



Northern Ireland  
Assembly

# Official Report (Hansard)

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# Northern Ireland Assembly

Monday 7 March 2016

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

*Members observed two minutes' silence.*

## Assembly Business

**Mr Speaker:** Before we proceed, I want to return to the point made by Mr Wells last week about the amount of legislation going through the House. In the previous four years of this mandate, by my reckoning, we passed 37 Bills, but we may well end up passing a further 30 Bills in the final year of the mandate since September 2015. It is important to note that that has created very significant pressure on the Assembly in recent months. I thank the Whips, Members and particularly staff, who have managed it so well.

Now that Mr McCallister's Bill has been passed by the House, I can say that I am delighted that it includes a provision for an annual legislative programme. I and my predecessors have been calling on the Executive for some time to introduce a legislative programme to assist with the management of their business. I believe that that will assist in better regulating the hours of the Assembly to eliminate peaks and troughs across the mandate.

The next Assembly should seriously consider other measures to help to develop a much more family-friendly system of working, including systems of electronic voting. At the start of the Assembly's Women's Week, I acknowledge that reducing the number of late sittings would make seeking election to the Assembly much more attractive not only to women but all parts of our community.

## Matter of the Day

### Attack on Prison Officer in East Belfast

**Mr Speaker:** Mr Andy Allen has been given leave to make a statement on the attack on a prison officer in east Belfast, which fulfils the criteria set out in Standing Order 24. If other Members wish to be called, they should rise in their place and continue to do so. All Members called will have up to three minutes to speak on

the subject. I remind Members that I will not take any points of order on this or any other matter until this item of business has finished.

**Mr Allen:** I tabled this Matter of the Day with feelings of disgust, sadness, anger — the list goes on. There can be no justification whatsoever for the despicable and heinous act of those people who attempt to drag us back to the days of the past. They are gone; they are behind us. Those people need to get with the times.

We need to support the Police Service of Northern Ireland in every effort to take these people off the streets so that they cannot carry out these attacks on our fellow citizens. Let us not kid ourselves or deny the fact that this could have caused havoc and devastation in a built-up area. You cannot put it into words.

I was at the receiving end of an IED blast and know only too well the devastation that that can cause. My thoughts are with the prison officer and his family at this difficult time. Let me say this to the prison officer: there is light at the end of the tunnel, and I am living proof of that. We will not allow these people to take us back to the past.

**Mr Givan:** This attack was despicable and disgraceful. It was an attack on a prison officer, a father and a family man. It was an attack on an individual because of the uniform that he wore — a uniform that he put on to protect all of us. Prison officers do a job on behalf of all the community, because we in our society have determined that individuals who break the law should be punished and sent to prison. They do a job for all of us. This attack is part of the ongoing campaign by republican terrorists in Roe House to get greater control and movement and to return Maghaberry to the way that it was during the Maze. It is a well-trying and tested tactic of republican terrorists: 29 prison officers were murdered during the days of the Maze, and then David Black was murdered during the days of Maghaberry. Now there has been another attack on a prison officer as part of this campaign.

I know, as the son of a prison officer, now retired, who served for over 30 years, the impact on families and the sacrifices that thousands of them have made over the past decades, such as checking under your car, not being able to drive on certain roads and having to avoid certain areas of Northern Ireland. That was normal to me; now, when I look back, it was far from normal.

We, as a society, need to send a very clear message to those prison officers that we stand shoulder to shoulder with them. Prison officers and their families have not got the recognition and the support that they deserve; they did not in the past and they still do not today. They do not get the support that they should from the Department of Justice or from Prison Service management. I spoke to prison officers over the weekend, and they know that they will hear words of condemnation from the heads of all those organisations, but then the pressure is on: "Get back to work." The sick leave policy is, "Yes, you have been assaulted, but get back to work." If you do not, you are threatened with dismissal.

We need changes to how the Department and the Prison Service treat the rank and file of the Prison Service. As a society, we need to send a very clear message that we will not tolerate this and will stand shoulder to shoulder with the men and women of the Prison Service.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. I join with previous Members to speak in declaring our total and absolute solidarity with the family of the prison officer who was injured in Belfast last Friday. We wish him a full and speedy recovery and give our full and total support to his family as they deal with this. This attack has, quite rightly, been condemned this morning by all in the Assembly and, no doubt, by anyone else who is going to speak about it in the coming moments. That is right. We also have to give our full support to the PSNI as it carries out its investigation.

We have to send a very clear message to those who launched the attack. Thankfully, they have little or no support in the community. We have to send them a message from the Assembly and all the political parties that there is no place for this type of attack and that whatever disputes and issues need to be resolved will be tackled by peaceful and democratic means. That is the right message to go out from here this morning.

I conclude by, once more, wishing a speedy recovery to the prison officer involved.

**Mr Eastwood:** I thank Mr Allen for raising this Matter of the Day. He spoke with great eloquence and experience of these matters. Our thoughts and prayers are, obviously, with this public servant — for that is what he is — who goes about his everyday work and should not have to expect a bomb underneath his car. The people who carried out this attack did so with a mix of vanity and insanity and are deploying what has been proven to be a failed strategy. They are deploying it today when the people of my generation and the generations to come want to move on and are fed up with this type of nonsense. These people think that they can drag us back to the past while, at the same time, talking about the future.

It makes absolutely no sense, and the people of this part of the world stand in opposition to them. They tell us that they are fighting the British state and elements of it, but the people those so-called dissident republicans are actually fighting are the Irish people, and there will only ever be one victor in that battle.

**Mr Ford:** I wish to add my words of condemnation and sympathy. What happened on Friday morning was an outrageous attack. Not only was it an attempt to take the life of an individual prison officer, it was an attack on anybody who happened to be in the vicinity. It put lives at risk, and it was an attack on all who work in the Prison Service. As such, it has to be resisted by all of us.

I am pleased that the injuries to the officer were not as severe as first feared, and I add my wishes for his speedy recovery. On Friday morning, I had the opportunity to speak to some members of his family, and I was pleased to see the support that they were already receiving from members of the Prison Service Central Benevolent Fund as they coped with the potentially tragic news that had been inflicted on them, because they were still unsure of how things were.

I spoke also to senior officers in the Prison Service and in the PSNI. The director general — I think that this is now public — has made it clear that she has requested an updated assessment of the security threat to her staff. I have no doubt that that will be supplied speedily and that the Police Service will continue to support prison officers as best it can.

What is most important is the resolution and determination shown by all in the Prison Service and Police Service in standing up to those who would carry out such an attack. I am grateful to hear the messages of condemnation that came from right across the community, not

just from parties represented in the Assembly but from others far beyond it, making it absolutely clear that these people have nothing to offer us. It appears that they are more wedded to some form of struggle than to any possible outcome. The unity of the community in standing against them is much to be welcomed and applauded.

I met the officer concerned a few months ago, when I was out on one of my visits. He is an officer with a significant number of years' service who plays a key part in the Prison Service. He is also active in the community. His service to the community is not just when he is wearing a prison officer's uniform — although it is significant when he wears that uniform — but he is active elsewhere. He is the kind of citizen that society needs. He is the kind of person who is of benefit to the public service as well as to the wider community, and he is a fine person who had no reason to be attacked. He was a person who was doing his duty in uniform, as well as being an active citizen elsewhere.

I join in sending, again, my best wishes to him, his family, his friends and his colleagues. They are all in our thoughts and prayers, and we trust that we will see him receive a speedy recovery.

**Mr Douglas:** I rise as a Member for East Belfast and as a member of the Justice Committee. I thank Andy Allen for bringing this matter to the House this morning. I, along with the rest of the House, want to offer my support, my sympathy and, indeed, my prayers to the injured prison officer but also to the residents of the area, who have been traumatised in many ways. I live a few streets away from the prison officer, and I know the area. Women take their children to school every morning, often at that time. So, it was a cowardly attack on an innocent man but also on the whole community.

These cowards — that is what they are — hide in the shadows. They are not political idealists; they are death squads. They are not concerned whether they kill a prison officer or member of the security forces — a Protestant, Catholic, dissenter or whatever — because they are absolute death squads. I have heard them say that their day will come. I think that the message from the Chamber today is that, "Your day will never come". Whatever that day is, it will never come, and certainly not by murdering and trying to murder innocent people.

**12.15 pm**

I was in one of the prisons at the weekend, and I spoke to prison officers. It gave me a sense of real admiration for those people who not only work in the prisons but have to go home, probably in dangerous conditions, and to their work. So, I want to say very clearly today that we need to continue to support prison officers, and I am encouraged that all sides of the House are condemning these murderous death squads.

**Mr Allister:** Under the veneer, from time to time, of apparent normality, it is often forgotten that prison officers continue to be on the front line, because there continues to be a concerted, deliberate, driven campaign to try to retake control of the prisons. And, of course, it is modelled and built upon the Provo template of the past, when taking control of the prisons was a key component of strategy, and complementing it was the attempt outside the prisons to terrorise those who dared to work in them. What we saw in the murderous attempt on Friday morning was more of the same. It was just as vile, as wrong and as contemptible as every one of the past murderous attempts, which all too often did succeed and saw 30 prison officers murdered over the years.

I must say that, given that the murderous intent was just the same as that of a Member of this House who shot a prison officer in the head, I found it nauseating to have to listen to the hypocrisy of that Member in our public media, lamenting supposedly about this attack, when it is an attack precisely on a par with the one that he was quite happy to participate in.

Make no mistake: what we saw on Friday was a repetition of the Provo template; maybe even a repetition of the use of the Provo Semtex that was used, supposedly decommissioned but applied to the same purpose as in the past by others, who have yet to admit and acknowledge that what they did in murdering 29 prison officers was ever wrong, was ever contemptible or was ever any of the things that, for the sake of it, they now say about this attempt. All of it points to the debauchery and the amoral situation of all those who espouse, take to and have benefited from terrorism. Be it past or be it present, they all are equally reprehensible.

**Ms Sugden:** I join others in condemning the attack on the prison officer at the weekend. Some of the comments that Mr Givan made resonate with me, because I was the daughter of a prison officer, and we grew up, over 10 to 20 years, feeling threats in our lives. I remember once getting a telephone call to say that we would have to go to a safe house. We did not go to the safe house, and, thankfully, it

was not necessary at the time, but it was a real threat. The worrying side of that was that it was normality for my family and the families of prison officers across Northern Ireland. That was 10 or 15 years ago, and it is quite sad to think that, in 2016, we are still faced with those types of threat. Whoever may try to justify this, there is no justification for it. Regardless of whether it is for the centenary or any sort of commemoration this year, it is despicable.

Whatever side of the fence you are on in your political beliefs, these types of attacks do nothing more than undermine the cause you are trying to promote. I think what we, as Assembly Members, and people right across Northern Ireland can do is to stand together with all those in the security forces, including prison officers, against this attack. My thoughts are with the prison officer and his family.

## Assembly Business

### Standing Order 10(2) to 10(4): Suspension

**Mr Weir:** I beg to move

*That Standing Orders 10(2) to 10(4) be suspended for 7 March 2016.*

**Mr Speaker:** Before we proceed to the Question, I remind Members that the motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

*That Standing Orders 10(2) to 10(4) be suspended for 7 March 2016.*

**Mr Speaker:** As there are Ayes from all sides of the House and no dissenting voices, I am satisfied that cross-community support has been demonstrated. The motion is agreed.

## Executive Committee Business

### Fisheries Bill: Further Consideration Stage

**Mr Speaker:** I call the Minister of Agriculture and Rural Development, Mrs Michelle O'Neill, to move the Bill.

*Moved. — [Mrs O'Neill (The Minister of Agriculture and Rural Development).]*

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

### Health and Personal Social Services (Amendment) Bill: Further Consideration Stage

**Mr Speaker:** I call the Minister of Health, Social Services and Public Safety, Mr Simon Hamilton, to move the Bill.

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

**Mr Speaker:** As no amendments have been tabled, there is no opportunity to discuss the Health and Personal Social Services (Amendment) Bill today. Members will, of course, be able to have a full debate at Final Stage. The Further Consideration Stage of the Bill is, therefore, concluded. The Bill stands referred to the Speaker.

### Health (Miscellaneous Provisions) Bill: Further Consideration Stage

**Mr Speaker:** I call the Minister of Health, Social Services and Public Safety, Mr Simon Hamilton, to move the Bill.

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

**Mr Speaker:** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list. There are three groups of amendments, and we will debate the amendments in each group in turn.

The first debate will be on amendment Nos 1, 2, 3 and 15, which deal with the prohibition of the use of tobacco or nicotine products in a private vehicle. The second debate will be on amendment Nos 4 to 7 inclusive and 16, which deal with provision on sugar-sweetened drinks. The third debate will be on amendment Nos 8 to 14 inclusive, which deal with provision on human transplantation.

I remind Members who intend to speak during the debate on the three groups of amendments that they should address all the amendments in the group on which they wish to comment. Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. If that is clear, we shall proceed.

### **New Clause**

**Mr Speaker:** We now come to the first group of amendments for debate. With amendment No1, it will be convenient to debate amendment Nos 2, 3 and 15. Those amendments relate to the prohibition on the use of tobacco or nicotine products in a private vehicle. I call the Minister of Health, Social Services and Public Safety, Mr Simon Hamilton, to move amendment No 1 and to address the other amendments in the group.

**Mr Hamilton (The Minister of Health, Social Services and Public Safety):** I beg to move amendment No 1: In page 2, leave out clause 5 and insert

### **"Prohibition of use of tobacco or nicotine products in a private vehicle**

**4A.—(1)** *The Smoking (Northern Ireland) Order 2006 is amended in accordance with subsections (2) to (7).*

**(2)** *In Article 6 (smoke-free vehicles)—*

**(a)** *after paragraph (1) insert—*

*"(1A) Regulations under this Article may in particular provide for a private vehicle to be smoke-free where a person under the age of 18 is present in the vehicle.";*

**(b)** *in paragraph (2), for "The regulations" substitute "Regulations under this Article".*

**(3)** *In Article 10 (fixed penalties)—*

**(a)** *for the heading substitute "Fixed penalties";*

**(b)** *in paragraph (1), for ", or in a place or vehicle," substitute "or in a place";*

**(c)** *after paragraph (1) insert—*

*"(1A) An authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 7(5) or 8(2) in a vehicle in relation to which the*

*authorised officer has functions may give that person a penalty notice in respect of the offence.*

**(1B)** *The Department may by regulations provide that, in the circumstances specified in the regulations, an authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 9(3) in relation to a vehicle in relation to which the authorised officer has functions may give the person a penalty notice in respect of the offence."*

**(4)** *In Article 11 (enforcement)—*

**(a)** *for the heading substitute "Enforcement";*

**(b)** *in paragraph (1), for "premises, places and vehicles" substitute "premises and places";*

**(c)** *after paragraph (1) insert—*

*"(1A) The Department may make regulations designating the persons or bodies or descriptions of person or body which are to be enforcement authorities for the purposes of enforcing, as respects vehicles, the provisions of this Order and regulations made under it.*

**(1B)** *The regulations—*

**(a)** *must specify the descriptions of vehicle in relation to which an enforcement authority has functions,*

**(b)** *may provide for a case being dealt with by one enforcement authority to be transferred (or further transferred back) to, and taken over by, another enforcement authority.*

**(1C)** *It is the duty of an enforcement authority to enforce, as respects the vehicles in relation to which it has enforcement functions, the provisions of this Order and of regulations made under it.";*

**(d)** *in paragraph (2)—*

**(i)** *after "district council" insert "or other enforcement authority";*

**(ii)** *after "the council" insert "or other authority";*

**(iii)** *for "authorised by it" substitute "authorised by that council or other authority".*

(5) In Article 12(1) (obstruction of officers), after "district council" insert "or other enforcement authority".

(6) In Article 15(3) (regulations subject to affirmative procedure)—

(a) in sub-paragraph (a), for "or 14" substitute ", 10(1B) or 14";

(b) in sub-paragraph (b), for "or 8" substitute ", 8 or 18".

(7) In Schedule 1 (fixed penalties), after paragraph 17 add—

"Power to amend or modify Schedule

18. The Department may by regulations—

(a) amend this Schedule so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority of a particular kind,

(b) provide for this Schedule to apply with modifications in relation to such notices."

(8) The Department may by regulations make provision prohibiting the use of nicotine products in a private vehicle where a person under the age of 18 is present in the vehicle, and such regulations may for that purpose amend, or apply with modifications, the provisions of the Smoking (Northern Ireland) Order 2006 to nicotine products."

The following amendments stood on the Marshalled List:

No 2: In clause 6, page 2, line 34, leave out "this Act" and insert "this section".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 3: In clause 6, page 2, line 35, after "Regulations" insert "made by the Department".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 15: In the long title, after "sale" insert "or use".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Mr Hamilton (The Minister of Health, Social Services and Public Safety):** I am on record as saying that the case for banning smoking in cars when children are present is clear. We are all well aware that children are particularly

vulnerable to the effects of second-hand smoke. At Consideration Stage, an amendment tabled by Sinn Féin Members included a provision for regulations to be made to ban the use of nicotine products in cars carrying children. That amendment was subsequently agreed by the Assembly. Whilst I was prepared to support that amendment and did, I indicated that I might seek to tighten it. Having given the matter careful consideration, I have proposed an amendment that received support from the Health Committee during its scrutiny of the Bill.

Amendment No 1 seeks to remove clause 5, as the intention is to replace it with a clause that will amend article 6 of the Smoking (Northern Ireland) Order 2006 in relation to smoke-free vehicles to allow offences to apply to private vehicles where under-18s are present. The offences are similar to those that exist for work vehicles under the Smoking (Northern Ireland) Order 2006 and relate to smoking in a smoke-free vehicle and failing to prevent smoking in a smoke-free vehicle. My amendment will also allow for the application of fixed penalties for the offences to which I just referred. In order to allow the Department time in which to consider fully the enforcement issues, the amendment is drafted in such a way as to provide naming the particular enforcement body or bodies in the primary legislation and refers instead to the "enforcement authority".

Dependent on a successful outcome to discussions with the Department of Justice, it is envisaged that a dual enforcement approach between councils and the Police Service of Northern Ireland will be introduced. The dual enforcement approach will be similar to that already adopted in England and Wales, where a ban has been in place since October 2015. In practice, that would mean that a fixed penalty notice could be issued by the Police Service of Northern Ireland or a council. A definition of "enforcement authority" will be included in the regulations that will emanate from the Bill.

I also assure Members that, as there has been no public consultation on this subject in Northern Ireland, it is my intention to carry out a full consultation on the regulations.

Furthermore, given that the amendment agreed by the Assembly at Consideration Stage allowed for regulations to be made on the use of nicotine products in private vehicles carrying children, I reassure Members that my proposed amendment includes a similar power. The new clause 6 requires my Department to review the implementation of Part 1 three years after commencement of the Act. Given that the Act requires a phased commencement, there will

be no definite starting date for that clause. I, therefore, proposed amendment No 2, which is a technical amendment that will require the Department to publish a review three years after commencement of that clause, rather than the commencement of the Act. That will enable my Department to commence the clause when it is ready to make regulations under Part 1, thus making a review more meaningful.

