



**Northern Ireland
Assembly**

**COMMITTEE
FOR THE OFFICE OF THE
FIRST MINISTER AND DEPUTY
FIRST MINISTER**

**OFFICIAL REPORT
(Hansard)**

UK Child Poverty Bill

16 September 2009

NORTHERN IRELAND ASSEMBLY

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DEPUTY FIRST MINISTER**

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Members present for all or part of the proceedings:

Mr Danny Kennedy (Chairperson)
Mrs Naomi Long (Deputy Chairperson)
Ms Martina Anderson
Mr Alex Attwood
Mr Tom Elliott
Mr Barry McElduff
Mr George Robinson
Mr Jim Shannon

Witnesses:

Ms Patricia Carey) Office of the First Minister and deputy First Minister
Dr Gerry Mulligan)
Mr Michael Pollock)

The Chairperson (Mr Kennedy):

Good afternoon, Dr Mulligan, Ms Carey and Mr Pollock. You are here to brief the Committee on the UK's Child Poverty Bill. We received some correspondence from the Department earlier today, which you may well be aware of, and probably wrote and sent. This is being recorded by Hansard. Make an opening statement, if you want, and leave yourselves available for questions.

Dr Gerry Mulligan (Office of the First Minister and deputy First Minister):

Thank you. You have met my colleagues on previous occasions, but I will remind you that Patricia Carey has overall responsibility for forming a social inclusion policy in the Office of the First Minister and deputy First Minister (OFMDFM), and Michael Pollock heads the

central anti-poverty unit. Patricia and Michael are both centrally involved in bringing the legislation forward in consultation with the Bill team in Whitehall. Thank you for the invitation to brief the Committee on the Child Poverty Bill. It may be useful to recap the process, outline where we are now, and speak briefly about the next steps, with a particular focus on continuing the engagement with the Committee.

Members will recall that we last briefed the Committee on the Bill just before the summer recess, and that we subsequently received detailed comments from the Committee. We gave advice to the Executive Committee in light of those comments, and they subsequently agreed that, in principle, they want the Bill to extend to Northern Ireland, but that they wanted to seek amendments in some areas. For example, they wanted the Bill to, first, recognise the roles and responsibilities of other Departments and public bodies, and, secondly, impose a duty on the First Minister and deputy First Minister to report locally to the Assembly on progress made. Those were two key amendments that reflected some of what the Committee had suggested in its correspondence.

We have been involved in discussions providing detailed instructions to the Bill team in Whitehall and the Department for Work and Pensions, and we are continuing those discussions. They have come back with some queries about the amendments that we are seeking, and we hope to resolve that process early next week. Thereafter, Ministers will write to Stephen Timms, who is the lead Minister for the Bill, and of course a UK Treasury Minister. They will also write to you, Chairperson, advising you of what they are formally asking Mr Timms to do about Northern Ireland's inclusion in the Bill.

We are advised by colleagues in Whitehall that the Bill, having had its Second Reading before the summer recess, is likely to begin its Committee Stage in mid- to late October. We do not know for sure that the amendments requested by Ministers will be accepted, but, on the assumption that they are, we will at that stage know what the Bill will look like and how it will cover Northern Ireland. At that stage we will then seek a legislative consent motion. Again, Minister will write to the Committee specifically on that motion.

The draft Bill will then be available to us all, because we will know at that stage whether the amendments that we requested will be tabled. It will then be down to the Assembly to decide, and hopefully the Committee will support the amendments. As the Bill goes through its Committee Stage at Westminster, we hope to be able to advise our colleagues of the outcome of the legislative consent motion. That will lead us to the final enactment of the Bill. That is the process.

As the Chairperson said, we have today formally replied to the detailed comments on the Bill. We apologise, but we were not in a position to provide you with a detailed response sooner than that. If it helps, we are happy to pick up on one or two of the key comments that were made in our response, which reflect some of the amendments that we have subsequently sought.

The Chairperson:

You can do that briefly.

