



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Key Issues:
Mrs Naomi Long MLA,
Minister of Justice

3 November 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Ms Linda Dillon (Deputy Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Gordon Dunne
Mr Paul Frew
Ms Emma Rogan
Miss Rachel Woods

Witnesses:

| | |
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| Mrs Long | Minister of Justice |
| Mr Peter May | Department of Justice |

The Chairperson (Mr Givan): Minister and Peter, you are both very welcome to the meeting.

Mrs Long (The Minister of Justice): Thank you for the invitation.

The Chairperson (Mr Givan): Not at all. Just for the record, we have the Minister of Justice, Naomi Long, and Peter May, the permanent secretary in the Department of Justice. As usual, the session will be reported by Hansard and a transcript published in due course. Minister, I invite you to make some opening remarks, and then we will get into the core business of the meeting.

Mrs Long: First, thank you for the invitation to come to the Committee. As you know, your Committee normally meets at the same time as the Executive, so it is often difficult. I am really appreciative of your flexibility in allowing us to have this meeting today.

A lot has happened since I last briefed you at the end of April. Before I turn to the issues that you highlighted, I will say a few words about other recent challenges. No one could have predicted the impact of the COVID pandemic and the challenges that we are now facing in the second wave. The impact is being felt across the Department, but ensuring safe and secure custody for people in the care of the Prison Service has been a priority. Not surprisingly, the higher rates of infection in the community are leading to more cases being identified amongst prison staff. However, governors continue to report that they have the resources that they need on a daily basis.

The Northern Ireland Prison Service has also innovated and adapted quickly by introducing virtual visits and virtual learning, and it is looking for new ways to allow for temporary release testing while still mitigating the risk of infection. The measures that have been put in place will be kept under

review, but, realistically, some of those will have to remain in place until the risk of the virus diminishes significantly.

Another key focus for recovery from the first wave of the pandemic was getting the courts operational again. Following the initial outbreak of COVID, court business was consolidated into five court hubs, jury trials were suspended, other in-person hearings were consolidated into the hubs and virtual courtroom capacity was significantly increased, with the installation of additional videoconferencing facilities in order to facilitate remote and hybrid hearings. However, over the last number of months, measures have been introduced to ensure that courts and tribunal business can resume safely and sustainably. That has required the reconfiguration of courtrooms in order to ensure the safety of everyone who uses them.

Options are also being explored for additional accommodation, ranging from the installation of temporary modular buildings in the current estate through to the lease or hire of suitable alternative accommodation, such as other public-sector buildings and arts venues that can be used as waiting areas or consultation facilities. It is hoped that those Nightingale court venues will begin to come on stream over the next few months.

Although the response to COVID has inevitably dominated efforts in recent months, it has not been at the expense of progress in other important areas of work for the Department. Those include the introduction of the Domestic Abuse and Family Proceedings Bill; raising awareness of the help that is available for abuse victims, particularly during lockdown; scrapping the criminal injuries compensation scheme's same-household rule; drafting a prevention of stalking Bill; launching a public consultation in conjunction with the Department of Health on proposals for a new care and justice campus to support vulnerable children with complex needs; the recruitment and training of independent chairs for domestic homicide reviews; and developing a private family law early resolution action plan that is aimed at improving outcomes for children and families by supporting early resolution of more parental disputes. The Health Minister and I plan to launch the action plan before Christmas. Finally, following Executive approval of a three-year extension to the tackling paramilitarism programme subject to match funding from the UK Government, planning commenced to ensure a seamless transition into delivery of the next phase of the programme.

Turning to the three areas that the Committee highlighted in its letter, I will start with the invalid convictions for sexual offences. As you are aware, an error that led to the Magistrates' Court losing the legal power to try some cases affected 17 victims relating to 15 historical prosecutions. I made a detailed statement to the Assembly on 28 September and have been in correspondence with the Committee since. Since I delivered the statement, a senior lawyer in the Department has been taking forward scrutiny of the factors that contributed to the error and will be developing a quality-assurance check mechanism to cover future legislation. I have shared the terms of reference with the Committee.

The Public Prosecution Service (PPS) has also contributed to the scrutiny as well as conducting a separate exercise to review critically its practices and procedures to ensure that such an error cannot recur. It is also taking forward a number of actions that I outlined in my statement. That includes engaging directly with those individuals affected, but given the relatively small numbers of people involved, I do not want to go into the detail because I would not want any individual to see their situation laid out publicly.

However, the PPS has taken advice from Victim Support Northern Ireland and from Nexus, and support and advice are being offered by those two organisations to those who wish to avail themselves of them. I understand that, currently, there are no outstanding requests for meetings with victims. The convictions were formally rescinded by a district judge on 27 October. The PPS also aims to make final decisions on prosecutions by the end of November 2020 and is engaging with victims to ensure that their views are considered.

Turning now to the Troubles permanent disablement payment scheme, I want to give you a short update to the briefing that you received from officials on 20 September. First of all, I reiterate that the development of a scheme for victims and survivors who have lived with severe and permanent disablement as a result of Troubles-related incidents is both positive and long overdue. Following designation of the Department on 24 August, good progress has been made to put in place preparatory arrangements for the new scheme. That includes initial work to develop an IT scheme for administration, development of application forms and identifying accommodation for the staff who will support the payment board.

The Northern Ireland Judicial Appointments Commission (NIJAC) has commenced the process to appoint interim board members. The aim is to have board members in place by early January. The Lord Chief Justice has also indicated that he plans to make an announcement very soon on an interim president of the victims' payment board.

Although the funding made available by the Executive this financial year to support development of the scheme was welcome, funding for the scheme remains outstanding. I remain of the view that the UK Government have an obligation to make funding available to the scheme. Following a meeting with the First Minister, deputy First Minister and the Finance Minister, we agreed to seek a joint meeting with the Secretary of State, and you asked to be kept updated on developments.

Unfortunately, there is nothing to report by way of an update, as the meeting has not been arranged to date. However, the Secretary of State wrote to me on 30 October setting out his position that the scheme is a devolved matter so should be funded by the Executive. I will engage further with Executive colleagues in order to continue to press the UK Government for additional resource.

I appreciate that the legislative plans for the remainder of this mandate form an ambitious programme. However, it addresses areas where there is widespread political agreement on the need for new legal provisions. I believe that that is achievable if we work together. A good model is the Domestic Abuse and Family Proceedings Bill, where we have worked in partnership to improve and sharpen the Bill. I am very grateful for your constructive and timely consideration of those issues during your scrutiny of the Bill. I have written to respond to your proposed amendments, setting out my position on a number of alternatives. I am happy to discuss that further and for my officials to provide further briefing on that later in the week in the hope that consensus on those can be reached.

My plans for the remainder of the programme include the Criminal Justice (Committal Reform) Bill, which was introduced to the Assembly this morning; the protection from stalking Bill, to be introduced at the beginning of December; the personal injury discount rate Bill, which we plan to bring forward in January; and the justice (miscellaneous provisions) Bill, which we aim to introduce to the Assembly in around March next year.

Those dates are, of course, subject to approval of the Executive. The Bills are important to the effective working of the justice system and the protection of a number of vulnerable groups in the community, but it will be possible to deliver that full package of Bills only if we work in partnership. It would be very helpful if the Committee would be agreeable to supporting a degree of overlap between Bills, in effect, potentially allowing for the call for evidence for one Bill to overlap with the latter stages of scrutiny of the previous Bill. Introduction of the committal reform and stalking Bills in November and December respectively should see both comfortably complete all their Assembly stages next year. I therefore want to focus on the two other planned Bills.