I have also proposed amendment No 3, which is a small technical amendment to clause 6. It will clarify that regulations setting out the terms of the review will be made by the Department of Health, Social Services and Public Safety.

Finally, as a result of the amendments on banning smoking in cars when children are present, the scope of the Bill has changed slightly, and amendment No 15 makes the necessary change to the long title. I trust that Members will appreciate my rationale for making these amendments and understand that they are designed to send out a clear message that I am serious about tackling smoking and the danger that second-hand smoke exposure poses to children. I believe that these amendments will strengthen the Bill, and I ask Members to give them their support.

**Mr Easton:** I intend to speak on amendment Nos 1 and 2 in group 1 but not amendment Nos 3 and 15. The amendments were brought to the Health Committee last week. The Committee decided to note them as no officials were available at that time. However, the Minister stated that he intended to tidy up amendment No 1 in this Part of the Bill at an earlier stage. That amendment will introduce a clause that will allow offences to apply to private vehicles where under-18s are present and allow for fixed penalties, as well as providing for the option of a dual approach with enforcement authorities. The Health Minister has also gone on to assure Members that, as there has not been a public consultation, his intention is to carry out a full consultation at regulation stage.

*(Mr Principal Deputy Speaker [Mr Newton] in the Chair)*

Amendment No 2 relates to clause 6. New clause 6 requires the Department to review the implementation of the Act three years after its commencement. The Act is required to have a phased commencement as there is no definite starting date. The amendment, therefore, allows and requires the Department to publish a review three years after the commencement of

the clause rather than the Act. That will also allow for the terms of the review to be set out.

Amendment Nos 3 and 15 are technical, and I do not intend to speak on them.

**Ms Maeve McLaughlin:** Go raibh maith agat, a Cheann Comhairle. I support the amendments in group 1, including the new clause and amendment Nos 2, 3 and 15. As the Minister stated, those amendments received support from the Committee. They are required to tidy up this legislation and the existing Smoking Order 2006, and, importantly, to deal with the enforcement of a ban on smoking in cars or vehicles carrying under-18s. The main purpose of the Sinn Féin amendment at Consideration Stage was simply in the interests of children's health by way of prohibiting smoking in vehicles where under-18 children are present.

From our perspective, "smoking" means all nicotine products, and that is reflected in the legislation. It means all enclosed vehicles whether they are moving or parked. The amendment applies to those who are in a car and not just passengers.

### 12.30 pm

Whilst we can reflect on the fact that smoking rates have reduced, it remains the case that they are the biggest cause of preventable death. Tobacco kills half of its long-term users: between six and seven people every day here, and 2,300 people a year. Quite simply, the prohibition of smoking in cars carrying under-18s is the right thing to do. It is important to point out that children are particularly vulnerable in how they develop physically and to all that second-hand smoke entails. Our aim is not only to advance the legislation and amendments but to move towards a tobacco-free society by 2035, which is an aspiration of all the cancer charities in their daily endeavours.

The Minister referred to enforcement in relation to the amendments, and that issue has to be tackled. It is apparent that, in some regards, enforcement requires a dual process by local authorities and the PSNI. We have witnessed high compliance with other smoke-free legislation, and its success will be greatly assisted by a public awareness campaign. I appreciate the Minister's commentary on full consultation on the regulations.

We need a long-term, sustained, comprehensive tobacco control strategy that looks at all the influences, curtails the tobacco

industry, helps people to stop smoking and ultimately protects children and others from second-hand smoke. Amendment No 1, in our view, amends the Smoking Order 2006 in accordance with subsections (2) to (7). It amends article 6 to ensure that regulations provide for a private vehicle to be smoke-free when a person under 18 is present. This is a major public health initiative that is being taken by the Assembly. It is quite simply the right thing to do. We support amendment Nos 1, 2, 3 and 15.

**Mr McKinney:** As the SDLP health spokesperson and a member of the Health Committee, I will address the amendments in group 1.

At this stage, the negative health implications that flow from passive smoking in cars have been well rehearsed in the Chamber, but I will again quote some statistics from the Health Department. Around 15% of adults smoke with their children present in the car. Given that there are around 360,000 smokers in Northern Ireland, it is easy to do the maths: over 50,000 people regularly smoke with one, two or three children in the car. You can begin to see the impact that that can have. For us, as a party, that is unacceptable.

Passive smoking proves to be a serious health hazard. Every time that someone smokes a cigarette, they breathe in a lethal concoction of toxins, but they breathe out even more, as the smoke contains over 4,000 chemicals, many of which are highly toxic. That is why the SDLP tabled amendments at Consideration Stage. I am glad that the Health Minister has now recognised that by providing for further amendment through amendment No 1. It provides for a general ban on smoking in cars with children. It provides powers to amend or modify the schedule if, for example, electronic cigarettes are deemed to be harmful. Importantly, amendment No 1 deals with the issue of enforcement where the Minister and Department had some difficulties with the original amendment. The Minister's sole focus on the provision being enforced by local authorities was hampered by the fact that local authorities do not have stop-and-search powers, meaning that they are unable to issue a fine. Only the PSNI has those explicit powers. The SDLP raised that at Consideration Stage, and I am glad that the Minister has listened and has rectified the oversight.

Amendment No 2 deals with clause 6, which was proposed by the SDLP. Clause 6 provides in law for the Department to review the legislation three years after it comes into force.

I am glad that the Minister has recognised the need to review the legislation by supporting clause 6.

The Minister's amendment Nos 2 and 3 are technical and do not remove any of the intent behind the original amendment. Therefore, I am happy to support them. Amendment No 15 is, again, a technical amendment, as has been reflected, and I have no issues with it.

To conclude, we have a proud history in this Chamber of bringing forward instrumental pieces of legislation in relation to smoking, all of which have proved hugely successful in changing societal behaviours and culture. The SDLP believes that today's amendments do not take anything away from what we originally proposed, and we are happy to support the group 1 amendments.

**Mrs Dobson:** As Ulster Unionist Party health spokesperson, I am happy to support the amendments in this group. The fact, however, that the Department has had to bring the amendments forward today is further proof of why a ban on smoking in cars carrying passengers under 18 should have been in the Bill at its introduction. Instead, it was left up to Members to bring the issue forward through amendments, despite cross-party support and general support in the Department. I am still not really sure why such an approach was adopted; nevertheless, we are where we are, and today's amendments should further strengthen the prohibition.

**Mr McCarthy:** The Alliance Party is content to support the amendments. They probably tighten up what has already been agreed by the Assembly and provide a sounder basis on which to proceed. However, it would have been better if the amendments had been presented at Consideration Stage, and it is still unclear why that could not have been the case, given the apparent consensus on the need for action. In conclusion, policing of the amendments and the Bill will be difficult, but I appeal to all smokers to simply think of all the children and young people travelling in your vehicle before you light a cigarette. Never, ever put the health of your children in jeopardy. I support the amendments.

**Mr Hamilton:** I thank those who contributed to the debate, in particular those — I think all — who accepted the rationale behind the amendments and supported them. The Assembly's view on this issue was very clear; it supported the Sinn Féin amendments around the subject. The Committee previously

supported the text of what is now amendment No 1. The intention of that amendment and other amendments in the group are to tighten up and tidy up, as another Member said, previous amendments and to make this new law more robust.

As I indicated previously, my reason for proposing the amendments is to send out a strong and unequivocal message that the best way to provide children in Northern Ireland with effective protection from passive smoking in cars is to prevent them from having to inhale smoke in the first place. I ask Members to support the amendments in the group.

*Amendment No 1 agreed to.*

### **Clause 6 (Review)**

*Amendment No 2 made:*

In page 2, line 34, leave out "this Act" and insert "this section".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

*Amendment No 3 made:*

In page 2, line 35, after "Regulations" insert "made by the Department".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

### **Clause 8 (Levy on sugar sweetened drinks)**

**Mr Principal Deputy Speaker:** We now come to the second group of amendments for debate, which deal with provisions in relation to sugar-sweetened drinks. With amendment No 4, it will be convenient to debate amendment Nos 5, 6, 7 and 16.

Amendment No 6 is consequential to amendment No 4.

**Mr Hamilton (The Minister of Health, Social Services and Public Safety):** I beg to move amendment No 4: In page 3, line 17, leave out "consult" and insert "carry out a study".

*The following amendments stood on the Marshalled List:*

No 5: In page 3, line 18, leave out "a year" and insert "two years".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

No 6: In page 3, line 19, leave out "consultation" and insert "study".— *[Mr*

*Hamilton (The Minister of Health, Social Services and Public Safety).]*

No 7: In page 3, line 28, leave out subsections (3) and (4).— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

No 16: In the long title, after "tobacco," insert

*"to make provision in relation to sugar sweetened drinks,".*— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Mr Hamilton:** We had a very useful debate on this subject at Consideration Stage, and I do not think that anyone would deny that poor diet is very much linked to the prevalence of many medical conditions in our society such as stroke, heart disease, type 2 diabetes and cancer. We are also well aware of the health risks associated with sustained high levels of sugar intake. That is particularly disturbing when we consider that current estimates of sugar intake in Northern Ireland show that the average intake amongst school-age children and teenagers is almost three times higher than the new 5% maximum recommended level and around twice the maximum recommended level in adults. Sixty per cent of the adult population is overweight or obese. Even more worryingly, 28% of our children and young people, some as young as two years of age, are overweight or obese.

At Consideration Stage, I outlined my opposition to the new clause that was proposed by Sinn Féin Members, which would have required the Department to consult on a levy on sugar-sweetened drinks within a year of enactment. I opposed it not out of opposition to the idea itself but for other reasons, including uncertainty over the Assembly's ultimate competence to legislate in the area, which is an uncertainty that remains based on recent advice; whether, as a principle, we should legislate to compel Departments to carry out a consultation; a lack of consensus on the issue, with even dieticians from the British Dietetic Association urging caution that we should not become fixated on a tax or single out sugar, when a balanced diet is key; the fact that we need to do more to educate people on sugar before moving to legislate; the lack of any evidence base that shows impact on health outcomes and not just on purchasing behaviour, which means, simply put, that people may switch to other unhealthy food and therefore we just displace the problem rather than resolving it; the fact that such a tax could well be regressive and could exacerbate food

poverty; and, finally, the unknown impact on business, jobs and cross-border trade. However, in spite of my putting forward such a good argument, the Assembly agreed that the clause proposed by Sinn Féin Members should be inserted into the Bill, and it now appears as clause 8.

I have proposed a number of amendments to the clause. Amendment Nos 4 and 6 remove the duty to consult and replace it with the duty to carry out a study. That gives the Department time to commission a robust study of the impact of such a tax. That will also be open to a public discussion and will allow us to try to resolve the potential legal challenges. If the outcome of that is positive, the Department can move forward on a consultation. However, if it is not possible, there will be no compulsion on the Department to undertake what could well be further nugatory work. It is vital that, to comply with European Union trade and human rights legislation, the level at which any potential tax would be set needs to be proportionate and effective. I note with interest the recent report by Cancer Research UK and the UK Health Forum that estimated that a 20% tax on sugar-sweetened drinks could reduce calorie intake by just 15 calories a day. That is, at most, 0.7% of the recommended daily calorie intake and seems to me to be unlikely to make any real difference.

Amendment No 7 will remove subsections (3) and (4) from clause 8 as they contain the details of the consultation, which would, of course, be redundant if there was no such consultation.

Amendment No 5 will extend the period within which the work must be carried out to two years after enactment. That takes into account the complexity of the issues and gives the Department more time to commission appropriate studies and advice and consider them before reporting on a study. On top of the econometric modelling, we need to agree on the definition of a sugar-sweetened drink. It will take time to consider that, and we may need to commission expert advice and research that could take some time to complete. I believe this to be a reasonable time frame and hope that Members will understand and support the rationale for proposing the amendment.

As a result of the amendment about the provision for a study on a levy on sugar-sweetened drinks, the scope of the Bill has further changed, and amendment No 16 will reflect that change in the long title.

I trust that Members will understand the rationale for proposing the amendments and will appreciate that, from a practical perspective, they are reasonable in terms of what the Department will undertake to do and the timescale in which it would be done. Therefore, I ask Members to support the amendments.

## 12.45 pm

**Mr Easton:** I intend to speak on amendment Nos 4 and 6 and amendment No 5; I do not intend to speak on amendment Nos 7 and 16. Amendment Nos 4 and 6 remove the duty to consult and replace it with a study. That will allow the Department sufficient time to commission a study on the impact of such a tax and look at any potential legal challenge. It would also allow the Department to look at EU trade and human rights issues, the potential for this to cause problems with food poverty and the potential impact on businesses and jobs.

Amendment No 5 will allow the Department more time, due to the complexity of the study, to prepare itself. The study will require extensive research and work, so extending the period for it to be carried out to two years makes sense.

Amendment Nos 7 and 16 are technical, and I do not intend to speak on them.

**Ms Maeve McLaughlin:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I rise to address the second group of amendments, particularly amendment Nos 4, 5, 6, 7 and 16.

It is important at this juncture that we reflect on a number of factors in relation to a sugar tax levy. The Sinn Féin amendment at Consideration Stage was based on key principles. First, as the Minister said, as a society we consume too much sugar. There is a strong correlation between sugar consumption and health problems, dental decay and obesity. The Minister mentioned the number of people who are overweight or obese. It is also a strain on the health service. Some of the research that we looked at, particularly that carried out by Safefood in 2012, estimated that the direct health costs such as GP, inpatient and outpatient costs and prescriptions to deal with obesity in the North was £92 million per year. So, there is a clear concern about strain on the service, and it is important to reflect the fact that sugary soft drinks are a particular concern in that regard.

The tax needs to be part of a broader strategy; the Sinn Féin amendment was a recognition of that. It is not a panacea for our issues, but it is certainly a positive public health initiative that can and should be legislated on.

Amendment No 4 leaves out "consult" and inserts "carry out a study", and amendment No 6 removes "consultation" and inserts "study". We can support that, but we stress that the study will need active participation from the various sectors and wider society. That should, if conducted properly and accurately, provide us with the evidence that we need in moving forward.

We take issue with amendment No 5, as we are of the view that the work can be conducted within a year of commencement of the Act. I listened carefully to the Minister. He referred to a lack of consensus on moving on and the lack of an evidence base on health outcomes, and he questioned the competency to legislate. However, the plastic bag levy was legislated for through this very House.

There are concerns that the tax may be regressive. It stands to reason, from the evidence, that the highest consumption of sugary drinks, for want of another description, is among children and young people. There is a higher percentage in areas of high social need, so it stands to reason that an initiative that would go some way to preventing that access would have a positive health outcome. In our view, therefore, we cannot stand over the sense that it would be regressive.

I have not heard anything to say why we would need to extend the consultation time to two years.

I think that it is reasonable for us as a society to expect that, once the Act comes into a place, a study can be conducted within a year. As the Minister said, amendment No 7 removes subsections (3) and (4). That, effectively, tidies up the whole issue of consultation versus study, which I have dealt with. Amendment No 16 amends the long title to make provision in relation to sugar-sweetened drinks.

In conclusion, we have issues around amendment No 5 and are happy to support the other amendments that are in front of us today. Again, as in the previous group, this is a key public health initiative and is quite simply the right thing for the Assembly to do.

**Mr McKinney:** Obesity is the epidemic of the 21st century, and the SDLP believes that this Chamber should do all in its powers to prevent

it from occurring in the first place. In that regard, the party believes that a more holistic approach is required, and I will deal with that at the end.

During Consideration Stage, the SDLP was broadly supportive of clause 8, in that it would give the Chamber more information to gauge the necessity for intervention in introducing a levy on sugary drinks. However, there are a number of issues with today's amendments. First, amendment Nos 4 and 6 appear to reduce the ambition by prescribing the carrying out of a study rather than a formal consultation, as was originally proposed. There are perhaps a number of questions for the Minister. Would this simply be an academic piece of literature or would it be something similar to RaISe research? In his remarks, he referred to the fact that it will be a robust study, but when does a robust study not become a consultation? Surely a consultation should form a key part of a robust study. Through amendment No 7, the Minister intends to rule out public engagement, and the question remains as to what extent the Department will engage with stakeholders or the public to assess the appetite for change. For example, will there be a call for evidence?

On amendment No 5, the Minister has described how he intends to increase the time limit to carry out such a study from one year to two years. We do not agree that it would take any more than a year to complete such a body of work. One year would provide the Chamber with more information to gauge the need for intervention, and I think it is important that, if you are serious about these things, you need to send out a signal that you are serious. Pushing it back two years could be seen as kicking the issue down the road. However, as I said at the start, it is important to remember that we need a joined-up government approach to tackling obesity, and, while piecemeal legislation may provide some valuable information, we really need a cross-departmental, targeted approach that focuses on education, prevention and early intervention.

**Mrs Dobson:** The Minister and his officials have quite clearly decided that a public consultation on sugar-sweetened drinks is not necessary. I think that that is quite disappointing. However, given how little value many Departments, not least Health, now give to consultations, the outcome will be little changed. At this stage, rather than only having a consultation for consultation's sake, I will give the Department the benefit of the doubt with this study exercise. It is my hope that this report, aside from being expert-led and ambitious in its thinking, will still very much test

public opinion on the introduction of a levy. In addition, I hope that the study, not least because of clause 8(2)(f) in the Bill, will produce a researched set of recommendations on how it is envisaged that any revenue raised be spent. In addition, I hope that the study will report on any findings from other countries where the levy is operating. That will be very important, because much of the global debate is now concentrating not only on the possible health benefits but on what some people see as a disproportionate or unfair impact on poorer families. Under the two years proposed in amendment No 5, the Department will have no excuse not to give this issue the full depth of consideration that it deserves.

**Mr McCarthy:** The Alliance Party is happy to go along with the Minister's contribution, and I very much welcome his determination and acknowledgement of the scourge of obesity that we have in society. He is obviously prepared to do something about it. The intake of unhealthy food and drink, particularly among our children and young people, is certainly storing up problems for the health service in the future. My party and I were a bit concerned about the difference between the words "study" and "consult", but having listened to the reasons or excuses — call them what you will — I am happy to support the amendments.

**Mr Hamilton:** I again thank the Members who contributed. I particularly thank those who support the amendments brought forward in my name. My reasons for proposing the amendments were, I think, articulated clearly. They will allow a piece of work to be undertaken that should provide us with useful information about how to proceed on a sugar-sweetened drinks levy. I share the public health concerns raised by many Members across the House, and I understand and accept the point made by Sinn Féin about seeking a broader strategy on this. I could argue that a broader strategy is in place with Making Life Better, a public health strategy that the Department has in place. In fact, an Executive subcommittee on public health met last week to discuss this important issue and the substantial progress being made on implementing the strategy.

