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Northern Ireland Assembly

Monday 7 March 2022

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

Members observed two minutes' silence.

Executive Committee Business

Criminal Justice (Committal Reform) Bill: Royal Assent

Mr Speaker: The Criminal Justice (Committal Reform) Bill received Royal Assent on 7 March 2022. It will be known as the Criminal Justice (Committal Reform) Act and is chapter 4.

Assembly Business

2 March 2022

Mr Speaker: The first item of business in the Order Paper is the consideration of Executive business not concluded on Wednesday 2 March. However, all business was disposed of last week, so we will move on.

Standing Orders 10(2) to 10(4): Suspension

Mr O'Dowd: I beg to move

That Standing Orders 10(2) to 10(4) be suspended for 7 March 2022.

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 2022.

Executive Committee Business

Budget Bill: Further Consideration Stage

Mr Speaker: I call the Minister of Finance, Conor Murphy, to move the Further Consideration Stage of the Bill.

Moved. — [Mr C Murphy (The Minister of Finance).]

Mr Speaker: As no amendments have been tabled, there is no opportunity to discuss the Budget Bill today. Members will, of course, be able to have a full debate at Final Stage, which is scheduled for tomorrow, Tuesday 8 March. The Further Consideration Stage of the Budget Bill is, therefore, concluded. The Bill stands referred to the Speaker.

Members, take your ease for a moment, please.

Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations (Northern Ireland) 2021

Ms Hargey (The Minister for Communities): I beg to move

That the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations (Northern Ireland) 2021 be approved.

Mr Speaker: The Business Committee has agreed that there should be no time limit on this debate.

Ms Hargey: The statutory rule that the House is considering will introduce requirements for trustees of certain occupational pension schemes to ensure that there is effective governance of those schemes with respect to the effects of climate change. It also introduces related reporting and publication requirements for trustees of such schemes and confers compliance powers on the Pensions Regulator. The requirements apply to trustees of schemes on a phased basis from 1 October 2021 according to the value of relevant scheme assets or whether the scheme has been authorised for certain purposes.

The regulations aim to ensure that trustees embed effective climate change risk governance activities and report publicly on how they did that. That includes requirements on governance, strategy and risk management, requirements to select and calculate climate-related metrics and requirements for trustees to set and measure performance against targets, referred to as the "governance etc. requirements". The regulations specify who is subject to the governance requirements, which will be introduced on a phased basis according to the value of the relevant assets of a scheme at the end of a particular scheme year. Trustees of authorised master trust schemes are subject to the governance requirements from 1 October 2021. The governance requirements will also apply to trustees of schemes that will provide collective defined contribution (CDC) benefits from the date of the scheme, as authorised by the Pensions Regulator. The legislative framework for CDC schemes was introduced by Part 2 of the Pensions Scheme Act 2021.

To recognise that the availability and quality of certain climate-related data may be limited but is expected to improve over time, trustees are required to comply with a number of governance requirements:

> *"as far as they are able".*

That is defined in the regulations to mean that they must:

> *"take all such steps as ... reasonable and proportionate in the ... circumstances taking into account—*
>
> *(a) the costs, or likely costs, which will be incurred by the scheme, and*
>
> *(b) the time required".*

The regulations also specify the reporting and publication requirements. Subject to limited exceptions, trustees will be required to produce a report for each scheme year or part of a scheme year during which they are subject to governance requirements. The regulations specify the information that the trustees must include in their reports, which must be produced and published on a publicly available website that is accessible and free of charge within seven months of the end of the scheme year. Therefore, once they are subject to governance requirements, it is expected that trustees will normally produce and publish a report each scheme year.

In complying with the requirements of the regulations, trustees are required to have regard to guidance issued by my Department. The regulations include powers for the

Pensions Regulator to issue compliance notices, third-party compliance notices and penalty notices. For example, where the Pensions Regulator is of the opinion that a person has failed to comply with the requirement to publish a report on a publicly available website that is accessible and free of charge, the regulator must issue a mandatory penalty of at least £2,500. A mandatory penalty is considered appropriate in such circumstances since there would have been a complete failure to comply with the publication requirements. It will be at the discretion of the Pensions Regulator whether to issue penalties in all other cases where it considers that there was a contravention of relevant provisions in the regulations.

Finally, the rule forms part of a package of regulations, along with the Occupational Pension Schemes (Climate Change Governance and Reporting) (Miscellaneous Provisions and Amendments) Regulations (NI) 2021, that amend existing pensions legislation to introduce related disclosure and notification requirements and requirements about trustees' knowledge and understanding of matters relating to the effects of climate change on occupational pension schemes.

Ms P Bradley (The Chairperson of the Committee for Communities): The Committee considered the statutory rule on 23 September 2021 and understands that the rule will introduce requirements for trustees of certain occupational pension schemes. The regulations form part of a package of regulations that amend existing pension legislation to introduce related disclosure and notification requirements and requirements about trustees' knowledge and understanding of matters relating to the effects of climate change on occupational pension schemes. The requirements are not to ensure that there is effective governance of those schemes with respect to the effects of climate change. As well as that, the regulations will introduce related reporting and publication requirements for such trustees and confer new compliance powers on the Pensions Regulator.

The Committee welcomes the additional governance requirements in the regulations, which will ensure that they will apply to trustees of master trust schemes and to trustees of schemes providing collective money purchase benefits. There are huge sums of money involved in pension schemes, and it is only right that the schemes are subject to strong governance arrangements. The regulations recognise that the quality of certain climate-related data may currently be limited, so trustees are, as far as they are able, required to comply with a number of the governance requirements.

The Committee also welcomes the powers that the regulations give to the Pensions Regulator in issuing, for example, compliance notices and penalty notices, including a mandatory penalty of at least £2,500 if the regulator feels that an individual has not complied with a requirement to publish a report free of charge on a publicly available, accessible website.

In conclusion, the Committee agreed to recommend that the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations (Northern Ireland) 2021 be affirmed by the Assembly.

Ms Á Murphy: I will keep my remarks brief, as the detail has already been covered. I thank the Minister and the Committee Chair for the summary of the regulations. As we have heard, their intended purpose is to ensure effective governance by the trustees of particular pension schemes with respect to the effect of climate change. As well as that, there is the introduction of related reporting. The detail of what that means in practical terms has been clearly outlined, and, in the interest of ensuring that any risks to people's pensions are minimised, I am content to support the motion.

Mr Durkan: All that I might have said has been said. I just want to indicate our support for the regulations.

Ms Armstrong: Climate change is expected to have a significant impact on pension schemes' assets due to the physical risk associated with a warmer planet and the transition risk that movement towards a low-carbon economy brings in the form of lower valuations of many sectors across the economy. As long-term investors, pension scheme trustees should be especially alive to those risks. At present, evidence suggests that the market does not fully price in climate risk, meaning that many assets that pension schemes hold may be mispriced. As a result, there is a risk that, without intervention, members of pension schemes may be overexposed to the financially material risks of climate change, which ultimately impacts their expected outcomes in retirement.

While trustees of pension schemes are already required to consider all financially material risks as part of their fiduciary duty, the Government are seeking to strengthen and clarify the focus on climate change by proposing steps to require increased analysis and consideration of

climate change to be embedded in the decision-making process of trustees, as well as requiring the disclosure of climate risk information. On that basis, the Alliance Party is absolutely behind the Minister in bringing forward this legislation.

Ms Hargey: I thank the Chair and all those members of the Committee for Communities who spoke in the debate. These regulations will ensure that the largest occupational pension schemes, as well as authorised master trusts and authorised collective defined contribution schemes, have measures in place to identify, assess and manage climate-related risks. Better management of climate risks will be in the interests of everyone, including pension savers as well as pension takers. I commend the motion to the House.

12.15 pm

Question put and agreed to.

Resolved:

That the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations (Northern Ireland) 2021 be approved.

Mr Speaker: I ask Members to take their ease for a moment while we move to the next item in the Order Paper.

Private Tenancies Bill: Further Consideration Stage

Mr Speaker: I call the Minister for Communities, Deirdre Hargey, to move the Further Consideration Stage of the Bill.

Moved. — [Ms Hargey (The Minister for Communities).]

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 is a single group of 10 amendments that deal with rent decreases and notices to quit. I remind Members who intend to speak that, during the debate on the single group of amendments, they should address all the amendments in the group on which they wish to comment. Once the 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 7 (Restriction on rent increases)

Mr 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 to 10. Within the group, amendment Nos 2, 3 and 9 are mutually exclusive to amendment No 1, amendment No 4 is consequential to amendment No 1 and amendment Nos 8 and 10 are consequential to amendment No 5. I call the Minister for Communities, Deirdre Hargey, to move amendment No 1 and to address the other amendments in the group.

Ms Hargey (The Minister for Communities): I beg to move amendment No 1:In page 8, line 18, leave out from "to" to end of line 26 and insert—

"in relation to private tenancies.

(2) The Department may by regulations do either or both of the following regarding the rent payable under private tenancies in relation to which this Article applies—

(a) provide that, for a prescribed period, the rent is, or may not exceed, a prescribed proportion of the rent that would be payable apart from the regulations;

(b) provide that, for a prescribed period, the rent is, or may not exceed, the rent that was payable under it on a prescribed date, or during an earlier prescribed period.

(3) Regulations under paragraph (2) may not—

(a) specify, for the purposes of sub-paragraph (a) of that paragraph, a proportion that is less than 90%;

(b) provide for any limitation, or any series of limitations, to last for longer than 4 years in relation to any particular tenancy.

(4) Regulations under paragraph (2) may in particular—

(a) provide for how the rent that would be payable apart from the regulations is to be determined;

(b) provide that—

(i) the prescribed date for the purposes of sub-paragraph (b) of that paragraph, or

(ii) the earlier prescribed period for those purposes, is a date, or a period, that falls before the date on which the Private Tenancies Act (Northern Ireland) 2022 was passed;

(c) provide for different limitations to apply to the same tenancy, for different periods;

(d) provide for exceptions in relation to tenancies of prescribed descriptions, or make different provision in relation to tenancies of different descriptions;

(e) make further or consequential provision in relation to the limitations, including provision amending any statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954);

(f) make such other consequential, supplementary, transitory or transitional provision, or such savings, as the Department considers appropriate.

(5) Tenancies may be described for the purposes of paragraph (4)(d) by reference to (among other things)—

(a) the amount of rent payable under the tenancy;

(b) the area within which the dwelling-house in question is situated;

(c) whether the tenant is in receipt of housing benefit or any other benefit payable under a statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(6) The Department must consult the following persons as to whether to exercise the powers conferred by paragraph (2)—

(a) district councils,

(b) such persons as appear to it to be representative of landlords,

(c) such persons as appear to it to be representative of tenants, and

(d) such other persons as it considers appropriate (which may include landlords or tenants).

(7) The Department must prepare a report on the consultation and—

(a) lay the report before the Assembly, and

(b) publish it in such manner as the Department considers appropriate.

(8) The Department must lay and publish the report under paragraph (7) before the end of the period of 6 months beginning with the day on which the Private Tenancies Act (Northern Ireland) 2022 receives Royal Assent.

(9) If the Department does not make regulations under paragraph (2) before the end of the period of 12 months beginning with the date on which it lays the report under paragraph (7), this Article ceases to have effect at the end of that period."

The following amendments stood on the Marshalled List:

No 2: In page 8, line 19, leave out "6" and insert "1".*— [Mr Carroll.]*

No 3: In page 8, line 26, at end insert—

"(5) A person who contravenes paragraph (2) is guilty of an offence under this Order.

(6) Where a person—

(a) is convicted of an offence under paragraph (5), and

(b) has received rent in excess of the amount of rent payable under the tenancy to which this Article applies, the court may order the excess to be repaid to the person who paid it."— [Mr Carroll.]

