



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

OFFICIAL REPORT (Hansard)

**Departments (Transfer of Functions) Order
(Northern Ireland): OFMDFM**

27 January 2016

NORTHERN IRELAND ASSEMBLY

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

Departments (Transfer of Functions) Order (Northern Ireland): OFMDFM

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Andy Allen
Mr Alex Attwood
Mr Paul Frew
Mr Chris Hazzard
Mr Gordon Lyons
Mr Alex Maskey
Mr David McIlveen

Witnesses:

Mr Tony Canavan	Office of the First Minister and deputy First Minister
Mr Geoffrey Simpson	Office of the First Minister and deputy First Minister

The Chairperson (Mr Nesbitt): I welcome Tony Canavan, director of the institutional review division of the Office of the First Minister and deputy First Minister (OFMDFM); and Geoffrey Simpson, head of the institutional review division. Head of institutional review and director of institutional review — my word.

Mr Tony Canavan (Office of the First Minister and deputy First Minister): I trump.

The Chairperson (Mr Nesbitt): Does "director" trump "head"?

Mr Canavan: I am in charge.

The Chairperson (Mr Nesbitt): OK, Tony. Please make your opening remarks.

Mr Canavan: The Committee has been sent a draft of the Departments (Transfer of Functions) Order (Northern Ireland), which is one of the two key elements of the statutory framework for departmental restructuring. The other element is the Departments Bill, which is currently before the Assembly. The Bill will dissolve three Departments and rename seven, but the order will be needed to reallocate the functions of the three dissolving Departments and transfer some other functions to the future Departments.

The order will be made under the authority of article 8 of the Departments (Northern Ireland) Order 1999, which allows the First Minister and the deputy First Minister, acting jointly, to transfer and assign

functions to and between Departments and to make consequential provisions, including legislative amendments. The process behind this order started over a year ago, when Departments were invited to scope their existing statutory functions in primary legislation. This became more refined after Executive decisions on restructuring in January and February 2015, which were the subject of a statement in the Assembly from the First Minister on 2 March 2015.

The Office of the Legislative Counsel, on our behalf, asked Departments to identify statutory functions that would be impacted by the restructuring decisions, including specific provision in primary legislation. This was, in most cases, a complex operation. Legal advisers then checked returns from Departments, and the Office of the Legislative Counsel compiled a comprehensive draft. In December, the decisions announced in the Fresh Start document required changes to the work in train. Some of the previous work had to be abandoned; in other cases, the destination of functions had changed. All this has been taken on board in the draft that you have received. It reflects the allocation of future departmental statutory responsibilities set out in appendix F5 to the Fresh Start document.

I will sketch briefly the structure of the draft. It is organised by reference to the six Departments from which statutory functions are transferring and is further subdivided by reference to the future Departments that will receive those functions. Where a significant part of a dissolving Department is transferring to one future Department, there is no need to specify all transferring functions. Hence, the Department for Communities, the Department for the Economy and the Department of Agriculture, Environment and Rural Affairs (DAERA) are regarded as the legatee Departments for DCAL, DEL and DOE respectively. This is all set out in articles 3 to 8 and schedules 1 to 5, and there is much more detail in the SL1 document that you have been sent.

The enactments specified in the schedules are almost all primary legislation — that is, Acts of the Assembly, Acts of the old Northern Ireland Parliament, Westminster Acts or Orders in Council. Subordinate legislation is not included, except for two special cases. The first is statutory rules to implement EU law made under the authority of the European Communities Act 1972, and the other is the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999. Transfers refer to the functions of the transferring Departments under each provision cited. Other Departments may have functions under the same provision, and these will not be affected. In some cases, amendments to legislation are needed to give proper effect to the transfer, and these are set out in schedule 6. Articles 9 and 10 of the draft order provide for the continuity of legislation documents, legal proceedings and other activities and for the transfer of assets and liabilities.

