



Northern Ireland  
Assembly

Committee for the Environment

# OFFICIAL REPORT (Hansard)

Climate Change Legislation and Independent  
Environmental Protection Agency:  
Mr Mark Durkan MLA (Minister of the  
Environment) and DOE Officials

3 March 2016

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Ms Anna Lo (Chairperson)  
Mrs Pam Cameron (Deputy Chairperson)  
Mr William Irwin  
Mr Alban Maginness  
Mr Barry McElduff  
Mr Ian Milne  
Mr Alastair Patterson

**Witnesses:**

Ms Helen Anderson	Department of the Environment
Ms Nicola Creagh	Department of the Environment
Ms Liz Loughran	Department of the Environment
Mr Leo O'Reilly	Department of the Environment
Mr Mark Durkan	Minister of the Environment

**The Chairperson (Ms Lo):** You are very welcome, Minister. Sorry for keeping you a bit late. I welcome the Minister, Mr Durkan; Mr Leo O'Reilly, permanent secretary; Nicola Creagh; Liz Loughran; and Helen Anderson. You are all very welcome. Good to see you all again. This will probably be the last time that we see the team before the Assembly is dissolved.

Members, on page 5 of the papers there is a discussion paper on the proposals for taking forward the Northern Ireland climate change legislation. The Minister will also discuss the outcome of the discussion paper on an independent environment protection agency (EPA); that is on page 4 of your tabled pack. We will probably ask the Minister about a number of issues; for example, the transfer of DOE functions to the new Department and the protection of historic buildings. I remind everyone that this session is being recorded by Hansard. Minister, do you have an opening statement for us?

**Mr Durkan (The Minister of the Environment):** Thank you, Madam Chair. As I said last time I visited the Committee, I am happy to forgo an opening statement; I do not want to eat into the limited time for members to put questions to me. I am sure that, if there is anything that they have missed or that I would like to get off my chest about the work that the Department or I, as Minister, have been doing or intend to do in the limited time that I have left, I will certainly volunteer that information.

**The Chairperson (Ms Lo):** OK. Maybe you can tell us a bit about the climate change conference and what you got out of it.

**Mr Durkan:** It is very important that I went to the climate change conference and that we, as an Assembly, and the North as a region were represented at it. It might be unique in that it was an overseas ministerial trip that did not draw criticism from any quarter — not even from the climate change deniers among us or out there. That was very positive, and it showed an acceptance by people, the media and politicians here of the importance of the subject. That was probably aided by the widespread national and international media coverage of the conference. I think that people realised that it is important that we, as a region, have a part to play, and there we were trying to play a part, showing leadership by going there and having the voices of Northern Ireland heard there. That is what I wanted to do, and I believe that that is what I did.

As for the outcomes, the conference started with great optimism in the first week. However, by the end of the first week of negotiations, that optimism seemed to wane, and agreement looked less likely. Then I arrived — *[Laughter.]*

**Mrs Cameron:** On a white horse?

**Mr Durkan:** Then I arrived, and things got back on track.

**The Chairperson (Ms Lo):** Delighted to hear that.

**Mr Durkan:** There was a positive outcome, although, in my opinion, it could have gone further. However, agreement is about compromise, and, on the whole, everyone should be reasonably satisfied with the targets that were set at the conference. Those now have to be signed off by individual countries and member states, and that will come out next month. Obviously, we do not have to — the UK will — but, as I said, it was important that we fed into the UK position, as did the Environment Ministers from Scotland and Wales.

**The Chairperson (Ms Lo):** I am sure that that has strengthened your resolve to bring in the climate change Bill. You have issued the issues paper and have received responses from stakeholders and the public. Where do we go from here? What is your next step?

**Mr Durkan:** I do not know that I would say that it has strengthened my resolve, but it has convinced me that our climate change legislation here is desirable and necessary. In fact, it is the only way to go. Of the regions represented at COP21, we are in a very small minority in not having our own climate change legislation. All the other jurisdictions on these islands do and are not hiding behind UK legislation.

I have alluded before to the nature of agreement and compromise. I was struck by the involvement in and input to the COP21 negotiations of industry, big multinational and global players on the business stage. That is very important because when we hear scepticism about the merits of legislation here, that is generally where it emanates from. Therefore it is important that we have involvement from that sector. The discussion paper that you mentioned has gone out, and we have got responses. While the responses have been overwhelmingly in favour and supportive of the need for us to introduce our own climate change legislation here, it has been by no means unanimous. There has been a degree of opposition, largely from the agrifood industry, which, I think, we all recognise as vital to our economic recovery and survival in the North. That underlines the importance of working with that sector and with others as partners in drawing up bespoke legislation for our unique circumstances.

**The Chairperson (Ms Lo):** Are you going to bring further draft legislation to your ministerial colleagues before the end of the mandate?

**Mr Durkan:** You will be aware that the sands of time have almost run out on my time in office. I am not sure that I will have time to do that. I will have circulated the findings and my analysis of the consultation that I have done on this. I will certainly make it known that it should be a top priority for the incoming Minister in the new Department. Hopefully, I will be back in the Assembly to make it known.

**The Chairperson (Ms Lo):** I am sure that you will.

**Mr Durkan:** It is essential that the Assembly pass climate change legislation in the next mandate.

**The Chairperson (Ms Lo):** Do you think that it is an advantage that the issue of climate change will go into the new structure of DARD and DOE together, given that, as you said, the agrifood industry is totally opposed to it?

**Mr Durkan:** I am not sure that we could say that it is "totally opposed".

**The Chairperson (Ms Lo):** It is not totally opposed, but it is opposed to it.

**Mr Durkan:** What you get in representations from that sector is that they are already doing x and y but are just not doing x, y and z. So, they are doing this. A lot of them are going beyond environmental compliance as it is. They are doing so not only because of the environmental benefits but largely because of the economic benefits that it brings to business. I have also tried to highlight this through the work of my Department, particularly through a world-leading initiative that we have kick-started on prosperity agreements and a prosperity panel that I set up, where we work with businesses to go beyond compliance. They see the huge financial benefits of doing so.