You are aware of my conflict of interest with regard to the personal injury discount rate and that I have delegated key policy decisions to the permanent secretary. I am not proposing to rehearse the issues that you discussed with officials recently other than to stress that it would cause significant difficulties if there was a delay to a new legal framework for setting the discount rate. It is important that the Bill goes forward as a matter of urgency, as the legislation matters hugely to those directly impacted by it. The proposed approach is similar to that in Scotland, and the substance of the issues is essentially technical in nature. On that basis, I see real merit in taking the Bill forward by accelerated passage. However, I recognise that the Committee will have concerns about that, and I am happy to have that discussion with it. It would certainly help to remove uncertainty for personal injury claimants and defendants.

The successful passage of the justice (miscellaneous provisions) Bill is dependent on the Committee's agreement to a modest overlap of Committee stages for the committal and stalking Bills and supporting accelerated passage of the discount rate Bill. I am particularly keen for the Bill to be progressed, as it includes the first phase of legislative changes emerging from the Gillen review as well as important changes arising from the child sexual exploitation review.

I very much hope that, with the same positive and collaborative approach as we have demonstrated in the past, we can work together constructively to make up for the lost legislative ground in this mandate and deliver this important package of legislation.

When I briefed the Committee at the end of February, I set out what, I thought, was an ambitious work programme for the time that we had ahead. A key component of that was working collaboratively with you to develop innovative and problem-solving practices for some of the more intractable problems in

the justice system. I described it as a "big agenda" and said that difficult decisions would need to be made about priorities in how we used our resources. No one could have envisaged then the magnitude of the difficult decisions that lay ahead with the emergence of COVID-19. We continue to navigate our way through those challenges, but staff being diverted to the COVID response and recovery efforts has created inevitable gaps in capacity. Put simply, we do not have the capacity to deal with new issues, and there may be a need for some reprioritisation of previous commitments. Nevertheless, I remain committed to ensuring that I deliver on my agenda. Our shared goal remains creating a safer community, although I think that we would all accept that the safer community that we aspire to very much includes one that is free from the pain and suffering that COVID-19 has brought on all of us.

I am happy to finish there and to take any questions that members have.

The Chairperson (Mr Givan): Thank you, Minister. That was helpful, including the overview on COVID and the pressures on the Department with that and the work that the Department has been doing notwithstanding all those pressures.

Primarily, there are three key areas that members want to engage on. I know that you have agreed to come back on Tuesday 15 December, and I also know that Members will be disciplined in sticking to the three areas that we are going to discuss today. Other areas we can agree for that next session. It is helpful to have the engagement directly with you. As much as we value your officials, it is always good to hear directly from the Minister as well.

I want to pick up on the legislative error. I take note of all the rationale behind it, and I do not intend to dwell on that. You have taken your decision on that. You gave as reasons the expense and time-consuming nature of an inquiry. Was the Criminal Justice Inspection Northern Ireland (CJINI) considered as a vehicle to carry out an independent inquiry?

Mrs Long: It was considered, but it was not deemed to be appropriate. CJINI's mission is to work with us on current justice processes and systems to help us to improve them. In that regard, it may have input to how we go forward once the legal advice has been given from the ongoing review. However, it is not its role to conduct post-mortem examinations of historical errors that are identified and where steps are being taken to avoid a recurrence. This is not something that it would be appropriate for CJINI to be involved in, and that is why that was not pursued.

I am aware that there is a need for us to get this right, which is why we are working with the PPS and in the Department to ensure that we can identify what lessons need to be learned and how we can ensure that our systems are strengthened. Given that we have a robust and quite lengthy legislative programme ahead of us, it is important that we learn from this and quickly. That is one of the reasons why I think that appointing a solicitor to look at it in detail is a much more progressive way for us to move forward. That will also ensure that we have answers as quickly as possible.

The Chairperson (Mr Givan): OK. Was that CJINI's view? Was it asked?

Mrs Long: No, it was not asked. It was —.

The Chairperson (Mr Givan): Was it a Department view?

Mrs Long: Yes, it was our view that it was not necessary, and it would not fit in neatly with what CJINI is tasked to do in its role. It may have views when we bring forward recommendations. If there are recommendations about a change of process, it may have a view on that, but the review of past mistakes would not be something that it is involved in. It inspects the current systems in justice.

The Chairperson (Mr Givan): OK. Linda.

Ms Dillon: I do not want to come in on that point, so I think that the best way to do it is to allow people who want to come in on it to raise their issues first.

The Chairperson (Mr Givan): OK. Paul.

Mr Frew: Minister, you will know that the questioning that I gave you on this issue was not necessarily about the errors. You very capably set that out in a very good way in the Chamber on, I think, 28 September.

Mrs Long: Yes.

Mr Frew: And we appreciate that. My issue and what struck me that day — you know what I am going to say — was that it was three months before officials brought a report to you. What intrigues me about that is this: how many other issues are bubbling below the surface that you need to know about? That really worries me for the democratic process.

In an answer to me when I asked you about that, you said that no one made a decision to withhold information from you. When DOJ officials were talking to the PPS and the PPS was talking to DOJ officials — they are basically you, because they represent you — is it not the case that no one in the Department, from the permanent secretary down to the person who was meeting the PPS, decided to bat it up to you or to at least give you a heads-up, a briefing note or an inkling of something coming down the line?

Mrs Long: It is true that it was not brought to my attention at that time. That is accurate and is reflected in what I said. I explained on 28 September why it took so long to reach the public domain, but that also involved why it took so long to reach me, because quite a detailed process had to be gone through. It was not, if I may say, a departmental process, because it was an issue for the PPS that it knew would emerge. It was something that it was looking into, and it was making us in the Department aware of it so that we could see if there were any issues on our side.

When it was originally established as an issue, there was quite a complex process in the PPS to first establish whether there was a problem. When it identified that there was a problem, it wanted to know exactly what it was and why it was the case, whether it invalidated the convictions, because that was not clear, which cases were covered and whether any similar errors had occurred that would need to be taken into account. It also had to get legal advice at several points as well as to go through databases and records, on occasion by hand. That was a matter for the PPS to resolve, because, ultimately, prosecutorial decisions were impacted.

You could argue that someone in the Department could have said to me that there was a problem in the PPS, but I am not responsible for the PPS. It is a non-ministerial department, and I do not head it up or fund it. It is quite unusual in that it is a corporate sole, so it has a different arrangement to the other parts of the justice system. Perhaps somebody could have said to me that that was happening in the PPS, but that would be the equivalent of you telling me something that was happening in the Department for the Economy or another outside body; I have no direct responsibility for it. It became an issue for the Department at the point that I was told that there had been an error in the legislation, but it took that length of time to establish that. Once it was established as an issue in which the Department had some involvement, obviously, I was notified appropriately.

I understand why you would be concerned if issues or concerns were bubbling around the Department. However, I have been really clear with all the officials that, if they have concerns or think that there may be problems, we operate on a no-surprises basis and I would rather know early and then be given the good news that the problem has been eliminated than find out late that there is bad news. To be fair, that is the basis on which we have worked.

