of any of subsections (2) to (6).” — [The Minister for Social Development (Mr Attwood).]

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

Clause 6 ordered to stand part of the Bill.

### Clause 7 (Application of this Part)

**Mr Speaker:** We now come to the second group of amendments. With amendment No 4, it will be convenient to debate amendment Nos 5 to 10, 16 to 18, and 26. These amendments deal with seasonal sites and include amendments relating to implied terms in seasonal agreements. Members should note that amendment No 5 is consequential to amendment No 4. Amendment Nos 6 to 8 and 16 to 18 are consequential to amendment Nos 4 and 5, and amendment No 26 is consequential to amendment No 9.

I call the Minister to move formally amendment No 4 and to address the other amendments in the group.

**The Minister for Social Development:** I beg to move amendment No 4: In page 5, line 5, leave out from “under” to end of line 7 and insert

“—

(a) under which a person is entitled to station a caravan on land forming part of a caravan site and occupy the caravan for a period exceeding 28 days; and

(b) which is not a residential agreement within the meaning of Part 1.” — [The Minister for Social Development (Mr Attwood).]

The following amendments stood on the Marshalled List:

No 5: In page 5, leave out lines 10 to 15.

— [The Minister for Social Development (Mr Attwood).]

No 6: In clause 8, page 5, line 19, leave out “seasonal” and insert “caravan”. — [The Minister for Social Development (Mr Attwood).]

No 7: In clause 8, page 5, line 33, leave out “seasonal” and insert “caravan”. — [The Minister for Social Development (Mr Attwood).]

No 8: In page 6, line 1, leave out “seasonal” and insert “caravan”. — [The Minister for Social Development (Mr Attwood).]

No 9: After clause 8, insert the following new clause

*“Terms of agreements*

8A.—(1) In any seasonal agreement there shall be implied the terms set out in Schedule 2; and this subsection shall have effect notwithstanding any express term of the agreement.

(2) If the owner fails to comply with Schedule 2(2) and 2(3) the occupier may apply to the court for an order requiring the owner to consult with the occupier in accordance with Schedule 2(2) and 2(3).” — [Mr McCallister.]

No 10: After clause 8, insert the following new clause

*“Jurisdiction*

8B.—(1) The county court for the county court division in which the seasonal site is situated shall have jurisdiction—

(a) to determine any question arising under this Part or any seasonal agreement, and

(b) to entertain any proceedings brought under this Part or any such agreement;

and references in this Part to ‘the court’ shall be construed accordingly.

(2) But where the parties have agreed in writing to submit any question arising under this Part or, as the case may be, any seasonal agreement to arbitration, references in this Part to the court shall be read as references to the arbitrator.” — [Mr McCallister.]

No 16: In clause 15, page 10, line 26, leave out “protected site or a seasonal site” and insert “caravan site”. — [The Minister for Social Development (Mr Attwood).]



No 17: In clause 15, page 10, line 32, leave out “seasonal site” and insert

*“site in respect of which the relevant planning permission or site licence—*

*(a) is expressed to be granted for holiday use only; or*

*(b) is otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation;” — [The Minister for Social Development (Mr Attwood).]*

No 18: In clause 15, page 10, leave out line 36. — *[The Minister for Social Development (Mr Attwood).]*

No 26: After the schedule, insert the following new schedule

*“Schedule 2*

*Qualifying caravan owners’ association*

*1.—(1) A Caravan owners’ association is a qualifying owners’ association in relation to a seasonal site if—*

*(a) it is an association representing the occupiers of caravans on that site;*

*(b) at least 50 per cent. of the occupiers of the caravans on that site are members of the association;*

*(c) it is independent from the owner, who together with any agent or employee of the owner is excluded from membership;*

*(d) subject to paragraph (c), membership is open to all occupiers who own a caravan on that site and are entitled to an agreement under clause 7(1);*

*(e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents’ association;*

*(f) it has a chairman, secretary and treasurer who are elected by and from among the members on an annual basis at the Annual General meeting;*

*(g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each caravan.*

*(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b), each caravan shall be taken to have only one occupier and, in the event of there being more than one occupier of a caravan, its occupier is to be taken to*

*be the occupier whose name first appears on the agreement.*

*Owner’s obligations*

*2. The owner shall consult a qualifying caravan owners’ association, if there is one, about—*

*(a) significant changes to the operation and management of the seasonal site which affect the occupiers either directly or indirectly; and*

*(b) changes to site fees or service fees.*

*3. For the purposes of the consultation in paragraph 2(1) the owner shall give the association at least 28 days’ notice in writing of the matters referred to in paragraph 2 which—*

*(a) describe the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and*

*(b) states when and where the association can make representations about the matters.” — [Mr McCallister.]*

### **The Minister for Social Development:**

As Members will be aware, this group of amendments addresses the parts of the Bill that relate to the holiday caravan sector. Again, many of these amendments were suggested by the Social Development Committee, and I again thank that Committee and the Committee for Enterprise, Trade and Investment, which scrutinised part 2 of the Bill. I also thank Minister Foster and her officials for their support in taking forward these amendments, which have the Executive’s endorsement.

The main amendment to clause 7 is designed to ensure that all static holiday caravans enjoy the protections of part 2. The Bill, as drafted, envisages two types of caravan site: protected sites for residential use and, in this case, seasonal sites for holiday use. Parts 1 and 3 are designed to protect residential caravan users on protected sites, and part 2, which is the subject of this debate, is designed to protect static holiday-caravan owners. During Committee Stage, trade bodies indicated that although those distinctions are useful, they fail to take account of the small number of static holiday-caravan owners whose caravans are pitched on protected sites.

The result is that, as it stands, those individuals would not enjoy any of the Bill’s protections. It is important that all static holiday caravan owners enjoy the protections of Part 2, regardless of the type of site on which their caravan is pitched.

For that reason, the amendment removes the definition of a seasonal site, which means that Part 1 will protect residential caravan owners on protected sites, and Part 2 will protect all other static caravan owners.

### 6.00 pm

The remaining ministerial amendments in this group are consequential to the main amendment. The amendments to clause 15 are the most significant and create a fuller definition of a protected site, which is now needed because of the removal of the definition of a seasonal site.

The Executive considered John McCallister's amendments — amendment Nos 9, 10 and 26 — but did not reach an agreed position.

**The Chairperson of the Committee for Social Development:** As the House just heard, the Bill makes provisions for caravan users who live long term on so-called protected caravan sites. Provisions are also made for holiday caravan users on so-called seasonal sites. However, the Bill does not recognise the fact that some holiday caravan users take their annual seasonal break on protected sites. I am sure that that is crystal clear. This technical quirk means that those caravan users might not enjoy any of the Bill's protections. Following advice from the Committee for Enterprise, Trade and Investment, members became aware of the problem. The Committee for Social Development agreed that clarity was required on the rights and obligations of that group of caravan users. The Committee for Enterprise, Trade and Investment and the Committee for Social Development agreed to encourage the Department for Social Development to table amendments to resolve the problem. Therefore, the Committee for Social Development is happy to support the Minister's amendments to clauses 7, 8 and 15, which ensure that seasonal users on protected sites enjoy the protections of Part 2 of the Bill.

I will move on to Mr McCallister's amendments. The Committee considered a proposed amendment from the Bill's sponsor relating to qualifying residents' associations in the seasonal caravan site sector. The amendment would require site owners to communicate with a representative residents' association. Unlike the residential sector, site owners would not be obliged to take account of the views of an association in respect of significant site

management issues. The Committee also considered whether the proposed amendment should include enforcement of the provision by application to a County Court. The matter was referred to the Committee for Enterprise, Trade and Investment, and the Minister of Enterprise, Trade and Investment had concerns about the amendment, suggesting that the proposals would unnecessarily increase the bureaucratic and regulatory burden for caravan site owners. The Committee for Social Development divided on the issue and agreed with the Bill's sponsor that the amendment should require site owners to communicate with a representative residents' association and for the measure to be enforced through a County Court.

Some Committee members felt that the Bill should do more for seasonal site caravan users. As I said earlier, that group of users amounts to many thousands of individuals and families. On the one hand, members recounted the adverse experiences of their constituents — perhaps the Minister's family as well — and sought additional protections. On the other hand, the Trading Standards Service advised that such adverse experiences were not generally representative. The Committee struggled, therefore, to find a compromise that would enhance consumer rights without disadvantaging an important tourism industry.

As the Bill report states, the Committee certainly divided sharply on the issue. The report also states that a small majority of Committee members supported the Bill's sponsor's related amendments, insertions and additions that require consultation with a qualifying residents' association and include enforcement by a County Court. I cannot express a Committee view on the alteration to the Bill's sponsor's amendment as we have not discussed that issue in Committee.

Speaking as a DUP MLA, I feel that an oversight in the original Bill has been corrected by the amendment to that tongue-twister about seasonal users on protected sites getting the same protections as seasonal users on seasonal sites. I feel flummoxed as I recall that issue. I am sorry, but try saying it after a pub quiz. I do not think that the original Bill intended to leave those people out, and it is only right that it has been corrected.

I am divided sharply on the issue of qualifying residents' associations. I expressed legitimate

concerns in Committee about the value of the amendments.

Effectively, site owners would be required to consult only before taking significant steps or measures to do with their caravan sites. The proposed amendment would have backed that up through the ability to take action or to seek enforcement through the County Court. However, it is not enforcement in respect of doing what the qualifying residents' association wants to be done; it is enforcement only to consult on that.

I stress that, although I support the amendments today, I question the value of what is there. It is important that we see how this works in operation. I do not think that we should build up people's hopes that this may somehow revolutionise what goes on in caravan sites; what does do that is the requirement for individual agreements. That is the most important part of this section of the Bill, and its inclusion radically reforms and ensures the protection of the rights of individuals, caravan site owners and those in the seasonal sector.

I reiterate the point that the Minister made earlier: a great many caravan site owners follow best practice anyway. I know many of them. They do not need this legislation because they already offer contracts on their sites and have done so down through the years. Some people take them up on that, but many do not. Obviously, there will now be a requirement for them to offer contracts. We are not talking about an industry that is entirely populated by cowboys; we are talking about a few individuals who may have behaved quite badly down through the years.