No 4: In page 9, line 25, after "insert" insert "5C,".*— [Ms Hargey (The Minister for Communities).]*

No 5: In clause 11, page 11, line 36, leave out from "paragraph" to end of line 23 on page 12 and insert—

*"**paragraphs (1A) and (2) substitute—***

'(1A) For the purposes of paragraph (1) the relevant period is—

(a) 8 weeks, if the tenancy has not been in existence for more than 12 months;

(b) 4 months, if the tenancy has been in existence for more than 12 months but not for more than 3 years;

(c) 6 months, if the tenancy has been in existence for more than 3 years but not for more than 8 years; and

(d) 7 months, if the tenancy has been in existence for more than 8 years;

but this is subject to regulations made under paragraph (5).

(2) Paragraph (1) applies whether the private tenancy was granted before or after the commencement of this Order.

(3) The Department may by regulations amend any sub-paragraph of paragraph (1A) so as to provide a different relevant period.

(4) Regulations under paragraph (3) may provide that the relevant period is different in different cases within a particular sub-paragraph of paragraph (1A) described by reference to the period for which the tenancy has been in existence. (But this is without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954).

(5) The Department may by regulations provide that, in cases falling within the circumstances set out in paragraph (6), the relevant period for the purposes of paragraph (1) is as prescribed in the regulations.

(6) The circumstances are—

(a) the tenant is in substantial arrears of rent;

(b) the tenant, or a member of the tenant's household, has engaged in serious anti-social behaviour in, or in the locality of, the dwelling-house;

(c) the tenant, or a member of the tenant's household, is convicted of a relevant criminal offence. (But see paragraph (9) for provision regarding other circumstances.)

(7) Regulations under paragraph (5)—

(a) may make provision that applies to all cases that fall within a sub-paragraph of paragraph (6) and, for that purpose, may make provision about the meaning of any expression used in that sub-paragraph;

(b) may make provision that applies to cases of a prescribed description that fall within a sub-paragraph of paragraph (6);

(c) may provide that the relevant period is different in different cases that fall within a sub-paragraph of paragraph (6) described by reference to the period for which the tenancy has been in existence;

(d) may make provision about the evidence to be provided to show that a case falls within a sub-paragraph of paragraph (6) or within a prescribed description. (But sub-paragraphs (a) to (c) are without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954).

(8) The Department—

(a) may not make regulations under paragraph (5) that come into operation before the end of the emergency period within the meaning of section 1(2) of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020, but

(b) must make regulations under paragraph (5) that come into operation before the end of the period of 2 years beginning with the date on which this Act receives Royal Assent.

(9) The Department may by regulations amend paragraph (6) so as to add to the list of circumstances set out in it.

(10) Amendments made by virtue of regulations under paragraph (3), and provision made by regulations under paragraph (5), do not apply in relation to a notice to quit given before the date on which the regulations come into operation.'"— [Ms Hargey (The Minister for Communities).]

No 6: In clause 11, page 13, line 14, leave out "subsection (3)" and insert "subsections (3) and (4)".*— [Ms Hargey (The Minister for Communities).]*

No 7: In clause 11, page 13, line 14, leave out "3(2)" and insert "3".*— [Ms Hargey (The Minister for Communities).]*

No 8: In clause 11, page 13, line 15, at end insert—

"(9A) At any time before the coming into operation of sub-paragraph (a) of Article 14(1) (as inserted by subsection (3)), paragraph (1) of

that Article has effect as if, before sub-paragraph (b), there were inserted—

'(aa) it is given in writing, and'.

(9B) At any time before the coming into operation of the paragraph (1A) of Article 14 that is inserted by subsection (4), that Article has effect as if, before paragraph (2), there were inserted—

'(1A) For the purposes of paragraph (1) the relevant period is—

(a) 4 weeks, if the tenancy has not been in existence for more than 12 months;

(b) 8 weeks, if the tenancy has been in existence for more than 12 months but not for more than 10 years;

(c) 12 weeks, if the tenancy has been in existence for more than 10 years.'"— [Ms Hargey (The Minister for Communities).]

No 9: In clause 14, page 14, line 25, at end insert—

"(za) section 7 insofar as it relates to 5C."— [Mr Carroll.]

No 10: In clause 14, page 14, line 38, after "section 11" insert—

", except in so far as it confers a power to make regulations under Article 14(3) of the 2006 Order (as inserted by subsection (4) of that section).

(2A) Subsections (2B) and (2C) apply to the provisions of section 11, except—

(a) the provisions of that section commenced by subsection (2)(g),

(b) subsection (3) of that section in so far as it inserts sub-paragraph (a) into Article 14(1) of the 2006 Order, and

(c) subsection (4) of that section in so far as it substitutes paragraph (1A) of Article 14 of the 2006 Order and inserts paragraphs (3) and (4) into that Article.

(2B) The provisions to which this subsection applies come into operation on the day after the day on which this Act receives Royal Assent.

(2C) But if (apart from this subsection) those provisions would come into operation before the end of the emergency period within the meaning of section 1(2) of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020 they come into operation at the end of that period.

(2D) Section 11(4), in so far as it substitutes paragraph (1A) of Article 14 of the 2006 Order and inserts paragraphs (3) and (4) into that Article, comes into operation on the coming into operation of the first regulations made under Article 14(5) of the 2006 Order (as inserted by section 11(4)).'"— [Ms Hargey (The Minister for Communities).]

Ms Hargey: From the outset, I wish to state that all my proposed amendments are intended to bring the Bill back within competence. The Bill is urgently needed and long awaited by those in the private rented sector, and I do not want to lose the important piece of legislation that is in front of us. My amendments seek to improve the drafting of the Bill, as amended at Consideration Stage, in order to ensure that its clauses operate properly, that they maintain consistency with the Bill or relevant parent legislation and that they address potential practical difficulties in implementation. For that reason, I will keep my comments brief.

Turning to amendment No 1, the issue of affordability in the private rented sector is a priority for me. I had already asked my officials to begin work to look at fair and affordable rents in the private and social sectors. I have always been clear that that will be taken forward as part of the second phase of the private rented sector reform. I know that the previous amendment was well intended, but it cannot be done like this. I have made it clear that, with the legal advice that I have, the amendment that was made at Consideration Stage puts the whole Bill outside competence. Very simply, you will have to vote for amendment No 1 in order to keep everything else in the Bill, and particularly all the protections that are contained in it.

Amendment No 1 places a duty on my Department to conduct a consultation on a rent reduction and rent freeze. That is in keeping with the spirit of the amendment that was passed by the Assembly at Consideration Stage. The consultation will result in a report that is to be produced and laid before the Assembly within six months of the Bill's receiving Royal Assent. With the amendment and regulation-making powers included, this is a flexible approach to ensure that any rent reduction will, as far as possible, achieve its

policy intent and avoid unintended consequences for those who are living in the private rented sector.

There are two clear choices for the House today: to deliver a Bill that will bring about the protections that are set out in it or to accept the amendment that was voted on at Consideration Stage, which is impossible to deliver at this time. I have clearly set out the legal advice, which is that if that was to move ahead, it would be unworkable, and therefore the Bill would be beyond competence and would fall. That would mean that all those long-fought-for protections included in the Bill would also fall. I am sure that many have been contacted by housing campaigners who are concerned at that prospect.

Amendment No 4 is consequential to amendment No 1. Amendment Nos 2, 3 and 9, tabled by Gerry Carroll, also relate to clause 7. I have made clear the advice that Gerry Carroll's amendments at Consideration Stage will put the Bill outside of competence and lead to it falling. That would not change if the Assembly agreed the amendments that he has tabled today. Those amendments do nothing to address the unintended consequences of the provisions and amendments. Indeed, the proposed amendments are not even enforceable. The Department has further advised that amendment Nos 2 and 3 are defective in their drafting. For example, the offence created by amendment No 3 has the potential to criminalise the tenant as well as the landlord.

Amendment Nos 5, 6, 7, 8 and 10 relate to clause 11 and the notices to quit. Together, they set out that the Department will carry out work to develop exemptions to the new longer notices to quit, which the Assembly voted for. The longer notices to quit will come into effect when those regulations are made. In the meantime, there will be a transitional arrangement replicating the notices to quit in the Bill, as laid. That will prevent the notice periods from reverting back to those that were in operation before the coronavirus Act. The transitional arrangements will come into place when the coronavirus emergency Act ends, or as soon as possible afterwards, depending on Royal Assent. The development of exemptions will keep the Bill within competence. The amendments also refine the tiers of notice periods, depending on the length of tenancy, and state the notice period in weeks and months rather than days. That is in response to comments that were made by many Members during the Consideration Stage and will be clearer for landlords and tenants. I thank Ciara Ferguson, whose original amendment was passed by the House, for working with my officials to refine the clause and ensure that that part of the Bill is brought back within competence.

In summary, my amendments will bring the Bill within competence and ensure that all the vital protections for tenants contained in it come into place as soon as possible. I commend the amendments in the group.

Ms P Bradley (The Chairperson of the Committee for Communities): On behalf of the Committee for Communities, I welcome the Further Consideration Stage of the Bill. As we debate the amendments, I will reiterate a couple of points that I made at Consideration Stage.

During its deliberations, the Committee bore in mind that the private rented sector accounts for a significant proportion — over 17% — of the housing stock in Northern Ireland and that the sector is home to a considerable number of vulnerable households. We focused on the purpose of the Bill — to amend the Private Tenancies (Northern Ireland) Order 2006 — as the first stage of a further long-term programme of reform, which, we were assured, will include dealing with issues of fair rents. The Committee also aimed to find a balance between protecting tenants and over-regulation that may drive landlords from the sector, thus compounding housing problems. The legal fate of the Bill may well hinge on what is decided today in the House regarding the proposed amendments.

At its meeting last Thursday, the Committee was briefed on the Minister's amendments. We were advised that they are to refine and address issues arising from amendments passed at Consideration Stage and to protect the integrity of the Bill. The Committee was also advised that the Department is of the view that, if the amendments are passed, the Bill would be brought back within competence. As the Committee has no official position on the amendments, I will simply highlight the key points of our briefing to assist Members with the decisions before us.

Officials advised the Committee that the Minister's amendments to clause 7 aim to keep Mr Carroll's policy intentions but to ensure legal competence. It places a duty on the Department to consult on the issue of rent decreases and rent freezes and to lay a report on the outcome of that consultation before the Assembly within six months of Royal Assent. It also gives the Department powers to make regulations to reduce or freeze rent following the consultation. We were advised that those

powers align with the proposal in Mr Carroll's original amendment.

I move on to clause 11. I highlighted the Committee's position on the clause at Consideration Stage. We were put in a difficult and unusual position, as the Department's consultation on notices to quit commenced during our deliberations and ended after the Committee reported on the Bill. During Committee Stage, we sought legal advice on clause 11 but decided to reserve our position in order to allow the consultation to run its course.

At our meeting last Thursday, officials advised us that much work had been done on clause 11 since Consideration Stage. We were advised that the amendments now ensure that the new, longer notices will not be introduced until exemptions are in place. The clause gives some details of those exemptions and provides that they and other changes can be made by draft affirmative regulations. The aim is also to lessen potential confusion by reducing the number of tiers to four and by stating the longer notice periods in weeks and months rather than days. The Committee was advised that, in the interim, the amendment makes a transitional provision — that is, the notice periods in the Bill as originally laid — from the day after the Private Tenancies (Coronavirus Modifications) Act 2020 ends or as soon as possible after that, depending on when Royal Assent is given. The Committee understands that the amendments have been drafted to be closely aligned with the amendment that was passed at Consideration Stage and that it is the Department's view that, if passed, they would bring the Bill back within competence.

I will now make a few comments of my own. Following what I would call a shambles two weeks ago, I received many phone calls from people who work in the sector, especially from those in the voluntary and community sector, who raised major concerns about what had been passed in the House. Many housing providers and those working in the voluntary and community sector felt that, taken together, Mr Carroll and Ms Ferguson's amendments, which are major, would be detrimental to our private housing sector.