That was an unusual set of circumstances at an unusual time. Some of it may have been more quickly expedited had it not been for COVID, for example. It may well have come to my desk a lot quicker because things could have moved faster. In reality, I was told about it at the right time, because that was the point at which the Department became involved and engaged in the issue. The fact that there may be an awareness of a problem somewhere else that I am not responsible for is a matter of opinion. I certainly do not feel that I was disadvantaged by not knowing. When I was briefed, I was given the full picture not only from the PPS side but I was told what work we needed to do in the Department. That was the right juncture at which to give me that briefing.

Mr Frew: You say that you are not responsible for the PPS. I get the separation, yet you are the Minister who came to the House to give the statement. I get the point that you raised about the fact that it was then established that there were errors in conviction. The question is this: are you briefed on a weekly, fortnightly or monthly basis about things that happen in your Department? Is it really —

Mrs Long: On a daily basis.

Mr Frew: A daily basis?

Mrs Long: Yes. To be fair, there is no lack of communication. Even though we are working remotely, we are constantly in contact. I am briefed on a daily basis about issues. Things will arrive with me that are desk-immediate, and I see them as soon as they arrive. Obviously, part of the purpose of having staff in the Department is that they prioritise the things that I need to see immediately and deal with the issues that do not require my attention. Do I know everything that happens in the Department at the level of what people are doing individually, minute by minute? Of course not. That would be inappropriate; people have to be given some trust and confidence in their ability. Do I know whether there are significant decisions that need to be made, significant changes that are taking place and significant issues or concerns that are arising? Absolutely, and I am confident of that.

Mr Frew: Someone must triage or sequence that information flow to you. I am not asking these questions because I want somebody's head from the Department on a block. I do not; I am genuinely intrigued about how the information flow works.

You talked in answer to me about trying to create a positive culture in allowing your Department to operate. I am 100% there with you. This smacks of being a case of people saying, "Oh, we forgot to tell the Minister. We really should've informed the Minister sooner". It is a serious issue that has affected people's life. It has, of course, upset the process of the justice system, which is the kernel of your Department and responsibilities. When you answered my question by saying that you want to encourage a positive culture in your Department, does that mean that there is a negative culture if you are informed?

Mrs Long: No, and I do not think that that is what I implied. I was rebutting the suggestion that I am not told. People feel that they are able to escalate issues. In each part of the Department, people raise things with their immediate superior. If they believe that something is a serious issue, it will be escalated again and will eventually come to the permanent secretary or whomever. To be fair, however, things do not have to go through Peter before they come to me; very often, heads of section will come to me and say, "This is an issue that we want to discuss with you". I meet each of the teams in the Department on a regular basis, and that also allows me to meet the permanent secretary regularly. As I said, that horizon scanning goes on all the time.

The difference in this case is that I have absolutely no accountability for prosecutorial errors. We get into this debate constantly, and I know that it is to the huge frustration of Committee members that, when I am asked questions about policing, prosecutions or the judiciary, I say, "Well, I'm not responsible for any of those things at an operational level". I have no responsibility whatsoever for the PPS in particular; in fact, its funding comes from the Department of Finance rather than the Department of Justice. You are right: it is critical to the justice system, so it is imperative that we have a good working relationship with it. However, where the PPS made a decision to, for example, prosecute or not or where there was an error in a prosecution or case, it would not be normal for the Justice Minister to answer for that error. It would be a matter for the Director of Public Prosecutions (DPP) to answer that case to the public directly because he is a corporate sole. The unusual aspect of this case is that it arose from an error in legislation, which is why I came to the Chamber to answer questions. Under normal circumstances, if this were simply a prosecutorial error, I would not answer questions in the Chamber. At the point where we realised that this was due to the lack of the continuance for historical offences, it became an issue. That was the point when it became an issue that I needed to bring to the Assembly's attention.

Mr Frew: Here is the weakness, Minister —.

The Chairperson (Mr Givan): Paul, I am going to move on to others after you have finished, just so that we can move forward.

Mr Frew: This is my last question. The weakness in that, Minister, is this: if your Department was told in early March and you were not told until June, what would have stopped a body like the PPS or any other in your Department sitting on a problem for a year or more, realising the problem and seeing it for what it is but not doing anything about it? Because you were not told at the start, you will have had no time appreciation of how a problem could be resolved. Do you see the weakness there?

Mrs Long: No, because, if the Director of Public Prosecutions decided not to take action in this case and to sit on it, that would not be a matter for me; it would be a matter for the Director of Public Prosecutions because that position is entirely independent. He is not answerable to me, and he is not part of, if you like, this accountability structure. There would be no incentive, I have to say, for the public prosecution system to sit on a problem of this nature because it is in its interests to ensure that the law is upheld. Those in it have professional ethics that drive the decisions that they make.

You asked about people sitting on problems in the Department. Of course there is always a risk in any Department that someone will notice something and not pass it on or perhaps not notice its significance. I do not think that that applies in this case, and, if I did, I would obviously have a conversation with those who are involved to make sure that it is not repeated. I think that in this case there was a very unique set of circumstances, and, therefore, I think to try to read it across to wider issues would perhaps be unfair on the Department.

I think that you know that, as a member of a Committee, I was always fairly querying of issues. I always held people to account. I do not feel that I am kept in the dark by the Department. If I felt that, people in the Department would hear about it, let us put it that way. That is not the relationship that we have. It is very open, and issues are brought to me well in advance. Very often, issues are raised with me that turn out not to be significant. It is for me to decide at the time whether I want to take further action or whether I am happy to wait to see what transpires. I feel confident in the way that information is brought to me, and I constantly reiterate the fundamental point that I do not want to be surprised. From time to time, things will go wrong in any system of the size, scale and complexity of the justice system, and, for me, it is about knowing about that as soon as possible and making sure that everything is done to prevent a repetition and to protect those who have been affected. To me, those are the two key things, and both those things were done in this case. So, I am confident about how the communication takes place, but I understand that if you read it across it may seem like an unusual set of circumstances, because it was.

Mr Frew: Thank you, Minister.

The Chairperson (Mr Givan): Jemma, Gordon, Linda and Doug wish to speak on this issue. I will finish on it at 1.15 pm.

Ms Dillon: I am not coming in on this issue at all. I will wait until victims are discussed.

The Chairperson (Mr Givan): That will be the next issue to be discussed. Members, we have 10 minutes to finish this subject, and then we will move on to victims.

Ms Dolan: My question should not take that, so we will be all right. Minister, thanks very much for coming today. My party colleagues on the Committee and I have been contacted by a victim, who is, obviously, seriously concerned that the PPS will decide that it is not in the public interest to prosecute despite this, obviously, being very important to them. In light of that, can you give assurances that the wishes of the victims will be central to the PPS's approach to the prosecutions?

Mrs Long: There are a couple of things that I can say on that, Jemma. Decisions on reprosecutions in the Crown Court are entirely a matter for the PPS, so it is not something that I can make a decision on or give assurances about. It is the PPS's decision to take in liaison with the victims. As you, know, there are plans to make these decisions within the next month, and I appreciate that discussions on reprosecution will be traumatic for some victims. I have been assured that they are being supported in the process by Victim Support.

In many cases here, the offenders will have already served their sentence, and that will also have to be taken into account by the PPS when it makes a decision on whether it will reprosecute. If there is a fresh prosecution, it is for a judge to decide how to take account of any previous sentence. Those are not straightforward issues, because this does not happen regularly.