I have some concerns — I have expressed them again today and have expressed them at the Committee — about the value of the Bill sponsor's amendments and whether they will involve more bureaucracy and, indeed, more cost for caravan site owners. However, I can see that there are positives in a sense. The Bill's sponsor has told the Committee that, where there are issues on sites or have historically been issues, it may benefit the site owner to have one point of contact so that they do not have to go round everybody on the site. I do not think that a lot of people go off to their caravan in the summertime so that they can become active members of a qualifying residents' association; in fact, I would suggest that many people go to caravan sites to get away from

residents' associations. Having a residents' association that does qualify —

**Mr F McCann:** Some of these issues were heavily debated at Committee Stage, and members held different opinions on the best way to proceed. I think that there was a general agreement that, on seasonal sites, there were cases of very poor practice in dealing with people who had caravans. Some people go to the caravan site on the day that it opens for the summer holidays and stay until the day it closes. They could be on the caravan site for six or seven months of the year. Not everybody has suffered at the hands of caravan site owners. The Member is right that there are probably quite a number of people who run good sites — I think that that came out at Committee Stage — but we had all received complaints of people being threatened on sites, caravans being moved to the gate, people not being able to sell their caravan unless it was sold to the site owner at a very poor price and illegal evictions. There was a raft of issues.

A number of us argued the point that, whilst we were rightly trying to strengthen the rights of people who live on permanent sites, we also felt that we had to strengthen the rights of people who live on seasonal sites. For many people, that is their wee oasis that they can get away to. They should have similar protections as people on any other caravan site. That is the argument that we were making. We believed that the residents' association should have had more teeth than the Bill gives it. However, John has put a lot of hard work into the Bill, and we accept and will support that element of it to get it through. The residents' association, even as it is laid out there, may give some protection to people on sites.

I know what the Member is saying about people not rushing away to join residents' associations. At the same time, however, many people feel aggrieved and, under the present circumstances, they may not be allowed to form a resident's association. If this legislation is enacted, they could have a debating forum that allows them to go with some strength to try to work out some way forward with caravan site owners.

Although we support the Bill, we argue that we will come back to this issue at some time in the future. We need to monitor it. It is obviously up to the Minister and Department to ensure that people's rights, even as they are laid out in

the Bill, are protected. There was a difference of opinion in Committee, and those are the reasons why we called for stronger legislation.

**The Chairperson of the Committee for Social Development:**

I thank the Member for his intervention. Even though he went through what may be described as bad practice in the sector, all evidence, including the number of complaints and what we heard from the Trading Standards Service and other Members, suggests that that is the exception. I appreciate that some site owners have behaved very badly in the past, but that is the exception. The growth of the sector is the proof of that exception. There would not be so many sites right across Northern Ireland if they were all run in the way that the Member suggested.

There are small numbers of unprotected sites. The first group of amendments related to protected sites or the residential caravan sector, but seasonal sites are the big sector. It pertains to thousands of people right across Northern Ireland whereas the protected sites are perhaps limited in number and exist in only a few areas. It is right that we have particular focus on their rights, and the Bill gives rights to those people.

The Member talked about unfair terms and poor practice. I thought that he was going to talk again about the removal of a tyre swing from a site, which he explained in Committee. Unfair terms and shoddy and poor practices in the past — perhaps even in the present — by some site owners will be dealt with fundamentally by the requirement for everybody to have a contract. That ought to deal with that conclusively, and I hope that it does. We will see over time.

I am sure that even the Bill's sponsor, who proposed these amendments, hopes that the requirement for every site owner to offer every person with a pitch a contract will deal with those problems and that there will be no need to have residents' associations and all of that process as well. In fact, the legislation's success will be proved if we never see a case going to a county court. I hope that that is the case. Although I have expressed concerns about this issue before, I see positives in having one point of contact. The Bill sponsor's proposed clause 8C would have had a detrimental effect because the Department of Enterprise, Trade and Investment would have to outline implied terms at a later stage through regulations. It would have been overprescriptive in that regard.

In conclusion, I do not think that anybody here ever wants to see legal proceedings being required. As is always the case, it is an indication that things have gone too far. I hope that what we see as a result of the amendment is the growth of perhaps a greater understanding between site owners and those who use their sites and that, rather than having it dressed up as consultation, with all the formality that that implies, it just relates to a better working relationship. At the end of the day, both parties are reliant on each other to a greater or lesser extent. It should not be seen by some as an opportunity to take a site owner to court willy-nilly, because, as I said, it does not necessarily mean that they will get their way. However, I appreciate that it protects their right to be consulted, certainly where there are major implications for them or their site. As I said, I hope that we see the success of this legislation in it not being used. If that is the case, I will certainly welcome these amendments and, as I said, I hope that there is no need for them to be used in anger in future.

**6.15 pm**

**Mr Easton:** I will speak on the group 2 amendments, which refer to seasonal caravan sites. Clause 7 covers any seasonal agreement made before or after the commencement of the Bill and relates to caravan owners who are entitled to station their caravan on a seasonal or holiday site for a period exceeding 28 days. That time period was included to ensure that sites can be used by touring caravans or to cover certain sites providing temporary accommodation for caravan owners or occupiers. Amendment Nos 4 and 5 clean up clause 7 and provide more clarity.

Amendment Nos 6, 7 and 8 remove the word "seasonal" and replace it with "caravan site" in clause 8. Clause 8 refers to the particulars of agreement, placing a requirement on the owners of seasonal sites to provide caravan owners with written statements covering the terms and conditions upon which their agreement is based. The statement must include the names and addresses of particulars and particulars of the land on which the caravan is to be sited, and it must set out the express terms to be contained in the agreement. The written statement must be provided up to 28 days before a caravan sale or pitch rental is agreed. It is intended that any express terms of the agreement not given in writing will be unenforceable by the site



owner. The clause is intended to provide site owners with an incentive to comply with the duty to provide a written statement and to protect occupiers from the application of terms that have not been given in writing.

Amendment Nos 9 and 10 refer to legal proceedings for the occupier of the site should the owner of the site fail to comply with the specifics of any agreement as laid out in Part 2. Amendment No 16 refers to clause 5, which deals with interpretation. Amendment No 16 deals with the definition of "owner", removing the phrase "protected site or a seasonal site" and replacing it with "caravan site". That provides a simpler wording, with greater clarity about what the owner owns. Amendment No 17 refers to the definition of a "protected site" under clause 15, removing the words "seasonal site" and providing a more thorough and legalistic definition. Amendment No 18 links to amendment No 5, which removes the definition of "seasonal site" from clause 7(2). Amendment No 26 introduces a new schedule, schedule 2, which covers the operation of a caravan owners association. I welcome the new schedule and support all the above amendments.

**Mr Craig:** I will speak on group 2 of the tabled amendments, which refers to seasonal caravan sites. Like many others here, I recognise that the seasonal sector is the biggest sector in caravanning, because it covers those who use a caravan occasionally, mainly in what I call, euphemistically, our summer period. Mind you, my experience of that was being locked inside a caravan while our wonderful liquid sunshine came down in torrents. However, it is not always like that: when I was a youngster, I managed to get sunstroke while at the caravan on three separate occasions, so we do not always get liquid sunshine.

Clause 7 covers any seasonal agreement, made before or after the commencement of the Bill, with people who use a caravan for a period exceeding 28 days a year, and it covers the vast majority of people who use their caravan on a summer, recreational basis. Clause 8 is important, because it refers to the particulars of agreement, placing a requirement on the owners of seasonal sites to provide caravan owners with written statements. I concur with the Chairperson about the vast majority of site owners in Northern Ireland. I recall very few incidents where there was disagreement

between a site owner and those who had a caravan on the site. The vast majority of site owners in Northern Ireland behave responsibly, because, ultimately, it is their livelihood and business. Nevertheless, the Bill will give added protection to those who use their caravan occasionally, mainly during summer. Unfortunately, I recall a number of incidents that ran contrary to the vast majority of site owners' normal behaviour to their tenants.

In fact, I recall that, on one occasion, an individual handed out notices to all the tenants on his site and, basically, gave them four weeks' notice to get off the site because he had sold it to developers. There was no legal comeback whatsoever on that occasion. Unfortunately, those incidents taint the whole industry, and, for that reason and that reason alone, I welcome clauses 7 and 8 and the other clauses in the group, which will give added protection to those owners and give them some comeback should such incidents ever recur. I have openly supported the Bill's sponsor in the past, and I commend him for bringing it forward.

I cannot say that the Bill will affect Lagan Valley much. We have only one caravan site, which is literally half a mile away from my home. I do not think that it will have a massive impact on that site, which is not huge. However, all the sites are occupied in the summer by hundreds, if not thousands, of constituents from Lagan Valley who travel to their caravans. Therefore, the Bill will have an immediate impact on all those individuals. I commend the sponsor of the Bill for bringing it forward.

**Mr McCallister:** I note that Lagan Valley does not have as much coastline as other constituencies such as South Down or Strangford. That may be a reason why it does not have as many caravan sites. However, even Mr Craig will acknowledge that a lot of his constituents are affected by that because they caravan in the most beautiful constituency —

**Mr Elliott:** Fermanagh and South Tyrone.

**Mr McCallister:** I have just been told that it is Fermanagh and South Tyrone. I thank the Minister for bringing his amendments, and I thank the Enterprise, Trade and Investment Committee. I know that the Chairperson of that Committee has shown great interest in the Bill and its progress.

Amendment No 4, and the technical and consequential amendments that flow from it, is another example of how the Committee worked at its best. A loophole was identified; there was an issue with seasonal occupiers on protected sites, and it was important to address that issue so that they did not lose out on the protections that the Bill was to create. That is an important amendment, as are the technical and consequential amendments that flow from it.

I want to place on record my thanks to Minister Foster for her co-operation in looking at how to address the issues in Part 2 of the Bill, which deals with the seasonal sector, and for her co-operation in reaching agreement on my amendments. The Chairman of the Committee spoke in his capacity as a DUP member about his views on my amendments. My reason for proposing those amendments was as a response to Members' comments during the Second Stage debate on 24 May 2010. The contributions came from Members as diverse as Mrs Bradley and Mr Wells, and many said that we need to address the problems in the holiday sector and that the contract will take us so far but that we need to beef up some of the arrangements. I responded to Assembly Members' suggestions on other measures that we could look at to improve the legislation.

I accept the Chairperson's remarks that the contract in Part 2 is absolutely key to extending the rights in the holiday sector. I agree with the Chairman that the legislation will be a success if no residents' or caravan owners' group is ever formed anywhere in Northern Ireland. It will be a success if the contract deals with that. However, I want people who holiday in Northern Ireland in their own caravans to have that right and to have recourse to join a caravan owners' association and, where appropriate, to challenge the site owner. There is strength in numbers.