Ms Patricia Carey (Office of the First Minister and deputy First Minister):

We are having discussions with our colleagues on the Bill team and their legal advisors on how to draft legislation that ensures that a duty is placed on relevant Departments and that the situation does not arise in which OFMDFM takes the lead without co-operation from all the other Departments. We are also discussing how that duty might apply to local councils and other public bodies.

We are working on wording that will make it very clear that it is the Executive as a whole; all Departments will be responsible for delivering on the elimination of child poverty. That strategy will be a joint one, and there will be reporting for the Executive on the strategy. There was some concern from people, including some of the groups that I talked to in the voluntary and community sector, that the initiative would be centrally led and that OFMDFM would be seen to be responsible for the policy while the other Departments contributed without being completely tied in to the process. We are working on the drafting of the legislation and hope to produce something that makes that very clear.

Given that the structures for local councils have not been agreed and the functions have not entirely been put in place, any duties given to them would be best reflected in the review of public administration (RPA) legislation as it is further developed. Placing a duty on bodies that have not yet been created could create some confusion. That is how we hope the Executive will move forward. There is a draft provision for how we can, through the Department of the Environment, transfer functions. Whatever legislation is put in place, that will be the appropriate vehicle to transfer responsibility for eliminating child poverty from the central Departments to the local authorities.

The third point was on where the Northern Ireland Civil Service Departments feed into the setting of targets, which relates to the first point that the Committee made about making sure

that an appropriate duty was placed on Departments and other local authorities. Departments should contribute to that as a whole, and the legislation will apply to the Executive — it will be the Executive’s strategy, and the reporting will be against the targets set out in the legislation. There will also be a duty on the Assembly to produce a report, either on an annual basis or, if that goes through in the legislation as the Executive wish it to, the Executive will be able to take decisions above and beyond the legislation on how they wish to report.

We are seeking both minimum and high standards in the legislation, but that does not preclude the Executive from deciding that they want additional or different reporting standards.

Dr Mulligan:

The Minister has fully agreed, as it says in our reply, with the sentiments of the Committee’s points, and will seek to ensure that appropriate action is taken at all levels of government to eliminate child poverty.

The Chairperson:

Thank you. We had a very robust exchange on child poverty with the people who were before the Committee prior to you. We will see where this discussion takes us.

Mr Shannon:

On the RPA, you see a role for local councils; you are right in saying that nothing should happen until the process has moved along. Also, it is important that the transition committees on the RPA are aware of what their responsibilities could be. What consideration has been given, within the RPA suggestions, that would ensure that local government and local councils would have responsibility? It is not fair to throw the weight of responsibility onto local councils without giving them the financial security needed to cover their new responsibilities. It could well be that we need new departments and new officers and sections.

Secondly, in relation to tax credits, your letter states that:

“it is not considered appropriate for specific inclusion in the UK-wide Child Poverty Bill.”

One crux of the Committee’s child poverty inquiry was the frustration of how the tax credit system works, and the implications when you think that it is working and it is not, and that it is going to cost a fortune. Those are issues that the Committee felt were important, and one of our key, core recommendations was that tax credits should be included. If the Bill is UK-wide, is it not appropriate for that to be looked at? If the Bill is for the whole of the UK, then

let us make the changes in tax credits that help reduce child poverty.

I am being respectful, Gerry; it is not my form to be nasty, but I do not understand why you say that it is not appropriate to be included in the UK-wide Child Poverty Bill, when it very clearly should be.

Dr Mulligan:

In talking about the local government legislation as being potentially a more appropriate vehicle, we are without a sense of agreement on the contents of the local government Bill. We cannot be specific about how those duties will be reflected; clearly, the Executive will need to agree on that. We are just stating the principle that once the roles and responsibilities of local government and related duties are clearer, that will be the time when any duties related to the Child Poverty Bill will be most appropriate to define. I cannot be more specific.

On the point of shifting the burden, I would not want to characterise this as a shifting of the burden onto district councils, but any public body, in exercising functions, would be expected to deliver on child poverty in relation to those functions. Where district councils have responsibility, it would be in that area that they would clearly want to report on how what they did was influencing child poverty. It is not simply stating that child poverty targets will be met only through local government.