We focused here on one particular issue — the contribution of sugar to the issues around obesity — but there are others, such as other types of food, lack of exercise or whatever it might be. It is absolutely right that we examine all those further, and that is what the Making Life Better strategy is about. I am sure there will be other contributions to that debate over the years to come. It is taking the time to examine the issue properly that is the intention

of the study, which is at the heart of the amendments before us. If the results of that are positive, my Department or the Assembly could then move towards a consultation on what specifically to do on a levy or tax on sugar-sweetened drinks.

In my view, doing a consultation first is the wrong way round. It is putting the cart somewhat before the horse. I think you need to do a study, and it needs to reflect on the views of the public on whether there is support for such a thing, as Mr McKinney said. I think we need to be mindful of that. Any study worth its — I was going to say "salt", but, of course, too much salt is not a good thing either, and it would only encourage people to think about an amendment on that as well. Any study should consider what the public's view is and whether there would be public acceptance of the introduction of such a levy or tax. I think a consultation signals a clear intent to do something, and I do not think we are quite there yet. Whilst there is an acceptance that there is a problem here, I think there are issues underneath the problem that we are not quite clear and sure about. That is why I think we need to take our time with this study, and then we can consult on specifics and specific proposals thereafter.

I reiterate the need to extend the period from one year to two years, as I believe that will allow for a more comprehensive and meaningful end product that will help to inform further debate about how we should move forward on this important issue. It is a complex issue, and there is much that is unclear about it. I make the point to Members that, although the amendment would mean that it has to take place within two years, that does not mean that it could not be concluded inside those two years. We do not have to wait until the end of two years to get something done. It could be done in a much shorter time, if possible.

With those things said, I ask that Members support the amendments before them.

*Amendment No 4 made:*

In page 3, line 17, leave out "consult" and insert "carry out a study".— [Mr Hamilton (*The Minister of Health, Social Services and Public Safety*).]

*Amendment No 5 proposed:*

In page 3, line 18, leave out "a year" and insert "two years".— [Mr Hamilton (*The Minister of Health, Social Services and Public Safety*).]

Question put, That amendment No 5 be made.

The Assembly divided:

Ayes 52; Noes 38.

#### AYES

Mr Agnew, Mr Allen, Mr Anderson, Mr Beggs, Ms P Bradley, Mrs Cameron, Mr Campbell, Mr Clarke, Mrs Cochrane, Mr Cochrane-Watson, Mr Craig, Mr Cree, Mr Dickson, Mrs Dobson, Mr Douglas, Mr Dunne, Mr Easton, Mrs Foster, Mr Frew, Mr Gardiner, Mr Girvan, Mr Givan, Mrs Hale, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Ms Lo, Mr Lyons, Mr Lyttle, Mr McCallister, Mr McCarthy, Mr McCausland, Mr I McCrea, Mr McGimpsey, Mr D McIlveen, Miss M McIlveen, Mr McQuillan, Mr Middleton, Lord Morrow, Mr Moutray, Mr Nesbitt, Mrs Overend, Mr Patterson, Mrs Pengelly, Mr G Robinson, Mr Ross, Mr Storey, Ms Sugden, Mr Swann, Mr Weir.

Tellers for the Ayes: Mr McQuillan and Mr G Robinson

#### NOES

Mr Allister, Mr Attwood, Mr Boylan, Ms Boyle, Mr Diver, Mr Durkan, Mr Eastwood, Ms Fearon, Mr Flanagan, Mr Hazzard, Mrs D Kelly, Mr G Kelly, Mr Lynch, Mr McAleer, Mr F McCann, Ms J McCann, Mr McCartney, Ms McCorley, Mr McCrossan, Mr McElduff, Ms McGahan, Mr McGlone, Mr M McGuinness, Mr McKay, Mrs McKeivitt, Mr McKinney, Ms Maeve McLaughlin, Mr McMullan, Mr A Maginness, Mr Maskey, Mr Murphy, Mr Ó hOisín, Mr Ó Muilleoir, Mr O'Dowd, Mrs O'Neill, Mr Rogers, Ms Ruane, Mr Sheehan.

Tellers for the Noes: Mr McKay and Ms Maeve McLaughlin

Question accordingly agreed to.

Amendment No 6 made:

In page 3, line 19, leave out "consultation" and insert "study".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

Amendment No 7 made:

In page 3, line 28, leave out subsections (3) and (4).— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

#### Clause 15 (Duty to promote transplantation)

**Mr Principal Deputy Speaker:** We now come to the third group of amendments for debate, which deal with provision in relation to human transplantation. With amendment No 8, it will be convenient to debate amendment Nos 9 to 14 inclusive. I call the Minister of Health, Social Services and Public Safety, Mr Simon Hamilton, to move amendment No 8 and to address the other amendments in the group.

**Mr Hamilton:** I beg to move amendment No 8: In page 8, line 11, after "transplantation" insert

*"and the donation for transplantation of parts of the human body".*

*The following amendments stood on the Marshalled List:*

No 9: In page 8, line 12, leave out "subsection (1)(a)" and insert "subsection (1)".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 10: In clause 16, page 8, line 15, after "in" insert "respect of".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 11: In clause 16, page 8, line 16, leave out "activities".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 12: In clause 16, page 8, line 20, leave out "transplantation activities" and insert "transplantations".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 13: In clause 16, page 8, line 23, leave out "activities".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

No 14: In clause 16, page 8, line 25, leave out "activities".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Mr Hamilton:** Two new clauses were introduced at Consideration Stage. Clause 15 introduces a requirement on the Department to promote and provide information on transplantation, and clause 16 places a duty on the Department to produce an annual report on transplantation. I believe that we had a useful and largely informed debate about transplantation at Consideration Stage, and I have consistently made it clear that I want to see many more of our fellow citizens who need an organ to improve their health and, indeed, in many cases, save their life, receive that organ at the earliest opportunity.

## 1.15 pm

Furthermore, in the last 21 years, more than 55,000 people in the United Kingdom have received an organ transplant, thanks to someone donating when they died. In addition, 21 million people across the United Kingdom have registered to help others. It is worth putting it on record that those are remarkable achievements, and Northern Ireland can be extremely proud of the part that it has played in the success of the organ donor register. I also remind Members that, over the past five years in Northern Ireland, there has been a 500% increase in living kidney donors, with 55 people donating in 2014-15. That is twice the number, measured per million of population, of any other region in the United Kingdom and is higher than in any European country.

Much valuable work to promote organ donation is undertaken all year round by the health sector, led by the Public Health Agency and involving charities and local support groups across Northern Ireland. This is important work that deserves our support. I also give thanks to the media, regional and local, which have carried many news stories and features encouraging organ donation.

At Consideration Stage, Mr Alastair Ross enquired as to the possible inclusion of language around organ donation. He made a valid point, as promotion carried out by the Department would, indeed, be in relation to the act of donation rather than transplantation itself. However, rather than redraft the entire clause, amendment No 8 simply adds words to the effect that the end of clause 15(1)(b) will now read:

*"provide information and increase awareness about transplantation and the donation for transplantation of parts of the human body."*

Amendment No 9 is a purely technical amendment to correct an inaccurate reference to clause 15(1)(a), in light of the fact that the information campaign would fall under subsection (1)(b). However, as the provision could properly apply to the whole of subsection (1), my amendment will leave out "subsection (1)(a)" and replace this with "subsection (1)".

During Consideration Stage, the Assembly agreed an amendment tabled by Sinn Féin Members that places a duty on the Department to promote and produce an annual report on transplantation. I have proposed amendment No 10, which will simply clarify the fact that, if the proposed report is to fully cover activities in

a year, it can only be finalised after the year has ended. My amendment, therefore, proposes that clause 16(1) should read:

*"The Department must lay before the Assembly, in respect of each financial year, a report about transplantation activities in that year."*

In relation to the duty to report on transplantation, I have proposed amendment Nos 11, 12, 13 and 14, which, again, are technical amendments and will remove the term "transplantation activities" from the Bill and replace it with "transplantation". I understand that the term "transplantation activities" was a fairly technical term used in Mrs Dobson's Human Transplantation Bill but not reflected in the amendments to the Health (Miscellaneous Provisions) Bill to cover the range of activities to which that Bill would have applied. In my view, the term "transplantation activities" is unnecessarily wide and the definition too complicated for the purposes of the Health (Miscellaneous Provisions) Bill, which deals only with promotion and reporting. As I have already stated, my amendments will simplify this by referring to "transplantation" and removing any references to "transplantation activities".

I trust that Members will understand that the amendments are an attempt to provide greater clarity to the clauses in the Bill, and I ask them to support all of the amendments in this group.

**Mr Easton:** I intend to be extremely short and to speak on amendment No 8, not on amendment Nos 9 or 10, and amendment Nos 11, 12, 13 and 14 in relation to activities. On amendment No 8, at Consideration Stage there was some concern about the language around organ donation in terms of the relationship of the act of donation, rather than transplantation. This amendment corrects that. In amendment Nos 11, 12, 13 and 14, which deal with leaving out "activities", the amendments simply change the wording and make it less complicated by referring to "transplantation" and removing any references to "transplantation activities".

**Ms Maeve McLaughlin:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I rise to speak on group 3 as tabled for Further Consideration Stage, namely amendment Nos 8, 9, 10, 11, 12, 13 and 14. As with other groups tabled today, it is important that we remind ourselves of the context.

There has been much debate, as the Minister outlined, on the need to have a duty placed on

the Department to promote transplantation. It is worth reflecting on evidence such as that from the Heart Foundation, which highlighted that the current system is ultimately failing to meet the demand, for example, for donor hearts and that eight people are waiting on life-saving hearts.

So there has been much debate and expectation around the need to tackle the issue of human transplantation and organ donation. It has been apparent, however, that there is unity on the need to promote organ donation, and the Sinn Féin amendment that was brought here a few weeks ago does that. It simply places a responsibility on the Department of Health to promote and raise public awareness of organ donation. There is overwhelming support for such a duty by way, for example, of a public awareness campaign. There is a general view that increased promotion will result in the outcomes required for an increase in donation rates.

I turn to the amendments tabled by the Minister. Amendment No 8 reads:

*"and the donation for transplantation of parts of the human body"*

The language used has been the subject of conversation and dialogue, and it is appropriate that we get the language right in this regard. We have no issue with amendment No 8.

We can support amendment No 9. I suggest that we are not about condoning any negation of the Department's duty to promote transplantation, and we have been very interested to hear what the Minister has to say and what assurances have been given. The duty will be on the Minister to promote it at least once a year. The Minister is actually, in our view, adding more to it and making it broader. We have no issue with amendment No 9.

Amendment No 10 is technical; it inserts "respect of" and causes us no issues at all.

Amendment Nos 11, 12, 13 and 14, as has been said, are also technical; they remove the term "activities" and insert "transplantations". They cause us no issues, and we are happy to support them.

In conclusion, we are happy to support all the amendments in group 3. It is important that, as we move through Further Consideration Stage and, hopefully, to Final Stage, the Assembly has done the right thing in ensuring that the promotion, and the duty to promote, organ donation is legislated for.

**Mr McKinney:** I welcome the opportunity to contribute to the debate on the group 3 amendments. I, too, will be brief. The amendments in this group are technical in nature and uncontroversial. Amendment No 8 extends clause 15 to include the promotion of the:

*"donation for transplantation of parts of the human body".*

Amendment No 9 is a technical amendment to clause 15, in relation to the scope of the annual campaign. Amendment Nos 10 to 14 are technical in relation to the operation of the annual reporting obligation and the obligation to consider necessary reform within five years. Those amendments narrow the scope of the provision so as to focus solely on transplantation. The SDLP has no issue with those amendments.

The SDLP believes that the Bill does not resolve the outstanding issues surrounding organ donation. The issues relating to increasing donor rates need much wider consideration and are not covered adequately through this mechanism. However, we are coming to the end of the mandate, and the SDLP is content to support clauses 15 and 16, as amended, which call for greater awareness raising and an annual review of organ donation. The five-year review is particularly important as the Welsh Act progresses and is important in informing the Assembly on the potential need for further legislation in the next mandate. I hope that this issue is revisited then.

**Mrs Dobson:** I welcome the opportunity to speak on the third group of amendments on human transplantation and organ donation. The amendments proposed, Nos 8 through to 14, are largely technical, and I am content to support them. It will come as little surprise to Members that I am prepared to accept my own wording in relation to organ donation, which is a direct lift from my private Member's Bill, the Human Transplantation Bill. As I said during Consideration Stage last month, I support the amendments in this Bill, but I reiterate that public awareness is just one part of a soft opt-out system.

In relation to public awareness, I would welcome the Health Minister's assurances that the local charities in the transplant forum, which have done the heavy lifting in promoting organ donation for decades, will be involved in the awareness campaigns to ensure that their considerable expertise and knowledge is utilised to the full. I do not, however, wish the Health Department to kick the can down the

road by stating that, once the Bill is passed, we must wait for the legislative outworkings to become clear before we can ever look at adopting a soft opt-out system in the future; in other words, Members, that we should adopt a wait-and-see approach — only to find that the Welsh system is delivering results and saving lives — and then decide for ourselves that it would be a good idea to explore a similar system in the future. I, for one, would find that to be a betrayal of the considerable public will for change clearly identified by the Public Health Agency's surveys.

Once again, I challenge the Health Minister to ensure that organ donation is given prominent billing in the next Programme for Government discussions. I am content to support the amendments proposed by the Minister and Department, but I am mindful that we should all remember the brutal reality: that despite many years of trying, and public support for organ donation standing at around 90%, the number of local people signing up to the organ donor register has not risen above around 35%.

**Mr McCarthy:** I support the amendments before us this afternoon. I will say a few words in relation to my disappointment that Jo-Anne Dobson's Bill was not successful, despite the enormous amount of work that was put into it. She ought to be congratulated for that work and for her determination. I put on record my thanks to all those who contributed to that process and who came to the Committee. I thank all the Committee staff for their work and support during that period.

The Alliance Party is content to support the amendments and every effort in the future to increase the availability of organs to save lives throughout Northern Ireland.

**Mr Hamilton:** Like other Members, I seek to be brief. I thank those who contributed to the debate, particularly those who spoke in support of the amendments.

To reiterate the point, I am proud — and everybody here should be proud — of our organ donation system in Northern Ireland. It is one that is without doubt the best in Europe and amongst the best in the world for live donor rates. As I indicated previously, my main reason for proposing the amendments is to strengthen the Bill and remove any potential ambiguity from the clauses as drafted. The language provided by my amendments is now clear and easily understood. With that said, I ask Members to support the amendments in this group.

*Amendment No 8 agreed to.*

*Amendment No 9 made:*

In page 8, line 12, leave out "subsection (1)(a)" and insert "subsection (1)".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

#### **Clause 16 (Annual report on transplantation)**

*Amendment No 10 made:*

In page 8, line 15, after "in" insert "respect of".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

*Amendment No 11 made:*

In page 8, line 16, leave out "activities".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

#### **1.30 pm**

*Amendment No 12 made:*

In page 8, line 20, leave out "transplantation activities" and insert "transplantations".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

*Amendment No 13 made:*

In page 8, line 23, leave out "activities".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

*Amendment No 14 made:*

In page 8, line 25, leave out "activities".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

#### **Long Title**

*Amendment No 15 made:*

After "sale" insert "or use".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

*Amendment No 16 made:*

After "tobacco," insert

*"to make provision in relation to sugar sweetened drinks,".— [Mr Hamilton (The*

*Minister of Health, Social Services and Public Safety).]*

**Mr Principal Deputy Speaker:** That concludes Further Consideration Stage of the Health (Miscellaneous Provisions) Bill. The Bill stands referred to the Speaker.

Order. I ask Members to take their ease as we move to the next item of business.

### **Houses in Multiple Occupation Bill: Further Consideration Stage**

**Mr Principal Deputy Speaker:** I call the Minister for Social Development, the Lord Morrow of Clogher Valley, to move the Further Consideration Stage of the Bill.

*Moved. — [Lord Morrow (The Minister for Social Development).]*

**Mr Principal Deputy Speaker:** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list. There is a single group of amendments — amendment Nos 1 to 4 — which deals with antisocial behaviour and the operation of notices. I remind Members intending to speak that they should address all the amendments on which they wish to comment. Once the group debate is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. If that is clear, we shall proceed.

#### **Clause 10 (Fit and proper persons)**

**Mr Principal Deputy Speaker:** We now come to the single group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2, 3 and 4. The amendments deal with antisocial behaviour and the operation of notices. I call the Minister for Social Development, Lord Morrow, to move amendment No 1 and to address the other amendments in the group.

**Lord Morrow (The Minister for Social Development):** I beg to move amendment No 1: In page 8, line 10, leave out "immoral or".

*The following amendments stood on the Marshalled List:*

No 2: In schedule 5, page 66, line 25, leave out "21" and insert "28".

No 3: In schedule 5, page 66, line 31, leave out "under section 67" and insert "in accordance with section 67(4)".

No 4: In schedule 5, page 66, line 33, after "and" insert "such".

**Lord Morrow (The Minister for Social Development):** I am sure it will come as some relief that I will be brief on this today.

At Consideration Stage, I mentioned that the Attorney General had raised one competence concern on clause 10(7) in relation to the reference to "immoral" purposes in the definition of antisocial behaviour. As this was raised after the deadline for tabling amendments, I mentioned my intention to table an amendment at Further Consideration Stage. The amendment will remove the reference to "immoral" in terms of compliance with article 8 of the European Convention on Human Rights.

I have three further amendments to schedule 5 that will ensure that the detail provided in the schedule complies with clause 67(4), which clarifies the right-of-appeal period — 28 days — for the operation of notices.

That concludes my amendments.

**Mr Douglas:** I rise as a Democratic Unionist Party Member and as a member of the Committee for Social Development to support the amendments. I concur with the Minister: it has been a good scrutiny process. We engaged with a range of stakeholders, many of whose views have been incorporated into today's amendments. I will be brief and just say that it has been a good process and I support the amendments.

**Mr Beggs:** I, too, will be brief and say that I am comfortable with the amendments. They are minor amendments, mainly technical, to ensure that our legislation will work. I am happy to indicate the support of the Ulster Unionist Party for the continued passage of the Bill with the amendments.

**Lord Morrow:** As I said at the start, Members will be relieved to know that I will be brief. I have not heard anything raised in concern. I thank Members for the constructive attitude with which they have approached the Bill. I, as Minister, am very grateful.

*Notice taken that 10 Members were not present.*

*House counted, and, there being fewer than 10 Members present, the Principal Deputy Speaker ordered the Division Bells to be rung.*

*Upon 10 Members being present —*

*Amendment No 1 agreed to.*

**Schedule 5 (Part 4 notices: further provision)**

*Amendment No 2 made:*

*In page 66, line 25, leave out "21" and insert "28".— [Lord Morrow (The Minister for Social Development).]*

*Amendment No 3 made:*

*In page 66, line 31, leave out "under section 67" and insert "in accordance with section 67(4)".— [Lord Morrow (The Minister for Social Development).]*

*Amendment No 4 made:*

*In page 66, line 33, after "and" insert "such".— [Lord Morrow (The Minister for Social Development).]*

**Mr Principal Deputy Speaker:** That concludes the Further Consideration Stage of the Houses in Multiple Occupation Bill. The Bill stands referred to the Speaker.

