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Contents

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Northern Ireland Assembly

Monday 21 February 2011

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

Members observed two minutes' silence.

Assembly Business

Mr Callaghan: On a point of order, Mr Speaker. I wish to refer to the Hansard report of Tuesday 15 February 2011. Just after 10.00 pm on that date, the Minister of Finance and Personnel referred to me by a name that is neither mine nor that of my constituency. When he was taken up on that by the Deputy Speaker, his response was:

> *"We will not put it on the record anyway. It does not matter." — [Official Report, Vol 61, No 4, p428, col2].*

Mr Speaker, in my view and in the view of constituents who raised it with me, it does matter. I ask you to rule on whether it is conducive to the good order and conduct of the House for a Member to refer to another Member in a derogatory way that is neither his name nor that of his constituency.

Mr Speaker: I thank the Member for his point of order. If he will allow me to look at the issue, I will come back to him directly or to the House.

Mr McGlone: On a point of order, Mr Speaker. I am glad that the Minister of Health, Social Services and Public Safety is here to hear this, because I know that there have been numerous communications with his office on the matter. It concerns the delay, especially in this instance, at the Department of Health, Social Services and Public Safety, in responding to questions for written answer from Members. Two of my questions remain outstanding, and I found out this morning that they are among almost 50 that remain unanswered. They are AQW 1501/11, which was tabled on 19 October 2010, five months ago, and AQW 3160/11, which was tabled three months ago. It is regrettable that I have to raise the matter here, but that is in spite of numerous representations made through and by the Business Office to the Department to have those questions answered.

Mr Speaker: I thank the Member for his point of order. As the whole House knows, the issue of getting answers to questions from Ministers is something that I take very seriously. However, the Minister is in the House this morning, and I am sure that he is listening to the Member.

Suspension of Standing Orders

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

That Standing Orders 10(2) to 10(4) be suspended for 21 February 2011.

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

Question put and agreed to.

Resolved (with cross-community support):

That Standing Orders 10(2) to 10(4) be suspended for 21 February 2011.

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

Executive Committee Business

Sunbeds Bill: Further Consideration Stage

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

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

Mr Speaker: As no amendments have been tabled, there is no opportunity to discuss the Sunbeds Bill today. Members will, of course, be able to have a full debate at Final Stage. Further Consideration Stage is, therefore, concluded. The Bill stands referred to the Speaker.

Ministerial Statement

Education: Procurement

Mr Speaker: I have received notice from the Minister of Education that she wishes to make a statement to the House.

The Minister of Education (Ms Ruane): Go raibh maith agat, a Cheann Comhairle. A Cheann Comhairle, rinne mé ráiteas leis an Tionól ar an 23 Samhain 2010 ag fógairt imscrúduithe neamhspleácha ar shaincheisteanna soláthair i mBoird Oideachais agus Leabharlainne an Oirdheiscirt agus an Oirthuaiscirt. Mar a léirigh mé i mo ráiteas ag seoladh na n-imscrúduithe seo dom, ba mhian liom a bheith sásta go raibh na cleachtais soláthair oiriúnach chun na críche sin, go léiríonn siad polasaí sholáthar poiblí an Choiste Fheidhmiúcháin agus go dtaispeánann siad luach ar airgead don sparán poiblí.

I made a statement to the Assembly on 23 November 2010 announcing independent investigations into procurement issues in both the South Eastern and North Eastern Education and Library Boards. As I indicated in that statement, in launching those investigations, I wanted to be satisfied that procurement practices are fit for purpose, reflect the public procurement policy of the Executive and demonstrate value for money for the public purse.

I wish to deal first with the findings of the investigation into issues at the South Eastern Education and Library Board (SEELB). That investigation involved extensive work by my Department's internal audit team. In addition, external independent experts in this field were secured to undertake a gateway health check review of the procurement and management of contracts. That review was carried out during the week commencing 6 December. The suspected fraud concerning the installation of heating plant in a post-primary school is currently a matter of internal disciplinary procedures in the board and is being considered by the PSNI. As it may be subject to legal proceedings, I do not intend to comment any further at this stage.

An objective of the investigation was to determine whether fraud had been committed in the SEELB. I am reassured by the fact that, other than the case currently with the PSNI, no further evidence of fraud was identified as a result of the investigation. However, the overall conclusion of the investigation is that there are significant weaknesses in governance and in the internal control of procurement practices within the South Eastern Education and Library Board. The gateway health check review team found a fragmented approach in the governance and control arrangements for procurement and management of contracts and made nine recommendations, the implementation of which it believes is essential in rectifying the current position. I wish to spend some time on those key recommendations.

First, the review team found no evidence of any proactive scrutiny by the board of procurement risks and issues. The review team highlighted the fact that the board has only partial oversight of procurement activities with no overarching strategy in place. The review team recommended that the SEELB develop a procurement strategy and procurement plan for all further procurement activities under its direct control and that the board and senior leadership team must sign that off before procurement activity is commenced.

The review team highlighted an absence of appropriate skills and resources on the board and a failure to fully utilise existing professionally qualified staff. Although I recognise the resource issues that have arisen through the impasse in establishing the Education and Skills Authority and the need to address those issues, that does not absolve the board or chief executive of their responsibilities in the discharge of their duties as set out in 'Managing Public Money'.

The review team specifically expressed concerns about the ability and capabilities of the board to introduce and manage planned new term service contracts. The permanent secretary has written to the chief executive of the South Eastern Education and Library Board with a copy of the review team's report, and the board has suspended work on that activity, pending resolution of the issues raised by the review team.

In addition to the gateway review, the Department's internal audit team, with technical support from the Central Procurement Directorate, carried out an extensive investigation into the operation of the measured term contracts that the board has in place. The purpose of that investigation was to determine whether work had been properly allocated to contractors in line with the contracts; whether the extent of the work

corresponded with the orders; and whether the price paid by the board was satisfactory and in keeping with market prices. In carrying out that investigation and in light of the previously identified suspected incident, the team was alert to the possibility of fraud. To ensure that potentially fraudulent issues were properly considered and addressed, the Department engaged DARD's central investigation service to provide advice on the risk of fraud in that area and to review the potential for fraud in the emerging findings.

Caithfidh mé a rá ar dtús nár nochtadh aon fhianaise bhreise gurbh ann do chalaois. Sainaithníodh laigí tromchúiseacha i rialachas agus i rialú inmheánach, áfach, agus d'fhág siad seo go bhfuil na córais i mbaol earráide, calaoise nó dúshaothraithe. Is ceist an-tromchúiseach í seo. Dá dheasca sin, ní féidir leis an bhord a léiriú go soiléir gur cuireadh cosc ar chalaois agus chaillteanas agus gur baineadh luach ar airgead amach.

I should say at the outset that no additional evidence of fraud was uncovered. Serious weaknesses in governance and internal control, however, were identified, and those have left the systems vulnerable to error, fraud or exploitation. That in itself is a very serious matter. As a result, the board is unable to clearly demonstrate that fraud and loss were prevented and value for money achieved.

In the course of its work, the internal audit team also determined that the extension to the existing measured term contracts was a single-tender action that had not been approved by the accounting officer, as required under procurement guidance. You will understand, a Cheann Comhairle, that I regard that failure to adhere to procurement procedures as a serious issue in itself. Those are serious shortcomings, and they present an unacceptable level of governance and management in the board's procurement procedures.

I met the chairperson of the SEELB commissioners on 3 February. The purpose of the meeting was to enable me to directly express my serious concerns about the findings of the gateway review and the internal audit report. In response, the chairperson of the commissioners confirmed that the commissioners fully accepted the analysis and recommendations of both reports and the essential need for proper procedures for the disbursement of public money and confirmed their commitment to making good all the identified deficiencies and to doing so as quickly as possible. The chairperson of the commissioners subsequently wrote to reaffirm the board's acceptance of the issues and the agreed way forward. I reflected carefully on those undertakings and acknowledge that the board has fully co-operated with the Department throughout the investigation.

Although I welcome the board's recognition of the issues, I am mindful that the investigation has identified significant weaknesses in the board's governance. Therefore, I must be fully satisfied that the board is urgently undertaking the full range of actions required. To that end, I have initiated measures designed to give me confidence that the board is comprehensively addressing the issues identified. The board has submitted two action plans setting out the measures being taken to address the recommendations contained in the gateway review and the internal audit report. I instructed my officials to work directly with the board in augmenting those measures with a view to submitting, for my approval, one integrated action plan that fully reflects the gravity of the findings of the investigation and is capable of comprehensively and urgently addressing the issues identified. I will monitor progress on the approved action plan fortnightly.

Ceapfaidh an Roinn saineolaí neamhspleách soláthair le maoirseacht a dhéanamh agus ag an bhord agus é a stiúradh de réir mar is gá i bhforbairt agus i gcur i bhfeidhm an phlean gníomhaíochta agus le comhairle a chur ar fáil domsa go díreach ar aon idirghabháil bhreise a d'fhéadfadh a bheith de dhíth.

12.15 pm

The Department will appoint an independent procurement expert to oversee and direct the board as necessary in the development and implementation of the action plan and to provide advice directly to me on any additional intervention that may be required. The Department's internal audit team will conduct a broader review of governance in the SEELB and report to me. The board will be required to present a report on the extent of single-tender actions that have taken place in the SEELB in the past three years. The frequency of governance and accountability meetings between the Department and the SEELB will be increased from quarterly to monthly to

demonstrate increased stewardship. I will keep the situation under review, taking account of the advice of the independent procurement expert, and will take whatever additional steps may be necessary.

I turn to the second procurement issue, which I highlighted to the Assembly in my statement on 23 November 2010, relating to the approval and procurement of a new school for Magherafelt High School. Members will recall that the chief executive of the North Eastern Education and Library Board reported that the board had entered into an arrangement with the contractor involved, which resulted in construction work being done without all the necessary approvals being in place with the Department. The board has made payment for the work that has been done, including an element that has not been approved by the Department.

Ina theannta sin, bhain an príomhfheidhmeannach de thátal as go bhfuil caiteachas tabhaithe ag an bhord ar an tionscadal seo i rith na bliana airgeadais 2010-11 a mheasfar a bheith neamhrialta. Moreover, the chief executive concluded that the board incurred spend on that project in the 2010-11 financial year that may be deemed irregular.

I commissioned an external investigation of all the circumstances around the procurement and work associated with the contract. A report was presented to the Department on 20 December 2010. In summary, the review concluded that there is nothing to indicate that the Department suffered any financial loss as a consequence of how the contract has been handled to date. There is no suggestion that any member of staff at board level has benefited improperly in any way from the decision to proceed with phase two of the project without all the necessary approvals being in place with the Department. Any failing has been one of not appreciating the need for approval required by the Department before committing to phase two of the project, rather than a deliberate attempt to set aside the formality of the approval and control processes.

By its own admission, the board recognises that the issues surrounding the handling of the Magherafelt High School project have resulted in a serious breach of financial control. However, the findings of the independent investigation make it clear that there is nothing to indicate any financial loss to the Department or that anyone has benefited improperly in any way from the decision to proceed with the additional works. The main failing highlighted by the report is that the board did not appreciate the requirement to seek approval from the Department before committing to phase two of the project, rather than there having been a deliberate attempt to set aside the formality of the approval and control processes.

The North Eastern Education and Library Board should be well aware of its delegated levels of authority and the need to seek departmental approval. However, the report highlights the fact that the Department should have formally ensured that the board was clear about the need for separate approval for the second phase of the works.

Chuige sin, tá na moltaí atá leagtha amach sa tuarascáil ina gcabhair, agus déanfar cinnte nach mbeidh mírialtachtaí mar seo le feiceáil arís in aon chonradh eile a dhéanfar as seo amach. Rinneadh na moltaí seo a leanas sa tuarascáil. To that end, the recommendations set out in the report are helpful in ensuring that there is no recurrence of such irregularities with future contracts. The following recommendations have been made in the report. First, a programme of quarterly meetings between the board and the Department should be set up to monitor progress on capital schemes. Secondly, the present arrangement of having only one professional and technical officer responsible for capital procurement in the board is not sustainable and leaves the board, the Department and individuals exposed; therefore, additional professional and technical staff or the redistribution or pooling of staff resources should be considered. Thirdly, communication around capital planning, internal approvals and approvals between the Department and the board should be reviewed and a more formal communication arrangement adopted.

Although communications and operational arrangements between the Department and the board can and will be improved, I still face the serious issue that the North Eastern Education and Library Board has incurred irregular expenditure on a project that now stands costed at £11·5 million. The investigation reassured me that there was no fraudulent motive around the advancement of the project. However, the fact remains that the board has admitted to incurring irregular expenditure on the project by proceeding without the appropriate approval in place. Furthermore, I am in the difficult position

of having to regularise that expenditure and find additional capital resource for the project from an already overstretched capital budget.

These are serious issues that strike to the heart of governance and sound financial management in the board. The report highlighted problems arising from the shortage of appropriate skills and the high vacancy rates on the board. Although that is of concern and needs to be addressed, it does not absolve the board or chief executive of their responsibilities in discharging their duties as set out in the 'Managing Public Money' document.

I met the chairperson of the North Eastern Education and Library Board on 3 February 2011 to express my serious concerns about the potentially irregular expenditure, to provide the chairperson with an opportunity to explain the reasons for failure in governance and to seek assurances on the steps being taken to mitigate any recurrence. In doing so, I acknowledged that more formal lines of communication and reporting between the Department and the board should have operated in advancing the various stages of the new Magherafelt High School project. I also stressed that the board should have been well aware of its obligations to formally seek approval for that level of public expenditure.

The chairperson of the board acknowledged that the failure to seek formal approval should not have happened, and he acknowledged the seriousness of the matter. He outlined the steps being taken by the senior management team in the board to ensure that such a failing in governance should not happen again. As with the South Eastern Education and Library Board, I acknowledge that the North Eastern Education and Library Board has co-operated fully with the Department in facilitating the independent review. Nevertheless, in the light of this experience, I need to fully assure myself that the governance and accountability arrangements in the North Eastern Education and Library Board are robust and in line with best procurement practice, and I have initiated steps to that end.

The North Eastern Education and Library Board will be required to develop an action plan in response to the recommendations in the independent review of Magherafelt High School. The action plan will be presented for my approval, and the Department will monitor progress and, if necessary, alert me to any significant issues or shortcomings that require further intervention. I intend to initiate a gateway health check review of procurement and contract management in the North Eastern Education and Library Board. That will be undertaken as a matter of urgency. I have instructed the Department's internal audit team to carry out an immediate and targeted review of governance and control in the board, including a review of capital expenditure planning, approvals, monitoring and communication between both organisations. We will establish quarterly meetings between the chief executive and the Department to formally agree procurement plans and subsequently monitor progress on an ongoing basis. Again, I will keep the situation under review and, taking account of both reviews that I am commissioning, I will take whatever additional steps may be necessary.

The investigations of both boards highlighted issues of capacity and capability in view of the impact of vacancy control. That is a direct consequence of the vacuum created by the lack of political agreement to advance the legislation that would give effect to the establishment of the Education and Skills Authority. I have always stated that the case for the establishment of ESA was unequivocal, and I acknowledge that the delay and uncertainty is having a debilitating impact on bodies such as the education and library boards. However, that does not absolve the boards of their statutory and financial responsibilities, nor does it absolve the accounting officers in the education and library boards of their responsibilities for the management of public funds.

If ESA had been in place, we would already be well down the road to creating a unified single centre of procurement expertise for the education sector. I want to see ESA established at the earliest opportunity. However, in light of the investigations, it is necessary for me to swiftly address the lack of accredited COPE status in the education sector. In that regard, I have established a unit in the Department, led at senior civil servant level, that will be charged with overseeing the work that arises from the two investigations and taking forward the design and implementation of a new centre of procurement expertise for the education sector as a whole.

As part of that work and in view of the findings of the investigations into the SEELB and the

NEELB, I have decided to commission gateway reviews of the procurement and contract management arrangements in the Belfast Education and Library Board, the Western Education and Library Board and the Southern Education and Library Board. I anticipate that those reviews will be completed before Easter, and I will assess whatever steps may be required in response to the findings.

The findings of the investigations to date have shown that it was necessary and appropriate to commission this work. Urgent action is required to improve control and governance. In response, I have initiated a series of measures that I consider to be appropriate and commensurate with my duty to ensure that robust governance and accountability arrangements are in place. The work undertaken to date has been comprehensive, as will be the additional body of work that I have commissioned. I have today placed in the Assembly Library copies of the reports that I referred to in my statement. I will continue in the vein of complete transparency and accountability to the Assembly on those matters. The NI Audit Office has been kept informed of the outcome of the investigatory work that has been undertaken.

Tuigfidh Comhaltaí gur ceisteanna tromchúiseacha iad seo. Is é aidhm an ráitis seo an Teach a choinneáil ar an eolas faoin obair idir lámha de réir mar a mheasaim a leithéid a bheith. Léirigh mé an diongbháilteacht atá agam agus an phráinn a bhaineann leis na ceisteanna seo agus tabharfaidh mé tuairisc eile don Tionól san am atá romhainn.

As you will appreciate, these are serious matters. The purpose of this statement is to keep the House informed on what I consider to be work in progress. I have demonstrated my resolve and urgency on these matters, and I will report further to the Assembly.

The Chairperson of the Committee for Education (Mr Storey): It is imperative that procurement practices in the education sector are transparent, adhere to good governance and deliver value for money to the taxpayer. However, the chief executives of the five education and library boards are directly and legally accountable to the permanent secretary of the Department of Education and, hence, the Education Minister. Will the Minister inform the House why there was a breakdown in governance, accounting and communication arrangements in the education and library boards, particularly in the two cases that were reported to the House today, and how that happened?

The Minister referred to failings in her Department. Will she inform the House today whether she has commissioned the gateway health check review team to look at the shortcomings of the Department of Education in relation to those issues? Linked to that, the Minister reported to the House on 23 November 2010 that, in the case of Magherafelt High School, tender action was taken before economic appraisal was fully cleared, and construction work began before the Department gave the necessary approvals. The Comptroller and Auditor General's report of 22 December 2010 highlighted failures by the Department of Education in 2009-2010 and 2008-09 to complete business cases and have the necessary approvals from the Department of Finance and Personnel, which resulted in irregular and unqualified expenditure of £211,000 and £2·1 million in 2009 and 2010 respectively. Have any systematic failures in the Department's accounting systems carried through to the accounting arrangements in the education and library boards, particularly in relation to the report's findings of the Department's failings in 2008-09?

Did you take action to put in place controls then to prevent any reoccurrence?

Finally, Mr Speaker, I register my disapproval and disappointment, on behalf of the Education Committee, about the fact that the Committee is being informed of this today. No communication has been sent to the Committee by the Minister, but information has been placed in the House Library. The statement refers to the establishment of a unit in the Department.

12.30 pm

Mr Speaker: I ask the Member to finish.

The Chairperson of the Committee for Education: Will you, Mr Speaker, ensure that the Education Committee, as a Statutory Committee of the House with responsibility to scrutinise the Minister's work and actions, is informed in an appropriate way of all that the Minister is doing in the last few weeks of her tenure?

The Minister of Education: I thank the Member for welcoming transparency and accountability. I trust that he is not in any way justifying irregular

expenditure or problems that have arisen about the board's accounting officer duties. I hope that he was not trying to justify that in any way, because the role of Chairperson of the Education Committee is very important. There are serious failings in two of the boards, which is why we will look very carefully at procurement practice in the other three boards.

One of the reasons why I have ensured that we have an expert in the Department is so that we look at procurement not only in boards but also in the Department. We came into government to bring about change. Many bodies in my Department and in others were brought in by direct rule Ministers. I want to set up the education and skills authority ((ESA). It is obvious that, were that authority in place, we would not have many of the issues that we have here, and we would have a chance to create a new organisation that is fit for purpose and will bring about huge changes and improvements in standards, governance and accountability. I look forward to parties in the House supporting me in that.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. I am not sure if there are any questions left to be asked, but I will find a few.

I welcome the statement by the Minister, which highlights areas of concern about procurement and best value for public funds. I note that, at the beginning of her statement, she referred to a PSNI investigation. I recognise that the Minister is restricted in commenting on that. However, has she any further information about what stage that investigation is at and to what degree the PSNI will investigate?

The Minister of Education: Go raibh maith agat as an cheist sin. I can say that Detective Sergeant Sharon Little has confirmed that there is a live investigation involving a potential fraud in the region of £6,500. The key details are the change in specification of two boilers and two water heaters and the installation of two second-hand burners instead of new. Witness statements have been taken from the South Eastern Education and Library Board officers. Photographs have been taken at the site. The CID is continuing enquiries and will speak to people who will be able to assist the investigation.

Lord Empey: First, education and library boards have existed for 38 years, during which one of their key functions has been the procurement of new building projects for schools and colleges. Therefore, it is disconcerting that significant failures of governance continue in the boards. For some months, many in the Education Committee have been urging the Minister to ensure that public representatives are appointed to the South Eastern Education and Library Board, because we feel that that would deliver better oversight.

However, when we turn to the North Eastern Education and Library Board, it appears, and the Minister has admitted, that somebody in her Department was asleep at the wheel, because everybody knew that Magherafelt High School was being built.

Anybody who drove through the town could see it, and there was clearly going to be a second phase. So, what are the financial implications if the Minister's Department knew that this construction was going on, albeit irregularly? Where will she get the money to complete the projects? Are there any implications for the other Magherafelt schools that were to be built and completed and about which she made statements in the House last year? After all these years, it is disconcerting that there continues to be failure in one of the primary functions of the boards, which has not changed in principle since 1973.

The Minister of Education: I absolutely agree with the Member. It is disconcerting, and that is why I brought forward the proposals to establish ESA. The boards have been in operation for 38 years. Far too many organisations administer education, and we need one body, namely the education and skills authority. It is a pity that, to date, the Member's party has not supported the establishment of ESA. However, I acknowledge that he recognises that that practice should not be happening, and I share that view. The way forward is not to reinstate the board; the way forward is to establish ESA.

There are financial implications for my Department and for the boards, because £8·2 million was agreed yet more than £11 million was spent. It is not good enough for a board to make decisions. They know their roles on accounting officers. Yes, the Department has a role. We received written assurances from boards when we asked them about their procurement practices. However, those written assurances did not give us the answers that we should have been given. My Department and I

have been actively meeting with all the boards, and we are holding the boards accountable. I have outlined the actions that we will take, and there will be much more control through meetings with the boards. In the past, those meetings were quarterly or six-monthly, but they will now be monthly on some aspects. I have had to find the money from my capital budget, and, as the Member knows, it is a very difficult time for education. Does it have implications for the other Magherafelt schools? No, it does not. Those schools will go ahead once they complete all the approvals.

Mr D Bradley: Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an ráiteas a rinne sí. Mhínigh an tAire go soiléir na laigí atá i rialachas agus i ról scrúdúcháin na mbord oideachais ar na hábhair áirithe seo. The Minister has outlined very clearly the boards' weakness in governance and scrutiny of those very serious issues. However, there were obviously serious weaknesses in governance and scrutiny in her Department. She failed to mention that in her statement. Can the Minister outline the steps that she has taken or will take to ensure that the governance and scrutiny roles of her own Department are as effective and efficient as they should be?

The Minister of Education: There are weaknesses in governance in the two boards, and we need to address those issues. I will be to the fore in addressing those. Where there are weaknesses in my own Department, we will rectify those. I mentioned in my statement the importance of the Department having skilled expertise in relation to procurement, and we have brought in a very senior civil servant on that matter. That work will look at all aspects of procurement.

Mr Lunn: The Minister will be familiar with the Public Accounts Committee's (PAC) report last year into similar failures in the Belfast Education and Library Board, and she will be aware that all recommendations of that report were accepted by the Department. Given that the same problems seem to be recurring, is the Minister satisfied that those recommendations have been sufficiently passed down to the appropriate level?

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

The Minister of Education: As the Member will know, I said that we will continue the work with the Belfast Education and Library Board, the Western Education and Library Board and the Southern Education and Library Board.

I do not want to pre-empt any investigations or internal audits, but Members can be sure that we will leave no stone unturned to ensure that the public purse is protected.

Mr Hilditch: I welcome the statement to update the House and the steps that have been put in place. Will the Minister confirm that the external investigation centred solely on the irregular expenditure of the £11·5 million project in Magherafelt, or were any other historical projects considered during the investigation?

The Minister of Education: The investigation was in relation to Magherafelt High School. Obviously, we will now be looking at various contracts in the boards.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. I appreciate the statement and the work of the review team. Following on from Trevor Lunn's point, the PAC made a number of recommendations on procurement issues in all Departments, but I am shocked when I hear that the review team found that there was no evidence of any proactive scrutiny by the board on risks. Does the Minister agree that that runs the risk of the board not achieving best practice and value for money? Will she ensure that the boards are made aware of the reports by the PAC and the Audit Office?

The Minister of Education: I agree with the Member on the need for transparency. I share his concern that such irregular expenditure is worrying, and, in our Department and, indeed, all Departments, we need to ensure that there is accountability, transparency and value for money and that the proper financial procedures are in place. The boards are aware of my concern about those issues. I will make the boards aware of the Member's points and of the PAC reports, and I would be surprised if they were not aware of them already. That is why we came into government and why we wanted to bring about badly needed change. At the end of the day, the House can best serve education by establishing the education and skills authority.

Mr Craig: I was especially glad to hear the words of the Chairperson of the Public Accounts Committee. Those incidents are unacceptable. I want to ask a serious question of the Minister. All boards should have their own audit committees, and I suspect that four of the five boards do. Is

the Minister aware of an audit committee for the South Eastern Education and Library Board, and if one does not exist, why not? More importantly, has the Minister contributed to that situation by not appointing a new board to the South Eastern Education and Library Board?

The Minister of Education: I agree with the Member that all boards should have an audit committee, and I confirm that the South Eastern Education and Library Board has an audit committee. I have absolutely not contributed to the situation by not reinstating the board. I am ready to introduce ESA, which will make a difference. Currently, nine bodies administer education. I throw the question right back at the Member and his party: have they contributed to such issues in their failure to date to support the establishment of the education and skills authority? *[Interruption.]*

Mr Deputy Speaker: Order, please. I emphasise that all remarks will be made through the Chair and not across the Floor.

Mr McCallister: Does the Minister agree that the one word in her statement that sums up her term in charge of the Department is "vacuum"?

The Minister of Education: Absolutely not. I do not agree, and, fortunately, my party chose the Department of Education because it meant that we could bring about significant reform of the education system. We have put significant focus on underachievement. We have removed the 11-plus and spent more than £500 million on building new schools across the North. I remember some of the comments from the Benches opposite that referred to our world-class education system. *[Interruption.]*

Mr Deputy Speaker: Order, please. Resume your seat, please, Minister. If one Member on my right persists in shouting across the Floor, I will name that Member and ask them to leave the Chamber.

12.45 pm

The Minister of Education: Go raibh maith agat, a LeasCheann Comhairle. I do not agree. What we have is a new, much more equal and fairer education system. We have a system in which the state no longer sponsors and funds state-sponsored testing, as it did in the past. The test, which was designed in the 1940s, is not fit for purpose now, and children should never have been put through it. Therefore, we have made significant advances, but there is more work to be done.

However, if the parties opposite had their way, they would say that we have a world-class education system, and they would be willing to pretend that the current significant level of underachievement does not exist. Apparently, they were happy with the levels of underachievement. They thought that it was OK for 12,000 young people to leave school without five good GCSEs. As far as I am concerned, that is not good enough. We have worked hard to bring about change. It is good, important change, and we need further change.

Mr I McCrea: Given that Magherafelt High School is in my constituency, it would be remiss of me not to welcome the overspend there. However, concerns about the wider issue must be addressed. The Minister informed the House of the failings in the North Eastern Board, but, unfortunately, made little mention of the failings in her Department. I would like the Minister to tell us how she intends to deal with those failings.

Will the Minister make it clear that the procurement issue that she highlighted is no slight on the staff of Magherafelt High School? I want to make sure that that is cleared up. Will she also ensure that it does not have any impact on Magherafelt Primary School and nursery unit?

The Minister of Education: It worries me that the Member does not seem to take the matter as seriously as it should be taken. It is not good for a Member to welcome an unauthorised, irregular overspend. I treat the matter, and will continue to treat such matters, very seriously, because I am not in government to allow lax rules, accountability or governance in any constituency.

I have answered the Member's question on the Department. I said that we take our duties extremely seriously and that we have brought in an expert to ensure good procurement practices right across education.

There was never any slight on, or mention made of, staff in Magherafelt High School. The issue was never about the staff in a school. The only person who brought that up was the Member. At no point did I mention it. It was a matter of procurement and the failure of duty in relation to accounting officer status.

Mr Spratt: The South Eastern Board has been devoid of any political or independent scrutiny for a number of years. The Minister said that she was looking to the board to issue a report on single tender actions over the past three years. In light of her statement, will she indicate whether there have been any other single tender actions?

The Minister of Education: I am very concerned that a single tender action has been identified without the appropriate accounting officer approval. I regard that failure to adhere to procurement procedures as a serious issue. As I said, the board will be required to present a report on the extent of single tender actions in the South Eastern Education and Library Board over the past three years. In April 2010, my Department sought and was provided with assurances that the board had complied with its statutory obligations and was applying and adhering to procurement policies, processes, procedures and regulations.

The findings of the investigation throw into question that assurance. The Member will note from my statement the actions that I have taken on that issue. I will not pre-empt any work beginning now, but I share the Member's concerns about single tender actions. At the risk of repeating myself, maybe the Member and his party now understand the importance of establishing the Education and Skills Authority.

Mr Deputy Speaker: That concludes questions to the Minister of Education on her statement.

Mr Spratt: On a point of order, Mr Deputy Speaker. Earlier, the Minister referred to a criminal investigation on an ongoing case that she mentioned in her statement to the House. She named a police officer who was involved in that investigation and also gave details of it. I ask you to ask the Speaker to examine exactly what the Minister said and to bear in mind that comments such as those that she has just made may well hinder, in some way, a criminal investigation from taking place. In fact, when other Ministers come to the House and investigations are taking place in their areas of responsibility, they will not answer questions on those investigations. Therefore, the Minister has overstepped the mark. I ask you to ask the Speaker to look at the issue.