It can also be useful to disseminate information. One of the issues that trading standards has is with giving information to site owners to disseminate around caravan parks. I compare that with asking Simon Hamilton to give out my election literature; he may not get around every home in South Down. I know that that is a terrible allegation to make, but he may not get to every house in the constituency. If he wants to intervene and tell me that I am wrong on that, he can do so.

**Mr Hamilton:** I can see that you will be busy in April.

**Mr McCallister:** I think that he will help after all, and I am grateful for that.

**Mr Hamilton:** I will take all of your literature.

**Mr McCallister:** I do not want to overdo his good wishes.

That is what the driving force behind my amendments —

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

**Mr McCallister:** Certainly.

**Mr Elliott:** I thank the Member for giving way. Will he assure me that the legislation that he is proposing will not inhibit caravan park owners in the sense that they will not be able to deal with caravan park residents who make a lot of trouble in the area and may prove difficult not only to the park owner but to other residents?

**Mr McCallister:** I am grateful to my party colleague for such an easy question. That subject dominated the Second Stage debate. How the management of sites is balanced is a key question. We all want that, and it came through clearly from constituents and people who use sites and holiday at them that they do not want troublemakers. The site owner has to have some control over who resides at a site. However, that must be balanced with a consideration of the abuses that some site owners inflict on their customers, which include excessive rate rises and putting people off who are deemed to be troublemakers just because they complain.

As with so much of legislation, this is about balancing the rights of both groups. There is a mutual interest in that a well-run caravan park is in everyone's interests. No one wants a family holiday on a caravan site to be interrupted or destroyed by bad behaviour or antisocial behaviour. It is vital to get that balance, and I agreed with the Chairperson that the success of the legislation will be if residents' groups do not need to be formed. In England, the court upheld a group's objections over the management of a site, and the Office of Fair Trading's guidance on sites recommends that there be some sort of caravan owners' association or residents' group.

**Mr F McCann:** I appreciate what Tom is saying, and in the past, a few site owners, not all,

abused their power. John is talking about getting the balance right to protect people. It is about trying to give rights to people on caravan sites who do not have such rights.

**Mr McCallister:** I am grateful to Mr McCann for his intervention, because getting that balance is exactly what we are trying to do. That is why I brought the amendment. I listened to the Second Stage debate and thought about how the Bill could be improved and how some teeth could be put in to it to allow rights for caravan owners without overstepping the balance. We have worked with the Committee and gained Committee support, and we have worked with Minister Foster to see how it improves that and keeps within her remit of having better regulation. That is what we tried to achieve, and I believe that we have done so.

I believe that we have achieved that. My experience of the caravan owners' association in my constituency is that it has moved from being a protest group to a group where there is a very positive impact between the site owner and the caravan owners. It has made a positive contribution to life on the caravan park in Cranfield. It has improved to the stage that there is co-operative working between the site owner and the caravan owners' group, and they have even held joint fundraisers.

### 6.30 pm

Members will be aware that there was a dreadful tragedy at Cranfield at the end of the summer. The caravan owners are looking at how they can run an event to look at beach safety and people's responsibilities. Therefore, they are trying to do something positive. This does not have to be about a negative amendment. It is about building good relationships between caravan owners and site owners. As we all know from our line of work, good communication is key, and my amendment can contribute to that.

**The Chairperson of the Committee for Social Development:** Before the Member moves on from that point or maybe even concludes, I want to ask whether he accepts that, if and when this passes in the next number of moments, there is nothing that would do any violence to site owners because of the removal of the proposed clause 8C. The Member had discussions with the Minister of Enterprise, Trade and Investment to ensure that there was nothing in the Bill that would do any violence to site owners and that would single them out for what might be

described as unfair practice. We were talking about unfair practice by site owners, but we must also consider unfairness to site owners. Would he accept that we do not see anything here that will do violence to site owners because of his removal of proposed clause 8C, which was at the request of others, including the Minister of Enterprise, Trade and Investment?

**Mr McCallister:** I am grateful to Mr Hamilton for that intervention. It was important to look at where we could find that balance. Minister Foster made it clear that she did not like that line, and I was grateful for her speedy reply when we put that point to her. Hopefully, we now have the balance right, and I hope that the whole House will agree by supporting the amendments. I am encouraged by Members' contributions to the debate, particularly as regards the amendment in my name. The fact that they are receiving support all round is a positive contribution to the Bill.

**The Minister for Social Development:** I acknowledge and thank people for their various contributions. There are two broad points that I want to touch upon. First, ensuring that all static holiday caravan owners enjoy the protections of Part 2, regardless of the type of site in which their caravan is located, is the essence of the amendment. That was captured in the comments of Mr Hamilton and Mr Craig, although they went about it in different ways.

I am always heartened when I hear Members talk of radical reform because I believe that radical reform has a positive image. The fact that the words "radical reform" were uttered by Mr Hamilton reassured me, because the amendment that widens those who are entitled to the protections of Part 2 is, for want of a better term, a radical reform, and it scopes out the Bill in a way that gives protections to people who are entitled to those protections.

That point was emphasised in Mr Craig's contribution. He commented on how people have had bad and bitter experiences. Even though there is only one caravan site in his constituency, thousands of his constituents may have caravans in other parts of Northern Ireland, as is the case in my constituency and in many constituencies besides. Therefore, whatever the difference may be on Mr McCallister's proposals, good reform is, nonetheless, inherent in the amendment that I have spoken to and

which was touched upon by Mr Craig, Mr Easton and Mr Hamilton.

As I indicated, the Executive have been unable to agree a position on Mr McCallister's amendments. However, it is necessary and it is my duty to reflect to the Chamber the various positions that have been taken, as I understand them. As was indicated, Mr McCallister's amendments fall within the policy responsibility of the Department of Enterprise, Trade and Investment. Both amendments increase regulation of the holiday caravan sector by creating a series of implied terms for seasonal agreements that are enforceable through the courts. The implied terms that are set out in the proposed new schedule create a requirement for site owners to recognise and consult qualifying caravan owners' associations on a range of issues and to give individual owners the opportunity to go to court.

I emphasise that Minister Foster endorses the principle of effective consultation between site owners and caravan owners. However, she believes that those amendments are not the way to achieve that. Instead, the Minister contends, they will create an unnecessary regulatory burden for the holiday caravan park industry, which goes against the Executive's aim to remove unnecessary regulation of industry. She is also concerned as to how compliance with proposed requirements could be achieved effectively.

The counter-argument, which was articulated broadly by Mr McCallister, is that his amendments will have three benefits. First, they will create a safety net for the individual caravan owner. Secondly, they can aid caravan owners in the better management of their sites through co-operation and partnership, as Mr McCallister indicated in his reference to the Cranfield Caravan Park. Moreover, in the event that a caravan site owner is on the wrong side of the argument, a caravan association, by weight of numbers, may prevail upon that caravan site owner to get to a better place.

Those are the two arguments, as I understand them. The first is Minister Foster's argument. The second is the counter-argument, which is captured in the three principles that I just outlined. As I indicated, the Executive were unable to come to consensus on the matter. It, therefore, falls to the House to determine the outcome.

*Question, That amendment No 4 be made, put and agreed to.*

*Amendment No 5 made: In clause 7, page 5, leave out lines 10 to 15. — [The Minister for Social Development (Mr Attwood).]*

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

### **Clause 8 (Particulars of agreements)**

*Amendment No 6 made: In clause 8, page 5, line 19, leave out "seasonal" and insert "caravan". — [The Minister for Social Development (Mr Attwood).]*

*Amendment No 7 made: In clause 8, page 5, line 33, leave out "seasonal" and insert "caravan". — [The Minister for Social Development (Mr Attwood).]*

*Amendment No 8 made: In clause 8, page 6, line 1, leave out "seasonal" and insert "caravan". — [The Minister for Social Development (Mr Attwood).]*

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

### **New Clause**

*Amendment No 9 made: After clause 8, insert the following new clause*

*"Terms of agreements*

*8A.—(1) In any seasonal agreement there shall be implied the terms set out in Schedule 2; and this subsection shall have effect notwithstanding any express term of the agreement.*

*(2) If the owner fails to comply with Schedule 2(2) and 2(3) the occupier may apply to the court for an order requiring the owner to consult with the occupier in accordance with Schedule 2(2) and 2(3)." — [Mr McCallister.]*

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

### **New Clause**

*Amendment No 10 made: After clause 8, insert the following new clause*

*"Jurisdiction*

*8B.—(1) The county court for the county court division in which the seasonal site is situated shall have jurisdiction—*



- (a) to determine any question arising under this Part or any seasonal agreement, and
- (b) to entertain any proceedings brought under this Part or any such agreement;

and references in this Part to 'the court' shall be construed accordingly.

(2) But where the parties have agreed in writing to submit any question arising under this Part or, as the case may be, any seasonal agreement to arbitration, references in this Part to the court shall be read as references to the arbitrator." — [Mr McCallister].

New clause ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

### **Clause 10 (Protection of occupiers against eviction and harassment)**

Amendment No 11 made: In page 7, line 43, at end insert

"(12) Proceedings for an offence under this section may be instituted by the district council in whose district the site is situated." — [The Minister for Social Development (Mr Attwood).]

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

### **Clause 11 (Provision for suspension of eviction orders)**

**Mr Speaker:** We now come to the third group of amendments for debate. With amendment No 12, it will be convenient to debate amendment Nos 13 to 15. Those amendments deal with exempting certain land managed by the Housing Executive for use as a caravan site from the requirement to have a site licence. I inform Members that a valid petition of concern was presented on Monday 24 January in relation to the amendments in group 3, which are amendment Nos 12, 13, 14 and 15. I remind Members that the effect of the petition is that the vote on those amendments will be on a cross-community basis. Members should note that amendment Nos 12 and 13 are paving amendments to amendment No 14, and amendment No 15 is consequential to amendment No 14.

**Mr F McCann:** I beg to move amendment No 12: In page 8, line 42, after "paragraph 11" insert "or 11A".

The following amendments stood on the Marshalled List:

No 13: In page 8, line 43, after "council" insert

"or provided and managed by the Housing Executive". — [Mr F McCann.]