I will turn to Mr Carroll's amendment. We spoke against the amendment and its competency, as did the Ulster Unionist Party, the Alliance Party, the SDLP and Sinn Féin. We all spoke about it and said, in the Chamber — it is on the record — that none of us could support it. Yet, when it came to the oral vote, that was not the case. We have to look at how we do legislation here. This morning, on the radio, I heard some nonsense reported about how MLAs did not know what they had voted for and had made a mistake. That was absolute nonsense; it was absolutely wrong. The vote was purely political; populist decisions were being made. That is wrong.

Mr Buckley: I thank the Member for giving way. She makes a valuable contribution. Does she agree with my sense of bewilderment that the Minister, after speaking against the amendment and telling us all that it was not legally competent, was out of the scope of the Bill and would lead to the trouble that it is in today, could lead the Sinn Féin MLAs to vote for it?

Ms P Bradley: I thank the Member for his intervention and absolutely agree with him. I fail to understand how Sinn Féin, after everything that its Members said during that debate, could support Mr Carroll's amendment. I fail to understand the SDLP, who also shouted in favour of it.

We are at the end of the mandate and an election is looming, but we have to look at what is populist legislation, good legislation and right legislation. Two weeks ago, we ran the risk of the Bill's falling. Some will say, "Then why did the DUP not shout from the Benches and stop it?". We did shout from the Benches, but we decided not to push the vote, because we were not going to be the Bill's saviours. The Bill belongs to all of us — to every Member of the House. It is the responsibility of all Members to make good, not populist, legislation. It was extremely disappointing to see how that ended up.

I understand the work that the Department has done. Indeed, the DUP, the Ulster Unionist Party, the Alliance Party and the SDLP all worked on amendments last week to try to bring the Bill back into competence.

We worked with the Bill Clerk, and we spoke to the Department to see how we could assist, because we felt that we were letting people down. We worked so hard on the Bill, and we wanted to see a really good, effective Bill being brought back into competence. Last week, all those four parties worked hard and worked closely together to try to bring that about.

12.30 pm

Thankfully, when we spoke to the Department about the amendments that the Minister has now tabled, we were content that those amendments will save the Bill. That is what we are doing: we are saving the Bill, because we

do not want it to fail. The Committee worked really hard on the Bill, and there is some really good stuff in it that our private rented sector relies on and needs. We will support the Minister's amendments because, if we do not, the Bill will inevitably fall. That is the last thing that we want to see.

Again, I remind Members that what is populist and what is right are two different things.

Ms Ferguson: As we all know, the Bill is vital at this time. It includes a vast range of protections for tenants in the private rented sector. I will not go into too much detail. However, the protections include but are not limited to ensuring that receipts are given for payments in cash; ensuring that tenants cannot be charged in excess of one month's rent for a deposit or have their rents increased multiple times in a year; strengthening safety and protection for tenants by introducing a legal requirement for the provision of fire, smoke and carbon monoxide alarms; introducing regulations to increase energy efficiency standards, which will assist in lowering fuel costs and ensuring that people are warm and comfortable in their homes; and strengthening notice to quit periods to provide a larger safety net to protect tenants from eviction.

Sinn Féin's Minister for Communities, Deirdre Hargey, and her predecessor, Carál Ní Chuilín, have announced a series of fundamental reforms that need to be introduced in our housing sector as a matter of urgency. Those reforms have been described as the biggest shake-up in public housing since the inception of the Housing Executive over 50 years ago. The Bill is one piece of those reforms. It recognises that the private rented sector is the second-largest housing tenure here, housing a vast number of people with incredibly complex needs. The Bill aims to ensure that those people are better supported and have access to accommodation that is affordable, secure and of a decent standard that is suitable to their needs.

International human rights law recognises that everyone has the right to an adequate standard of living. That includes having security of tenure to ensure stability and security for individuals, workers and their families. As we all know, housing is the golden thread that impacts on our access to employment, support networks, community services, healthcare and other vital services in our communities. That means that those in the private rented sector, like those in any other housing tenure, must be afforded a place to live in peace, security and stability. That means having secure tenure, availability of services and housing that is accessible given their needs. That means housing that is genuinely affordable.

The Sinn Féin Minister for Communities has therefore introduced in the legislation a ban on rent increases within annual periods and outlawed any more than one month's rent being charged for deposits. I welcome and support the further amendments proposed by the Minister at Further Consideration Stage, which include placing a duty on the Department to consult quickly on the policy of rent decreases and freezes and enabling it to make regulations in that area as appropriate, following consultation. Also included is an amendment to simplify the tiers that I proposed for notice to quit periods. That is in response to some of the comments received on the matter. Two weeks ago, I worked with Department officials over the weekend to ensure that the Bill and my amendment remained within competence.

Sinn Féin believes that ensuring that the Bill is protected and proceeds to become law is unquestionably a fundamental, shared duty for us as legislators, in order for tenants in the private rented sector to receive the broad range of protections in the Bill.

That is a shared priority for housing bodies and organisations such as Housing Rights, Renters' Voice and the others that have been in contact and deal every day with tenants in the social and the private rented sector and have always prioritised their best interests. Therefore, we will support the Minister's proposal on rent regulation. It will amend new article 5C, which, as drafted, cannot be implemented — there is no legislative fix — and would ultimately sacrifice the real protections needed urgently for renters.

Mr Durkan: Protections for private renters in Northern Ireland have been severely lacking to date. There is no specific legislation in place to protect private renters, many of whom have been pushed into the sector by the dearth of social housing stock. The past two years have highlighted the importance of secure, stable housing and the central role that it plays in all our lives. The emergency legislation introduced by the Minister during that time to ensure that everyone had a roof over their head showed what could be achieved through a robust homelessness prevention framework. The need for such protections will be even more pronounced now and in the months ahead in the context of a cost-of-living crisis. The Bill, however, marks the first step of a robust framework of measures to strengthen tenancies

and add a level of security in the private rented sector.

The Bill's provisions have been outlined at length at previous stages, and we have been reminded of many of them today. I appreciate that, since we debated the Bill at Consideration Stage, a great deal of reparatory work has been undertaken by MLAs, as the Chair mentioned, departmental officials and Bill Office officials to bring the Bill back into legislative competence. I make special mention of Housing Rights, the efforts of which to undo the unintended damage that was caused and prevent the total collapse of this vital legislation has been greatly appreciated. The Chair did not use the words, but she conveyed the impression that we stand here today almost on a rescue mission, with the Minister now tabling amendments to salvage whatever can be salvaged from amendments that she warned against and that her party voted for. They were not alone in that.

I will speak briefly about the amendments, as I appreciate that the Minister and my Committee colleagues have covered much of the details of them already. The Minister's amendments on rent decreases prove to be the best attempt at bridging the legislative gap posed by Mr Carroll's well-intentioned amendment No 13 to clause 7. Amendment No 1 maintains the spirit of the original while tying up the loose ends and introducing paragraphs to address its unintended consequences. I welcome that consideration will be given on a case-by-case basis. A consultation process will be a vital provision in understanding the concerns of the sector and the impacts on it. Should the regulation come to pass, we would like to see an assessment process being implemented to ensure that any decrease in rent is means-tested, which would protect those who need it. On amendment No 2, while we understand the intent behind reducing the tenancy stipulation to one month, we fear that such a provision runs the risk of increased notices to quit in advance of the Bill receiving Royal Assent. Rather than protecting private renters, it could — I would say that it would — put them at greater risk. Likewise, amendment No 3 almost creates an unfair balance of rights. While protecting tenants is the foremost aim of the Bill — I have no doubt that it is foremost in Mr Carroll's mind; it is certainly foremost in mine — its implications further threaten the Bill's competency. It is, essentially, a risk that is not worth taking.

Notice to quit enhancements are, undoubtedly, the priority clause in the Bill. We saw how effective COVID emergency legislation proved to be in the prevention of homelessness for private renters. The numbers who were made homeless were almost halved by extending the notice to quit period from four weeks to 12 weeks. That emergency legislation is due to come to an end on 4 May, so it is important that immediate protections are in place to fill the legislative gap.

We would have preferred a notice to quit period of 12 weeks for tenancies over 12 months and of eight weeks for tenancies under 12 months, but we appreciate that the Department has done its best with what it has been given.

Amendment Nos 5 and 8, in essence, tie up the loose ends posed by Ms Ferguson's amendment to clause 11 at Consideration Stage, reducing the original six-tier time frames for notice to quit to a more succinct and clear four tiers, which makes it more manageable and easier to understand. Setting out time frames in weeks as opposed to months also improves clarity. While we welcome action to mitigate the unintended risks that were caused at Consideration Stage, harking back to the conversations that I had with other MLAs last week, those amendments may not go quite as far as we would have liked them to. Given that there is a two-year time frame to make regulations following Royal Assent, we are hopeful that the subsequent legislation to strengthen security of tenure and grounds for eviction will be progressed or completed by then. It is important to stress that the provisions before us today are just one piece of the puzzle and require a broader framework of measures to maximise their impact and benefit to people.

To conclude, we support the Minister's amendments, and, given that they render Mr Carroll's amendments all but obsolete, we shall not be supporting his amendments. I welcome, once again, the broad principles of the Bill, which is the first step of essential reform for the private rented sector. I acknowledge that major legislative steps are required in the next mandate to provide tangible protections and security of tenure for people in the private rented sector.

Mr Butler: As Members will be well aware, the past number of months have been challenging for these institutions as we have worked to pass legislation at an unprecedented rate. While there is no doubt that, in many instances, the legislation that is passed will have a positive and meaningful impact on the lives of many across society, we still have to work proactively to ensure the highest level of scrutiny of that legislation. Over the past couple of weeks, we have seen the need for that more than ever. Just as we own good legislation, equally, we do not want to own bad legislation, if it were to

happen. However, it is important to remember that, first and foremost, we are here to legislate. There will be many times when we have to choose the unpopular path to avoid making bad legislation.

Turning to the amendments, I thank and commend the departmental officials because there is no doubt that they were bounced by some of the amendments that were supported at Consideration Stage. Undoubtedly, countless hours will have been spent on shaping the amendments that are before us today, especially in the short window between Consideration Stage and Further Consideration Stage. We will support all of the departmental amendments in the name of the Minister. Despite the majority of parties raising concerns and indicating their opposition to the amendment on rent decreases due to their potential unintended consequences, the will of many in the House last week was to pass it. As we indicated at Consideration Stage, we understood and appreciated the intent behind that amendment but were concerned that it could have unintended consequences. That remains our view.

Amendment No 1 from the Department tries to address the potential for unintended consequences. Indeed, many across the housing sector share that position. We repeat our calls for the Minister to look at providing assistance through a targeted financial support scheme, especially in light of rising living costs. We also repeat what we said at Consideration Stage: during the next phase of private sector reform, following the election, there is a need to consider providing a private rented sector housing panel, similar to that in Scotland, that would assess and adjudicate on the proportionality of rent increases.

At Consideration Stage, we also highlighted the fact that we would have liked to have been in a position to support an enhancement to the notice to quit periods. However we felt that, without wider consideration of what exemptions might have been required, the risk of unintended consequences was, at that stage, too great. However, the will of the House at that stage was to pass the notice to quit amendments. Therefore, amendment No 5, which, as we previously indicated, we will support, is necessary. It provides an easier understanding of the notice-to-quit periods than that previously provided for under the amendment at Consideration Stage whilst also providing that:

> *"in cases falling within the circumstances set out in paragraph (6), the relevant period for the purposes of paragraph (1) is as prescribed in the regulations."*

Those are:

> *"(a) the tenant is in substantial arrears of rent;*
> *(b) the tenant, or a member of the tenant's household, has engaged in serious anti-social behaviour in, or in the locality of, the dwelling-house;*
> *(c) the tenant, or a member of the tenant's household, is convicted of a relevant criminal offence."*

Finally, will the Minister, perhaps in her winding-up speech, detail the relevant criminal offences as per subsection 6(c) of amendment No 5? Will they be detailed in regulations?