Mr Deputy Speaker: I assure the Member that the Hansard report will be reviewed and that the Speaker will respond accordingly.

Executive Committee Business

Housing (Amendment) (No. 2) Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister for Social Development to move the Consideration Stage of the Housing (Amendment) (No. 2) Bill.

Moved. — [The Minister for Social Development (Mr Attwood).]

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 the 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 9, 23 and 24, which deal with private tenancies. The amendments cover a range of matters, including disclosure of rates and housing benefit information to councils; length of notice to quit; registration of landlords; and fines for failing to register houses in multiple occupation.

The second debate will be on amendment Nos 10 to 14, which deal with antisocial behaviour and include amendments on the grounds for withholding consent to the exchange of secure tenancies and also matters for the court to take into account in deciding on possession orders.

The third debate will be on amendment Nos 15 to 22 and 25, which deal with the Housing Executive and other social landlords. The amendments include matters such as abolishing the rent surplus fund, abandoned tenancies and the Housing Executive's community safety functions.

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. I remind members to address all the amendments in the group on which they wish to comment. The Questions on stand part will be taken at the appropriate points in the Bill.

Clause 1 ordered to stand part of the Bill.

Clause 2 (Tenancy deposit schemes)

Mr Deputy Speaker: We now come to the first group of amendments for debate on private

tenancies. With amendment No 1, it will be convenient to debate amendment Nos 2 to 9, 23 and 24. Members should note that amendment Nos 23 and 24 are consequential to amendment No 8 and that amendment No 23 is a paving amendment to amendment No 24.

The Minister for Social Development (Mr Attwood): I beg to move amendment No 1: In page 2, line 6, after "Article" insert "and Article 5B".

The following amendments stood on the Marshalled List:

No 2: In page 2, line 13, after "Article" insert "and Article 5B". — *[The Minister for Social Development (Mr Attwood).]*

No 3: After clause 2, insert the following new clause:

"Length of notice to quit

2A.—(1) Article 14 of the Private Tenancies Order (length of notice to quit) is amended as follows.

(2) In paragraph (1) for '4 weeks' substitute 'the relevant period'.

(3) After that paragraph insert—

'(1A) For the purposes of paragraph (1) the relevant period is—

(a) 4 weeks, if the tenancy has not been in existence for more than 5 years;

(b) 8 weeks, if the tenancy has been in existence for more than 5 years but not for more than 10 years;

(c) 12 weeks, if the tenancy has been in existence for more than 10 years.'.

(4) This section—

(a) applies whether the private tenancy was granted before or after the date on which this section comes into operation; but

(b) does not apply in relation to a notice to quit given before that date." — [The Minister for Social Development (Mr Attwood).]

No 4: After clause 4, insert the following new clause:

"Disclosure of information

4A. After Article 64 of the Private Tenancies Order insert—

'Disclosure of information for purposes of Parts 2 to 4

64A.—(1) This Article applies to any relevant information which is held—

(a) by the Department of Finance and Personnel for the purposes of—

(i) its functions under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc.) (Northern Ireland) Order 2006; or

(ii) the administration of housing benefit; or

(b) by the Northern Ireland Housing Executive for the purposes of the administration of housing benefit.

(2) Relevant information to which this Article applies must, if an authorised officer of the appropriate council so requires, be supplied to that council for the purpose of enabling or assisting that council to exercise its functions under any provision of Part 2, 3 or 4.

(3) Any requirement under paragraph (2) must specify—

(a) the description of relevant information which is to be supplied;

(b) the form in which that information is to be supplied; and

(c) the date by which that information is to be supplied.

(4) This Article—

(a) does not limit the circumstances in which information may be supplied apart from this Article; but

(b) has effect despite any restriction on the purposes for which relevant information may be disclosed or used.

(5) In this Article—

'authorised officer', in relation to a council, means an officer of the council authorised for the purposes of this Article by the council;

'housing benefit' means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

'relevant information' means information as to—

(a) the location, age, size or description of a dwelling-house let under a private tenancy;

(b) the name and address of the landlord or tenant of such a dwelling-house or of any person acting as an agent of the landlord.

Unauthorised disclosure of information

64B.—(1) An employee of a council commits an offence if he discloses without lawful authority any information—

(a) which he acquired in the course of his employment;

(b) which is, or is derived from, information supplied to the council under Article 64A; and

(c) which relates to a particular dwelling-house or person.

(2) It is not an offence under this Article to disclose information which has previously been disclosed to the public with lawful authority.

(3) It is a defence for a person charged with an offence under this Article to show that at the time of the alleged offence—

(a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or

(b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(4) A person who is guilty of an offence under this Article shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) For the purposes of this Article a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—

(a) in accordance with his official duty by an employee of the council;

(b) in accordance with any statutory provision or order of a court;

(c) for the purposes of any criminal proceedings; or

(d) with the consent of the person to whom the information relates.'." — [The Minister for Social Development (Mr Attwood).]

No 5: In clause 5, page 4, leave out lines 18 and 19 and insert

"the information to be provided for the purposes of registration;". — [The Minister for Social Development (Mr Attwood).]

No 6: In clause 5, page 4, line 31, leave out

"in connection with an application for"

and insert "for the purposes of". — *[The Minister for Social Development (Mr Attwood).]*

No 7: In clause 5, page 4, line 42, at end insert

"(7) If on an application made to it by a district council, the county court is satisfied that—

(a) a person has been convicted of an offence under paragraph (4)(b), and

(b) that person is continuing after that conviction to contravene paragraph (4)(b),

the court may make an order requiring that person to register under this Article within such period (not being less than 28 days from the date of the order) as the court may specify." — [The Minister for Social Development (Mr Attwood).]

No 8: In clause 7, page 6, line 13, at end insert

"(4) The Department must lay before the Assembly—

(a) a draft of regulations under Article 5A, and

(b) a draft of regulations under Article 65A,

not later than 18 months after the date on which the Housing (Amendment) Act (Northern Ireland) 2011 receives Royal Assent.' ". — [The Minister for Social Development (Mr Attwood).]

No 9: After clause 8, insert the following new clause:

"Houses in multiple occupation: increase in fine for failure to register

8A.—(1) In Article 75L of the Housing (Northern Ireland) Order 1992 (offences in connection with registration scheme for houses in multiple occupation) after paragraph (1) insert—

'(1A) A person who commits an offence under this Article consisting of a contravention of a provision included in a registration scheme by virtue of Article 75C(1) is liable on summary conviction to a fine not exceeding £20,000.'.

(2) Subsection (1) does not apply in relation to an offence committed before the date on which this section comes into operation." — [The Minister for Social Development (Mr Attwood).]

No 23: In clause 15, page 10, line 25, at beginning insert

"Except as provided by subsection (1A),". — [The Minister for Social Development (Mr Attwood).]

No 24: In clause 15, page 10, line 26, at end insert

"(1A) Sections 2, 5 and 7 come into operation on Royal Assent." — [The Minister for Social Development (Mr Attwood).]

The Minister for Social Development: Before I deal with the 11 amendments in the group, it might be useful to scope out the background in the private rented sector that has given rise to the Bill, and which, undoubtedly, will give rise to further Bills in the next mandate.

In 1991, the private rented sector in Northern Ireland comprised 30,000 properties. It has over four times that number now. As of 2009, there were 125,000 properties in the private rented sector. That is not far short of 20% of the accommodation that is available to people in the North. In that regard, there have been significant reductions in the levels of unfitness around the private rented sector. It is not as low as it is in the public sector, but the latest figures suggest that unfitness levels have declined by 75%, or thereabouts, since 2001 and now lie at around 2·2%. As a consequence, although there have been improvements in standards and given the scale and character of the private rented sector, it is entirely appropriate that, after consultation, my predecessor moved in the direction of new law. I have no doubt that any future Social Development Minister will move in that direction as well.

There are two reasons why we have three groups of amendments, totalling 25 amendments, before the House. The first reason is that the Department, the Committee and others took on board some of the comments that were made during the consultation a number of months ago, because a range of Members from a number of parties made comments about whether there were further opportunities to add to the content of the Bill, drive standards and improve protections. I, as Minister, took those comments on board and worked with my officials and others to bring about a number of material amendments, as well as a number of consequential and technical amendments.

The second reason why there are 25 amendments is that when the Bill was introduced in the Assembly, there was a heavy legislative timetable that included weighty issues, such as the Justice Bill, which was going to be a platform Bill from the Justice Minister in his first period of office, and an even more substantial piece of legislation for local government reorganisation. That and other issues meant that Assembly time for other legislation was at a premium and, obviously, there were particular heavy and significant pressures on the legislative draftsmen's resources.

Consequently, given that background and to try to ensure that the Bill would be progressed during the Assembly's current mandate, we took the opportunity to create higher standards and protections. I decided to proceed, previously, with the most urgent and necessary provisions. That meant that the first version of the Bill did not include a number of topics that were covered in the consultation paper on future housing legislation that was published in December 2009. When, however, it became clear that a number of Bills were no longer going ahead, I was presented with an opportunity to revise my original assessment and to include a wider range of issues in the Bill that is before the House. With the Social Development Committee's support, I identified a number of amendments that will have a positive impact without, I hope, delaying the progress of the Bill.

All the Government amendments were discussed in some detail during the Social Development Committee's clause-by-clause scrutiny. I am pleased that the Committee was able to reach consensus on the amendments, and I thank its Chairperson and members for their constructive scrutiny of the Bill. As I said to the Committee last Thursday — I want to put on record today — in my short time as Minister, I have appreciated the working relationship with the Committee. When I became Minister, I made it clear that I would welcome any and all opportunities to go before the Committee. I continue to hold that view. Although we have not agreed at all times, I think that the Social Development Committee is one of the Committees that best demonstrates, within this mandate, that it fulfils its responsibilities of oversight and accountability in a way that is demanding on the Minister and the Department, but necessary and proportionate, given the needs and requirements of people in Northern Ireland.

1.00 pm

The first group of amendments deals with regulation of the private rented sector, including houses in multiple occupation (HMOs). Amendment Nos 1 and 2 will amend clause 2 to provide that the definitions of "money", "tenancy deposit" and "landlord" in the new article 5A to be inserted in the Private Tenancies (Northern Ireland) Order 2006 also apply to references in new article 5B. The new articles 5A and 5B both deal with tenancy deposits, and the same definition should apply to both. The amendments are consequently more technical and for consistency.

Amendment No 3 will insert a new clause to extend the notice-to-quit period for tenancies in the private rented sector. That is a matter that has been informed by previous debate and conversation. Lack of security of tenure can be a problem for tenants in the private rented sector, and, under the existing legislation, a landlord is required to give a tenant only four weeks' written notice to quit. The amendment will offer increased protection to long-term tenants: those whose tenancies have lasted longer than five years will be given eight weeks' written notice to quit, and those whose tenancies have lasted longer than 10 years will be given 12 weeks' written notice.

Amendment No 4 will also insert a new clause placing a duty on the Housing Executive and the Department of Finance and Personnel to share information on housing benefit and rates, where that is necessary to support the enforcement of private rented sector legislation. Lack of information on the identity and location of private landlords currently makes compliance and enforcement activity difficult for councils. Although landlord registration is part of the solution, access to existing tenancy-related information held within government could significantly assist that. Amendment No 4 joins up government, enables disclosure where appropriate and is an intervention against landlords who are on the wrong side of the law.

Amendment Nos 5 and 6 are technical amendments that will amend clause 5 to remove references to applications to register under the landlord registration scheme. The scheme will in fact be mandatory, so any reference to landlords applying that hints at a voluntary approach could be misleading.

Amendment No 7 will amend clause 5 to allow councils to take a landlord to the civil court seeking an order for the landlord to become registered. The amendment will ensure that landlords who continue to flout the requirement to register despite successful prosecution in the criminal courts can be compelled to become registered through the civil courts.

Amendment No 8 will amend clause 7 to require that draft regulations relating to tenancy deposit schemes and the registration of private sector landlords be laid not later than 18 months after the Bill receives Royal Assent. The amendment is designed to address the Committee for Social Development's concern that the schemes should be introduced within a reasonable timescale. I agree with the Committee's view that the timescale initially may have been on the long side. The amendment will reduce it somewhat and, as I will indicate later, I anticipate, subject to the view of a future Minister, that regulations in that regard might be tabled long before the time limit of 18 months kicks in. The clause will also ensure that regulations containing the detail of landlord registration and tenancy deposit schemes will be subject to the affirmative procedure and will therefore be scrutinised and debated by the Assembly.

Amendment No 9 will increase the maximum fines for non-compliance with a scheme for registration of HMOs. The current maximum fine stands at £2,500, and, given that the landlord of a HMO could reasonably expect to earn that amount in a couple of months, it is no longer considered a proportionate or effective deterrent. Increasing the maximum fine to £20,000 will provide landlords with a much greater incentive to comply with HMO registration.

Amendment Nos 23 and 24 will amend clause 15 to provide that clauses 2, 5 and 7 come into operation on Royal Assent. Members will recall that those clauses relate to schemes dealing with tenancy deposits and the registration of private sector landlords. The requirement to lay draft regulations for those schemes not later than 18 months after the Bill receives Royal Assent makes it necessary to bring the relevant provisions of the Bill into operation as soon as possible when the Bill becomes law.

During scrutiny of the Bill, the Committee raised concerns about the level of fines for

failure to register as a landlord and about the difficulties experienced by councils in recovering the costs of associated court action against non-compliant landlords. Therefore, I made a commitment to carry out a review of the effectiveness of the fines and penalties in this part of the Bill when the new schemes have been in operation for 18 months.

The Bill introduces fixed penalties for those issues and responsibilities for the first time. The Department of Justice was not minded to go beyond the £500 threshold outlined in the Bill. However, I want to make it clear that that is the highest threshold for a fixed penalty in any area of law in Northern Ireland. Therefore, although the £500 threshold might not meet with the approval of all, it is nonetheless higher than any threshold for any fixed penalty in any legislation in Northern Ireland. Given that a landlord might be minded to take his chances before a court if the fixed penalty were higher than £500, I felt that, in this instance, the middle ground of £500 was an appropriate initial start, subject to review, to ensure that the proposal operates.

The Chairperson of the Committee for Social Development (Mr Hamilton): Before addressing the amendments in this group, I want to make some general remarks as Chairperson of the Committee. The Committee for Social Development carefully and seriously considered the Housing (Amendment) (No. 2) Bill. Members undertook a longer than expected Committee Stage, reflecting the careful scrutiny of the Bill and the pressure of the Committee's extensive legislative programme.

I thank members of the Committee for their contributions to Committee Stage and to the content of the Bill report. I also thank the witnesses for their useful written and oral submissions and the departmental officials who, as usual, provided a fast turnaround on some of our many and detailed queries during evidence sessions. Finally, I thank the Social Development Committee staff, who facilitated formal evidence-taking, clause-by-clause scrutiny of the Bill and the production of what is now the Committee's sixth Bill report of this mandate.

The Committee considered quite a lot of legislation in this mandate, much of it related to tenancy and housing. As the Committee's expertise has grown, members have made an increasingly cogent and helpful contribution to the development of legislation. That has particularly been the case with the Housing (Amendment) (No. 2) Bill. In Committee, members suggested a large number of changes, many of which are before the Assembly as ministerial amendments and insertions. The Committee welcomes all the amendments that will be debated today. However, before I turn to the first group of amendments, I want to put on record some other matters that were discussed at Committee Stage.

The Committee took some well-thought-out evidence from NILGA. It highlighted the problems that councils face in enforcing tenancy legislation. Councils often have to pursue what might be termed as bad landlords through the courts at considerable expense, only to see a small number of repeat offenders receive nominal fines that do not act as a deterrent. The Committee noted that evidence and NILGA's request for amendments to allow for additional resources for councils.

The Committee accepted departmental assurances on a review of the cost of health and safety reports for tenancies, future legislation relating to new fitness standards for private tenures and a review of the effectiveness of the fines and penalties introduced by the Bill and their impact on councils' ability to enforce tenancy legislation effectively. Although that last point was of particular concern to the Committee, I ask the Minister in his response to the debate to reiterate all those important assurances.

The Bill contains provisions on the removal of a legal anomaly relating to ineligible homeless people. Although the Committee accepted that part of the Bill, some members expressed concerns, especially on its impact on homeless people with fluctuating mental illness and on homeless migrants. Again, I ask the Minister to reassure the Assembly on the robust referral mechanism for homeless people generally and for so-called ineligible homeless people in particular.

The Committee welcomed the provisions on councils' promotion of energy efficiency. It noted NILGA's concerns that councils might not have appropriate vires to undertake that work effectively. The Committee agreed that it would not table amendments to clause 13 on the understanding that the Department would thoroughly consult councils and ensure that the appropriate vires for the promotion of

energy efficiency were in place. Again, I ask the Minister to reiterate that assurance in his response.

On clause 2, the Committee noted the findings of a recent Housing Executive report, which suggested that up to 28% of deposits were not returned at all or were not returned in full by private landlords to their tenants. The Committee therefore welcomed the introduction of a statutory tenancy deposit scheme, as set out in clause 2.

The Committee noted and agreed to support amendment Nos 1 and 2, which are described as technical amendments to clause 2. The Committee also accepted departmental assurances that it will introduce legislation that will allow tenants to receive their deposits automatically when a landlord breaches tenancy legislation.

I will now address amendment No 3 and the proposed new clause on length of notice to quit. During the pre-legislative consultation on the Bill, the Committee noted feedback from stakeholders on the notice-to-quit period for certain private tenancies. Stakeholders had expressed support for an extension of the notice-to-quit period for longer-term private tenancies. At the Committee's request, the Minister tabled a new clause, which will increase the notice-to-quit period for private rented tenancies from four weeks to eight weeks for tenancies of between five and 10 years and from four weeks to 12 weeks for tenancies of more than 10 years. The Committee felt that that was a welcome measure that provided appropriate improvement in tenure security for long-term private tenants. The Committee therefore supports amendment No 3.

The Committee considered evidence from NILGA and the Landlords Association of Northern Ireland (LANI), which supported the principle of greater information-sharing among statutory agencies to improve the enforcement of tenancy legislation. The Committee therefore agreed to support amendment No 4. That will bring about the insertion of a new clause, which will require the Housing Executive and Land and Property Services to share housing benefit and domestic rates information with councils. The Committee felt that that insertion would provide an important mechanism to support better enforcement of tenancy legislation by councils.

The Committee welcomed the provisions relating to the compulsory registration of private landlords, as set out in clause 5. The Committee noted and agreed to support amendment Nos 5 and 6, which, again, are described as technical amendments to clause 5. As I said, during its consideration of this part of the Bill, Members discussed at length the effectiveness of deterrents for breaches of tenancy legislation. Members agreed to support amendment No 7, which will allow councils to apply to the courts to require an unregistered landlord to register within 28 days. Members felt that that measure was appropriate and would help councils deal with landlords who persistently breach the provisions of clause 5.

Before I move on, I refer again to the private landlord register. The Committee noted the concerns of organisations such as LANI, which sought to protect privacy and maintain the security of its members. LANI argued that certain information on landlords should not be included in the register or put into the public domain as it would be of little public benefit.

The Committee also considered with interest a suggestion from Disability Action that the register should include details on whether tenancies had disabled access or were constructed to the lifetime homes standard. The Committee accepted departmental assurances that the format and the content of the landlord register and the degree to which it would be in the public domain would be subject to regulations that the Assembly would scrutinise.

The Committee also noted departmental assurances that regulations were expected to require managers, owner/managers and managing agents of properties to be registered and that every effort would be made to include all relevant and useful information in the landlord register. It is hoped that that will include disabled access information.

The Committee also accepted departmental assurances that regulations would set out which authority was to manage the landlord register and therefore agreed that it would not table amendments that would specify that or other operational details. It is requested that assurances on those key issues be given by the Minister in his response.

On clause 7, as I indicated, the Committee welcomed the introduction of a landlord registration scheme and a tenancy deposit

scheme. The Committee suggested that an amendment be tabled that would make the establishment of those a duty, not just a power. The Committee also suggested that the Bill specify a timescale for the introduction of related regulations. The Department accepted the Committee's suggestions, and the Minister tabled amendment Nos 8, 23 and 24, which will bring the register and deposit schemes into effect within 18 months of the Bill receiving Royal Assent.

1.15 pm

During its consideration of the Bill, the Committee noted feedback from stakeholders on the level of fines associated with the failure to register houses in multiple occupation. As I indicated, Committee members wanted to be sure that the few persistently bad landlords would be deterred from flouting tenancy legislation and hoped that stiffer penalties would encourage compliance with, for example, the registration of houses in multiple occupation. At the Committee's request, amendment No 9 was tabled, to insert a new clause to increase the maximum fines associated with the failure to register an HMO to £20,000 for each property. I must emphasise that £20,000 is a maximum, and it is the Committee's understanding that the courts will exercise discretion and could apply a much smaller fine if it is deemed appropriate. That point exercised the Committee greatly. As the Minister discussed at some length at the end of his contribution, during the next mandate Members will review with interest the fines that are actually applied and the deterrent impact that those fines have on bad practices in the private rented sector.

In conclusion, I very much welcome all the amendments in group one. Much focus will be placed on the landlord registration scheme. It is positive that we have made progress and that we will, hopefully, pass legislation to enable that scheme to be created in fairly short order. Although we can all pinpoint examples of bad practice by private landlords in our constituencies — some can point to much worse practice and many more examples than others — it is worth pointing out that there are very many landlords in Northern Ireland who provide good accommodation to good tenants. I am sure that other Members who contribute to the debate will also make that point. We should also note that private landlords are a key element in housing provision in Northern Ireland. The number of privately owned housing dwellings is now in excess of those owned by the Housing Executive, and without private landlords we would be unable to cope.

Through the Bill, we will hopefully bring in a light-touch mandatory scheme that will give everyone the freedom of information that they require to make judgements about who owns properties and to get in touch with those people and monitor those properties. It will be particularly useful to those in enforcement because they will know who owns the properties and which owners are not complying with the relevant legislation. In its evidence to the Committee, LANI made the point that the inclusion of personal information or contact details, although interesting, may not be entirely in the public interest and could dissuade casual private landlords or those who have become private landlords by accident from remaining in the sector. I also made that point, the Committee dwelled on it, and I was subsequently lobbied by landlords about it. However, with that and the points that I made as the Chairperson of the Committee in mind, I very much welcome the amendments in group one, and I encourage Members to support them.

Mr Brady: Go raibh maith agat, a LeasCheann Comhairle. The Minister and the Chairperson of the Committee covered the amendments in group one in great detail. I thank the Committee staff, who worked diligently to ensure that the Committee got through its clause-by-clause scrutiny of the Bill and the other details associated with it.

The Bill is to be welcomed. As the Minister said, in 1991 there were approximately 30,000 properties in the private rented sector and by 2009 that number had increased to 125,000. The reality is that approximately 70% of social housing is now provided by the private rented sector, which receives approximately £90 million a year in housing benefit. Therefore, the Bill is timely.

I point out initially, reiterating what the Chairperson of the Committee said, that there are many good, compliant landlords who treat their tenants with dignity and in the way in which they should be treated. Obviously, like any other sector, there are landlords who probably do not. The deposit scheme was raised and, as the Chairperson said, NILGA gave the Committee

a presentation. There was some trepidation in councils that there would be added costs and that the burden would fall on them. However, they have been reassured on that.

I welcome the other amendments. The issue about the length of tenancy and giving proper notice has been dealt with. A £20,000 fine has been mentioned for failure to comply and register houses in multiple occupation. That may seem excessive, but, as the Chairperson pointed out, the courts have discretion in those matters. The idea is to ensure that enforcement is carried out and that landlords comply.

I welcome the issue that Disability Action have taken up with regard to registration and information. The clause that deals with the provision and interchange of information is welcome. There are many people with mental health problems, and, because they appear to be guilty of antisocial behaviour, their situation is not always taken into account. Obviously, that will be dealt with in more detail in the clause that deals with antisocial behaviour. Landlords and people in the neighbourhood in which they live are not always aware of the situation, and that should be addressed.

I welcome the amendments and the addition of new clauses. I concur with what the Minister and the Chairperson said. I was getting worried because the Minister may be guilty of overkill in his praise for the Committee. I am sure that he has not gone out with the warm glow that he might expect to get if he was given the easy ride that he appears to have been given. Perhaps we should start to reconsider our approach, but that is a personal observation.

There has been consensus in the Committee about important issues in the legislation. It has been long awaited and is much needed.

Mr McCallister: I join in the warm glow to the Minister. The legislation is welcome and featured heavily in my brief time on the Committee. I know that a lot of work was done before I joined the Committee. I concur with the remarks made by the Chairperson, Mr Brady and the Minister. It was a good example of Committee Stage, where amendments were suggested and the Committee worked with departmental officials to improve and shape the Bill, particularly around difficult issues concerning registration, bearing in mind the rise in numbers, to which the Minister referred in his opening remarks. I welcome and support the amendments because they will improve the Bill.

Mrs M Bradley: I also welcome the Bill and the Minister's amendments. It will be a welcome improvement for everybody, tenants and landlords alike. It will allow for a lot of joined-up working between the Department of Finance and Personnel and the Housing Executive in supporting the enforcement of the private rented sector, which needed these welcome changes. I thank the staff who came to the Committee tirelessly, who suffered us and were patient with us. Also, I want to thank all the Committee members for the work that they put into it. I welcome the Bill, thank the Minister for introducing it and support the amendments.

Ms Lo: I support the Bill and this group of amendments. I echo other Members' thanks to the Committee staff and to all the stakeholders who came to give evidence to the Committee.

As other Members said, the privately rented sector is now very big and receives a large number of housing benefit grants. Given that people are having difficulty getting mortgages to buy houses during the recession, the trend towards growth in that sector is set. Also, the Housing Executive plans to build only 4,000 new social housing homes over the next four years, so waiting lists could increase, and people who do not get housing association homes may have to rent through the private sector.

I particularly welcome the Bill's landlord registration and tenant deposit schemes. The public have been calling for both schemes for a long time. I am delighted that, in this mandate, we will pass the Bill that makes those schemes a reality. In my constituency of South Belfast, I have dealt with disputes involving, for example, tenant deposit schemes. A student may dispute the return of a deposit with a landlord, who, if he or she knows that the student has to return overseas or leave the area, may use delaying tactics. The student may not be able to wait and may be forced to settle quickly for a hefty deduction from his or her deposit.

I would like to comment on amendment No 3 in particular. That measure is very welcome. I have had experience of families being given only four weeks to leave their home. The difficulties of having to find another home, pack up clothes and find schools for their children, if they are moving out of the area, are enormous. That

scaling-up gives tenants longer to prepare themselves and is a welcome aspect of the Bill.

I also welcome amendment No 4, which provides for increased disclosure and sharing of information between DFP, housing associations and councils. That makes for more effective working by everyone.

Amendment No 7 gives some teeth to the registration scheme by enabling a court to make an order to force the landlord to register within 28 days. That is very useful, because reluctant landlords will be forced to speed up their registration.

1.30 pm

Again, amendment No 9 is very welcome. As the Minister said, a £2,500 fine for house in multiple occupation (HMO) landlords is not a deterrent, given that such landlords can make that amount in rent in less than a month. Increasing the fine to £20,000 would be a more meaningful way to make the law effective.

Mr Easton: I will speak to the group 1 amendments, which deal with private tenancies. I am content with amendment Nos 1 and 2, as well as with amendment No 3, which will insert a new clause after clause 2 that will refer to the length of notice to quit. If somebody has held a tenancy for a long time, for example, more than five years, and has made the home their own, they should be granted more time to leave. The amendment also clarifies the length of notice to quit that either the tenant or the landlord is required to give.

I am happy to support amendment No 4, which relates to the disclosure of information. The Committee considered evidence from the Northern Ireland Local Government Association (NILGA) and the Landlords Association of Northern Ireland (LANI) that supported the principle of greater information sharing between statutory agencies so that the enforcement of tenancy legislation would be improved. The Committee agreed to support the inclusion of a new clause that would require the Housing Executive and Land and Property Services respectively to share housing benefit and domestic rates information with district councils to facilitate the better enforcement of tenancy legislation.

I am content with amendment Nos 5, 6 and 7, which deal with the registration of landlords and enforcement. The Committee considered at length the provisions that relate to the compulsory registration of private landlords. It also considered revisions to the structure of fines, as well as possible mechanisms that could allow district councils to recover court costs associated with prosecutions related to the failure of private landlords to register. Members were particularly concerned that fines should act as a deterrent to bad landlord practice and that councils should be able to recover the full costs of what can often be lengthy court proceedings. Following advice, the Committee accepted departmental explanations that alterations to the level of fines or to the processes by which court costs might be recovered would require a wide-ranging review of penalties and related measures. The Committee agreed to accept departmental assurances that the fines and penalties structures that are associated with tenancy legislation will be subject to a formal review within 18 months of Royal Assent being granted to the Bill. Therefore, I also support amendment No 8.

The Committee noted the concerns of organisations such as LANI, which sought to protect the privacy and to maintain the security of its members. LANI argued that certain information on landlords should not be included in the register or put into the public domain, as that would be of little benefit.

The Committee also noted suggestions that other stakeholders made that said that, in addition to landlords, the register should identify managers, owners/managers and managing agents. It considered with interest suggestions from Disability Action that the register should include details of whether tenancies had disabled access or were constructed to the lifetime homes standard.

The Committee accepted departmental assurances that the format and content of the register and the degree to which it would be in the public domain would be the subject of regulations that the Assembly would be able to scrutinise. Committee members also noted departmental assurances that regulations were expected to require managers, owners/managers and managing agents to be registered and that every effort would be made to include all relevant and useful information on the register.