**Addressing Bullying in Schools Bill: Further Consideration Stage**

**Mr Principal Deputy Speaker:** I call the Minister of Education, Mr John O'Dowd, to move the Further Consideration Stage of the Addressing Bullying in Schools Bill.

*Moved. — [Mr O'Dowd (The Minister of Education).]*

**Mr Principal Deputy Speaker:** Members have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list. There is a single group of amendments — amendment Nos 1 and 2 — that deals with records and definitions. We will debate the amendments in turn. Once the group debate is completed, the other

amendment in the group will be moved formally, and the Question will be put without further debate. If that is clear, we shall proceed.

**Clause 3 (Duty to keep a record of incidents of bullying)**

**Mr Principal Deputy Speaker:** We come to the single group of amendments for debate. With amendment No 1, it will be convenient to debate amendment No 2.

**Mr O'Dowd (The Minister of Education):** I beg to move amendment No 1: In page 3, line 4, leave out paragraph (b) and insert "(b) include a brief description of the nature of the incident; and".

*The following amendment stood on the Marshalled List:*

No 2: In page 3, line 20, leave out subsection (6).— [Mr O'Dowd (The Minister of Education).]

**Mr O'Dowd:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. It is only a short time since the House debated Consideration Stage. On that occasion, I elaborated on some of the background to the Bill, its origins and the policy outcomes that I intend it to deliver. Members will, therefore, be pleased to hear that I do not propose to labour those same points again today.

The Bill recognises that, while most schools already treat the issue very seriously, bullying in schools remains a problem. By introducing a limited number of new duties on schools and their board of governors, it seeks, in a measured way, to enhance the consistency with which all schools seek to address the problem. The framework that it provides will give all schools the tools and management information that they require to monitor their performance in tackling the issue and to identify at an early stage any new or emerging problems. The duties that it introduces reflect best practice, and many schools will find that it endorses the systems and practices that they already have in place.

At Consideration Stage, several technical amendments were tabled by the Department; I accepted several amendments tabled by the Education Committee, following its scrutiny of the Bill; and one further amendment, tabled by Sandra Overend and Mr Danny Kennedy, was made during the debate. I will begin by returning to that amendment. In clause 3, page 3, line 4, it is required that, as part of the record of the incident, a school must:

*"state the methods of bullying, as defined by section 1".*

I understand that the intention behind that amendment was to make it clear that schools must include the method of bullying in their record of each incident. The Department intends to address the detail of exactly what a record of a bullying incident should capture as part of its supporting guidance, and, as I noted during the last debate, we fully intend to engage with schools and other stakeholders to maximise the value of the records to the school. Nonetheless, I accept that there is merit in clarifying this point in the Bill.

I sought further advice from the Office of the Legislative Counsel (OLC) on the amendment, and it suggested a refinement in the language, modifying the wording at clause 3(2)(b) to:

*"include a brief description of the nature of the incident".*

This wording fully maintains the original intent but additionally clarifies that schools should not interpret clause 3(2)(b) as requiring them only to note that the incident involved, for instance, physical bullying, verbal bullying and so on. I urge the House to support amendment No 1.

I turn to amendment No 2. At Consideration Stage, I had tabled an amendment to clause 3(6), removing a link between the terms "gender reassignment" and "disability" and their established legal definitions. During the debate, some Members were of the opinion that it was more beneficial to retain this. I agreed to consider it further and did not move the amendment at that time.

I have now taken further advice from the OLC and wish to pursue the amendment today. The OLC pointed out that, as currently drafted, clause 3(6) is inconsistent. It picks out two of the potential motivations for bullying and links them to their legal definitions, but it does not do so for the other motivations, many of which also have their own legal definition. Many of those definitions are extremely complex in law. The law, for example, on what constitutes disability is complex and runs to many pages of primary and subordinate legislation, and the guidance for the Equality Act contains around 60 pages seeking to explain the meaning of "disability".

**1.45 pm**

It is not the intention of the Bill to require school staff to grapple with legal technicalities each time they need to record an incident; rather, it is

to allow them to take a common-sense view in determining the motivations behind it. By removing that clause, all the motivations will revert to their common-use meanings, simplifying matters considerably for anyone trying to fill out the record of an individual incident.

Removing the subsection also addresses the point I have already raised regarding the need to handle all motivations set out in the Bill consistently. I urge Members to support amendment No 2.

**Mr Hazzard:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I welcome the opportunity to speak on the two amendments. As has been outlined by the Minister, they are rather technical in nature, so I will not rehearse all the arguments.

It is right and proper, especially when we look at amendment No 2, that we tidy up the Bill and remove inconsistencies. Amendment No 1 perhaps has a wee bit more meat on its bones in that it brings additional clarity and a slight refinement in language, which is to be welcomed. On the whole, I join stakeholders and schools who are eagerly awaiting the tools and the focus that the Bill will place on addressing bullying.

**Mr Rogers:** We always hear that school days are the best days of our lives. We want all our children to be happy at school because it is within that environment that they achieve their potential, with no fear of bullying. If there is bullying, we want it dealt with effectively. We are coming to the end of this Bill's passage, and that is what it attempts to do.

Amendment No 1 relates to an amendment that was made at Consideration Stage, tabled by Sandra Overend and Danny Kennedy. We supported that amendment. The UUP amendment sought to ensure that, when incidents of bullying are recorded, the methods of bullying must also be included. As it stands, the Bill states that a record must:

*"state the methods of bullying, as defined by section 1".*

Amendment No 1 seeks to remove those words and replace them with:

*"include a brief description of the nature of the incident".*

Therefore, the sentiment behind amendment No 1 is much the same as the UUP amendment

that was made at Consideration Stage. It appears that the Minister has considered the amendment that was made and wants to edit it slightly to say that a brief description of the nature of the incident must be included in the report instead of stating the methods. That may allow for a more rounded body of information about incidents of bullying to be collected.

Amendment No 1 changes "methods of bullying" to:

*"a brief description of the nature of the incident".*

Therefore, it should allow more flexibility in how incidents are recorded. That would ensure that each incident is treated individually, which can be reflected in the records that are kept. We support amendment No 1.

Amendment No 2 is similar to amendment No 14 that the Minister tabled at Consideration Stage. However, the Minister did not move that amendment. He noted that removing clause 3(5) would lead to the terms "gender reassignment" and "disability" reverting to their commonly used meanings rather than requiring readers to cross-reference with other legislation. When winding up that debate, Minister O'Dowd said that he would not move amendment No 14 and would consult further with his officials on the matter.

At Consideration Stage, we stated that it would be beneficial to keep the definitions of "disability" the same as those outlined in the Disability Discrimination Act and the definitions of "gender reassignment" the same as outlined in the Sex Discrimination (Northern Ireland) Order. We stated at Consideration Stage that we would not support amendment No 14. Having listened to the Minister talk about picking out two motivations, I still contend that it is important that, where there is relevant legislation, we should have a link to it, so we will not be supporting amendment No 2.

**Mr Weir (The Chairperson of the Committee for Education):** I apologise to the House for being a little bit late. Business has moved a little bit quicker than I anticipated. I will speak initially on behalf of the Committee on the Further Consideration Stage of the Addressing Bullying in Schools Bill, and then make some remarks in my capacity as a DUP Member.

At Consideration Stage, the Assembly agreed 10 out of the 14 amendments. I indicated then that the Committee generally took the view that this was a good Bill. With the amendments that have been made since, it is now a bit better.

The Committee has not taken a formal view on the two amendments before us. The Minister has indicated that they are either technical in nature or largely do not alter the Bill's content or import significantly. From that point of view, Committee members will want to listen carefully to further contributions before deciding accordingly.

I now turn to the two amendments as a DUP Member.

I will take them in reverse order. Amendment No 2, which has been put forward by the Minister, makes a technical change to subsection (6). We have no problem with that. That seems to be sensible and, indeed, a preferable route to the previous amendment No 14. However, I have concerns with amendment No 1. It may be an element, across the Chamber, of dancing on the head of a pin, but it may be of significance. If amendment No 1 was proposing to simply add:

*"a brief description of the nature of the incident",*

I would have no problem with that addition. The problem, I suppose, is that we supported, at Consideration Stage, a direct reference to the methodology of the incident. Is that encompassed by "brief description"? The problem is that we are moving from something that is quite explicit in referencing the method to something that leaves out the reference to method. As such, I think that that, potentially, is a retrograde step. I think that it is important. Having spoken to some of those who are involved and who are experts in this subject, I found that there was concern about the removal of the reference to method. As such, I think there may be a different way of doing it. If we keep the current legislation as drafted, which refers to the method, there may be an opportunity in guidance on how these are recorded, for instance, to encompass something from amendment No 1. I await to hear what is said in the rest of the debate, but I remain to be convinced of the merits of amendment No 1. On balance, I prefer what is there, at present, to the potential change from amendment No 1. As I said, had it simply been a question of adding a brief description to the method, that would have been the case, but the amendment actually deletes the reference to the method.

With those remarks, I will conclude.

**Mrs Overend:** I rise as Ulster Unionist education spokesperson to look at these

amendments. It is important that we get this legislation correct. We need to address bullying in our schools from all sources, no matter what they are. Anecdotally, cyberbullying has been on the increase, so the legislation that brings forward the reporting of bullying incidents is an important part of being able to analyse what is happening so that we can address any patterns and make improvements in practices across schools in Northern Ireland. I am particularly referencing amendment No 1. It proposes to take out "state the methods of bullying" and to include:

*"include a brief description of the nature of the incident".*

Obviously, that is the amendment that I brought through at Consideration Stage. The reason behind that was the obligation of a school when it wants to report bullying incidents. Clause 3(2)(a) states that the record must:

*"state what, from all of the circumstances, appears to be the motivation of the incident".*

Clause 3(2)(b) mentions the method, and clause 3(2)(c) —

**Mr Weir:** Will the Member give way?

**Mrs Overend:** I will, but just a second. Clause 3(2)(c) states:

*"include information about how the incident was addressed."*

If we are going to analyse what has happened and how to make improvements, it is important that those three items are included.

**Mr Weir:** I thank the Member for giving way. One concern that I have with amendment No 1 is that, at present, we have certain statistics that can be drawn together. The idea is not to punish or highlight a particular school, but to see the trends of where there are problems. One advantage of having a list of motivations, for example, which is already concluded, is that we can see whether there is a trend happening throughout Northern Ireland or within particular areas. Similarly, the advantage of having a direct reference to the methodology is that it can show where there are trends in methods. Whereas, by definition, a brief description could be a sentence, or it could be 100 words or it could be longer. There will not necessarily be that same consistency of recording if you simply have a brief description, as opposed to a direct reference to what the method is.

**Mrs Overend:** I thank the Member for his intervention. Yes, he is reading from the same page as I am, I think. A brief description of the incident should certainly be included in the guidelines that the Minister and his team will draw up afterwards. Most certainly, when anyone drills down into the detail of any bullying incident, they will be able to understand what has happened from the beginning to the end. On the face of it, we need to include the method. It is like creating an additional column of an analysis. You would be able to look down and see physical, verbal and cyberbullying. In my mind, it makes for better analysis. We do not want to create woolliness and an impossible situation to analyse. I am minded to oppose amendment No 1.

As for amendment No 2, we were content to support it at Consideration Stage and are happy to do so at this stage.

**Mr Principal Deputy Speaker:** Members, as Question Time is at 2.00 pm, I suggest that the House take its ease until then. The debate will continue after Question Time, when the next Member to speak will be the Minister of Education.

*The debate stood suspended.*

*(Mr Speaker in the Chair)*

**2.00 pm**

## Oral Answers to Questions

### Office of the First Minister and deputy First Minister

#### Victims and Survivors: Funding

1. **Mrs Overend** asked the First Minister and deputy First Minister what departmental funding streams are available to local victims and survivors groups, other than the through the Victims and Survivors Service. (AQO 9780/11-16)

**Mrs Foster (The First Minister):** We remain committed to ensuring that victims and survivors receive the best services possible. The Victims and Survivors Service continues to be our front-line delivery body for the provision of these services. Some £14 million has been allocated to victims and survivors in this financial year, which is the highest ever opening budget for the sector.

Victims and survivors groups who meet the criteria can also apply for funding from our departmental central good relations fund. The Peace IV cooperation programme for 2014-2020 has recently been launched, and it also includes, for victims and survivors, the sum of €17.6 million. That is anticipated to open for application in autumn 2016.

**Mrs Overend:** I thank the Minister for that detail. The First Minister will know that 10% of all people who lost their lives in the Troubles were from Mid Ulster, yet less than 10% of the support funding for victims and survivors is allocated to my constituency. Is the First Minister willing to look at that anomaly and attempt to address it?

**Mrs Foster:** I thank the Member for her question. One of the concerns we have had over the years is the fact that unless victims had been affiliated to victims groups they could not access the funding. One of the ways that we are trying to deal with this is through the individual pilots that we have been running to see if there are ways that we can reach those people, and that continues to be the case. We are continuing to reach out to people who, otherwise, would not have access to the funding. We understand that it is not necessary for victims and survivors to be involved with victims groups. Some people do not want to become involved in that way, which is perfectly reasonable, but it is about how we reach those people. We are making strides to reach out to them, and we will take any suggestions in the office as to how we can do so. We will consider those suggestions, and if the Member has any particular ones, we welcome them.

**Mr Speaker:** Before I call Mr McIlveen to ask a supplementary question, I remind the Member, as the Minister's Assembly private secretary and in line with protocol, that the question should relate specifically to a constituency matter in which he is directly involved.

**Mr D McIlveen:** I welcome the money that has been allocated for Peace IV. Will the First Minister update the House on what amount of that will be allocated to trauma services?

**Mrs Foster:** Mr McIlveen is not my PS. He was, when I was in Finance, so maybe that is the issue. The Department has been exploring opportunities to utilise Peace IV funding to try and take forward elements of the trauma-related services. The Member will be aware that my colleague the Health Minister made announcements in relation to mental health services recently in the general sense, and I

very much welcome that, but we have been working, through the Peace IV steering group, to try and make sure that we have access to moneys for trauma-related services. The Victims and Survivors Service will take those issues forward on our behalf. There is €17.6 million in that victim sector, including the match funding, and we want to make sure that we draw it down and use it in the most productive way possible.

**Mr Speaker:** I owe you an apology, Mr McIlveen, but I congratulate you on a magnificent recovery.

**Mr Diver:** First Minister, do you agree that the £150 million identified at Stormont House is inadequate to deal with the issues of victims and survivors and that, given the £30 million alone that is mooted for Stakeknife and the new work by the Lord Chief Justice on inquests, there is actually a need for a major uplift in the moneys required?

**Mrs Foster:** As the Member is probably aware, at the moment, we do not have access to that £150 million because there was a lack of agreement on dealing with the past. I am on record calling on the Secretary of State to release that money so that we can free up the resources that have been needed, not least by the Lord Chief Justice and, indeed, by the Police Service of Northern Ireland.

I was rather alarmed to hear recently that the Chief Constable was indicating that most of his budget for dealing with the past is being, if you like, seconded to the DPP to deal with issues that have been raised by it. Those issues continue to be very much to the fore of my mind, and I reiterate that I believe that the Secretary of State needs to look at this very carefully. She has made some noises recently, which I take as being positive, on allowing some of that money to be released. I encourage her to do that so that we can deal with those elements because, despite the fact that we have no agreement on the past, those issues remain and still have to be dealt with, and I call upon her to release that money.

## **T:BUC Summer Camps**

2. **Mr Maskey** asked the First Minister and deputy First Minister for an update on the Together: Building a United Community summer camps for young people. (AQO 9781/11-16)

**Mrs Foster:** Mr Speaker, with your permission, I will ask junior Minister Pengelly to answer the question.

**Mrs Pengelly (Junior Minister, Office of the First Minister and deputy First Minister):**

One of the headline actions of the Together: Building a United Community strategy was to pilot 100 summer camps in 2015. I am pleased to say that that target was achieved, with 101 camps operating on a local and regional level.

Summer camps are about building positive relations between young people aged 11 to 19 on a cross-community basis. They represent an investment of in and around £1.2 million by the Northern Ireland Executive, and approximately 4,200 young people participated in 2015. A reunion event was held on Saturday 13 February in W5 in the SSE Arena. Junior Minister McCann and I attended and were pleased to announce the launch of the substantive summer camps programme in 2016-17.

**Mr Maskey:** I thank the First Minister and the junior Minister for that response. At this stage, does the junior Minister have any further information on the follow-on community relations activities in the likes of West Belfast, which is my constituency? It might be a bit early to have drilled down and got information on that.

**Mrs Pengelly:** Yes, we have been carrying out a very detailed evaluation of the pilot, and that included several officials visiting a number of the summer camps to see what was happening on the ground and to get some feedback. We have held a number of stakeholder events among those who participated, and that involved not just the organisers but very much the young people themselves. We will roll this out with some small amendment to the programme criteria for 2016-17. We are confident at this stage that the co-design we have for the project is the correct one, but we remain flexible on that and will continue to listen to feedback and make whatever changes are necessary.

**Mr Lyttle:** In a written statement on 3 March, the First Minister said that "continued progress" is being made on the projects funded by the UK Government/Northern Ireland Executive Building a Prosperous and United Community economic pact, including integrated primary schools. Which integrated primary school projects have been supported by the economic pact and by how much?

**Mrs Pengelly:** I am happy to write to the Member about the specifics of his question, but I assure him that, in our shared education agenda, integrated education is very much at the centre. Not only that but there is the shared education project initiative that we are funding in OFMDFM along with Atlantic Philanthropies, and all schools, including many integrated primary and post-primary schools, are involved in that. I am happy to write to him about the specific detail of his very specific question, but I assure him that, absolutely, they are included, money is being rolled out and we are getting very positive feedback on our Together: Building a United Community agenda.

**Mr Frew:** What progress has been made on the evaluation of the 2015-16 summer camp pilot programme? Are we confident that the money is being spent in the right and best way?

**Mrs Pengelly:** Yes. As outlined, the 101 camps cost around £1.2 million, but that provided many activities for almost 5,000 young people. I believe that that demonstrates value for money at this stage. Early indications are that the evaluation very much confirms that. We understand that the evaluation report was to have been finalised at the end of last week. I understand that Ministers are looking forward to receiving it, probably this week. Certainly, from speaking to officials and those involved, it looks like the evaluation will be very positive.

### **Child Poverty: Rural Areas**

3. **Mr McCrossan** asked the First Minister and deputy First Minister to outline their plans to address child poverty in rural areas such as West Tyrone. (AQO 9782/11-16)

**Mrs Foster:** Following Executive agreement, we will publish a new Executive child poverty strategy, which will set out our plans to address child poverty. The strategy will focus on actions to achieve four outcomes: families experience economic well-being; children in poverty learn and achieve; children in poverty are healthy; and children in poverty live in safe, secure and stable environments. The strategy will include actions to support young people in rural areas in education, employment, childcare, fuel poverty, financial matters and community development. The Department of Agriculture and Rural Development's tackling rural poverty and social isolation framework also sets out plans specifically to address rural poverty.