As you know, the decision whether to prosecute comes in two parts. First, there is the test of whether there is enough evidence to prosecute, and, secondly, whether it is in the public interest to do so. Both parts are assessed separately. First, you decide whether there is sufficient evidence, then you go on to decide whether it is in the public interest. It will be for the PPS to weigh those factors.

On the evidence part, one would imagine that there would be sufficient evidence because they had been originally convicted in court. Indeed, some pled guilty at the time, so there is a reasonable

prospect that there would be sufficient evidence, but that will have to be assessed again case by case. The PPS has said that it will take into account, amongst the other considerations that it legally has to make, the views of victims, because their views are significant, particularly in cases like this.

Ms Dolan: I had one other question, but you have answered it. Thank you.

The Chairperson (Mr Givan): I used a tissue, so I did not touch the glass, Naomi. Do not worry.
[Laughter.]

Mrs Long: That is all right. Do not worry.

The Chairperson (Mr Givan): I would not contaminate it anyway.

Mr Dunne: Thanks, Minister, and apologies for being late. The bottom line is this: are you satisfied that the proper procedures and processes are being put in place to reduce the risk of recurrence?

Mrs Long: I am. I am confident, first of all, that we are going about it the right way in the Department, because we have appointed a solicitor who has considerable experience of legislative processes, as well as considerable prosecutorial experience, to look at the processes that we need to put in place in the Department when we are changing legislation and making amendments to Bills. That is important because we need somebody who understands the practice of drafting legislation and also its practical outworkings in the courts. Getting the right person to do that has been crucial.

You have seen the terms of reference. I believe that they are robust in terms of what we have asked them to do. I am also heartened by the work being done by the PPS, because I know that it is now being very thorough in its internal system review and that it is keen to work with us to ensure that there are no gaps between the two through which other such errors can fall. It is impossible to say that such an error or mistake can never happen again, but we want to put in the right procedures and practices to ensure that it is highly unlikely that that will happen.

Fundamentally, this is not just an issue of what the Department does; it is also one that is relevant to the Committee. When this legislation went through, there was precious little, if any, scrutiny of primary legislation for Northern Ireland because it was taken through as an Order in Council in Westminster. Compare that process to the time that you have spent scrutinising the Domestic Abuse Bill, for example. If that had gone through Westminster as an Order in Council, it would have had a maximum of an hour and a half of debate in the Chamber. With all due respect to the MPs from Northern Ireland who went there and debated those issues, they would not, in reality, have been able to scrutinise it in the detail that you can in a clause-by-clause consideration. They also would not have had the opportunity to refine or amend legislation. You either take it as a whole or you reject it completely. From that perspective, having a working Assembly with scrutiny Committees has had a valuable input into ensuring that these kinds of mistakes do not happen again. That is another part of the lines of defence that we have against mistakes, and that is why the scrutiny process matters. It is an opportunity for people to ask questions, to challenge what is there and, perhaps, to pick up on things that would otherwise have been missed.

Both those things give me confidence that we can move forward and not repeat these mistakes. However, as I say, I would be a hostage to fortune if I said that there will never be another error in any Department. I will not go down that road, but I believe that those who are involved in this process are very much committed. It has been traumatic for those dealing with the victims and for the victims themselves. None of us wants to be in a justice system where people are found guilty and then walk free because of an error in the prosecution. That is not what we came into this job for; it is not what the Department or the PPS wants to see. With sexual offences, where there are low prosecution and conviction rates, it is particularly distressing because they are very sensitive cases. Therefore, we are all determined to do this properly.

Mr Dunne: What about the decision process itself? Is there a sign-off process where more than one individual is involved? That would give an assurance that a mistake could not be focused on one person. It would be a collective decision process. Is that something that needs to be looked at?

Mrs Long: The drafting of legislation, and the drafting of instructions for the Office of the Legislative Counsel, is quite lengthy. The legislation comes back, and the Minister will read the Bill and go through the detail of what it means. Then it will be published, and not just Assembly Members but the

public have a right to read the Bill — including people who work in the justice system. They will then make representations to you, the Committee.

The uniqueness of this situation was that, for the entire period that the Bill operated and this error was perpetuated, no one picked up on it: not the prosecutors, the defence, the barristers, judges, or the Department. It was an obscure issue about a saving clause that had not been included. That is why I say that I cannot entirely rule out it happening again. However, it would certainly not be the case that one person would conceive, draft and pass a Bill, without it going through quite a number of processes beforehand. Moreover, the Committee can ask additional questions. You have officials before you frequently and can drill down into the detail of each clause. That would not have happened in 2008.

The Chairperson (Mr Givan): Doug, you have the last five minutes.

Mr Beattie: I will try to be brief. Thank you, Minister. I will be honest. Your answers have been really detailed and have given us a good insight. This legislation was not drafted by the Office of the Legislative Counsel. My concern is: how many other pieces of legislation have not been drafted by the Office of the Legislative Counsel that there may be issues with? Is anyone reviewing those latter pieces of legislation that may have come in before we devolved policing and justice?

I will try to lump it all together. The outcomes of the review are key. The learning account is by far the most important thing from all this. I have concerns, only because I do not know the answer, whether the solicitor has the extensive knowledge of each stage of the legislative process and how statute law is drafted. If the solicitor does not have that in-depth knowledge, they will not pick up on those unique issues. That is why we thought that this needs to go outside for somebody to have a look at it. We do not know who the solicitor is, and we do not know what their expertise is in regard to this.

I have one last question. If you can answer it, it will kill it all off. Have you engaged with the Attorney General to review the review to make sure that the outcome will be human rights-compliant?

Mrs Long: I will answer the Attorney General point first. The review of legislation is an internal process review, rather than something to do with human rights issues, so it would not necessarily have to be compliant. However, when I shared the terms of reference with Executive colleagues, the Attorney General was copied in to the letter and so would have had the opportunity to comment on the terms of reference. That is standard procedure.

With respect to the senior lawyer who is conducting the process, I reassure you that the Departmental Solicitor's Office has seconded a lawyer to the Department of Justice to undertake that scrutiny. They have had a long legal career, with extensive practical experience in past and current policy development, the legislative process, and in planning for the implementation of new legislation. This is somebody who has considerable knowledge and experience. We have not engaged a junior to do this. It is somebody who has considerable experience over a lengthy legal career, and the mix of experience necessary to look at all the aspects of this. Moreover, with regard to scrutiny and recommendation, you have the terms of reference, but remember that this report, and any recommendations flowing from it, will come to me and will also be shared with the Committee. You will be able to have further conversations about whether you believe the processes suggested are adequate.

With regard to other legislation, and Peter can keep me right on this, my understanding is that one of the pieces of work that the Public Prosecution Service has been doing is looking at whether there are other, similar issues. Although these circumstances are unique, the PPS has looked at whether there are other potential issues around it. To date, my understanding is that it has not identified any other significant issues. That is not to say, however, that, as it continues with that process, others will not emerge. However, at this stage, it has not identified any other significant issues with similar cases that might invalidate convictions.

That work is ongoing with the PPS at the moment, and we can be reasonably assured that it will be robust. We regularly converse on this to keep each other apprised of where we are. Whilst the Public Prosecution Service is separate from the Department, it is part of the justice system, and, therefore, it is important that we work coherently and effectively together. We have a good relationship with the PPS, although, as I say, it is an arm's-length relationship, which it needs to be, from a political perspective.