The Committee agreed, therefore, that it did not support a number of proposed amendments that would have stipulated the information that is to be recorded in the register and the degree to which it would be in the public domain. It also accepted departmental assurances that regulations would set out which authority is to manage the register. It therefore agreed that it would not support amendments that would specify that or other operational details.

The Committee noted that the Bill will put in place a dispute resolution mechanism associated with the tenancy deposit schemes. Committee members agreed, therefore, that they would not support a proposed amendment that would link the register to a full dispute resolution mechanism.

The Committee noted that the Department is consulting on a revised fitness standard for private housing and that it expects to bring forward in the next mandate legislation that is related to that.

The Committee, therefore, agreed that it would not support a proposed amendment to link the register to a housing fitness standard. The Committee noted evidence that the district councils currently provide advice and training for private landlords. Therefore, the Committee agreed that it would not support a proposed amendment to require councils to provide training and advice for landlords as part of the registration process.

The Committee expressed its general support for the development of a register for private landlords and, therefore, agreed that it would not support a proposed amendment that would lead to the removal of the landlord register from the Bill or the registration costs for landlords. The Committee suggested that the Department should amend the Bill to ensure that the establishment of a landlords' register is a duty and not just a power. The Committee also suggested that the Bill should set out a timescale for bringing forward regulations relating to the registration of landlords.

The Department accepted the Committee's suggestion that it table related amendments to clause 7. The Committee considered a technical departmental amendment, which is designed to ensure that landlords' registration will be compulsory. I fully support amendment No 9, which raises the penalty for failure to register as a house in multiple occupation. I am also happy to support amendment Nos 23 and 24, which are related to aforementioned amendments and are purely technical.

Mr S Anderson: I wish to speak briefly on the first group of amendments, which deal with private tenancies. This is an important Bill, and I am encouraged by what it will achieve. The amendments in the first group have all been tabled by the Minister, and I congratulate him for that. Most of the amendments are the result of recommendations that have emerged from detailed scrutiny, discussions and consultations with the Committee. Several amendments are substantive, in that they are new clauses. I appreciate the fact that the Minister has taken note of previous debates and discussions and has acted accordingly.

I am happy to support the amendments in the first group that relate to private tenancies. Since some of the amendments touch on the powers and responsibilities of councils, I must declare an interest as a member of Craigavon Borough Council. The private rented sector is a growth area, and it is important that we do what we can to ensure the proper balance between the rights and privileges of landlords on the one hand and the rights and privileges of tenants on the other. There are many good landlords, but, as many Members know, maybe from personal experience, there are also unscrupulous ones. It is sensible and proper to increase significantly the length of notice-to-quit periods. The new clause introduced by amendment No 3 will do just that. I welcome the doubling of the notice-to-quit period for shorter-term tenancies from four weeks to eight weeks, and the trebling, from four weeks to 12 weeks, of the notice-to-quit period for longer-established tenancies of a decade or more.

One category of people who are famous, or perhaps infamous, are those who are known as absentee landlords. I am glad that we are amending clause 5 to ensure that landlord registration is compulsory. I also welcome the fact that district councils will be able to apply to the courts to require an unregistered landlord to register within 28 days. The Committee was concerned that there should a clear time frame for the introduction of the scheme, and I am glad that, by virtue of amendment No 8, regulations in this area will be made within 18 months of the Bill's becoming law. I support the amendments in the first group.

The Minister for Social Development: I thank all the Members who spoke for their various contributions. I also acknowledge all those people at Committee and departmental level who assisted in drafting and tabling such a large number of amendments. There are sometimes tensions in the air at the Department for Social Development, when I feel that officials do not always fully acknowledge the democratic interest. A few officials, on one or two occasions, have not appreciated the democratic interest. However, as these amendments demonstrate, when officials work with the political interest, be it on the ministerial or the Committee side, legislation can be upgraded in a significant way to protect all those people who may be covered by the Bill.

As Mr Brady said, a substantial number of people are covered by the Bill. There are 125,000 people in private rented accommodation, of which 60%, in one way or another, are on housing benefit. Consequently, it is particularly important to have better and greater regulation of the private rented sector in the interests of all tenants but, crucially, in the interests of those who come from a welfare or low-income background. Mrs Lo made that point as well and indicated clearly that, as we face into the next five years, the current draft Budget will not enable us to build the number of houses necessary to satisfy demand, never mind deal with housing stress.

There may be a heavier reliance on the private rented sector. It is better that we try to increase regulation of the private rented sector to mitigate the risks that might arise when a small number of unscrupulous landlords do not live up to the necessary standards. I want to stress Mr Brady's point that there are many good landlords out there. I lived in private rented accommodation for 11 of the past 33 years, and I had five different landlords. One of those landlords did not live up to the necessary standards, way back in 1978-79 when I was at college. I do not think that the Chairperson of the Committee was even born then.

The Chairperson of the Committee for Social Development: Barely.

The Minister for Social Development: That is reassuring for someone in my age group.

There are very good landlords, and, occasionally, there are not such good landlords. This Bill, like much legislation, can be used as a sword where necessary and as a shield to protect good tenants and good landlords.

I will deal with a number of the points that were raised and the reassurances that were sought by the Committee. I am pleased to give reassurances about the second and third groups of amendments, either in this speech or subsequent speeches. First, I will deal with the issue of fitness standards that was raised by a number of Members. It is important that, in focusing on the new provisions, we do not lose sight of the ongoing work to review the physical fitness standard in the private rented sector.

As signalled in 'Building Sound Foundations', which is the strategy that informs this legislation and may inform subsequent legislation, work to identify and examine necessary changes to the current statutory standard for private rented homes is under way. That includes exploring the arrangements needed to measure and enforce compliance as well as to clearly determine and appreciate the cost implications of any change. Inevitably, any change will require new legislation, and that will be brought forward as part of the new Assembly's programme.

As I indicated, work is under way in respect of fitness standards. There has already been significant consultation with stakeholders. Proposals, especially on the health and safety side, as well as the impact that any such proposals may have on other tenures, are being considered. Indeed, I am advised that new provisions in respect of possible proposals are already being drafted. They concentrate on what one would think that they should concentrate on: issues around energy efficiency, thermal efficiency, the risk of carbon monoxide in various properties etc. Therefore, this is work in progress that is well advanced. Any future Minister might, at an early stage, have the opportunity to bring forward proposals in that regard.

I am pleased to reassure the Chairperson of the Committee and Alex Easton in respect of the review of fines. In my opening speech on the group 1 amendments, I indicated that that matter will be attended to after 18 months. I also give the reassurance that was sought in respect of the information that might be required in a tenancy registration scheme. It so happened that, on two occasions this morning, I spoke to officials about that particular work — the information that will be required to

be registered in respect of any one or other particular tenancy. That issue arose this morning because, in advance of a question that may come up at Question Time later this afternoon, I was anxious to determine whether there is a mechanism to record rental levels as part of the registration scheme in order to potentially monitor rental levels going forward, not least in the context that Mrs Lo outlined.

Clearly, there is already a provision to monitor some rental levels through housing benefit, which is paid to 60% of people living in private rental accommodation, although top-ups might be required in some of those cases. Nonetheless, is there capacity to record and monitor levels through tenancy registration?

1.45 pm

I reassure the House that once the Bill receives Royal Assent, the comprehensive package of private rented sector issues will require further regulations to complete implementation of the Department's strategy for that sector. The regulations include those prescribing the detail of the mandatory landlord registration scheme, such as the detail provided by landlords and their agents, frequency of registration, management arrangements and fees payable. Similar regulations will be required for tenancy deposit schemes, and some additional provisions will be needed to ensure that tenants can recoup their deposit where the landlord is found to be in breach of the law.

As I mentioned in my opening speech, those regulations will be subject to draft affirmative procedure and will be debated in the Assembly. Officials are currently working on those regulations, on a number of related regulations on the information to be provided to tenants as part of their tenancy agreement and on some necessary amendments requiring private landlords, where necessary, to furnish local councils with additional specialist information to assist them in determining a property's fitness. As I have already indicated, I anticipate that those regulations, including those that touch on Members' concerns, will come before the Committee and the Assembly significantly in advance of the 18-month deadline.

I confirm that the registration scheme will be mandatory. As Mr Easton indicated, it is not just a power but a duty that will fall on all those who are subject to the scope of the Bill. I also confirm that the regulations will deal with not only landlords but managers and owner-managers in the terms outlined. In drafting the regulations, we will consider the issue of disabled access, which two Members raised, and the rights of the disabled in any potential tenancies.

I reassure Mr Brady that I was not suggesting that I was given an easy ride by the Committee; quite the contrary. I thought that the Committee was proportionate in exercising its oversight of my accountability. I am not saying that because I am looking for any particular advantage. My time as Minister for Social Development is nearly over, so there is not much advantage to be gained. Rather, I am saying it because I believe very strongly in the need for Committees to robustly scrutinise Ministers' accountability. We saw some evidence of that last week in the response of one or two Committees to the Budget. When I sat on the Committee for Employment and Learning, the then Chairperson of the Committee, Sue Ramsey, confirmed that I was more than robust at times. I believe firmly that Committees need to be proportionately robust. I think that the Committee for Social Development set a template that other Committees might want to consider using in the next mandate.

Save for other matters that I shall refer to when I speak to the subsequent groups of amendments, I commend the Bill.

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

Amendment No 2 made: In page 2, line 13, after "Article" insert "and Article 5B". — *[The Minister for Social Development (Mr Attwood).]*

Clause 2, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 3 made: After clause 2, insert the following new clause:

"Length of notice to quit

2A.—(1) Article 14 of the Private Tenancies Order (length of notice to quit) is amended as follows.

(2) In paragraph (1) for '4 weeks' substitute 'the relevant period'.

(3) After that paragraph insert—

'(1A) For the purposes of paragraph (1) the relevant period is—

(a) 4 weeks, if the tenancy has not been in existence for more than 5 years;

(b) 8 weeks, if the tenancy has been in existence for more than 5 years but not for more than 10 years;

(c) 12 weeks, if the tenancy has been in existence for more than 10 years.'.

(4) This section—

(a) applies whether the private tenancy was granted before or after the date on which this section comes into operation; but

(b) does not apply in relation to a notice to quit given before that date." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

Clauses 3 and 4 ordered to stand part of the Bill.

New Clause

Amendment No 4 made: After clause 4, insert the following new clause:

"Disclosure of information

4A. After Article 64 of the Private Tenancies Order insert—

'Disclosure of information for purposes of Parts 2 to 4

64A.—(1) This Article applies to any relevant information which is held—

(a) by the Department of Finance and Personnel for the purposes of—

(i) its functions under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc.) (Northern Ireland) Order 2006; or

(ii) the administration of housing benefit; or

(b) by the Northern Ireland Housing Executive for the purposes of the administration of housing benefit.

(2) Relevant information to which this Article applies must, if an authorised officer of the appropriate council so requires, be supplied to that council for the purpose of enabling or assisting that council to exercise its functions under any provision of Part 2, 3 or 4.

(3) Any requirement under paragraph (2) must specify—

(a) the description of relevant information which is to be supplied;

(b) the form in which that information is to be supplied; and

(c) the date by which that information is to be supplied.

(4) This Article—

(a) does not limit the circumstances in which information may be supplied apart from this Article; but

(b) has effect despite any restriction on the purposes for which relevant information may be disclosed or used.

(5) In this Article—

'authorised officer', in relation to a council, means an officer of the council authorised for the purposes of this Article by the council;

'housing benefit' means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

'relevant information' means information as to—

(a) the location, age, size or description of a dwelling-house let under a private tenancy;

(b) the name and address of the landlord or tenant of such a dwelling-house or of any person acting as an agent of the landlord.

Unauthorised disclosure of information

64B.—(1) An employee of a council commits an offence if he discloses without lawful authority any information—

(a) which he acquired in the course of his employment;

(b) which is, or is derived from, information supplied to the council under Article 64A; and

(c) which relates to a particular dwelling-house or person.

(2) It is not an offence under this Article to disclose information which has previously been disclosed to the public with lawful authority.

(3) It is a defence for a person charged with an offence under this Article to show that at the time of the alleged offence—

(a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or

(b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(4) A person who is guilty of an offence under this Article shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) For the purposes of this Article a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—

(a) in accordance with his official duty by an employee of the council;

(b) in accordance with any statutory provision or order of a court;

(c) for the purposes of any criminal proceedings; or

(d) with the consent of the person to whom the information relates.'." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

Clause 5 (Registration of landlords)

Amendment No 5 made: In page 4, leave out lines 18 and 19 and insert

"the information to be provided for the purposes of registration;". — [The Minister for Social Development (Mr Attwood).]

Amendment No 6 made: In page 4, line 31, leave out

"in connection with an application for"

and insert "for the purposes of". — *[The Minister for Social Development (Mr Attwood).]*

Amendment No 7 made: In page 4, line 42, at end insert

"(7) If on an application made to it by a district council, the county court is satisfied that—

(a) a person has been convicted of an offence under paragraph (4)(b), and

(b) that person is continuing after that conviction to contravene paragraph (4)(b),

the court may make an order requiring that person to register under this Article within such period (not being less than 28 days from the date of the order) as the court may specify." — [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 (Regulations)

Amendment No 8 made: In page 6, line 13, at end insert

"(4) The Department must lay before the Assembly—

(a) a draft of regulations under Article 5A, and

(b) a draft of regulations under Article 65A,

not later than 18 months after the date on which the Housing (Amendment) Act (Northern Ireland) 2011 receives Royal Assent.' ". — [The Minister for Social Development (Mr Attwood).]

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

Clause 8 ordered to stand part of the Bill.

New Clause

Amendment No 9 made: After clause 8, insert the following new clause:

"Houses in multiple occupation: increase in fine for failure to register

8A.—(1) In Article 75L of the Housing (Northern Ireland) Order 1992 (offences in connection with registration scheme for houses in multiple occupation) after paragraph (1) insert—

'(1A) A person who commits an offence under this Article consisting of a contravention of a provision included in a registration scheme by virtue of Article 75C(1) is liable on summary conviction to a fine not exceeding £20,000.'.

(2) Subsection (1) does not apply in relation to an offence committed before the date on which this section comes into operation." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

Clause 9 (Withholding of consent to mutual exchange of secure tenancies)

Mr Deputy Speaker: We now come to the second group of amendments, which is on antisocial behaviour. With amendment No 10, it will be convenient to debate amendment

Nos 11 to 14. Members should note that amendment Nos 12 and 13 are consequential to amendment No 11.

The Minister for Social Development: I beg to move amendment No 10: In page 7, line 29, at end insert

"granted or sought on the grounds that the tenant—

(i) is engaging in, or threatening to engage in, conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality;

(ii) is using or threatening to use the premises for immoral or illegal purposes; or

(iii) is allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct or use or threaten to use the premises for such purposes;".

The following amendments stood on the Marshalled List:

No 11: In page 7, line 38, at end insert

"Ground 2B

The tenant or the proposed assignee or a person who is residing with either of them has been convicted of—

(a) an offence involving using the dwelling-house of which the tenant or the proposed assignee is the secure tenant, or allowing it to be used, for immoral or illegal purposes, or

(b) an indictable offence.'." — [The Minister for Social Development (Mr Attwood).]

No 12: In clause 10, page 8, line 5, after "2A" insert "or 2B". *— [The Minister for Social Development (Mr Attwood).]*

No 13: In clause 10, page 8, line 30, after "2A" insert "or 2B". *— [The Minister for Social Development (Mr Attwood).]*

No 14: After clause 10, insert the following new clause:

"Possession orders: conduct causing nuisance or annoyance

10A. In Article 29 of the Housing (Northern Ireland) Order 1983 after paragraph (3) insert—

'(3ZA) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 2(a) shall include—

(a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;

(b) any continuing effect the nuisance or annoyance is likely to have on such persons;

(c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated;

(d) the circumstances of the tenant and the likely effect of a possession order on the tenant and any person residing with the tenant.'." — [The Minister for Social Development (Mr Attwood).]

The Minister for Social Development: The second group of amendments deals with antisocial behaviour and community safety issues. It is in this group of amendments that the hand of Members can be seen, particularly arising from Second Stage some time ago.

Amendment No 10 would amend clause 9 to ensure that, where the Housing Executive or registered housing association withholds consent to a mutual exchange of secure tenancies on the basis that an injunction against breach of tenancy agreement is in force or pending, the injunction relates specifically to antisocial behaviour. Although the provision that allows landlords to withhold consent to tenancy exchanges is intended to prevent the spread of antisocial behaviour, it is recognised that not all breaches of tenancy agreements would necessarily involve that type of conduct.

Amendment No 11 would amend clause 9 to create a new ground for the Housing Executive or registered housing association to withhold consent to a mutual exchange of secure tenancies on the basis that the tenant, proposed assignee or a person residing with either, has been convicted of certain offences. That provision would help landlords to prevent the spread of antisocial behaviour.

Amendment No 12 would amend clause 10 to allow an appropriate person to disclose information about criminal convictions to the Housing Executive or registered housing association. That is to enable social landlords to take informed decisions on withholding consent to mutual exchanges of secure tenancies.

Amendment No 13 would amend clause 10 so that the definition of "relevant information" includes information about criminal convictions.

That is essential to support the proposal to permit disclosure of such information.

Finally, amendment No 14 would insert a new clause to require the courts to take account of certain matters when considering whether to grant an order for possession on grounds relating to nuisance or annoyance. The consideration of certain matters would help the courts to come to a balanced, fair and consistent judgment. They could balance the interests of a tenant or a tenant's household with neighbours' interests, which might have given rise to the court action. That concludes the second group of government amendments.

The Chairperson of the Committee for Social Development: I will begin by addressing this group of amendments as Chairperson of the Committee. On clause 9, the Committee considered at length the provisions on antisocial behaviour and the exchange of secure social tenancies. Members felt that antisocial tenants were a blight on communities throughout Northern Ireland and that tenancy exchanges were an inappropriate mechanism for the resolution of antisocial behaviour issues. Members felt strongly that social landlords should be able to withhold consent to the exchange of secure tenancies on the basis of convictions for antisocial behaviour or serious criminal offences by tenants. At the Committee's request, the Minister tabled an amendment to that effect, which is amendment No 11.

The Committee noted that the Bill as drafted would allow consent to exchange a secure tenancy to be withheld where an injunction against a breach of tenancy agreement was in place. The Committee agreed that that should be amended so that the reference to injunctions should relate solely to antisocial behaviour, and that is amendment No 10 on the Marshalled List. Members felt strongly about antisocial behaviour issues and wanted to do something practical and proportionate to help communities blighted by a few antisocial tenants. For that reason, the Committee supports amendment Nos 10 and 11.

On clause 10, Committee members noted the concerns of stakeholders, such as the Housing Rights Service, about the provisions for the disclosure of information on antisocial behaviour. The Committee accepted departmental assurances that that information would be in the form of public domain information, such as injunctions and convictions, and that such information would conform to disclosure protocols. The Committee also accepted departmental assurances that guidance would be issued to social landlords on the appropriate treatment of such information that may refer to individuals with mental health issues.

The Committee considered with interest proposals from the Landlords' Association of Northern Ireland (LANI) that information about antisocial behaviour should be shared with private sector landlords. The Department advised that, owing to data protection implications, the Bill could not be amended to include that provision. The Committee accepted the departmental undertaking that consideration may be given to the inclusion of such provisions in future legislation. Again, I ask the Minister to provide an assurance or clarification on that matter today.

2.00 pm

The Committee agreed to support amendment Nos 12 and 13, which are described as technical and are linked to amendment Nos 10 and 11. The new clause concerns possession orders and guidance to courts. The Committee noted departmental evidence that suggested that inconsistent decisions by the courts in respect of antisocial behaviour can lead to damage to public confidence. The Committee accepted the Department's suggestion that guidance should be developed for the courts such that, in reviewing possession orders, consideration would be given to the likely effect of a tenant's behaviour on his neighbours as well as the effect of the order on the tenant himself. The Committee felt that the amendment was a proportionate and constructive response to the challenge of antisocial behaviour.

Although the Committee supports amendment No 14, I expect that some Members may indicate that the response is insufficient and that perhaps more direction should be given to the courts in that regard. The Committee feels that the antisocial behaviour provisions in the Bill and the proposed amendments are fair and proportionate. The Committee hopes that they will provide some assistance to social landlords and some degree of joined-up government that will help to control the difficult issues associated with antisocial behaviour.

In conclusion, I echo the remarks of the Minister: the influence of the Committee comes through clearly in this group of amendments. Some dissatisfaction, with which I concur, was expressed at Second Stage because, in the first Housing Bill that the Committee dealt with during this mandate, it was promised that there would be more on antisocial behaviour. I am afraid that members felt that what they saw in the Bill, as introduced, was not sufficient or strong enough to tackle antisocial behaviour. I do not think that there is a Member here who has not, on a constituency basis, dealt with issues pertaining to antisocial behaviour in the social rented sector. We all know about the issues. They are no more prevalent in the social rented sector than anywhere else, but we have all had to deal with those problems. We are all acutely aware of the issues, so we wanted to see more than what could fairly and accurately be described as the weak response in the Bill, as introduced.

The amendments certainly toughen up what was initially there, particularly in respect of the exchange of tenancies. Nobody will convince me that, given the way in which the system is concocted currently, some element of playing the system does not go on. Tenants who are antisocial or have a history of being antisocial but perhaps do not have any orders or injunctions against them could simply be moved around, and the problem, rather than being conclusively and adequately dealt with, is simply moved to another area or social landlord. That is no way to deal with the problem. It does not resolve it; it only moves it. Although some may have suffered in one area, others will suffer later.

The weakness in the Bill, as introduced, was that the exchange of tenancies could be withheld only in respect of relevant orders such as ASBOs. We all know that the shelf life of ASBOs may be limited, and their use has been fairly limited in Northern Ireland. The Housing Executive's statistics demonstrate that a mere handful of ASBOs have been issued against tenants. There are good reasons for that: they are costly and their effect has been called into question. Having narrow reasons such as ASBOs or injunctions as the cause for the withdrawal of an exchange of tenancies was very limiting and would not have adequately addressed the matter. It has been very much widened to include indictable offences and, curiously, threatening to use the premises for immoral or illegal purposes. It will be interesting to see how that works out in practice. However, what is there is much stronger than what was there previously. Social tenants, in accepting exchanges, need to have that information. They will see clearly whether tenants have been charged or convicted in respect of any of these offences and whether it is appropriate to move them in. That is not to say that somebody who has a past does not have the opportunity to move into a social home; it is about being careful about that.

We do not want to move people with a history of a certain type of offence into an area that may be sensitive to that offence. We do not want to compound the situation for social landlords dealing with antisocial behaviour by moving a problem into that area. Put plainly and simply, the amendments would give a social landlord the opportunity to better manage the situation with the full knowledge and information before them, rather than getting a tenant and finding out later that there may be a problem. Social landlords have a duty to their tenants, and I think that the amendments would increase landlords' ability to exercise that duty in a way that respects all tenants. With that in mind, I support the group 2 amendments.

Mr Brady: Go raibh maith agat, a LeasCheann Comhairle. I support the group 2 amendments and the proposed new clause.

We all agreed that antisocial behaviour is a huge problem in all our communities. I know that all members agreed that the problem is ongoing and growing, particularly in housing. Committee members felt that tenancy exchanges were an inappropriate mechanism for the resolution of antisocial behaviour issues. Members felt that social landlords should be able to withhold consent to the exchange of secure tenancies for tenants convicted of antisocial behaviour or serious criminal offences. At the Committee's request, the Department tabled an amendment to that effect.

The Committee also felt that, as drafted, the Bill would allow consent to exchange to be withheld where an injunction against breach of a tenancy agreement was in place. The Committee accepted that that should be amended in such a way that the reference to injunction should relate solely to antisocial behaviour. It agreed to recommend to the Assembly that clause 9 be amended to that effect.

The Committee accepted departmental assurances that information on antisocial behaviour would be in the public domain in the form of injunctions, convictions and suchlike. Stakeholders told us that the disclosure of antisocial behaviour information should be subject to protocols and be the preserve of prescribed officers of statutory organisations. That is understandable in the circumstances, and the Committee agreed not to pursue amendments that would impose new disclosure protocols.

The Committee also accepted the Department's assurances that guidance about the appropriate treatment of information on individuals with mental health issues will be issued to social landlords. As I mentioned, that was brought to the Committee's attention by Disability Action because of the number of people who are, unfortunately, affected by mental health problems.

The Committee considered, with interest, proposals from LANI that antisocial behaviour information should be shared with private sector landlords. The Department advised that, owing to data protection implications, the Bill could not be amended to include such a provision. The Committee accepted the Department's undertaking to consider including such provisions in future legislation.

The Committee noted departmental evidence which suggested that inconsistent decisions by the courts in respect of antisocial behaviour may damage public confidence. The Committee accepted the Department's suggestion that guidance should be developed for courts, so that, when reviewing possession orders, they consider the likely effect of a tenant's behaviour on his neighbours, as well as the effect of the possession order on the tenant.

To a degree, the group 2 amendments and the new clause deal with the ongoing and huge problem of antisocial behaviour. It is and will continue to be a difficult problem to resolve. However, this part of the Bill will go some way towards alleviating that problem.

Mr Gallagher: I welcome the amendments in group 2, which deal, as Members have said, with antisocial behaviour. All members of the Committee have had individual experience of and are well aware of the problems caused by antisocial behaviour, which impacts not just on individuals but often on entire neighbourhoods. Moreover, it cannot be fixed simply by exchanging tenancies. A much wider view has to be taken of it, and the regulations have to take account of that.

The amendments allow the landlord to withhold consent to the mutual exchange of tenancies where there is evidence that antisocial behaviour exists. As I have said, a straightforward exchange of tenancy is not the way to sort it out. It is wider and deeper and simply will not go away by moving tenants around. The measures on the disclosure of information have to do with orders and injunctions for antisocial behaviour where the information is required to enable a landlord to decide whether to withhold consent on the exchange of tenancies.

The Chairman referred to the matter of social tenancies when there is an order for possession of a tenancy. In Committee, the Department gave an assurance that it would look at that and has now assured us that, under the regulations, it can give guidance to the courts about the impact of any court decision not just on the individual concerned but on others in the neighbourhood. That is to be welcomed.

That brought us to a discussion on individuals with mental health issues. The Department assured us that tenants with mental health problems will not be discriminated against in any way by the new guidelines from the Department on disclosure of antisocial behaviour. That was widely welcomed. We had helpful discussions that led us to the point of having these amendments, which I support, before us.

Ms Lo: I welcome this group of amendments, which is aimed at preventing the spread of antisocial behaviour. Many MLAs, including me, have over the past four years received numerous complaints from our constituents about antisocial behaviour in some social housing developments. That not only affects the neighbours of those people but can blight the whole neighbourhood. Simply letting people who engage in antisocial behaviour move to another area not only transfers the problem to another area but condones bad behaviour. We need to deal more with the problem on the spot to prevent the antisocial behaviour from continuing, rather than moving people out of the area. In my experience, because the Housing Executive or the housing associations do not

deal with antisocial behaviour properly in many cases, the neighbours move out instead of the people who perpetrate the antisocial behaviour. That rewards bad behaviour, and the people living beside them, who want a peaceful life, eventually feel that they have to move out of the area. That is unfair.

I welcome the amendments, but I call on the Housing Executive and the housing associations to deal more robustly with tenants who continue to carry out antisocial behaviour and damage the quality of life of their neighbours.

2.15 pm

Mr Craig: I support amendment Nos 10, 11, 12 and 13 and am particularly supportive of amendment No 14. It is good to see that Anna has moved to the right wing on antisocial behaviour issues concerning housing. It is most annoying, and I have no doubt that Anna has experienced —

Ms Lo: Will the Member give way?

Mr Craig: Certainly.

Ms Lo: I have never condoned antisocial behaviour. Come on.

Mr Craig: I thank the Member for correcting that. I have no doubt that the honourable Member has dealt with similar problems to the rest of us regarding antisocial behaviour. It is infuriating to find that some of those who cause difficulties in an area are not committing their first or second offence but are being moved on for the 10th, 13th or 14th time from one area or another. It is good that the Bill contains provisions to allow that to be taken into account. In some cases, they may never receive housing, but, if that is the case, they will have ruled themselves out.

I am particularly interested to see what the Minister has done with amendment No 14, which covers one area that causes huge annoyance to the public. The amendment proposes the insertion of a new clause to allow for possession orders against those causing annoyance and nuisance. In that clause, the Minister allows for the annoyance that is already there and the effect that it can have on anyone if it continues and is repeated. That is one of the areas on which present legislation is incredibly weak in that only one offence of noise annoyance of a neighbour can be taken into account, even if there is a long history of such annoyance. More important, the new clause takes into account the effect that the annoyance would have on the neighbourhood if it were to continue and were to be repeated frequently. At present, the law does not take that into account.

I support what the Minister has introduced and hope that it will help in dealing with antisocial behaviour. It is good to see that other Members support that "get tough" campaign. Whether I label it right-wing is irrelevant; it will deal with a lot of the issues that we all have to deal with daily.

Mr Armstrong: I am not a member of the Committee for Social Development, but I was when much of the Housing (Amendment) (No. 2) Bill was discussed. Therefore, I can see where the Minister is coming from with many of his amendments. The fact that the Bill has taken so long to come before the House at Consideration Stage is a sign of the Committee's scrutiny. The Ulster Unionist Party is satisfied with the Bill's progress and the ultimate aim of introducing better regulations across the sector in Northern Ireland.

Mr Easton: I support amendment Nos 10, 11, 12, 13 and 14. Amendment No 14, which inserts a new clause regarding the response of courts to antisocial behaviour and the lack of public confidence, is greatly to be welcomed. The Committee noted departmental evidence that inconsistent decisions by courts on antisocial behaviour can damage public confidence. The Committee accepted the Department's suggestion that guidance should be developed for courts so that, in reviewing possession orders, consideration would be given to the likely effect of a tenant's behaviour on his neighbours as well as the effect of the possession order on the tenant.