The next steps in the process require Committee consideration of the draft. We have requested a response by 12 February. Any comments and suggestions from the Committee will be referred to Ministers and given due consideration in preparing the final version of the order. That version will need to be cleared by the Executive before being made by the First Minister and the deputy First Minister. At that stage, the made order will be sent back to the Committee and to the Examiner of Statutory Rules. The First Minister and the deputy First Minister will then seek the approval of the Assembly, as this is an affirmative resolution order. Inevitably, that will be very late in the current session, which emphasises the importance of responding to the request for views from the Committee within the deadline.

The Chairperson (Mr Nesbitt): Thank you very much indeed, Tony. Did you say at the beginning of your briefing that this started about a year ago?

Mr Canavan: It started over a year ago. It actually started before the Stormont House Agreement, in a bit of prudent preparation, for which OFMDFM is notorious, on the assumption that, should there be a result from the Stormont House Agreement, there would need to be some work done fairly quickly. We asked all Departments to examine all of their statutory functions. We did not know at that stage what was going to transfer and what would be retained. However, that was the bedrock for the work, which was subsequently refined after the Stormont House Agreement, because we knew at that point what was going to transfer. For something that was not going to transfer — for instance, DETI functions — there was no need to identify all of those by statutory provision.

The Chairperson (Mr Nesbitt): I shall tell you why I ask. The independent review of economic policy (IREP), which goes back to about 2008-2009, was the first to suggest having a single Department of the economy. Was there no thought back then as to functionality if this was to come about? As I understand it, everybody supported the principle.

Mr Canavan: I am not sure that it ever came to the Executive for a decision at that time. It was a recommendation, and I was regularly asked for information on the commitments in the Programme for Government for departmental restructuring. I fed what was happening on that into the reports on the implementation of the IREP.

The Chairperson (Mr Nesbitt): OK.

Mr Canavan: I think that the next stage, after the IREP, was the Assembly and Executive Review Committee's consideration of restructuring in 2012, and it, again, took on board the issue of a single Department of the economy.

The Chairperson (Mr Nesbitt): On the transfer of functions that you now propose to put through and the original proposals back in March, talk us through how much change there has been and where it is, please.

Mr Canavan: What has changed at OFMDFM is the idea of dividing policy from delivery in relation to community relations. That idea was abandoned. The idea of sending race relations to the Department for Communities was abandoned. The idea of sending policy on older people and the sponsorship of the Commissioner for Older People to the Department of Health was changed to sending it to the Department for Communities. The idea of sending sponsorship of the Commissioner for Older People to the Department of Education was abandoned. The idea of sending some of the former military Crown sites to the Department for Communities — we are talking about Ebrington — was abandoned, and that was retained in OFMDFM. I think that those are most of the changes in relation to OFMDFM. More widely, the main changes at the Department of Health were that it retained the Fire and Rescue Service instead of it going to the Department of Justice, which is what was originally planned in the March announcement.

The Chairperson (Mr Nesbitt): You have articulated half a dozen fairly major changes in OFMDFM and things that were abandoned. Why were they abandoned?

Mr Canavan: It became part of the negotiations in the talks that led to the Fresh Start. I was not party to those talks; it was decided at political level.

The Chairperson (Mr Nesbitt): Right. Between Sinn Féin and the DUP.

Mr Canavan: I do not know who was involved in those negotiations and at what stages. I know that, at a very early stage, when I was invited to go and speak on another issue, all the parties were there.

The Chairperson (Mr Nesbitt): The Executive Office will retain responsibility for age GFS legislation until it is —

Mr Canavan: Oh yes, this is the issue that arose last week.

The Chairperson (Mr Nesbitt): Yes. Until —

Mr Canavan: The proposal is for it to proceed with that through to enactment. That is not affected by this issue, because there is no legislation on goods, facilities and services and age discrimination yet.

The Chairperson (Mr Nesbitt): Is it not true to say that there will be other areas where policy is in development that are not being retained?

Mr Canavan: There may well be, but, on that specific issue, because the consultation had reached that advanced stage, the plan is for it to be retained and brought through by OFMDFM to the point of enactment.