**Mr McCrossan:** Thank you, First Minister, for your answer. What is your assessment of the need to include child poverty in the new

Programme for Government to ensure that no child in West Tyrone — in any constituency, for that matter — is disadvantaged by poverty and deprivation?

**Mrs Foster:** I thank the Member for his supplementary question. I am sure that dealing with child poverty will be one of the outcomes that we will very much want to have in our new Programme for Government. As he and, I am sure, everyone else is by now aware, because we have been talking about it for a number of months, we intend to change the focus of the Programme for Government from measuring how much we put in and how much money is spent to looking at the outcomes that we can achieve. That is absolutely the right way to go around that.

Child poverty does not sit with just OFMDFM. It sits right across government, whether you are talking about DARD and its programmes to deal with it in a rural fashion, DSD or the Department of Education. Many Departments are involved in dealing with the issue. Therefore, when we move to the new Programme for Government, we will look at the outcomes that we can achieve right across government.

**Ms Boyle:** Go raibh maith agat. I thank the Minister for her answers thus far. Minister, you mentioned the tackling rural poverty and social isolation programme. Will you elaborate on how the child poverty strategy will complement and support actions taken under the tackling rural poverty and social isolation programme?

**Mrs Foster:** Thank you. The tackling rural poverty and isolation programme, which sits within the Department of Agriculture, has had a positive impact on the lives of rural dwellers across a wide range of areas, including rural transport; augmenting DETI's work on broadband services by giving more funding to deal with that at a rural level; promoting good health and positive mental health; fuel poverty; and rural childcare. All the actions that have been happening under DARD's tackling rural poverty and social isolation programme will, we hope, set the base for moving forward to deal with child poverty. We need to adopt an integrated approach for child poverty. It certainly should not be seen as the responsibility of the central government Department but should be spread right across government.

**Mrs Hale:** I thank the First Minister for her detailed answers so far. Will she inform the House of the impact of the social investment fund (SIF) on rural areas?

**Mrs Foster:** That is another good example of how policies that are rolled out from across Departments should complement each other. The social investment fund is certainly helping with child poverty and poverty generally across Northern Ireland. Some 800 people are participating in SIF's employment and early intervention projects. By the end of February, £61 million had been attributed to SIF projects. That is a very good piece of work, given where we were a couple of months ago, and we hope that that figure will rise to around £70 million by the end of the mandate.

## 2.15 pm

In the west of the Province, Work Ready West, which is an employment programme, has put 120 people in the western zone into paid employment. That is having a real impact on those people and, indeed, their families. Also, SACHEL, which is a project run by Derg Valley Care services and Barnardo's, is providing early intervention activities for children up to the age of seven right across the western zone. There have been real and targeted interventions as a result of the work of SIF, and I very much welcome that.

**Mr Patterson:** Does the Minister agree with Save the Children's Read On. Get On policy assertion that the ability to read well is one of the best routes out of poverty for children? If so, what actions are being planned to support that policy?

**Mrs Foster:** I personally indicated to Save the Children that I supported that project, and it responded to say that it was very pleased that OFMDFM was expressing its support. That, too, is about early intervention, and, whether through the nurture units set up under Delivering Social Change or under a project such as SACHEL, which is there to provide early intervention, we are trying to raise the standard at a very early stage so that, when young people come into the school environment, they are ready to learn. Getting children used to reading and used to books is a very important piece of that, and I very much support the programme set out by Save the Children.

## Victims and Survivors: Funding

4. **Mr Weir** asked the First Minister and deputy First Minister to outline the level of funding that has been provided to victims since May 2011. (AQO 9783/11-16)

**Mrs Foster:** Funding has always been an area of considerable challenge, especially in the current economic climate. However, I assure the Member that we remain committed to ensuring that funding goes to deliver the most appropriate level of services to those who need it most. Victims and survivors remain one of our key priority groups, as borne out by the budget allocated to the sector from the Northern Ireland Executive since 2011. Since then, the budget has totalled almost £67.5 million, excluding funding from other sources such as European funding. Over £14 million has been provided to support the victims sector in the current financial year alone, and this includes its highest ever opening budget.

**Mr Weir:** I thank the First Minister for her answer. Will the First Minister update us on the commitments for victims and survivors in the Stormont House Agreement and the Fresh Start Agreement?

**Mrs Foster:** The Stormont House Agreement included a number of commitments that relate to victims and survivors. There is, of course, the comprehensive mental trauma service, the victims' pension for severely physically disabled people, the provision of advocate counsellor assistance and high-quality services, including funding outside of the jurisdiction. We have made significant progress across those commitments and are considering how we can further develop those services in the context of A Fresh Start. I understand that the money for dealing with the past in particular has not yet come to the Northern Ireland Executive, but I believe, as I said in a previous answer, that the time is right for the Secretary of State to look at that again and devolve that money.

**Mr Lynch:** Go raibh maith agat, a Cheann Comhairle. On a similar theme, can the Minister provide an update on the ongoing collaborative design programme concerning services for victims and survivors?

**Mrs Foster:** I can indeed. The collaborative design programme has been progressing. It is also about trying to develop an improved model for service delivery that better meets the needs of all victims and survivors. I go back to the question that Mrs Overend asked, and it is not just about the victims and survivors who find themselves in victims' groups. We have made significant progress, including improved monitoring and evaluation processes, and are running a number of short pilots on the individual needs programme so that individuals are satisfied and that it is not done only through a group.

I am not saying that we do not intend to work with groups in the future; of course we do. They provide crucial services to very many victims and survivors across Northern Ireland, but that is not the only way. We have to understand that, in a collaborative design programme, we have to look further not only at what has happened in the past but at how we can do it better for the future.

**Mr McCarthy:** I thank the First Minister for her responses so far. Does she believe that it is acceptable to essentially park dealing with the past and victims until after the Assembly elections on 5 May? Can she tell us how long victims will have to wait?

**Mrs Foster:** I noted the comments of the Member's party leader at the weekend, which, of course, were ill informed as to what I had actually said about dealing with the past. What I said about dealing with the past was that we as politicians — this might come as a surprise to some in the House — should be honest with victims and survivors. Do I foresee people coming to an agreement before the Assembly election? No, I do not. Therefore, I think that it is incumbent on me to say that I believe that the matter will not be dealt with before the Assembly election. Does that mean that I would not like to see it dealt with before the Assembly election? Of course not. I would like to have seen it dealt with last November. I know that it was all very exciting at the party conference in La Mon at the weekend, but people should get their facts right before they start making allegations.

**Mr Allister:** This Friday is European Day of Remembrance of Victims of Terrorism, an event that will be marked next Monday in the Senate Chamber. Does the First Minister accept that it is a badge of dishonour and shame on her Administration and these institutions that the definition of "victim" that shapes who can get funding continues to include victim-makers? Can she tell us, in consequence of that definition, how many victim-makers —

**Mr Speaker:** The Member will resume his seat. He knows —

**Mr Allister:** How many victim-makers have received —

**Mr Speaker:** Please do not speak while I am —

**Mr Allister:** — funding, including prisoners' groups?

**Mr Speaker:** Resume your seat. One question at a time. I have made it clear that I expect Ministers to remember that as well.

**Mrs Foster:** First of all, no prisoners' groups have had victims' funding. That is the first thing to say. The second thing to say in relation to the question that was asked is that it was my party, of course, that tried to change the definition of "victim". It is this party that wants to do that. Unfortunately, there are others in the House who do not want to see that happening. We will continue to try to legislate in the next mandate to deal with that matter, but we need others to join us to do that. That is the reality. The "victim" definition was set before devolution, but, of course, that is something that Mr Allister conveniently does not tell people. We have to deal with that reality. I am dealing with realities, not fantasy politics.

I want to take the opportunity, given that the Member referred to European victims' day, to say how much I utterly condemn the attack on the prison officer last weekend.

**Some Members:** Hear, hear.

**Mrs Foster:** It was a despicable murder attempt that, thankfully, did not succeed. As the Secretary of State said, we have to be lucky all of the time; the bad guys only have to be lucky once. I call on the public to be vigilant, particularly given the activities in Carnfunnock in Larne at the weekend as well. I praise the member of the public who brought the arms cache to the attention of the Police Service of Northern Ireland. We must make sure that the entire public give their support to the Police Service of Northern Ireland so that we can bring these people to justice and make sure that Northern Ireland continues on a positive and productive journey to the future.

## **T:BUC: Key Priorities**

5. **Mr McQuillan** asked the First Minister and deputy First Minister to outline the key priorities of Together: Building a United Community. (AQO 9784/11-16)

**Mrs Foster:** Mr Speaker, with your permission, I will ask junior Minister Pengelly to answer this question.

**Mrs Pengelly:** Together: Building a United Community reflects the Executive's commitment to improving community relations and continuing the journey towards a more united and shared society. The strategy outlines how

government, community and individuals will work together to build a united community and achieve change against the following key priorities: our children and young people, our shared community, our safe community and our cultural expression. The good relations indicators will monitor the Executive's progress on delivery against each of the four key priorities.

I am particularly pleased that we have produced an ambitious and robust good relations strategy — something that previous Administrations and other parties failed to achieve. It is an excellent example of the strong leadership that is being shown to build a better future for Northern Ireland.

**Mr McQuillan:** I thank the junior Minister for her answer. What are the funding arrangements for T:BUC for 2016-17?

**Mrs Pengelly:** At this stage we have been working closely with a range of Departments to assess the funding requirements. Like some of the other OFMDFM projects, such as Delivering Social Change, Together: Building a United Community has particular challenges, in that delivery partners are senior responsible owners (SROs) appointed in each of the Departments. The agenda requires us to go out and talk to a range of Departments and assess their spending plans and where they are with the design and roll-out of their projects.

We have been undertaking that process for some time. We have secured funds to roll Together: Building a United Community forward into next year, but we will want to place the strategy on a robust footing. Therefore, we will continue that work. We anticipate that there will be changes and increased demand as those final projects are rolled out.

## **Fair Employment and Treatment (Northern Ireland) Order 1998**

6. **Mr Beggs** asked the First Minister and deputy First Minister to outline any correspondence they have had with the Minister of Education on the issue of article 71 of the Fair Employment and Treatment (Northern Ireland) Order 1998. (AQO 9785/11-16)

**Mrs Foster:** We have not yet received correspondence from the Minister of Education on the exception of teachers from the fair employment provisions contained in article 71 of the Fair Employment and Treatment (Northern Ireland) Order 1998. I understand that the Minister of Education wrote to the

Speaker's Office on the matter in February 2015 and stated that he did not believe that there was a need to continue with the exception and that it was a matter for OFMDFM to take forward. Our Department's position is that, although we are responsible for the Fair Employment and Treatment (Northern Ireland) Order 1998, the issue clearly impacts on the Department of Education. Therefore, we are working with that Department to consider the matter further.

**Mr Beggs:** The parties that the First Minister and deputy First Minister represent have individually said that they are in favour of the removal of the exception, which permits unfair treatment. Will the First Minister commit and advise what proactive action the First Minister and deputy First Minister, acting together, have taken to remove the exception?

**Mrs Foster:** For me, it is an equality issue, and I was somewhat surprised that a petition of concern was used by Sinn Féin and the SDLP to block an amendment just last week. It is a 35-year-old exemption, and the Equality Commission last reviewed it in 2004. I was somewhat surprised when I checked that that was the case, because, of course, the Equality Commission for Northern Ireland has a duty to review the exemption and has not done so for coming on for 12 years. It is long past the time for the Equality Commission for Northern Ireland to review the matter again and bring forward proposals to the Office of the First Minister and deputy First Minister.

## Delivering Social Change

7. **Ms McCorley** asked the First Minister and deputy First Minister for an update on the Delivering Social Change framework with the Atlantic Philanthropies and Departments. (AQO 9786/11-16)

**Mrs Foster:** The delivery of the three Delivering Social Change signature programmes announced in September 2014 and being jointly funded with Atlantic Philanthropies is progressing well. These three cross-cutting programmes have placed an increased focus on the areas of early intervention transformation, dementia services and shared education. The total estimated costs associated with the programmes is £56.3 million. Atlantic Philanthropies has committed itself to funding 40% of the total estimated cost, which is £22.5 million. The remaining 60% will be funded through central funds and lead Departments, which is £22.5 million and £11.23 million respectively.

**Ms McCorley:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as a freagra. Will the Minister give me some more information on the 14 individual projects under the early intervention transformation programme (EITP)?

2.30 pm

**Mrs Foster:** The focus of the early-intervention programme will be on delivering a systematic change in how mainstream services to children and families are delivered, with the anticipation that different approaches at an earlier stage will measurably improve long-term outcomes for children, many of whom are most vulnerable. Recently, when I was in Harpurs Hill family and children's centre in Coleraine, they told me that when interventions take place at a very early stage, it means that children do not come to their attention later. Yes, it was a long time to wait for an outcome, but it was an outcome worth waiting for. Sometimes in government we like to see targets met year on year, but it can take 10, 15 or 20 years to see the outcome of early intervention. However, it is a key part, and I hope that it will be a key part of our Programme for Government for the next mandate.

**Mr Speaker:** I am sorry, but that brings us to the end of the period for listed questions. We now move on to topical questions.

## Terrorism: Security Force Action

T1. **Mr McNarry** asked the First Minister and deputy First Minister what assurances the First Minister can give that action by the security forces will be swiftly implemented to thwart life-threatening terrorist activity, given that we all support the PSNI and others in their efforts against terrorists. (AQT 3601/11-16)

**Mrs Foster:** I think that we were all very concerned to hear the assessment from the Assistant Chief Constable on Friday as regards dissident republicans and the fact that they were going to use Easter 1916 as an excuse, if you like, to perpetrate their violence, mayhem, and their agents of death. I absolutely believe that we, as politicians, need to give very strong leadership on this. We need to say that it is entirely unacceptable and reject it, but, more than that, we have to support the Police Service of Northern Ireland to bring these people to justice. It is for that reason that, whilst the find at Larne was very disturbing, the fact that we were able to find it makes for a good news message.

**Mr McNarry:** I thank the First Minister for her answer and ask her whether she considers it premature to upgrade border patrols and the rounding up of terrorist suspects.

**Mrs Foster:** I hope that the Police Service of Northern Ireland, if it is aware of anyone who has a case to answer, should deal with that issue. I was asked that question on Friday, and my answer then and now is that, with respect to you, this is a matter for the Chief Constable and the Police Service of Northern Ireland. The Police Service is in operational control, and it would be wrong for a politician to direct it as to how to do its job. All we can do is give leadership and support him in whatever resources he decides he needs. He will not find me wanting in that respect.

## **Brexit: Yes Vote**

T2. **Mr McGimpsey** asked the First Minister and deputy First Minister what steps the First Minister reasonably believes the Northern Ireland Executive can take in the event of a yes vote in the European referendum, resulting in the United Kingdom leaving Europe. (AQT 3602/11-16)

**Mrs Foster:** Of course, whether there is a yes vote on the 24 June is a matter for the people of Northern Ireland. It is not a matter for political parties; it is a referendum and not an election. Therefore, each individual will make their assessment as to whether they believe that we are right to remain in the European Union or whether we should leave. For my part, I believe that the United Kingdom should establish its sovereignty again, particularly our economic sovereignty, although I understand that the Member's party has taken a different view. However, it is a matter for the people of Northern Ireland and the whole of the United Kingdom, and we look forward to that referendum.

Let me say this: we should not take our eye off the ball, as a very important election will be held before then and there are matters to be dealt with on a Northern Ireland basis before that referendum comes.

**Mr McGimpsey:** Bearing in mind that the election will be fought on issues around health, spiralling waiting lists, employment, and investment in education, does the First Minister believe that, in the event of a Brexit, 25% of our exports will continue to go to the Irish Republic, or does she believe there is a threat there? If so, what steps does she believe we can reasonably take to protect that export trade?

**Mrs Foster:** Of course, we trade with many nations across the globe: it is not just our trade with the Republic of Ireland that we need to concentrate on. I know, perhaps more than most in the House, that our new and emerging markets are hugely important as well, particularly in the Far East and Middle East, never mind the Americas. It is difficult to assess just what difference it would make whether we are in the European Union or not; but people will make their own assessment and judgement.

In relation to the Member's comments on health and education, I am delighted that my colleague, the Minister of Health, has made £30,000 more available to deal with health service waiting lists, adding to the £40,000 that was allocated in the monitoring round — *[Interruption.]* — I am sorry; £30 million, added to the £40 million that was allocated to him in the last monitoring round to deal with health service waiting lists. That is a total of £70 million to deal with waiting lists, and rightly so, because we have all noticed that there have been difficulties in relation to this issue. I am glad that he is listening to that and has been able to allocate that money.

## **Equal Pay: OFMDFM Action**

T3. **Ms McGahan** asked the First Minister and deputy First Minister, given that OFMDFM takes the lead on equality matters, what plans it has to bring forward an action plan to address the pay differences between male and female employees. (AQT 3603/11-16)

**Mrs Foster:** OFMDFM has many strategies, such as the gender equality strategy, which is in development and is in early draft stage. We hope that that new strategy will be published in late 2016. It is very important that the Member should raise that issue this week, Mr Speaker, because we recognise that you have designated this as a week in which we should be aware of all the aspects surrounding women's issues and we thank you for doing that. Tomorrow is International Women's Day, and we look forward to all our male colleagues celebrating that with us.

**Some Members:** Hear, hear.

**Ms McGahan:** Go raibh maith agat. I thank the Minister for her response. Has her Department, in planning for this very important matter, given consideration to the Employment Bill that is currently making its way through the House and which was amended in relation to the gender pay gap and disclosure of information?

**Mrs Foster:** This is a very complex issue, and I know that our Executive colleague, the Minister for Employment and Learning, is taking the matter forward. There are issues around part-time working and caring duties to take into account, and those are all part of the gender equality strategy that we hope to bring out towards the end of this year. Just to make sure that my male colleagues do not feel left out, International Men's Day is on 19 November. *[Laughter.]*

**Some Members:** Hear, hear.

**Mr Speaker:** I did not know that.

## Numeracy and Literacy Scheme

**Ms P Bradley:** Before I ask my question, I want to thank the First Minister for that information and for her support for International Women's Day.

T4. **Ms P Bradley** asked the First Minister and deputy First Minister whether the First Minister supports the mainstreaming of the numeracy and literacy scheme, which is supporting over 18,000 children. (AQT 3604/11-16)

**Mrs Foster:** When I came into OFMDFM, I had a look at all the different strategies and interventions that we were involved with. I have had the opportunity to visit a number of schools and hear their feedback, on a one-to-one basis, around some of the interventions we have made. This has been one of those interventions that has been hugely appreciated, not just by teachers but by families. It is a matter for the Minister of Education, but I hope that it can continue because it is making a real difference to families across Northern Ireland.