Mr S Anderson: I am particularly supportive of the new clauses, which will tighten control over antisocial behaviour, and I speak in support of group 2, which comprises amendment Nos 10 to 14. Although only amendment No 14 proposes a new clause, the amendments will strengthen the legal controls over antisocial behaviour in the private rented sector. As amendment Nos 12 and 13 are technical in nature, I will restrict my comments to amendment Nos 10, 11 and 14 and will be brief.

Amendment Nos 10 and 11 will amend clause 9. They will help to ensure that social landlords will be able to withhold consent from an exchange of tenancy not only in cases of antisocial behaviour but in circumstances in which there is evidence of a tenant using the premises for immoral or illegal purposes or if they have been found guilty of an indictable offence.

I turn to amendment No 14. The Committee took note of the Department's view that public confidence has been damaged by inconsistent court decisions around antisocial behaviour. Therefore, I welcome new clause 10A, as proposed in amendment No 14, which allows the Department to produce guidance for the courts when possession orders are being reviewed. That will enable the court to give consideration to the likely impact of a tenant's behaviour on his neighbours, as well as the effect of a possession order on the tenant. I trust that that will contribute towards much greater consistency in the courts and that it will help to control and prevent the sort of bad behaviour in the neighbourhood that can make the lives of decent, law-abiding people an absolute misery. I support the second group of amendments.

The Minister for Social Development: I thank all the Members who contributed. When this mandate is over and people look back on it in coming years, they might consider this group of amendments to be one of the most significant groups to be made to any Bill that has gone through this legislature in the past four years. I say that because the issue of antisocial behaviour is so widespread and has such an impact on so many individuals, streets and communities that, if interventions to address it, such as those in the second group of amendments, are enforced and applied in a prudent and consistent manner, they will have a material impact on neighbourhoods and in particular on those who are on the wrong side of the law.

There is no one answer to antisocial activity, but we should take every opportunity to intervene to deploy resources, to build up law and to create new enforcement in an effort to deal with those who may be engaged in antisocial activity. In that regard, I consider this block of amendments to be a significant and useful intervention. Taken in the round, with regard to the ability to withhold consent to mutual exchange of secure tenancies, to how information is shared, to what information is shared and to how the courts react when a case comes before them, if those four interventions are applied as intended, they could have a material and positive impact on those issues.

I agree with Ms Lo that antisocial activity does not impact on one house, two houses or one street; it impacts and is a blight on the entire community. As Mr Hamilton indicated, for all those reasons, Members were right to feel strongly about the matter and were right to put it to me as Minister and to the Department to get over the wall in respect of those matters and to do so in a practical and proportionate way. In any guidance that the Department issues, the concerns of Disability Action and other disability organisations about people who have mental health issues will be taken on board.

I note what Members said about inconsistent decisions coming from the court, but it is only when the court is tested and a body of cases creates a body of precedents that the mind of the court will be fully explored. As Mr Hamilton indicated, ASBOs have not been tried and tested much in the Northern Ireland jurisdiction, but I anticipate and hope that the law that might be passed in the fullness of time through this Bill will be tested more before the courts and that the courts will begin to scope out the intent and scale of the law and to apply it in as many cases as they think is appropriate. I can also confirm that my officials recently carried out research on housing-related antisocial behaviour policies and interventions in the UK, which will help to inform future developments.

As part of any future policy development on those issues, I will certainly consider the issue of sharing information on antisocial behaviour with private landlords. However, as Members indicated, there are data protection issues. Although we support the principle of disclosure, we must ensure that it is on the right side of data protection and other human rights requirements. Subject to all those matters, I commend the second group of amendments.

Question, That amendment No 10 be made, put and agreed to.

Amendment No 11 made: In page 7, line 38, at end insert

"Ground 2B

The tenant or the proposed assignee or a person who is residing with either of them has been convicted of—

(a) an offence involving using the dwelling-house of which the tenant or the proposed assignee is the secure tenant, or allowing it to be used, for immoral or illegal purposes, or

(b) an indictable offence.'." — [The Minister for Social Development (Mr Attwood).]

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

Clause 10 (Disclosure of information as to orders, etc. in respect of anti-social behaviour)

Amendment No 12 made: In page 8, line 5, after "2A" insert "or 2B". — *[The Minister for Social Development (Mr Attwood).]*

Amendment No 13 made: In page 8, line 30, after "2A" insert "or 2B". — *[The Minister for Social Development (Mr Attwood).]*

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

New Clause

Amendment No 14 made: After clause 10, insert the following new clause:

"Possession orders: conduct causing nuisance or annoyance

10A. In Article 29 of the Housing (Northern Ireland) Order 1983 after paragraph (3) insert—

'(3ZA) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 2(a) shall include—

(a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;

(b) any continuing effect the nuisance or annoyance is likely to have on such persons;

(c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated;

(d) the circumstances of the tenant and the likely effect of a possession order on the tenant and any person residing with the tenant.'." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

Mr Deputy Speaker: As Question Time is due to start at 2.30 pm, I ask the House to take its ease until then.

The debate stood suspended.

(Mr Speaker in the Chair)

2.30 pm

Oral Answers to Questions

Office of the First Minister and deputy First Minister

Mr Speaker: Question 11 has been withdrawn and requires a written response.

Sexual Orientation Strategy

1. **Mr McDevitt** asked the First Minister and deputy First Minister to outline the reasons for the significant delay in publishing a draft sexual orientation strategy. (AQO 1079/11)

The First Minister (Mr P Robinson): Mr Speaker, with your permission, I will ask junior Minister Robin Newton to answer the question.

The junior Minister (Office of the First Minister and deputy First Minister) (Mr Newton): I thank the Member for his question. I am not aware of any significant delay in the publishing of a draft sexual orientation strategy.

Mr McDevitt: If there is no delay in the publication of a draft sexual orientation strategy, maybe the Minister of the Office of the First Minister and deputy First Minister will tell the House when he expects the strategy to be published. How long does he think it reasonable for such a strategy to be in preparation? After all, we know that it has been there for several years. Are there any barriers, such as, perhaps, his personal or party position, standing in the way of the finalisation of a strategy?

Mr Speaker: I remind the House that there should be one inquiry to a question.

The junior Minister (Mr Newton): Thank you, Mr Speaker; I am glad that you reminded him that he is entitled to one question. I resent the allegation that I or my party would, in any way, prevent anyone in society enjoying the same rights that everyone is entitled to. We are on record as saying that.

I also regret that he is raising a question that is already on the record. The timescale is on the record; it has been reiterated in the Assembly on a number of occasions. All you need to do is do your research properly, instead of putting down a question to which you already know the answer. The answer is on the record. It is in Hansard, and it is there for you to research. Why are you shaking your head, if you know the answer already?

The Office of the First Minister and deputy First Minister (OFMDFM) is currently considering the detailed proposals for steps to develop the strategy that he is seeking, including the broad terms of reference for stakeholder groups, which would work alongside departmental equality co-ordinators. The equality co-ordinators from all of the Departments will be involved in the strategy to help develop and support the relevant sexual orientation action plans.

The background to this is that the previous consultation on sexual orientation took place under direct rule. At that time, our Department established a short-term lesbian, gay and bisexual fund, which was awarded to the sector to help build the capacity and partnership-working across the lesbian, gay and bisexual (LGB) sector.

Mr Ross: Hate crimes against anybody, be they due to religion, race or sexuality, are wrong and will be widely condemned in the Chamber. What work has OFMDFM done with other agencies to tackle hate crimes against individuals because of their sexual orientation?

The junior Minister (Mr Newton): I thank the Member for his question. It is an important question for the whole of society. OFMDFM continues to sponsor the PSNI's Unite Against Hate campaign. The figures collated illustrate that reported incidents of homophobic hate crime have reduced over a two-year period. There is no room for complacency in this matter, and there is a need for continuing vigilance. Perhaps we should not be proud of the figures, but we should acknowledge that we are making progress. Back in 2008-09 there were 179 incidents reported and 134 crimes, and, in 2009-10, there were 175 incidents reported and 112 crimes. That is a downward trend, but there is no room for complacency on our part. We have increased funding for good relations and race relations for 2008-11 by one third, which is an increase up to almost £30 million. That means that vital work on the ground is better resourced than has ever been the case before.

Challenging all forms of hate crime, hate, intolerance and inequality and promoting rights is work that we should all have an effective influence on. We have given our backing to the aims and goals of the Unite Against Hate campaign, and the success of campaigns such as that depends on all of us, every single MLA, taking individual responsibility for our actions and for confronting bigotry and intolerance wherever we encounter it.

Mr Sheehan: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answers. Can he confirm that the CSI strategy commits OFMDFM to publishing a sexual orientation strategy?

The junior Minister (Mr Newton): I thank the Member for his question. The answer is yes. The CSI strategy is primarily designed to tackle racism and sectarianism, but a specific meeting with the LGB sector was part of the consultation on the cohesion, sharing and integration (CSI) document, and many of the issues raised will inform the development of the sexual orientation strategy. The LGB sector and, indeed, all other stakeholders will have a full opportunity to contribute to the development of that strategy.

Equality Commission: Employment

2. **Mr S Anderson** asked the First Minister and deputy First Minister what assessment they have made of the effectiveness of the Equality Commission in reducing discrimination in employment. (AQO 1080/11)

The First Minister: As the funding Department for the Equality Commission for Northern Ireland, the Office of the First Minister and deputy First Minister is accountable for the commission's business activities and resourcing arrangements. In that context, the Department is responsible for approving the commission's three-year corporate plan. It must also approve the commission's annual business plan. The commission has a statutory remit to challenge discrimination and promote equality of opportunity across a range of anti-discrimination statutes.

Any measurement of the existence or otherwise of discrimination is difficult to establish. The commission's work aims to contribute to a reduction in discrimination through casework at individual employer level, through advice and assistance to employers about practices and procedures and through the results of affirmative action programmes.

The commission reports to OFMDFM on its performance on a quarterly basis, and it outlines progress towards achieving the aims, objectives and targets contained in its annual business plan. Our officials, in turn, consider the contents of those quarterly reports and request further details where appropriate. Of the 50 strategic targets outlined for the 2009-2010 business plan, 84% were delivered, 14% partly delivered and 2% not delivered. The commission also works closely with the Department to review governance and value for money issues. That includes working to identify opportunities for future cost savings.

Mr S Anderson: I thank the First Minister for his answer. Can he confirm that the Equality Commission still has a lack of balance, and, if so, what should be done about that?

The First Minister: I take that to be a question about the Equality Commission's own staff. As I understand it, at present, just over one third of its staff, or 34·5%, are Protestant and 65·5% are Roman Catholic. The type of actions that the Equality Commission would require of any employer whose workforce was out of sync with the community that could be expected to be employed there would include asking them to advertise more widely. The Equality Commission has done that of itself. It would ask them to assess the application breakdown against the successful applicant numbers. Again, the Equality Commission has done that. It would ask them to get the message out clearly that recruitment from a particular section of the community would be welcome. Again, the Equality Commission has done that in relation its own staff.

The last action is that it would try to identify the reasons that application rates from one particular section of the community are low. Although the Equality Commission has made attempts to do that, the outcome suggests that those attempts have not been successful. I, therefore, think that more has to be done in that area. It could well be that, in our overall review of arm's-length bodies, we might like to look at whether the Equality Commission could be part of a wider body dealing with other rights issues. That might take away the "cold

house for Protestants" image that the Equality Commission presently has.

Dr Farry: Would the First Minister support a review of fair employment monitoring methodology to better reflect those who do not see themselves as part of a Protestant/unionist or Catholic/nationalist community and who seek to define themselves as having a different identity?

The First Minister: I am not sure whether the Member is suggesting that others are discriminated against because they are not in one section of the community or the other. I would have thought that someone discriminated against because they are not from a particular community is the same as them being discriminated against because they are from a particular community. That would be the case in law, and I will certainly look at whether that is the case in the monitoring arrangements.

Mrs D Kelly: Will the First Minister outline the amendments about which the Equality Commission has written to him and the deputy First Minister on improving equality legislation in the North and whether they have any intention of implementing them?

The First Minister: We constantly review with arm's-length bodies how their work can be improved. As soon as it becomes policy of the Executive after an Executive decision, we, of course, will bring the policy to the Assembly. However, we would never do that beforehand.

Mr McElduff: Go raibh maith agat, a Cheann Comhairle. Tá ceist agam don Chéad Aire. Does the First Minister believe that there is an inherent weakness in the system, in that a complainant cannot take an alleged breach of equality duty directly to court but is limited to submitting a complaint to the Equality Commission for its investigation?

The First Minister: I ask the Member to consider what he is asking for. There is a system that, in itself, is very costly for employers to operate. If we become a more litigious society, running to the courts on every issue when there are bodies that can deal with it probably more quickly and with the degree of expertise that they have, it is better to leave the system as it is. I would far rather deal with equality issues on the basis of having strong and robust legislation that relate to actual cases than with some of the fringe issues that surround equality and have made it into an equality industry. I would far rather that we protect the individual than go for all the issues beyond monitoring.

OFMDFM: Budget 2011-15

3. **Mr Irwin** asked the First Minister and deputy First Minister for an update on how they intend to deliver their departmental budget over the next four years. (AQO 1081/11)

The First Minister: The efficient and effective use of public resources remains a key priority for OFMDFM over the Budget 2011-15 period. As part of the draft Budget 2010, the Department had to identify savings of £3·8 million, £6·9 million, £10·3 million and £13·8 million over the Budget period while managing unfunded pressures of £3·6 million, £4·61 million, £5·99 million and £6·66 million.

The Department has developed savings measures intended to meet those targets, which will be delivered through improvements in efficiency and the effective delivery of services rather than through cuts to programmes and spending. We are considering the responses to the Budget consultation process, which closed on 16 February 2011, including feedback from the consultation events at the City Hotel, Londonderry, and the Wellington Park Hotel, Belfast.

Mr Irwin: I thank the First Minister for his answer. Will he indicate how his approach to the OFMDFM Budget settlement differs from that taken by certain other Ministers in other Departments?

The First Minister: With perhaps one exception, all Ministers have acted responsibly. They have recognised that we have to deal with a very significant cut to our Budget and that that means that budgets will be held down over the next four years. The exception, of course, is the Minister responsible for the Department of Health, Social Services and Public Safety (DHSSPS).

Anybody who cares to look at the draft Budget presented by the Finance Minister will see that the most attractive allocation went to the Department of Health, Social Services and Public Safety. While the Department for which the deputy First Minister and I have responsibility had its running costs reduced by more than 8%, the Department of Health, Social

Services and Public Safety had its increased by 7·6%. Any Department that comes out of this process with an increase in its funds has done very well.

2.45 pm

I have to point out that all of us share the desire to have the very best Health Service possible, which is why we took the step of making more money available to the Health Service in Northern Ireland over the next four years than there has been at any time in the history of Northern Ireland. It has the best allocation: it has a better allocation than any other Department in Northern Ireland, and it has a better allocation than elsewhere in the United Kingdom.

Frankly, I find it obscene that, instead of the Minister cheering that he has got the best deal in Northern Ireland, we have this kind of political posturing.

Mr Kinahan: I thank the First Minister, in some ways, for his answer. He is being extremely insincere, but I congratulate his Department on the cuts that it has implemented.

Rather than constantly tackling our Health Minister, when he looks at the large amounts of money and priorities that are going to the Department for Regional Development (DRD) —

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

Mr Kinahan: The question is just coming. Does the First Minister feel that it is right that all that money is going to DRD and the rather pointless, at the moment, A5 project —

Mr Speaker: Order. Let us be very careful. The subject of the question is the budget of OFMDFM not the budget of any other Department. I am trying to avoid widening the questioning to the Budget, so I insist that Members confine their questions to the budget of OFMDFM.

Mr Kinahan: My question links to the OFMDFM budget, particularly as the North/South Ministerial Council has given money to the A5 project rather than to the health budget. I was asking whether funding the A5 project is suitable when the health of the whole Northern Ireland population is losing out.

The First Minister: It might help Question Time if Members, before they get up on their feet and makes fools of themselves, were to do a bit of study and research. If the Member had done a little bit of research, he would have seen that although DRD's budget for the current year is £517·3 million, by the end of the comprehensive spending review (CSR) period it will be £454 million. That is a reduction in the DRD budget, whereas the Department of Health, Social Services and Public Safety's budget increases by 7·6%. Let us put the facts on the table.

If there was more money about, of course we would give all Departments more money. However, we have to deal with cuts to our Budget because the Member who just spoke and his colleagues went out during the last general election campaign and advocated those very cuts. They did that against the advice of every other party in the Executive. It is ill of them — *[Interruption.]*

Mr Speaker: Order. Members must allow the First Minister to answer.

The First Minister: It is ill of them then to say that those cuts should apply to everybody else but not to them.

Mr D Bradley: Go raibh maith agat, a Cheann Comhairle. If we can move away from the party political wrangle between the DUP and the UUP, perhaps I will be able to ask my question. What is the First Minister's strategy for funding for victims and survivors if the bid for Peace IV moneys is not successful?

The First Minister: The funding available for victims and survivors during this CSR period will be greater than it was in the previous CSR period.

Mr Doherty: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answers. What is the current staffing level in OFMDFM? Will he compare that figure with those from previous Administrations?

The First Minister: In 2004, there were 460 staff in post in OFMDFM, and there are now 351. That indicates that we have taken the issue of making efficiencies in our Department seriously, and, in doing so, we have given a lead to other Departments. I trust that our lead will be followed so that we can do the same job most efficiently at the least possible cost. That

is what ratepayers and taxpayers expect of us, and I hope that all Ministers will take that on board.

Budget Review Group

4. **Mrs O'Neill** asked the First Minister and deputy First Minister for an update on the work of the Budget review group. (AQO 1082/11)

The First Minister: Each party in the Executive is represented on the Budget review group. That group made an important contribution to the development of the draft Budget and has met three times since it was published. We have continued discussions on a number of strategic issues in the draft Budget, including identifying potential new sources of revenue, options for maximising receipts and the means to further reduce bureaucracy. That work is ongoing, and the Budget review group will continue to meet over the coming weeks to facilitate ministerial discussion.

Mrs O'Neill: Go raibh maith agat, a Cheann Comhairle. I welcome the fact that the Budget review group was able to find £1·6 billion of additional revenue. The Minister referred to the fact that the group has continued to identify other sources of funding. Will he provide the House with more detail on those sources of funding?

The First Minister: Although we identified £1·6 billion of additional revenue through discussions, we have not allocated £1·6 billion. The Minister of Finance and Personnel correctly decided to take a cautious approach, and he added in allocations only when he was absolutely certain that that funding was available. Therefore, only £800 million was added in.

That allows the Budget review group to look at the additional areas to see whether we can move them from the potential to the probable and include them in allocations that may be made during the four years of the CSR. Even if they cannot be made when the Budget goes through the Assembly, it does not stop us from bringing them in at a later stage should those issues be hardened up. Significant progress has been made in those areas. All parties are involved in the Budget review group, but no significant new ideas are coming forward.

Mr Campbell: The First Minister outlined the number of meetings of the Budget review group that have taken place. Given the comments that have been made about Budget allocations, will he confirm whether any parties were absent from those meetings?

The First Minister: I do not think that there was any significant absenteeism. The members of the group from the SDLP, the Ulster Unionist Party, the Alliance Party, Sinn Féin and the DUP have been present at most, if not all, meetings.

Mr Speaker: Once again, I encourage Members to rise continually in their place. If they do not rise, I will take it that their question or supplementary question has been answered.

Mr Gardiner: I thank the First Minister for his answers so far. Will he detail when the Budget review group expects to conclude its investigation into arm's-length bodies?

The First Minister: A paper was produced that sets out the criteria against which all arm's-length bodies should be judged. Each Minister is being asked to consider the arm's-length bodies for which his or her Department is responsible and to question their value for money and political value. When we receive those responses from Ministers, the Budget review group and the Executive will want to take decisions. However, it depends on the Ministers.

Mr Callaghan: Go raibh maith agat, a Cheann Comhairle. Go raibh maith agat, a Cheann Comhairle, as ucht an deis seo a thabhairt domh ceist a chur.

The First Minister has wonderfully lauded the Budget review group and its work. Capital investment is taking a hammering in the draft Budget that he and other Ministers propose to the House and to the public at large. What constructive role, if any, is the Budget review group playing in prioritising capital spending over the next four years? That is particularly important in the context of the Cinderella figures of £1·6 billion that we have all heard about and even in the context of those figures that are being stood over.

The First Minister: The capital budget is not taking a hammering because of our draft Budget. It is taking a hammering because the spending review carried out by the United Kingdom Government cuts our capital spend by over 40%. The problem we are facing is Tory coalition cuts advocated by the Ulster Unionist Party.

As far as prioritising the capital spend is concerned, the Member's Minister might be the first person to object if the Executive started to tell him what his priorities should be within his Department. The Department of Finance and Personnel takes the bids from all Departments and tries to determine the priority that each Minister places on his or her various bids and the allocations are made on that basis. If the Member is saying that he would like the Executive to choose the priorities for the Department for Social Development (DSD), for instance, then that is a different issue and one that we would have to consider.

Cross-sector Advisory Forum

5. **Mr Boylan** asked the First Minister and deputy First Minister for an update on the work of the cross-sector advisory forum. (AQO 1083/11)

The First Minister: The cross-sector advisory forum (CSAF) proved to be hugely successful in informing Ministers of the steps that the Executive needed to take in their response to the economic downturn. With the help of the forum, the Executive agreed a list of priority measures aimed at mitigating the impact of the prevailing difficult economic environment, and that list was published on 20 May 2010. Implementation of the priority measures has been very encouraging, with some four fifths of the recommendations either complete or currently being progressed. Significant achievements have been made in supporting planning, the construction industry, apprentices, the unemployed, those in poverty and in receipt of benefits, the social economy, local businesses, and the housing market. Although it is clear that CSAF has successfully fulfilled its initial purpose, any decisions on retaining or changing its format and structure in the future will be a matter for the new Executive.

Mr Boylan: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. He said that good work has been undertaken. Will he clarify whether that work will continue?

The First Minister: The work that flows from the decisions taken on foot of the advice and consultation will continue. As I said, four fifths are either completed or on the way to being completed. I take it from the question that the Member is asking whether the existence of the forum will continue. The deputy First Minister and I sat down with the forum fairly recently and discussed its future. It was agreed that we would look at the matter as soon as a new Executive were in place. However, we recognise that, even in continuing it, we might look to change the way in which it operates to get a better outcome and better use of the very significant experience that there is around that table.

Mr G Robinson: Will the First Minister say whether he believes that the cross-sector advisory forum has a role to play in the future?

The First Minister: I told the forum that I felt that it had a continuing role to play. It was brought into being because we were facing an economic crisis. That crisis has not gone away, and I suspect that when we come back after the election, in the second week in May, that economic crisis will still have to be faced. Therefore, the justification for that body being in place is there. Indeed, we might even find that it has a further role in providing a forum — almost a civic forum — which is of no cost to the budget of Northern Ireland.

Mr McCallister: I am grateful for the First Minister's reply. What indicators are there to measure the success of the forum, particularly in investment, infrastructure and training?

The First Minister: I suspect that the Member would not have asked the question before he had looked at the website to see what the report was, which showed that the proposals were in each of the sectors. Indeed, Ministers from all parties were involved, depending on the area of consideration, and the proposals were taken on board by the Ministers. With regard to skills and training, issues were taken up by the then Minister — Sir Reg Empey, now Lord Empey — and progress is being made on those matters. I believe that all Ministers felt that it was a useful exercise and that they benefited from having that contact with the groups on the ground, those with expertise and those who are the stakeholders in their area of interest.

3.00pm

Social Development

Mr Speaker: Question 2 has been withdrawn, and a written response is required to it. Question 8 has also been withdrawn.

Fuel Poverty

1. **Ms Lo** asked the Minister for Social Development whether the current levels of funding to address fuel poverty and for the warm homes scheme will be maintained in the period 2011-15. (AQO 1093/11)

The Minister for Social Development (Mr Attwood): I thank the Member for the question, as it is very important, not least because of the intense levels of fuel poverty in Northern Ireland. I confirm that current levels of funding to address fuel poverty will be maintained in the period 2011-15. I have just come from a meeting on this matter, and I will have further meetings this week to enhance the amount of money available, at least in three of the next four years, beyond that which has been made available in the current financial year.

Ms Lo: I thank the Minister for his very positive response. Fuel costs are ever-increasing and, compared to housing association homes, many more Housing Executive homes had burst pipes during the recent freeze. Does the Minister agree that we need to step up our efforts to upgrade the old and inefficient heating systems in our old Housing Executive stock?

The Minister for Social Development: I agree. That is why, as part of the conversation that I have just had and in conversations over the last number of weeks, I have agreed a dedicated line in the Housing Executive budget for insulation measures to mitigate the risk of harsh weather. Moreover, the maintenance programme of the Housing Executive will continue to replace existing heating systems with more efficient and cost-effective ones. Furthermore, over the coming days I will launch a new fuel poverty strategy that will cover as many bases as possible in dealing with the three areas or causes of fuel poverty: the cost of fuel, incomes and energy efficiency.

Mr Campbell: Has the Minister assessed the efficacy of the warm homes scheme as it has been rolled out in the current financial year, given the significant amount of money that was set aside at its beginning to make inroads into the number of unfit dwellings and dwellings that require insulation?

The Minister for Social Development: I can confirm that the performance indicator of 9,000 properties in the private sector to receive warm homes treatment in the course of this year will be met. It will be met much more cost-effectively than under the previous warm homes scheme. Both getting the number of properties over the line and the cost basis are going in the right direction. However, I am not satisfied with that. As I told the Member who spoke previously, I intend to have more money going into the warm homes scheme in each of the next three years beyond the spend in this current year. Between the increasing number of properties that can be addressed and, potentially, the green new deal, I hope that we can stretch well over the 10,000 mark in energy efficiency.

Mr McDevitt: Has the Minister any plans to introduce additional measures to counteract fuel poverty?

The Minister for Social Development: I do not want to anticipate myself. I have said in the Assembly that the new fuel poverty strategy will have a boiler scrappage scheme. That will be run out as a pilot in the very near future and will target people in need rather operate on a first-come, first-served basis, as the scheme in England did.

As Members know, the next debate in the Assembly will touch on the issue of energy brokering as part of the Housing (Amendment) (No 2) Bill, which is at Consideration Stage. Given the 120,000 to 125,000 houses in the public sector in Northern Ireland, energy brokering, as a means of reducing the energy costs of individual tenants, offers great potential for the future.

Mr Speaker: Question 2 has been withdrawn.

Housing Executive: Contractors

3. **Mr K Robinson** asked the Minister for Social Development how the Housing Executive monitors the performance of contractors working on repairs to its properties. (AQO 1095/11)

The Minister for Social Development: I thank the Member for his question. I will simply say that no, I am not satisfied that the Housing Executive does enough to deal with contractor performance and to ensure that that performance lives up to all necessary standards. That is why, among other things, I commissioned a gateway review, which I reported on to the Assembly last month. Arising from that, I suspended the tender process on two maintenance contracts in the Housing Executive so that a much more fit-for-

purpose contract could be created that not only relies on good partnership working but drives performance and its enforcement into the terms and conditions of the contract while penalising contractors if they do not perform.

Mr K Robinson: I thank the Minister for his very helpful answer. As a representative for East Antrim, I know that my constituents perhaps did not suffer in the recent cold spell as adversely as some across the Province. Northern Ireland Housing Executive contractors deserve some praise for the busy week's work that they did at that time. Will the Minister detail how many complaints were received about the apparent substandard response from contractors or, indeed, from the Housing Executive itself to repairs to stock over that cold period?

The Minister for Social Development: I thank the Member for his question. There were actually a tiny number of complaints, and there was even less legal correspondence from solicitors representing one or more tenants. However, that does not tell the full story. The full story is that, although many contractors stretched themselves and lived up to their maintenance response requirements, there were clusters of areas where, in my view, contractors did not live up to all that is required of them in an acute and critical situation. That is why I instructed the acting chief executive of the Housing Executive to evaluate each contractor, regardless of the number of complaints, to identify where contractors did not live up to the required standards, what should be done about it now and what we can learn about it going forward.

Mr Brady: Go raibh maith agat, a Cheann Comhairle. In my constituency, as I am sure is the case in many others, there have been ongoing complaints about contractors' standard of work. I am alluding not just to the work that was done over the Christmas period. Will the Minister give us some idea of how rigorously inspections are carried out before contractors are actually paid for the work that they are supposed to have done?

The Minister for Social Development: I thank the Member for that question. There are two streams of inspections in the Housing Executive. The first is on response maintenance, and the second is on planned maintenance. I think that the concern primarily arose with response maintenance. The response maintenance system is that there is 100% inspection of all contracts worth £750 and more, 20% inspection of contracts worth between £100 and £750, and 1% sampling of contracts that are worth less than £100. So, processes are in place. However, as the gateway review demonstrated, although there are processes, their enforcement, as well as ensuring that terms and conditions are in contracts, makes sure that contractors who fail are penalised for that failure. That is the trick. It is to have not just an inspection regime but an enforcement regime that sees good contractors protected and the wrong contractors identified and dealt with.

Mr McGlone: The Minister answered part of the question that I was going to ask, which was whether an evaluation of each contractor would be conducted. Will he please inform me and the House when such an evaluation will be completed? Indeed, what actions are likely to be taken if deficiencies are found in the levels and quality of contracts provided to Housing Executive tenants, especially in the recent period of cold weather?

The Minister for Social Development: My view, which, I trust, is shared by the Housing Executive, is simply that penalties, such as reducing the number of payments or withdrawing or recovering payments, should be visited on contractors who fail to perform. Those are the disciplines that need to be in place. One of the best ways of disciplining contractors who fall on the wrong side of tenant and Housing Executive responsibility is through the pound in the pocket. All of that must be carried out with due process.

There is a more fundamental issue. We must ensure that, when the Housing Executive, DSD or any other government body or Department tenders for or awards contracts in any aspect of public procurement, as part of the tender process, previous performance qualifies or disqualifies a contractor from bidding for work in the future. If we do not have that hurdle in place, whereby contractors, at the time of tendering, are judged on their past performance, we will be letting down the public purse and the people of Northern Ireland.