12.45 pm

Ms Armstrong: On behalf of the Alliance Party, I will support the Minister's amendments. As she said, they will bring the Bill back into legal competence. There is too much in the Bill, for tenants and for landlords, to allow it to fall.

Like many others, I was contacted after Consideration Stage by renters and by housing rights and other organisations. They were in a blind panic about the amendments, because they realised that Mr Carroll's amendment was not, unfortunately, legally competent and that it would, therefore, bring the Bill into difficulties, so that it would not be able to go forward after Final Stage. Therefore, they asked for the amendments. As the Chair of the Committee mentioned, members of the Committee pulled together some amendments to try to save the Bill, but, thankfully, the Minister and her team had already done that. We were delighted to see that the amendments had been tabled.

I will give heart to Mr Carroll, however. He looked for a rent decrease; he will now have a consultation on that rent decrease. That has not disappeared completely, as there will be a consultation.

An effect of Consideration Stage was that I was made aware of a number of landlords who had already contacted their tenants to tell them that they were putting their rent up in advance of the Bill receiving Royal Assent, because they could not afford the 10% reduction that had been put in by an amendment at Consideration Stage. Consultation is the right way to go. As the Minister said, the Bill will be the first part of a larger piece of legislation that will come forward in the next mandate.

There are very good things for tenants in the Bill: it limits the amount of deposit that can be asked for; it limits the amount of times that rents can be increased; and it provides for better standards on electricity and health and safety in the properties where tenants live.

I am absolutely delighted with the amendments to clause 7 that the Department has tabled. I am also very pleased with amendment No 5, because it simplifies the amendment that Ms Ferguson tabled. I was delighted to hear that Ms Ferguson had worked with the Department on that amendment, because, when I spoke to renters and we talked about the number of days for notice to quit, they were as confused as I was. With the amendment, we have in clause 11 a new way of wording notices to quit that is easier for tenants and landlords to understand.

It is appropriate that there are exemptions from the notices to quit. I see the situation the other way around. I think about older people or people with disabilities who, when they give notice to quit or have been given notice to quit, need to find an alternative place to live that will suit their needs, which may take a longer time. I have concerns, however. There are people out there who, through antisocial behaviour or other reasons, may fall foul of those exemptions and may be evicted.

One thing that we have to consider, even though it concerns a very small number of people in Northern Ireland, is that we cannot put people out on the streets. We cannot make people completely homeless. I would like to think that, in any future consideration of notices to quit, we will consider what to do with people who would be exempt and, because of their actions, who may find themselves out of statutory or private accommodation outside of social sector accommodation. Such people are usually involved with the health service or other services.

(Mr Deputy Speaker [Mr McGlone] in the Chair)

As I said, on behalf of Alliance, I support the amendments. They would achieve a lot of the clarifications that we required at Consideration Stage. They would also achieve some of what Mr Carroll wants. Maybe it will not happen as straightforwardly as he wanted, but the wider public will be able to respond to the consultation with what they think about the rents. For now, I am happy to support the Minister.

Mr Frew: Wow: if you are a student of politics or media, the curriculum that you could study about politics in this place has certainly been added to.

Lest anyone be in any doubt, there was no mistake at Consideration Stage. People knew exactly what they were doing. No one was asleep at the wheel, because everyone in the Chamber had worked on this for months. People in this room knew exactly what they were doing, so they should own the consequences, not only because they had worked on it for months beforehand, in Committee and outside it, but because the Minister for Communities warned us, as she has done today. The Minister said today that it is impossible to proceed as the Bill stands and that housing campaigners are really concerned.

The work of Housing Rights is commendable. When they saw the danger, they contacted us all straight away. Some Members were contacted, even before the Bill was debated, about the problems with what the Bill is now designed to do. They have worked tirelessly to try to rescue the situation, as has the Department for Communities' officials. I give them credit for that. The Department has been placed in a nearly impossible position because of petty party politics all centred around West Belfast. That is ultimately what we saw play out in the Chamber a couple of weeks ago. The Minister said one thing, but her party did another. She said one thing and then kept shtum, stayed quiet, when it came to the vote, while the party behind her shouted "Aye".

What were they shouting "aye" for? For a 10% cut in rent and a freeze for three years thereafter, not exceeding the level on which rents now sit. That is what the party opposite voted for when it supported Gerry Carroll's amendment. As I said at that stage, I understand why Gerry Carroll moved the amendment. That is his politics; it is in his political DNA. I understand that. It is where he is in the political spectrum. It is probably where Sinn Féin is, too, in the political spectrum. They were so spooked by the one Member proposing this amendment that they got themselves in such a muddle that the Minister said one thing and the party did the other. What a shambles.

The Minister warned us that day. She warned her own party. The most common word she used was "concern". I quote:

> *"I have concerns that the clause would apply only retrospectively to all tenancies, which would impact signed and binding contracts and could raise concerns that would veer into contract law.*

The amendment would apply only to tenancies in existence at Royal Assent. It would not apply to any new tenancies after that date, thereby creating an inequality."— [Official Report (Hansard), 23 February 2022, p12, col 1-2].

That is what Sinn Féin voted for. The Minister warned:

"It would easily be avoided by a landlord ending and restarting a tenancy. It would also apply in areas where rents have fallen recently as well as where they have increased. The Member has suggested no penalty for landlords who choose to ignore it.

We will have to be realistic and stay within the confines of the law".

She added:

"I do not think that the amendment does that. It would also risk putting the whole Bill outside of competence and, potentially, the Bill falling. Given that we are coming to the end of the mandate, that could prove fatal for the Bill, and we would lose all the other protections that are in it. I urge caution with regard to the amendment."

The Minister warned her own party about the ramifications of supporting the amendment. She went on:

"I have concerns that the Bill will not have the desired outcome of protecting people in the way that the amendment proposes."— [Official Report (Hansard), 23 February 2022, p26, col 1]

Housing Rights have told us that; they could have told us that before the debate.

When Mr Carroll made an intervention to seek clarification from the Minister, the Minister came back with:

"The concern is about the competency of the amendment, given the legal advice that I have received. I completely agree with the policy intent of what you are trying to do; indeed, that is what I am trying to do. However, the Bill is progressing in a confined mandate. There are three weeks of the mandate left. The legal advice says strongly that, without the additional work that is needed on the inequalities and on what we can do to introduce a fairer rent model that has appropriate caps and reductions where necessary, progressing in the way that is proposed could cause the Bill to fall. That would mean that we lose all of the protections in the Bill." — [Official Report (Hansard), Wednesday 23 February 2022, p26, col 2].

I will finish with this quote from the Minister:

"On the basis of the legal advice, my concern is about the competency of the amendment, that the entire Bill would be called into question and that it may fall. I raised that concern when I introduced the Bill." — [[Official Report (Hansard), Wednesday 23 February 2022, p26, col 2].

Every single person in this room heard the Minister speak that day — even members of her party — and yet this amendment passed on the shout of People Before Profit and Sinn Féin. If you were a student of politics, would you not spend hours going over that to see what went wrong?

Mr Buckley: I thank the Member for giving way and for quite elegantly putting out his case. If only the party opposite had said it with such conviction on the day. Yes, this is an interesting case study for students of politics, but what of the people of West Belfast? Who should they believe? Should they believe People Before Profit or the screeching brakes of the Sinn Féin machine that sits opposite?

Mr Frew: I thank the Member for his intervention. I will get on to the screeching brakes, because that is exactly what these amendments are. Let nobody be confused if a politician knocks on the door of somebody living in West Belfast. Gerry Carroll tabled his amendment because he believed in what he was doing. I do not agree with him and I did not support the amendment, but I understand his party, his politics and the part of the spectrum that he is on. As I said at Consideration Stage, he can go round and say that he tried to get people a 10% decrease in their rent. Sinn Féin, however, cannot, and how dare it say that it would try? It has tried, but it fell well short. Not only did it fall well short, but it nearly scuppered a Bill that would actually add protections and raise standards in the private rented sector.

Let it be noted by the other parties in the House, and let them be warned: when it is time to cheep up, you cheep up; you speak up. You cannot say one thing in a debate and then sit on your hands and keep your mouth shut. We will not be a battering ram for any party to play

populist politics with. That is not going to happen, and people should be aware of that.

Mr Buckley: I thank the Member for giving way. He talked about the narrative and eloquently asked how Sinn Féin members can go around the doors with a straight face and say that they did one thing in the Assembly and advocated for another in their communities. Does the Member agree that they have form for such actions? Just last week, they tried to hijack Pat Catney's period poverty Bill, claiming that they would be the great deliverers of such a Bill. Surely to goodness not just Members in this Chamber, but the people of West Belfast and other constituencies, see the hypocrisy of Sinn Féin's position.

Mr Deputy Speaker (Mr McGlone): In case the Member is going to respond to that, we are sticking to the amendments today.

Mr Frew: Thank you very much, Mr Deputy Speaker. Yes, with all this populist stuff, you would think that an election was coming around the corner in two months' time.

I will get on to the amendments. My colleague mentioned screeching brakes, and you can hear them jumping out of the Marshalled List. You can hear the brakes screeching when you read the amendments. Amendment No 1 is to clause 7, page 8, line 18. This amendment is nothing more than a rescue amendment, and I am sure that it is something that the Department did not want to do. We are now in a position where the Department has to move, which it did not want to do, because of a shambles by the party opposite.

1.00 pm

Amendment No 1 states:

> *"The Department may by regulations do either or both of the following regarding the rent payable under private tenancies ...*
> *(a) provide that, for a prescribed period, the rent is, or may not exceed, a prescribed proportion of the rent that would be payable apart from the regulations;"*

— a cap —

> *"(b) provide that, for a prescribed period, the rent is, or may not exceed, the rent that was payable under it on a prescribed date, or during an earlier prescribed period."*

It goes on to state:

> *"Regulations under paragraph (2) may not—*
> *(a)specify, for the purposes of sub-paragraph (a) of that paragraph, a proportion that is less than 90%".*

That is the only reference that I see to clause 7's rent decreases under article 5C. The 90% is the only nod to the 10% cut. However, when you read on down that amendment, you see exactly what the Department and Minister are trying to do. It will be interesting to see what her party does in that regard.

Paragraph (6) states:

> *"The Department must consult the following persons as to whether to exercise the powers conferred by paragraph (2)".*

All of a sudden, we have gone from a 10% cut in rent and a three-year freeze, which Sinn Féin voted for, to now seeing:

> *"The Department must consult the following persons as to whether to exercise the powers conferred by paragraph (2)".*

Paragraph (2), of course, states:

> *"The Department may by regulations do either or both"*

of the two things that I just read out. We hear screeching brakes from the Communities Minister. What will she tell her constituents? What will Sinn Féin tell its constituents in West Belfast now?

Paragraph (7) states:

> *"The Department must prepare a report on the consultation and—*
> *(a) lay the report before the Assembly, and*
> *(b) publish it in such manner as the Department considers appropriate."*

Paragraph (8) states:

> *"The Department must lay and publish the report under paragraph (7) before the end of the period of 6 months beginning with the day on which the Private Tenancies Act (Northern Ireland) 2022 receives Royal Assent."*

Wow. That is quite a big turnaround; six months. I commend the Department.

Paragraph (9) states:

"If the Department does not make regulations under paragraph (2) before the end of the period of 12 months beginning with the date on which it lays the report under paragraph (7), this Article ceases to have effect at the end of that period."

Not only do we hear screeching brakes, but we see a U-turn by the Minister and Sinn Féin. Lest anybody be under any illusion: this is a complete reversal of Gerry Carroll's amendment.