No 14: After clause 14, insert the following new clause

"Part 4A

Licensing of Caravan Sites

Exemption from licensing of sites for Irish Traveller community provided and managed by the Housing Executive

14A. In the Schedule to the Caravans Act (sites exempt from licensing) after paragraph 11 insert—

'sites for Irish traveller community

11A. A site license shall not be required for the use as a caravan site of land provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (NI 3) (provision of caravan sites for Irish Traveller Community)." — [Mr F McCann.]

No 15: In clause 15, page 10, line 19, leave out "paragraph 11" and insert "paragraphs 11 and 11A". — [Mr F McCann.]

**Mr F McCann:** Before I carry on, may I say that I did not get the opportunity to commend John McCallister and Annette Holden. Annette did a lot of work in the background. They must be commended for bringing the Bill in its entirety to the Floor.

Amendment No 12 was first suggested by the Department for Social Development. Knowing of the record of councils regarding all things Traveller, Sinn Féin had no difficulty in supporting it. We thought that it made sense. For the Housing Executive to have the power to bypass councils in obtaining sites for Travellers without having to listen to anti-Traveller rants from many councils, which would then have the licence to refuse, seemed to be the sensible way forward.

Many councils regard Travellers as burdensome, problematic and, in many cases, antisocial. In the past, I have listened to downright racist comments and speeches made by councillors in a number of councils, not least Belfast. Even though Belfast provides sites, the language of some members of other parties was nothing short of insulting. Therefore, it was no surprise that the DUP tabled a petition of concern. It is

obvious that the DUP has been heavily lobbied by its council base, a number of whom are present in the Assembly. It concerns me that they call for a protection of rights when it suits, but it is another question when it comes to Travellers. They can make all the excuses in the world, but the fact remains that the use of a petition of concern in this debate sends out the wrong signals and gives cover to those in councils who would refuse to have a Traveller site on their land.

Last night, I was browsing the Internet and came across a history of Irish Travellers. The section dealing with racial equality and discrimination, which focused on how Travellers in other countries are treated, stated that opposition to Traveller sites in the North had been led by the Democratic Unionist Party. I found that information on the Internet; those are not my words.

In many ways, that is my experience of attitudes, certainly in Belfast. The fact that a petition of concern is being used does nothing to change that belief. Any move to remove the possibility of licences being used as a way to stop the Housing Executive acquiring sites should be supported, and if that means removing the power of councils to issue licences, so be it.

**6.45 pm**

Paragraph 1080 of the Committee's report states:

*"The Housing Executive is planning to re-energise how it secures sites —*

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

**Mr F McCann:** Go ahead.

**Mr Craig:** I thank the Member for giving way. I found what he said about the party to which I belong fascinating. The use of a petition of concern is, quite frankly, legitimate in this case, and we are not the only party that has ever used it. I find it ironic — the Member should take note — that, earlier today, his party supported an amendment, albeit to a different Bill, that ring-fenced funding for councils. If we are to take power and authority away from those democratic bodies, why are we ring-fencing their funding? That is what we are talking about: the Member wants to remove responsibility from locally democratic bodies in this country.

**Mr F McCann:** I thank the Member for his intervention. Like him, I was a councillor for a long time, some 23 years. During that period, councils across the North did some excellent work in a number of fields. My argument is that, in a number of councils, some of the attitudes to Travellers are still abysmal.

**Mr Craig:** Prove it.

**Mr F McCann:** I will not stand here and prove it. What I am trying to say is that you, the DUP —

**Mr Speaker:** Order. Let us not have a debate across the Chamber.

**Mr F McCann:** Sorry, Cheann Comhairle. A petition of concern was raised against what probably should have been a simple amendment. As I was saying, paragraph 1080 of the report states:

*"The Housing Executive is planning to re-energise how it secures sites and identifies appropriate land for sites by taking a slightly new approach. It will do that by focusing on its landholdings and the landholdings of other public bodies to try to identify sites that would meet the identified and identifiable need of the Travelling community."*

To be honest, that paragraph was part of the discussion on clause 1, but it highlights the fact that the Housing Executive's pursuance of sites could extend to council land.

Many councils that have the power to grant permission for a site would, I have no doubt, refuse to grant that licence. We in Sinn Féin believed that it was right for the Department to make the amendment. It is obvious that one of the DUP Ministers, whoever that may be, was unhappy about the amendment and lobbied heavily against it. I accept that it may be a fait accompli, but Sinn Féin believed that there was a need to debate the issue to highlight the anti-Traveller attitudes that prevail in the Chamber.

**The Chairperson of the Committee for Social Development:** Although it may seem a little odd, I will address some of the points that the Member raised later. I want to put the Committee's position on the record: that will create a half-time break in the pugilism.

During Committee Stage, members debated a suggested departmental amendment to remove the requirement for the Housing Executive to seek a licence from a district council for a Traveller's caravan site. Some members of

the Committee supported the view expressed by the Human Rights Commission that the existing licensing process impeded the Housing Executive's ability to provide Travellers' caravan sites and should, therefore, be amended. It was argued that the planning process would provide sufficient controls and protections for the establishment of new caravan sites.

It was, therefore, suggested that the Bill should remove the requirement for the Housing Executive to obtain a district council's approval for the establishment of a Travellers' caravan site. It was argued that that would improve the provision of new Traveller sites and would also ease the pressure on existing sites.

Other members indicated their support for the principle of district councils maintaining control of the licensing of Housing Executive Traveller sites. They argued that district councils played a key role in reflecting local concerns about the siting of Traveller and other caravan parks. Members expressed some concern about the effectiveness of the current planning process in that regard.

The report shows that the Committee was sharply divided on the issue and that a small majority of members did not support related amendments that would require council control of the licensing of Housing Executive sites for Travellers.

Speaking in a personal and party capacity, and just to contextualise this point, I think that everybody realises — indeed, even the proposer of the amendments at least accepted this, in whatever way he expressed it — that the whole issue of handling Travellers is sensitive and can often be controversial. I do not think that anybody in the House would deny that. It is a difficult problem to solve, and it is a problematic issue.

Not long after I took over this role, with the assistance of the Federation of Housing Associations, I took a tour around housing association developments across Northern Ireland. One development that I visited and that Apex Housing Association is now developing is on the Glen Road. I had two reactions to that. As somebody from an area that would perhaps not experience the problems of Traveller sites in a way that the Member opposite, or indeed other Members on this side of the Chamber, could testify to, I was shocked by the conditions that those Travellers were living in.

However, I was also extremely impressed by the housing that was being put on that site and by the work that went into ensuring that it was appropriate for and sensitive to Travellers' particular needs. I commend the Housing Executive and that housing association for their work on that site. In fact, the housing was of such a high standard that I am sure that it would be the envy of many owner-occupiers in that area. Therefore, it is not that I do not recognise that this is a sensitive issue.

I also spoke in Committee about a need to deal with the problem. However, I do not believe that the way that these amendments propose to deal with the problem is appropriate. In the debate on the first set of amendments, I stressed the view that the relationships between organisations that meet Travellers' accommodation needs — the Housing Executive, local district councils, housing associations and other statutory agencies and bodies — are complex and can often involve conflicting pressures. I said this at the time, but I wanted to satisfy myself that the whole Bill, in whatever way it went through, would not significantly alter those relationships or pressures. That is the context from which I am coming.

I fear that this amendment proposes to shake up that system, to imbalance that relationship, to ride roughshod over local government and to remove a significant and important element of local input into the process. I said in Committee, to other Members, and even to the Bill's sponsor, that I feared —

**Mr F McCann:** Will the Member give way?

**The Chairperson of the Committee for Social Development:** Yes, I will, before I get into this point.

**Mr F McCann:** When faced with the possibility of having Traveller sites on their land, many councils across the North would withhold a licence or argue against having a Traveller site on their land. When it comes down to it, very few councils end up providing either sites or the group housing that the Member is correct in saying is excellent. The best way to deal with that is to remove any possibility of any council saying that Travellers are not welcome in its area.

**The Chairperson of the Committee for Social Development:** I thank the Member for his intervention. My colleagues and I on this side

of the House are coming to this issue from the point of view of valuing greatly the local community's input being expressed through its council.

The views that the Member expressed may have some historical validity in some cases, and perhaps even into the future. I will accept that. However, I value the local input that comes through local councils. I appreciate that. I do not doubt for a second that this problem needs to be resolved and tackled. For as long as I continue in this position, I commit myself to do all that I can to try to resolve the problem. However, the way to resolve it is not to say to local councils that we know that they have problems and that we do not like that they have issues or problems, so we will just set them completely to one side and go over their heads and do this and that. If anyone thinks that they have problems now, such action would breed only greater resentment and create upset in the local community, instead of repairing some of the issues.

I accept that there are issues in society about this matter, but doing that would only do more damage and set things back many years. Some of the group housing projects help to try to integrate Travellers better into the community in which they live. Setting aside the input of local communities that, for whatever reason, are sensitive and have issues with this, will in no way satisfactorily deal with the matter. A much better approach would be to encourage co-operation with local government and the communities that they represent over a period of time instead of bypassing them. That will lead to a much more satisfactory and long-term resolution.

I will go back to the point that I was trying to make before the intervention. When he brought this private Member's Bill to the House many moons ago, Mr McCallister's sole intention was to deal with residential sector caravans on protected sites and seasonal sector sites. That was his focus. He is nodding in agreement. It was nothing to do with Travellers. Obviously, the way in which the Bill was drafted meant that it impacted on Travellers. I have expressed some concern that some people have been — maybe "hijacking" is too strong a word — trying to seize the opportunity to take the Bill in an entirely different direction. On this occasion, I am not speaking about the Members opposite; there are others I will point the finger at.

This issue was not in the original Bill. It emanated from a submission by the Northern Ireland Human Rights Commission and not, incidentally, from the Housing Executive, which is, perhaps, the body that is the most directly affected. I said earlier that the Housing Executive came late to the other Travellers' issues that we talked about in the first group of amendments — the tenancy issue — and it came late to this one as well. In fact, and the Bill report shows this, the Housing Executive did not respond to the Committee for Social Development's call for evidence. It did not submit any evidence and it did not raise the issue of the Caravans Act (Northern Ireland) 1963, yet, as the proposer of the amendment said, it is the organisation most affected. The Housing Executive did not raise this issue; the Human Rights Commission, for its own reasons, raised it. The Housing Executive addressed the issue only after the Committee, having had the issue raised with it by the Human Rights Commission, wrote to it to encourage its representatives to come back with evidence. Only then did the Housing Executive say that it thought that that would be a good idea.