Housing: Private Rented Sector

4. **Mrs O'Neill** asked the Minister for Social Development what steps he has taken to place a cap on the cost of renting private accommodation. (AQO 1096/11)

The Minister for Social Development: I thank the Member for her question. It is a complex question with a complex answer. Analysis of the private rented sector shows that there are inherent in it some disciplines and restraints when it comes to rent levels. For example, in the private rented sector, 60% of tenants get full or partial housing benefit. Consequently, there is some check on rent levels in properties in which tenants are entitled to housing benefit. There are also 1,000 other properties in Northern Ireland that are the subject of what are known as protected or statutory tenancies, for which rent control assessments are carried out. The answer to the question is that, inherent in the process of payment of rent, there are some disciplines and hurdles that have to be jumped when determining a reasonable rent level. It so happens that there is a free market in respect of the other properties, and there may be issues in managing the free market, not least going forward in a time of recession.

Mrs O'Neill: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. He referred to the fact that a lot of housing benefit is paid. Something like £90 million a year is paid to the private sector in housing benefit. Has the Minister considered bringing in legislation or finding some other way to cap that? At a time of recession, the more moneys DSD can hold onto, the better for the public.

The Minister for Social Development: I note what the Member says. I have not been inclined to go down that road. That is the road that the London Government have been going down. The London Government have been introducing proposals with the intention of restricting access to housing benefit, capping housing benefit and not allowing people on housing benefit between the ages of 25 and 35 to live in a family house. It is the Tory policy of the London Government to go down the road of capping housing benefit in a way that disadvantages people. I am not inclined to go down that road. That is why I acknowledge what the London Government did last week, when they abandoned the proposal in the universal credit Welfare Reform Bill, to reduce housing benefit by 10% after one year for those on jobseeker's allowance. That was a dogmatic and penal proposal. It was about capping housing benefit, but it was still the wrong thing to do. I acknowledge the fact that the London Government, under pressure, including pressure from me and the Northern Ireland Executive, have agreed to abandon that proposal. I hope that, when it comes to the management of our housing benefit system in Northern Ireland, we do not indulge in such activities.

Mr Kinahan: That was a good, thorough answer. What action will the Minister take against rogue landlords in the private rented sector who did not look after their accommodation properly during the cold spell?

3.15 pm

The Minister for Social Development: I thank the Member for that question. I know why he asked it. On either Christmas Eve or Boxing Day, the Member contacted me to flag up a case, beyond the public sector, of a private tenant who was in difficulty because a landlord was not fulfilling his or her responsibility. The general way in which we are trying to deal with that relates to the debate that we had before Question Time and that will continue in 15 minutes. In the Housing (Amendment) (No.2) Bill, which is going through the Assembly, we are trying to create new requirements for the private rented sector. In that way, we can create hurdles that private landlords have to get over to ensure that they comply with best practice.

The issue of housing legislation, whether it concerns housing associations, the Housing Executive or the private rented sector, will be a big part of the future mandate of the Assembly. There is a need to reform the housing sector in the North generally in respect of housing associations, the Housing Executive and, in particular, the private rented sector. I hope that a future Minister and future Assembly will legislate on the issue that the Member addresses.

Mr McCarthy: I am sure that the Minister agrees that there are too many people on the housing waiting list and too many private houses lying empty up and down the country. I understand that a system is operated in Donegal in which the statutory authorities offer a 10-year lease for private owners, thereby making it much easier for people on the housing

waiting list to get accommodation. They work together so that the private —

Mr Speaker: Do I detect a question somewhere?

Mr McCarthy: If the Minister is aware of the system operated in Donegal and if the result would be fewer people on housing waiting lists and fewer private houses lying empty, would he consider such a system for Northern Ireland?

The Minister for Social Development: I thank the Member for his timely question. As his party colleague Ms Lo indicated in the debate before Question Time, it is very likely, if not certain, that, in the next four or five years, the number of people on waiting lists for public housing in Northern Ireland will escalate, as will the number of people in housing stress. That is a matter that the draft Budget does not address because of the reckless reduction of newbuild moneys for housing association properties.

I agree with the principle that the Member articulates. As we go forward, there may be merit in looking at a leasing model for public sector housing. I await a report from PricewaterhouseCoopers on a leasing model that may or may not be applicable to Northern Ireland. I have also asked Housing Executive officials to scope out how many unfinished properties there are in Northern Ireland. A couple of weeks ago, I went through Comber on the way back from Downpatrick and saw a partially finished development. There may be opportunities — I must say that those are small because of the decent homes standard — to identify unfinished properties, of which there may be a number of hundreds in Northern Ireland unlike in the South. It may be possible to consider purchasing those properties, finishing them off and letting them out to tenants.

The fundamental point is that, as we go forward and reform housing in a positive image, we should look at many options to deal with housing stress. As the Scottish Government have done in Scotland, we should conduct a lot of pilots to see what funding and tender models might work best in Northern Ireland.

Mr P Ramsey: The Minister referred to the increasing number of people across Northern Ireland who are in housing stress. Does the Minister acknowledge that increasing numbers of people in housing stress are going down the private rented sector route because they cannot secure Housing Executive property? Indeed, district offices encourage applicants down that route. However, those people are faced with a cap in many instances. The vast majority of housing applicants are on income support or income-related benefit but face undue financial hardship because private landlords charge much more than what housing benefits cover. Can the Minister outline a method to regulate those homes?

The Minister for Social Development: I thank the Member for his question. He is right: between 1991 and 2009, the number of properties in the private rented sector increased fourfold to over 125,000, which is about 17% of the entire accommodation stock in Northern Ireland. At the same time, fitness levels, even of that stock, have declined significantly — by 75% — from 8% to about 2%. I agree with the Member that some landlords are charging top-up fees over and above the amount paid in housing benefit. We need to consider that issue further.

I concur with Ms Lo that an increasing number of people will become reliant on private rented properties should they lose their job, their home, their income or their welfare. More people will be looking for private rented sector properties, not least because the target to build 2,500 newbuild public sector properties every year simply will not be satisfied under the draft Budget.

Social Investment Fund

5. **Mrs D Kelly** asked the Minister for Social Development to outline his Department's involvement in the proposed social investment fund and how this fund will relate to the Executive's neighbourhood renewal programme for tackling disadvantage. (AQO 1097/11)

The Minister for Social Development: I thank the Member for her question. A week before the draft Budget goes to the Executive to be potentially put to a vote and three weeks before it goes to the Floor of the House to be endorsed or otherwise, I still do not know what the £80 million in the draft Budget for a so-called social investment fund is intended to do. I hear from angry community organisations and community leaders that they are anxious and concerned about what that money is intended for. It is ludicrous that, a week before the Executive might have to endorse the draft Budget, no paper on that £80 million has been sent to the

Executive, to other Ministers, to the Committee for the Office of the First Minister and deputy First Minister or to the Assembly. Members can draw their own conclusions from that.

Mrs D Kelly: I thank the Minister for his answer. As a member of the Committee for the Office of the First Minister and deputy First Minister, I share his frustration, because I cannot get a handle on the terms of reference for accessing that fund.

I understand that there has been a mid-term evaluation of the neighbourhood renewal fund. Does the Minister have any sense of whether the £80 million for the social investment fund will complement that work? Have there been any discussions at all about the findings of that review?

The Minister for Social Development: I acknowledge that neighbourhood renewal has begun to embed and that funding for it and similar programmes is beginning to have a measurable impact on many communities in Northern Ireland. That is why I welcomed the motion that the DUP tabled before Christmas, which was given unanimous backing on the Floor of the Assembly in respect of neighbourhood renewal and associated programmes. Although I have grave concerns about the social investment fund, I hope that every penny that is meant for neighbourhood renewal areas is spent wisely and is not simply invested in more buildings and more community jobs without the necessary community work and activism.

Let me put this very clearly: in North Belfast and in my constituency of West Belfast, there is a project called integrated services, which, I understand, receives £2·3 million in funding annually. That money goes into integrated services to protect families and children in need. Given that the Department of Education failed to make a bid for that project in its Budget submission, I am prepared to put money on the table to secure that funding. However, are the First Minister and the deputy First Minister prepared to put money from the social investment fund on the table to ensure that that vital service continues over the next four years?

Mr Gardiner: I have great sympathy for the Minister. Will he share with the House his fears about how OFMDFM might administer the social investment fund?

The Minister for Social Development: I hope that the fund is not administered in the way in which it was created — in secret, in private, over the head of government and over the head of the community. In this society, we have had enough of elitism, exclusion and hierarchies. We need inclusion, openness and disclosure around the fund. The fund, as engineered, is contrary to the ethic of the Good Friday Agreement, our new politics and the values that are supposed to inform this institution. Consequently, as the fund has been conspired about in secret, it may end up being spent at the whim and will of the First Minister and deputy First Minister. I hope that that is not the case. I hope that the £80 million ends up, like neighbourhood renewal, as a fund that tackles disadvantage in an objective and open way and gets results.

Housing Executive: Vacant Properties

6. **Mr Beggs** asked the Minister for Social Development what is the average time taken by the Housing Executive to assess and repair a vacant property and make it available to a new tenant. (AQO 1098/11)

The Minister for Social Development: I can confirm that there is a 26-day target for void property turnaround time. I am advised that that time is measured between the date on which a property becomes void and the date on which a new tenant takes up a tenancy. During that period, property is assessed and repairs are completed to make it safe and habitable for a new tenant. In the most recent recorded month, which was December, the average turnaround time across all Housing Executive districts was 27 days, which is one day more than the target.

Mr Beggs: I thank the Minister for his answer. However, does he accept that, when a property is vacant, people remain homeless unnecessarily, income is lost and there is a risk of vandalism and damage? Does the Minister agree that there may be a need to scrutinise those targets further? For example, things such as electrical testing could have a much shorter target time, because a property may require no work and may simply need to be tested.

The Minister for Social Development: The Member is the first Member to raise that matter. He clearly knows of examples in which the target time has not been honoured or in which, if the turnaround time had been shorter, it would have benefited tenants, the Housing Executive

and the wider community. If the Member knows about particular cases, I would welcome hearing from him. I will take advice on the matter. If there could be a quicker turnaround time, not least because of housing need and stress, the Member may make a fair point.

Mr G Robinson: Will the Minister tell the House how many Housing Executive properties were put out of existence during the December/ January freeze?

The Minister for Social Development: I can confirm for the Member that, by my recall, 186 tenants presented as homeless. If that figure is not absolutely correct, I will write to the Member and confirm the correct figure. However, it was in and around 186 tenants. Those individuals, because of the state of their homes, were unable to continue living in them. There were, of course, other tenants who did not register as homeless but made their own arrangements and went to family or friends or were away. Therefore, there were other tenants, beyond the 186, whose houses were not fit for them to continue living in because of the scale of damage that was caused. However, I reassure the Member that those figures compare with the more than 23,000 properties that required work. The work of the Housing Executive and contractors allowed tenants in those properties to remain in their home during the Arctic weather.

Mrs M Bradley: Will the Minister provide an update on the fundamental review of the Northern Ireland Housing Executive?

The Minister for Social Development: Members will be aware that, in October, I commissioned a fundamental review. That review was supposed to position the Housing Executive going forward after 40 years of good work and to look at how to build on that work over the next two decades. PWC, which is conducting the review on behalf of DSD and the Housing Executive, is meeting stakeholders and has met the Housing Executive board and DSD staff to consider the options. I understand that PWC has contacted or is about to contact each party in the Assembly to have an in-depth conversation with their housing spokespersons and any other people that the parties may want to nominate to meet PWC.

The consequence of that is that I expect soon to receive an update on the work that has been undertaken in anticipation of a draft report coming to me by the end of March, which will outline the option or options for the Housing Executive.

However, my sense is that the review may recommend fundamental shifts in the architecture around the Housing Executive in order to ensure that it fulfils its statutory functions, builds on its success and is even more fit for purpose.

3.30 pm

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

Executive Committee Business

Housing (Amendment) (No. 2) Bill: Consideration Stage

Debate resumed:

New clause

Mr Deputy Speaker: We now come to the third group of amendments for debate. The amendments deal with the Housing Executive and other social landlords. With amendment No 15, it will be convenient to debate amendment Nos 16 to 22 and 25. Members should note that amendment No 25 is consequential to amendment No 16.

The Minister for Social Development (Mr Attwood): I beg to move amendment No 15: After clause 10, insert the following new clause:

"Miscellaneous amendments to the Housing Orders

Abandoned tenancies

10B.—(1) In Article 41 of the Housing (Northern Ireland) Order 1983 (NI 15) (rights of landlord where secure tenancy abandoned) in paragraph (3) for sub-paragraph (a) substitute—

'(a) has reasonable grounds for believing the matters mentioned in paragraph (1)(a) and (b); and'.

(2) In Article 19A of the Housing (Northern Ireland) Order 2003 (NI 2) (rights of landlord where introductory tenancy abandoned) in paragraph (3) for sub-paragraph (a) substitute—

'(a) has reasonable grounds for believing the matters mentioned in paragraph (1)(a) and (b); and'."

The following amendments stood on the Marshalled List:

No 16: After clause 11, insert the following new clause:

"Abolition of rent surplus fund

11A.—(1) Article 37 of the Housing (Northern Ireland) Order 1992 (NI 15) (surplus rental income of housing association) is repealed.

(2) In Article 20(2) of that Order (offences relating to accounts of housing associations)—

(a) at the end of sub-paragraph (a) insert 'or';

(b) omit sub-paragraph (c) and the word 'or' immediately before it." — [The Minister for Social Development (Mr Attwood).]

No 17: After clause 11, insert the following new clause:

"Service of documents

11B.—(1) Article 104 of the Housing (Northern Ireland) Order 1992 (NI 15) (service of certain documents) is amended as follows.

(2) For paragraph (1) substitute—

'(1) Any document required or authorised by a statutory provision to be given to or served on any person by the Executive or a registered housing association may be given to or served on that person by being sent by ordinary post.'." — [The Minister for Social Development (Mr Attwood).]

No 18: In clause 12, page 9, line 19, leave out "or oil" and insert

",oil or other means of producing energy". — [The Minister for Social Development (Mr Attwood).]

No 19: In clause 12, page 9, line 32, at end insert

"(d) a supplier of any other means of producing energy." — [The Minister for Social Development (Mr Attwood).]

No 20: After clause 12, insert the following new clause:

"Functions of Executive in relation to community safety

12A.—(1) The Executive may take such action for enhancing community safety in any area as is compatible with the proper exercise of its functions in that area.

(2) Reference in this section to enhancing community safety in any area is to making the area one in which it is safer to live and work, in particular by the reduction of levels of crime and other anti-social behaviour." — [The Minister for Social Development (Mr Attwood).]

No 21: After clause 12, insert the following new clause:

"Power of Executive to enter into arrangements with other statutory authorities

12B.—(1) The Department may by regulations make provision for or in connection with enabling the Executive (on the one hand) and prescribed statutory authorities (on the other) to enter into prescribed arrangements in relation to the exercise of prescribed functions of the Executive and prescribed housing-related functions of the statutory authorities, if the arrangements are likely to lead to an improvement in the way in which those functions are exercised.

(2) The arrangements which may be prescribed include arrangements for or in connection with—

(a) the exercise by the Executive on behalf of a statutory authority of prescribed housing-related functions of the authority

(b) the exercise by a statutory authority on behalf of the Executive of prescribed functions of the Executive,

(c) the provision of staff, goods, services or accommodation in connection with any arrangements mentioned in paragraph (a) or (b),

(d) meeting expenditure incurred in connection with the arrangements, including provision for the making of payments by a statutory authority to the Executive or by the Executive to a statutory authority.

(3) Regulations under this section may make provision—

(a) as to the cases in which the Executive and statutory authorities may enter into prescribed arrangements,

(b) as to the conditions which must be satisfied in relation to prescribed arrangements (including conditions in relation to consultation),

(c) for or in connection with requiring the consent of a Northern Ireland department to the operation of prescribed arrangements (including provision in relation to applications for consent, the approval or refusal of such applications and the variation or withdrawal of approval),

(d) as to the sharing of information between the Executive and statutory authorities.

(4) Any arrangements made by virtue of this section shall not affect—

(a) the liability of the Executive for the exercise of any of its functions,

(b) the liability of statutory authorities for the exercise of any of their functions, or

(c) any power or duty to recover charges in respect of services provided in the exercise of any functions of statutory authorities.

(5) A Northern Ireland department may issue guidance to the Executive and statutory authorities in relation to consultation or applications for consent in respect of prescribed arrangements.

(6) The reference in subsection (1) to an improvement in the way in which functions are exercised includes an improvement in the provision to any individuals of any services to which those functions relate.

(7) In this section—

'housing-related functions', in relation to a statutory authority, means functions of the authority which, in the opinion of the Department—

(a) have an effect on the housing of any individual,

(b) have an effect on, or are affected by, any functions of the Executive, or

(c) are connected with any functions of the Executive;

'prescribed' means prescribed by regulations under this section;

'statutory authority' means a body or person exercising functions under any Act of Parliament or Northern Ireland legislation.

(8) Regulations under this section—

(a) are subject to negative resolution;

(b) may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient." — [The Minister for Social Development (Mr Attwood).]

No 22: After clause 12, insert the following new clause:

"Indemnification of members and officers of Executive

12C.—(1) The Department may by order make provision for or in connection with conferring power on the Executive to provide indemnities to some or all of its members and officers.

(2) Before making an order under this section, the Department must consult—

(a) the Executive, and

(b) such representatives of officers of the Executive and such other persons as the Department considers appropriate.

(3) An order under this section—

(a) is subject to negative resolution;

(b) may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient." — [The Minister for Social Development (Mr Attwood).]

No 25: In the schedule, page 11, line 3, at end insert

"The Housing (Northern Ireland) Order 1992 (NI 15) In Article 20(2), sub-paragraph (c) and the word 'or' immediately before it.

Article 37." — [The Minister for Social Development (Mr Attwood).]

The Minister for Social Development: The third group of amendments deals with miscellaneous functions of the Housing Executive and registered housing associations. Amendment No 15 would amend article 41 of the Housing (Northern Ireland) Order 1983 and article 19A of the Housing (Northern Ireland) Order 2003 to remove the legal requirement for the Housing Executive and registered housing associations to enter abandoned tenancies in order to complete the procedure for regaining possession of such accommodation.

Amendment No 16 would repeal article 37 of the Housing (Northern Ireland) Order 1992, thereby abolishing the requirement for registered housing associations to show separately in their accounts certain surpluses on rental income arising from properties built with grant funding. The Northern Ireland Federation of Housing Associations requested that provision on the basis that the so-called rent surplus fund no longer serves any useful purpose and imposes an unnecessary bureaucratic burden on associations. In close connection with that, amendment No 25 would amend the schedule to the Bill, which sets out legislation to be repealed. Consequential to the abolition of the rent surplus fund, it is necessary to repeal certain references to the fund in existing legislation, and amendment No 25 would achieve that.

Amendment No 17 would amend article 104 of the Housing (Northern Ireland) Order 1992 to ensure that the Housing Executive and registered housing associations can serve notices seeking possession by ordinary post. This is a technical amendment designed to remove an ambiguity in existing legislation. Amendment Nos 18 and 19 would amend clause 12 of the Bill to ensure that the Housing Executive's powers to broker energy supplies for its tenants cover all means of energy production and are not restricted to oil, gas and electricity.

As I indicated during Question Time, given the number of public sector properties managed by the Housing Executive and housing associations in Northern Ireland, which is now more than 120,000, the buying power of that scale should be exploited on behalf of their tenants in an effort to drive down energy prices.

There are very good examples, not least that of Joe Kennedy in Boston, America, who is president of Citizens Energy Corporation, which showed that intervention in the market can result in oil and other utility prices being reduced. In the first year after Joe Kennedy established Citizens Energy Corporation, the oil that he imported from Latin America was more than 40% less than the price that commercial operators in North America were charging. Although that may be a particularly good example of how energy brokering can work — namely, by people intervening in the energy market to mitigate energy costs — the model of energy brokering that we are trying to develop in Northern Ireland, around which I will make an announcement very shortly, creates the opportunity to deal with one of the core reasons for fuel poverty; namely, the price of fuel. If we can do something on the gas and electricity side, we will serve our tenants very well.

I am having difficulty in getting BP to come into the room with me to discuss the price of oil, never mind energy brokering around the price of oil, in Northern Ireland. The BP corporate organisation is prepared to meet only in the presence of the relevant Department in London. It is ludicrous that the oil company that imports into Northern Ireland 70% of oil, which is then used by 70% of people for home heating, is using a technical reason to avoid coming into the room to meet me. I will speak to the director of marketing of BP at 5.00 pm today. In Northern Ireland, our fuel poverty levels are at 44% and rising, and there are acute levels of fuel poverty for various sections of our community. If BP cannot come into the room and have a conversation with me about fuel poverty, the price of fuel and what it is going to do to contribute to dealing with that, it is a further indictment of that organisation after the bad press that it received last year.

Amendment No 20 will allow the Housing Executive to take such action for the enhancement of community safety as is compatible with the proper exercise of its functions. The Housing Executive has asked for that power, which would give it statutory authority to participate in crime prevention initiatives that may involve, for example, the provision of home security measures for elderly citizens who live in high crime areas or for persons who are vulnerable to hate crime. Although the executive contributes to such schemes from time to time, it has no specific authority to do so.

The Justice Bill, which was introduced on 18 October last year, requires public bodies, including the Housing Executive, to have due regard to community safety issues. There is some debate around all that. I presume that when the Justice Bill comes before the House this week there will be a lot of debate around what that all means. However, given that the Justice Bill would impose that duty on the Housing Executive, it is appropriate that the executive should have appropriate community safety powers.

Amendment No 21 will enable my Department to make regulations that prescribe arrangements that may be entered into by the Housing Executive with other bodies, where such arrangements are likely to lead to an improvement in the way in which the Housing Executive's functions are exercised. Although the regional Health and Social Care Board, the Probation Board for Northern Ireland and registered housing associations are required to co-operate with the Housing Executive if requested to do so in connection with the executive's homelessness functions, there is currently no specific statutory provision to enable the Housing Executive to work in partnership with those bodies.

I say all that without prejudice to the fundamental review, which, as I indicated, may or may not reconfigure the Housing Executive architecture. The proposed amendment will, however enable the Housing Executive to delegate functions and pool resources with other bodies to ensure that there can be a single provider of services in key areas. That principle of pooling resources with other bodies to ensure that there can be a single provider of services in key areas is a principle that should begin to inform how government rolls out policy in Northern Ireland across a wide range for functions, way beyond those for which the Housing Executive is responsible.

Amendment No 22 will enable my Department to make provision that confers power on the Housing Executive to provide indemnities to its members or staff where their duties require them to be involved in the governance of external companies or bodies. Just last week — this will give those who aspire to such office an insight into what a Minister has to do, not looking at anyone in particular — I had to sign off on a Housing Executive official becoming a member of the Down rural network. Given that that official will be part of that network, amendment No 22, if passed, would govern his or her situation. Understandably, therefore, the Housing Executive asked for this provision, which reflects a similar provision in Britain that is designed to protect housing officials involved in the management of other housing-related bodies, in the event that such bodies become insolvent.

That concludes the Government amendments.

The Chairperson of the Committee for Social Development (Mr Hamilton): With one exception, the amendments relate to the Housing Executive and are generally designed to deal with operational issues for that organisation. With permission, I will deal with each in turn.

The Committee accepted the departmental suggestion that the new clause on abandoned tenancies should be inserted, which will allow the Housing Executive to gain possession of abandoned tenancies without having to physically gain entry to the tenancies. The Committee believes the amendment to be a practical and helpful measure that will allow abandoned tenancies to be brought into use much more quickly. The Committee, therefore, agreed to support amendment No 15.

The Committee noted evidence in support of abolishing the rent surplus fund from the Northern Ireland Federation of Housing Associations. The Committee accepted departmental assurances that the rent surplus fund served no useful purpose and that its abolition will be beneficial for the efficient operation of housing associations. The Committee, therefore, agreed to support amendment Nos 16 and 25.

On the service of documents, the Committee noted evidence from the Housing Executive in respect of the service of tenancy documentation by ordinary post. The Committee accepted departmental assurances that the proposed new clause will enhance the efficiency of the operation of the Housing Executive. Again, the Committee, therefore, agreed to support amendment No 17.

On clause 12, the Committee agreed to accept amendment Nos 18 and 19, which are described as technical and are designed to set out that energy-brokering arrangements undertaken by the Housing Executive for the benefit of its tenants can apply to all forms of energy.

On community safety, the Committee noted evidence from the Housing Executive indicating that it currently participates in crime prevention initiatives, but believes that it has no legislative power to do so. The Committee noted that the Justice Bill may require the Housing Executive to do all it reasonably can to enhance community safety. The Committee agreed to support changes to the Bill to provide legal cover for the Housing Executive's promotion of community safety. Therefore, the Committee agreed to support amendment No 20.

On the new clause on partnership arrangements, the Committee again noted evidence from the Housing Executive in respect of its involvement with other statutory organisations. The Committee agreed to support the Department's request that the Bill be altered to allow legal partnerships to be developed between the Housing Executive and other statutory organisations, where that may lead to an improvement in the delivery of services for tenants. The Committee, therefore, agreed to support amendment No 21.

On the new clause on indemnification, the Committee also noted the evidence that it received from the Housing Executive in respect of the involvement of its officers in the governance of other housing-related organisations. The Committee noted the Housing Executive's concern that, although this is beneficial, its officers are currently undertaking such work without indemnification. The Committee agreed to support changes to the Bill which will provide additional indemnification for Housing Executive members and officers. Therefore, the Committee supported amendment No 22.

To add a brief note, I want to pick up on the Minister's point about energy brokering. I was with him — I think that I was a sponsor of the launch of a report on energy brokering that the Housing Executive was involved in. I admit that, at the time, before the event, I thought that energy brokering was a concept that sounded very good and nice, but, in practice, might be difficult to implement. There is no doubt that it will probably not be without its difficulties in implementation, particularly for the Housing Executive, which we are mainly dealing with in these amendments.

The Housing Executive's 90,000 consumers, in roughly an eighth of the overall housing stock in Northern Ireland, wield a huge amount of consumer purchasing power. To realise the benefits of that power through energy brokering will not be without its difficulties, but it is worth trying. I and other Members, and certainly the Committee, want to see the Housing Executive move forward rapidly with proposals to use its bartering and negotiating powers to realise even the more basic aspects of energy brokering, such as getting, perhaps, preferred rates from an energy supplier, if not the optimum of bulk purchasing energy at a lower cost. I was interested and a little concerned to learn that although that power was being included in the Bill, altered through the amendments, to give the Housing Executive the power to engage in energy brokering, that power has, I understand, existed for housing associations for some time. However, nothing has been done proactively or positively to realise that potential in roughly 30,000 homes. Either acting collectively as 30,000 homes in the housing association sector, acting individually as housing associations on behalf of their tenants, or, ideally, working alongside the Housing Executive as 120,000 tenants in homes across Northern Ireland, there is huge power and potential, and none of us wants that power to be put on the statute book through the passage of the Bill and not acted on positively in the future.

3.45 pm

We often hear about the three-legged stool of fuel poverty, which comprises income, energy efficiency, and the cost of fuel. There is very little that any of us can do about the cost of an energy commodity that is traded on global

markets. However, we can do something by empowering people to use their ability as consumers to get the best price out of energy suppliers. With that in mind, I particularly welcome the amendments and aspects of the Bill that relate to energy brokering, and I support all the amendments and insertions in this group.

Mr Brady: Go raibh maith agat, a LeasCheann Comhairle. I support the third group of amendments. As the Minister has stated, the group deals with miscellaneous functions of the Housing Executive and registered housing associations. As has been stated, the Committee accepted that the executive should be allowed to gain possession of abandoned tenancies without having to gain physical entry, and that those tenancies could be used in a better manner.

There was evidence from the Federation of Housing Associations that the rent surplus fund served no useful purpose. The Department gave assurances that that was the case and stated that the abolition of the rent surplus fund would be beneficial for the efficient operation of housing associations.

The amendment on the service of documents is a technicality and, if it increases the efficiency of the operation of the Housing Executive, it is to be welcomed.

The Committee discussed the Housing Executive's function in relation to energy brokering and accepted that it should not just be confined to certain types of energy provision and that, given that progress is being made on other issues of energy provision, it should be open to the executive to follow up. In my constituency, the executive has almost completed an energy efficiency audit, which will certainly be beneficial to those dwellings where it has been carried out. I think that the idea is to extend that. Again, that is certainly to be welcomed.

As has been stated, the Housing Executive has already played some part in dealing with community safety. In my constituency and I am sure in others, the executive, in conjunction with the PSNI, was previously involved in providing security lights, locks, and so on, for tenants. That was ongoing until the funds were diminished. The Minister may consider looking at that again because it was very useful and made pensioners in particular feel more secure in their homes.

The arrangement with other bodies is to be welcomed. If the Housing Executive is dealing with other statutory agencies to enhance and promote the effectiveness of how it operates, that, again, is to be welcomed. I support this group of amendments.

Mrs M Bradley: I support amendment Nos 15 to 25, which abolish the rent surplus fund for housing associations and provide for the Housing Executive to gain possession of abandoned tenancies. I am quite sure that all of us in our time as politicians have had trouble with empty premises, do not know who to turn to and get frustrated with it. I welcome that the Housing Executive will be able to gain entry to the dwelling.

On community safety, I have worked with the Housing Executive and the partnership board locally to install alley gates to secure older people's homes so that they were not being annoyed during the night by vandalism and unacceptable behaviour. I support the amendment to introduce a new clause on the indemnification of members or officers of the Housing Executive. I support the amendments.

Ms Lo: I support this group of amendments, many of which take a common-sense approach to addressing anomalies. I congratulate the Minister on tabling the amendments on energy brokering. It is important that the amendments extend the types of energy that are included to other types of energy as well as oil and gas. They may come up with some brand new type of energy that we have not heard of yet, so the amendments address that.