From an agrifood point of view, you have to look at what commercial advantage this might give farmers or producers of food here, with the clean, green image that sells so well across the world. We should work with the industry on that as well.

You, madam Chair, as have I, have expressed concerns that bringing environmental policy and agriculture together in one Department might not necessarily be so much an amalgamation of environment with agriculture as a subsumption. However, it also creates opportunities, and this is one. It helps us to have people under the same roof, hopefully working towards the same goals.

**The Chairperson (Ms Lo):** It was interesting, Minister, to read the responses from the agrifood industry, as they are the same issues as I heard many years ago about the lack of scientific evidence and measurement. Why has nothing been done to assure the agrifood industry that it will be a win-win situation?

**Mr Durkan:** It would probably be unfair and inaccurate to say that nothing has been done to reassure them. As I stated, many of them are already going beyond environmental compliance and seeing the wins that that is putting in their pockets. The responses are very much the same. It was largely — I anticipated this without the consultation — a case of rounding up the usual suspects: the same people opposing this using the same arguments. The fact is that there is even more and more compelling scientific evidence now on climate change and the need for us to act on it.

**The Chairperson (Ms Lo):** We mentioned the transfer of functions. How confident are you that NIEA, sitting in the new Department, will have high priority for the protection of the environment and get adequate resources to carry out its duties?

**Mr Durkan:** I made no secret of my concerns that that amalgamation might have a negative impact on government commitment to environmental protection and the promotion of our natural environment. Those concerns are not exclusive to me. You have articulated other views, Madam Chair, as have some members here, as indeed has the environmental non-governmental organisation (NGO) sector. Those are concerns that I listened to and acted on. I ensured at official level that intensive work has been ongoing between officials in both Departments as we work towards the establishment of the new Department.

I have also done all that I can to give security to the environmental NGO sector so that it will receive some degree of protection. It is not the sector that I am looking to protect but more the function that it exercises on behalf of the Department to enable us to meet our targets, be they directives imposed by Europe or our own Programme for Government targets. I established a natural environment fund, which should give those groups assurance not just for the next financial year but, for some of them, for a couple of years beyond that. I employed the carrier bag levy to do so. That is a good use of that fund and meets the commitment given by Alex Attwood and then by me that any money generated through the carrier bag levy is ploughed back into projects that benefit and protect our environment and community.

**The Chairperson (Ms Lo):** I would like to stop here and welcome the delegation from the Jordanian Parliament clerking and research group. Good morning, you are very welcome. We are having a briefing with our Environment Minister.

**Mr Durkan:** We met earlier. I have lost the baby.

**The Chairperson (Ms Lo):** That brings me to the next question on the need for and the progress of an independent EPA.

**Mr A Maginness:** Thank you very much, Chair. Last week, we went on a very interesting visit to Mobuoy, where we saw at first hand the ravages wrought on the natural environment by illegal dumping. It was extensive and has caused serious problems in that part of County Derry. There is great danger of that affecting adversely the River Faughan. Of course, it is under investigation, and there may well be a criminal trial, so I do not want to go into that. However, in my opinion, it highlights the need for an independent environmental protection agency. It seems to me that, whilst we have hitherto talked about an independent environmental protection agency almost in the abstract, we are coming to a stage where we will have the transfer of functions, and amongst the functions transferred will largely be the functions of the Department of the Environment into a Ministry encompassing environment and agriculture. In that situation, there will be a great force of argument for an EPA, because there will be a political tension — there is absolutely no doubt — between the priorities that the environment side of the Department will wish to set and the priorities that the agriculture side of the Department will wish to set. It seems that there is now an inescapable argument in favour of an independent environmental protection agency.

I noted the interesting comments and indications from various sectors, including district councils as well as other bodies, largely supportive of an independent agency. I want your response to that. I know that you are supportive of some body, in general terms, but what is your thinking now, on the eve of your departure from office? Perhaps that might help to shape and form future political opinions in the Assembly.

**Mr Durkan:** Thank you, Alban. I hope that you all enjoyed your trip to Mobuoy. I do not know whether "enjoy" is the correct word; I hope that you endured it OK. It is a vast site, and the scale of the illegal dumping that went on at it is incomprehensible. I remind members that it was the work of criminals and not the work of the NIEA. However, the Mills report, which was commissioned by my predecessor, outlined the fact that, had the NIEA been on top of its game and doing things better, that incident could have been avoided or, certainly, its impact greatly reduced. We have taken the Mills report on board and have implemented most of its recommendations in order to get the agency fitter for purpose to close the gaps that are so often and so well exploited by unscrupulous criminals whose interest is only in lining their own pockets. They do not care if that is at the expense of other people, and they certainly do not care if it is at the expense of our planet.

Alban knows well my views on the need for an independent environmental protection agency. All the other jurisdictions on these islands have one, and it works well in those areas. I know that concerns have been raised from some quarters about setting an EPA free and the fact that it would not be accountable. We do not have to look a million miles away to see how it can work well with and for government and for our people. The restructuring of Departments provided a great opportunity to reopen the debate, and that is what I have done. The debate has been a good one, and I think that it will continue to be a good one. The public consultation document, if we can call it that, or the discussion paper elicited some 50 responses that were overwhelmingly in favour of establishing such an agency. There was some opposition from what I will call the usual suspects — the UFU and NIPSA, which had concerns about employment prospects or the terms and conditions of its members who work in the agency in the Department.

It is vital that we keep the subject on the table and that, as we move into the new Department, we look at the performance of the NIEA and the treatment of the Environment Agency in the new Department, what budgets it receives and how the environment is prioritised in the Department. I know that the people around this table are all passionate about the environment, having spent time on the Committee. We all have a duty to go back to our respective parties and ensure that this is not something that is just discussed ad infinitum but is pursued. It was probably remiss of me when we were chatting in response to your earlier question, Madam Chair, about the new Department and your concerns and mine that the environment would not be front and centre of everything that the Department would do. The initial proposal to the Executive was that the new Department be called the Department of Agriculture; they had not even recognised the environment in the name. However, I am happy to say that that is at least one battle that I fought and won at the Executive: have "Environment" in the title of the new Department and there will be no running away from it.