The Chairperson (Mr Nesbitt): As you have made clear, there is obviously a political negotiation that has informed how this has settled down. As well as that, has there been a methodology, from your point of view, as to how you have approached the functionality and how you deal with the realignment?

Mr Canavan: I think the intention is that, ultimately, the goods, facilities and services policy for age will end up with the Department for Communities, matching what is going to pass across on age discrimination in employment.

The Chairperson (Mr Nesbitt): More generally, Tony, I accept that, if you take the full functionality of the Northern Ireland Executive, there is a lot in it. It is complex, and there are probably a lot of judgement calls to be made, rather than right answers, as it were. I am sure that there are a lot of functions that, you could argue, could rest here and, you could argue equally validly, could go there. How do you do that? Do you have a methodology?

Mr Canavan: The process was that policy papers were taken to the Executive after the Stormont House Agreement was concluded. The Stormont House Agreement referred only to the number of Departments. Papers were then brought to the Executive on the names of those Departments and the functions that might transfer between them. That was the outcome of talks within the Senior Civil Service and presumably involving the First Minister and the deputy First Minister as well in the latter stages because they put the paper to the Executive.

The Chairperson (Mr Nesbitt): When the First Minister made a statement about this back on 2 March, he said:

"This should mean ultimately greater efficiency in our Administration and improved services to our citizens."

What mechanisms will be used to monitor that?

Mr Canavan: There will be a Programme for Government that, in the expression that is used, will be "outcome-oriented" or "output-oriented". My assumption is that the Programme for Government will be the mechanism for indicating whether, during the next mandate, there is more efficiency in the operation of government than in the current one.

The Chairperson (Mr Nesbitt): I know that it is not primarily about saving money, but one might expect some financial savings. Is there a mechanism to assess what savings are made?

Mr Canavan: Some work is being done by the programme board, which is cross-departmental. It is chaired by the permanent secretary of DEL. It is attempting to identify the efficiencies and savings that will come out of all this process.

The Chairperson (Mr Nesbitt): Is there a review built in?

Mr Canavan: A review of?

The Chairperson (Mr Nesbitt): Of how the functions are working out.

Mr Canavan: There is what is called a gateway review, which has been carried out, but that was of the operation of the programme. There are no plans, as far as I can tell, for an ex post review of this process at some point in a year or two's time.

The Chairperson (Mr Nesbitt): Would that not have been desirable?

Mr Canavan: That might be a recommendation coming out of the work of the programme board and the gateway review.

The Chairperson (Mr Nesbitt): If you take it that it is very unlikely, unless you have the wisdom of Solomon, that you will take all these functions and, in one huge go, place them all in the right Departments, are you open to being persuaded by the evidence and, for example, in six months' time saying, "OK we have not got that one quite right, and we need to make some adjustments".

Mr Canavan: That could well happen. There has been one mega transfer of functions order, and that was in 1999. There were smaller transfer of functions orders thereafter, when individual functions were transferred. The most recent one that I can think of was in 2010, where there was a transfer of functions order which took responsibility for sustainable development from DOE and transferred it to

OFMDFM. It is now going back to DAERA. That is the sort of readjustment of the process over the coming years that cannot be ruled out.

The Chairperson (Mr Nesbitt): And, of course, it is happening not in isolation but with another mega policy implementation: the voluntary exit scheme. How are those two working together?

Mr Canavan: That is a side of this operation that I am not really qualified to speak on. I know that you are asking about and have written on the subject of the number of transfers of staff and the like, but my remit is confined to the legislation, rather than the organisational implications for OFMDFM.

The Chairperson (Mr Nesbitt): OK. I am sure that you are aware that a concern has been raised about employment services going to the Department for Communities, whereas the Department for the Economy also has a role to play in receiving, particularly, European funding. Is that a valid issue to raise?