I agree with what the Minister said about fuel poverty and rising fuel costs here. We pay the highest fuel costs, and Northern Ireland has the lowest incomes, so fuel poverty is a serious issue that affects many families in Northern Ireland. It is important that, when we have the potential to lever lower energy costs, we put in every effort in our power to reduce the costs of energy for housing tenants.

I welcome the new clause on community safety. The Minister of Justice has produced a community safety strategy. That has come out of the Department of Justice, but it is important that such strategies have buy-in from other Departments and agencies. It is important that we all work together and have the joined-up working that will benefit all tenants in the long run.

The Minister for Social Development: I thank Members for their contributions throughout the three groups of amendments. Two matters were raised by the Chairperson of the Committee on the first group that I will speak to shortly.

I agree with the Chairperson of the Committee that the concept of energy brokering is huge and has significant opportunities, but it is not straightforward. That is why, in parallel with the legislation going through the Assembly, I met the Housing Executive and the housing associations in an effort to, to borrow a phrase, warm them up to ensure that, when the law is in place to enable the Housing Executive to do energy brokering, the tender document will be available as soon as possible after the legislation receives Royal Assent. The Chairperson was quite right to say that the housing associations have that power already. The tender document can then be published, and the competition can commence and be run under European procurement rules. Some time in late summer, the scheme may be live and the concept of energy brokering, which is immense, may have some real-time operation.

At the same time, as I indicated previously to the Assembly, I have met all the gas and electricity suppliers in Northern Ireland: NIE, Airtricity, Firmus and Phoenix. I said to them that, hopefully, the law will be in place shortly, that a tender will be out publicly thereafter and that I expected them to step up to the mark when it comes to making a contribution to the tender in reducing energy prices. The energy brokering proposal may be timely because the energy market has opened up somewhat in recent times, with the entry of Airtricity and Firmus into the Northern Ireland market, and they are particularly anxious to acquire business. Therefore, I hope that the ability of the Housing Executive and housing associations to broker energy, converging with the fact that, without prejudice, people are keen to do that sort of business, may result in a fall in prices for any tenants who fall under an energy brokering scheme.

I concur with the Chairperson of the Committee that housing associations have had that power. However, save for rare exceptions, mostly in communal lighting, they failed to exploit opportunities on behalf of their tenants. In my view, that confirms why housing associations as a movement, without prejudice to the fact that they have achieved much over the past 15 years in particular, require reform and a positive image.

When organisations have the power to do some good, I do not understand why they do not exploit that opportunity or demonstrate that they are trying to exploit it. I told the housing associations bluntly that I am not impressed by the fact that they did not exploit that opportunity, and I insisted that they piggyback on the Housing Executive tender opportunities for their tenants as well.

I also acknowledge what Mr Brady said about the energy efficiency audit in Newry. As I hope to outline in the near future, the Department has other plans for warm homes and energy efficiency in the Newry area. In the coming days, I hope that I can announce details of all that.

Finally, the Chairperson raised two points. His first point was on ineligible homeless people and the proposal in the Bill formally to bring the Housing Executive's homelessness duty to an end when an applicant ceases to be eligible for such assistance. I am conscious of the need to make proper provision for vulnerable people who are not eligible for housing assistance. The Human Rights Commission has recommended that destitute foreign nationals who are not eligible for assistance under homelessness legislation should be referred to health and social care trusts, which can provide support to particularly vulnerable individuals. Therefore, my Department will make regulations that require the Housing Executive to refer ineligible foreign nationals to the appropriate health and social care trust where the executive has reason to believe that the trust will be in a position to provide support.

I have also asked the Housing Executive to develop protocols with the trusts that will underpin the referral process. I checked earlier this morning on regulations and protocols. Both are at an advanced stage, and drafting is nearing completion. The Chairperson also asked about the vires for energy efficiency for local councils. I can confirm that those issues are being considered as part of the Department's new fuel poverty strategy, which will be launched shortly. Particular consideration will be given to councils' vires for schemes, such as issuing fuel stamps designed to assist with the management of heating costs in residential accommodation.

At the back of my mind, I think that the Chairperson raised one other matter that I did not note. If I have overlooked another matter, I will communicate with the Chairperson so that the Committee can be reassured in that regard. I commend the Bill to the House.

Question, That amendment No 15 be made, put and agreed to.

New clause ordered to stand part of the Bill.

Clause 11 ordered to stand part of the Bill.

New Clause

Amendment No 16 made: After clause 11, insert the following new clause:

> ***"Abolition of rent surplus fund***
>
> *11A.—(1) Article 37 of the Housing (Northern Ireland) Order 1992 (NI 15) (surplus rental income of housing association) is repealed.*
>
> *(2) In Article 20(2) of that Order (offences relating to accounts of housing associations)—*
>
> *(a) at the end of sub-paragraph (a) insert 'or';*
>
> *(b) omit sub-paragraph (c) and the word 'or' immediately before it." — [The Minister for Social Development (Mr Attwood).]*

New clause ordered to stand part of the Bill.

New Clause

Amendment No 17 made: After clause 11, insert the following new clause:

> ***"Service of documents***
>
> *11B.—(1) Article 104 of the Housing (Northern Ireland) Order 1992 (NI 15) (service of certain documents) is amended as follows.*
>
> *(2) For paragraph (1) substitute—*
>
> *'(1) Any document required or authorised by a statutory provision to be given to or served on any person by the Executive or a registered housing association may be given to or served on that person by being sent by ordinary post.'." — [The Minister for Social Development (Mr Attwood).]*

New clause ordered to stand part of the Bill.

Clause 12 (Functions of Executive in relation to energy brokering)

Amendment No 18 made: In page 9, line 19, leave out "or oil" and insert

> *", oil or other means of producing energy". — [The Minister for Social Development (Mr Attwood).]*

Amendment No 19 made: In page 9, line 32, at end insert

> *"(d) a supplier of any other means of producing energy." — [The Minister for Social Development (Mr Attwood).]*

Clause 12, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 20 made: After clause 12, insert the following new clause:

> ***"Functions of Executive in relation to community safety***
>
> *12A.—(1) The Executive may take such action for enhancing community safety in any area as is compatible with the proper exercise of its functions in that area.*
>
> *(2) Reference in this section to enhancing community safety in any area is to making the area one in which it is safer to live and work, in particular by the reduction of levels of crime and other anti-social behaviour." — [The Minister for Social Development (Mr Attwood).]*

New clause ordered to stand part of the Bill.

New Clause

Amendment No 21 made: After clause 12, insert the following new clause:

"Power of Executive to enter into arrangements with other statutory authorities

12B.—(1) The Department may by regulations make provision for or in connection with enabling the Executive (on the one hand) and prescribed statutory authorities (on the other) to enter into prescribed arrangements in relation to the exercise of prescribed functions of the Executive and prescribed housing-related functions of the statutory authorities, if the arrangements are likely to lead to an improvement in the way in which those functions are exercised.

(2) The arrangements which may be prescribed include arrangements for or in connection with—

(a) the exercise by the Executive on behalf of a statutory authority of prescribed housing-related functions of the authority,

(b) the exercise by a statutory authority on behalf of the Executive of prescribed functions of the Executive,

(c) the provision of staff, goods, services or accommodation in connection with any arrangements mentioned in paragraph (a) or (b),

(d) meeting expenditure incurred in connection with the arrangements, including provision for the making of payments by a statutory authority to the Executive or by the Executive to a statutory authority.

(3) Regulations under this section may make provision—

(a) as to the cases in which the Executive and statutory authorities may enter into prescribed arrangements,

(b) as to the conditions which must be satisfied in relation to prescribed arrangements (including conditions in relation to

consultation),

(c) for or in connection with requiring the consent of a Northern Ireland department to the operation of prescribed arrangements (including provision in relation to applications for consent, the approval or refusal of such applications and the variation or withdrawal of approval),

(d) as to the sharing of information between the Executive and statutory authorities.

(4) Any arrangements made by virtue of this section shall not affect—

(a) the liability of the Executive for the exercise of any of its functions,

(b) the liability of statutory authorities for the exercise of any of their functions, or

(c) any power or duty to recover charges in respect of services provided in the exercise of any functions of statutory authorities.

(5) A Northern Ireland department may issue guidance to the Executive and statutory authorities in relation to consultation or applications for consent in respect of prescribed arrangements.

(6) The reference in subsection (1) to an improvement in the way in which functions are exercised includes an improvement in the provision to any individuals of any services to which those functions relate.

(7) In this section—

'housing-related functions', in relation to a statutory authority, means functions of the authority which, in the opinion of

the Department—

(a) have an effect on the housing of any individual,

(b) have an effect on, or are affected by, any functions of the Executive, or

(c) are connected with any functions of the Executive;

'prescribed' means prescribed by regulations under this section;

'statutory authority' means a body or person exercising functions under any Act of Parliament or Northern Ireland legislation.

(8) Regulations under this section—

(a) are subject to negative resolution;

(b) may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 22 made: After clause 12, insert the following new clause:

"Indemnification of members and officers of Executive

12C.—(1) The Department may by order make provision for or in connection with conferring power on the Executive to provide indemnities to some or all of its members and officers.

(2) Before making an order under this section, the Department must consult—

(a) the Executive, and

(b) such representatives of officers of the Executive and such other persons as the Department considers appropriate.

(3) An order under this section—

(a) is subject to negative resolution;

(b) may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

Clauses 13 and 14 ordered to stand part of the Bill.

Clause 15 (Commencement)

Mr Deputy Speaker: Amendment No 23 is a paving amendment to amendment 24 and is consequential to amendment No 8, which has been made.

Amendment No 23 made: In page 10, line 25, at beginning insert

"Except as provided by subsection (1A),". — [The Minister for Social Development (Mr Attwood).]

Mr Deputy Speaker: Amendment No 24 is consequential to amendment No 8, which has been made.

Amendment No 24 made: In page 10, line 26, at end insert

"(1A) Sections 2, 5 and 7 come into operation on Royal Assent." — [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 (Repeals)

Mr Deputy Speaker: Amendment No 25 is consequential to amendment No 16, which has been made.

Amendment No 25 made: In page 11, line 3, at end insert

"The Housing In Article 20(2), sub-paragraph (c) and

(Northern Ireland) Order the word 'or' immediately before it.

1992 (NI 15) Article 37." — [The Minister for Social Development (Mr Attwood).]

Schedule, as amended, agreed to.

Long title agreed to.

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

Executive Committee Business

Clean Neighbourhoods and Environment Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister of the Environment, Mr Edwin Poots, to move the Consideration Stage of the Clean Neighbourhoods and Environment Bill.

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

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 the provisional grouping of amendments selected list.

There are four groups of amendments. The first debate will be on amendment Nos 1 and 2, which relate to a code of practice for dealing with litter offences. The second debate will be on amendment Nos 3 to 12, which deal with a strengthening of provisions mainly relating to graffiti and other defacement. The third debate will be on amendment Nos 13, 15, 16, 17 and 21, which are technical and consequential amendments. The fourth debate will be on amendment Nos 14, 18, 19, 20 and 22, which address how subordinate legislation will be handled.

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 15 ordered to stand part of the Bill.

Clause 16 (Litter offence: fixed penalty notice)

Mr Deputy Speaker: We now come to the first group of amendments for debate, which relate to a code of practice. Members should note that amendment Nos 1 and 2 are mutually exclusive.

The Minister of the Environment (Mr Poots): I beg to move amendment No 1: In page 14, line 37, at end insert

"(2A) After paragraph (8) insert—

'(8A) The Department shall prepare and issue, and may from time to time revise, a code of practice for the purpose of providing guidance on the giving by authorised officers of notices under this Article.

(8B) An authorised officer must have regard to the code of practice as for the time being in force in determining whether to give a person a notice under this Article.

(8C) A draft of the code of practice, or any revision of the code of practice, shall be laid before the Assembly.

(8D) If, within the statutory period beginning with the day on which a copy of the draft is laid before the Assembly, the Assembly so resolves, no further proceedings shall be taken in relation to the draft but without prejudice to the laying before the Assembly of a new draft.'."

The following amendment stood on the Marshalled List:

No 2: After clause 16, insert the following new clause:

"Litter offence: code of practice

16A.—(1) Article 9 of the Litter (Northern Ireland) Order 1994 (NI 10) shall be amended as follows.

(2) In paragraph (1) after the word 'by' insert 'Article 6 or'.

(3) In paragraph (3) after the word 'by' insert 'Article 6 or'." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

The Minister of the Environment: Clause 16 provides for fixed penalties for litter offences that can be given by a person authorised by a council for the purposes of giving notices under article 6 of the Litter (Northern Ireland) Order 1994.

Although the Bill was originally silent on whom a fixed penalty notice could be given to, the Committee for the Environment expressed concern about giving fixed penalty notices to juveniles. The Committee was of the opinion that statutory guidance on the giving of fixed penalty notices to juveniles should be provided by my Department and tabled an amendment to that effect.

I have no objection to that proposal, in principle, as my Department had always intended issuing guidance on the giving of fixed penalty notices to juveniles. However, the amendment that the Committee tabled was considered to be defective on a number of counts. I, therefore,

tabled amendment No 1, which provides that, in determining whether to give a fixed penalty notice under article 6 of the Litter Order, an authorised officer must have regard to a code of practice issued by my Department for the time being in force.

The Chairperson of the Committee for the Environment (Mr Boylan): Go raibh maith agat, a LeasCheann Comhairle. Ar son an Choiste Comhshaoil, cuirim fáilte roimh Chéim an Bhreithnithe den Bhille um Chomharsanachtaí Glana agus an Timpeallacht.

On behalf of the Environment Committee, I welcome the Consideration Stage of the Clean Neighbourhoods and Environment Bill. The Bill was referred to the Committee on 30 June 2010 and, to ensure that there was enough time to scrutinise the Bill fully and effectively, the Committee sought an extension to 28 January 2011.

There were 21 written submissions to the Committee's call for evidence on the Bill and the Committee took oral evidence from six organisations, including the Northern Ireland Local Government Association and Countryside Alliance. The main objective of the Bill is to improve the quality of the local environment by giving district councils additional powers to deal with litter, nuisance alleys, graffiti, fly-posting, abandoned and nuisance vehicles, dogs, noise and statutory nuisance. It is welcome legislation that should lead to an improvement in people's everyday lives.

The Committee made eight recommendations in relation to the Bill, and the Department agreed to amend three clauses to address some of those. In addition, the Committee accepted the advice of the Examiner of Statutory Rules relating to seven powers in the Bill that will allow the Department to make orders to alter the amount of a fixed penalty notice. The Department agreed to amend those in accordance with the Committee's recommendation.

I will now touch on the amendments in the first group. In its deliberations on clause 16, the Committee was concerned to learn that, because the age of criminal responsibility is 10, as set by different legislation, the Clean Neighbourhoods and Environment Bill will allow councils to issue fixed penalty notices to children as young as that. Several children's and youth organisations expressed concern about the implications of that, and members recognised the need for special guidance to be provided for councils when considering issuing a fixed penalty notice to children. The Committee sought reassurance that such guidance would be provided and the Department indicated that it intended to produce advice along the lines of that used in other jurisdictions. The Committee welcomed that, but sought more assurance that guidance would protect minors.

The Committee recommended that the Department amend clause 16 so that it would be required to issue guidance to councils on adopting special procedures for issuing notices to young offenders. That was to ensure that their function of issuing fixed penalty notices for litter offences to juveniles would be discharged in a way that safeguards and upholds the welfare of children. In the absence of a departmental amendment to that effect, the Committee agreed clause 16 subject to its own amendment. However, on being advised by the Minister last week that he would bring forward an alternative amendment to that effect, members were content to agree the departmental amendment at the meeting on 17 February 2011.

The Committee welcomed the fact that the Department's amendment would make it mandatory for councils to adhere to the code of practice that the Department would have to produce and that fixed penalties could not be issued until such a code was in place. There was some concern that the proposed amendment did not specifically mention juveniles, but, on being advised that the code would have to be affirmed by the Assembly, members were content to support it. I welcome the Minister's confirmation that the issuing of fixed penalty notices to minors will be covered extensively in guidance and, on that proviso, on behalf of the Committee, I support amendment No 1.

Mr Kinahan: I, too, am very pleased to speak on the Bill and welcome many of the matters in it, particularly those in relation to abandoned vehicles, litter, graffiti and much more. I feel that there is much agreement on the Bill, so I will not spend too long speaking on it. I am, however, concerned that even in this relatively small Bill, there is some concern that councils may need more resources, yet I know that the Minister feels that there is a little bit of fat in councils. I feel that there is a cost element to the legal

side, in training council staff and those who work through the councils.

I am very pleased to see the code of practice, as we had discussed it in the Committee and all agreed that some form of guidance was needed. Therefore, I look forward to seeing the guidance, but it must be fair and, more importantly, it must be effective. We support the first two amendments.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. Like other Members who spoke, I will also be brief. A lot of the issues were gone into in considerable detail at the Committee. We support the initial amendment as outlined by the Minister and welcome the guidance to be introduced, because clearly there are all sorts of sensitivities when dealing with young people, and members recognised that at Committee. The introduction of such guidance should be useful for councils as they take forward what will be a raft of legislation that will, hopefully, lead to an enhancement of our neighbourhoods and tackle the issues of graffiti and abandoned vehicles and generally leave a good sense of well-being in our communities, as councils are empowered by the enactment of the legislation. The previous Member to speak referred to the necessity to be brief. I join him in welcoming the amendment, and I thank the Minister for introducing the Bill.

4.15 pm

Mr Lyttle: I, too, support the Bill and the amendments. The Clean Neighbourhoods and Environment Bill is one of two environment Bills that will pass through the Assembly today. It is important to note that both could improve the quality of life of local people in a tangible way. So I thank the Minister for introducing this Bill.

My only regret is that it took so long to consider the Bill, as my local council's environmental health officers have been burning my ear about it for a number of years. To improve neighbourhoods, they need legislation to help them to tackle issues such as littering, graffiti, unkempt gardens and fly-posting, not least because the presence of such antisocial behaviour often breeds further and more serious criminal damage.

Therefore, I welcome the provisions and the first group of amendments, which, as was said, will set clear guidelines for council officers in exercising the powers enacted by the legislation, particularly when issuing fixed penalty notices to minors.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. First, I will speak about the code of practice, particularly with regard to minors. I found it shocking that a fixed penalty could be given to a 10-year-old for dropping a crisp packet or an apple core. That is not acceptable to me, and I appreciate the fact that the Minister will introduce guidelines on dealing with minors.

Special guidance is needed when dealing with children. It is a sensitive issue to penalise a 10-year-old for a pretty minor offence. The child then has to go home and face the wrath of his her parents. That could have a devastating impact on a child's development, so it cannot be taken lightly.

From speaking to a number of children, particularly my seven-year-old daughter, I think that young children are more responsible than the older generations. Schools provide a lot of good environmental education, and young children are more conscious of their environment and of keeping it clean. They have a clear understanding of the damaging impact that litter can have, particularly on animals' welfare.

A lot of the issues that came up at Committee concerned penalising very young people. The suggestion was that littering was their fault. Even some Committee members felt that young people were the cause of so much litter. So I welcome the guidelines and support the Minister's proposal.

The Minister of the Environment: I thank the Chairperson of the Committee for supporting the amendment to the clause. The code of conduct will be mandatory, and it will be useful to councils as they implement the legislation.

Chris Lyttle explained why he thought that the Bill would be good, and that was my thought process prior to introducing it to the House. All the issues that he identified are issues that we are well aware of. One such issue is that of gaps in legislation. As far as possible, we need to assist local government in its difficult task of trying to keep Northern Ireland clean and making it a better place. We are often criticised, particularly by people from outside Northern

Ireland, for it not being as clean as it should be, and I would like to change that.

We need to develop an attitudinal change. Mr Clarke should, perhaps, read the words of Solomon:

> *"Train up a child in the way that he should go: and when he is old, he will not depart from it."*

If you train children when they are younger to keep their areas and neighbourhoods clean, they will be unlikely to litter them when they get older. If you train children when they are young to respect the environment, they are unlikely to be polluters when they are older.

We need to encourage everyone, including young people, to show the proper degree of courtesy and respect for the environment that they live in. Everyone, including young people, will benefit from having that better environment.

I encourage the House to support amendment No 1.

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

Clause 16, as amended, ordered to stand part of the Bill.

Mr Deputy Speaker: Amendment No 2 is mutually exclusive to amendment No 1. Amendment No 1 has been made, so I will not call amendment No 2.

Clauses 17 to 25 ordered to stand part of the Bill.

Clause 26 (Penalty notices for graffiti and fly-posting)

Mr Speaker: We now come to the second group of amendments for debate, which relate to the strengthening of provisions on graffiti and other defacement. With amendment No 3, it will be convenient to debate amendment Nos 4 to 12.

The Minister of the Environment: I beg to move amendment No 3: In page 28, line 8, leave out "obliteration" and insert "defacement".

The following amendments stood on the Marshalled List:

No 4: In page 28, line 20, at end insert

> *"(12) In Article 87(11) of the Roads (Northern Ireland) Order 1993 at the end add 'and to an authorised officer of a district council (within the meaning of section 26 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011) acting in connection with an offence under paragraph (1).'." — [The Minister of the Environment (Mr Poots).]*

No 5: In clause 31, page 29, line 27, leave out "flyer" and insert "placard". — *[The Minister of the Environment (Mr Poots).]*

No 6: After clause 35, insert the following new clause:

> ***"Removal or obliteration of graffiti, placards and posters***
>
> *35A. For Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15) (removal of graffiti and fly posters) substitute—*
>
> ***'Removal or obliteration of graffiti, placards and posters***
>
> *18.—(1) Subject to the following provisions of this Article, a district council may remove or obliterate—*
>
> *(a) any graffiti which, in the opinion of the council, is detrimental to the amenity of any land in its district;*
>
> *(b) any placard or poster which is displayed in its district and which, in the opinion of the council, is so displayed in contravention of regulations under Article 67 of the Planning (Northern Ireland) Order 1991.*
>
> *(2) Where any graffiti, placard or poster to which sub-paragraph (a) or (b) of paragraph (1) applies identifies the person who displayed it or caused it to be displayed, a district council may give that person notice in writing—*
>
> *(a) that the council is of the opinion mentioned in that sub-paragraph in respect of the graffiti, placard or poster specified in the notice;*
>
> *(b) requiring that graffiti, placard or poster to be removed or obliterated within the period of 2 days beginning with the date of service of the notice; and*
>
> *(c) stating the effect of paragraph (3).*
>
> *(3) Where—*
>
> *(a) a district council serves a notice on a person under paragraph (2) in relation to any graffiti, placard or poster, and*
>
> *(b) the person fails to remove or obliterate it within the period mentioned in that paragraph,*

the council may recover summarily as a civil debt from that person the expenses it may reasonably incur in exercising its power under paragraph (1).

(4) Where—

(a) any graffiti, placard or poster to which paragraph (1)(a) or (b) applies does not identify the person who displayed it or caused it to be displayed, but

(b) the graffiti, placard or poster publicises the goods, services or concerns of an identifiable person,

paragraphs (2) and (3) have effect as if the reference in paragraph (2) to the person who displayed the graffiti, placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised.

(5) For the purpose of exercising any power under paragraph (1) a person authorised in writing by the council for the purposes of this Article may at any reasonable time enter any land if—

(a) the land is unoccupied, and

(b) it would be impossible to exercise the power without entering the land.

(6) Where any damage is caused to land or chattels in the exercise of any power under paragraph (1), compensation may be recovered from the district council exercising the power by any person suffering the damage (other than the person who displayed the graffiti, placard or poster or caused it to be displayed).

(7) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(8) Nothing in this Article authorises the removal or obliteration of any graffiti, placard or poster displayed—

(a) within a building to which there is no public right of access; or

(b) on land owned or occupied by a body established by or under a statutory provision.

(9) This Article and Article 19 are without prejudice to Article 67 of the Planning (Northern Ireland) Order 1991 (control of advertisements), and to Article 84 of that Order (enforcement of advertisement control), and to any regulations made under that Order by virtue of those Articles.'." — [The Minister of the Environment (Mr Poots).]

No 7: In clause 36, page 32, line 35, leave out "16" and insert "18". — *[The Minister of the Environment (Mr Poots).]*

No 8: In clause 36, page 33, line 5, leave out "16" and insert "18". — *[The Minister of the Environment (Mr Poots).]*

No 9: In clause 37, page 33, line 26, leave out "as follows" and insert

"in accordance with subsections (2) and (3)". — [The Minister of the Environment (Mr Poots).]

No 10: In clause 37, page 33, line 33, at end insert

"(3A) Article 87 of the Roads (Northern Ireland) Order 1993 (NI 15) (control of advertisements, etc.) is amended in accordance with subsections (3B) and (3C).

(3B) In paragraph (9) for 'that it was displayed without his knowledge or consent' substitute 'either of the matters specified in paragraph (9A)'.

(3C) After that paragraph insert—

'(9A) The matters are that—

(a) the advertisement was displayed without his knowledge; or

(b) he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal.'." — [The Minister of the Environment (Mr Poots).]

No 11: After clause 37, insert the following new clause:

"Supplementary

Power of district councils to obtain information

37A.—(1) Subject to subsection (2), a district council may serve on any person a notice requiring that person to supply to the council, within a period or at times specified in the notice and in a form so specified, any information so specified which the council reasonably considers that it needs for the purposes of any function conferred on the council by this Part.

(2) Regulations may restrict the information which may be required under subsection (1) and determine the form in which the information is to be so required.

(3) A person who—

(a) fails without reasonable excuse to comply with the requirements of a notice served under this section; or

(b) in supplying any information in compliance with such a notice, makes any statement which that person knows to be false in a material particular or

recklessly makes any statement which is false in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale." — [The Minister of the Environment (Mr Poots).]

No 12: After clause 44, insert the following new clause:

"Power of district councils to obtain information

44A.—(1) Subject to subsection (2), a district council may serve on any person a notice requiring that person to supply to the council, within a period or at times specified in the notice and in a form so specified, any information so specified which the council reasonably considers that it needs for the purposes of any function conferred on the council by this Part.

(2) Regulations may restrict the information which may be required under subsection (1) and determine the form in which the information is to be so required.

(3) A person who—

(a) fails without reasonable excuse to comply with the requirements of a notice served under this section; or

(b) in supplying any information in compliance with such a notice, makes any statement which that person knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale." — [The Minister of the Environment (Mr Poots).]

The Minister of the Environment: During the consultation exercise on the Bill, considerable criticism was received from consultees on the content of Part 4, which deals with graffiti and other defacement. Having considered the representations that have been received from the district councils and other stakeholders, I have sought to strengthen the provisions of Part 4 and am, therefore, proposing a number of amendments to give district councils the powers that they need to deal with those problems effectively.

Some of the amendments are relatively minor but are aimed at ensuring that potential loopholes in the law are closed and that the new provisions work cohesively with existing legislation. My officials have engaged with the Environment Committee on all of the proposed amendments to Part 4 of the Bill, and it is my understanding that the Committee is content.

Amendment Nos 3 and 4 relate to clause 26, which enables a district council to issue a fixed penalty notice in lieu of prosecution for relevant graffiti and fly-posting offences. Those relevant offences are defined in clause 26(10) and include an offence under article 33 of the Road Traffic Regulation (Northern Ireland) Order 1997. Article 33 deals with the offence of interference with, or damage to, traffic signs, and clause 26(10) of the Bill originally limited the scope of the offence by using the words:

"which involves only an act of obliteration".

However, significant interference with, or damage to, traffic signs could also be caused by graffiti and fly-posting actions other than an act of obliteration.

On further consideration, it was felt that the word "obliteration" was overly restrictive, as a lot of graffiti and fly-posting on traffic signs would not completely obliterate the signs. I am, therefore, proposing an amendment to replace the word "obliteration" in the definition of the relevant offence in clause 26(10) with the word "defacement".

Another relevant offence for the purposes of clause 26 is an offence under article 87(1) of the Roads (Northern Ireland) Order 1993, which relates to painting, making marks or displaying advertisements on roads. Article 87(11) of that Order gives the Department for Regional Development the powers to obtain details of the person for whom, or on whose instructions, an advertisement was printed from the person who printed the advertisement.

In order to ensure that district councils have the necessary tools to take enforcement action in respect of an offence under article 87(1) of the 1983 Order, I propose the insertion of the new clause 26(12), which amends article 87(11) to extend the powers to obtain information under that paragraph to an authorised officer of a district council.

Amendment No 5 relates to clause 31, which deals with defacement removal notices and empowers district councils to issue notices to statutory undertakers and other owners of street furniture to require them to remove graffiti and fly-posters from their property. As drafted,

clause 31 uses the term "poster or flyer", but that is inconsistent with the existing legislation that deals with fly-posting, namely article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, which uses the term "placard or poster". In addition, a flyer is more usually thought of as something that is distributed by hand rather than pasted to a wall or other structure. Therefore, for the sake of consistency and clarity, I have tabled an amendment to clause 31 to replace the word "flyer" with the word "placard".

My Department's engagement with district councils highlighted deficiencies in the existing legislation that deals with graffiti and fly-posting and, in particular, article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985. That provides district councils with the power to remove or obliterate graffiti that is detrimental to the amenity of any land in its district or any illegally displayed placards or posters. It also enables the council, in certain circumstances, to recover the cost that it incurs in doing so. In response to representations made by district councils, I have tabled amendment No 6, which will create a new article 18 in the 1985 Order, by virtue of a new clause 35A. New article 18 will further strengthen the powers that are available to councils, and it will close the loopholes that render the existing legislation ineffective. In circumstances in which a district council gives notice of its intention to remove or obliterate any graffiti, placard or poster, the period of notice will reduce from 14 days to two days. That will enable councils to act more quickly and prevent unscrupulous businesses from benefiting from two weeks of illegal advertising. New article 18 will also afford protection to those whose private property has been defaced by graffiti and fly-posting and who, in all likelihood, are the victims of crime. It will ensure that they are not responsible for the costs of removal and that that cost is borne, where possible, by the person who committed the act of graffiti or fly-posting or the person whose goods, trade, business or other concerns are publicised by it. Further protection will also be afforded to property owners by allowing for compensation to be claimed by those whose property is damaged by district councils when exercising the power to remove or obliterate graffiti, placards or posters. Compensation will not be payable to those who displayed the graffiti, placards or posters or caused it to be displayed, and any question of disputed compensation will be referred to and determined by the Lands Tribunal.