Ms Carey:

We explored with our legal advisors and with the Bill team whether we could draft something that would put the duty on a future basis. It was felt that that would lead to a lack of clarity and there would not be enough detail as regards what the duty would actually mean for the very reasons that you have pointed out. If you transfer a duty onto someone, it requires them to take an action. Unless you know what action that is, you cannot quantify, measure or decide what it means in practice.

If the Department could have inserted a duty in the legislation to do that, or to bind local authorities, it might have been viewed as beneficial in some ways. However, on the other hand, the Department would have had to consult with the local authorities and ask exactly what that would mean for them, and allow time for consideration and response. That is why that duty has not been, and is unlikely to be, inserted in the legislation.

Mr Shannon:

Local authorities will not run away from their responsibilities; that is not what this is about. It

is about making sure that the Department is not dumping that responsibility on them and leaving them to sort it out. That cannot be what the process means.

What about the tax credit issue?

Ms Carey:

The comments from the Department and the response from the First Minister and deputy First Minister do not, in any way, suggest that the tax credit system is an unimportant issue, or that tax credits could not make a significant contribution. Rather, it is about how we can influence the legislation, and the provisions of this Administration that cover non-reserved matters.

We can certainly comment on what GB is doing and whether or not tax credits could be included in the legislation. However, the Department does not have any specific influence on non-devolved matters such as tax credits, and therefore the Northern Ireland provisions cannot take that into account in the preparation of the Bill.

Mr Shannon:

The First Minister and the deputy First Minister have made representations to the Westminster Government that very clearly put forward the point that tax credits must form part of the legislation. Child poverty is an issue in Northern Ireland, and we know that because we represent the people here. However, it is also an issue in the whole of the United Kingdom — possibly a greater issue now than it ever was before. Therefore, central government must be the body for it. We must have a process in place, through the First Minister and the deputy First Minister, so that we can influence, and make changes with, the beleaguered Westminster Government.

Dr Mulligan:

There will certainly be a report on tax and benefits, and how they contribute to the Government's overall strategy for tackling child poverty. However, that would be more appropriately done through a report from the Secretary of State at a UK level, rather than being done locally. I would be very surprised if tax credits were not central to such a report.

Mr Shannon:

Is it possible to find out if tax credits are central to the Secretary of State's report, and to bring that information back to the Committee? I do not expect an answer today, but I would like to make sure that it is part of that report.

Dr Mulligan:

The Department will come back to the Committee on that.

Ms Anderson:

I am really dissatisfied at being handed this response on coming into the room. I think that the detail is absolutely — *[Inaudible.]* The Committee has not had time to discuss it and decide on a response to it, never mind trying to deal with the officials today. I am not happy with trying to engage with the officials on this document given that it has only just landed in our laps, and I want to come back to it at a later date. Furthermore, I do not want the Committee to receive another written response without having the opportunity to engage with officials.

With respect to the previous conversation that the Committee had with officials and the point that Mrs Long raised on PSA 7, Patricia is responsible for social inclusion policy in the Department. We are being told through the tracking system that the identification of the best measures to ensure that the Department is targeting those most in need is sitting at amber. Therefore, there are doubts around that achievement, and around how that will impact on child poverty. The cross-cutting work that is going on in the Department needs to be dealt with and presented to this Committee, because we are dealing with different sets of officials with respect to child poverty.

I concur with everything that Jim said about tax credits. Furthermore, the Committee has been told that the setting of social tariffs for electricity was done through legislation at Westminster, which benefits those in England, Scotland and Wales, but has no such benefit here. We seem to be dealing with all this in silos, and it is becoming very frustrating.

I am very dissatisfied with the Department's responses today on the Committee's recommendations for tackling child poverty, and I suggest that the Committee calls the officials back again to discuss those responses.

The Chairperson:

OK, we will refer the matter to the meeting of 30 September.

Dr Mulligan:

I am happy to come back with a response. There are also the broader issues of social inclusion. We have been talking about a specific piece of legislation, but an awful lot of non-legislative work is going on too. We are happy to brief the Committee on all those policy

developments.