Mr Canavan: We were sent an email from the Orchardville Society. The general issue is around the employment service and its transfer to the Department for Communities. That Department will have responsibility for policy and delivery on poverty, child poverty and disability, including some functions that are transferring from OFMDFM. Therefore, it will be well placed to support the most vulnerable in society and provide them with options to enter the workplace. The new Department will bring together for the first time welfare support and employment interventions, which are key levers for achieving social change. Integrating the work and benefits advice is also best practice in other European countries, including the UK and Ireland. The approach has been proven internationally to be effective.

The primary contact points with the employment service for most people on the ground are the jobs and benefits offices, of which there is an extensive network. The employment service and the Social Security Agency are co-located there. Bringing those together under one Department will produce a more effective operation and a better service for the customer. It will ensure that those trapped in the benefits system are offered comprehensive support for a return to work. DEL and DSD are working closely together on the ground and with client groups, and that will continue in any event.

The chief executive of Orchardville has concerns about the organisation's funding package, where European social fund funding is channelled from the EU through DEL. That will continue through the Department for the Economy. Match funding comes from the disability employment service, which is part of the broader employment service and will move to the Department for Communities. Many organisations in the voluntary sector receive funding packages from more than one public provider. That does not compromise their eligibility for funding. Departmental reorganisation will not impact on Orchardville's funding package. DFC and DFE will continue to work together to provide support to organisations such as Orchardville and its partners in the Supported Employment Solutions consortium.

The Chairperson (Mr Nesbitt): I am sure that —

Mr Canavan: I say that having gone to both DSD and the permanent secretary of DEL for their views on that correspondence.

The Chairperson (Mr Nesbitt): The Commissioner for Older People and the Commissioner for Children and Young People are two arm's-length bodies (ALBs) within our purview. Was any consideration given to making them truly independent bodies, in line with the Paris Principles?

Mr Canavan: Is this in reference to the Commissioner for Children and Young People's idea of making them arm's-length bodies of the Assembly rather than of the Department?

The Chairperson (Mr Nesbitt): Yes.

Mr Canavan: There may be a lot to be said for that. It certainly would be complicated. It would have repercussions, because other commissioners and arm's-length bodies currently sponsored by Departments might take the view that they would also want to become ALBs of the Assembly. It is certain that it would take thought. It cannot be done by the transfer of functions order; it can transfer functions only between Departments. It is not my area of work, but I gather that OFMDFM and, presumably, the Department for Communities in the future would be open to the idea of consideration being given to that. At the moment, the main body that is sponsored directly by the Assembly is the

ombudsman, who is soon to be the Public Services Ombudsman. It would be a significant change in the balance between the Assembly and the Executive to have more ALBs than the Public Services Ombudsman dependent on the Assembly, but there is nothing to stop that being taken forward.

The Chairperson (Mr Nesbitt): Are you suggesting that that would need more thought, as in public consultation —

Mr Canavan: It would be —

The Chairperson (Mr Nesbitt): This would be a policy —

Mr Canavan: It would certainly need public consultation. It would be considering, in particular, what the precedent would be for other bodies. There are many other commissioners, such as the Equality Commission, and many other bodies of an advisory capacity. The argument has been made for the Environment Agency becoming an ALB of the Assembly rather than of DOE or the future DAERA. All of that has implications for where the balance between the Executive and the Assembly sits. It might be one for the next mandate. It certainly could not be done through the transfer of functions order.

The Chairperson (Mr Nesbitt): Was consideration given to using this as an opportunity to introduce new policies and new functions? For example, I know that the Ards peninsula coastal group would love to see a lead Department for coastal management, but we are told that that is not a transfer function but a new function.

Mr Canavan: It is a new function, and it would require primary legislation, particularly where policies will have an impact on the ground, requiring funding, grant making etc. That could be done only through primary legislation. I must say that, since this was announced, a number of Departments have been in direct contact with me to say, "We have had an idea for a long time. Would it be possible to get it squeezed into the TOFO?". I have had to say to them, "Sorry, what you are talking about is primary legislation. It is a new policy. You have to go through the process of primary legislation for that. The TOFO is not a shortcut to primary legislation".