Do not try to fool the people. It does not matter when the election is; you should never try to fool the people. People face massive hikes in the cost of living, not only for energy, fuel, petrol and heating oil but for food. Do not try to fool people. Do not treat them as fools with your party stunts and theatrics in the Chamber. You know exactly what you voted for. The parties who stayed quiet knew exactly what they were doing. We forced the Division Bells to ring, yet, across the Chamber, we saw the hypocrisy of Sinn Féin. That will not go unnoticed. A light must be shone on it.

I will move to amendment No 5. Clause 11 is another rescue clause, amendments to which had been tabled by the Minister's party colleague. To be fair to the Minister, she said that that would have to be worked on. Let us place that on record. The amendment takes away some of the confusion and ridiculous time periods. Instead of six tiers, we now have four. I am on record as supporting the principle around tiers. I have no problem with that, but I am not happy with the complication for tenant and landlord and the time period. We are still talking about:

"4 months, if the tenancy has been in existence for more than 12 months but not for more than 3 years".

Why four months? Why three years? Also:

"6 months, if the tenancy has been in existence for more than 3 years but not for more than 8 years".

Why six months? Why eight years? Also:

"7 months, if the tenancy has been in existence for more than 8 years".

Why seven months? Why eight years?

Of course, there are screeching brakes again:

"The Department may by regulations provide that, in cases falling within the circumstances set out in paragraph (6), the relevant period for the purposes of paragraph (1) is as prescribed in the regulations."

That is the Department trying to bring regulations in to set exemptions. That is fair enough. I support exemptions, but the whole clause is subject to regulations made under amendment No 5. The tiers will not come in until regulations are made. Screeching brakes again from the Communities Minister because of an amendment from her party colleague.

Why are we allowing seven months? Why is seven months required? It is better than it was before. I think that it was eight and a half months or seven and a half months — 196 days or 224 days. That was ridiculous. The amendment improves the situation, but it still does not bring us to a suitable landing zone, completion or a destination. That is probably because it has been a shambles from the word go, and I will tell you why.

The Department consulted on the notice to quit issue in the midst of the Bill being considered. At Committee Stage, the Department announced to us that it was going to consult on notice to quit and that it was going to do an eight-week consultation and try to bring the findings and conclusions to the House. I have been here for a long time — 12 years — and I know that cogs turn very slowly. I get so frustrated when cogs turn very slowly, but, sometimes, it is for good reason; it is to slow down the process in order to prevent mistakes happening. Yet, on this issue, there is urgency to the point that the Department would consult, bring in all those findings and, within weeks, produce an outcome for that consultation when most consultations take half a year or a year to be announced or to be published. Why the haste on this issue?

This has been a shambles from the word go. The Private Tenancies Bill could have done much more. The scope could have been a lot wider. I take the point about the end of the mandate, and that is a real threat for doing a big piece of legislation, but what the Bill does is not even done well, and now, because of party politicking from West Belfast, it is an even bigger shambles.

There was real concern out there, and I suggest that the amendment being passed at Consideration Stage has probably already had a negative impact on the market. It probably already has skewed people's practices, and it

may already have provoked landlords to change their terms, stop a tenancy agreement or put up the rent. I hope that that is not the case. That, however, is the reality of the clauses that we have debated in the House.

Let that be a lesson for the House: as we try to push through so much legislation in the limited time that we have at the end of the mandate, we must think clearly and correctly about every action that we take and every inaction. Think about it, and let us do it right, not because it is populist or because there is an Assembly election in two months' time. Let us get legislation right. It is not about how much legislation is passed; it is about the material in and the content of the Bills. Let us make sure that we do legislation right in this place so that we do not have any negative impacts on the people whom we are meant to serve. Those who struggle to pay their rent would have been the victims of this shambles. They would have suffered. That is undeniable. It is shameful that that was allowed to happen.

Mr Carroll: During the Consideration Stage debate, I spoke about the difficulty faced by private renters, the tough times that they face and the fact that landlords are allowed to fix prices in an unregulated way, however they see fit. I tabled an amendment to reduce and freeze rents, and, after listening to the startling comments of other parties, I was happy to see it being passed by the House.

Since then, there has been some scrambling to try to explain what happened, what went on and why. I will give you my two cents' worth: faced with doing nothing to protect and support private renters who are finding it really difficult at the moment, Executive parties could not be seen to vote against an amendment like that. Then there is the account offered by Sam McBride about the DUP allegedly taking part in a game of bluff. It is a sad reality of this place that a pathetic game being played up here is the only reason, seemingly, why some parties would back a rent reduction and freeze. People who are feeling the cost-of-living squeeze, especially private renters, are not the plaything of parties up here. They are real people with real lives and families, and they have been ignored for far too long.

After the amendment in my name was passed, private renters contacted me to say that they felt a sense of relief and that, for once, consideration had been given to their concerns and financial reality, which, for too long, had been ignored, despite the occasional platitude being offered. In that context, the Minister's amendments to gut out any reality of a rent reduction and freeze are pretty shocking. Her party voted for that amendment less than two weeks ago, and the Minister did not oppose it. Now, she is moving an amendment to effectively take the teeth out of any attempt to reduce and freeze rents, and I presume that her party will follow suit.

Once again, the message to renters is, "You're on your own. Don't look to Stormont and the Executive for any support at this time of unparalleled crisis". That is the problem with the Minister's amendment to clause 7. It removes any mention of or commitment to a rent reduction and replaces it with a whole list of things that the Department "may" do. That does not cut the mustard for me. For 20 years, nothing has been put in place to protect private renters, and a significant attempt to do so causes panic. That is also against the backdrop of uncertainty about the existence of an Assembly after 5 May and Ministers perhaps not even being in place.

In the debate, much was made about the balance of rights, which, when you say it out loud, sounds pretty absurd. As for the inference, particularly by DUP MLAs, that my amendment would have had an impact solely on landlords, that is the point. A bias against renters has been operating for too long, and my amendment was an attempt, albeit a moderate one, to tip the balance somewhat back the other way. If it turns out, as I am told by some, that reducing rents by 10% and freezing them for three years may breach landlords' article 1 rights, why is the opposite not the case? When rents are increased repeatedly year after year, does that not breach the article 1 rights of struggling people and renters, or does the law work only one way?

The truth is that there is a powerful lobby for landlords, including a significant number of MLAs. I am here to challenge that consensus. For those reasons, I ask all Members to vote against the Minister's amendment No 1.

1.15 pm

Amendment No 2, which is my name, reflects the concerns that Members had in the previous debate about the time and provides greater protection for tenants.

Amendment Nos 3 and 9, which are also in my name, make non-adherence to a decision of the Assembly to support reducing rents by 10% and freezing rents for three years an offence and sets out stipulations for the court to make that a reality. I ask Members to oppose amendment

No 1, which is in the Minister's name, and to back those that are in mine. As for the amendments that the Minister's party voted for and that, others have said, are incompetent, I ask her to show us the evidence of that.

Mr Allister: What a tangled web Sinn Féin weaves. Spooked by Gerry Carroll, having voted for his amendments, it now comes to the House with the Bill, red-faced and embarrassed, to try to claw back a disastrous situation of its own making. It is little wonder that Mr Frew referred to "screeching brakes" and "U-turns". Today, there is veritable joyriding by Sinn Féin in West Belfast over the Bill.

It is little wonder that, a couple of days ago, the spokesman for the Federation of Small Businesses (FSB) sent us all an email in which he lamented the lack of scrutiny of legislation in the dying days of the Assembly. He highlighted the fact that the focus on getting as many Bills through as possible was sacrificing the quality and that it was all about quantity rather than quality. This debate is a poignant illustration of that. A Bill comes to the House; the party of the Minister who brings it to the House fires an Exocet through it; and the Minister has to come back to repair some of the damage. What an illustration of incompetence in the House on serious legislative matters. Mr Pollen was right when he made the point that bringing through so many Bills is causing great concern when they are not subject to the full rigour of scrutiny; instead, there is an urge to rush the Bills through.

Mr Buckley: I thank the Member for giving way. I totally agree with his point, but will he equally agree that it is not just the quantity of Bills but how far-reaching some of them are? Some of the Bills have the potential to vastly change the landscape in which we operate in Northern Ireland.

Mr Deputy Speaker (Mr McGlone): Before the Member starts to speak, I remind him that we are focused on the amendments. I appreciate his need to contextualise, but we should not veer off into wider territory.

Mr Allister: Mr Deputy Speaker, I would never do that. The Member makes a fair point, as does Mr Pollen. The surge and urge to get things through blinds us to bad legislation. The Bill, even with the Minister's amendments, will be bad legislation. Amendment No 1 makes a dog's dinner of that clause and some others. Through the shenanigans of Sinn Féin wanting to be crowd-pleasers in West Belfast and not to be upstaged by Mr Carroll, the House has produced a veritable dog's dinner of a Bill, and you can thank Sinn Féin for that.

I despair of the progress that has been manifested here and of where we have gone in the Bill. Frankly, some of these amendments, on their own merits, are not worthy of being voted for, yet the situation that has been created by previous amendments is a shambles. The real question is this: do we leave the shambles as is, or do we try to make it a little less shambolic? It will still be shambolic.

Ms Hargey: I thank all those who contributed to this afternoon's debate, even those who just came to the party today and were not involved until now. It is interesting, and I take it seriously, that some went back and listened to my speeches, but were selective in what they chose to repeat from them. Maybe they will improve upon that in the next couple of weeks.

To be clear from the start, this is a good piece of legislation, because it offers additional protections, as has been stated by many housing campaigners who have worked on these issues for a long time. Therefore, I stand over the legislation being progressed with the amendments that I have tabled, because it offers additional protections, and nobody, as much as they would like, can argue against that.

Mr Allister: Will the Member give way?

Ms Hargey: No, you had your time. I know why you have turned up here today, Jim, and it is not for the enhancement of the Bill.

I have been clear from the very start that I am for rent control and bringing forward robust legislation that looks at rent control and is fair and is affordable for those in the private rented sector. I have been quite clear and consistently said that since I first proposed the legislation last year. What I have also been clear and consistent on is that that cannot be taken forward in the Bill within the time that is left of the mandate. I have been quite clear on that from when I first put the Bill forward. I also said that we had begun scoping work to look at what rent control will look like in phase 2 of the legislation. Again, I have been consistently clear on that: if you go back and listen to my speeches, you will know that I have said that on a regular basis.

The legislation offers some additional protections and controls on rents, and, of course, it offers other protections on the

standard of the homes that tenants are living in. However, I reiterate that there are two choices for where the Bill goes today. Hopefully, it will achieve Royal Assent. However, there is a red herring in Gerry Carroll's amendments, because he knows that they are not enforceable. It is even clearer that if those amendments are made, the Bill will fall and nothing will be done. Therefore, he is proposing that nothing is done because he knows that if his amendments are made, the Bill will not be competent.

Mr Buckley: Will the Member give way?

Ms Hargey: No, you have spoken enough, Jonathan. You had your say.

The other choice is that you vote for my Bill and the amendments that I have tabled. That will mean the Bill's receiving Royal Assent as per the normal legislative process. That way, the Bill will be within competence, and, therefore, be enacted. That will see enhanced protections for private renters in and beyond West Belfast because the legislation is about all those who are in the private rented sector across the North.

I brought the legislation forward during the restricted mandate because I wanted to do something. I brought in emergency legislation to ensure that we were protecting private renters when the COVID-19 pandemic hit, and I am the first Minister in over a decade to bring reforms to the private rented sector, albeit within a shortened mandate. I recognise that it is not everything, but I wanted to bring through some protections in this mandate so that we do not have to wait until the next mandate. Many housing campaigners have supported my doing that. Why would we wait until the next mandate to bring in more protections when we can do it now? That is what I aim to do with the Bill.