Amendment Nos 7 and 8 relate to clause 36, which originally made it an offence to sell an aerosol paint container to a person under the age of 16. However, a number of councils were of the opinion that it would be more appropriate to ban the sale of aerosols to those who are under the age of 18 and argued that that would bring the provision into line with the sale of restricted products such as tobacco and butane gas. That view was also shared by the Committee for the Environment. The aim of clause 36 is to reduce the incidence of criminal damage caused by acts of graffiti. Many of those acts are carried out using aerosol spray paint, which is quick and easy to use, can cause considerable damage to property and can be extremely difficult and costly to remove. I am, therefore, keen to ensure that a strong line is taken on the sale of those products, and, having listened to the concerns that were voiced by the councils and the Committee for the Environment, I propose that clause 36 be amended to make it an offence to sell an aerosol paint container to a person under the age of 18 rather than to a person under the age of 16.

Amendments Nos 9 and 10 relate to clause 37. As drafted, clause 37 makes changes to article 84 of the Planning (Northern Ireland) Order 1991 to amend a defence that can be used by someone who is alleged to have committed the offence of displaying an advertisement illegally. The existing defence for such a person is to prove that the advertisement was displayed without his knowledge or consent, which makes it very difficult to secure a conviction. Therefore, the amended defence, as substituted by clause 37, is that the person must prove that the advertisement was displayed without his knowledge or that he took all reasonable steps to prevent the display or to secure its removal after the advertisement was displayed.

The amendment means that, if business owners are to avoid prosecution, they will have to take responsibility for ensuring that their goods, trade, business or other concerns are not illegally advertised.

4.30 pm

Article 87 of the Roads (Northern Ireland) Order 1993 contains a similar defence to that contained in article 84 of the Planning (Northern

Ireland) Order 1991 for the offence of displaying an advertisement on a road. In order to make it more difficult for the perpetrator of that offence to escape conviction, I am proposing that clause 37 be amended. Therefore, an amendment similar to the one already being made to the Planning (Northern Ireland) Order 1991 is also made to article 87 of the Roads (Northern Ireland) Order 1993.

Another issue that came to light during consultation with councils was the need for them to have certain information-gathering powers. Article 20 of the Litter (Northern Ireland) Order 1994 empowers a council to serve a notice on any person requiring him to furnish any information that the council reasonably considers it needs for the purpose of any function conferred on the council by that Order. I understand that councils have found that to be particularly useful when gathering evidence to enable them to take a prosecution.

Graffiti and fly-posting are a significant blight on our environment, and I am keen to provide district councils with the necessary powers to tackle the problem effectively and to bring those responsible to justice. Therefore, I have tabled amendment No 11, which proposes the inclusion of new clause 37A to provide district councils with information-gathering powers in relation to Part 4 of the Bill, similar to those currently available to them in respect of litter. Under the new clause, anyone who fails to comply with a council's written request for information or supplies false information will be guilty of an offence and will be liable for a fine of up to £2,500.

The information-gathering power already available to district councils under article 20 of the Litter (Northern Ireland) Order 1994 currently extends to dog fouling, which is at present dealt with under article 4 of that Order. However, concern has been expressed by councils that they will lose power now that article 4 is being repealed and replaced by provisions in Part 5 of the Clean Neighbourhoods and Environment Bill. I assure Members that it is certainly not my intention to weaken existing powers, and, therefore, amendment No 12 inserts new clause 44A to provide district councils with information-gathering powers for the purposes of Part 5 of the Bill. As is the case with new clause 37A, anyone who fails to comply with a council's written request for information or supplies false information will be guilty of an offence and will be liable for a fine of up to £2,500. Again, I understand that the Committee for the Environment is content with that proposal.

The Chairperson of the Committee for the Environment: Go raibh maith agat, a LeasCheann Comhairle. With regard to amendment Nos 3 and 4, the Committee recommended that councils should be encouraged to provide sites where small and medium-sized enterprises can place advertising literature for free or for a nominal not-for-profit administration charge. Procedures put in place for using such sites should be straightforward and flexible, allowing for a quick reaction to market conditions, and should include measures to ensure that those using the sites keep them and the surrounding area tidy and up to date. The Committee supports those amendments.

The Committee also supports amendment Nos 5 and 6. It was suggested to members that it would be impossible for councils to administer the proposals relating to fly-posting due to the time-consuming and costly nature of removing fly-posters. However, there is a provision for councils to administer a fee to cover those costs, and that is welcome. Despite Committee concerns, the Department acknowledged that, under the Bill, the owners of buildings defaced by fly-posters could not recover the costs from the beneficiaries of fly-posting. The Committee agreed to make a recommendation that councils should be encouraged to provide spaces where small and medium-sized businesses can place advertising material for free or for a small administration charge. Amendment Nos 5 and 6 are intended to allow district councils to deal more effectively with graffiti and fly-posting, which have long been a blight on society, and, therefore, those amendments are most welcome.

Amendment Nos 7 and 8 raise from 16 to 18 the lower age limit outlined in the provision under which it would be an offence to sell aerosol paints to children. The Committee suggested those amendments on the basis of councils pointing out that retailers already cannot sell butane gas or alcohol to anyone below the age of 18 and that bringing in a different age limit for aerosol paints would be confusing for shopkeepers and hard to enforce. The Committee also felt that, if a student under 18 years of age needed aerosol paints for legitimate use, there would be ways of achieving

that through a parent, school or college. On behalf of the Committee, I am glad to say that the Minister has tabled those amendments. We all realise the potentially harmful effects of aerosol paints, and the change to a higher age limit is welcome.

On amendment No 9, the Committee recommends that, in order to ensure that councils are able to implement effectively the new powers over fly-posting provided in the Bill, Planning Service should tighten up its control of advertising. The Committee considered this amendment and amendment No 10 on 27 January, and members were content. On behalf of the Committee, therefore, I support amendment Nos 9 and 10.

The Committee also supports amendment Nos 11 and 12, which insert new clauses to give councils improved information-gathering powers. The Bill will transfer a lot of new powers to councils, so any amendments that will give them improved powers are welcome.

On behalf of the Committee, I support the amendments in this group.

Mr Kinahan: I welcome the fact that the Department, the Minister and everyone involved worked together on the Bill. It is a really good example, and that example should be adopted by many more places in this Building.

I welcome the amendments, as they strengthen the provisions. Amendment Nos 3 and 4 allow the councils to work better with the road legislation. Amendment No 5 gives the councils more power over flyers. We were concerned as to whether a flyer stuck to a box would be treated properly. However, I am told that the legal definition of a placard covers a flyer that has been stuck to an electrical box or similar things.

Amendment No 6 is an extremely good, long amendment on the subject of graffiti, placards and posters. It is very welcome. I want to emphasise the word “may” in that amendment; the councils do not have to do it in two days. However, most of us would like to see action taken over graffiti as quickly as possible, especially, as the Minister has said, as people are getting two weeks of free advertising from the illegal use of such methods.

In amendment Nos 7 and 8, we welcome the change in the age limit concerning aerosols from 16 to 18. In amendment Nos 9, 10, 11 and 12, we welcome the extra provisions to enable councils to deal with advertisements linked to road legislation and powers to councils to find out more information so that they can deal with the problem. My party supports these amendments.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle.

I thank the Minister for dealing with group 2 of the amendments. This is the most significant batch of amendments in this section of the Bill. It has the potential to help clean up our neighbourhoods. As we drive round the community, we see how areas, housing, boards and streets have been defaced by people illegally using other people’s property to advertise their wares, events and a host of other things. It is also particularly important that the people who own the property and have had no role whatsoever in this illegal activity are not held responsible, financially or otherwise, for the activities of others. It is important that every effort is made, as it will be through this legislation, to ensure that the people responsible for indulging in fly-posting and graffiti round the place are held financially accountable and held to account in law. My party supports this group of amendments.

Mr Lyttle: I join colleagues in welcoming the group 2 amendments and, in particular, amendment No 6, which, as has been said, will strengthen council powers to tackle antisocial graffiti and fly-posting by giving councils further powers to require persons connected to the offence to remove it or allow councils to charge for its removal. I recall one area of my constituency where fly posters go up and down on a daily basis, so I know that local people will be particularly glad to hear that the Minister has brought forward those powers. As I have said, this is a power that local councils have sought for years. They will welcome it as well.

I also welcome amendment No 10, which would create a sensible provision to better govern the protection of anyone who has had graffiti or fly-posting that is connected to them displayed without their knowledge or consent. At the same time, I welcome amendment Nos 11 and 12, because they propose the introduction of improved information-gathering powers for councils.

Mr Dallat: I support my colleague Patsy McGlone. We certainly endorse the proposed changes enthusiastically, and we hope that they will fundamentally change the environment in which we live. We also hope that councils throughout the North will equally pay attention to graffiti and to all forms of fly-posting. I know that we will have to relax restrictions on that a little in the next few weeks, when people peddle their wares on the political scene. I am sure, Mr Deputy Speaker, that you would not rule me out of order if I said that we hope that all those posters will disappear when the election is over.

The idea of providing sites for fly-posting is very important. It is custom and practice in France and other European countries to choose sites that are attractive and convenient so that people who legitimately provide entertainment and so on can have an opportunity to promote it and are not then grouped with those who act irresponsibly.

At Committee Stage, I questioned the definition of the term "aerosol". I am very much aware that, as time moves on, spray paints are powered by triggers. I do not mean that to sound like an arms reference — perhaps the term "pumps" would have been a better way to put it. We need to be careful that we do not get outfoxed by those who, even at this stage in our peace process, still go around plastering the countryside with the most offensive messages of hatred.

Mr Weir: The Member made a good point about aerosols. We need to make sure that all elements are covered properly. It is clear that there is something of a moveable feast in the fact that technology moves on. Obviously, if technology overtakes the legislation, the Department could make regulations to ensure that further developments are covered. Alternatively, we could simply add to the Bill. The Bill is a good step forward in dealing with those matters, but we will obviously need to keep an eye on it in the future. We have good legislation for tackling graffiti and fly-posting and a lot of the things that make people's lives a daily misery. However, we have to make sure that technological advances will not allow those who have an illegitimate intent to escape in the future. I am sure that the House will come back and address that if necessary.

Mr Dallat: I thank Peter Weir for that timely and useful intervention. It helped to explain the point that I was making, which is that the legislation must not be allowed to become outdated overnight and therefore be incapable of being implemented. However, the important point — I think that the Committee Chairman said this — is that tackling graffiti and all the environmental problems that we are talking about is part of an overall plan. That plan is very much built into and is part of education, of how children are taught at home and of how, over all, we appreciate the environment in which we live. The plan is also an important part of how we acknowledge, particularly in tourist areas, that the practices that we are talking about have been detrimental to the development of our tourist industry in the past.

I am sure that the Minister will explain in his winding-up speech the need to differentiate between defacement and obliteration. In my view, there should be no fly-posting of any kind on any traffic sign, irrespective of what it is or whether it is painted on the back or the front of the sign. Perhaps I misunderstood what was said, but anything that distracts a motorist from attention to the road is wrong. It should be an offence to distract drivers in that way.

I am sure that everyone will welcome the legislation. I will conclude by expressing my thanks to the Clerks, who played a very practical role in ensuring that the draft legislation is of the highest quality and is capable of being implemented. I look forward to seeing that.

4.45 pm

The Minister of the Environment: I thank the Committee for its support on the issues that were raised. Fly-posting and graffiti are current problems. The Bill could be further enhanced if the consultation exercise on a bids process, in which Minister Attwood is engaged, were to come to fruition in the House early in the lifetime of the next Assembly. That process would ensure that councils have the financial wherewithal to act quickly to deal with graffiti and fly-posting, particularly in urban areas.

I am very satisfied with the Bill. I have to admit that I had some concerns and reservations when Mr Dallat said that he would enthusiastically embrace it. That is the first occasion on which Mr Dallat has enthusiastically embraced anything that I have proposed in the House. Nonetheless, I will not allow that to put me off having some further thoughts on the Bill. I commend the amendments to the House.

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

Amendment No 4 made: In page 28, line 20, at end insert

"(12) In Article 87(11) of the Roads (Northern Ireland) Order 1993 at the end add 'and to an authorised officer of a district council (within the meaning of section 26 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011) acting in connection with an offence under paragraph (1).'." — [The Minister of the Environment (Mr Poots).]

Clause 26, as amended, ordered to stand part of the Bill.

Clauses 27 to 30 ordered to stand part of the Bill.

Clause 31 (Defacement removal notices)

Amendment No 5 made: In page 29, line 27, leave out "flyer" and insert "placard". *— [The Minister of the Environment (Mr Poots).]*

Clause 31, as amended, ordered to stand part of the Bill.

Clauses 32 to 35 ordered to stand part of the Bill.

New Clause

Amendment No 6 made: After clause 35, insert the following new clause:

"Removal or obliteration of graffiti, placards and posters

35A. For Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15) (removal of graffiti and fly posters) substitute—

'Removal or obliteration of graffiti, placards and posters

18.—(1) Subject to the following provisions of this Article, a district council may remove or obliterate—

(a) any graffiti which, in the opinion of the council, is detrimental to the amenity of any land in its district;

(b) any placard or poster which is displayed in its district and which, in the opinion of the council, is so displayed in contravention of regulations under Article 67 of the Planning (Northern Ireland) Order 1991.

(2) Where any graffiti, placard or poster to which sub-paragraph (a) or (b) of paragraph (1) applies identifies the person who displayed it or caused it to be displayed, a district council may give that person notice in writing—

(a) that the council is of the opinion mentioned in that sub-paragraph in respect of the graffiti, placard or poster specified in the notice;

(b) requiring that graffiti, placard or poster to be removed or obliterated within the period of 2 days beginning with the date of service of the notice; and

(c) stating the effect of paragraph (3).

(3) Where—

(a) a district council serves a notice on a person under paragraph (2) in relation to any graffiti, placard or poster, and

(b) the person fails to remove or obliterate it within the period mentioned in that paragraph,

the council may recover summarily as a civil debt from that person the expenses it may reasonably incur in exercising its power under paragraph (1).

(4) Where—

(a) any graffiti, placard or poster to which paragraph (1)(a) or (b) applies does not identify the person who displayed it or caused it to be displayed, but

(b) the graffiti, placard or poster publicises the goods, services or concerns of an identifiable person,

paragraphs (2) and (3) have effect as if the reference in paragraph (2) to the person who displayed the graffiti, placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised.

(5) For the purpose of exercising any power under paragraph (1) a person authorised in writing by the council for the purposes of this Article may at any reasonable time enter any land if—

(a) the land is unoccupied, and

(b) it would be impossible to exercise the power without entering the land.

(6) Where any damage is caused to land or chattels in the exercise of any power under paragraph (1), compensation may be recovered from the district council exercising the power by any person suffering the damage (other than the person who displayed the graffiti, placard or poster or caused it to be displayed).

(7) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(8) Nothing in this Article authorises the removal or obliteration of any graffiti, placard or poster displayed—

(a) within a building to which there is no public right of access; or

(b) on land owned or occupied by a body established by or under a statutory provision.

(9) This Article and Article 19 are without prejudice to Article 67 of the Planning (Northern Ireland) Order 1991 (control of advertisements), and to Article 84 of that Order (enforcement of advertisement control), and to any regulations made under that Order by virtue of those Articles.'." — [The Minister of the Environment (Mr Poots).]

New clause ordered to stand part of the Bill.

Clause 36 (Sale of aerosol paint to children)

Amendment No 7 made: In page 32, line 35, leave out "16" and insert "18". — *[The Minister of the Environment (Mr Poots).]*

Amendment No 8 made: In page 33, line 5, leave out "16" and insert "18". — *[The Minister of the Environment (Mr Poots).]*

Clause 36, as amended, ordered to stand part of the Bill.

Clause 37 (Unlawful display of advertisements)

Amendment No 9 made: In page 33, line 26, leave out "as follows" and insert

"in accordance with subsections (2) and (3)". — [The Minister of the Environment (Mr Poots).]

Amendment No 10 made: In page 33, line 33, at end insert

"(3A) Article 87 of the Roads (Northern Ireland) Order 1993 (NI 15) (control of advertisements, etc.) is amended in accordance with subsections (3B) and (3C).

(3B) In paragraph (9) for 'that it was displayed without his knowledge or consent' substitute 'either of the matters specified in paragraph (9A)'.

(3C) After that paragraph insert—

'(9A) The matters are that—

(a) the advertisement was displayed without his knowledge; or

(b) he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal.'." — [The Minister of the Environment (Mr Poots).]

Clause 37, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 11 made: After clause 37, insert the following new clause:

"Supplementary

Power of district councils to obtain information

37A.—(1) Subject to subsection (2), a district council may serve on any person a notice requiring that person to supply to the council, within a period or at times specified in the notice and in a form so specified, any information so specified which the council reasonably considers that it needs for the purposes of any function conferred on the council by this Part.

(2) Regulations may restrict the information which may be required under subsection (1) and determine the form in which the information is to be so required.

(3) A person who—

(a) fails without reasonable excuse to comply with the requirements of a notice served under this section; or

(b) in supplying any information in compliance with such a notice, makes any statement which that person knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale." — [The Minister of the Environment (Mr Poots).]

New clause ordered to stand part of the Bill.

Clauses 38 to 44 ordered to stand part of the Bill.

New Clause

Amendment No 12 made: After clause 44, insert the following new clause:

"Power of district councils to obtain information

44A.—(1) Subject to subsection (2), a district council may serve on any person a notice requiring that person to supply to the council, within a period or at times specified in the notice and in a form so specified, any information so specified which the

council reasonably considers that it needs for the purposes of any function conferred on the council by this Part.

(2) Regulations may restrict the information which may be required under subsection (1) and determine the form in which the information is to be so required.

(3) A person who—

(a) fails without reasonable excuse to comply with the requirements of a notice served under this section; or

(b) in supplying any information in compliance with such a notice, makes any statement which that person knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale." — [The Minister of the Environment (Mr Poots).]

New clause ordered to stand part of the Bill.

Clauses 45 to 54 ordered to stand part of the Bill.

Clause 55 (Powers of entry: supplementary)

Mr Deputy Speaker: We now come to the third group of amendments, which deals with technical and consequential amendments. With amendment No 13, it will be convenient to debate amendment Nos 15, 16, 17 and 21.

The Minister of the Environment: I beg to move amendment No 13: In page 44, line 41, at end insert

"(10) Subsection (9) does not apply so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998." — [The Minister of the Environment (Mr Poots).]

The following amendments stood on the Marshalled List:

No 15: In clause 60, page 50, line 15, at end insert

" 'owner', in relation to any premises consisting of land, means a person (other than a mortgagee not in possession) who, whether in that person's own right or as agent or trustee for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let;". — [The Minister of the Environment (Mr Poots).]

No 16: In clause 60, page 51, line 7, after "1981 (NI 4)" insert "(except for 'owner')". — *[The Minister of the Environment (Mr Poots).]*

No 17: In clause 65, page 58, leave out lines 4 to 8. — *[The Minister of the Environment (Mr Poots).]*

No 21: In schedule 3, page 71, line 19, at end insert

"( ) In Article 7(5) for 'paragraph (1)(b) to (f)' substitute 'paragraph (1)(b) to (e)'." — [The Minister of the Environment (Mr Poots).]

The Minister of the Environment: Clause 55 provides a general indemnity for authorised officers carrying out their duties under clauses 53 and 54, which concern powers of entry, if done in good faith, against any action, liability, claim or demand. When consulted on the legislative competence of the Assembly in respect of the Bill, the Attorney General indicated that an amendment should be made to clause 55 to ensure legislative competence in respect of that clause. The Attorney General has confirmed that other provisions in the Bill, together with the proposed amendments, are within the legislative competence of the Assembly.

Amendment No 13 will ensure legislative competence on the basis of European Court of Human Rights compliance in respect of clause 55. Clause 60 stipulates the matters that constitute statutory nuisance for the purposes of Part 7 of the Bill. It also provides for the interpretation of various references used throughout Part 7.

The Bill originally contained a broad definition of "owner" that was restricted to clause 65 in respect of the recovery of expenses under clause 64(6) reasonably incurred by a council in abating or preventing the recurrence of a statutory noise. However, at Committee Stage, the Environment Committee was of the opinion that, in restricting the broad definition of "owner" to clause 65, my Department had inadvertently weakened councils' powers to take abatement action in respect of statutory nuisances. It sought my Department's agreement to amend the Bill so that the broad definition of "owner" applied to the whole of Part 7. Having considered the matter further, I accepted that restricting the broad definition of "owner" to clause 65 did, in fact, represent a weakening of councils' existing powers.

Therefore, I propose, by way of amendment No 15, to extend the broad definition of "owner" to clause 60 and thereby to the whole of Part 7 of the Bill.

Consequential to that are two further minor amendments. Amendment No 16 ensures that the definition of "owner" in the Clean Air (Northern Ireland) Order 1981 does not apply to Part 7 of the Bill. Amendment No 17 simply deletes the current definition of "owner" from clause 65. Amendment No 21 is a consequential amendment to schedule 3 that is required as a result of the repeal of article 7(1)(f) and the word "and" immediately preceding it in the Litter (Northern Ireland) Order 1994 by part 2 of schedule 4, namely "Repeals". Article 7(1)(f) and the word "and" immediately preceding it are being repealed because the Department is replacing the existing litter control areas provisions in article 10 of the 1994 Order with new litter clearing notices. Those provisions are being inserted as articles 12A to 12C of the 1994 Order by clause 17.

The Chairperson of the Committee for the Environment: As the name suggests, the amendments in this group, which I support, are technical in nature and are consequential to amendments already made.

I would like to touch on the Committee's deliberations around clause 60, to which amendment Nos 15 and 16 relate. At the Committee's meeting of 9 December 2010, members asked departmental officials to consider an amendment in relation to noise from illegal motorsports tracks. The Department replied that improved procedures for dealing with statutory nuisance brought about by Part 7 will enable councils to deal more effectively with noise emitted from land that is prejudicial to health or a nuisance and that an amendment to the Bill in relation to noise from illegal motorsports tracks was not required because the situation is already adequately covered by the Bill. The Committee was content with that response. However, I must ask that enforcement on that issue be carried out rigorously to ensure that people do not suffer the nuisance of illegal motorsports tracks, which seem to be becoming more commonplace.

Members also asked for clarification of clause 60(1)(l) because they were concerned that it might be used to impede the natural progression of water systems. The Department's response was that English case law had established that the range of potential recipients of abatement notices under the provision is subject to an important limitation. Where a natural watercourse becomes silted up by natural causes and causes a nuisance by flooding, the landowner is unlikely to be held liable under the provision. By contrast, if a watercourse is created or substantially altered by humankind, the landowner or occupier is responsible for its design, construction and maintenance and may be in default in respect of their inadequacies. Members were content with that response.

When considering clause 65, to which amendment No 17 relates, members asked the Department to consider extending the definition of "owner" in clause 65 to the rest of the Bill, as requested by NILGA and several councils. I welcome the Minister taking on board the Committee's recommendation to expand the definition of "owner" in clause 65 to the whole of Part 7. On behalf of the Committee, I welcome the amendments in this group.

Mr Kinahan: I, too, welcome this group of amendments. I particularly support amendment No 13, which provides councils with indemnity when using powers of entry but is in keeping with human rights legislation, and amendment Nos 15 and 16, which extend the definition of "owner" to cover the whole of Part 7. I also support amendment Nos 17 and 21, which are more technical.

Mr Lyttle: I support the third group of amendments.

The Minister of the Environment: Once again, I thank Members for their support. We will perhaps need to take a further look at the issue of illegal car-racing tracks in future, certainly in the new Assembly term. It may be a matter that we can look at in the context of planning. A lot of those tracks hold events on up to 13 days of the year, which seems like quite a lot, and that would cause a nuisance particularly to those who live close to them, especially given that they do not come under the same rules and restrictions as legitimate tracks. We should take on board how we might deal with that issue. I urge Members to keep that matter relevant as we move into a new term and to support the amendments.

Question, That amendment No 13 be made, put and agreed to.

Clause 55, as amended, ordered to stand part of the Bill.

Clauses 56 and 57 ordered to stand part of the Bill.

5.00 pm

Mr Deputy Speaker: We now come to the fourth group of amendments for debate. The amendments relate to how subordinate legislation will be handled. With amendment No 14, it will be convenient to debate amendment Nos 18, 19, 20 and 22.

The Minister of the Environment: I beg to move amendment No 14: In page 47, line 36, at end insert

"and after 'section' insert '8A(7) or';

(b) after subsection (3) insert—

'(4) An order under section 8A(7) shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.'."

The following amendments stood on the Marshalled List:

No 18: In clause 72, page 63, line 1, after "subsections" insert "(2A),". — *[The Minister of the Environment (Mr Poots).]*

No 19: In clause 72, page 63, line 2, at end insert

"(2A) An order under—

(a) section 4(9);

(b) section 27(5);

(c) section 42(6); or

(d) section 50(6),

shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly." — [The Minister of the Environment (Mr Poots).]

No 20: In schedule 3, page 71, line 11, at end insert

"The Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19)

. In Article 86—

(a) in paragraph (1) at the beginning insert 'Subject to paragraph (1A),';

(b) after paragraph (1) insert—

'(1A) An order under Article 29A(9) shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.'." — [The Minister of the Environment (Mr Poots).]

No 22: In schedule 3, page 71, line 26, at end insert

"(6) In Article 25—

(a) in paragraph (1) at the beginning insert 'Subject to paragraph (1A),';

(b) after paragraph (1) insert—

'(1A) An order under Article 18A(3) shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.'." — [The Minister of the Environment (Mr Poots).]

The Minister of the Environment: Amendment Nos 14, 18, 19, 20 and 22 concern the legislative procedure to be followed in respect of orders prescribing changes in the level of fixed penalties payable with regard to a range of offences specified in the Bill. The Bill originally provided that any future legislation amending fixed penalty amounts for a range of offences should be subject to negative resolution procedure. That is consistent with existing fixed penalty provision in existing legislation. I originally felt that negative resolution procedure was appropriate in this instance on the grounds that the issue is neither sensitive nor controversial and that there is substantial legislative precedence for this approach. However, I note that other Bills in the legislative programme have proposed the use of draft affirmative resolution procedure for the future amendment of fixed penalty amounts. I also recognise that the Committee for the Environment has recommended draft affirmative resolution on the advice of the Examiner of Statutory Rules.

Effectively, the amendments would ensure that any future change to the amount of fixed penalties is subject to draft affirmative procedure. That would provide for greater Assembly control in this area and would ensure consistency with other Assembly legislation. I urge Members to support the amendments.

The Chairperson of the Committee for the Environment: Go raibh maith agat, a LeasCheann Comhairle. On the advice of the Examiner of Statutory Rules, the Committee recommended that the seven powers in the

Bill under which the Department may make orders to alter the amount of a fixed penalty payment specified in the Bill be made subject to draft affirmative procedure. The Committee is, therefore, supportive of all the amendments in group 4, which will ensure that the House has the highest level of scrutiny of any subordinate legislation that follows the relevant clauses.

Mr Kinahan: I, too, welcome the amendments, and I particularly welcome the fact that we would have affirmative resolution on the fixed penalties regarding vehicles, graffiti, dogs and alarms. I look forward to seeing the Bill in place. We support the amendments.

Mr Lyttle: I support the amendments in group four, particularly the provision for affirmative resolution. I offer my party's thanks for the hard work that has gone into making the provisions possible.

The Minister of the Environment: I thank Members for their support of the Bill and urge the House to support the group four amendments.

Question, That amendment No 14 be made, put and agreed to.

Clause 58, as amended, ordered to stand part of the Bill.

Clause 59 ordered to stand part of the Bill.

Clause 60 (Statutory nuisances)

Amendment No 15 made: In page 50, line 15, at end insert

> *" 'owner', in relation to any premises consisting of land, means a person (other than a mortgagee not in possession) who, whether in that person's own right or as agent or trustee for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let;". — [The Minister of the Environment (Mr Poots).]*

Amendment No 16 made: In page 51, line 7, after "1981 (NI 4)" insert "(except for 'owner')". *— [The Minister of the Environment (Mr Poots).]*

Clause 60, as amended, ordered to stand part of the Bill.

Clauses 61 to 64 ordered to stand part of the Bill.

Clause 65 (Expenses recoverable from owner to be a charge on premises)

Amendment No 17 made: In page 58, leave out lines 4 to 8. *— [The Minister of the Environment (Mr Poots).]*

Clause 65, as amended, ordered to stand part of the Bill.

Clauses 66 to 71 ordered to stand part of the Bill.

Clause 72 (Regulations and orders)

Amendment No 18 made: In page 63, line 1, after "subsections" insert "(2A),". — [The Minister of the Environment (Mr Poots).]

Amendment No 19 made: In page 63, line 2, at end insert

> *"(2A) An order under—*
>
> *(a) section 4(9);*
>
> *(b) section 27(5);*
>
> *(c) section 42(6); or*
>
> *(d) section 50(6),*
>
> *shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly." — [The Minister of the Environment (Mr Poots).]*

Clause 72, as amended, ordered to stand part of the Bill.

Clauses 73 to 76 ordered to stand part of the Bill.

Schedules 1 and 2 agreed to.

