



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Children's Services Co-operation Bill: Draft
Report

24 June 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Alex Attwood
Ms Megan Fearon
Mrs Brenda Hale
Mr Alex Maskey
Ms Bronwyn McGahan
Mr David McIlveen

Also in attendance:

Ms Eilís Haughey Clerk of Bills

The Chairperson (Mr Nesbitt): Members, you have an initial draft of our report, which you got in hard copy yesterday. It is also in tabled papers in your electronic pack from page 20. Before final consideration of the report next week, we are going to update that to reflect the discussions and decisions that we have just put in place.

The Committee Clerk: The draft in front of members is a summary up to this point of the evidence that was received against the key issues. Rather than doing it clause by clause, I have drawn out the key issues, because they are not neatly necessarily against each clause.

First, there is the statutory duty to cooperate. The vast majority of stakeholders were in favour of the statutory duty to cooperate. It was recognised that there is cooperation ongoing at the minute, and that is reflected in the report. However, many thought that more work could be done in that regard. Issues were raised about when a particular matter might cross departmental boundaries in terms of who would take the lead and whether issues fell between two stools. It was felt that that might be addressed by a statutory duty. Even though the statutory duty was welcomed, there were some suggestions. The Children's Law Centre thought that the outcomes should be tied to the children's strategy currently operative rather than being named in the Bill.

The cooperation report was widely welcomed, although many thought that it should be at annual intervals. Concerns were raised through evidence that it could place a burden of greater bureaucracy on the Departments. A further issue raised through evidence was that the report focused more on process rather than on how the requirement to cooperate was delivering against the outcomes.

Pooled budgets was welcomed by most stakeholders, although a number of Departments and OFMDFM cautioned that it would have to be backed up by memorandums of understanding, governance and accountability structures. Again, they are not likely to be required in the Bill.

The biggest issues were raised on children's services planning, which was dealt with at clause 4, and whether the Health and Social Care Board was being granted too much power, under that clause, over and above the Executive. There were questions about democratic accountability as a result of that. Many stakeholders disagreed with members' concerns in that regard and suggested, as has happened in OFMDFM's amendment, that the duty could be placed on the Executive and then delegated to a relevant Department or agency. There was also a concern about whether clause 4 would deliver the Bill's intent for all children, as it focused on the Children Order, which, essentially, was for children in need.

The issue of sanctions was raised — or, I should say, the lack of sanctions in the Bill. However, through stakeholder evidence, and from the Bill's sponsor and members, no appropriate sanctions became evident throughout the discussions. Obviously, the final sanction is the threat of judicial review.

There is a small section on definitions, and no real issues were raised. Many stakeholders did not even discuss the definitions in the Bill.

Statutory guidance was raised, and number of stakeholders felt that the Bill should be backed up with statutory guidance.

From page 30 in the tabled papers, or page 11 of the hard copy, there are the details of OFMDFM's proposed amendments to the Bill, which is what the Committee has just gone through in some detail.

That is the initial draft up to this point. It is just a summary of the evidence that was received. It will be updated, and we are more than happy to take any suggestions from members for amendments to it. Obviously, it will be updated with today's clause-by-clause discussions, and we will bring it back next week for final amendment, and it will form the Committee's report to the Assembly on the Bill.

The Chairperson (Mr Nesbitt): Are members content? I think that it is broadly a factual reflection of the evidence?

Mr Lyttle: It is a well laid out report, and the officials have done a really good job.

The Chairperson (Mr Nesbitt): I would endorse that. You guys do an awful lot of preparation and writing for us; thank you very much indeed.

Mr Attwood: I concur with the comments about the draft report. What is the time frame that OFMDFM officials are working to now in relation to these adjusted clauses, new clauses and drafts? Do they ever say what it is?

The Chairperson (Mr Nesbitt): No, because the sequence was that at Committee Stage we put our marker in the sand at 30 June.

The Committee Clerk: It is 3 July.

The Chairperson (Mr Nesbitt): So, it has transpired that we have completed our Committee Stage without sight of the final amendments. It is my understanding that there is now no particular deadline for the Department to finalise its deliberations.

Mr Attwood: Are we free, then, to go back for third stage in September?

The Chairperson (Mr Nesbitt): Without the final amendments?

The Clerk of Bills: Technically, once the Committee reports, Consideration Stage can be sought by the sponsoring Member, but, obviously, he may well want to wait until those amendments come.

Mr Lyttle: It is in his hands.

The Clerk of Bills: Yes.

The Chairperson (Mr Nesbitt): If he feels that he is getting cooperation and that going back to the Floor of the Assembly would put that at risk —

Mr Lyttle: We are not totally slaves to the Department's timing.

The Chairperson (Mr Nesbitt): He is not.

The Clerk of Bills: The member is correctly alluding to the fact that, if Committee Stage ends before final amendments are tabled, it takes the pressure off the corresponding Department. That is why we always try to end Committee Stage at a point that allows all amendments to be received in time, which is very difficult at this stage of the mandate.

The Chairperson (Mr Nesbitt): I think that we were more than reasonable in extending our Committee Stage to the point that we extended it to. It gave us and everybody else sufficient time to get to their final amendments without taking so long an extension that we were going to be the cause of a delay.

Mr Lyttle: Is it worth recording regret or disappointment that a full, final draft of amendments was not available to us and our hope that that does not unduly delay the progress of the Bill?

The Chairperson (Mr Nesbitt): Perhaps regret but not disappointment, Chris, if we are genuinely convinced that everybody has been moving in cooperation as quickly as they could.

Mr Lyttle: Yes.

The Chairperson (Mr Nesbitt): It is my impression that this is not an occasion where the Department has been stalling the ball. I may have formed that impression in the past on other issues. We could regret that final amendments were not available to the Committee within the extended Committee Stage that we set ourselves. We could also express a hope that the final amendments are brought forward as a matter of urgency.

Mr Attwood: It seems to me that, given your assessment of where OFMDFM and officials are on this matter, it should be anticipated that the amendments will be brought forward very quickly so that Steven Agnew has the freedom or otherwise to move quickly on the far side of the summer.

The Chairperson (Mr Nesbitt): I will not second-guess Mr Agnew, but I guess that a Bill's sponsor will make a decision as to whether it is worth delaying because he or she is getting the cooperation of a Department or deciding that the only way to force it is to bring it back to the Floor of the House.

Mr D McIlveen: It is unlikely that he will do this, but we have to be careful that if amendments are brought forward now, which will happen after Committee Stage, an assumption is not made that the Committee is automatically, by default, favourable to those amendments. In essence, we have not been able to agree the Bill.

The Chairperson (Mr Nesbitt): Absolutely.

Mr D McIlveen: That should be tied in as a health warning. It cannot be assumed that we would unanimously support those amendments whenever the Bill goes back to the Floor of the House. Although we were in relative harmony today, we were that way very much in blindness.

Mr Lyttle: With a significant caveat.

The Chairperson (Mr Nesbitt): It is a fair point. Right from the get-go, we have not moved from being broadly supportive of the direction of travel, first, of the Bill's sponsor and then of the Department, which came in and said that it could be done a bit better. The Bill's sponsor clearly agreed. We have not moved anywhere from the position that the Bill is a good idea in principle.

Mr Lyttle: That is fair enough.

The Chairperson (Mr Nesbitt): We can only scrutinise what we are given to scrutinise. I thank the Clerk of Bills and the Committee staff for all their work heretofore. Thank you very much.