Mr Beattie: Thanks, Minister. As part of my research on this, because it is so important, I wrote to the Attorney General. Her answer was that she has not been contacted about this, has no more information than I do, and does not know the terms of reference. You might want to check that we have engaged with the Attorney General.

Mr Peter May (Department of Justice): I am happy to ensure that the Attorney General has sight of the terms of reference. Obviously, given her background, she has particular expertise in the drafting of legislation as well.

Mrs Long: We can do that. Normally, when I circulate an Executive paper, I copy in the Attorney General, as standard. If that has not happened, for whatever reason, or she has not received it, I will check on that.

The Chairperson (Mr Givan): Thank you. I want to move on to the victims' payment scheme. I have a couple of questions, and then I will bring Linda in. With regard to the time frame, which I think was March, are we still on course for the administrative aspects to be ready so that applications can be received?

Mrs Long: We are, yes. We have made good progress. The longest part was anticipated to be the appointments to the panel. The Northern Ireland Judicial Appointments Commission originally suggested that it may take about three months to complete the process. As you know, the panel needs to make decisions to allow us to implement the rest of the scheme. That was always going to be one of the limiting factors on how quickly this could be done. However, we have worked closely with NIJAC, and it said that it will be probably six to eight weeks. We have given NIJAC cover for some of the procedures and processes so that, hopefully, we will see appointments take place in six to eight weeks. That should mean that, in the new year, we will have the panel in place and that it can take decisions.

I spoke to the Lord Chief Justice last week, and he indicated that he is ready to nominate someone as the interim president of the panel, which is also important. That will allow him to give some shape to the decision-making, and we can work closely with him. He has already appointed, as a temporary measure, Justice Huddleston to give guidance on the legalities, but he will make the formal appointment of the interim president, hopefully, shortly.

The Chairperson (Mr Givan): I know, from speaking to victims' groups, that part of the narrative around the scheme is that it has been broadly termed a victims' payment scheme. Constituents have come to me, and, when I look at the criteria, I do not believe that they will be eligible for the scheme. An expectation has been created that the scheme is universally available to victims, and it is important that people are not retraumatised by thinking that they could be eligible only to find out subsequently that they are not. This is for permanent disablement, and that will be important. What is your view as to how best the scheme can be communicated so that it reaches the right people — that is not to put off people who may want to come forward, and that is not new — so that the new board or panel is not inundated with vast numbers of applications from people who may not even be eligible?

Mrs Long: There is a fundamental point, and I do not know whether members picked up on it, but in my opening remarks I said that how we refer to the scheme and the name that we give it are crucial. Its official name is the "Troubles permanent disablement payment scheme", and that is how I refer to it. Since that is a bit of a mouthful, it has become the "victims' payment scheme" for short. Therefore, it is important that we start to refer to it as what it is in practice: a payment scheme for permanent disablement.

We need to do that because there were a lot of victims who were not permanently disabled but who suffered significant loss in other ways. People who were bereaved as a result of the Troubles but who may not necessarily qualify under the scheme unless they also suffered permanent disablement, either psychological or physical. We need to be very candid about that. This is not an Eames/Bradley recognition scheme where everyone who suffered would get something. It is not that scheme; it is simply for those who are permanently disabled. By using the correct name for the scheme, as far as is possible, it is important to communicate that in what we do. That is what we will need to consider when it comes to branding, for example, communication on applications, and the application forms themselves. The applications and assessment process is under development. The application forms are well developed, and it will just be a matter of signing off on them once the panel is in place. The name of the scheme, and the shorthand for it, is problematic, in the sense that many people will, quite

rightly, say, "We are victims", but they will not necessarily be eligible if there is no permanent disablement.

The Chairperson (Mr Givan): In terms of the applications that are open, the Committee has discussed the issues of those where there is medical evidence to show that there is obvious severe disablement. What we do not want is victims with missing limbs, for example, coming forward only to be told that have to be assessed by another panel when there is clear evidence that they have a permanent disablement. Is there scope to make sure that the board has a system in place so that people who are permanently disabled do not have to go through a rigorous medical assessment when all the evidence is already there, so those non-complex cases can be expedited much more quickly than cases that will require greater levels of evidence?

Mrs Long: There are two separate things. The first is whether people will need to go through a medical assessment. It is true that all people under the regulations will need to go through a medical assessment, but the degree to which that assessment will be complex or demanding will vary greatly from person to person. We want to design the assessment process in an intelligent way so that it takes account of that. What we do not want to do is repeat the mistakes that we have seen with other Government schemes where people are having to justify things that are obvious to non-medically qualified people who can see what is in front of them. We do not want to be in that space because that is not what this is about. We want it to be an intelligent and responsive system.

In the prioritisation for more straightforward cases, I have met the stakeholder group, and I will be meeting, individually, victims' organisations because, whilst they are there as part of the Victims and Survivors Forum, some of them will have slightly different concerns about the scheme, so we are meeting them individually to provide reassurance. That issue has been raised on a number of occasions: those with compelling and obvious evidence whose cases should be expedited. The Victims' Payments Board has the discretion to decide the priority of applications, but it must have regard to the age and health of applicants. That is a requirement.

Beyond that, however, it can also prioritise in other ways. For example, if it knows that someone has a very straightforward case, it could expedite that case. It also has to prioritise a case if the applicant is terminally ill. That is a requirement for the board. It will be for the board to decide how applicants are prioritised, but it may decide that it would be good to get the applications for which it has extensive and largely complete information off its desk and done, while some of the more complex cases may need a lot more investigation, research and identification of evidence. However, the normal procedural steps will still apply. There will still be an application process, a medical assessment, and so on. As I said, we will want to design a medical assessment process that is intelligent in its response to the people who apply.

The Chairperson (Mr Givan): That brings me to my last point — timeliness. There will be a significant number of applications as soon as the scheme opens, and there must be the ability to triage them and to have the scope to prioritise, based on age and health. Once the first group of applicants has been approved, what is the likely time frame for the start of payments?

Mrs Long: Victims and survivors want to see the scheme up and running and delivering payments at the earliest opportunity. I know that from all my recent engagements, and I am sympathetic and supportive of that. It will be for the Victims' Payments Board to decide on the processes and how it will arrange the payments. The time frame for receipt of payment will depend on how quickly the evidence can be gathered to allow each application to be processed, how quickly the medical assessment can be completed, and whether any of the agreed payments need to be adjusted if people have received other payments for the same disablement. There are, therefore, a number of factors for the board to look at.

I cannot be definitive about when payments under the scheme will commence, because engagement will still be required with organisations that are outside our responsibilities. However, we are engaging with some organisations, such as the Public Record Office of Northern Ireland, the police, the Coroners Service, and others who hold records. That gives us an opportunity to carry out preparatory work on how information will be transferred and used. We are trying to get that front-loaded so that processes are in place when people apply and we will be able to collate that information. Some victims will already have much of the hard data that they need for their application.

As you are aware, advocates are being appointed to support victims in making applications. They will be able to do some work with victims in advance of their application to ensure that the application is

complete when it goes in. That will ensure that they do not end up in an attrition situation in which they are asked for more information, have to resubmit, and it goes on and on. It can become hugely frustrating and stressful for people. We want to make the process as clean, simple and stress-free as possible. We can learn how best to do that from other schemes.

The Chairperson (Mr Givan): Has any scoping been done to determine how many applicants will be eligible under the criteria? Or is it too early for that?