There are three broad reasons why these amendments are wrong, and I have given some of them. First, related to the origins of the amendments, there has been no proper consultation on the issue. Members received the Bill report in their pigeonholes, and it is a fairly extensive document. There has been no consultation on this issue because of how it arose. As I said, it arose in evidence from the Human Rights Commission, was latterly addressed by the Housing Executive after prompting from the Committee, and was discussed by Committee members during their deliberations. However, there was no initial consultation by the Department, because it latched on to the issue only as the subject of a possible amendment at a later juncture. The issue was never included in a consultation document, and it was not consulted on in any way. It is not the Committee's job to put it out for consultation in a wider sphere. I would have thought that, on such an issue, which takes away a power from local government, we would want to consult with local government. In looking at the evidence in the Bill report, or indeed anywhere else, as far as I can see, there has been no formal consultation — it may have happened informally, but not to my knowledge — with local government, either individually with



councils that are affected by Travellers' issues more than others or collectively through contact with the Northern Ireland Local Government Association.

The absence of any consultation will only weaken the relationship between local government and central government. That will happen if members of local government see us passing amendments that affect them and the communities that they represent without adequate, proper, or indeed any consultation.

There are submissions of evidence from the likes of An Munia Tober — I am not a fluent Irish speaker, as Members know, so I hope that my pronunciation of that has not offended anybody. That submission addresses other issues in the Bill that affect Travellers; it does not address this issue.

Other issues were raised by the Local Government Partnership on Traveller Issues. I am no longer one of those awful members of local government. However, when I was a member of Ards Borough Council, we sent two members to meetings of that partnership even though that council area was not affected, and a member of my own party was a representative on that working group. That partnership raised and responded to other issues, but it did not respond to the one that was raised by the Member opposite. Therefore, we are debating the issue today almost in a bubble and in isolation. We have spoken about the issue in the confines of this Building, but it has never been properly consulted on with the wider community. I stand corrected if it is otherwise. Neither has it been consulted on with local government, which is the sector that will be most affected by the proposed changes.

### 7.00 pm

The second reason why I have deep concerns about the amendments is their apparent inconsistency with the prevailing orthodoxy on how we should be moving government in this society. There is a desire, which I hope we all share, to devolve powers down to the lowest level possible, and in Northern Ireland that is local government. There are enough issues and potential controversies without reopening the RPA issue; it is too late an hour, and that debate is for another day. However, although we did not ultimately execute RPA and it is being held in abeyance, the whole principle behind it was for central government to legislate, to make policies

and to set the framework, with as much of the execution as possible being carried out at a local level by local government. However, the proposals would appear to move in the opposite direction and take that power away from local government. How that power rested with local government is neither here nor there. It was an anomaly following the moving of responsibility for Travellers to the Housing Executive in 2003. The Housing Executive has enjoyed that power for the better part of a decade, and we should not move to take it away. I would have thought that we would want to move more powers to local government.

Earlier today and during this Consideration Stage, the Minister spoke about encouraging more democracy in Northern Ireland. He may have spoken about that in an entirely different context, but I agree with his overall sentiments. We should encourage more democratic input. The Member opposite who moved the amendment may say that that local democratic input is not positive. However, it is a local democratic input and involvement whether the Member likes it or not. It may not be to the Member's liking or taste, but that is democracy, and we must accept the rough with the smooth. In this case, to take away the power from the Housing Executive would be a retrograde step and a move away from the prevailing orthodoxy that we should hand powers down to local government.

The third reason why I oppose the amendments and would encourage other Members to do likewise is that amendment No 14 would exempt only Traveller sites from needing site licences. The occasions on which site licences are not required are too intricate and impenetrable to go into, but, by and large, they are required for most caravan sites, whether they are private sites such as we spoke about earlier or Traveller sites of whatever nature. As the law states currently, those licences are required to be granted by local government. The proposal is that we exempt just Traveller sites from the requirement. Even if I were to play devil's advocate and say that I was completely supportive of the proposal, that seems to be completely wrong. It should be all duck or no dinner, and Traveller sites and private sites should all be exempt from site licence requirements. However, that is not what has been proposed.

The accusation has been made that my party and I are being political with the issue. However, the proposal is also political, and to put it forward is a deliberate attempt to stir up a hornets' nest. I will not be provoked in that way. The proposal comes from a party that frequently talks about discrimination and calls for equality impact assessments on absolutely everything. However, we would be discriminating against private site owners if we were to pass the amendments. We have not equality impact assessed that. Why not private caravan parks? Let me be frank: why is it that the proposal is to exempt what may be described as the more controversial element and leave out the less controversial element? To play devil's advocate, I suggest that one would take away the requirements for site licences for private, residential or seasonal caravan parks. They do not tend to go to Lisburn — no disrespect to my colleague beside me — but they do tend to go to towns and parts of the Province where there is already a demand for caravan sites. I would have thought that there would be less controversy if we were to take away site licences for private owners, but that has not been included.

This is a controversial and sensitive issue. I commit myself to doing all that I can to resolve it, but this is not the way to do so. This is proposing to ride roughshod over local government and disregard local input. Whether the Member opposite likes it or not, I value the role of councils in approving site licences. Removing that role is not without consequence. If we live in some sort of bubble up here and think that we can remove that power without negative consequences, we will only provoke greater controversy, because we will not have worked with local government to come up with a sensible solution to the Travellers issue. I encourage everyone here, the Minister and the Department to work to pave the way for a more amicable solution to the problem. That is the only way to resolve it in the long term. If we take that power away, we will be thumbing our nose at local government and provoking it and provoking a negative reaction in the community as well.

Other Members may want to speak in more detail about particular issues in their constituency. I will not do that, because those issues do not arise in my constituency. However, that does not mean that I am not sensitive to those concerns. I encourage greater co-operation with local government on this issue.

I will in no way encourage bypassing local government. The amendments in question propose to do so and will do nothing to solve the issue. They will merely move the problem and create a new problem elsewhere. They may overcome one aspect of the problem, but they will in no way address the sensitivities and controversies that can exist.

The use of a petition of concern may be, at an abstract level of debating, an unsatisfactory thing to do, but it is a device that is open to everyone in the House. I have signed petitions of concern, as have others, on a wide range of issues. The Members on the opposite Benches have done likewise. It is our right, if we believe that a proposal such as the one in question will have such a negative impact, to sign the petition of concern and present it to you, Mr Speaker. We do it because of our belief that it will do fundamental damage to the relationship between local government and central government and will do absolutely nothing to solve the problem. It will simply move the problem somewhere else down the pipe. With that in mind, I encourage Members to oppose the amendments in the interests of maintaining that input from local government and, by rejecting them, encourage everyone here to seek a more amicable and sensible solution to the problem.

**Mrs M Bradley:** I sat on a council which, for years, has worked with Travelling people and tried to get them settled and get them somewhere decent to live, which was their entitlement. They are no different to anyone else; they need homes. The responsibility for looking after their interests should be transferred to the Housing Executive. Experienced housing officers in the Housing Executive have a better way of working with Travelling people and understand their needs. The Chairperson of the Committee said that this should not be an issue, but the petition of concern made it an issue tonight, and I feel very sad that this has happened. This should have been handled in a different way. A petition of concern does not handle this well. It has made a bad situation worse. I am sorry, and I regret having to say that.

These people are the same as you and me. If your council has never worked with them, if any of you are councillors and have never worked with them, you do not understand them, and you would not understand the work that councils

put into this. Once they were transferred to the Housing Executive, then Apex Housing came in and built the housing sites. I invite any of you to come and see the housing sites. They are absolutely superb. The families who live in those housing sites now realise that they should live in houses. This is educating them in a way of getting into houses. It is improving their lifestyle and giving children a better way of life. Who would refuse them that?

I cannot support the petition of concern in any way. As a matter of fact, I am totally appalled that it even arose this evening.

**Ms Lo:** A number of amendments have been proposed to take into account the special circumstances of Travellers. It is such a pity that the DUP cannot bring itself to support this group of amendments. It is such a pity that the DUP has to use the petition of concern to try to defeat it. There are fewer than 1,500 Travellers in Northern Ireland, and yet we seem to have so much trouble and difficulty in accommodating their special needs in order for them to maintain their nomadic lifestyle. Surely we need to respect their needs and accommodate them. The lack of provision for Irish Travellers has been criticised by national, European and international bodies such as the UN and the Council of Europe. We have been shamed and named for not providing proper accommodation and living conditions for families and children for so long.

A big problem, stated clearly by staff in the Housing Executive during the evidence sessions in Committee, is securing appropriate sites. Housing Executive staff said that they were looking at a new approach and at making greater use of the Housing Executive's own land and other public land banks to meet the accommodation needs of all people, including Travellers. This group of amendments should help the Housing Executive to find more appropriate sites to accommodate the Travellers. The amendments would address the anomaly that, while the Housing Executive was given not only the power but the responsibility to provide Travellers with accommodation in 2003, it still has to seek site licences from local councils. I want to ask why. Why, except political influence? Councils such as Craigavon Borough Council have used it as a mechanism for blocking the building of Travellers' sites.

The Human Rights Commission supports the amendments and accordingly advised the Committee to put them in, so that we can meet human rights obligations in Northern Ireland. If we are going to be a progressive society, we have to respect diversity. Minister Poots wrote to the Social Development Minister on 4 October, giving his support for an amendment to correct this discrepancy. It is a discrepancy to exempt the Housing Executive from the licence requirement. Mr Hamilton said that removing the power from the councils was not democracy. Surely we have a planning system now that will give councils plenty of opportunities if they want to object to any planning applications. It is a shame that the DUP just cannot bring itself to support this group of amendments.

### 7.15 pm

**Mr S Anderson:** I welcome the Caravans Bill and commend Mr McCallister for bringing it to the House. It is worth reminding ourselves that the Bill was introduced in good faith, with the aim of addressing anomalies in a range of areas, such as rights of tenure and other rights for caravan owners.

I wish to speak to the third group of amendments — amendment Nos 12, 13, 14 and 15 — which deals with exemption from the licensing of sites. I will concentrate on amendment No 14, which would introduce a new clause. I declare an interest as a member of Craigavon Borough Council. I am disappointed with those who decided to table a substantive amendment of this nature. It is completely unnecessary and extremely unhelpful. The amendment is misplaced and misguided from a number of perspectives. I am all too aware that there are serious issues relating to the Irish Traveller community, as they are now known, but the Caravans Bill is not the vehicle to address those issues.