**The Chairperson (Ms Lo):** I think that the two Alliance Ministers were vocal in support of adding the name.

**Mr Durkan:** I appreciated that support.

**The Chairperson (Ms Lo):** It would have been ludicrous not to have "Environment" in the name of the new Department.

**Mr Durkan:** The Executive wanted one-word titles, and surely "Environment" encapsulates "Agriculture" rather than the other way round.

**The Chairperson (Ms Lo):** Quite right.

**Mr A Maginness:** Thank you for your response to that question, Minister. I genuinely hope in the next mandate that people will keep an open mind on the issue and not take up rigid positions and polarise the debate.

Another problem that has local resonance for me as an MLA for North Belfast but also throughout Northern Ireland generally is knotweed. Your officials attended the meeting last week on this. Unfortunately, I was not able to attend that aspect of the meeting because the Business Committee was meeting the Assembly. We have a response today from a member of the public about knotweed, and it is important that we take that on board. It is Mrs Atkinson; I think that you are familiar with her case. I will not go into the case, save to say that it highlights an issue that I have presented to the Committee before. Yes, efforts are being made by district councils and by other public bodies, including the Housing Executive, to deal with this pernicious problem, which is now, unfortunately, endemic in certain areas of Northern Ireland and has the potential to spread and cause further destruction to the environment. It could undermine buildings etc and devalue property. However, an issue raised by this and other cases is that knotweed grows in land that is abandoned or not owned by a private individual or, indeed, by a public body. Knotweed is invasive and can undermine adjoining properties that are owned by individuals, but neither the Executive nor the Department has a policy on treating that problem. That seems to me to be avoidance, perhaps evasion, of responsibility by the Northern Ireland Executive. I raise that issue with you. Something has to be done, because this is a public nuisance affecting individual citizens. I emphasise that point and take the opportunity to highlight the issue with you today, Minister.

**Mr Durkan:** Thank you, Alban. Japanese knotweed causes me a lot of headaches as Minister and a lot of people heartache right across the North and beyond, because of the nuisance that it causes and the expense and difficulty of combating it. From your legal background, Alban, you will be aware of some of the issues that affect our ability to take people on over knotweed, even where we can identify the owner of the land that the problem is emanating from. Unfortunately, in the case that you referred to — I appreciate that you may not want to go into the details — the problem is coming from land that no one is claiming ownership of, and it is no wonder when you look at the expense of treating Japanese knotweed.

You referred to the paper that was brought to a previous meeting here. I asked my officials to do more work on the issue. More work needs to be done. There needs to be a greater understanding of the problem and ways of treating it. I have asked officials to monitor pilot projects in England. A superbug has been brought over from Japan that, hopefully, only eats Japanese knotweed. Rather than run a similar pilot here — there is the risk of bringing in another invasive species — we are monitoring that work. The Department also funds work by conservation volunteers to treat knotweed in certain areas. All that, I am sure, is cold comfort to those living with the nightmare of knotweed day and daily. It is like something out of 'Doctor Who'. It comes through the doors and through walls. I see it as analogous to sectarianism and prejudice in Northern Ireland: it is always there underneath; it is extremely expensive to treat; and it undermines structures. That is why I am looking at bringing in something from elsewhere to help us deal with it.

**The Chairperson (Ms Lo):** That is a novel way of doing it.

**Mr Durkan:** I would seriously hope to have the paper that was brought to the Committee worked up into an Executive paper or a memo, at least, for circulation round Executive colleagues. There is the need for a collective approach, given land ownership issues. I am not trying to pass the buck when it comes to the DOE or the Environment Agency taking responsibility, but, where there are issues with

land ownership or where the land was in public ownership and, I believe, still is, you need to have the right people round the table to put their hand up and admit to that and to take responsibility for it. The community planning process in the new councils might yield some benefits as well by bringing people from the appropriate agencies round one table. You know that, when you have people round one table looking at each other, it is harder for them to pass the parcel.

**Mr A Maginness:** I thank the Minister for that, and I hope that it will be a priority for the incoming Executive to deal with this pernicious problem.

I just want to take the opportunity to thank you, Minister, for your work over the past number of years. I think that you have done significant work on enhancing protection for the environment and other matters, including dealing with the problems arising out of road traffic accidents and so forth. I want to thank you for that work.

**The Chairperson (Ms Lo):** Hear, hear.

**Mr Durkan:** I was thinking that, if further work were done across Departments to identify how much money individual Departments had to spend tackling the problem of knotweed, it would certainly be a good way of helping to concentrate minds on a solution as well.

**The Chairperson (Ms Lo):** Last time, officials said that the challenge fund could have a project to deal with the issue.

**Mr Durkan:** Like I said, money has been allocated to conservation volunteers who have been working on the issue. I have been out on site with them and have seen the work that they do. It is so vast. The treatment of this invasive species is so prolonged and difficult. You cannot just come along and spray it and then it goes away; you have to keep coming back at it, or else it keeps coming back. You just do not want to make it angry.

**The Chairperson (Ms Lo):** That was the impression given to us, though, by the officials at the meeting. They said that you could just buy chemicals at a shop and spray them on it. I think they said that it takes two to three years, although Mrs Atkinson has written back and said that that is not the right way to do it. It takes seven to 10 years and is an expensive process.

**Mr Durkan:** It is a war, not a battle.

**The Chairperson (Ms Lo):** Ian, do you want to come back about the EPA?

**Mr Milne:** No, but I would like to ask the Minister about another issue. Thanks for your presentation — sorry, your presence here this morning.

**Mr Durkan:** I hope I get lots of presents. *[Laughter.]*

**The Chairperson (Ms Lo):** I am sorry that we will not be able to give you a going away present.

**Mr Durkan:** It is my birthday today.

**Mr Milne:** Oh, right. Happy birthday, Minister.

I want to go back to Alban's point about the visit to Mobuoy. It was only after being there last week that we saw the extent of the operation to place, probably, a million tons of waste across 100 acres at a depth of, on average, 4 metres. From here on in, are you confident, regardless of whether there is an environmental protection agency or whatever and given that the here and now is on us, that that will never happen again? You say that criminals were fit to do that, but they manipulated government agencies, councils and all the rest of it along the way, so what protections are there now?