There are two clear choices: to vote for something that we know will fall at the next hurdle, meaning that there will be no protections; or to vote for the amendments to my Bill that will bring real, tangible and meaningful benefits to people in the coming weeks and months. I commend my amendments to the House.

Amendment agreed to.

Mr Deputy Speaker (Mr McGlone): I will not call amendment Nos 2 or 3 as they are mutually exclusive with amendment No 1, which has been made.

Amendment No 4 made:

In page 9, line 25, after "insert" insert "5C,".— *[Ms Hargey (The Minister for Communities).]*

Clause 11 (Validity requirements for notices to quit given by landlords and tenants)

Amendment No 5 made:

In page 11, line 36, leave out from "paragraph" to end of line 23 on page 12 and insert—

*"**paragraphs (1A) and (2) substitute—***

'(1A) For the purposes of paragraph (1) the relevant period is—

(a) 8 weeks, if the tenancy has not been in existence for more than 12 months;

(b) 4 months, if the tenancy has been in existence for more than 12 months but not for more than 3 years;

(c) 6 months, if the tenancy has been in existence for more than 3 years but not for more than 8 years; and

(d) 7 months, if the tenancy has been in existence for more than 8 years;

but this is subject to regulations made under paragraph (5).

(2) Paragraph (1) applies whether the private tenancy was granted before or after the commencement of this Order.

(3) The Department may by regulations amend any sub-paragraph of paragraph (1A) so as to provide a different relevant period.

(4) Regulations under paragraph (3) may provide that the relevant period is different in different cases within a particular sub-paragraph of paragraph (1A) described by reference to the period for which the tenancy has been in existence. (But this is without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954).

(5) The Department may by regulations provide that, in cases falling within the circumstances set out in paragraph (6), the relevant period for the purposes of paragraph (1) is as prescribed in the regulations.

(6) The circumstances are—

(a) the tenant is in substantial arrears of rent;

(b) the tenant, or a member of the tenant's household, has engaged in serious anti-social behaviour in, or in the locality of, the dwelling-house;

(c) the tenant, or a member of the tenant's household, is convicted of a relevant criminal offence. (But see paragraph (9) for provision regarding other circumstances.)

(7) Regulations under paragraph (5)—

(a) may make provision that applies to all cases that fall within a sub-paragraph of paragraph (6) and, for that purpose, may make provision about the meaning of any expression used in that sub-paragraph;

(b) may make provision that applies to cases of a prescribed description that fall within a sub-paragraph of paragraph (6);

(c) may provide that the relevant period is different in different cases that fall within a sub-paragraph of paragraph (6) described by reference to the period for which the tenancy has been in existence;

(d) may make provision about the evidence to be provided to show that a case falls within a sub-paragraph of paragraph (6) or within a prescribed description. (But sub-paragraphs (a) to (c) are without prejudice to the application of section 17(5) of the Interpretation Act (Northern Ireland) 1954).

(8) The Department—

(a) may not make regulations under paragraph (5) that come into operation before the end of the emergency period within the meaning of section 1(2) of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020, but

(b) must make regulations under paragraph (5) that come into operation before the end of the period of 2 years beginning with the date on which this Act receives Royal Assent.

(9) The Department may by regulations amend paragraph (6) so as to add to the list of circumstances set out in it.

(10) Amendments made by virtue of regulations under paragraph (3), and provision made by regulations under paragraph (5), do not apply in relation to a notice to quit given before the date on which the regulations come into operation.'"— [Ms Hargey (The Minister for Communities).]

Amendment No 6 made:

In page 13, line 14, leave out "subsection (3)" and insert "subsections (3) and (4)".— *[Ms Hargey (The Minister for Communities).]*

Amendment No 7 made:

In page 13, line 14, leave out "3(2)" and insert "3".— *[Ms Hargey (The Minister for Communities).]*

Amendment No 8 made:

In page 13, line 15, at end insert—

"(9A) At any time before the coming into operation of sub-paragraph (a) of Article 14(1) (as inserted by subsection (3)), paragraph (1) of that Article has effect as if, before sub-paragraph (b), there were inserted—

'(aa) it is given in writing, and'.

(9B) At any time before the coming into operation of the paragraph (1A) of Article 14 that is inserted by subsection (4), that Article has effect as if, before paragraph (2), there were inserted—

'(1A) For the purposes of paragraph (1) the relevant period is—

(a) 4 weeks, if the tenancy has not been in existence for more than 12 months;

(b) 8 weeks, if the tenancy has been in existence for more than 12 months but not for more than 10 years;

(c) 12 weeks, if the tenancy has been in existence for more than 10 years.'"— [Ms Hargey (The Minister for Communities).]

Mr Deputy Speaker (Mr McGlone): I will not call amendment No 9 as it is mutually exclusive to amendment No 1, which has been made.

Clause 14 (Commencement)

Amendment No 10 made:

In page 14, line 38, after "section 11" insert—

", except in so far as it confers a power to make regulations under Article 14(3) of the 2006 Order (as inserted by subsection (4) of that section).

(2A) Subsections (2B) and (2C) apply to the provisions of section 11, except—

(a) the provisions of that section commenced by subsection (2)(g),

(b) subsection (3) of that section in so far as it inserts sub-paragraph (a) into Article 14(1) of the 2006 Order, and

(c) subsection (4) of that section in so far as it substitutes paragraph (1A) of Article 14 of the 2006 Order and inserts paragraphs (3) and (4) into that Article.

(2B) The provisions to which this subsection applies come into operation on the day after the day on which this Act receives Royal Assent.

(2C) But if (apart from this subsection) those provisions would come into operation before the end of the emergency period within the meaning of section 1(2) of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020 they come into operation at the end of that period.

(2D) Section 11(4), in so far as it substitutes paragraph (1A) of Article 14 of the 2006 Order and inserts paragraphs (3) and (4) into that Article, comes into operation on the coming into operation of the first regulations made under Article 14(5) of the 2006 Order (as inserted by section 11(4)).”— [Ms Hargey (The Minister for Communities).]

Mr Deputy Speaker (Mr McGlone): That concludes the Further Consideration Stage of the Private Tenancies Bill. The Bill stands referred to the Speaker.

Members should take their ease while we move to the next item of business.

1.30 pm

Motor Vehicles (Compulsory Insurance) Bill: Final Stage

Ms Mallon (The Minister for Infrastructure): I beg to move

That the Motor Vehicles (Compulsory Insurance) Bill [NIA 53/17-22] do now pass.

Mr Deputy Speaker (Mr McGlone): The Business Committee has agreed that there should be no time limit on the debate.

Ms Mallon: I will be brief, as I am all too aware of the pressure on the Assembly to progress its legislative programme.

The Bill was introduced to the House on 7 February — only four weeks ago — and the accelerated passage and Second Stage debates followed on 15 February. I am grateful to Members for their contributions to those debates. I also thank all my Assembly colleagues for agreeing that the Bill could proceed by accelerated passage. Without that, it would not have been possible for the Bill to have completed all its Assembly stages in February and March.

I will take a few moments to thank, in particular, the Chair and members of the Infrastructure Committee. Accelerated passage necessarily excludes Committee Stage from a Bill's passage, and I fully recognise that that is a significant exclusion. I have already placed on record my preference to legislate with full Committee procedure, enabling clause-by-clause scrutiny. Therefore, I regret that it has been necessary to advance the Bill in this manner. I am, nevertheless, grateful for the Infrastructure Committee's work and support in bringing the Bill before the House today. The Committee made time in its demanding work programme to research the background, to take advice from stakeholders in evidence, to debate the issues and, generally, to give the Bill as much scrutiny as possible within the time frame. I am grateful for the Committee's efforts and cooperation.

I also thank the Motor Insurers' Bureau (MIB), the Association of British Insurers (ABI) and all the stakeholders who engaged with the Department and the Committee on the Bill. Their consideration of the complex and challenging issues raised by the Vnuk judgement, together with their support, has been invaluable.

It is also important that I recognise the considerable effort required behind the scenes to bring the Bill to the Assembly in the limited time available. The fact that we knew only on 21 December that a legislative consent motion was no longer a viable option and that a Bill was therefore the only viable route to early legislative change resulted in a complete change of direction. The expertise of the staff in the Office of the Legislative Counsel (OLC) and the Departmental Solicitor's Office (DSO) was

instrumental in enabling the Bill to be brought to the Assembly in such a short time frame, especially given the complexities of the drafting and their considerable workload.

The Bill is short. Its purpose is clear. It will ensure that domestic statutory provision on compulsory motor insurance, as contained in the 1981 Road Traffic Order, remains effective. It does that by ensuring that the requirements of the motor insurance directive and any retained EU case law are not taken into account when interpreting the compulsory motor insurance requirement in Northern Ireland. Effectively, the Bill simply restores and maintains the domestic status quo in motor insurance law. The compulsory insurance requirement will remain confined to the use of motor vehicles on roads and other public places. That will provide legal clarity and remove any risk of any challenge in the courts.

While it is appropriate that the Bill restores the status quo, that does not mean that compulsory motor insurance cover cannot be amended or extended at some stage in future, should that be deemed necessary. The Bill prevents change being forced on us and gives us space, should we need it, to take any future policy decisions in a considered and controlled fashion.

If passed today, the Bill will ensure that, as far as possible, motor insurance law is consistent with that in Britain. That is important if we are to provide clarity in the marketplace, remove the risk to the MIB as the fund of last resort for uninsured drivers and avoid any potential legal challenge. Ultimately, it will also protect our citizens from increased insurance premiums, thereby removing any unnecessary burden on drivers, particularly at a time when more and more people are experiencing financial hardship with soaring household bills. On that note, I commend the Motor Vehicles (Compulsory Insurance) Bill to the House.

Mr Boylan: Éirím le labhairt i bhfabhar an Bhille. I rise to speak in favour of the Bill. I support this Bill in order to prevent an increase in insurance prices. Clearly, we are in the middle of a cost of living crisis. The rising cost of energy, food and fuel bills has placed an unacceptable burden on families, and we need to do everything that we can to tackle the cost of living crisis and help lift that burden from families. The last thing that we need now is an increased cost to their motor insurance. The Bill will remove inconsistencies that would have increased insurance prices by up to £50. I support the Bill, and Sinn Féin will continue to support workers and families at every opportunity.

Mr Beggs: I and my Ulster Unionist colleagues continue to support the Bill as it proceeds through the Assembly and I now at Final Stage. It tries to put right some of the implications of the Vnuk court judgement of 2014. Corresponding legislation is at an advanced stage at Westminster — a private Member's Bill that has been widely supported. Even in Europe, an amending directive was taken forward on 2 December 2021.

As others have said, without the legislation the Motor Insurers' Bureau would become liable for a wide range of additional accidents on private land. It is vital that we protect our drivers against that. It could result in an additional £50 on every insurance policy for a private vehicle. As has been said, there are already huge pressures on drivers, given escalating fuel costs. I support the Bill in order to protect our drivers and ensure that as many as possible can continue to get to their work and can afford a means of transport to do so.

Mr Muir: I am pleased to see the Bill back in the Chamber for its Final Stage today. I welcome the positive influence that the Bill will have on people's lives across Northern Ireland, especially in light of the worrying sharp rise in the cost of living. Had the Bill not been introduced, we would have been complicit in a further financial burden being placed on households with rising car insurance prices. It is not lost on me that approval from the Executive was obtained in their dying days; if it were being sought now, we would not be able to get it.

We must do all that we can to tackle the cost of living crisis. I thank the Minister and her officials for their work on the legislation, especially given its accelerated passage and the turnaround that was required as a result of the late correspondence from the Department for Transport at the end of last year. As I have previously stated, there are many other Brexit-related issues that we will have to navigate. It is vital that we work together to navigate our way around those as a result of EU exit. The cross-party consensus on the Bill is welcome, and I hope that future Brexit-related legislative debate can be as respectful and productive.