In essence, amendment No 14 would remove the current requirement for site licences, to be granted by the local council, for caravan sites for the Irish Traveller community. As someone who joined the Committee for Social Development last September, I would be interested to know how much consultation took place with local authorities on the matter.

Let us consider some of the potential negative impacts of the amendment. First, as the Committee Chairperson, Mr Hamilton, mentioned, it strikes a blow at the principle of

equality. I find that ironic, as the signatories to the amendment and their parties regard themselves as champions of equality and human rights. Their amendment will create a situation in which those who own and operate holiday caravan parks will still be required to be licensed, whereas sites for Irish Travellers will not. One section of the community will still be required to meet certain standards and will continue to face the full burden of bureaucracy and responsibility. That will not be the case for Irish Travellers. That surely cannot be morally right. It will drive a wedge between two categories of people and, as such, is hardly a recipe for social integration and cohesion.

Secondly, at a time when we are keen to develop local government and enhance the role and work of councils, the amendment proposes that we take away a very important and worthwhile function. Why would we want to reduce council powers in that way? I argue that, by ensuring that councils retain licensing powers on Travellers' sites, we are ensuring that locally elected representatives, from all the parties, are in a position to make decisions that reflect local people's views. In that way, we will safeguard Travellers' rights on the one hand and the democratic rights and concerns of local people on the other. We have a duty of care —

**Ms Lo:** Will the Member give way?

**Mr S Anderson:** No, I will not give way. We have a duty of care to look after not only Travellers but those living adjacent to Traveller sites. Some argue that the planning process ensures adequate involvement by councils, but I beg to differ. It is a factor, but the planning process in itself does not compensate for direct council involvement. Local issues need local solutions, and the best way to secure those is to retain council licensing powers. I fear that mayhem could ensue if amendment No 14 is accepted.

Ms Anna Lo cited my council, Craigavon Borough Council, saying that it was using some sort of blocking mechanism. That is certainly not the case. I have been involved in Craigavon Borough Council for 10 years and have witnessed the working relationships on it. I encourage any Member to go down to see what happens in Craigavon Borough Council. I am sure that the Minister has been down before, so perhaps he, too, will go to see the sites there. I will speak about a specific site in a minute.

If the amendment were made, the Housing Executive would be left with far too much responsibility. That would be grossly unfair to it and, indeed, to the community as a whole. I will cite the example of Legahory Green in Craigavon in my constituency. The Housing Executive application referred to a temporary halting site, and the facilities that the Housing Executive proposed to provide on the site were, indeed, very limited. However, as a result of legal advice, Craigavon Borough Council considered that the definition of a temporary halting site was incorrect and that it was more akin to a transit site, given the duration of occupancy. The council, therefore, required the Housing Executive to provide additional amenities such as electricity, toilet, shower and laundry facilities. Reference was made to the DOE design guide and to the Department for Communities and Local Government's guide when setting site conditions. Conditions also included references to the Housing Executive's management and control of the site and the avoidance of nuisance conditions such as barking dogs. I cite that as a case study to show the importance of retaining council powers in the interests of all key parties.

As the Chairperson said, there are no easy solutions. However, they will not be found by tampering with the Caravans Bill in the way that this amendment proposes. I oppose amendment No 14 and, by extension, amendment Nos 12, 13 and 15, which are linked to it.

**Mr Beggs:** I, too, oppose amendment Nos 12, 13, 14 and 15. I agree that this is not the right vehicle to bring in such significant changes to Traveller caravan sites, which are a very sensitive issue in any community. There is great potential to exacerbate the community tensions that can arise, particularly if such a site were dropped into a community without appropriate consultation or respect for the views of local people.

**Mr F McCann:** In that short comment, the Member has outlined my whole argument. We should not regard Travellers as problems in communities, which is the attitude of some councils. Certain councils' attitude to Travellers is highlighted in what the Member just said.

**Mr Beggs:** I declare an interest as a local councillor. The reason for my comments is that there would be great concern if such sites



were placed in Larne, Carrickfergus or parts of Newtownabbey in my constituency, where there is no tradition of a Travelling community. I would not understand the Housing Executive or some outside body deciding to take such action. However, if it did, there would be huge concern in the local community. Indeed, it may exacerbate tensions. If there are difficulties — the Member used the term “problem” — that need to be addressed, it is much healthier if the council, in facing those difficulties, takes careful consideration of all the options and identifies part of the solution, which could involve the establishment of sites.

**Mr Craig:** All this revolves around councils' powers to intervene. Some Members have wrongly stated that councils have those powers under current planning regulations. The reality is that there is a consultation process. The Minister made it clear that, although it is a consultation process and not a devolved issue, local councils do not have the authority to deal with the issue that they should have.

That small bit of authority on licensing is the only tool that local councils have to deal with the issue. I am sure that the Member agrees that that is the case and that it would be wrong to remove that one single tool without actually giving councils the proper tools — full planning powers — to deal with these issues.

**Mr Beggs:** I thank the Member for his contribution and support what he said. I ask those who advocate bypassing local councils on the issue whether they have consulted all the local councillors and residents in the area in which they reside and whether they have identified any possible sites. How would Members react were an outside body — the Northern Ireland Housing Executive, which has its headquarters in Belfast — to decide to locate such a site close to their homes or those of their friends without proper consultation and against their wishes?

**Mrs M Bradley:** I thank the Member for giving way. I thought that I said that I had worked for years with a council that works with Travellers and that many other councillors and councils in the area do the same. Every one of them is of the same opinion: housing problems are not for councils; they are for the Housing Executive, where the experienced people are. Campsites are no use to anyone. Families need stable homes, and the only way that they will get them

is if they are on the Housing Executive's waiting list to be housed like every other human being.

**Mr Beggs:** I thank the Member for her contribution. That experience will help to inform local councillors in coming to decisions. I have to say that my experience of that is somewhat limited, because there has not been a tradition of sites in my part of the world. However, I am just thinking about how my constituents would react were an outside body to override the wishes of the local council and position a site in an area where there is no tradition of that happening and no perceived need for it to happen. That would usurp local democracy and go against the direction of trying to devolve more responsibility to a local level.

**Mr Kennedy:** In relation to the point that the Member for Foyle Mrs Bradley made, there is clear evidence that significant problems arise when attempts are made by the Housing Executive to award houses to members of the Travelling community in settled housing areas, even in well-established Housing Executive estates. Those problems are there, and they cannot be discounted and overlooked. It is right for the Housing Executive to make an effort to resolve those issues. However, it creates a certain amount of tension in local communities.

**Mr Beggs:** I thank the Member for that. As a member of the Environment Committee, I recall visiting a women's centre in the Brownlow area of Craigavon to discuss an environmental issue about a community garden. I remember being astonished at the surrounding area and at the need for increased education, training and support for the adjacent Traveller community to try to help them to better themselves, because they certainly were not contributing to that. I would even go as far as to say that they might have even been endangering their health and safety through some of their practices. I am, therefore, sympathetic to trying to give additional support and guidance. However, that is a separate issue. Were such a site to be inappropriately located, it would actually endanger others. It is important that we try to intervene, but that is a separate issue.

I strongly believe that local councils should play a role. I hope that, down the line at some point, local planning decisions will fall to councils and that, at that point, they will have some real say in such matters. However, as other Members said earlier, at the minute, councils are only

consulted on planning issues. Therefore, the removal of licensing powers from councils could cause real tensions at local levels, where local councillors and people have seen their concerns and wishes totally ignored by big government. I fear that that would exacerbate difficulties on the ground, and, for that reason, I will oppose this group of amendments.

**7.30 pm**

**The Minister for Social Development:** Although I am tempted to contribute to the debate and respond to some of the issues that were raised, given that the Executive were not able to agree a position on amendment Nos 12 to 15, I am constrained in what I can say. However, I confirm that amendment Nos 12 to 15 are technically correct and would be legally effective should they be passed.

**Mr McCallister:** In addressing this group of amendments, it is important to reiterate the Chairperson's comments that the focus of the Bill is primarily on the residential sector and holiday caravans. In the debate on the first group of amendments, I accepted the fact that the United Kingdom does not have a brilliant track record on Travellers' rights. As a nation, we need to do more and better. As a society in Northern Ireland, we have a long way to go and much work to do to develop our cohesion, sharing and integration strategy. I am determined that issues about Travellers in this group of amendments do not distract from the Bill, because the primary focus is on the residential and holiday sector.

It is late in the evening, and I suspect that many Members have already decided the way in which they intend to vote. No matter how powerful a speech I deliver — I see some sceptical looks — I doubt whether I will change any minds. It has been a useful debate, with conflicting opinions, about balancing the rights of Travellers. Although the Bill's primary focus is not on Travellers, the amendments, and our debate on the first group of amendments, demonstrate the Assembly's commitment to do what it can to help and support Travelling communities and to ensure that the Bill, or, indeed, any legislation, does not disadvantage Travellers. I am not convinced that the balance would be right if we were to accept the amendments, but I place on record the fact that I do not believe that a petition of concern

is the appropriate way to address the issues. Therefore, I will abstain in the vote.

**Mr Brady:** Go raibh maith agat, a Cheann Comhairle. The debate has been an education for me, and I do not know why I am surprised by the stout defence of councils by councillors and ex-councillors.

I commend John McCallister for introducing the Bill, which is certainly required. I do not think that John envisaged the complexities that would surround the Bill. Indeed, from what we heard today, the Bill will also be controversial.

I have worked with Travellers for 30-odd years and have been in many Travellers' sites. Unlike some Members opposite, I feel that I am in a position to comment on the treatment of Travellers. In my experience with councils, including Newry and Mourne District Council, there were strong prejudices against the Travelling community. However, those attitudes are changing, and perhaps Mr Kennedy will comment on that at some stage. There is now acceptance, and fair efforts have been made to integrate Travellers into our community to the extent that Travellers' sites no longer exist. Some sites in our area were worse than those in the Third World. Even in November, children had to stand under standpipes to try to wash themselves — and people wondered why they were smelly and dirty. I would have been the same if I had had to stand under a standpipe with a bar of soap in November.

I support the amendments. My colleague Mr McCann commented on the DUP's attitude historically. However, it was not just the attitude of the DUP, as we found out today. Some, although perhaps not all, Ulster Unionists had the same train of thought. As Mr McCann said, there has been opposition to Travellers' sites, and there seems to be a reluctance to remove any power from councils. It must be said that they do not have very much power. Perhaps they would have got a lot more through the RPA, and probably rightly so. No doubt they will hold on strongly to the little power that they have at the moment. That seems to be the trend.