Ms Anderson:

We are dealing with the Child Poverty Bill, but we do not have a measure in place to target those most in need. That leads to a contradiction and a tension between the legislation and what is being done in practice. We must try to address that.

Mr Attwood:

I do not want to labour the point that Martina made. However, it is appalling that we receive this response at the meeting after you sent it to the Committee Clerk earlier today; that is appalling. I do not understand. Can you explain why you cannot give answers to the questions that you can answer earlier than on the morning of a Committee meeting, even if there are some matters that you have to deal with verbally or through late correspondence? I do not understand it. It is a feature of government. It is not just your Department; others are worse. On one occasion, the Committee for Employment and Learning received documents half an hour before its meeting began. I do not want you even to answer the question. It is simply appalling.

I have two questions. They are only preliminary questions, because you cannot answer on the basis of getting documentation. The Committee asked whether a duty should not be placed on authorities here to undertake an assessment of child poverty. Your reply was that that would be better reflected in the RPA legislation. Are you saying that OFMDFM is committed to including that obligation on local authorities in the RPA legislation?

Dr Mulligan:

The Department's view is that the legislation that defines the structures, functions and duties is the most appropriate vehicle for including such an obligation.

Mr Attwood:

Are you saying that OFMDFM is committed to including, in future RPA legislation, a duty on local authorities that is comparable to the obligation in the legislation for England and Wales? Is it yes or no?

Dr Mulligan:

It cannot be yes or no.

Mr Attwood:

Excuse me, but it can, and must be, a simple yes or no. To create certainty, the Committee wants the inclusion of the same duty as appears in the London legislation, but you say that local legislation is a better model. Let us, therefore, have certainty about what will be included in that local legislation. In the absence of such certainty, I will argue that it should be done through London.

Dr Mulligan:

The Department and Ministers, in replying to that specific suggestion, identified the RPA legislation as the most appropriate vehicle. They have not committed to including a particular duty in that legislation. I will certainly follow up on that as the local government Bill develops. However, I do not want to give the impression that a specific proposal exists from the Ministers on the content of that Bill.

The Chairperson:

Now that the issue has been raised and a distinction made, if you could seek clarity, that would be helpful.

Dr Mulligan:

I will seek to clarify that.

Ms Carey:

The issue relates to child poverty legislation that will go through the Assembly as a legislative consent motion. Therefore, any decisions to be taken or commitments given can happen at that stage. The Executive will be able to consider the argument for the local government Bill perhaps being a better vehicle. Ultimately, the Executive will have the opportunity to decide on the best way forward.

The Chairperson:

Yes, but Mr Attwood's logical and good point is that given that you are indicating that RPA legislation would be the best vehicle, the question is whether it will be part of that RPA legislation. That is the question, not the debate that says what the best place is for that. Will something happen to insert that into the legislation? That is the question.

Dr Mulligan:

As the officials responsible for the Bill, we will make that argument. The final decision on the content of the local government Bill is for the Executive.

Mr Attwood:

The bottom line is that a duty that will be applicable in England and Wales will now not apply here and might not apply in the future. That is not good enough, and Ministers in OFMDFM should be saying that we will go with London or we will do it here. A warm aspiration to look at it at some time in the future of RPA legislation only creates doubt and does not create certainty, and we should be avoiding doubt.

You said, Gerry, and it is a useful offer, that you could come and brief the Committee on all the policy with regard to child poverty and poverty that is not legislation. I worry about that, because the additional comments of the Committee refer to the fact that:

“The Ministerial-led Poverty Forum that was established to monitor implementation of the Lifetime Opportunities Strategy has met only once ... and the departmental action plans have ... not been produced.”

You then say that it will meet in the autumn. One would think that by this stage, given that we are into the autumn, that there should be a date.