My second question about Mobuoy is this: who will fund the clean-up? We have been told that a document on how they intend to deal with it will be issued at the end of the year. Who will foot the bill for that? Thanks, Minister.

**Mr Durkan:** Thank you, Ian. Again, I acknowledge the scale of the site, the problem and the crime. It is important that we do everything we can to assure the public that every step that can be taken is taken to ensure the safety of the local drinking water supply, in particular. The site is adjacent to the River Faughan, from which 60% of Derry's drinking water comes. To that end, we have been working very hard to ensure that there is no leachate or that going into it. I have asked for increased water monitoring. Obviously, Northern Ireland Water carries out its own monitoring, and it has found there to be no issue to date. Again, I have asked for even further monitoring. I live just half a mile away from it, and I drink the water. I might not be a great advert for it, right enough; it makes your hair fall out.

**Mr Milne:** It makes you grow tall.

**Mr Durkan:** Sorry, Ian. I went off on one there.

**Mr Milne:** Are you sure it was water? *[Laughter.]*

**Mr Durkan:** Uisce Beatha.

The clean-up will be expensive. I had a preliminary look at a report brought to me by officials that gave a range or menu of solutions and prices. It will not be done or decided on overnight. Like I said, there are options, the most expensive being to take out all that is there. However, we have to look at what is best for the environment. There is every possibility that disturbing waste that has been there for that length of time would actually create a greater risk to the environment. Other options include treating the waste where it is. The option that will be decided on will be the one that is best for the environment. However, we have to ensure that it is also the one that provides best value to the public purse.

I am firmly of the belief that the polluter should pay. It would be naive to expect that you will get a polluter anywhere to foot this bill, but it is important that we get off them everything that we can. That case is now before the courts, so I cannot comment too much on that. However, I am hopeful of a positive outcome for the environment from that. It is also important in sending out a tough message to existing and potential waste criminals. In the past, the courts may have been overly lenient and the deterrents have not matched the potential harm and damage done by this sort of crime. It is certainly not a victimless crime. It causes huge damage to the environment. It also costs the public purse a fortune. We are talking about the cost of clean-up, but we have spent £1.2 million on-site to date.

**The Chairperson (Ms Lo):** And that is only on investigation.

**Mr Durkan:** Yes. As regards safeguards to ensure that this sort of thing does not happen again, obviously we can never say "Never". The handing down of tougher sentences would go some way to acting as a deterrent. However, by implementing the recommendations of the Mills report, we have closed the gaps that were exploited. There were gaps in the NIEA. We certainly hold our hands up and admit that. There were issues around planning as well. There were issues with the local council. Where things are not tightly meshed, there will always be people who look for space to exploit for their own ill-gotten gain.

**Mr Milne:** Thanks very much, Minister. I will not take up any more time, because I know that you probably want to get away.

**The Chairperson (Ms Lo):** Barry wants to ask about environmental protection.

**Mr McElduff:** It relates to environmental protection. I am very aware of the massive concerns in a number of communities. I will even go into two counties here. In Tyrone, it is not so much the gold-mining per se but the use of a cyanide processing plant, as it might be described. Secondly, there is the oil drilling near Carrickfergus. What assurances can the Minister and the Department offer those communities, who are fearful that this could lead to major public health issues and pollution of drinking water, rivers etc?

**Mr Durkan:** Thank you for the question, Barry. It is not like you to go beyond one county. *[Laughter.]* I will start with the concerns that exist in the Greencastle community in your constituency. I am well aware of those, having met some representatives of the community up here a few weeks ago along with your party colleague. I think that they were having a public meeting down there last night as well.

**Mr McElduff:** That is right.

**Mr Durkan:** It is evident that there are serious concerns. I would probably say that those concerns are well justified given what they have heard about some of the proposals coming forward.

To date, no planning application has been received on this. What you see now are the outworkings of a pre-application community consultation. That is something that has to be carried out on major and regionally significant proposals. It is something that I introduced, and I think that it is good. Previously, if you look back a couple of years, you will see that the first that people in the community might have heard of this was when they got a letter from Planning Service saying, "This has been proposed down the road from you. You have two weeks to get your objection in". This has allowed time for the community to seek further information and further clarification. It is time that the applicant should use to engage with the community to allay any concerns that the community has.

Naturally, people will be concerned as soon as they hear that cyanide will be put into the ground, but, as I said, the company might have a way of presenting that to them that will go some way to allaying those concerns. I am not sure that it will. I have not yet met the company to discuss the proposals, although it has sought and is seeking a meeting with me, so, I will meet company representatives. The company will probably expect to engage with the community again on the issue. I know that it has kindly invited me down to the area. I have said that I will get down, but, unfortunately, I have not yet got a date to meet the company and to see at first hand the area that it is talking about.

I am aware of the concerns about InfraStrata, which you alluded to. You referred to it as oil drilling. What is going on at the minute, although there are huge concerns about it, is exploratory drilling. It is being done under permitted development rights that did exist. While that permitted development was granted by the Department, responsibility for it has now passed to the council. During that time, further information has come in. It is a matter of public record that I had written to the council to suggest that it might wish to revisit or at least re-examine the granting of permitted development rights. In any case, what the company is doing there is legal.

I have also made it known to my officials that I would like to look at the issue of permitted development. While it is great that you might not need to go through the rigmarole of the planning process for smaller agricultural buildings or minor house extensions, it is hard to envisage why something of the scale of what is going on in Woodburn should not have to apply for planning permission. Again, that is something that there has been a lot of public interest in. I have had a letter about it from the Incredible Hulk. *[Laughter.]* I think that I made him angry. As I have said, jurisdiction for it has passed to the council. Should the exploratory drilling find a resource in the ground that the company thinks it worthwhile to exploit, it would have to come in with a full application, which would be the subject of huge scrutiny.