Mrs Long: Some work has been done. The Executive Office is doing work with a psychiatrist from Queen's on what the figures might be and who might be available. From that perspective, work is ongoing. That will also determine the size of the panel. As you know, there are three-person assessment teams, and the size of the panel will depend on the number of applicants. Initially, there was an estimate of 2,000 victims potentially eligible for the scheme. That included the seriously physically injured and the seriously psychologically injured who are already in receipt of support from the Victims and Survivors Service. There was a slight uplift on that, as it was recognised that the VSS is not necessarily dealing with all victims, because not all will have made contact. The figure of 2,000 was worked through by the Government Actuary's Department to give some assessment of the likely full lifespan costs of the scheme. It looked at things such as backdating the number of people who would, for example, choose to take a lump sum rather than get the payment every year, and it estimated the cost of that.

The Commission for Victims and Survivors has been engaging with a psychologist at Queen's to consider estimates of the potential number of victims who may be eligible for the scheme as a result of severe psychological injury. As you know, the threshold for that has decreased from, I think, 40% to 14%. It estimates that, at the minute, the figure could be anywhere between 3,500 and 7,000 people, which is significantly more than the 2,000 initially estimated. TEO has not confirmed with us the total estimated cost of the scheme. It is responsible for developing the business case and estimating the costs, while we are responsible for delivering the nuts and bolts so that the scheme can be delivered. We reckon that it will be significantly higher than the original estimate of £165 million. We reckon that the upper ceiling will be £800 million. The lifetime cost of the scheme will therefore lie somewhere between those two figures. I suspect that it will be significantly less than £800 million but significantly more than the £165 million initially estimated. We cannot estimate the degree to which psychological and physical injuries overlap either, because, until we know who the applicants are, it is impossible to assess that.

Given that it is a demand-led scheme and that it is driven by applications, it is very difficult to know precisely how many people are likely to be affected, so those are, if you like, best estimates, but they are not necessarily entirely reflective of what might happen once the scheme opens. We also do not necessarily have sight of people who live in other jurisdictions but who may be eligible to apply.

The Chairperson (Mr Givan): OK. Thank you for that.

Ms Dillon: Thank you very much, Minister. I have a lot of queries about this, and I want to try to tie it down. I do not want to go back over old ground, but the payment scheme — I know that it is not your responsibility — was originally intended to be a pension for the permanently and severely injured. To my mind, even reducing the threshold for psychological injury from 40% to 14% threw that out the window for a start, and that is before you go into the rest of the stuff that was done by the NIO and the British Government in relation to the legislation. On that basis, I will come to my first point.

This is British Government legislation, but they want our Executive to finance the scheme out of the block grant. That means that they want us to fund it by taking money from our health system, our education system and our housing system and the money used to help victims of domestic abuse — all those different aspects — even though it is their legislation. They took what had almost been agreed by victims' groups and political parties here and threw it out the window, because they want to decide who they think should get paid. It therefore had a bad starting point.

Having said that, I agree that many victims have waited far too long, and they need the scheme to be put in place. I met representatives from the WAVE Trauma Centre last week who raised concerns that we share, one of which is the financing of the scheme. I do not want to go into the wider stuff on legacy, but can I get a quick answer on whether there have been any conversations with the British Government about the Historical Investigations Unit (HIU)? They raised concerns about it, and those are shared across the board. The concern about the HIU seems to be coming from victims' groups and victims across the board.

As I said, eligibility is an issue. The Secretary of State commented a number of weeks ago that, if the panel comes to a decision that he does not think is right, he will, in layman's terms, interfere. How do we guarantee the independence of the panel? An independent panel that can be interfered with politically is not independent. That is the bottom line. I would not like to see any party here trying to interfere in the Historical Institutional Abuse (HIA) payments because it did not like somebody who happened to be a victim. It would not be right or appropriate. That is not the right way to go forward. It is meant to be an independent panel that bases its decisions on what is in front of it in the legislation and the guidance, and we would remove its independence if we were to allow political interference. That is an issue, and I seek reassurance from the Minister about how an independent panel, in those circumstances, will be independent in real terms.

To be fair, Minister, you have answered some of my other questions, so I am not going to go over them. I have one other query, which is also a concern. If we were to get the finance in place and were able to start making payments, and then a legal challenge were to come, would that halt the process or would it be able to continue while legal action was ongoing? I have no doubt that there will be legal challenges at some stage down the line, if only for the reason that the Chair outlined, which is that some people have been given the false expectation that they could mount a legal challenge. I have fears, which I outlined to the groups when I met them, because, in everything that I do, I try to be honest about expectations. I try to be honest with people, particularly with those who have been so badly hurt and let down for so many years. I would therefore like them to have some clarity around the issue. I want them to know that, if the payment scheme gets up and running and there are legal challenges to it, that will be a separate process and that they will still be able to receive payments while legal action is ongoing. I am not sure whether that would be the case. It may depend on the type of challenge, to be fair.

Mrs Long: I will try to deal with those in order. First, I agree that the Government must make some contribution to the funding for the scheme. I have written to the Secretary of State and made my view clear on that. The First Minister, the deputy First Minister, the Finance Minister and I met to discuss the issue of finance, and we agreed that we would write to request a meeting with the Secretary of State. You will be aware from questions to the Executive Office yesterday that the response that we had from the Secretary of State was that we have sufficient funds. He did not say that he would not meet us; he just ignored the request for a meeting. We can read into that what we wish.

There is an issue around funding, and I agree that the challenges are twofold. First, the Secretary of State is correct that the Executive had committed to taking forward a scheme of this nature and had lobbied to do so. They had never said that they would pay for it all, however, or that they would be able to, and that is one of the reasons that negotiations were ongoing on how the scheme would be formulated. Some of the historical issues date back to a time when the NIO and others would have had more control over such issues. To me, it would therefore be appropriate for them to make a contribution. It also forms part of the wider legacy approach, and that should also be considered.

Fundamentally, however, whatever the Executive had or had not agreed is not what we are dealing with now, as it is a scheme that the NIO designed. The Secretary of State will say, again rightly, that he took the scheme forward in the absence of an Executive and an Assembly being here to do so. He also, however, changed it dramatically from what was originally agreed, and I think that that departure means that it is his policy and his scheme. Treasury rules would say that if he designed the scheme, he should also fund the scheme. Realistically, all of us in the Executive know that taking money from one set of people who are in need and giving it to another is not necessarily a good way forward. Of course it is a priority, but we would prefer to see the scheme funded in a way that is sustainable, and I think that that is possible. I really encourage the Secretary of State and Treasury to engage with us on this, because it is important that we move forward. There have been some references, in responses from the Secretary of State, to other pots of money that we have had. There has been reference to the money that we have received as a result of COVID, which is all well and good, but it is not unique to Northern Ireland and has absolutely nothing to do with those who have permanent disablement as a result of the Troubles.

There is discussion about other funding that we have received for other purposes. Again, that is all well and good, but that has nothing to do with this particular issue. We therefore need to have the conversation about how we are going to fund the scheme as we go forward. I stress that I do not want this to become an issue on which a political row develops in the public space, because that in itself is distressing and re-traumatising for victims. I have made the point repeatedly to everyone concerned that it is important that we, as politicians, take this offline, that we deal with it in a mature and sensible way, that we reach an agreement on how the scheme will be funded that is fair and equitable, and that we get it done. That is the bottom line for me. I still see that as the way forward, and I know that

Executive colleagues very much want the issue to be resolved, and resolved quickly and quietly. I do not want to be in a situation in which victims again feel obliged to trek around the countryside pleading for something that they have a right to receive. That would be an unfair transfer of responsibility to them for something that is our responsibility to resolve.