What worries me about all that, Gerry, is that throughout the document you rely on the monitoring and reporting framework for Lifetime Opportunities agreed by the Executive, and in other ways rely on the Lifetime Opportunities strategy. However, the ministerial-led poverty forum has not met since 2007 and, for all the aspirations of the Lifetime Opportunities strategy, no departmental action plans have been produced. So, when it comes to that which is non-legislative, namely policy and strategy, the Ministers are not meeting and the Departments have not produced their action plans. Yet throughout your document, the framework for Lifetime Opportunities is your answer for dealing with child poverty.

The thing does not add up. If Ministers are not meeting and Departments are not developing plans, how can you ever get over the line when it comes to Lifetime Opportunities frameworks? That is why I am anxious that you can come and give the Committee briefings on the policy, when, actually, reading your own words, the policy is out there, but there is no departmental or ministerial enforcement around all that. How would you respond to that?

Dr Mulligan:

I would not want the current process of policy development to be categorised as if there were no action plans and Ministers were not taking the process forward as a priority. That would be an unfair representation. We have an agreed, high-level framework with six high-level policy frameworks. The Departments’ action plans will be the result of detailed discussions with Departments, and that process is likely to end in the autumn, at which time we will bring

specific recommendations to Ministers in the Executive subcommittee. It will be at that stage, when we have some tangible actions to discuss and to propose, that we propose to take the views of this Committee and the forum. To bring the forum to its second meeting in advance of having some tangible and concrete proposals would not be the best use of the forum's time.

Therefore, with regard to the timing issue, the sequencing, as I suggest, is that we complete our discussions with Departments and bring proposals to the Executive subcommittee. Some of those proposals will be on issues that the Committee is aware of, such as childcare. Those are ongoing development issues. It has taken us a while to get to that position. Certainly, Ministers are very engaged in the critical policy areas. We want to bring this to a point where we have action plans that we can consult the forum on.

I acknowledge that it has been a rather long time since the Executive adopted the Lifetime Opportunities strategy. We are talking about things that will be put in place to have an impact on child poverty by 2020. I want to ensure that we get that right.

Mr Attwood:

Are the departmental action plans ready to be signed off by the ministerial-led poverty forum, and whoever else, this autumn? Are the plans in a state of readiness?

Dr Mulligan:

No, they are not. We are discussing that.

Mr Attwood:

When will they be in a state of readiness?

Dr Mulligan:

We hope to put forward some actions to Ministers in November.

Mr Attwood:

Will each Department in November have a range of actions to follow through on the Lifetime Opportunities strategy?

Dr Mulligan:

There are actions that Departments are currently taking forward that are delivering on their Lifetime Opportunities objectives. We want to explore with the Departments what more

might be possible. That is the challenge in this process. We can report at any time on the full range of what Departments are doing, but we want to see whether they can do more in areas such as childcare.

Mrs Long:

I assume that the reason why the ministerial poverty forum has not met since 2007 is that there has been constant prevarication about whether Lifetime Opportunities would be the anti-poverty strategy. *[Inaudible]*. It is about getting clarity on that issue. It is hard to implement something that you have not actually agreed is going to end up as your policy.

As for the timetable for the implementation of the action plans, if people are already doing stuff that is valid and which is being implemented to achieve the outcomes required by the Lifetime Opportunities strategy — this is not about producing glossy brochures. This is about writing a list of the things that people are doing, will be doing, have been doing and intend to do. To me, if people are — *[Inaudible.]*

It is hard to believe that in any Department that is focused on this issue no one has a list of what needs to be done, what it intends to do and what more it thinks can be done. Some people think that action plans are glossy documents with lots of words in them. They are, essentially, to-do lists with a financial plan and targets set against it.

I accept that not all the work is done sitting round a table in the forum. However, it is hard to believe that there can be a focus in each Department — and perhaps this point is more important than the issue of the action plans — all targeted in the same direction. If you wanted me to discuss the issue, I would have written a list of things to do about it. That is the sense that I get when I find that the forum has not met since 2007 and there are no action plans. I accept that the action plans may not be the most up-to-date and that they may need to be revised. However, the fact that there is no action plan and the forum has not met since 2007 suggests a lack of focus.