**The Chairperson (Ms Lo):** Would it go to the strategic planning division?

**Mr Durkan:** Yes, I envisage that it would.

**The Chairperson (Ms Lo):** Alastair, you have been very patient. He was the first to say that he wanted to ask questions.

**Mr Patterson:** Thank you, Chair, and thanks to the Minister and departmental officials for being here. I should start by wishing you a happy birthday; enjoy the rest of your day, whatever is planned.

After the recent storm and flooding issues that we have had across Northern Ireland and, of course, the UK, what plans are being put in place or have been put in place to work towards flood prevention in the future? It is a cross-departmental issue. We had a very nice photocall at one stage at which promises were made about all the things that would happen in relation to flooding. Which Department will take the lead?

**Mr Durkan:** Thank you, Alastair. When it comes to flooding, my Department has a couple of responsibilities. We have responsibility for climate change policy, and the longer climate change goes unchecked, the more frequently we will see and feel severe weather events such as flooding. That just allows me to re-emphasise the need for us to introduce climate change legislation here.

The DOE also has responsibility for an emergency financial assistance scheme, which has been well publicised and well taken up since it was introduced in 2007. It allows up to £1,000 to be paid to

households that have suffered as a result of flooding. The payments are issued through councils, which is why DOE runs the scheme, and they can be issued virtually immediately. A building control officer or environmental health officer can attend the scene and basically write a cheque. It is not a compensation payment, but it allows people who have suffered the damage and distress of being flooded to make their home habitable as soon as possible.

As far back as November 2014, I tabled at the Executive a paper seeking to amend the scheme to make it a standing scheme, so that I or whoever the Minister with responsibility will be did not have to go along every couple of months to ask for permission to open the scheme. I wanted it to be a standing scheme, as that would have allowed it to work even more quickly if there was a severe and unexpected weather incident. I also wanted to extend the scheme so that it could apply not just to households but to small businesses, community facilities and churches, which cannot avail themselves of the scheme. I became aware of that when a church in my constituency was flooded. Officials told me that it was not a house. I tried telling them it was the house of God — *[Laughter.]* — but to no avail. As one of them said, "He can walk on the water".

I tabled that paper and redrafted it and redrafted it. I think it was at version No 6 come December. It was at that stage, at Westminster, that George Osborne announced a flooding fund. I sought DFP clarification of whether there would be a Barnett consequential and we would get a slice of that cake to deal with the flooding that we were facing here in the North. After asking and asking and asking, we elicited the response, "Yes, there will be £1.3 million". I believe that, had it not been for me asking and asking, that money would not have been used to deal with flooding here.

It was decided by the Executive, quite correctly, that that money should be put into flood prevention, mitigation and adaptation rather than given to me or whatever Minister to dole out in compensation payments. Prevention is definitely better than cure. Schemes and proposals were brought forward by the DARD and DRD Ministers for how the money could be spent on strategic schemes that would alleviate repetitive and serious flooding in some areas. That had my full support.

In the meantime, my request to have the emergency financial assistance scheme extended just kept bobbing along and was not going anywhere, so I have tried to keep that to the fore. Having sat on it for over a year, the Executive decided that it would be better progressed by DARD and DFP. That was voted on, I think, on 20 January, but there has been no further progress. I have not heard any more about it, even though I wrote to ask for an update.

I was particularly concerned that businesses and community facilities that suffered flooding during our most recent spate, in December and January, would not be able to avail themselves of the scheme even if they were eligible. I think now that that ship has sailed, and they will not be eligible. Other schemes are being brought forward by ministerial colleagues. The Minister of Agriculture and Rural Development has announced an individual property protection scheme, which is a very good one, so that people who live in areas that are prone to flooding can avail themselves of a grant of, I think, up to £10,000 to put in flood protection measures around their home. I think that that is to be extended to businesses as well.

**Mr Patterson:** Minister, I hear what you say about that flooding fund, and I appreciate that you made the efforts and have pushed that ahead. Sadly, it has not been extended to businesses and, as you mentioned, community groups, churches and the like. All of those suffered a great deal of damage. It is all very well talking about these things, but, when something like this happens, people look for some sort of assistance. It is incumbent on all of us to push for something like that to be put in place at least as an emergency fund, so that businesses can get £1,000 towards the clean-up operation. There are a lot of small businesses affected right across Northern Ireland, and that £1,000 would have gone some way to help alleviate their problems, as would be the case with the churches. It is something that we need to push.

**Mr Durkan:** Without a doubt, and any support from any quarter would be and is greatly appreciated. I know very well that talking about it is one thing and doing it is another. I have visited businesses affected in a few constituencies, including businesses in Kinnego and Clady. Trying to explain the intricacies of how the Executive work or, in this case, how they have not worked does not hold much water, if you will pardon the expression.

**The Chairperson (Ms Lo):** Although it is useful to have that £1,000 to help people with the clean-up process afterwards, people would prefer money to put in measures to prevent it happening in the first place.

**Mr Durkan:** Yes, and, as I said, DARD is bringing forward a scheme on that, and that has been announced by the Minister of Agriculture and Rural Development. We are where we are, and these people have been flooded. People and businesses will continue to be flooded, and not all of them will avail themselves of the flood protection before the next flood. It would be good to be able to help people out.

**The Chairperson (Ms Lo):** If it occurs frequently, they do not get insurance. That is a big problem.

**Mr Durkan:** That is a huge difficulty for businesses in particular.

**The Chairperson (Ms Lo):** Do you want to talk about built heritage, Ian?

**Mr Milne:** Minister, concerns have been raised regarding the priority given to built heritage since the transfer of functions. How will the Department ensure that appropriate resources are in place to support that function?