On the HIU and the wider legacy piece, you will be aware of the Select Committee on Northern Ireland Affairs' report into the legacy issue. It is rare for a report from a Committee of the House of Commons to be quite so universally dismissive of what the Secretary of State has brought forward. You will also be aware that the Secretary of State said that he was unable to give evidence to the Committee because he was at a delicate stage of intensive engagement with all the parties. You will further be aware that there is no engagement currently happening with all the parties. My understanding is that that has largely been down to the situation with COVID-19. As a result, the face-to-face and rather delicate discussions that need to be had around the issue will not proceed in the short term. That leaves us in quite a difficult situation in the Department. Reference has been made to some of the money for legacy issues funding the victims' pension. I wrote to the Secretary of State and specifically asked him about that issue. He wrote back and specifically did not answer the point. I suspect that doing so would be difficult, because if he were to say that we can have that money to put towards the victims' pension, it would be an admission that the legacy structures are not going anywhere soon. For that reason, it is therefore unlikely to happen.

We previously made approaches to the Northern Ireland Office about being able to draw down that funding for other legacy work and were told that it is not available for anything other than setting up the structures around the HIU and the other Stormont House Agreement structures. We therefore set that funding to the side. Although the Secretary of State likes to refer to it when we talk about funding for the victims' pension, it is not something that we will have access to in order to pay the victims' pension, so we just need to be honest about that. It is hard to see where wider legacy lands until we get clarity on what the Government want to do and until engagement with parties starts to take off.

The third point that you raised was about the "pressure relief valve" that the Secretary of State referred to in his press release that was issued along with the guidance. It is not included in the guidance, nor is it included in the regulations. I wrote to the Secretary of State specifically asking for clarity on what it will look like, because, when we are appointing a judge to lead the panel, we need to understand what it will look like if a politician is to overrule a decision made by the judiciary and what the implications of that might be for the independence of the panel.

The Secretary of State has responded in the past 48 hours to say that work on that is still ongoing, so he has conceived no clear mechanism that will be used for that purpose. I am concerned about there being a mechanism at all, and I have been very clear about that. When the panel is appointed, it ought to be independent. It ought to be able to do its job. It has to work within the regulations and the guidance, and that is clear. It should therefore be left to do that independently and not be subject to political interference.

On your final point, you are correct to say that it will depend on the nature of the legal challenge and the view of the judge. It may be the case that a judge will receive a legal challenge and decide that all payments are to stop until the issue is resolved, depending on how significant the issue is. It may be the case that, because each case is considered on its merits and there is not a finite amount of money, with a fixed pot perhaps being split among all the available applicants, the judge could argue that you cannot decide on any until you have decided on all. If that is not the case with the scheme, the judge may decide that a person can continue, but if it is a fundamental issue around how the panel is applying the regulations and guidance, the judge may decide that a person cannot proceed until that matter of law has been clarified. It is therefore difficult to assess the impact that future legal challenges will have, but, as with all legal challenges, they run the risk of creating further delay.

Ms Dillon: I appreciate that. May I ask one last question? The answer will be a yes or a no. Is an appeals process included in the applications process?

Mr May: I will need to come back to you on that. I cannot remember the detail.

Ms Dillon: OK. It is important to get some clarity on that.

Ms S Bradley: I thank the Minister and the permanent secretary for being here. It is important to get these types of briefings, at which we can get to the detail. To be fair, you have covered a lot in your answers so far.

Minister, you said that, to date, a meeting with the Secretary of State has not been arranged. My question was going to be whether you had asked for a meeting, but, from the correspondence, it is clear that you did. The deliberate intent of ignoring the fact that you asked for a meeting is not going down too well.

I will make an assertion. You referred to the request coming from the First Minister, the deputy First Minister, the Finance Minister and you. I am not sure whether there is any nuance there or whether the Secretary of State ignored a request from the Executive. Is that entity somehow different? As we all know, if somebody chooses to ignore a point in your letter, you immediately go straight back to the person. Has that happened? Has a letter from the Executive gone straight back to pin down the Secretary of State about that essential meeting? I appreciate your being here to go through the detail, but all of this is to no end if there is no money there to pay for the scheme. It is critical that that meeting happen as soon as possible.

Minister, you mentioned in passing that the panel may have to consider whether other funding has already been paid to victims. I am curious to know whether you meant money from the public purse. What types of payments were you referring to?

Mrs Long: It would be where somebody receives, for example, a permanent disablement payment or a pension from another source. That would have to be taken into account, and that is my understanding of how that works. It would have to be determined whether somebody has another permanent disablement payment for the same disability, and that would have to be taken into account when an award is made.

The letter was written on behalf of the three Departments that have, if you like, an interest in the matter: TEO, the Department of Finance and the Department of Justice. Those were the four Ministers who were intending to meet the Secretary of State. To be blunt, I cannot recall whether the wording of the letter was that it was being sent on behalf of the Executive, but it was a request to meet those four Ministers.

You asked about sending letters back. A number of letters were written. I originally wrote to the Secretary of State for him to clarify issues about the legacy money that came from 'New Decade, New Approach' (NDNA); issues about the money that preceded NDNA that is being held by the NIO for the HIU and other Stormont House Agreement structures; and the issue about the "pressure relief valve", or whatever it has been called. A further letter went out from the First Minister and the deputy First Minister that specifically asked for a meeting to happen to discuss the finance issue. We have now had responses to both those letters, neither of which has been particularly helpful. We have not yet met as an Executive to discuss the correspondence, but I am in the process today, having received the letter last night, of responding to the Secretary of State. I can assure you that no time will be lost in going back to him to let him know our views and to seek clarity on the issues that were not responded to in the letter.

Miss Woods: I thank the Minister and Peter for attending today. Most of my questions have been answered.

All of this is dependent on funding. We can set up as many structures and processes as we want, but there is no money to pay for them. I appreciate that you may not be able to go into it, but I wonder whether there has been any discussion at Executive level about what happens if absolutely nothing comes from the UK Government.

We have covered the meeting request to the Secretary of State. The Secretary of State's response would be laughable were it not so serious. It is not appropriate. The fact that a request for a meeting has been ignored by the Secretary of State is not acceptable, especially when that request came from four Ministers.

On the legacy issues, we know that the Northern Ireland Affairs Committee published an interim report in October. There has been not been engagement with "all the parties". Not all the parties have ever been engaged with on the Stormont House Agreement structures, our party being one of them. When "all parties" is used, that is incorrect. Have there been any discussions between the NIO and the Department on legacy since the publication of the Northern Ireland Affairs Committee's interim report?

Mrs Long: There are a couple of issues there. You asked what will happen if we do not get the funding. First and foremost, my responsibility and legal duty is to produce the scheme, and that is

what I will do. If others fail in their duty to provide the funding for it, that is something that I will not be happy about but something that I cannot control. I can control our setting up of the scheme. We will have it ready to go, and it will then be a matter of finding the funding. I want to do that early, and that is one of the reasons that I met the Finance Minister and then met the Finance Minister along with the Executive Office Ministers. It is important that we take this to be an urgent matter now and do not wait until the scheme is ready to open before we start talking about funding.