The other issue is the review of public administration. I share, to some degree, the concerns that others have expressed about it. I understand that local government in England is very different in that, for example, schooling and housing are part of its remit and many other things which have a direct impact on child poverty. Those remits are not anticipated to go to local government as part of the review of public administration. However, there are things that local government can do now to impact on child poverty. They are not the same things that local government does in England, Scotland and Wales, but there are things that

local government does that impact on it.

We have highlighted the fact that, under the current RPA, there has been no discussion around child poverty as part of what needs to be written into that legislation. In that context, child poverty would not be best reflected in the RPA legislation, as it has not been considered as part of that process. It needs to be made a duty as part of this Bill, the outworkings of which will be felt in local government in whatever shape or form it may take. My concern is that we are saying that the RPA is to deal with child poverty, but the RPA is already under way. That legislation has already been drafted, and child poverty is not currently being dealt with there. I am not aware of anything in the RPA that deals specifically with child poverty. Who will take the issue further? Will it be the RPA team, or will it be OFMDFM, through the UK Child Poverty Bill? Who will pick it up and run with it from here?

Dr Mulligan:

At one stage, Departments published action plans annually, and at one stage they were published on a six-monthly basis. When we evaluated targeting social need, the view at that time was that not so much action plans but action reports were needed. *[Inaudible]*. External stakeholders expressed the view that, although that is important, they wanted initiatives, new things to happen and gaps to be identified and filled. While it is important to note what Departments are doing, we are looking beyond that. *[Inaudible]*.

Mrs Long:

You cannot identify the gaps unless you know, in detail, what the Departments are doing. That is how you identify the gaps.

Dr Mulligan:

When it comes to presenting reports to the Assembly through this legislation, we want to include all relevant actions, programmes and initiatives that Departments are carrying out. That cannot be ignored. The process that we are going through tries to identify how we can develop policy initiatives and programmes further. The levels of child poverty are not moving in the direction that we want. We are looking for some policies to reduce poverty generally and child poverty specifically. That is the sort of discussion that we are having with Departments. We will certainly reflect on the value of publishing all actions. We have access to that information, but the question is whether routinely reporting on it would, in itself, help with policy balance.

I am conscious that asking Departments to regularly publish detailed action reports places

an administrative burden on them, so we need to think about the level of detail that such reports should take. We can certainly reflect on that point.

You asked who will take the issue forward. Clearly, we will take it forward. If Ministers are saying, and the lawyers who are advising us are of the view, that the duties and responsibilities of local government have not yet been defined and that we cannot define them in the way that they are in England and Wales, then we will have to follow up on that. That is up to us; we will take it forward.

Ms Carey:

We have talked to our lawyers about this. One way of dealing with that in the legislation is to allow by regulation identified bodies in the same way as the Financial Assistance Act (Northern Ireland) 2009. We do not identify local government bodies as covered by the duty now, but there is a clause in the Bill that would allow those authorities to be identified as covered by the duty by regulation at a later date.

So, although it does not follow through to the extent of follow-up in terms of policy and who does that, at least it sets in place quite a good mechanism that allows that to happen. You are absolutely right; one of the key elements in implementing the legislation will be to see that through.

Mrs Long:

This is my third question. I know that you will be back in a couple of weeks, so I will be brief. *[Inaudible.]*

I am confused by the exchange at comment 4 around the targets — *[Inaudible.]*

The absence of a measure of severe child poverty is one aspect that I would like you to reflect on when you come back. What are the implications of that? What is our measure? Why is it not acceptable elsewhere? Secondly, you said that you do not believe that shifting dates backwards will dilute our targets. I wish that I was a believer in the homeopathic theory that the more diluted something gets, the more powerful it is. If that were the case, we might rapidly see great improvement. However, I think that it might slightly dilute the targets that have been set locally, so I want to get a timescale for the Child Poverty Bill and to know which one takes priority for delivery in Northern Ireland, but I do not expect an answer to that until we next meet.

The Chairperson:

In the meantime, we wish you faith. That completes the questions. Thank you for your attendance, and we look forward to seeing you in about two weeks.