**Mr Durkan:** Thank you, Ian. Our built heritage is extremely important, and, if you look at the record of the Department over the past four years, you will see that record investment has been put into our built heritage. Unfortunately, in this financial year, the only money available to me as Minister to put into built heritage was that raised through the carrier bag levy. Legislation dictates that there has to be a community benefit in where that is spent, so I had to look at community facilities, and churches qualified for it as well. We were only able to allocate £500,000 — I think that I saw somewhere that it was £585,000 — to built heritage. That was great for the buildings that we could use it for. We see the value of investing in heritage. For every £1 of public money spent or invested in our built heritage, a further £7 is generated. I was loath not to spend more in that area. DOE will be split three ways among the new Departments. Built heritage is going to the Department for Communities, and the carrier bag levy is going to the Department of Agriculture, Environment and Rural Affairs. I have ring-fenced a fund — it is just £500,000 — to go over to the Department for Communities exclusively for built heritage. It will, however, be up to the Minister of the new Department to decide how much more to put into that or even whether they want to put that money in. Great opportunities —

**The Chairperson (Ms Lo):** This is for 2016-17.

**Mr Durkan:** Yes. Opportunities exist now. I have been out and about with councils, and opportunities exist for better collaborative working between the new Departments, particularly the Department for Communities, and the councils on built heritage. No one is better placed than councils to realise the economic value to their area of the restoration and regeneration of buildings. Tomorrow, I will be going to the opening of a new hotel in Derry that has created 60 jobs. That was a listed building, and it benefited previously from a DOE grant and, indeed, from a DSD urban regeneration grant. These things pay. It pays everyone to invest in our built heritage. I would like to have been in a position this year to put more in. As I said, we put in record sums in the previous few years, and, hopefully, the Minister in the new Department will be equally committed.

**Mr Milne:** I understand where you are coming from, but the £500,000 allocated — I am reading what is in front of me here — funded about six projects. There are something like 200 projects outstanding. I understand what you say about the benefits to the community of employment and all that, but there are some cottages. There is one in my area called Katy McKenna's Cottage. Once these buildings are gone, they are gone for ever. This building is sitting with the roof fallen through. A grant was awarded, but the money is not there. In another year, the building will be beyond repair. How do we prioritise? I appreciate everything that you say, but how do we get to these small cottages that are in such a state that we risk losing them for ever?

**Mr Durkan:** No, there is and will be prioritisation. You alluded to a list of 200. That list is way too long. What happened is that the door was left open long after the cupboard was bare. Letters of offer were issued when there was nothing there. That is completely wrong and unacceptable, and it built up false expectations across the community in many areas. The buildings on that list are prioritised, and it will be based not just on job creation but on their intrinsic value, be it from a historic or architectural point of view.

**Mrs Cameron:** Happy birthday, by the way.

**The Chairperson (Ms Lo):** We have to sing you a song before you go.

**Mr Durkan:** 'Happy Birthday, Mr Minister'. *[Laughter.]*

**Mr Milne:** 'For he's a jolly good fellow'. *[Laughter.]*

**Mrs Cameron:** With regard to Ian's comments on built heritage and the comments about flooding, George Robinson wanted to be here today to raise the issue of a cottage in his constituency. I think that he has already been in touch with you. It is another example of a building that may well be lost in the very near future if action is not taken. I know that you were out and about in Upper Bann and saw friends of mine and the very severe impact that flooding had had on their very beautiful property — a 300-year old thatched cottage — that nobody wants to see melt away, for want of better words.

It is a real concern that we are not looking after these buildings and are not able to fund the measures that we need to protect them. We will lose them. As Ian says, once they go, they will be lost for ever. I just wanted to reiterate my concern that some of the most beautiful properties in Northern Ireland could be lost because there is no resource to preserve them.

**Mr Durkan:** It is important that we make every effort to protect our built heritage. I made a bid to a monitoring round during the year for more money specifically for built heritage. Unfortunately, that bid was unsuccessful.

You mentioned specific properties. There has been engagement with officials on the one in Mr Robinson's constituency for seven or eight years, and they were invited to put in an application long before the cupboard was bare. However, they really only got their act together after it was too late, unfortunately. However, my officials are engaging with them and the other statutory agencies that have a role to play there. I know that DSD and the Housing Executive have been involved and have been proactive around how we can assist the elderly brother and sister who live in the property at Seacoast Road, Magilligan.

The other one that I visited was subject to awful flooding, perhaps the worst flooding that they had seen here even over the past couple of months. Departmental architects are going out or may have already been out to look at potential solutions to that problem and mitigate the effects of future flooding incidents. If I recall correctly, it had been flooded in a similar way in the 1920s or something, but it is shocking to think that it has stood there for 300 years, against all the elements. It is important that we do what we can to ensure that it does not fall down on our watch.

**The Chairperson (Ms Lo):** Pam, do you want to ask about taxi regulations?

**Mr Patterson:** Sorry, I am looking for one point of clarification. I agree with my colleagues who have mentioned the protection of our built heritage: it is very important. You mentioned a fund of £500,000: is that the fund that is available to assist those properties? I am looking for clarification of that.

**Mr Durkan:** That is what will go over from DOE, as it is now, to the new Department for Communities.

**Mr Patterson:** To assist built heritage.

**Mr Durkan:** Yes.

**Mr Patterson:** Coming from a construction background —

**Mr Durkan:** That can be grown. That does not go as far as we would like.

**Mr Patterson:** Yes, that is the only point I make. A total of £500,000 seems OK when looking at it quickly, but, coming from a construction background — a quantity surveying background — I know that that is only a drop in the ocean.

**Mr Durkan:** Ian referred to the previous £500,000. It was used up on barely more than half a dozen major projects.

**Mr Patterson:** Any work that is required in and around built heritage is expensive. That is the first point. It is expensive to get the tradesmen to carry out the work. Moneys like that would go in seconds.

**The Chairperson (Ms Lo):** We could spend £500,000 on one project.

**Mr Patterson:** Without a shadow of a doubt.

**Mr Durkan:** That is why we should look at and exploit the opportunities that exist to work with councils and attract funding from elsewhere, perhaps through the Heritage Lottery Fund. There are opportunities out there, and quite a few projects in the North have been successful in drawing down funding.