Where will the funding come from if the UK Government do not make a contribution? There are two things that may help to determine that. The first is that there is likely to be another court case. We know that that is in train already, and a formal ruling on funding may come from that. That is one element. The second is that Justice McAlinden ruled in the previous court case that a Department had to be designated and the scheme developed. He has already indicated that, if the matter comes back before him, he has a view on how the funding will be handled. He said that it is the responsibility of the Executive Office to provide funding to the designated Department in order that it can disperse those funds to victims. I could sit back and say, "That is me off the hook. I will just design the scheme and then go cap in hand. It is then up to TEO and the Finance Minister to take tough decisions where they wish. It is not my problem". That would be irresponsible of me as a Minister in the Executive, when we have collective responsibility and are supposed to be working together.

I recognise that it would be incredibly challenging for colleagues from all parties to be able to find the funding required, particularly to make the initial payments. I think that the Executive would be able to deal with the recurrent annual payments. The initial payments will include back payments, however, and potentially people who opt to take a lump sum payment rather than a recurrent payment. Both those things could be significant. The timing and spacing of the payments will have an impact on how affordable they are to make.

There are issues that need to be addressed. That is why I initiated meetings with my Executive colleagues. I do not want to sit back, wait and then point the finger at somebody else. I want to get involved and support colleagues in the case that they make to the Secretary of State and, indeed, Treasury. Both need to be involved in the conversations in order that we can deal with the matter. Technically, it is for TEO to get the money from the Department of Finance. We all know, however, that that ultimately means that it will come out of the pockets of other Departments. Other Departments is the only place from which the money can come, because, in the circumstances, we do not have enough money to take a stand-still position.

It would be fair to say, Peter, that the discussions with the NIO on legacy — the HIU and so on — at the beginning of the year were reasonably intensive. Since the Secretary of State's ministerial statement to Westminster, however, there has been no substantive engagement with the NIO on legacy whatever. I would not expect that there would have been. To some degree, our involvement in this has also changed. The HIU was very clearly a justice instrument and something that sat comfortably in the Justice Department. Given that it was about investigation, justice, providing people with clarity under article 2 and everything else, there was a certain logic that it would lie within the Department of Justice. It is very unclear, however, what this curate's egg that the NIO has come up with will be and whether it is about justice, truth recovery or reconciliation. I do not really know what it is about. In that scenario, it is much more questionable whether there is any direct role for the Department of Justice. Until we get clarity on the structures, it will be very hard to tell.

Preparatory work on the HIU was ongoing. The Department had not advanced that work to a great degree, but it had thought through what its implications might be for the Department were we required to do it. All work on that has stopped, because, at this stage, there is no clarity on where we go next, so it does not make sense for us to be investing any time in that.

Miss Woods: It is concerning that there has been no substantive engagement on the changes that were announced to the press in March. Has the Department made any attempts to engage with the NIO on the matter?

Mrs Long: No. Initially, we asked for clarity. Officials attended some of the discussions on the HIU for a time, but my understanding is that those meetings ceased. I am reluctant for officials' time to be taken up with something that is so unclear.

I want to reassure you, if I may, because I would not want the Green Party to feel left out. Nobody is being spoken to about this issue. I know that very often you are overlooked and not engaged with on these issues, but, on this occasion, you are one of the majority that is not being engaged with, so you do not need to worry. We are all in the dark to the same degree on this issue.

Miss Woods: Minister, I appreciate that. For once, we are all in the same boat. The parties do all get lumped together when "all parties" is used, and that makes things quite confusing, so I appreciate your response. I would not want officials' time to be wasted, because it is precious enough. It is just incredibly disappointing.

Mrs Long: It is.

Miss Woods: The Northern Ireland Affairs Committee report was quite damning and should be taken on board.

The Chairperson (Mr Givan): Members will have heard the Division Bells, so that means that four minutes are left before we have to conclude the meeting. Gordon Dunne has indicated that he wants to speak. Perhaps we have covered this issue enough. I want to be fair to Sinéad. She asked about the legislative programme being brought on. Gordon, I therefore ask you to be brief.

Mr Dunne: Briefly, Minister, are you satisfied that you have the correct processes and procedures in place? It is a major project, and a lot of money is involved. Those of us who have been around here for a while realise the risks with such projects. Financial management and accountability are important. What processes and procedures are therefore being put in place to give us all an assurance that your system is robust and fit for purpose?

Mrs Long: I am going to pass that to the chief accounting officer for the Department, because it is appropriate that he give you reassurance, because he needs to be reassured that the appropriate checks and balances are in place.

Mr May: There are two sets of overarching machinery, one of which is led by the Executive Office, which retains overall responsibility for the scheme. There is then a project board chaired from within the Department of Justice that draws together relevant people from in the Department and outside it. We will be putting in place absolutely all the right mechanisms. That is part of the reason that it is taking some time to get to the point at which —.

Mr Dunne: Would it be fair to say that you are following the principles of project management?

Mr May: Indeed. We are trying to make sure that we do this properly. We recognise that, with a scheme of this nature, with the payments involved, particularly as they are not even one-off payments but recurrent payments, we need to make sure that we have the right IT systems and the right mechanisms in place to ensure that only those who are eligible for the funding get the money and that those who are eligible get all that they are entitled to, at the right time and on an ongoing basis. Those complexities are some of the reasons that it has taken time to get to the point at which the scheme can start and payments can be made.

Mr Dunne: Will it be regularly reviewed and subject to internal audit?

Mr May: I have not been discussing the use of internal audit yet, but, at some stage, we will absolutely make sure that there is a proper review process of the progress that is being made.

Mr Dunne: Will that happen as soon as possible?

Mr May: It will happen at the right point, because you need to have made enough progress in order to have something to review. We need to make the judgement call as to when the right point is to do that.

The Chairperson (Mr Givan): Sinéad, do you want to raise an issue about the legislative programme?

Ms S Bradley: No, Chair. To be fair, the Minister was detailed in her opening remarks and in the House yesterday, so I am more than happy to let it go.

The Chairperson (Mr Givan): There are probably areas of the legislative programme that the Committee will pick up on Thursday. Emma, do you want in?

Ms Rogan: It was just around that, but if we are going to pick up on that on Thursday in Committee, that will be OK.

The Chairperson (Mr Givan): If you want, we have one more minute.

Ms Rogan: It might take me more than a minute *[Laughter.]*

The Chairperson (Mr Givan): OK. As a Committee, we can discuss whether there are issues on which we want to write to the Minister. We are due to meet you again on 15 December. No doubt, issues will arise in the interim that we will want to raise with you.

I thank you for taking the time, Minister, to meet us on a Tuesday afternoon. It is not something that we necessarily want to make a regular thing.

Mrs Long: I do not know: I thought that it was fun *[Laughter.]*

The Chairperson (Mr Givan): Everyone is under time pressure with all-party groups and all of that, but it is important that the Committee engage with you.

Mrs Long: Thank you very much. If there are issues, particularly around the legislative programme, on which I can be of assistance, I am happy, even informally, to have a chat with any of you who have queries or questions and try to resolve those. There is a real opportunity here to show that a legislative Assembly is just that: it legislates and makes a difference. That is important for the public to have confidence in what we do, so I am happy to engage at any time, if that would be of assistance.

The Chairperson (Mr Givan): Thank you. There are a couple of points that you will follow up on in writing, which, I know, we will get in due course.

Mrs Long: Perfect.