Mr Deputy Speaker (Mr McGlone): Glaoim ar an Aire Bonneagair le críoch a chur leis an díospóireacht ar an Chéim Dheireannach den Bhille. I call the Minister for Infrastructure to conclude the debate on the Final Stage of the Bill.

Ms Mallon: Thank you, Mr Deputy Speaker, for the opportunity to close the Final Stage of the Motor Vehicles (Compulsory Insurance) Bill. I am grateful for all the contributions and support given to the Bill. Without that support, it would not have been possible to bring the Bill through to the Final Stage within the time frame.

Mr Buckley: I thank the Minister for giving way. May I, as Committee Chair, thank the Minister, the Department and all stakeholders for their engagement with the Committee and for this productive outcome?

Ms Mallon: I thank the Chair for his comments.

As I said, it is a relatively short Bill but important nonetheless. It will ensure consistency between the North and other jurisdictions when interpreting motor insurance requirements in law; aid continuing alignment between compulsory motor insurance law and the role of the Motor Insurers' Bureau in the provision of compensation to victims of uninsured and untraced drivers, a role that the Motor Insurers' Bureau provides under agreement with government; and, most importantly, help to protect our citizens against increased motor insurance premiums at a time when they are already struggling with rising food, fuel and energy bills. On that basis, I commend the Bill to the House.

Question put and agreed to.

Resolved:

That the Motor Vehicles (Compulsory Insurance) Bill [NIA 53/17-22] do now pass.

Mr Deputy Speaker (Mr McGlone): Members, take your ease, please, while we move to the next item of business.

Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2022

Mr Deputy Speaker (Mr McGlone): Members, we can start the debate, but we will need a few more bodies in the Chamber if we come to a vote. We will contact the Whips' offices.

Mr Swann (The Minister of Health): I beg to move

That the draft Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2022 be approved.

Mr Deputy Speaker (Mr McGlone): The Business Committee has agreed that there should be no time limit on the debate. I call the Minister to open the debate on the motion.

Mr Swann: I seek the Assembly's approval of this set of regulations that contain important provisions relating to the continued support of the COVID-19 and flu vaccination programmes across the United Kingdom.

I am sure that Members will agree that the vaccination programme has been an outstanding success and has helped us to take significant strides towards the more normal life that we want to see return. With the recent lifting of COVID restrictions, that is now within our sights. We have, undoubtedly, made progress on pushing down omicron numbers, thanks to the efforts that everyone has made and the rapid roll-out of vaccine boosters. However, we must not lose sight of the fact that COVID-19 can still cause devastation to families and communities.

1.45 pm

The Human Medicines Regulations (HMR) 2012 governed the arrangements for the licensing, manufacture, wholesale dealing and sale or supply of medicines for human use. Those UK-wide regulations were amended in late 2020 as part of the response to the COVID-19 pandemic to add flexibility to some of the normal rules that would ordinarily govern vaccine supply to patients.

The 2020 changes were made to facilitate the mass vaccination campaigns that have been taking place for seasonal flu and COVID-19 once vaccines became available. The amendments, which had the effect of increasing the vaccinator workforce and giving greater flexibility to deployment arrangements, were applied to the flu vaccine as well, the overarching policy objective being to facilitate the deployment of safe and effective COVID-19 and flu vaccines in order to protect public health. The health service in Northern Ireland has made use of the full range of options available to it, as enabled by the 2020 amendments to the Human Medicines Regulations, to safely vaccinate staff and the wider population with the aim of minimising disruption to normal health services.

When the Human Medicines Regulations were amended in 2020, some of the temporary changes were given an end date of 31 March 2022, either because there was an expectation of reverting to the business-as-usual model, which, under normal circumstances, we would want to retain, or because they were new and would require a review of their practical implications and safeguards following implementation.

Given the experience arising from the pandemic, we needed to retain flexibility to deal with the unknowns. We now know that the vaccines have more than proved their worth. It is, therefore, important that we retain the flexibility and ability to deliver the mass vaccination programmes that the temporary provisions have afforded us. Mass vaccination roll-out on the scale and at the pace that has been possible to date will not continue if the statutory instrument (SI) that is before the Assembly today is not approved. Moreover, from 1 April, the COVID-19 and flu vaccination programmes will not be able to continue running as they currently do, and it is not likely that they could be re-established at the pace and scale that were so vital to the success of current campaigns.

I will now set out the proposed amendments to the regulations and explain why the temporary provisions are still needed. Following review, stakeholder engagement and a UK-wide public consultation, on 7 February, the UK-wide statutory instrument was laid in draft before the Assembly and in both Houses of Parliament. The SI will make permanent three of the temporary provisions made in 2020 and will extend two provisions until 31 March 2024.

I will begin with the three provisions that, it is proposed, will be made permanent. The first will help to maintain an expanded workforce by allowing registered nurses, registered midwives, operating department practitioners, paramedics, physiotherapists and pharmacists to be classed as occupational health vaccinators. That will enable those groups to administer influenza and coronavirus vaccines under occupational health schemes operated by the health service or a local authority.

Flu and COVID-19 vaccinations for health and care workers are often administered through occupational health schemes. Prior to the 2020 temporary changes, the only people authorised to administer injectable prescription-only medicines as part of an occupational health scheme were doctors and nurses acting under the written instruction of a doctor. Should the provision be allowed to lapse, we would return to the position where only doctors and nurses operating under the written instruction of a doctor would be authorised to administer injectable prescription-only medicines in occupational health schemes, which could cause delays in vaccinating the health and social care workforce during future vaccine campaigns. Making the change permanent will help to ensure that we have the workforce needed to continue to deliver a mass COVID-19 vaccination programme as well as an enhanced flu vaccination programme to health and social care staff.

Making the second provision permanent will continue to allow registered health professionals to supply or administer injectable prescription-only medicines under a patient group direction (PGD). This provision has provided the legal basis for the administration of the COVID vaccine by health and social care trusts in our mass vaccination centres and has been critical to supporting widespread protection from COVID-19 and flu among the general public. Without that flexibility, significantly fewer professionals would have been able to administer vaccines, which would have led to vaccine wastage, a slower pace of vaccine administration and a need for more prescribers to be diverted to the vaccine programme, thus creating an additional drain on healthcare capacity.

The third provision to be made permanent enables community pharmacies to deliver flu and COVID vaccine services outside their normal registered premises. This provision has facilitated new deployment models by community pharmacies, such as the delivery of flu vaccinations to care home staff at the care home site or the delivery of COVID-19 vaccines at pop-up clinics. Community pharmacies across Northern Ireland now play an important role in offering the annual winter flu vaccination service and the COVID-19 vaccination service. That flexibility will be essential to support the vaccination of care home residents by community pharmacies as part of the upcoming spring COVID-19 booster campaign.

Engagement with stakeholders has been very positive about retaining the ability for community pharmacies to deliver vaccination services from different premises on a permanent basis. It remains the case that that remains an enabling provision only and that community pharmacies are in no way required to provide services in that way, but, by making that provision permanent, we can ensure that the public health benefits are maintained throughout the roll-out of COVID-19 and flu vaccinations while maintaining rigorous

standards of oversight for vaccines to be given safely and effectively.

Two temporary provisions are due to lapse on 31 March 2022, which we propose to extend to 31 March 2024. The first allows for flu and COVID vaccine stocks to be shared between locations without the need for a wholesale dealer's licence to be in place. Licensing and marketing authorisations are important parts of the medicine regulation regime. However, situations can arise during mass vaccination programmes where there are more vaccines than are needed in one healthcare organisation and too few in a separate healthcare organisation.

The supply from one organisation to the other is classed as a wholesale distribution supply and, normally, requires a wholesale dealer's licence under the HMR. If such a licence is not held by the organisation because it is not required for normal business, that can lead to problems with and delays in moving the vaccines between such service providers, and it runs the risk that patients could not access the vaccine that is necessary for public health protection and that vaccines could be wasted. In providing that flexibility, an important mitigation of any risk has been the provision of guidance to providers on maintaining safety and product integrity throughout the COVID-19 and flu vaccination programmes. Continued flexibility for a further period will be of benefit to public health, and we therefore propose to retain that provision until 31 March 2024.

Secondly, we propose to extend to 31 March 2024 a provision that will relax some of the governance rules on the assembly, preparation and labelling of medicinal products and the need for manufacturer's licences and marketing authorisations. That enables the necessary actions taken by pharmaceutical companies and healthcare professionals specifically to prepare COVID-19 vaccines for administration to the public. Those relaxations were under the proviso that the actions were completed under the health service arrangements.

Continuing flexibility for a further period will be of benefit to public health, and we therefore propose to retain those provisions until 31 March 2024. Both provisions that have been extended to 31 March 2024 will be reviewed prior to that end date to decide whether they will be made permanent, another temporary extension will be sought or they will lapse at that stage. The emergence of the omicron variant and our critical ongoing booster campaign, which urges everyone eligible to get their booster dose, have further highlighted the importance of why those key regulatory flexibilities cannot be allowed to stop having legal effect from 1 April 2022.

My officials attended the Health Committee meeting on 27 January to respond to questions on the policy intent of this UK-wide statutory instrument, and, on 24 February, the Committee raised no issues with the content of the regulations. I bring this statutory instrument before the Assembly today with the Committee's support.

Finally, and before this important debate is opened up, I firmly believe that these provisions are vital and should be made permanent or extended as proposed. The vaccination programme in Northern Ireland has made extensive use of the flexibilities, and their cessation, even if temporary, would cause significant disruption to the programme. If the regulations are approved by the Assembly and by each House of Parliament, the provisions will be extended or made permanent, as I outlined, and will continue to apply after 31 March. Officials from the Department of Health and Social Care advised that the regulations will be debated in the House of Commons on 8 March and in the House of Lords on 15 March. I commend the motion to Members.

Mr Gildernew (The Chairperson of the Committee for Health): You will be glad, a LeasCheann Comhairle, that I will make some very brief remarks as Chair and then some even briefer comments as my party's health spokesperson.

The Committee welcomes these regulations, which seek to make permanent changes to the range of registered healthcare professionals who can administer flu and coronavirus vaccines, to allow flu and coronavirus vaccine stocks to be shared between locations to continue until 31 March 2024 and to continue to allow the final stages of coronavirus vaccine preparation to be completed without the need for additional marketing authorisations or manufacturing licences to be in place.

The Committee sought some further information on a few issues. The Committee asked how the Department is ensuring that applications to join the vaccination workforce are progressed in a timely manner. The Committee also sought a list of professions that could be utilised in the vaccination programme. The Department advised that the Public Health Agency was leading on the vaccination workforce appeal and outlined the process that it undertook to process applications in a timely manner. The Department also provided a list of professions

that could be utilised and a breakdown by trust of those that have been utilised in the scheme. We pass on our thanks to all those who have been part of the vaccination roll-out, which has made such a significant change over the pandemic.

The Committee also sought clarity on whether there is a review date to consider making permanent changes to the register of healthcare professionals in order to take into account emerging roles and professions. The Department advised us that there is no formal review date at present but that that will be kept under review and that, if necessary, the register will be updated. The Committee considered the statutory instrument, and members agreed that they were content that it be approved by the Assembly.

I will make some very brief remarks as the Sinn Féin health spokesperson. The regulations make important changes to who can administer what medicines, and, very importantly, they extend the ability to move and share vaccine stock between locations. Vaccines have saved lives, and they will continue to do so, directly and indirectly, not only during the pandemic but throughout a number of instances of disease right across the world. Vaccines have played a key role in those. They also help to reduce pressure on all types of health services. As Sinn Féin's health spokesperson, I congratulate and thank everyone who has played their part in rolling out a very highly pressurised but very effective vaccination campaign here, right across the North.

COVID remains a threat to health and social care services. These changes will help to maintain a capacity to effectively respond. Therefore, Sinn Féin will support them.