Jonathan Craig intervened to mention council attitudes towards Travellers, and he also alluded to other groups. My experience over many years has been that there was a certain reluctance among councillors to have much truck with voluntary groups. Again, that is an attitude that has changed and continues to change, but,

again, I am speaking from personal experience in these matters.

The Housing Executive is a statutory body. It did not come through in the debate that it is recognised as competent. Obviously, it may not be competent in some other areas, and we look forward to hearing about that. However, it is a statutory body with responsibility for Travellers' sites and the provision of them. That responsibility has been mentioned today, and it is important.

Simon Hamilton spoke as Chairperson of the Committee, and he gave a comprehensive summation of the discussion and debate in Committee. There was and continues to be a lot of consensus in the Committee, but there are issues that we will always disagree on, and Travellers is one such issue. Simon made three points about proper consultation. I was struck by what the councillors stood up to say today. As Mr Anderson, Mr Beggs and Mr Craig are councillors — although Mr Craig did not directly mention lack of consultation — could they not find out whether there was consultation and let us know?

**Mr Craig:** No.

**Mr Brady:** I am glad that the Member said that, but he was not the one who alluded to it. With respect, the councillors who did allude to it did not give us any information as to whether or not they were consulted.

**The Chairperson of the Committee for Social Development:** Is the Member seriously suggesting that the onus and responsibility for consulting on what is put before us rests with individual Members of this House? That would signal the development of the very odd and novel concept that we are responsible for running out and consulting with all and sundry in the country to find out whether they are happy with proposals. There are processes for consultation. It is very clear — indeed, the Member has not refuted it — that the amendments put forward by him and others have in no way been consulted on properly or adequately.

**Mr Brady:** I thank the Member for his intervention. With respect, I did not say whether or not there was consultation. The point that I was trying to make is that a number of members of the Committee are councillors and continue to be councillors. If they were so

exercised about lack of consultation, they could have raised it as an issue. To my recollection, that was not done to any great degree. That is a fairly straightforward and simple point, whether the Members accept it or not. I do not expect councillors to run out and consult with one and all. However, this issue is important, and if they were so exercised about it, they could at least have raised it.

Mr Hamilton's second point was about the inconsistency of the amendments and how they were at odds with the orthodoxy of devolving powers to councils. RPA was also mentioned. He went on to talk about the amendments proposing to exempt Traveller sites only. As far as I am aware, licences are required for other sites, but the amendments talk specifically about Travellers. I am not aware — if others are, perhaps they could enlighten me — of there being particular problems with other sites to the extent that there appears to be with Traveller sites in the view of some people. That is simply my point.

The Member accepted that the issue of Traveller sites is very controversial, and I do not think that anyone would argue with that. However, it has been controversial for a long time, and the nettle should have been grasped a long time ago. I made that point in Committee, and I will continue to make it because there is a lack of responsibility and a lack of people dealing with problems. Travellers are not outside our community; they are members of it, and they should be treated with the dignity and respect that they deserve. They are no worse than anybody else, and I do not think that they necessarily want to be better than anybody else. That is certainly my experience, and I will continue to argue that.

Mary Bradley talked about her experience of working with Travellers; she made it clear that she is au fait with the problems that they face daily. Anna Lo talked about the special circumstances of Travellers; she made the point that there are fewer than 1,500 Travellers in the North. It should be recognised that we are not dealing with a huge problem; we are not dealing with thousands of people. We are talking about people who, for the most part, want to be integrated into our society. The lack of provision has been internationally criticised. Anna Lo's argument was very much in favour of the amendments. She stated that councils

had the opportunity to object, as was said later about the planning system.

Sydney Anderson, as a councillor, made a stout defence of Craigavon Borough Council. He said that he was disappointed by the amendments as they were misplaced and misguided. However, my experience of dealing with Craigavon Borough Council over the years in relation to Travellers is that it was not exemplary in dealing with the problem. Perhaps that is not recognised by Craigavon Borough Council, but it is certainly recognised by other people. I think that the Member invited the Minister to view the sites in Craigavon. He did not make it clear whether he meant “sights” or “sites”, but I assume that it was a bit of both. He talked about equality and human rights and how one section of the community requiring a licence was not morally right. He also talked about a wedge being driven. In my experience, the wedge has been there for a long time. That wedge is not firmly in place; it is starting to loosen a wee bit, but a great deal of work needs to be done on it.

I will make just one comment about Roy Beggs: he is a Nimby; he does not want Travellers in his back yard. Perhaps they just do not want to go there because they realise the reception that they might get. What the Member said today certainly does not inspire confidence in going to his constituency.

Jonathan Craig intervened and talked about council powers. He mentioned the consultation process in planning, so consultation entered his vocabulary today at some stage. Mary Bradley also intervened and talked about houses being required.

#### 7.45 pm

Perhaps I should elaborate on what Roy Beggs said. Although he is a Nimby, he talked about there being no tradition of sites or perceived need for them. Maybe that is why he is a Nimby. Maybe, Roy, you should broaden your experience and come to see a few sites. It might give you an insight into how —

**Mr Beggs:** I can honestly say that I would not wish for such a site anywhere in my constituency: where skips are provided free by the council, but are not used; where rubbish is being spread around widely; and where socks were stolen — I will not go into detail, but they were used for something for which they were

not meant to be used — from the garden of a women's centre that tries to help disadvantaged members of the community, and desecration occurred at the side of the building. I can assure you that I do not want that anywhere in my constituency.

**Mr Speaker:** Members should direct their remarks through the Chair.

**Mr Brady:** The Member said that he would like to help Travellers to better themselves. He has a missionary zeal on which he should expand. Maybe he should go back to Craigavon, or wherever he saw that site, and do his best. If there are such sites in Mr Beggs's constituency, perhaps they are better supervised, looked after and resourced.

In fairness, the Minister was brief, saying simply that the amendments are technically correct. John McCallister was trying to be all things to all men, because his Bill is a precious child to him and he did not want to offend too many people.

**Mrs M Bradley:** I thank the Member for allowing me to intervene. John's Bill is fabulous, but it has certainly not been helped by the discussions that we have had tonight. It is absolutely and totally incredible that, as representatives of everybody out there, we are talking about a section of the community that is made up of human beings who are the same as everybody else. I have them living in houses in housing estates, and I invite any of you to go with me to see how they live with the people and how the people appreciate living with them.

#### **The Chairperson of the Committee for Social Development:**

I remind the Member that the only reason we are debating this issue is because of amendments tabled by her and others. If the Member is concerned about the debate, perhaps now is not the time to worry about that. The time to worry was the moment she tabled the amendments. That is the only reason why the issue is being debated.

**Mrs M Bradley:** Will the Member give way?

#### **The Chairperson of the Committee for Social Development:**

I am afraid that it is not my Floor to give way.

**Mrs M Bradley:** I say to the Chairman of the Committee that we brought amendments that were rightfully done, but I am not sure whether a petition of concern should have been allowed this evening. It is absolutely appalling that we



have come to this situation in the Chamber. I have never felt as angry in my life as I feel tonight.

**Mr Speaker:** Let me clarify: this is a valid petition of concern. Any vote in the Assembly can attract a petition of concern. I have no role in it. I refer Members to the Act that lays out clearly what a petition of concern is and when it can be used in the House.

**Mr Brady:** I thank both Members for their interventions. I am losing count. With respect to what the Chairperson said about the amendments, I think that, apart from the importance that we feel the amendments have, they have opened the debate to wider issues. Although I disagree with the reason for tabling the petition of concern, as the Speaker said, it is an instrument that can be used. We have all used it. If Members feel strongly enough, they can use it. However, with respect the wider debate, this debate has brought out the diverse views that people have towards Travellers, which we need to address. At some stage, we have to sit down and discuss the particular problem. This is not a recent problem; it has been going on for a long time, and we need to deal with it. The debate has been useful because it has contained a wide diversity of views, both from people who have had, and continue to have, experience of working with Travellers on a weekly or daily basis and from people who have absolutely no experience and maybe need to gather some experience before they feel the need to pontificate on issues that they should maybe admit that they do not know that much about.

**Mr Speaker:** Amendment No 12 is a paving amendment to amendment No 14. As I said earlier, I have received a valid petition of concern that relates to amendment No 12. Therefore, the vote will be on a cross-community basis.

*Amendment No 12 proposed:* In page 8, line 42, after "paragraph 11" insert "or 11A". — [Mr F McCann.]

*Question put.*

*The Assembly divided: Ayes 31; Noes 32.*

## AYES

### NATIONALIST:

Ms M Anderson, Mr Attwood, Mr Boylan,  
Mrs M Bradley, Mr Brady, Mr Burns, Mr Butler,

Mr W Clarke, Mr Gallagher, Mrs D Kelly, Mr G Kelly,  
Mr A Maginness, Mr A Maskey, Mr P Maskey,  
Mr F McCann, Mr McCartney, Mr McDevitt,  
Mr McElduff, Mrs McGill, Mr McGlone, Mr McKay,  
Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill,  
Mr P Ramsey, Ms S Ramsey, Ms Ruane,  
Mr Sheehan.

### OTHER:

Dr Farry, Ms Lo.

*Tellers for the Ayes: Ms Lo and Mrs McGill.*

## NOES

### UNIONIST:

Mr S Anderson, Mr Armstrong, Mr Beggs, Mr Bell,  
Mr Bresland, Lord Browne, Mr Buchanan,  
Mr T Clarke, Mr Craig, Mr Easton, Mr Elliott,  
Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan,  
Mr Givan, Mr Hamilton, Mr Hilditch, Mr Irwin,  
Mr Kennedy, Mr I McCrea, Miss McIlveen,  
Mr McQuillan, Lord Morrow, Mr Moutray, Mr Poots,  
Mr G Robinson, Mr Ross, Mr Spratt, Mr Storey,  
Mr Weir, Mr Wells.