**Mrs Cameron:** Minister, I want to ask you about the taxi regulations, but, before I do that, I want to quickly ask you — I have to get a bit on river pollution in somewhere — if you or your Department have had any discussions or are planning to have any discussions with the judiciary around fines, particularly fines after convictions in cases of pollution via agriculture. *[Interruption.]* You be quiet. I mean deliberate pollution incidents. I will not name it, but I can think of one very specific incident in my constituency where the person polluting is known and has been convicted. It obviously pays for him to pay the fine rather than dispose of the waste properly. Has there been any discussion with the judiciary to encourage it to up its game?

**Mr Durkan:** It is not a discussion that I have been involved in directly. I have had the discussion with the Minister of Justice, and I know that I have said publicly on more than one occasion that tougher sentences are needed. We were discussing waste crime earlier, and tougher sentences are what is needed to act as a deterrent to that type of reprehensible act. The vast majority of pollution incidents are accidental, but that does not mean that they are acceptable.

**Mrs Cameron:** Are you intending to have any discussions?

**Mr Durkan:** It is certainly something that I will speak to officials about. You will acknowledge that I have been proactive on the issue —

**Mrs Cameron:** Absolutely.

**Mr Durkan:** — as have my officials. It is something that the Department has been able to learn through its engagement with angling groups in your area. I would like to see that building of relationships and that drawing on expertise about and passion for the environment that exists out there replicated right across the North.

**Mrs Cameron:** Maybe you can speak to your Executive colleagues in DARD and DCAL to see whether a group could come together for that conversation to be had. That would be useful.

**Mr Durkan:** Certainly.

**Mrs Cameron:** I move on to the taxi regulations. Do you have an update on the drafting of the regulation for dead miles?

**Mr Durkan:** I know that that was due to come to the Committee today, but it has been delayed. It is en route and will be with you next week for definite. I just have not had the opportunity to look at it and sign off on it yet.

**Mrs Cameron:** OK. That is a big issue.

**Mr Durkan:** Yes, it is a big issue. There are several big issues that remain out there around the Taxis Act 2008 and the subsequent regulations. There is a lot of uncertainty out there —

**Mrs Cameron:** There is.

**Mr Durkan:** If we look at the Taxis Act and the regulations that have trickled through since 2008, we will see an example of how not to do things. The first thing that a new Minister with responsibility for taxis will have to do is to commence a review of the Taxis Act and hopefully get it more right.

**Mrs Cameron:** Yes. That would be welcomed by the whole industry, Minister. I do not think that anyone on the Committee was terribly happy with the regulations. However, the feeling was that we

had to let it go, for want of a better phrase, so that we could move forward and give clarity to the industry. There is a lot of confusion out there, and you will probably get a request from my office today looking for a meeting on behalf of someone who is installing the equipment and trying to deal with the mixed messages from the Department on what can be used, what is approved and what is not approved. New equipment that was not previously approved seems to have been added to the list. There are a million and one issues there that you could not go into today, but it would be good to get an urgent meeting with you so that the like of that company can get on with the work that needs to be done for the implementation of the regulations on 31 May.

I just wonder whether that date is immovable or whether more time will be given to the lead-in period. Even in the taxi industry, there is confusion as to whether the meters and printers have to be installed by the end of May or whether that is the date on which the regulations start to trickle in.

**Mr Durkan:** I have had discussions about that this morning and previously. I am aware of issues that have been raised by meter suppliers and drivers about the short lead-in time. The suppliers think that there may be too much demand for them to cope with. By that time, I will have met some of them, and I am not averse to meeting your constituents or to taking soundings on the matter from a range of areas.

When I say that this has been rushed in, I mean that it appears to them that it has been rushed in. It has not just dropped out of the sky. People have known or should have known that it was coming in, but I think that the meters took on almost mythical proportions. People thought that it was never going to happen but were then told that was happening and would happen by May. That might somehow have managed to take the industry by surprise. I am listening, and I think that I have demonstrated that I am fairly responsive to such issues. I will not say anything now about the date being immovable, but it is certainly something that we are looking at.

**The Chairperson (Ms Lo):** You have to say that the industry has had since 2008 to prepare itself. That is nearly 10 years.

**Mr Durkan:** As I said, it is an example of maybe how not to do things. The problem is that all the best politicians are driving taxis. *[Laughter.]*

**Mrs Cameron:** We listen to the concerns of the taxi industry, but I am concerned for the consumer that the implications of a lot of the outworkings of the regulations may be that we have fewer taxis available. I know that there are concerns from the taxi industry about tariffs for the bigger taxi buses and the wheelchair-accessible vehicles. With those vehicles, the way in which the charging structure is set up may mean —

**Mr Durkan:** Yes. Once five get in, it goes up.

**Mrs Cameron:** — that a lot of those vehicles, which require heavy investment by some taxi owners, are parked up and not used. We would then have less availability, and that completely goes against the ethos of the legislation.

**Mr Durkan:** If that May date were to move, it would not be a case of it just being kicked down the road a couple of months. A lot would have to happen. A lot already has to happen between now and May on providing clarification to the industry, and you have mentioned just a couple of issues that there is confusion over. There are 999,999 more, because you said that there were a million and one issues.

**Mrs Cameron:** Good at maths.

**Mr Durkan:** We need to work with the industry to clarify that for it and for the consumer. There was panic on the streets of Derry when the maximum fare sheet appeared online. It must have been shared a thousand times on Facebook, and it would have meant the prices of taxis in my constituency virtually doubling. People were panicking, but that was the maximum fare, which will not be implemented by any of the companies or by independent drivers back home.

**Mrs Cameron:** It is a massive issue. You mentioned that it would be for the new Department to take on the review. The terms of reference for that review have not been drafted yet.

**Mr Durkan:** Not yet.

**Mrs Cameron:** Have you a timescale in mind for the start and duration of the review?

**Mr Durkan:** As I said, it will be up to the new Minister, but I think that it should commence immediately.

**The Chairperson (Ms Lo):** Does it not say in the legislation that it will be a year after implementation?

**Mr Durkan:** No. Do not forget that the Act was passed in 2008.

**The Chairperson (Ms Lo):** It was passed in 2008.

**Mr Durkan:** It got Royal Assent in 2008.

**Mrs Cameron:** Finally, once we have the taxi industry educated and fully communicated with, will there be a communication campaign for consumers to make them aware of the new arrangements?