The Chairperson (Mr Nesbitt): On that basis, is it possible at least that, when we get to the far side of 5 May and into negotiations for the Programme for Government, we could have a lot of new functions being considered and another raft of changes?

Mr Canavan: After the election, in the new mandate?

The Chairperson (Mr Nesbitt): When we talk about a Programme for Government. Those who say, "Can we use this as an opportunity to do this, that and the other?" will maybe come back again.

Mr Canavan: They could feed into the Programme for Government.

The Chairperson (Mr Nesbitt): The Committee for Employment and Learning has a concern about the inclusion of further and higher education in the Department for the Economy. It has suggested that it may place too firm an emphasis on education for employment rather than for the wider benefit of students. Has any consideration been given to further and higher education going anywhere else?

Mr Canavan: In, I think, 2011 or 2012 there was a proposal that there should be a merger of DEL and DETI but that DEL should be split, with further and higher education going to the Department of Education. There was at that time considerable resistance, particularly from the further education sector. I think that that is one of the reasons the Executive were keener this time for those two elements of the education system to move to the Department for the Economy. The argument then was that further and higher education were actually part of the real economy rather than of the Rathgael, if I might use that expression, education system. I remember being accosted, although I had nothing to do with the matter at the time, by a leading figure in further education who made those points vociferously, and I had to tell her, "Sorry, it is not my responsibility".

The Chairperson (Mr Nesbitt): There was another concern raised by the Committee for Employment and Learning, Tony. It was about the lack of engagement with the Committee on restructuring, including the fact that it had had no sight of the transfer of functions order. Did OFMDFM, as the lead Department, encourage other Departments to liaise with their statutory Committees?

Mr Canavan: At an official level, other Departments saw the work in progress on their own bits of the transfer of functions order, but they would not have seen the completed draft until it was circulated to the Executive in December. I do not know what the plans of the Committee are, but I assume that they may be circulated to other Committees by this Committee.

The Chairperson (Mr Nesbitt): We have indeed asked for responses from other Committees, and we will be back in touch. Members, I have one final question. Anyone else?

Mr Hazzard: Chair, you touched on mechanisms for redress if any of the functions have not gone to the right place. Tony, you are saying that, once the functions have gone, there will be no review in 12 months' time. There are no measures in place to look at things again.

Mr Canavan: There are no plans at the moment for a review, but, as I said, that is not to say that, coming out of the work of the programme board, which has had an external input through what is called the "gateway review" and will have again shortly, there will not be a recommendation for a review of the process. The theory on ex post reviews varies on whether they are best done after one, two or three years. It is dependent on the nature of the changes. However, that could be a recommendation coming out of the programme board.

Mr Attwood: I want to confirm some matters that were touched on last week. When the affirmative resolution comes to the Chamber —

Mr Canavan: Sorry, Mr Attwood, I cannot hear you.

Mr Attwood: I want to confirm some matters from last week to begin with. When the affirmative resolution comes forward from FM and dFM —

Mr Canavan: Sorry, I cannot hear.

Mr Attwood: When the affirmative resolution comes forward from FM and dFM and goes to the Chamber, it cannot be amended.

Mr Canavan: No. It is affirmative resolution; it is either affirm or reject.

Mr Attwood: And there is no procedure to amend any part thereof.

Mr Canavan: No. In this case, the process is that it is being given to the Committee in draft. The Committee may make recommendations. Those will be taken into account in the finalisation of the order, and it will then be given to the Executive for their view and approval. It will then be made by FM and dFM.

Mr Attwood: You will have heard last week that, on the face of it, there is a tension between retaining the power to appoint a commissioner but not retaining the policy function in OFMDFM. That happens in respect of the Children's Commissioner and the Older People's Commissioner. Could you explain the thinking in that regard? Why retain the power of appointment and not retain the function fully?

Mr Canavan: The view was taken that the two commissioners were important figures with an important role to play and that it was important that they should have the confidence of the First Minister and the deputy First Minister. Therefore, the First Minister and the deputy First Minister play a role in the appointment of those two commissioner posts.