*Tellers for the Noes: Mr S Anderson and Mr Craig.*

Total votes	63	Total Ayes	31	[49.2%]
Nationalist		Nationalist		
Votes	29	Ayes	29	[100.0%]
Unionist		Unionist		
Votes	32	Ayes	0	[0.0%]
Other Votes	2	Other Ayes	2	[100.0%]

*The following Members voted in both Lobbies and are therefore not counted in the result: Mr McCallister, Mr B McCrea.*

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

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

*The Assembly divided: Ayes 31; Noes 32.*

## AYES

### NATIONALIST:

Ms M Anderson, Mr Attwood, Mr Boylan,  
Mrs M Bradley, Mr Brady, Mr Burns, Mr Butler,  
Mr W Clarke, Mr Gallagher, Mrs D Kelly, Mr G Kelly,  
Mr A Maginness, Mr A Maskey, Mr P Maskey,  
Mr F McCann, Mr McCartney, Mr McDevitt,  
Mr McElduff, Mrs McGill, Mr McGlone, Mr McKay,  
Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill,

*Mr P Ramsey, Ms S Ramsey, Ms Ruane, Mr Sheehan.*

#### **OTHER:**

*Dr Farry, Ms Lo.*

*Tellers for the Ayes: Ms Lo and Mrs McGill.*

#### **NOES**

#### **UNIONIST:**

*Mr S Anderson, Mr Armstrong, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Easton, Mr Elliott, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr Kennedy, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wells .*

*Tellers for the Noes: Mr S Anderson and Mr Craig.*

Total votes	63	Total Ayes	31	[49.2%]
Nationalist Votes	29	Nationalist Ayes	29	[100.0%]
Unionist Votes	32	Unionist Ayes	0	[0.0%]
Other Votes	2	Other Ayes	2	[100.0%]

*The following Members voted in both Lobbies and are therefore not counted in the result: Mr McCallister, Mr B McCrea.*

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

**Mr Speaker:** The question is that clause 11 stand part of the Bill. All those in favour say "aye".

**Some Members:** Aye.

**Mr Speaker:** Contrary, if any, say "no".

**Some Members:** No.

**Mr Speaker:** Order. What we are trying to achieve is to put the Question that clause 11 stand part of the Bill. I know that Members have been going through the Lobbies for some time, and I think that they are looking to the sponsor of the Bill, so let us be clear. I will ask the Question again so that there is clarity on it.

Question put and agreed to.

*Clause 11 ordered to stand part of the Bill.*

*Clauses 12 to 14 ordered to stand part of the Bill.*

#### **New Clause**

**Mr Speaker:** Order, Members. Let us keep focused until we finish. Amendment No 14 has already been debated. As I have received a petition of concern relating to amendment No 14, the vote will once again be taken on a cross-community basis.

*Amendment No 14 proposed: After clause 14, insert the following new clause:*

*"PART 4A*

*LICENSING OF CARAVAN SITES*

*Exemption from licensing of sites for Irish Traveller community provided and managed by the Housing Executive*

*14A. In the Schedule to the Caravans Act (sites exempt from licensing) after paragraph 11 insert<sup>34</sup>*

*'SITES FOR IRISH TRAVELLER COMMUNITY*

*11A. A site license shall not be required for the use as a caravan site of land provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (NI 3) (provision of caravan sites for Irish Traveller Community)." — [Mr F McCann.]*

*Question put.*

*The Assembly divided: Ayes 30; Noes 32.*

#### **AYES**

#### **NATIONALIST:**

*Ms M Anderson, Mr Attwood, Mr Boylan, Mrs M Bradley, Mr Brady, Mr Burns, Mr Butler, Mr W Clarke, Mrs D Kelly, Mr G Kelly, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr F McCann, Mr McCartney, Mr McDevitt, Mr McElduff, Mrs McGill, Mr McGlone, Mr McKay, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ruane, Mr Sheehan.*

#### **OTHER:**

*Dr Farry, Ms Lo.*

*Tellers for the Ayes: Ms Lo and Mrs McGill.*

#### **NOES**

#### **UNIONIST:**

*Mr S Anderson, Mr Armstrong, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Easton, Mr Elliott,*

Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr Kennedy, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Noes: Mr S Anderson and Mr Craig.

Total votes	62	Total Ayes	30	[48.4%]
Nationalist Votes	28	Nationalist Ayes	28	[100.0%]
Unionist Votes	32	Unionist Ayes	0	[0.0%]
Other Votes	2	Other Ayes	2	[100.0%]

The following Members voted in both Lobbies and are therefore not counted in the result: Mr McCallister, Mr B McCrea.

Question accordingly negatived (cross-community vote).

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

### Clause 15 (Interpretation)

**Mr Deputy Speaker:** Amendment No 15 is consequential to amendment No 14, which was not made. I will not therefore call amendment No 15.

Amendment No 16, which has already been debated, is consequential to amendment Nos 4 and 5, which have both been made.

Amendment No 16 made: In page 10, line 26, leave out

*"protected site or a seasonal site"*

and insert *"caravan site"*. — [The Minister for Social Development (Mr Attwood).]

**Mr Deputy Speaker:** Amendment No 17, which has already been debated, is consequential to amendment Nos 4 and 5, which have both been made.

Amendment No 17 made: In page 10, line 32 leave out *"seasonal site"* and insert

*"site in respect of which the relevant planning permission or site licence—*

*(a) is expressed to be granted for holiday use only; or*

*(b) is otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation;". — [The Minister for Social Development (Mr Attwood).]*

Amendment No 18 made: In page 10, leave out line 36. — [The Minister for Social Development (Mr Attwood).]

Clause 15, as amended, ordered to stand part of the Bill.

Clauses 16 and 17 ordered to stand part of the Bill.

### Schedule (Agreements under Part 1 of this Act)

Amendment No 19 made: In page 12, line 29, leave out *"reasonable"* and insert *"proportionate in all the circumstances"*. — [The Minister for Social Development (Mr Attwood).]

Amendment No 20 made: In page 12, line 34, leave out *"reasonable"* and insert *"proportionate in all the circumstances"*. — [The Minister for Social Development (Mr Attwood).]

Amendment No 21 made: In page 13, line 1, leave out *"reasonable"* and insert *"proportionate in all the circumstances"*. — [The Minister for Social Development (Mr Attwood).]

Amendment No 22 made: In page 14, line 11, leave out *"the rate of 10%"* and insert

*"a rate not exceeding 10% of the sale price"*. — [The Minister for Social Development (Mr Attwood).]

Amendment No 23 made: In page 14, line 15, at end insert

*"(11) In relation to a caravan on a travellers' site (within the meaning given by section 5(3)(c)), this paragraph applies with the omission of -*

*(a) sub-paragraph (9); and*

*(b) in sub-paragraph (10), the words "Except to the extent mentioned in sub-paragraph (9)," — [The Minister for Social Development (Mr Attwood).]*

Amendment No 24 made: In page 14, line 30, leave out *"the protected site"* and insert

*"any protected site of the owner"*. — [The Minister for Social Development (Mr Attwood).]

Amendment No 25 made: In page 15, line 5, at end insert

*"or to any amenities on the site" — [The Minister for Social Development (Mr Attwood).]*

Schedule, as amended, agreed to.

### **New Schedule**

Amendment No 26 made: After Schedule insert

#### *"SCHEDULE 2*

#### *Qualifying caravan owners' association*

*1. -(1) A Caravan owners' association is a qualifying owners' association in relation to a seasonal site if -*

*(a) it is an association representing the occupiers of caravans on that site;*

*(b) at least 50 per cent. of the occupiers of the caravans on that site are members of the association;*

*(c) it is independent from the owner, who together with any agent or employee of the owner is excluded from membership;*

*(d) subject to paragraph (c), membership is open to all occupiers who own a caravan on that site and are entitled to an agreement under clause 7(1);*

*(e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents' association;*

*(f) it has a chairman, secretary and treasurer who are elected by and from among the members on an annual basis at the Annual General meeting;*

*(g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each caravan.*

*(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b), each caravan shall be taken to have only one occupier and, in the event of there being more than one occupier of a caravan, its occupier is to be taken to be the occupier whose name first appears on the agreement.*

#### *Owner's obligations*

*2. The owner shall consult a qualifying caravan owners' association, if there is one, about -*

*(a) significant changes to the operation and management of the seasonal site which affect the occupiers either directly or indirectly; and*

*(b) changes to site fees or service fees.*

*3. For the purposes of the consultation in paragraph 2(1) the owner shall give the association at least 28 days' notice in writing of the matters referred to in paragraph 2 which -*

*(a) describe the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and*

*(b) states when and where the association can make representations about the matters." — [Mr McCallister.]*

New schedule agreed to.

Long title agreed to.

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

Adjourned at 8.35 pm.





# Written Ministerial Statement

**The content of this written ministerial statement is as received at the time from the Minister. It has not been subject to the official reporting (Hansard) process.**

## Social Development

### **Welfare Reforms – Incapacity Benefit Reassessment**

*Published at 4.00 pm on  
Tuesday 25 January, 2011*

#### **The Minister for Social Development**

**(Mr Attwood):** Assembly colleagues will be aware of my unease over the the range, nature and pace of Welfare Reform initiatives put forward by the Coalition Government. Given Northern Ireland's unique political and social history and our current economic situation, I have met with Department for Work and Pensions Ministers on a number of occasions and strongly expressed my concern that time, flexibility, proper phasing and acknowledgement of our conditions is vital in the implementation of such changes in order to protect the most vulnerable in our society here.

The most immediate of these Welfare Reforms is Incapacity Benefit Reassessment and the Department for Work and Pensions has been trialling their processes in Aberdeen and Burnley since October 2010. I note that Minister Grayling has indicated in a written statement to the House of Commons today that as the London Government sees it the trials have proved successful and that the Department for Work and Pensions will build on the success of the trials and begin building up to full reassessment volumes from May 2011. However, the Minister, at the same time intends to extend the trial to all of Britain, limit the number reassessed up to April 2011 and "ramp up" the numbers thereafter.

In my meeting with Lord Freud, I made it clear that, giving the character of conditions in Northern Ireland I would be phasing in reassessment. This already meant that fewer customers are being reassessed in the early

stages to allow the delivery model to be fully tested in Northern Ireland and adjustments made accordingly. I have also tasked my officials with building in additional support mechanisms and safeguards, particularly for those customers who may lose their previous benefit entitlement, to ensure, as far as possible, all receive their welfare entitlements. In noting the announcement in London, it appears that their approach now parallels the one I had already adopted and argued for.

I remain committed to protecting the interests of the most vulnerable people here and this tailored approach to implementation reflects my concerns about its potential impact on customers in Northern Ireland. It does not undo, in my view, the fundamental error in much of the London approach, but a phased approach nonetheless helps.

I will continue to press Coalition Ministers that Northern Ireland requires flexibility in the design and delivery of the proposed Welfare Reform agenda.









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