**Mr Durkan:** That is very important, and I referred earlier to the panic caused by misinformation or by information being put out through mischief on some counts. It is vital that it be communicated to the industry and the consumer, so we need to get in line exactly what we communicate to them. As I said, there is definitely still a bit of work to be done.

**Mrs Cameron:** You have a lot of work to do in the last few weeks.

**Mr Durkan:** I know.

**Mrs Cameron:** I wish you well with that.

**Mr Patterson:** I have a quick point to make on the back of what Pam said about taxis and taxi regulation. My offices have been inundated with people raising issues to do with the whole process. Some taxi drivers are making the point — it is really only a point — that it will probably increase the number of illegal taxis. That is what they tell us. They see themselves as being over-regulated now and say that there is the possibility of there being more illegal taxis, because they are cheaper to run and so on. That should not happen, but that is what they tell us. They also say — this is just for your information — that enforcement powers and regulations seem to be used more against legal taxi drivers. We need to put more effort into catching illegal taxi drivers and making sure that they are put out of business.

**Mr Durkan:** I concur 100%. Unfortunately, it is much easier for an enforcement officer on the ground to stop a guy with a taxi sign on his roof than someone without one. We need the cooperation of the community, because people put themselves at risk by getting into unapproved and unlicensed taxis, should they be involved in an accident, God forbid. The implications could be very serious. Then there are insurance issues and things like that.

**The Chairperson (Ms Lo):** The lack of resources for enforcement in your Department is a problem.

**Mr Durkan:** We have put more resources into enforcement. In response to a direct request from a Committee here, maybe 18 months ago or more, I did that and then started to receive letters from MLAs complaining about too much enforcement or the nature of that enforcement.

**The Chairperson (Ms Lo):** You can never win.

**Mr Durkan:** I agree that we need to go after the bandits.

**Mr Irwin:** I thank the Minister for his time in office. He has been helpful and approachable at all times.

I know that planning has been handed to councils and that you are responsible for policy. A businessman rang me this morning just as I was coming down the motorway. He has had an application in from 2011, and it has still not been cleared. I spoke to a case officer yesterday afternoon, and he told me that he was dealing with one application from 2007. Surely more can be done to stop that sort of thing. I am not sure how we arrive at a position where businesses are not stymied because of that happening.

**Mr Durkan:** It definitely happens. I would love to be able to say that it is an issue for councils, as they are responsible for planning. However, if those applications have been there for that long, the problem did not start with councils.

Usually, there is more than one side to every story. If someone puts in a comprehensive application with all the boxes ticked and everything done that is required, there is no way that it would take that long. There is maybe work to be done on communication between planners — whoever is meant to be assessing the application and recommending a decision — and applicants. If there is a deficiency or if information is lacking in a certain area, planners should go back to the applicant quickly to say, "You need to get this in, or this will not progress any further". I see this on the news very regularly from a Belfast City Council perspective, and I see evidence of it more recently with the council in my constituency: in a way, councils are better placed now to identify what will have economic benefit for their area and to prioritise the applications that create employment. In Belfast, there is a bucking hotel approved every couple of weeks by the look of it, whereas I know that, historically, the Planning Service was not that quick to approve. I could dig out statistics to show that the Planning Service has improved over the past few years, but the fact is that the only applications that you hear about or that I hear about are the ones that there have been problems with.

**Mr Irwin:** I had a meeting the other day with a UK-wide communications organisation that told me that Northern Ireland is the worst part of the United Kingdom for getting things approved. There is something wrong when that is the case.

**Mr Durkan:** Do not get me wrong: I have heard similar things, not just about planning. I do not know how many people have come in and told me that the streets are paved with gold in Scotland. That happens. People look at where performance has not been great, and I admit that performance has been far from perfect. I can point to improvements in performance, but it is still far from good enough in my opinion.

**Mr Irwin:** I know that it is early days yet, but hopefully councils can make a difference. I am hopeful, because it is a local matter and they know about it. In one of those applications, there is even a letter of support from the council for the application.

**Mr Durkan:** The council might have a conflict of interest. Call it in. *[Laughter.]*

**Mr Milne:** My question is about ETSU-R-97. I have heard you speaking about it in the Chamber. My understanding is that it is a guide to planning for noise and all of that in Great Britain. We have heard reports here from somebody in the Ulster University who believes that ETSU-R-97 is out of date and unfit for purpose. If we get a report on that here and are then told, "No, you have got it wrong. We will carry on with what we are doing", how can we try to bring about changes?

**Mr Durkan:** I know that that formed part of the Committee's report on wind energy, and I am pleased to tell you today that in the very near future — in the next few days, in fact — I will launch a call for evidence for the full and comprehensive review of Planning Policy Statement 18 (PPS 18), which pertains to renewable energy, and PPS 21, which you will be glad to hear, Barry. The Committee's report will be considered as part of that review.

**The Chairperson (Ms Lo):** Those are all the questions. Thank you very much, Minister. It has been good of you to spend so much time with us.

Happy birthday, and, on behalf of the Committee, I want to say that we are very appreciative of your cooperation and willingness to work with us on many issues. I thank you and your staff.

**Mr Durkan:** Thank you, Chair and Committee members, for working with me. That is what it is all about. We have been working with each other rather than against each other. As I said, I think that I have demonstrated that I can be and usually am responsive. I very much take on board the views of the Committee, because you are right now and again about a few things. *[Laughter.]* I thank you, Anna, for your chairmanship of the Committee and all members for their contributions throughout. I am not sure how many survivors there are from my first meeting — not a lot. We have had a few changes of the guard, but everyone has had a keen interest in the environment. I hope that you do not leave that at the door next year, if you are not still on the Committee. The more of us as legislators who are educated and passionate about the protection and promotion of our environment, the better. That can help better inform the decisions of our parties and the Assembly moving forward.

**Mr McElduff:** I call for your resignation. *[Laughter.]*

**Mr Durkan:** Within the next few weeks.

**The Chairperson (Ms Lo):** Best of luck, Minister. Thank you.