Mr Attwood: That argument could apply to multiple other public posts.

Mr Canavan: It could. It applies to some others, such as the Police Ombudsman, as I mentioned before.

Mr Attwood: I think that that was the only one that you were able to mention before. Are there any others?

Mr Canavan: I cannot recall any others in the field of OFMDFM and where FM and dFM make that appointment. In the case of the Equality Commission, the Secretary of State makes the appointments, although the commission is sponsored by OFMDFM.

Mr Attwood: It is curious that you mentioned the Police Ombudsman because, whilst it was not agreed — nothing was agreed in the negotiations last autumn — it appeared that the appointment of the Historical Investigations Unit (HIU) director, which was originally proposed to be in the hands of FM and dFM, was moving to the position of being appointed by someone other than FM and dFM. I do not think that I am overstating that. I am just pointing out that there were indications last autumn that decisions on the appointment of senior posts that were proposed to be made by FM and dFM were going to other places. I am just pointing out that, whilst there may be an argument about strategic appointments by FM and dFM, that argument seemed to be moving in a different direction last autumn when it came to the appointment of the HIU director. Save that argument about their being significant posts, is there any other argument why the FM and dFM wanted to hold on to that power of appointment?

Mr Canavan: No. As I said, the significance and importance of those two positions led FM and dFM to want to have a situation where they could be sure of having confidence in the postholders. I should say that, whether it be the two commissioners or the Police Ombudsman, those appointments are made on merit and are subject to the oversight of the Commissioner for Public Appointments. However, Ministers are meant to have a role at the very end in all public appointments, and, in the case of those three, the expectation was that FM and dFM would make the final decision on the appointment on the basis of the recommendations of an independent interview board.

Mr Attwood: The appointment that you do not recall at the moment is the appointment of the Victims' Commissioner, who is also appointed by OFMDFM: is that not right?

Mr Canavan: The Victims' Commissioner is appointed by OFMDFM. It remains with the Executive Office. So, there will be no separation between the sponsorship and the appointment.

Mr Attwood: That is one that you did not recall last week or this week, and, curiously, that is the one that gives me concern about why OFMDFM is retaining the power of appointment of the two other commissioners, given the experience of the Victims' Commissioner and the dog's dinner that has arisen in respect of that appointment. It does not give you great confidence that these matters will necessarily be handled in the best way. That is why I firmly believe that the appointment should have gone to the new sponsoring Department rather than being retained by the FM and the dFM.

Mr Geoffrey Simpson (Office of the First Minister and deputy First Minister): Mr Attwood is just making the point that the Victims' Commissioner is appointed by OFMDFM and, as he sees it, that has not been a very successful appointment.

The Chairperson (Mr Nesbitt): I hope that you are not offering me a bowl of Winalot, Alex.

Mr Attwood: There was no reference to anybody in the room.

Mr Lyttle: The Statutory Committees have two weeks in which to gain sight of the transfer of functions order, consider it, consult people and respond to OFMDFM. Is that a reasonable time to undertake that work?

Mr Canavan: It is a pressured situation, and everyone involved has been clear that it will be a pressured situation from the point when this was unblocked by the Fresh Start Agreement. My apologies, but we have been moving as fast as we can. It is not an ideal situation. Ideally, I would like to have been at this situation two months ago, but we had to change tack fairly significantly after the Fresh Start Agreement.

Mr Lyttle: How long do you think would be a reasonable time to give Statutory Committees on the matter? Did you say "two months"?

Mr Canavan: No, I said that I would like to have been at this situation two months ago, but there will be a number —

Mr Lyttle: How long would you like to have given us?

Mr Canavan: After 12 February, a number of things will happen. There will have to be a revision. I assume that you will make some recommendations. We will give a view to the First Minister and the deputy First Minister on the recommendations made by the Committee. That might mean a revision of the order, which will then need to be cleared by the Executive and to come back to this Committee to meet the Standing Orders requirement for consideration by a Committee of a statutory rule. At the same time, it would go the Examiner of Statutory Rules for his consideration. When you take into account the fact that we will have to go to the Assembly at the very end of the mandate for an affirmative resolution debate, the pressure is really coming from that side.