**Ms P Bradley:** I thank the First Minister for her answer. As a representative for North Belfast, I know only too well the issues around numeracy and literacy. Is she optimistic that this will be funded through the Department of Education?

**Mrs Foster:** I thought that I had answered that question, but I will try again. It is a matter for the Minister of Education, and I hope that he will find the resources to do so, because it is making a real difference. The ability to help young people is the most satisfying thing that any of us as politicians can hope to do to inspire them, motivate them, and encourage them. That is certainly something that we should look to do.

## County Armagh Development Association: Funding

T5. **Mr Kennedy** asked the First Minister and deputy First Minister whether the First Minister will undertake to consult with her Executive colleagues in DSD and DARD to ensure that the County Armagh Development Association is properly and fully funded in the new financial year, given that she will be aware of the excellent work undertaken by that organisation, which is based in the Newry and Armagh constituency and works throughout County Armagh. (AQT 3605/11-16)

**Mrs Foster:** Yes, I am aware of that and similar organisations across Northern Ireland. I hope, again, that funding is found so that those people who provide a really good service, particularly in rural areas of Northern Ireland, will be able to continue. It has been raised with me directly by my colleague Mr William Irwin, who is the Chairman of the Agriculture Committee, and I intend to take it forward.

**Mr Kennedy:** I thank the First Minister for her response thus far. Will she use her considerable influence to ensure that County Armagh Development Association is informed at the earliest opportunity about its funding allocation to create maximum certainty for their employees and user groups?

**Mrs Foster:** I understand that there are two issues here. There is the PUL issue on funding for the work that has been going on for that programme, and there is a cut, I think, for wider facilities and services that have been given. I support the Member in saying that we need to give clarity as quickly as possible. I think that is absolutely right. As I understand it, this is to come to a head at the end of this month; therefore, we need to deal with the matter quickly, and he has my assurance that I will deal with it swiftly.

**Mr Speaker:** I inform the House that Question 6 has been withdrawn within the appropriate time frame.

## Corporation Tax: US Message

T7. **Mr I McCrea** asked the First Minister and deputy First Minister to outline the message that the First Minister intends to take to the United States next week on the reduced level of corporation tax in Northern Ireland. (AQT 3607/11-16)

**Mrs Foster:** I thank the Member for his question. We have a very good story to tell about our work with the United States and companies. Just last week, the deputy First Minister and I met separately with Drew O'Brien, who was sent here by Minister Kerry as an economic envoy. He brought some people with him from universities and businesses, and we were very pleased to meet with him because we want to have more people like that come to visit us in Northern Ireland.

I have not had an opportunity to speak with the deputy First Minister about this yet, but I found that they were enthused by what they found in Londonderry and Belfast, and hopefully, they can now act as agents for us in the United States. It is one thing for us to go out and talk about all that is good about Northern Ireland, including the lowering of corporation tax, but it also very good to have advocates for Northern Ireland in the United States.

**Mr I McCrea:** I commend the First Minister for all the work she has done on corporation tax. When she goes to the United States, will she take the opportunity to invite businesses and people there to come to Northern Ireland so that they can see exactly the product we have here and, indeed, our people?

**Mrs Foster:** There are a couple of messages there. I will certainly invite people to come to Northern Ireland because, once they do, it overcomes some of the perceptions that have grown up over many years about this place as somewhere to do business. As well as that, we want to invite them here from a tourism perspective. We will certainly be doing that. I have found that, once people come to Northern Ireland, they are enthusiastic about the place.

Certainly, my key message will be to try to invite as many people as possible to visit us here and to tell them why. That is, of course, about our proposition, which is our good young people, who are very willing to work and have a very high skill base and good education. The cost of accommodation here is considerably lower than that elsewhere in the United Kingdom, and, indeed, on this island. We have a very good proposition, as well as the new tool of a lower rate of corporation tax, so I am very confident about the visit when it happens next week.

### **Air Passenger Duty: Abolition**

**Mr Speaker:** I call Mr Adrian Cochrane-Watson, and I warn that there may not be time for a supplementary question.

T8. **Mr Cochrane-Watson** asked the First Minister and deputy First Minister whether any progress has been made on the abolition of air passenger duty, given that it is hampering growth at both Belfast airports, and to join him in congratulating Ryanair in the new routes from Belfast that were announced last week. (AQT 3608/11-16)

**Mrs Foster:** As the Member is aware, air passenger duty is an issue for Westminster. At a United Kingdom level, we have long called for the air passenger duty rate to be abolished for domestic flights. As he is aware, air passenger duty for international flights, such as the Newark flight, has been abolished, and it cost the Executive a considerable amount of money to be able to do that. If we were to do the same and not have air passenger duty on a UK-wide basis, it would again cost the block grant a considerable amount of money. However, I believe that airports can do much more to help themselves. We can do much more to help them through air route development, and I am sure that, if the Member puts a question to the Minister of Enterprise, Trade and Investment, he will be able to update him on that matter.

**Mr Speaker:** That brings us to the end of topical questions.

2.45 pm

## **Environment**

### **Road Traffic (Amendment) Bill: Implementation**

1. **Mr Easton** asked the Minister of the Environment for an update on the implementation of the Road Traffic (Amendment) Bill [NIA 35/11-15]. (AQO 9795/11-16)

**Mr Durkan (The Minister of the Environment):** The provisions in this important Bill were prompted by public concern about the continuing harm caused by drink-driving; the high number of young and other new drivers involved in fatal or serious crashes; and the risks to users of quads involved in collisions on public roads. I welcomed the Assembly's backing of the Road Traffic (Amendment) Bill as it completed its passage on 12 January. I expect it to gain Royal Assent later this month.

The Bill makes provision for two new lower drink-drive limits and also increases the likelihood of being stopped and tested by the police. A consultation paper is due to issue

later this month, which will contain proposals to introduce a set of five statutory rules that are needed to bring the new drink-drive measures into operation. I am confident that, with the continued support of my road safety partners, the new drink-drive regime will be implemented before the end of 2016.

The objective with graduated driver licensing (GDL) is to ensure that drivers acquire experience and skills over time in lower-risk environments. The Bill provides for a mandatory six-month minimum learning period and the introduction of a programme of training that will be evidenced by a logbook. It removes the current 45 mph restriction for learner and restricted drivers. It also introduces a time-bound passenger restriction for new young drivers for the first six months after they pass their test.

The Department is developing a draft programme of training and aims to begin informal consultation with key stakeholders over the coming months. Full public consultation will follow. Subject to relevant subordinate legislation being in place, it is planned that GDL will be operational in 2018.

It is proposed that the necessary legislation to make it mandatory to wear a helmet when riding a quad on a public road will be progressed as soon as possible in the next Assembly mandate.

**Mr Easton:** How will the new driver restrictions be communicated to the public?

**Mr Durkan:** I thank Mr Easton for this question on a very important topic. Communication is key to the success of anything that we do in here or that any legislation does anywhere. That is particularly so when something could be perceived as complex, and this legislation, as evidenced during the debates as it passed through the Assembly, is quite complex and not as straightforward as I would have originally liked it to be. However, it was amended, which made it acceptable to the House.

A communication strategy is essential. The Department has been working on that and commenced the groundwork. Obviously, the main target audience here is those on whom it immediately impacts: new young drivers. Right away, we were in contact with approved driving instructors. They will talk to learner drivers about this from their very first driving lesson. There will also be public information because it is important that parents know about this before they let their children out driving. They should know the responsibilities that their children have

for the passengers whom they can carry and when. A lot of time and as much money as we can afford will be spent on devising the strategy to ensure that it is successful and has the impact that the Bill is all about — that is, reducing the number of fatal and serious collisions brought about and involving young drivers carrying young passengers.

**Mrs Overend:** I thank the Minister for that detail. I was interested to hear about the communication. That is vital because it is all right for us to change legislation here, but we need to get that message to the young people. There is a lead-in time for the change in legislation for young drivers, but the Minister said that the legislative change to it being mandatory to wear a helmet when riding a quad will come in "as soon as possible". How will that be communicated to those riding quads right across Northern Ireland?

**Mr Durkan:** I thank Mrs Overend for that question. In her former capacity as environment spokesperson for her party, she was very involved as the Bill went through the Assembly. Communication is important when making it mandatory to wear a helmet when riding a quad bike on the public road. It is safe to say that this will not impact directly on as many people as the GDL, but that is not to understate the importance of effectively communicating people's responsibility to wear a helmet from when the subordinate legislation is passed. It is important, therefore, that we look at how we do that. Is it through a TV campaign? I am not sure that it warrants that. However, it is important that we work with the groups that we have worked with closely throughout the process, as the Member will be aware, such as the Young Farmers' Clubs etc, to see how they can help to get the message out to members who are possibly quad users.

## Flooding

2. **Mr Anderson** asked the Minister of the Environment for an update on the action his Department is taking to help people impacted by flooding. (AQO 9796/11-16)

**Mr Durkan:** You will be aware that article 26 of the Local Government (Miscellaneous Provisions) Order 1992 makes provision for a scheme of emergency financial assistance to district councils. Financial assistance under that article takes the form of grants paid by my Department with the consent of the Department of Finance and Personnel.

During the most recent flooding, I made emergency funds available to cover council costs incurred when responding to the needs of householders across Northern Ireland from 7 November 2015 until 31 January 2016. The scheme of emergency financial assistance to district councils also includes an immediate payment of £1,000 to householders as practical assistance to those who suffered severe inconvenience to help to make homes habitable as quickly as possible. It is not a compensation payment.

Circular LG 03/16, which provides advice on the scheme of emergency financial assistance to district councils, was issued to all councils on 29 January this year and includes the standard application and survey forms for use by householders and councils respectively. Claims for reimbursement must be submitted to the Department using the templates provided. Application forms seeking reimbursement of expenditure relating to recent incidents must be submitted to the Department within three months of the flooding incident occurring. Claims made outside that period will not be eligible for reimbursement unless in exceptional circumstances where prior agreement has been reached with the Department. As a result of the most recent flooding, I will reimburse councils to cover the immediate payment of £1,000 to 175 households.

On 11 February this year, I circulated the seventh version of an Executive paper on flooding to my Executive colleagues, seeking agreement to extend the current scheme of emergency financial assistance to include recreational and community buildings, places of worship and businesses. I will continue to press my Executive colleagues to endorse that proposal.

**Mr Anderson:** I thank the Minister for that response. During the flooding crisis, a listed thatched cottage in my constituency was greatly damaged and is still badly affected. I believe that you, Minister, may have visited the cottage. What further help and assistance can be given to protect and preserve buildings of that type from the effects of flooding?

**Mr Durkan:** I thank the Member for that question. I did indeed visit the cottage in the Member's constituency. You could say that it literally was in the Upper Bann on the day that I visited it, such was the extent of the flooding that it and those dwelling in it had suffered. It is vital that Departments work collectively to mitigate the damage caused by flooding to households and, as I have said, community facilities, businesses and churches. We know

that it causes not only damage but distress. It has been evident to me over the past couple of months, as I have visited victims of flooding right across the North, that it does not just have an impact on their property but takes a toll personally.

My colleague the ARD Minister launched a new scheme for individual property protection. That is very important. Grants will be available to people living in areas prone to flooding to put in physical measures to protect their property. I believe that grants of up to £10,000 are available.

The property to which the Member refers is a thatched cottage. It is over 300 years old, as I recall. Not that I recall it being 300 years old; I recall being told that. My Department has a responsibility to protect our built heritage. Therefore, I have spoken to my officials about that, and I know that they have engaged with the occupants of the property. Departmental architects and NIEA architects have spoken to them to see what practical measures can be taken to preserve that important piece of built heritage.

**Ms Lo:** Given that flooding is very much a fact of climate change, will the Minister update us on his stakeholder consultation on bringing forward a climate change Bill? What does he hope to achieve in this mandate?

**Mr Durkan:** I thank Ms Lo, the Chairperson of the Environment Committee, for her question. I know that the whole subject of climate change, as well as the need for legislation, is something that Ms Lo has been very vociferous about over the few years during which I have been Minister.

We have received responses to the discussion document. The overwhelming majority of responses agree that we, as an Assembly in the devolved state of Northern Ireland, need our own specific climate change legislation. They are not unanimous by any means; there are some who question the need for such legislation. However, that does not surprise me at all. It underlines the importance of working with those groups and, indeed, parties in this Chamber that might not be or are not supportive of the need for climate change legislation.

One thing that has been achieved in this mandate — not necessarily by me, per se — is a growing realisation in this Chamber and across the North that climate change is happening. We are contributing to it and, therefore, we have to contribute to slowing it

down. The COP21 conference in Paris, which I had the privilege to attend, showed what can be achieved. The role of business in the conference showed that what can be achieved need not necessarily be detrimental to our economy. As we move forward into the next mandate — hopefully to bring in climate change legislation here — it is vital that we involve business, particularly the agrifood sector.

**Mr Patterson:** I thank the Minister for his responses so far. Many people affected by flooding have been left seriously disappointed by the Executive's response to flooding in general. Does the Minister agree that more could have been done, particularly to support businesses, community facilities, churches etc?

**Mr Durkan:** I thank the Member for his question. I wholeheartedly agree with him. I said in my answer to the original question that I had recently tabled the seventh version of an Executive paper seeking to extend the scheme of emergency financial assistance for householders to businesses, community facilities and churches. I tabled version 1 of that paper in November 2014, not November 2015.

I would like to think that, had that received Executive approval, those small businesses — many of which, as I said, I have visited — that were so negatively impacted on by the flooding this winter would have received some sort of assistance from the Government. I am not sure that £1,000 would have gone very far towards helping very many of them; however, it would have been some practical assistance from us as a Government.

### 3.00 pm

I have visited many of those businesses, and I have heard them say very loud and clear that they feel let down by the Executive. All I can do is point to the efforts that I have made in that regard. Having sat on the paper for 13 months, the Executive then voted for the Agriculture and Rural Development Minister and the Finance and Personnel Minister to take forward the extension of the scheme. That was on 20 January, and, despite having written to request an update, I still await a response on how they will proceed to extend it to help those who have suffered or will suffer in the future. One thing that is clear now is that, because it has taken so long, those who suffered this winter — there were an awful lot of them — will not get anything.

## Road Safety

3. **Mr Ó hOisín** asked the Minister of the Environment, following recent multiple fatality road traffic collisions on the A26 and the Ballyquin Road between Dungiven and Limavady, to outline the measures he is taking to further promote road safety in these areas. (AQO 9797/11-16)

**Mr Durkan:** My Department continues to take a range of actions to reduce deaths and serious injuries on our roads. We focus on the key causes of road casualties and on groups that are over-represented in the casualty figures here in the North. These figures do not target specific geographies; rather, they are designed to target the most at-risk cohorts of the entire population and the biggest killer behaviours on our roads. The Road Traffic (Amendment) Bill completed its passage on 12 January and currently awaits Royal Assent. The Bill makes provision for a new drink-driving regime and a new graduated driver licensing scheme. We will now develop and consult on a significant package of subordinate legislation to implement the new arrangements.

Through its awareness campaigns, my Department focuses on problem areas such as drink-driving, speeding and carelessness and inattention and on groups that are over-represented in the casualty figures across the North. I will also launch two new campaigns later this month. The first will address mobile phone use while driving, and the second young driver distraction, particularly when carrying passengers.

My Department also continues to provide a range of resources and schemes to be used by teachers in schools to allow them to improve road safety behaviours in children and young people. Since April 2010, my Department has awarded grant funding of over £700,000 to 90 projects through the DOE road safety grant scheme. This year, three of the projects are from organisations that span the North, namely Ulster GAA, the Road Safety Council for Northern Ireland and Parents' Education as Autism Therapists, and thus benefit audiences across the North.

In view of the fact that the A26 runs between Ballymena and Coleraine, I can advise that two of the projects — the Big Telly Theatre Company and Causeway Rural and Urban Network, based in Coleraine — received funding for road safety events.

**Mr Ó hOisín:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra sin. The Minister may be aware of a single corner on the Ballyquin Road in

particular that has been the scene of five fatalities of young men in recent years. That corner was inexplicably removed from a realignment scheme some years ago. Will the Minister now work with the Minister for Regional Development to see that scheme expedited?

**Mr Durkan:** Go raibh maith agat, a Cheann Comhairle. I thank the Member for that question. That truly is a frightening and shocking statistic. Certainly, as an elected representative, never mind as Minister with responsibility for road safety policy, I will work with you and with everyone to address what is clearly an issue at that location.

I have gone on the record before in the Chamber about concerns that I had about, I suppose, the restructuring of Departments and where I foresaw potential problems. However, there are also opportunities, and I see one in the establishment of a new Department for Infrastructure that will subsume the road safety element of DOE. Then you will have in the same Department the people who are responsible for road safety and those who are responsible for the road network. This is very much the sort of thing that they have to look at. I am sure that the Member will return in the next mandate and will raise this issue with the Minister-to-be. As I said, hopefully, I will also return and will certainly lend my support to him in that.

**Mr G Robinson:** Will the Minister outline what actions his Department is taking to address vehicles with defective headlights that may lead to increased accident levels on rural roads like the Ballyquin Road from Dungiven to Limavady?

**Mr Durkan:** I thank the Member for that question. The Department has responsibility for road safety and therefore for ensuring the roadworthiness of vehicles, which is a causation factor in many collisions on our roads. Through the MOT, we check the headlights on vehicles — that is one of the most important aspects of the test — and any found to be faulty will be automatically failed. With public service vehicles, such as taxis or buses, and, indeed, haulage vehicles, the Department is even more stringent in testing, and those vehicles are also subject to roadside checks. The police are a very important road safety partner of the Department, and they also monitor our roads and look out for vehicles with defective headlights such as those described by the Member.

**Mr Swann:** The Minister referred to the A26 running from Ballymena to Coleraine. Minister, the A26 also runs from Ballymena to Antrim, and that section of the road has seen two fatalities this year to date. What input is the Minister having to the Regional Development Minister's review of that section of road? What programmes is his Department running to educate drivers about the dangerous section of that road?

**Mr Durkan:** I thank the Member for that question. As I outlined in my initial answer to Mr Ó hOisín, the Department focuses its programmes of education primarily on causation factors and at groups perceived to be most at risk of causing and being victims of collisions on our roads rather than focusing on specific geographical areas. I also outlined the opportunities that will exist in the new Department for Infrastructure to align road safety with the responsibility for changing and improving our road network. I am sorry to hear, again, of more fatalities on our roads. Sadly, any one of us could stand up and speak of stretches of road in our constituency where there have been fatalities on more than one occasion. That underlines the importance of road safety in general. It underlines the importance of getting out the message to all road users of their responsibility as road users to take more care on the road, to respect everyone's journey and to subscribe to getting to where we would all like to be, which is the point at which there are zero deaths on our roads.