Schedule 3 (Minor and consequential amendments)

Amendment No 20 made: In page 71, line 11, at end insert

> ***"The Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19)***
>
> *. In Article 86—*
>
> *(a) in paragraph (1) at the beginning insert "Subject to paragraph (1A),';*
>
> *(b) after paragraph (1) insert—*
>
> *'(1A) An order under Article 29A(9) shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.'." — [The Minister of the Environment (Mr Poots).]*

Amendment No 21 made: In page 71, line 19, at end insert

"( ) In Article 7(5) for 'paragraph (1)(b) to (f)' substitute 'paragraph (1)(b) to (e)'." — [The Minister of the Environment (Mr Poots).]

Amendment No 22 made: In page 72, line 26, at end insert

"(6) In Article 25—

(a) in paragraph (1) at the beginning insert 'Subject to paragraph (1A),';

(b) after paragraph (1) insert—

'(1A) An order under Article 18A(3) shall not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.'." — [The Minister of the Environment (Mr Poots).]

Schedule 3, as amended, agreed to.

Schedule 4 agreed to.

Long title agreed to.

Mr Deputy Speaker: That concludes the Consideration Stage of the Clean Neighbourhoods and Environment Bill. The Bill stands referred to the Speaker.

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

Executive Committee Business

High Hedges Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister of the Environment to move the Consideration Stage of the High Hedges Bill.

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

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 the 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 No 1, which seeks to insert new clause 2A, bringing single evergreen and semi-evergreen trees within the ambit of the Bill.

The second debate will be on amendment Nos 2, 3 and 4, which deal with the fee for making a complaint about a high hedge; refunds where a complaint is upheld; and transferring the charge to the high hedge owner if a remedial notice is issued.

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 and 2 ordered to stand part of the Bill.

New Clause

Mr Deputy Speaker: We now come to the first group of amendments for debate. There is only one amendment in the group, which is amendment No 1. It seeks to insert new clause 2A, bringing single evergreen and semi-evergreen trees within the ambit of the Bill.

The Chairperson of the Committee for the Environment (Mr Boylan): Not moved.

Amendment No 1 not moved.

Clause 3 (Procedure for dealing with complaints)

Mr Deputy Speaker: We now come to the second group of amendments for debate. With amendment No 2, it will be convenient to debate amendment Nos 3 and 4. The amendments deal with the fee charged for lodging a complaint about a high hedge; refunds where the complaint is upheld; and transferring the charge to the high hedge owner if a remedial notice is issued.

The Chairperson of the Committee for the Environment: I beg to move amendment No 2: In page 3, line 27, leave out subsection (7) and insert

"(7) Regulations made by the Department shall prescribe the maximum fee that can be charged by a council under subsection (1)(b)."

The following amendments stood on the Marshalled List:

No 3: In page 3, line 29, leave out from "may" to the end of line 30 and insert

"shall be refunded where a remedial notice is issued under subsection (4) or section 7(2)(c)." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

No 4: In page 3, line 30, at end insert

"(9) Where a council refunds a fee to a complainant under subsection (8), the council shall charge the fee determined under subsection (1)(b) to the owner of the neighbouring land." — [The Chairperson of the Committee for the Environment (Mr Boylan).]

The Chairperson of the Committee for the Environment: The issue of fees was heavily debated during the Bill's Committee Stage. Members were informed by several respondents to the Committee's call for evidence that the idea of the complainant having to pay a fee is against local government practice and contradicts the polluter pays principle. Respondents suggested several ways of improving the fee mechanism, but most assumed that the only fair way would be to transfer the fee to the hedge owner if the complaint was found to be valid. It was also widely acknowledged that the complainant should not pay more than the hedge owner if the finding went against them.

In its reply to comments on fees, the Department stated that any fee that was levied was entirely at the discretion of the council and noted that councils will also have the discretion to refund fees. It also stressed that if a council issues a remedial notice that requires the height of a hedge to be reduced, it will be the hedge owner who will have to bear the costs associated with the work. The Department maintained that any fee that is levied is intended to be a payment for the service that is provided by the council to the complainant to resolve a dispute between neighbours. However, that view was not shared by members of the Committee, who remain convinced that it would be most appropriate for councils to be required to refund complaint fees should a complaint be upheld. The Committee asked the Department to explore the potential for an amendment to refund fees for upheld complaints. In reply, the Department stressed that the discretionary power in the Bill allowed councils to recover their costs and also had the effect of deferring frivolous or malicious complaints. A further departmental response outlined four possible options for fee charging but stressed that the only practical way forward was the model that it had put forward that councils could not charge a fee for a complaint or could repay the fee from its own funds.

5.15 pm

However, the Committee remained adamant that ratepayers should not shoulder the burden of the legislation by paying for councils to provide a free service or by paying for them to refund a successful complainant rather than recouping the fee from the hedge owner. Therefore, the Committee agreed to recommend that the Bill be amended to provide for a complainant's fee to be passed to the hedge owner in the event of a complaint being upheld.

Again, this is all about fairness. If a complaint is upheld, why should the complainant have to pay? Before anyone thinks that the Committee is quibbling over £30 or £40, I advise the House that the average fee for this service in England is between £300 and £400. Some councils charge more than £600. Even in Wales, where all councils charge the same, the fee is £320. This service is not cheap, and such amounts are highly likely to deter people from making a complaint, even if they are in misery because of a neighbour's high hedge. To those on low income or no income, it would be as helpful as having no legislation at all.

We are all clear that it is right that someone who enters a complaint should have to pay for it, as that will ensure that complaints are genuine and will avoid ratepayers bearing the cost for a service from which they do not benefit. Similarly, if someone puts in a complaint, and the council then assesses the problem and finds that no action is to be taken, it is right that the complainant should pay. However, it is the Committee's opinion that to allow councils to put in place a fee that would deter many, and even prohibit some, from making a genuine complaint, without a mechanism for that fee to be refunded on the complaint being upheld, is simply not right.

I will now deal with amendment No 2. The Bill includes the power for the Department to limit the level of fees, but officials indicated to the Committee that it was unlikely to do that unless there was a clear need to do so after the legislation had been operational for some time. The Committee requested information about fees for high hedges legislation in Wales and England. As I mentioned earlier, the information indicated that fees across English councils range from zero to £650, with the majority of councils charging between £300 and £400.

When Committee members considered that information, they agreed that, to prevent councils putting in place prohibitive fees and to avoid the wide variations across England, a cap should be placed on the fee charged by a council for a complaint against a high hedge owner. The Committee recognised that it was not in a position to recommend what the upper limit should be and agreed to recommend that the Department be required to invoke the regulations to set a cap on fees by way of amendment No 4. In conclusion, on behalf of the Committee, I commend amendment Nos 2, 3 and 4 to the House.

Mr Ross: I will also try to keep my comments brief, as was the case with the previous Bill, the debate on which made rapid progress.

Amendment No 2 is fairly straightforward. The reasons that the Committee felt that amendment to be appropriate were outlined by the Chairperson. The one issue that slightly concerns me is that councils may wish to go for the upper end of the fee limit. We need to keep an eye on that to make sure that it is not the case and does not happen. However, amendment No 2 is a fairly sensible change to ensure that, as the Committee Chairperson said, councils do not set exorbitant fees to try to put people off making complaints.

As the Chairman outlined, for Committee members, amendment Nos 3 and 4 related to fairness; we believe that those amendments will bring fairness into the system. There is a fairly clear procedure for making complaints. In the first instance, to try to resolve their issues, an individual will have to approach a neighbour whose high hedges, it is believed, are causing a nuisance. If no resolution is found, that individual can then formally complain to the local council. There are two issues around that. Having a fee structure at the second stage of the process prevents frivolous complaints from being made. If an individual making a frivolous complaint knows that he or she will have to pay for that complaint, I think that it will stop such complaints being made.

However, in the case of a genuine complaint, in which an individual has approached a neighbour to try to resolve the issue without having to go to the next stage, it is appropriate that the individual causing the nuisance pay the fee. As the Committee Chairman said, it is consistent with the polluter-pays principle. It is also the case that, in civil law suits, the individual complained about or found guilty pays the fee. Amendment Nos 3 and 4 are consistent with that and will restore fairness to the system.

Mr Kinahan: I am very pleased to be able to speak on the Bill having encountered a person who was absolutely shaking in fury with a neighbour and was not able to live happily in her own house because of what was happening next door over her hedge.

I congratulate the Committee Chairperson for not moving amendment No 1 as that allows us to look at it again. However, I welcome all three other amendments, particularly the fact that the Department can set the maximum fee. I agree with the Member who spoke before me that councils do not necessarily have to go up to that high level of fee and should really choose a suitable fee, preferably at the lower end. I also welcome the fairness that will be put in place by amendment Nos 3 and 4. We support the amendments.

Mr Lyttle: I, too, welcome the opportunity to speak on the Bill. In my constituency of East Belfast, high hedges and tall trees are particularly difficult issues that impact

negatively on many local people's quality of life. I welcome the withdrawal of amendment No 1, given that it did not have the full support of the House today. I hope that we can return with a more robust amendment at Further Consideration Stage.

I also welcome the provision through amendment No 2 that any fee set will be set by the Department at a maximum level to ensure that making a high hedges complaint is not prohibitive for anyone. I welcome the principle of fairness that amendment Nos 3 and 4 set in place so that any fee will be recovered from a neighbour who is in breach of regulation and will be refunded to the complainant. That is a fair and proper way to handle the process. I support the amendments.

Mr Weir: I welcome the opportunity to speak on the Bill. It will be welcomed on the broader level.

I will turn specifically to the three amendments and deal first with amendment No 2. The Committee received evidence on the widely varying fees that had been placed, particularly in England. They say that a wise person learns from their mistakes and that an even wiser person learns from somebody else's mistakes. The high hedges legislation in England has created some problems, and a very sensible approach has been taken to try to make sure that we do not repeat other people's mistakes but rather be corrective of those mistakes. Consequently, I think that people who enter into a complaint process need some level of certainty. We cannot allow a situation in which councils try to avoid that potential responsibility and simply price people out of the market. Therefore, amendment No 2, which sets a cap on the maximum amount of fees, is quite sensible and has been universally welcomed.

Amendment Nos 3 and 4 are inextricably linked. The Committee was struck by the notion that, under the present wording of the legislation, on the one hand someone who, to use Mr Kinahan's phrase, was screaming with fury at the —

Mr Kinahan: Shaking.

Mr Weir: That person was shaking with fury at the ill behaviour of a neighbour who was persisting with a high hedge. That person was absolutely right and, in those circumstances, is likely to be successful with the complaint. However, from a complaints point of view, that person was treated in exactly the same fashion as someone who makes an utterly vexatious complaint. Indeed, there is no doubt that — the fee will act as some level of deterrent to this side of it — some people will seek to use the legislation to try to settle scores or try to further a vendetta. The fact that those people will have to pay a fee will act as a deterrent.

People have mentioned the polluter-pays principle and the fact that, in any other civil dispute, the costs follow the event. When the council looks at the issue and finds that a person is 100% correct in a complaint, it is wrong to treat that person on the same basis as someone who makes an utterly vexatious complaint or one that simply does not stand up.

Under those circumstances, three options are left. The first of those is to treat the two in exactly the same fashion, which runs against natural justice. A second option is to reduce the fee for a person who makes a successful application, but, if there is no flip side for the person who is in the wrong, the additional costs would be borne by the ratepayer rather than the person who is at fault. A third option is that the person against whom the order is made has to pick up the tab for the complaint.

As well as flowing from natural justice, from a practical point of view, the option of the party who has been ordered against potentially having to pick up the tab can act as a deterrent to bad behaviour. I am sure that we all hope that the potential threat of intervention will lead people to behave more responsibly. Let us be honest: if neighbours were to act entirely responsibly, there would be no need for the legislation. The vast majority of people do behave responsibly, but if someone were acting unreasonably about the size of their hedge and the only sanction was that they would be forced to carry out remedial work, what incentive would there be on that person to come to an agreement with their neighbour and take proactive action to cut down the hedge? If that person has to pick up the tab, as the amendments propose, that will be an incentive for good behaviour.

There are some valid concerns with the amendments, and those can be addressed. There is an argument that they will drag the councils into a quasi-judicial position, and there is some truth in that. However, given that the councils will have to determine whether remedial action is to be taken or not, they will,

to some extent, act as judge and jury anyway, so I am not sure that that is clear cut. Arguments can be used that the amendments could create some unforeseen circumstances and that, indeed, there may be potential breaches of equality, and there is some truth in that.

The amendments have received support from all sides of the House, and if they are accepted, there may well be consequential changes and, perhaps, changes at Further Consideration Stage to ensure that the intention behind them is right. I am sure that the Committee and the House will be perfectly prepared to see some additional changes flow from this at Further Consideration Stage to ensure that we get legislation that is entirely fair and that there are no unfortunate unforeseen circumstances as a result of the amendments. I would be happy to see some further changes at Further Consideration Stage to ensure that we get the legislation right. With those caveats, I commend all three amendments to the House.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I agree with the Members who spoke previously, particularly on the caveats that need to be put in place at Further Consideration Stage, because the amendments will have knock-on impacts. I agree that we need a consistent approach to the fees that councils charge, on a similar model to that which was adopted by the Welsh Assembly. Any cap in fees will have to cover councils' costs, which will include officers' time and the expertise of tree surgeons who might have to be brought in.

As the Chairperson said, a considerable cost burden might be placed on local government. A raft of legislation has come from the Assembly to local government, and local authorities will feel the squeeze.

In my opinion, it has to be cost-neutral. Therefore, the cap will have to reflect that. If a complaint is upheld by the council, making the offending hedge owner pay the fee will be a greater incentive to finding a resolution at mediation stage. It will bang heads together to find an accommodation, knowing that they will have to pay the costs to get the work done, and the extra fee on top of those costs will be a useful incentive. We have to ensure that we do not introduce legislation to the House that is available only to the wealthy. The cap will ensure fair play for all citizens.

5.30 pm

There may be reasons why people cannot afford to cut hedges. Furthermore, they may be unable to get them cut because of age or because they have no family members around to carry out the work. Mr Weir said that there are further considerations that we need to take on board. We need to look at the issue of people on benefits. The Minister will have to clarify how people are meant to pay or how they will be able to pay if they are already choosing between eating and heating their home. Where will they get the resources to pay for that? We need to look carefully at that. We also need to clarify whether the house owner or the tenant will be responsible for the fee. More work needs to be done in that regard.

I support the amendments, but I think that there will be more amendments at Further Consideration Stage.

Mr Dallat: I hope that the shock is not too great for the Minister, but I rise twice in one day to endorse a Bill coming from his Department. The fees issue, which has been focused on, is an important one, and I agree that it requires further consideration. The expectations arising out of the Bill in all sorts of ways are unlimited. It is perhaps unfortunate that the High Hedges Bill was not our Bill from the beginning. It was taken from England, where it came into operation some time ago, and that is where some of the problems arise. However, the points about fees have been well made, and we need to return to them.

Mr Callaghan: I thank the Member for giving way. Does he share my experience, which is that many people who have raised the issue of high hedges and tall trees in the constituency are pensioners or people of pensionable age, and, almost by definition, they tend to have restricted incomes in many cases and to rely on their pensions? Any fee that is too high could be a deterrent to them seeking the type of resolution that the Bill is intended to provide.

Mr Dallat: I cannot agree more with the Member. He veered towards the issue of tall trees, and I thought that he was going to tell me that he was hugging them, but, thankfully, he did not. Those points are well made, and they need to be taken into consideration when we return to the issue. However, it is useful legislation, and people have the greatest expectations of it. I hope that, in time, we will be able to meet

those expectations, because, at the moment, I suspect that the Bill is somewhat limited.

Mr B Wilson: I too welcome the legislation. High hedges are a very common problem in North Down. In fact, I have been involved in a number of disputes — *[Laughter.]* Sorry, I have been involved in trying to resolve a number of disputes between neighbours. They are extremely difficult, and some people are particularly unreasonable about it. However, in relation to amendment No 1, councils should retain their discretion to charge fees. That should be based on the cost to the council. However, I also believe that there should be a maximum level. As the Chairperson pointed out, the average fee in England is between £300 and £400. Councils can, at their discretion, charge nothing. Charges can be up to £650. That fee is totally unacceptable. Basically, the Department should set a maximum fee.

Initially, when I saw amendment Nos 3 and 4, I intended to oppose them. It should not be an offence when a person simply grows a hedge that someone else complains about and for which the person could then be penalised. However, having dealt with people who are involved in such disputes and with people who are being totally unreasonable, I believe that, if parties have undergone some sort of mediation and someone is clearly acting unreasonably and the complaint has not been made simply to be malicious or vexatious, that person should face a penalty. Therefore, I accept the amendments, which provide for situations when mediation has already been tried and someone has acted unreasonably.

The Minister of the Environment: I am prepared to support amendment No 2. I do not believe that it constitutes a substantive amendment to the Bill. It requires my Department to limit the level of complaints fee that a council may charge, rather than leaving that as an option to exercise at a later date. It should be noted that the amendment will make it necessary for the Bill and the subordinate legislation to come into effect at the same time. As it will not be possible to complete the subordinate legislation in the lifetime of the Assembly, that will result in a delay to the commencement of the Bill and, therefore, a delay in the relief to people who suffer from problems associated with high hedges. My officials are already working on the necessary subordinate legislation with a view to its being ready to progress subject to the views of the new Minister early in the new Assembly term.

I now turn to amendment Nos 3 and 4, which I have considered carefully. I wish to draw the House's attention to issues that arise from the amendments. Amendment No 3 would make it mandatory for a council to refund the complainant's fee where a remedial notice is issued. Amendment No 4 will require the council to subsequently charge that complaints fee to the hedge owner. Although I understand the sentiment of making the hedge owner pay, I believe that those amendments will raise human rights issues. Amendment Nos 3 and 4 would remove flexibility in the operation of the Bill and add greatly to the administrative burden on councils, as well as causing enforcement complications.

The Bill currently requires a fee, where a council decides to apply one, to be paid up front by the complainant. The insertion of clause 3(9) would mean that the council was required to charge the hedge owner the amount of the fee that it has refunded to the complainant. The effect of that amendment would be that the exact fee paid by the complainant is transferred to the hedge owner. That means that, if the complainant paid a reduced fee, the hedge owner would be required to pay the same reduced fee, regardless of their personal circumstances. Likewise, if the complainant paid the maximum fee, the hedge owner would be required to pay that, regardless of their personal circumstances. Effectively, the amount that a hedge owner would pay would be determined by the circumstances of the complainant. That cannot be viewed as fair.

The Bill provides for a complainant to pay a fee, if levied by the council, for a service from the council. The hedge owner pays for any remedial actions, including ongoing maintenance. That becomes a statutory charge burden on the property. The amendments would then place an additional financial penalty on the hedge owner, increasing the risk of a challenge on human rights grounds due to the unfairness of disproportionate costs being placed on the hedge owner, who may already be arguing that a remedial notice constitutes unjustified interference with the right to the protection of property and respect for private life.

A further issue is that the amendments require the council to refund any fee on issue of a

remedial notice and to transfer that exact fee to the hedge owner. That will lead to significant complications for councils in situations where remedial notices are withdrawn or are subject to appeal. That would see a hedge owner being required to pay the complaints fee, which would be calculated on the basis of the complainant's personal circumstances, and there would be no mechanism for the council to refund that, should an appeal be successful. In such a case, a hedge owner would be paying a fee, even when he or she was found not to have contravened the legislation. Therefore, if the amendments were accepted, it would create difficulties.

The amendments would have another significant and, perhaps, unintended consequence. Clause 3(1)(b) provides councils with the discretion to charge a complainant a fee for handling a high hedge complaint, which would cover the initial administrative and investigative costs and help to deter frivolous and vexatious complaints. Councils also have the discretion to charge a reduced fee or waive the fee in certain circumstances. Examples of those circumstances will be set out in the guidance. They will include such issues as ability to pay.

The amendment to clause 3(8) would require councils to refund any fee only when it issues a remedial notice. That means that councils would lack the discretion to refund a fee in any other situation. Consider the case of a complaint about which a council has decided that there is insufficient evidence that all reasonable steps to resolve the high hedge problem have been taken and, therefore, decides not to proceed with it. Under this amendment, the council could not refund the fee, even if it considered that the personal circumstances of the complainant were such that the reasonable course of action would be to refund the fee or part of it.

The refund mechanism being proposed by the amendments introduces the need for the council not only to reimburse the complainant but to recoup the fee from the hedge owner, who is likely to be resistant to paying. That is a reasonable supposition, given the additional burden of complying with the remedial notice, which requires the lowering of the hedge, and especially since the hedge owner will be obliged to pay the fee originally charged to the complainant, even if they successfully appeal against the notice. Recourse to the courts may then be the only way for a council to obtain the fee. That will substantially increase the council's costs, as it is likely that the court costs will be significantly greater than the amount of the fee that the council is trying to recover.

The Bill, as drafted, will require the council to collect the fee from a complainant; assess the legitimacy of the complaint; determine whether there is a problem; issue a remedial notice, if required; undertake enforcement action in the event of non-compliance; attend appeals; and, in default, carry out the remedial works. That is a reasonably substantial increase in councils' administrative burden. However, amendment Nos 3 and 4 would further increase that burden by placing a duty on councils to refund the complainant's fee and to subsequently charge the hedge owner. They are also likely to be involved in court action to recover that fee and, where there are several persons responsible for the hedge, determine who should pay what. Those amendments, therefore, add a level of administrative complexity that is highly likely to cause significant problems for councils carrying out that responsibility.

Stand-alone amendment No 4 would mean that the council would have to charge the hedge owner if it refunded the fee, even in cases where the council decided that the hedge did not meet the criteria, where the complainant had not made reasonable attempts to resolve the problem or, even worse, in cases where the council decided that the complaint was vexatious.

The Bill is intended to make council action in dealing with high hedge complaints effectively an administrative action, but the amendments would make it more of a judicial process. On that point, it should be noted that councils are not equipped to carry out judicial investigations into the relative fault and financial means of parties of the type required in assessing and apportioning the costs to be borne by a plaintiff and defendant in the case.

I ask the Assembly to consider the issues that I have raised. If the Assembly decides to support amendment Nos 3 and 4, we will have to look strongly at subordinate legislation, guidance and so forth to ensure that a number of the complexities and problems that I have raised do not come to light. As an alternative, we can consider working on this over the next number of weeks before Further Consideration Stage, if Members are not minded to take the amendments forward today. There are problems

that have not been properly thought through or dealt with, and we could be left apportioning a considerable burden to local government on a piece of legislation that is strongly supported by the public. So, although, in principle, I accept where the amendments are coming from and that they are inherently fair, they raise difficulties and problems that I ask the House to reflect on.

The Chairperson of the Committee for the Environment: I thank all Members who took part in the debate and welcome some of the Minister's comments about the amendments. I will not go on too long but just touch on Members' remarks and hopefully get some agreement on the amendments.

Mr Ross made a valid point about whether the cap should be at the upper limit; that is something that the Committee would certainly not support. We talked it through, and we need the Department and the council to be aware that that is not the road we are going down. We want to cap a fee, but we want it to act as a deterrent as well. Setting a fee at £600 is too much. That is something that we need to look at.

Mr Kinahan welcomed the amendments, and I thank Members for supporting them. As members of the Committee will realise, we have thrashed this out. We took as much time as we needed to go through the Bill, and I welcome the Committee's efforts. Mr Lyttle also supported putting a cap in place, and I thank him for his contribution.

Mr Weir made a valid contribution and spoke about amendments at Further Consideration Stage. In light of what the Minister said, we could look at amendments to improve the Bill. Mr Clarke said that we needed to be mindful about people on benefits and their ability to pay. He brought that to the Committee, and it is something that we need to consider. Perhaps we will try to place something, even if it is through subordinate legislation.

Mr Dallat endorsed the Bill but remarked that perhaps it had been lifted from elsewhere. However, the Committee did a good job of scrutinising the legislation. It is a worthwhile Bill that will work for ratepayers and the public. Fortunately, Mr Wilson agrees. He had some doubts about the amendments this morning, but he has changed his mind, and his comments are welcome.

I turn to the Minister's comments. He clearly outlined the problems. As with all legislation, there is a doubt that we need to recognise. I am concerned that he mentioned the removal of flexibility and the human rights implications, but he said that he would have to look at subordinate legislation. However, we can iron it out in subordinate legislation. Given the fact that we put it to the Department, I am surprised that the Department has not come up with suggestions for subordinate legislation.

From the outset, we looked at the principle that the polluter pays; we want people to be treated fairly. There is no doubt that we can tease that out, perhaps through amendments at Further Consideration Stage or through proper subordinate legislation. With that in mind, I ask the House to support amendment Nos 2, 3 and 4. Go raibh míle maith agat.

Question, That amendment No 2 be made, put and agreed to.

Amendment No 3 made: In page 3, line 29, leave out from "may" to the end of line 30 and insert

> *"shall be refunded where a remedial notice is issued under subsection (4) or section 7(2)(c)." — [The Chairperson of the Committee for the Environment (Mr Boylan).]*

Amendment No 4 made: In page 3, line 30, at end insert

> *"(9) Where a council refunds a fee to a complainant under subsection (8), the council shall charge the fee determined under subsection (1)(b) to the owner of the neighbouring land." — [The Chairperson of the Committee for the Environment (Mr Boylan).]*

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

Clauses 4 to 20 ordered to stand part of the Bill.

Long title agreed to.

Mr Deputy Speaker: That concludes the Consideration Stage of the High Hedges Bill. The Bill stands referred to the Speaker.

Committee Business

Assembly Members (Independent Financial Review and Standards) Bill: Further Consideration Stage

Mr Deputy Speaker: I call Mr Peter Weir to move the Further Consideration Stage of the Assembly Members (Independent Financial Review and Standards) Bill.

Moved. — [Mr Weir.]

Mr Deputy Speaker: As no amendments have been tabled, there is no opportunity to discuss the Assembly Members (Independent Financial Review and Standards) Bill today. Members will, of course, be able to have a full debate at the Bill's Final Stage. The Further Consideration Stage of the Bill is, therefore, concluded. The Bill stands referred to the Speaker.

Adjourned at 5.52 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.

Health, Social Services and Public Safety

Craigavon Area Hospital: Clinical Practices

Published on Monday 21 February, 2011

The Minister of Health, Social Services and Public Safety (Mr McGimpsey): I wish to make a statement to the Assembly following the recent allegations over unsafe clinical practices at Craigavon Area Hospital.

Specifically it has been alleged that X-rays are not being reported by appropriately trained staff and that outpatient reviews are being arranged on the basis of patients names, with appointments assigned to patients in alphabetical order.

I take all legitimate concerns very seriously. It is my priority to ensure that everyone receiving health and social care are provided with safe, high quality services they deserve.

Following extensive negative media coverage last Thursday, I held an urgent meeting with Mairead McAlinden, Chief Executive of the Southern Trust and John Compton, Chief Executive of the Health and Social Care Board.

The purpose of this meeting was to clarify the situation and seek assurances that these allegations were unfounded.

I have been assured that these claims are unsubstantiated and have only served to cause unnecessary public anxiety.

Let me confirm the current position. In the Southern Trust as in other Trusts, X-rays are seen and assessed by the appropriate clinician and are reported on in accordance with national guidance.

However I am aware of pressures in radiology that has resulted in some delays in reporting. All Trusts are acting to ensure that they are doing what is possible to minimise delays.

I am taking this matter very seriously and have asked RQIA to conduct a review on the reporting and handling of X-rays. I will receive RQIA's initial report before the end of March and I will take action to address the priority issues that are identified.

On the matter of outpatient appointments, the Southern Trust has advised me that it is simply not the case that people are given appointments on the basis of alphabetical order. Rather, patients have outpatient appointments arranged according to their clinical priority. This is determined by the clinician in charge of their care.

It is the right of any clinical staff to raise concerns publicly. But it is their responsibility to first exhaust all internal mechanisms for raising those concerns.

It is both concerning and disappointing that a very small number of staff within the health service may choose to raise concerns through the media rather than use the systems that are in place in their workplace.

There are robust arrangements within Health and Social Care that ensure any staff that have concerns about patient safety have ways of bringing them to the attention of senior staff.

These systems have been put in place specifically to allow staff to raise issues and be assured that action will be taken.

It is true that there are lengthy waits for some outpatient appointments, particularly for review or follow-up appointments.

This is unacceptable. That is why the Board and Trusts have been set a target to ensure that by

March next year, all patients need to be seen within the timescale that has been determined by their clinician. I expect all trusts to achieve this standard.

To help achieve the challenging targets which have been set, I have invested in outpatient services. Last year, I provided £7.3 million with a further £6.3 million this year to improve waiting times for outpatient services.

No-one can have failed to notice that waiting times for a vast range of services have continued to rise over the past year. There are some specialities in which we know demand has been high and there ongoing difficulties meeting targets for both new and review appointments.

We need to act to ensure the capacity of Trusts can meet the real and justifiable level of demand. This is the Board's responsibility and I expect them to work with trusts to provide the capacity needed to improve waiting times for all patients.

I would also appeal to patients to do all they can to attend hospital appointments. Any person who is unable to attend should let the clinic know. By not attending, people are denying others the opportunity to be seen at a hospital clinic.

Increasing waiting times should not come as a surprise to anyone. I have warned time and again that cuts to the health budget could only impact on the delivery of services. The fact is that cuts to my budget can be directly linked to the continued increase in waiting times. With the prospect of further severe cuts, this situation will only get worse.

There is no doubt that the health service is facing significant and increasing pressure. Staff are stretched to their limits as they strive to meet rising demand and continue to provide high quality care to services.

I have met with staff and realise the pressures they are facing. At the same time, they have also had to contend with a constant barrage of negative media coverage which has left many feeling demoralised.

Increased pressures and limited funding had made this a very difficult time for health and social care staff. We are all indebted to the commitment and dedication of staff across health and social care. For them to also have to deal with people calling their professionalism and integrity into question is deplorable.

Instead of using the health and social care service as a political football, I would again appeal to this Assembly and to the public to stand by our health and social care service. It is something which everyone should value, respect and protect.

The founding principles of the NHS are cradle to the grave healthcare, free at the point of delivery – we must all decide whether this is worth fighting for.

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