Mr Lyttle: Chair, there is little point in my scrutinising the officials for the reasons for the delay, but having a pattern of delay when we are trying to work on items of business in the Committee and then for the Department to come to us and say, "You have two weeks to respond" to something of this significance is really disappointing, and it is not the correct way to do government, frankly.

I have one last question. How do you consult Ministers in relation to the proposed transfer of functions order?

Mr Canavan: We consult Ministers through the Executive process.

Mr Lyttle: Has that taken its course?

Mr Simpson: Yes.

Mr Canavan: Yes. In this case, the decision was taken by urgent procedure, but there had been correspondence with all Ministers. They were circulated in December with the text of the transfer of functions order, and almost all Ministers replied.

Mr Lyttle: How did they reply?

Mr Canavan: I am not at liberty to talk about internal Executive correspondence.

Mr Lyttle: OK. Did Ministers raise any recommendations or concerns in relation to the transfer of functions order?

Mr Canavan: Various Ministers gave their views, but that is an internal Executive process, and I cannot really discuss it.

Mr Lyttle: OK. What is the difference between a Minister having a view and a Statutory Committee having a view?

Mr Simpson: The Executive procedure is confidential, and the decision is as the Executive have taken it.

Mr Lyttle: OK. Were there many recommendations raised as a result of the Executive process?

Mr Simpson: The Executive agreed the draft transfer of functions order.

Mr Lyttle: OK. Is there no further opportunity for other recommendations to be considered via Ministers? Is it purely Statutory Committees at this stage?

Mr Simpson: You can come from the Statutory Committee, and then, at that stage, the Executive will see the comments.

Mr Lyttle: OK.

Mr Attwood: It was urgent procedure, not Executive agreement.

Mr Canavan: I checked this with the Executive secretariat. It is regarded as such but was subsequently tabled and that was done —

Mr Attwood: It is tabled for noting, as opposed to being a fully fledged Executive discussion leading to agreement. There is a difference.

Mr Canavan: Yes. There is a difference.

Mr Attwood: It will ultimately make no difference in terms of the legal authority, but the process leading to that authority is different.

The Chairperson (Mr Nesbitt): OK. It is probably something that could be taken up with the Ministers in a couple of weeks' time when they are with us.

Tony, I have one last question. As I said, under our new regime we will have an Executive Office and, below that, eight Departments. They are, variously, the Department of, the Department for, the Department of, the Department of, the Department for, the Department for, the Department of and the Department of. What is the difference between "the Department of" and "the Department for"?

Mr Canavan: There is no particular difference, although I do not know why, for instance, "Department for Infrastructure" takes preference over the "Department of Infrastructure", but that was the agreement that the Executive reached last February. In all the documentation since then, we have adhered rigorously to it. Of course, it is in the Departments Bill, and once the Bill is passed it has the force of law.

The Chairperson (Mr Nesbitt): Was no consideration given to making them all one or the other?

Mr Canavan: I think that "Department for Communities" carries a better import than "Department of Communities".

The Chairperson (Mr Nesbitt): Why is that?

Mr Canavan: It is an indication of mission, I suppose.

The Chairperson (Mr Nesbitt): Would the Department of Health not be better named as the "Department for Health" because we are for health?

Mr Canavan: There is a long history of the Department of Health and the Department of Education.

The Chairperson (Mr Nesbitt): And Department of Justice — would it not be better as the "Department for Justice"?

Mr Canavan: Well — [Laughter.] I think that these are little inconsistencies we can all live with.

The Chairperson (Mr Nesbitt): So is there no rationale.

Mr Canavan: There is no rationale. When you see the determination of ministerial functions, you will find that it will be "Minister for Infrastructure" and "Minister of Health" to align with all that.

The Chairperson (Mr Nesbitt): Fantastic. Tony and Geoffrey, thank you very much.