## George Best Belfast City Airport

4. **Mr Allen** asked the Minister of the Environment for an update on his Department's consideration of the Planning Appeals report in relation to the public inquiry into the proposed modification of the planning agreement with George Best Belfast City Airport. (AQO 9798/11-16)

**Mr Durkan:** The process to modify the planning agreement was initiated by my predecessor in 2011. A public inquiry was held in May last year, and my Department received the report from the Planning Appeals Commission (PAC) in October. It has taken some time to fully consider the report, as it contained a significant amount of commentary and a number of detailed recommendations. However, I consider that it was important to be thorough with this review.

Having reviewed the report, I decided to invite comments or observations from interested

parties on the noise control contour recommended by the PAC. My Department wrote to all key stakeholders on 2 February this year, enclosing a copy of the PAC report. The report was also published on the Department's website. I must emphasise that I am not reopening the inquiry or asking for the submission of new evidence, and any comments or observations have to be submitted by the end of today. I am therefore limited in what I can say at this stage, and I am not in a position to comment on the merits of the PAC recommendations. I assure the Member that my officials will fully consider any further comments received and make a recommendation on the way forward.

My objective for the process remains the establishment of an effective noise management system at the airport that achieves the right balance between the socio-economic benefits of airport expansion and the need to protect the environment and quality of life for the surrounding community.

It is for my Department and the airport to reach agreement on any modifications, taking the independent recommendations of the public inquiry into account.

**Mr Allen:** I thank the Minister for his answers. Will he give us an idea of the time frame within which he will make a final decision? I know I am pushing it by asking two questions, but has he ever given any consideration to having an independent airport regulator?

**Mr Durkan:** I thank Mr Allen for those questions. In terms of a time frame, a modified agreement is a legal document that would have to be drafted extremely carefully, with significant input from legal advisers, as I am sure the Member appreciates. It is difficult, therefore, to determine how long it will take to get one. However, it is worth pointing out that the last modified agreement was signed over two years after the report of the independent examination in 2008. I am hopeful — in fact, I am confident — that the process can, should and would be concluded much faster than that. Famous last words.

On the need for, or benefits of, an independent airport regulator, I can certainly see the merits in such a proposal. We discussed it previously at Question Time, and it will be for a future Minister to deal with. It would not even be the sole responsibility of the Minister of the Environment; it would be more of a DRD matter.

**Mr Lyttle:** I thank the Minister for his update. I seek his reassurance that the legitimate concerns of residents are being given due consideration in the devising of a coherent, transparent and enforceable noise-control mechanism for Belfast City Airport.

**Mr Lyttle:** I thank Mr Lyttle for that question. I outlined in my initial answer the importance of striking a balance. I have met residents on more than one occasion and I am fully aware of their justifiable and justified concerns. They have suffered from what they have perceived to be breaches of the existing agreement, and obviously they have concerns that any new agreement might be subject to similar breaches. Therefore, their concerns will be taken on board, and hopefully a balance that suits and satisfies them will be struck, along with, as I said, the undoubted socio-economic benefits of airport expansion and what those offer, not just to Belfast but to the whole of Northern Ireland.

**Mr Ó Muilleoir:** Go raibh maith agat, a Cheann Comhairle. Mo bhuíochas fosta leis an Aire. Guím gach rath ort, a Aire, is tú ag éirí as do phost. I wish the Minister well as he finishes his last Question Time as Minister of the Environment.

Minister, you and I have discussed Belfast City Airport and the inquiry. Are you disappointed that we did not get a resolution in this mandate? Will you lend your support in the new mandate, whatever your position is — hopefully you will be back — into getting a resolution to this thorny issue?

**Mr Durkan:** Go raibh maith agat, a Cheann Comhairle. Mo bhuíochas leis an Chomhalta as an cheist. This is something that Mr Ó Muilleoir has previously raised with me. I am naturally disappointed that the issue has not come to a conclusion during my time as Minister. I have a couple of weeks left, but it might be a wee bit hopeful or optimistic to think that we will get it sorted by then. However, it is something that will come to a conclusion. As I said, I am confident that it will not take as long as the last one, which took over two years, and I am supportive of a solution that ensures protections for the residents but does not overly inhibit the ability of the airport to expand and develop.

**Mr Speaker:** I call Mr Gerry Kelly, and I advise the Member that there may not be time for a supplementary question.

## Woodburn Forest

5. **Mr G Kelly** asked the Minister of the Environment, in light of recent concerns about the oil exploration at Woodburn forest, whether he will reconsider his decision to waive the need for an environmental impact assessment to be completed. (AQO 9799/11-16)

**Mr Durkan:** My Department received a permitted development notification from InfraStrata plc on 28 August 2013 detailing their intentions to carry out an exploratory borehole at Woodburn forest, Carrickfergus, to understand the subsurface geology and identify areas for potential oil and gas deposits.

### 3.15 pm

My officials carried out an environmental impact assessment (EIA) determination under the Planning (Environmental Impact Assessment) Regulations 2012 based on the information provided at that time. It concluded that the proposed development did not need to be accompanied by an environmental statement. My Department wrote to InfraStrata on 19 December 2013 confirming that, based on the information submitted, the proposed borehole was permitted development and that, therefore, planning permission would not be required. If the company finds oil or gas and wants to extract it, it will need to apply for full planning permission from the council.

The legal position is that my Department has no jurisdiction over the permitted development notification as that is a matter for the relevant council, which, in this case, is Mid and East Antrim Borough Council. Therefore, in September 2015 I wrote to Mid and East Antrim Borough Council advising it that, following the transfer of planning functions to local government, the subject permitted development notification was now a matter for the council. I advised that the only means of potentially removing permitted development rights at that stage was for the council to carry out a further EIA screening exercise on the notification, taking into account whatever further information it considered appropriate. That course of action would likely require consultation with other bodies. I encouraged the council to give careful consideration to the matter.

**Mr Speaker:** That ends the period for listed questions. We now move on to 15 minutes of topical questions. The Member listed for topical question 1 has withdrawn their name within the appropriate time frame.

### **Built Heritage: DOE Spend**

T2. **Mr G Robinson** asked the Minister of the Environment to outline his Department's expenditure on protecting built heritage during his time as Minister. (AQT 3612/11-16)

**Mr Durkan:** I thank the Member for that question. While I do not have that exact detail to hand this afternoon, I can say that, over the past few years, be it under Alex Attwood, my immediate predecessor and party colleague, or me, there has been record expenditure by the Department on the protection and promotion of our built heritage.

The SDLP, as a party — I know it is not us exclusively — recognises the value of our built heritage not just for its intrinsic heritage value but for its value to our economy. For every £1 invested in our built heritage, a further £7 spend can be generated. A fine example of that exists in my constituency, where on Friday, I, along with the deputy First Minister — sadly, the Member's party colleague the Minister for Social Development could not attend — visited a new hotel. The hotel's official opening was on Friday in a historic building within the city. The Speaker will be well aware of it. By revitalising what was a derelict but listed building, we have drawn in spend and investment from a charitable trust and, as a result, opened a new hotel, brought new life into the city centre and created 60-something jobs.

The Member will be aware of the tough budget cuts that my Department faced this year. All Departments faced cuts, but none faced any as great as mine. I was very restricted in what I could spend in built heritage. However, through the carrier bag levy money, I was able to ring-fence half a million pounds to spend on built heritage projects, which I have done. I have ring-fenced a similar amount of money to go over to the new Department for Communities for built heritage projects.

**Mr G Robinson:** I thank the Minister for his reply. Will the Minister give a reason why he and NIE have refused to help two pensioners with critical repairs to their thatched cottage home, which is a vital part of our built heritage in the Magilligan area, after he visited them and promised to do everything he could for them? For some reason, he refused to meet my colleagues and me about the dire situation these pensioners are living in.

**Mr Durkan:** I thank Mr Robinson for that question. I did indeed visit the constituents of the Member at Seacoast Road, Magilligan. I saw at first hand the conditions in which they live. The Member states that the Department

"refused" to help those constituents of his. However, our records will show that, as far back as 2008, those pensioners — I am not sure whether they were pensioners then — were encouraged to apply for a listed building grant.

Unfortunately, they did not do so at that time. They did not do so at any time between 2008 and 2015, when they finally made an application.

As I said, Members will be aware of the tough budgetary situation that my Department faces and the lack of money for such projects. I said that I had ring-fenced £500,000, which I managed to get out of the carrier bag levy. Regrettably, while this was able to benefit some projects, legislation dictates that any money that is generated through the carrier bag levy can be spent only on projects that have community benefit. Unfortunately, that house does not match those criteria. However, what we have done — my officials have been very proactive — is to work with the residents of the thatched cottage and bring in other Departments, including DSD — the Minister of which is the Member's party colleague — to get the Housing Executive on board to ensure that something can be done to help those people.

**Mr Speaker:** I will have to remind the Minister about the two-minute rule.

**Mr Durkan:** The clock was —

**Mr Speaker:** You usually take one minute and 59 seconds.

### Illegal Landfill Sites

T3. **Mr Girvan** asked the Minister of the Environment to outline the work being undertaken by his Department to deal with illegal landfill sites and to state whether any other sites that are being used for the dumping of cross-border municipal waste have been identified. (AQT 3613/11-16)

**Mr Durkan:** I thank the Member for his question. I am somewhat taken aback that he had an opportunity to ask me a question about fish kills in the Glenavy river and has not done so.

I take it that the Member is referring to the repatriation of waste from the 19 sites that have been identified across the North where waste from the South had been discovered to have been dumped illegally. It is my understanding that some 11 of those sites have now been

cleared. A further three sites have been identified for clearance next year, and work is ongoing between my Department and its counterpart in the South not only to identify the sites that should be cleared but to identify where the waste should go from the cleared sites.

As far as I am aware, no new sites have been identified. I hope that there are no new sites. The scourge of illegal landfill has blighted the North — not just the North — for quite some time. I would like to think that the steps that have been taken during my time as Minister have reduced the likelihood of such incidents occurring again or certainly not occurring on the same scale.

**Mr Girvan:** I thank the Minister for his answer thus far. I am very keen to go into the issue of fish kills, but I will steer away from it at the moment.

I thank the Minister for his assurance that no further sites have been identified and take some comfort from that. I appreciate that extensive costs are associated with clearing sites and disposing waste. Is there a mechanism to recover those costs, from either where it has been dumped or where it has come from?

**Mr Durkan:** I thank the Member for that question. Work is ongoing. As I said, negotiations are ongoing between officials on both sides of the border. He might recall a statement or press release last year from my counterpart, the Republic's Environment Minister, on the fact that the waste, particularly fuel-laundered waste, that was polluting watercourses in the South and having to be cleared from the side of the roads was emanating from the North, and the Assembly should have to foot the bill for clearing it. I resisted that quite strongly. However, I think that there has to be increased and enhanced collaboration on both sides of the border, not just on who picks up the bill for what but on eradicating waste crime altogether.

### Colin Glen Forest Park: Project Funding

T4. **Mr Sheehan** asked the Minister of the Environment, who will know that Sinn Féin has had a number of meetings with the NIEA and his Department to discuss funding for the Colin Glen Trust in west Belfast, whether, in light of the plans to develop Colin Glen forest park, his Department will support the trust in its efforts to secure project funding. (AQT 3614/11-16)

**Mr Durkan:** I thank the Member for that question. The transfer of ownership to which the Member refers has been taken forward through community asset transfer. I am sure that all of us will have heard of that, but very few of us have experience of it because this is the first such transfer under the process. We are breaking exciting new ground, but it requires an economic appraisal to be approved by DFP. The economic appraisal considering options for the ongoing tenure and management of the two parks has been finalised, so it can be forwarded to DFP, whose approval is required for the disposal of the land at nil cost to Colin Glen Trust. My Department is also in the process of drawing up the legal contract for the transfer, and that will be issued once DFP approval has been received. I am very hopeful that that will be by the end of this month.

A delay in finalising the economic appraisal, however, means that it has been difficult to ensure completion to date, but, as I said, I am confident that we can do so before the end of the financial year. I have been supportive of Colin Glen forest park and the trust, as was my predecessor, Alex Attwood, and I assure the Member that I will be as supportive as I can.

**Mr Sheehan:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as ucht a fhreagra. I thank the Minister for his answer. Does he agree that the project has the potential to enhance tourism, create jobs for local people and help to underpin the local economy?

**Mr Durkan:** Ná habair é. I thank the Member for that question. I agree entirely with his assessment of the virtues and value of the project. Had the trust not been able to convince me of same, we would not have got to this stage. The product there has to be seen to be believed. What it has done there is truly amazing, and I wish it every success when it takes ownership of that land. It is vital, though, that we do not just give it the asset and cut it loose, if I may put it like that. It has submitted an application for our new natural environment fund. It is important that we look at ways that we can support the trust to maintain the property in the way that it has to date.

## **Planning Fees: Charitable Organisations**

T5. **Mr Irwin** asked the Minister of the Environment whether he has considered the possibility of all charitable organisations, including the Churches, being included in the

list of organisations that are exempt from planning fees, given that he will be aware that a number of charitable organisations are already exempt from those fees. (AQT 3615/11-16)

**Mr Durkan:** I thank Mr Irwin for that question. Quite rightly, he identifies that, under current planning fees regulation, a fee is not payable for a number of types of application for planning permission. The exemptions that he referred to are available for clubs, societies and other organisations where the club, society or organisation is not established or conducted for profit; where the application relates to the provision of community facilities, including sports grounds and playing fields; and where the planning authority is satisfied that the development is to be carried out on land that is, or is intended to be, occupied by the club, society or other organisation and to be used wholly for the carrying out of its objectives. I think that my waiving planning fees for those types of organisations and that type of activity was a good move. It can only benefit the community as a whole and has proved successful to date. However, there is an anomaly, in that the Churches have not been included to date, and I will strive to correct that between now and the end of my tenure.

**Mr Irwin:** I thank the Minister for his answer. We are almost at the end of the Assembly term, but will he assure me that he will look at that as soon as possible?

**3.30 pm**

**Mr Durkan:** Thank you, Mr Irwin. I can assure the Member that I am not just fobbing him off. I can announce today that I am tasking officials in my Department with taking forward a formal review to consider options for extending the existing fee exemption to churches and to look more closely at the issues involved. That follows a number of representations, a number of which were from the Member, on the current fee exemption for applications for planning permission for not-for-profit clubs etc.

I have sought legal advice on the matter previously, and the advice of the Departmental Solicitor's Office has been that, as it is, churches are not included. That is not my reading of it. I had a recent meeting with the chief executives of all the councils, who, as the Member will be aware, now have responsibility for the vast majority of planning applications, and I have asked them to seek their own legal advice on the issue. I believe that it is an anomaly and that we can iron it out.

**Mr Speaker:** That brings us to the end of topical questions and Question Time. Thank you, Minister. The House should take its ease while we change the top Table.

*(Mr Deputy Speaker [Mr Beggs] in the Chair)*

## Executive Committee Business

### Addressing Bullying in Schools Bill: Further Consideration Stage

#### **Clause 3 (Duty to keep a record of incidents of bullying)**

*Debate resumed on amendment No 1, which amendment was:*

In page 3, line 4, leave out paragraph (b) and insert "(b) include a brief description of the nature of the incident; and".— *[Mr O'Dowd (The Minister of Education).]*

*The following amendment stood on the Marshalled List:*

No 2: In page 3, line 20, leave out subsection (6).— *[Mr O'Dowd (The Minister of Education).]*

**Mr O'Dowd (The Minister of Education):** Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas le gach duine a chuir le díospóireacht an lae inniu. I thank all those who have contributed to today's debate and Members whose positive engagement has allowed us to progress the Bill in such a timely manner. The Bill is a positive step forward that will improve schools' ability to tackle the problem as rigorously and effectively as they can. Ultimately, it will help to ensure that more children are protected and that they avoid the damage that bullying can cause.

I have reflected on today's debate, particularly Members' comments on amendment No 1. I want to continue to engage in the positivity that has surrounded the debate and the Committee process on the Bill, and I certainly do not want to divide the House on an amendment. Therefore, I will not move amendment No 1 today. I believe that there is benefit to schools in moving amendment No 2, and I hope that Members can support it. I believe that it will assist schools to ensure that we do not have very technical legislation attached to the Bill in relation to the comments that I have referred to.

My closing remarks are very brief. Again, I thank Members for the progress that has been made on this matter. Hopefully, the Bill will pass today and move on to Final Stage.

**Mr Deputy Speaker (Mr Beggs):** Given that the Minister has already moved amendment No 1, could he clarify that he seeking leave of the House to have it withdrawn?

**Mr O'Dowd:** Yes, Deputy Speaker, I am seeking to have it withdrawn.

*Amendment No 1, by leave, withdrawn.*

*Amendment No 2 made:*

In page 3, line 20, leave out subsection (6).— *[Mr O'Dowd (The Minister of Education).]*

**Mr Deputy Speaker (Mr Beggs):** That concludes the Further Consideration Stage of the Addressing Bullying in Schools Bill. The Bill stands referred to the Speaker. Members should take their ease for a moment before the next item of business.

### Mental Capacity Bill: Further Consideration Stage

**Mr Deputy Speaker (Mr Beggs):** Business has moved rapidly. We now move on to the Further Consideration Stage of the Health (Miscellaneous Provisions) Bill.

Sorry, apologies. I opened my brief at the wrong location. Can I just retract that? We are at the Further Consideration Stage of the Mental Capacity Bill and I call the Minister of Health, Social Services and Public Safety, Mr Simon Hamilton, to move that Bill.

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

**Mr Deputy Speaker (Mr Beggs):** Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list. There is a single group of amendments, amendment Nos 1 to 23, dealing with powers of attorney, family relationships and technical issues. Once the debate on the group is completed, any further amendments in the group will be moved formally as we go through the Bill. The Question on each will be put without further debate. If that is clear, we will proceed.

**Clause 21 (Sections 19 and 21: the prevention of serious harm condition)**

**Mr Deputy Speaker (Mr Beggs):** We now come to the debate on the amendments. With amendment No 1, it will be convenient to debate amendment Nos 2 to 23. Members should note that amendment No 5 is consequential to amendment No 4; amendment Nos 7 and 8 are consequential to amendment No 6; and amendment No 22 is consequential to amendment No 18.

**Mr Hamilton (The Minister of Health, Social Services and Public Safety):** I beg to move amendment No 1: In page 13, line 33, leave out from "in" to end of line 37 and insert

*"where there are one or more treatments (other than the treatment mentioned in subsection (1))—*

*(a) that are available and would be appropriate in P's case; and*

*(b) the provision of which would not involve the doing of acts to which section 19 or 22 applies."*

*The following amendments stood on the Marshalled List:*

Amendment Nos 2 to 23.

Mr Deputy Speaker, as you highlighted, most of the amendments in this group are consequential to the amendments made at Consideration Stage. Amendment No 1 is the first of three amendments required on foot of the Committee amendments to clauses 21 and 22. Members will recall that the effect of the Committee's amendments was to extend the application of the prevention of serious harm condition so that it will now also apply in prescribed cases where the person concerned resists treatment with serious consequences or is subject to an additional measure as defined in clause 23. It already applied where the nominated person objects to treatment with serious consequences and, for completeness, in all deprivation of liberty cases.

Amendment No 1 simply tidies up clause 21 to ensure that the condition applies in the same way to these new cases as it does when the nominated person objects where there are one or more treatments other than the treatment in question. Amendment Nos 2 and 3 are consequential to amendment No 1.

I now turn to amendment Nos 9, 12, 13, 14, 18, 22 and 23, all of which follow on from the retention of the enduring power of attorney system. That system had been earmarked for abolition to be replaced by the new lasting power of attorney system provided for in Part 5 of the Bill. The Committee raised concerns about this plan based on experiences in England and Wales with the early operation of the lasting power of attorney system there and, despite reassurances by Minister Ford on forms and costs, tabled amendments at Consideration Stage to retain the enduring power of attorney system alongside the new lasting power of attorney system. I do not plan to rehearse, or re-rehearse, the arguments on the issue today; they were all well aired previously in this Chamber and indeed in correspondence between my Department and the Committee.

The amendments made, however, have left some tidying up to be done to the rest of the Bill, and I will briefly run Members through them now. Amendment No 18 amends the definition of enduring power of attorney in clause 306, now that clause 110 and schedule 5 have been removed. It will now have the meaning given to it in the Enduring Powers of Attorney (Northern Ireland) Order 1987. Amendment Nos 9 and 22, as well as amendment Nos 13 and 14, also now reflect the removal of clause 110 and schedule 5 in clauses 117 and 276 and schedule 9. Amendment No 12 to clause 268 ensures that the offence of forgery, false statement etc no longer makes reference to an enduring power of attorney. As such, attorneys will continue to operate under the Enduring Powers of Attorney Order now that it is being retained. Finally, amendment No 23 to schedule 11 simply reverses the proposed repeal of that order.

I now turn to the final amendment required as a consequence of the Committee's amendments at Consideration Stage. Amendment No 10 relates to clause 156, which provides that annual records must be kept by the police of the number of persons detained in hospital and the number of persons detained in police stations under Part 9 of the Bill. It also provides that this information must be included in the annual reports published by the police under section 58(1) of the Police (Northern Ireland) Act 2000. The amendments made to the clause at Consideration Stage created further duties for the Police Service of Northern Ireland to specifically publish statistics relating to children who are detained under Part 9 as well as a duty to publish information relating to the final disposals in respect of those children. However, the term "final disposals" is not defined in clause 156, nor is it defined in the

Bill. Amendment No 10 therefore further amends clause 156 to introduce a power to define the term "final disposals" through secondary legislation. As a consequence, the Department of Justice will be able to work with the Police Service of Northern Ireland and with stakeholders to create a definition of "final disposals" that will adequately capture the necessary information and be operationally viable.

That brings me to amendment Nos 19 and 20, which give my Department the power to make further provision in regulations relating to the meaning of the "managing authority" of an independent hospital or a care home. This term, which appears frequently in the Bill, is currently defined in clause 306 as a person registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003. However, two persons are required to register under that part of the order: the person carrying on the establishment — that is, the business owner — or the person managing the establishment, who is usually an employee with responsibility for the day-to-day running of the establishment. The new power allows my Department to specify, where necessary, one, or both, of these persons for the purposes of a particular function or duty conferred on the managing authority by the Bill, depending on the nature of that function or duty. The default position is that the term means any registered person; therefore this is in essence a technical amendment intended to assist the smooth operation of the Bill on the ground.

### 3.45 pm

Other technical amendments include amendment Nos 11, 17 and 21. Amendment No 11 ensures that all persons detained under Part 10 of the Bill can be covered by regulations made by the Department of Justice under clause 263.

Amendment No 17 to clause 303 ensures that the power to make amendments to other statutory provisions, in consequence of the Bill, includes a power to make amendments to Acts passed in the same session but after this Bill. As Members will be aware, there are a number of Bills being debated at Further Consideration Stage today. If they are passed in the same Assembly session as this Bill, amendment No 17 allows my Department to amend them in consequence of the Mental Capacity Bill, if necessary.

Amendment No 21 to clause 307 relates to the proposed renaming of the Northern Ireland

Departments under the Departments Act (Northern Ireland) 2016. The amendment accounts for the period of time between the passing of the Mental Capacity Bill and the coming into operation of section 1 of the Departments Act, which achieved Royal Assent on 29 February 2016.

I now propose to cover amendment Nos 4, 5, 6, 7, 8, 15 and 16 together as they relate to matters falling within the remit of the Department of Finance and Personnel. I will deal firstly with the amendments relating to the age threshold for lasting powers of attorney.

As Members are aware, the Bill currently provides that lasting powers of attorney can be made only by those aged 18 and over. That age threshold was selected because it was recognised that there are some things that 16- and 17-year-olds cannot do. For example, they cannot make a will or vote. The law has, however, conferred certain rights and powers on 16- and 17-year-olds. For example, they can enter into certain contracts, receive certain benefits and earn their own wages. As I mentioned during Consideration Stage, colleagues in the Department of Finance and Personnel have been reflecting further on that, in consultation with my Department, and Minister Storey and I have now concluded that 16- and 17-year-olds should be able to make alternative decision-making arrangements for the matters that are currently within their control. Amendment Nos 4 and 5 therefore have the effect of reducing the age threshold for lasting powers of attorney from 18 to 16. However, crucially, they differ from the amendment tabled at Consideration Stage because they clearly state that, if the lasting power of attorney comes into play before the donor has reached the age of 18, the attorney will have no greater power to make decisions than the donor themselves would have had if they had retained their capacity. To put it another way: the attorney will step into the donor's shoes and will only have the powers that the donor themselves had at that particular point. That qualification is vital because it will help to avoid any confusion about what an attorney can or cannot do on behalf of a donor who is incapacitated between the ages of 16 and 18. It will also offset any suggestion that an incapacitated 16- or 17-year-old has greater decision-making powers — for example, via an attorney — than they would have if they had retained capacity.

Finally, the remaining amendments relate to the issue of judicial separation — a matter falling within the remit of the Department of Finance and Personnel. Their effect is to ensure that,

for the purposes of the Bill, judicial separation and separation orders are treated in the same way as a divorce, an annulment or the dissolution of a civil partnership.

Amendment Nos 6, 7 and 8 relate to clause 107. That clause details the events that can terminate the appointment of an attorney and result in a revocation of the lasting power of attorney instrument or power. These are called "terminating events". At present, a divorce, an annulment or the dissolution of a civil partnership is included in the list of terminating events. However, some people may object to a divorce or the dissolution of a civil partnership on religious grounds. As an alternative, they can seek a judicial separation, or a separation order, which severs their personal ties with their spouse or partner but does not sever the marriage or partnership. Amendment Nos 6, 7 and 8 therefore provide for judicial separation or separation orders to be included in the list of terminating events in clause 107. Amendment Nos 15 and 16 carry the policy intention through to clause 285, which sets out a number of decisions that can never be made on behalf of someone who lacks capacity. Many of these decisions are of a personal nature; for example, consenting to a divorce or the dissolution of a civil partnership. The amendment ensures that judicial separation and separation orders are also included in the list of excluded decisions.

That concludes my remarks on this group of amendments, which, as I mentioned at the beginning, is largely consequential to and carry forward what was agreed by Members at Consideration Stage.

**Mr Ross (The Chairperson of the Ad Hoc Joint Committee on the Mental Capacity Bill):** I am pleased to speak on behalf of the Ad Hoc Joint Committee, which, of course, completed its scrutiny on 25 January. As the Minister indicated here this afternoon, the amendments are largely technical in nature, with the exception of amendment No 4, which changes the age at which someone can make a lasting power of attorney.

The majority of the amendments are intended to tidy up and improve the drafting of the Committee amendments that were made at Consideration Stage.

The Department wrote to advise the Committee of the amendments it tabled on 1 March. However, we did not receive a similar letter on the amendments that were tabled on 2 March. In either case, given that the joint Ad Hoc Committee is no longer meeting, we have not formally considered the proposals and the text

of the amendments. Therefore, I will simply note the amendments and provide some commentary on how they relate to the Committee's position as set out in our report and during the debate at Consideration Stage.

Amendment Nos 9, 12, 13, 14, 18, 22 and 23 are consequential to the removal of clause 110 from the Bill, as proposed by the Committee at Consideration Stage. That removal means that enduring powers of attorney, or EPAs, as they are known, will continue to be available to people alongside the new lasting powers of attorney (LPA) system that is being created by the Bill. The amendments proposed by the Minister today are consequential to the decision made by the House at Consideration Stage to retain EPAs and are, therefore, in line with the Committee's position.

Amendment Nos 1, 2, and 3 are consequential to the Committee amendments agreed at Consideration Stage on the application of the prevention of serious harm condition to circumstances when the person who is to receive a particular treatment resists it. The amendments provide more clarity and a better structure to that part of the Bill, and again are in line with the Committee's position on that issue.

Amendment No 10 is consequential to the Committee amendments agreed at Consideration Stage that require the PSNI to keep specific statistics on children and young people who have been detained under the police place of safety powers in Part 9 of the Bill. Amendment No 10 allows for the term "final disposals" to be defined in regulations. That, again, seems like a sensible suggestion and builds upon the Committee amendments that were agreed at Consideration Stage.

Amendment No 4 changes the age at which a person can make a lasting power of attorney. The Bill as introduced set the age limit at persons aged 18 or over, and the Minister's amendment changes that to those aged 16 or over. That was an issue that the Committee enquired into during the Committee Stage as we were not sure how restricting LPAs to people aged 18 and over sat with the remainder of the Bill, which, in general, applies to those aged 16 and over. During the Committee Stage, we were told that the issue was being considered by the Department of Finance and Personnel and, indeed, Members opposite brought amendments forward at Consideration Stage, but they did not choose to move them. I am glad that the Minister has now clarified the position in the House.

On the amendments that deal with judicial separation, that issue did not form any part of the Committee's evidence or deliberations on the Bill. Therefore, I have no comments to make on behalf of the Committee in that regard.

On that, I again put on record my thanks to the departmental officials from Health and Justice, who endeavoured to keep us up to date with any changes before the amendments were brought forward. I also thank the Minister for bringing the amendments forward.

**Mrs Dobson:** I support the amendments in the group, although I was surprised to see amendment No 4, which will lower the age of lasting power of attorney to 16, not least because of the previous tabling of a petition of concern and what the Minister said about the equivalent amendment that was tabled at Consideration Stage. I will quote, if I may:

*"I will not leave any room for doubt about my stance on this amendment. I strongly caution the Chamber against supporting it".*  
— [Official Report Vol 112, No 7, p45, col 1].

The Minister referred at the last stage to an investigation by DFP and to how the more prudent course of action would be to let that work conclude before the Chamber took a vote on such a matter of importance. Clearly, the Minister believes that the ensuing two to three weeks has been a sufficient time.

Nevertheless, I am glad that the Assembly was able to handle the Bill in the manner than it did. It has been a long time in the making, and I know from my time on the Ad Hoc Committee that there is no doubt that what we have before us is a hugely complex piece of legislation. It was, therefore, predictable that the Department would table a significant number of amendments to it.

The Assembly should be proud of the Bill and of the new framework it will introduce. It is an international first; therefore, it is essential that we use the amending stages to ensure we get it right.

**Mr McCarthy:** I simply want to thank the Minister for bringing these very important amendments to the Assembly. Like the Chair of the Ad Hoc Committee, I thank and, indeed, congratulate both Departments and their staff for working so diligently and together to get us to the Further Consideration Stage of the very important Mental Capacity Bill. The Alliance Party is content to support all the amendments

and looks forward to its completion and the Final Stage next week.

**Mr Hamilton:** I thank all Members who contributed to the debate on the amendments. I will keep my remarks as brief as theirs.

The majority of the amendments are technical and consequential to the Committee amendments that were made at Consideration Stage. They have not, therefore, required a great deal of explanation on my behalf or debate by the House. I am pleased, however, that we were able to address the age threshold issue for lasting powers of attorney and that, between Consideration Stage and Further Consideration Stage, we were able to reflect on the work of the Department of Finance and Personnel and come back with a workable amendment.

I thank the Ad Hoc Committee, in particular, for its role in getting the Bill to this stage. I am acutely aware that we set the Committee and Members of the Chamber a significant challenge and that Consideration Stage is evidence of the enormity of the task. We are almost at the end of a long journey, which will prove to be worthwhile.

Subject to the will of the Assembly today, I look forward to moving the Bill at Final Stage next week. Again, I thank the House for its support for today's amendments.

*Amendment No 1 agreed to.*

*Amendment No 2 made:*

In page 13, line 38, leave out "in question to P" and insert "mentioned in subsection (1)".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

*Amendment No 3 made:*

In page 13, line 40, leave out "the treatment in question" and insert "that treatment".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

### **Clause 97 (Lasting powers of attorney)**

*Amendment No 4 made:*

In page 52, line 15, leave out "18" and insert "16".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Clause 98 (Restrictions on scope of lasting power of attorney)**

Amendment No 5 made:

In page 53, line 42, at end insert

"(7A) Where the donor of a lasting power of attorney was under 18 when he or she executed the instrument mentioned in section 97(2)(a)—

(a) the lasting power of attorney has the same effect as it would have if the donor had been 18 or over when he or she executed the instrument; except that

(b) at any time when the donor is under 18, the authority conferred by the lasting power does not extend to doing anything that the donor could not do at that time (even if the donor had capacity, within the meaning of Part 1, in relation to the matter in question).— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Clause 107 (Revocation etc: events relating to the attorney)**

Amendment No 6 made:

In page 58, line 25, leave out "or annulment" and insert ", annulment or judicial separation".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

Amendment No 7 made:

In page 59, line 9, leave out "or annulment" and insert ", annulment or judicial separation".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

Amendment No 8 made:

In page 59, line 14, at end insert

"(11) In this section references to the "judicial separation" of a marriage or civil partnership include—

(a) the making of a decree of judicial separation in respect of a marriage, and

(b) the making of a separation order in respect of a civil partnership.— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

4.00 pm

**Clause 117 (Restrictions on deputies)**

Amendment No 9 made:

In page 65, line 25, leave out from "a" to end of line 28 and insert

"—

(a) a decision that is made in accordance with this Act by an attorney under a lasting power of attorney granted by P, and is within the scope of the attorney's authority; or

(b) a decision that is made in accordance with the Enduring Powers of Attorney (Northern Ireland) Order 1987 by an attorney under an enduring power of attorney granted by P, and is within the scope of the attorney's authority.— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Clause 156 (Annual records)**

Amendment No 10 made:

In page 85, line 38, at end insert

"(2A) Regulations may provide that the records to be kept by virtue of subsection (1)(e) are records of such information, in respect of each child who ceases to be detained under this Part, as may be prescribed; and that subsection (2) is to be read accordingly.— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Clause 263 (Persons removed or transferred to Northern Ireland: power to make further provision)**

Amendment No 11 made:

In page 149, line 12, after "of" insert "this Part or".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Clause 268 (Forgery, false statements etc)**

Amendment No 12 made:

In page 151, line 19, leave out from "or" to "powers" on line 21 and insert

"(application for registration of lasting power".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]

**Clause 276 (Power to make regulations about dealing with money and valuables)**

Amendment No 13 made:

In page 156, line 36, leave out

*" , or an enduring power of attorney,".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

Amendment No 14 made:

In page 156, line 37, at end insert

*"(ba) is made in accordance with the Enduring Powers of Attorney (Northern Ireland) Order 1987 by an attorney under an enduring power of attorney granted by P, and is within the scope of the attorney's authority; or".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Clause 285 (Family relationships etc)**

Amendment No 15 made:

In page 161, line 37, after "divorce" insert "or judicial separation".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

Amendment No 16 made:

In page 161, line 39, after "order" insert "or separation order".— *[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Clause 303 (Consequential amendments and repeals)**

Amendment No 17 made:

In page 169, line 33, after "provisions" insert

*"(passed or made before, or in the same session as, this Act)".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Clause 306 (Definitions for purposes of Act)**

Amendment No 18 made:

In page 171, line 14, leave out "has the meaning given by Schedule" and insert

*"means a power of attorney that is an enduring power within the meaning of the Enduring Powers of Attorney (Northern Ireland) Order 1987".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

Amendment No 19 made:

In page 172, line 17, at end insert

*"but paragraphs (b) and (c) are subject to any regulations made under subsection (5A)".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

Amendment No 20 made:

In page 173, line 30, at end insert

*"(5A) Regulations may provide that for the purposes of any prescribed provision of this Act, "the managing authority", in relation to an independent hospital or a care home ("the establishment")—*

*(a) means the person registered as the person who manages the establishment;*

*(b) means the person registered as the person who carries on the establishment; or*

*(c) means both the person mentioned in paragraph (a) and the person mentioned in paragraph (b).*

*"Registered" here means registered under Part 3 of the 2003 Order".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Clause 307 (Commencement etc)**

Amendment No 21 made:

In page 174, line 6, at end insert

*"(2A) Until the coming into operation of section 1 of the Departments Act (Northern Ireland) 2016—*

*(a) any reference in this Act to the Department of Health is to be read as a reference to the Department of Health, Social Services and Public Safety;*

*(b) any reference in this Act to the Department of Finance is to be read as a reference to the Department of Finance and Personnel".— [Mr*

*Hamilton (The Minister of Health, Social Services and Public Safety).]*

*Adjourned at 4.09 pm.*

**Schedule 9 (International protection of adults)**

**Mr Deputy Speaker (Mr Beggs):** Amendment No 22 is consequential to amendment No 18.

*Amendment No 22 made:*

In page 233, line 5, leave out "within the meaning of Schedule" and insert

*"(as defined by section 306(1))".— [Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Schedule 11 (Repeals)**

*Amendment No 23 made:*

In page 244, line 12, leave out lines 12 to 16.—  
*[Mr Hamilton (The Minister of Health, Social Services and Public Safety).]*

**Mr Deputy Speaker (Mr Beggs):** That concludes the Further Consideration Stage of the Mental Capacity Bill. The Bill stands referred to the Speaker. Members should take their ease for a few moments.

**Land Acquisition and Compensation (Amendment) Bill: Consideration Stage**

**Mr Deputy Speaker (Mr Beggs):** I call the Minister for Regional Development, Miss Michelle McIlveen, to move the Bill.

*Moved. — [Miss M McIlveen (The Minister for Regional Development).]*

**Mr Deputy Speaker (Mr Beggs):** No amendments have been tabled to the Bill. I propose, therefore, by leave of the Assembly, to group clauses 1 to 7 for the Question on stand part, followed by the Question on the long title.

*Clauses 1 to 7 ordered to stand part of the Bill.*

*Long title agreed to.*

**Mr Deputy Speaker (Mr Beggs):** That concludes the Consideration Stage of the Land Acquisition and Compensation (Amendment) Bill. The Bill stands referred to the Speaker.

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