Mr Deputy Speaker (Mr McGlone): Members, as Question Time begins at 2.00 pm, I suggest that the Assembly take its ease until then. The debate will continue after Question Time, when the next Member to speak will be Pam Cameron.

The debate stood suspended.

2.00 pm

(Mr Speaker in the Chair)

Oral Answers to Questions

Communities

Energy Payment Support Scheme

1. **Mr McCrossan** asked the Minister for Communities when payments under the energy payment support scheme will be made. (AQO 3220/17-22)

7. **Mr Stewart** asked the Minister for Communities for an update on the energy payment support scheme. (AQO 3226/17-22)

Ms Hargey (The Minister for Communities): With your permission, Mr Speaker, I will answer questions 1 and 7 together.

The rising cost of living and soaring increases in energy bills continue to have a major impact on people who are finding it harder to cope. Many are struggling to afford essentials, such as fuel to heat their homes and electricity. I announced on 13 January that I had secured support from the Executive for a £55 million energy payment support scheme to provide financial support to around 280,000 individuals across a range of benefits. The agreed scheme is targeted at individuals who are on low incomes and are in receipt of means-tested benefits administered by my Department, and it will provide a one-off direct payment of £200 to help with their energy costs. Despite only securing approval for that scheme on 13 January, I am acutely aware that energy prices continue to rise and household budgets are being squeezed. Therefore, I asked for payments to be made as quickly as possible. As I announced in the Assembly on 1 March, the payment date has been brought forward as much as possible, with payments reaching people’s bank accounts from 10 March, which is this Thursday.

Mr McCrossan: I thank the Minister for answering the question. Minister, you will be aware that many families are struggling with the rising cost of living and the increased cost of energy. That is having a very sore impact on working families in particular, with people living week to week or, in some instances, day to day. Has the Minister considered extending the support scheme to all families? Absolutely every working family has been impacted by the cost of energy, and I am worried that it is tipping them towards the cliff edge. Minister, will you extend the scheme to all families?

Ms Hargey: I have continued to look to do all that I can to support families. That is why, on top of the scheme payment, I invested an £2 million in the Bryson scheme, which families that are not on means-tested benefits, and therefore could not avail themselves of the £200 payment, could apply to if they were facing crisis with their fuel and energy costs. Members will know that that scheme needed approval via the Executive and that it needed sign-off by the First Ministers so that people could be paid under the Financial Assistance Act. I am trying to explore options for making additional payments, were we to do that. First, I am looking at whether I can secure the necessary finances. The energy payment support scheme cost £55 million, and I do not have that amount of additional money sitting in my Department, so we have to see whether there are ways to draw that down. Also, because we do not have a functioning Executive, I need to find another way of getting such a payment signed off in order for emergency money to be released under the Financial Assistance Act. Due to the way that the legislation is written, the signatures of Executive Office Ministers are required.

Ms Ferguson: Like thousands of families who will benefit from this much-needed assistance, I very much welcome the fact that the energy support scheme payments are set to begin this Thursday. While that is already a huge scheme, can the Minister confirm that she sought to broaden it even further to include those on working tax credits but that the British Treasury refused to cooperate on that?

Ms Hargey: I can make payments to people who are in receipt of benefits because we have their payment details. Therefore, we can work with the computer systems of the Department for Work and Pensions. When I was crafting the scheme a number of months ago, before I put proposals to the Executive, I made an approach to HMRC about making payments to people who are in receipt of tax credits because I recognise that families that are working and are on low incomes are acutely impacted by the rising cost of living and the fuel crisis. Unfortunately, HMRC said that there is no legal fix for that, because it would need primary legislation to change its data-sharing procedures, and there would not be time to do that in this mandate, when the money needs to be spent.

That said, around 45% of people who are on means-tested benefits also receive tax credits. It is likely that about 48% of those who receive disability benefits will also receive the payments because they qualify for one of the means-tested benefits.

Mr Muir: It is important to welcome the scheme and also to highlight the issue of those who are excluded because of lack of cooperation from HMRC. What is the Minister doing to promote and provide grant support for energy efficiency in people's homes? It is a key action that we need to take to support people in the cost-of-living crisis.

Ms Hargey: It is unfortunate; we have continued to raise it with the Treasury. The Finance Minister has raised it and other issues, such as VAT and the windfall tax, and has requested that the British Government do not go ahead with their planned tax increase that is due to come into effect in April. HMRC says that primary legislation is needed to share working tax credit information. We asked HMRC to share payment details so that we could make payments, but it said that it is not allowed to do so and that that would need primary legislation as well.

On energy efficiency, we have just had the Further Consideration Stage of the Private Tenancies Bill. That will start to take forward greater protections for those in the private rented sector regarding conditions and energy-efficiency standards in their homes. We also run a number of schemes for fuel support and insulation. I recently announced increased investment of over £15 million that I secured for the Housing Executive, for necessary tower block investment and further insulation programmes for Housing Executive properties.

Subregional Stadia Programme for Soccer

2. **Mr Robinson** asked the Minister for Communities for an update on the delivery date of the subregional stadia programme for soccer. (AQO 3221/17-22)

4. **Dr Aiken** asked the Minister for Communities to outline the timeline for commencing the subregional stadia programme for soccer. (AQO 3223/17-22)

8. **Mrs Cameron** asked the Minister for Communities how the subregional stadia programme for soccer funding can benefit the development of football clubs in South Antrim. (AQO 3227/17-22)

Ms Hargey: With your permission, Mr Speaker, I will answer questions 2, 4 and 8 together.

In the absence of a functioning executive, I have undertaken a number of action to progress the programme. I met representatives from the Irish Football Association (IFA) and the NI Football League (NIFL) to reaffirm my commitment to the programme and to provide clarity on the work undertaken to progress it. I followed that by writing to all member clubs of NIFL and to Derry City. I intend to meet the IFA and NIFL again in the coming weeks.

I issued a letter to the Finance Minister to seek assistance from his Department in addressing the cost increases that inflation has brought to the programme and to ask how to secure the additional budget required to cover those costs. I have also written twice to my Executive colleagues. The initial correspondence was to highlight the progress to date, including the detail of my request for assistance from the Department of Finance, and to seek colleagues' support for my efforts to advance this important flagship programme.

In my follow-up letter, I clarified that I would be grateful for my colleagues' views and willingness to help the progress of the programme in the absence of an Executive. I can confirm that I have received some responses. The Finance Minister replied that he would be keen to work with me on additional financial assistance to look at the uncontrollable increases in construction costs, for example. I have some support from some Ministers on progressing the programme and doing all that we can to get around the impediment of having no Executive. I still await the response of a few other Ministers to my letters.

I have consistently stated that the programme will benefit the entire football family, including clubs. The need for a spread of investment and accessibility to improve facilities across the region has been a common theme throughout the review exercise. In addition to supporting increased participation and developing more sustainable and inclusive family-oriented facilities, the programme will provide an opportunity to contribute to the delivery of wider Executive priorities, including the social, economic and cultural needs of communities.

I reiterate my commitment to investigate all options available to progress this important programme in this mandate.

Mr Robinson: Does the Minister agree that, if her party and others in the Assembly joined the DUP to oppose the protocol, the money could be distributed to all those clubs tomorrow morning? Clubs such as Coleraine and Limavady United need the money urgently to improve their grounds.

Ms Hargey: If we had a functioning Executive, I could bring a formal paper to them on the financing and on moving ahead to the next phase. I do not know, frankly, what the protocol has to do with the subregional stadia programme. I will leave it there.

Dr Aiken: I thank the Minister for her answer. Minister, in your response, you said that you had asked all Ministers to respond as to whether you can release the funding. Which Ministers have not responded?

Ms Hargey: It would be better to tell you which Ministers have, if that is OK. The Ministers of Finance, Justice, Education and Infrastructure have responded.

Mrs Cameron: I thank the Minister for her answer. I think of Ballyclare Comrades in my constituency, who have exciting redevelopment plans that would greatly benefit the club and the town. Can the Minister gave an assurance that there will be no more delays in delivering this long-awaited programme? What steps have been taken to progress the funding since assurances were given to clubs in February that it remained a flagship Executive project?

Ms Hargey: To be clear, this is still a flagship Executive project, committed to under New Decade, New Approach (NDNA). I made a commitment to deliver it as quickly as possible. I communicated with colleagues around the Executive table on the concerns about progress because of the need for Executive approval. I am exploring what we can do to progress stadia development in the mandate, notwithstanding some of the impediments, namely, having no functioning Executive. I await responses from the Ministers who have not yet responded and am still looking at all the legal routes to ensure that we can progress this. In the meantime, I continue to meet the IFA and NIFL. We had good engagement on getting clubs ready to look at their needs and their capital stadia needs. I will meet them again in coming weeks to progress that work.

Miss Reilly: Minister, do you agree that the subregional stadium programme, similar to much-needed investment in the health service, was effectively abandoned when the DUP walked out of the Executive to put their own electoral interests above those of their constituents and wider society?

Ms Hargey: The fact that there is no functioning Executive presents big challenges with budgets, sign-off and approval on a lot of the programmes and other spending. We see that from other Ministers. I continue to do all that I can to progress this vital programme, along with all the others in my Department that need Executive approval. I continue to work with the IFA and NIFL to do that. The programme will have a tangible benefit for clubs on the ground and makes sure that benefits are spread across the North. I am committed to doing all that I can in this mandate to ensure that the programme moves forward.

Mr McNulty: Soccer clubs are infuriated by delays in receiving payment from the subregional programme. Can you clarify whether they will receive payment in the mandate? Will you release the legal advice received by your Department in relation to the subregional stadia programme?

Ms Hargey: Clubs are not in a position to receive the payment right away. That is not where we are in the programme. We are identifying the needs and the capital expenditure that is required and looking at how we can meet clubs' needs with the budget that we have. Additional work is being done, which is why I wrote to the Finance Minister, because of the timescale when the programme was first agreed. We are seeing an increase in capital costs across the board, and hospitals, housing and other projects have been impacted. We need to work all of that out to ensure that we can cover the controllable costs.

The Finance Minister responded by saying that he is willing to do all that he can, working with me and other Ministers, to make sure that we can progress the programme. As I said, I have asked Ministers around the Executive table to work with me to overcome any impediment from there being no functioning Executive, and I will continue to engage with them over the next couple of weeks.

2.15 pm

Mr Lyttle: The overdue release of the subregional stadia programme funding is really limiting the extremely positive impact that clubs, such as Glentoran in my constituency of East Belfast, can have in our community. Will the Minister repeat the names of the Executive Ministers from whom she has received a response in support of the fund and state whether she will be progressing the terms of the working group's recommendations?

Ms Hargey: The working group continues to meet, and the team in my Department that works on the subregional stadia programme continues to meet the working group. As I said, I have met the IFA and NIFL about progressing that work as quickly as we can, by identifying clubs' needs and overcoming the issues that I mentioned around inflation and cost rises for materials. I can confirm that responses to the two letters that I issued in recent weeks have been received from the Ministers of Finance, Justice, Education and Infrastructure.

Mr Allister: To be absolutely clear, is the Minister saying that, contrary to what she initially told the House, which was that funding could not be released without Executive approval, it could now be released on foot of a positive response from other Ministers? If so, has she got the necessary money?

Ms Hargey: The money has been secured. It is an Executive commitment. I have been clear in stating that the money has been secured for the subregional stadia programme and for Casement Park under the regional stadia programme. That there is no functioning Executive is still an impediment, but I have communicated to Ministers my intent to progress the subregional stadia programme where I can in the absence of a functioning Executive by asking them to work with me. We still need to work through the legal impediments that may arise as a result of there being no functioning Executive, however. I continue to engage proactively with Ministers and the sporting bodies — the IFA and NIFL — to ensure that clubs are in a state of readiness so that, when the programme opens, clubs can apply to it seamlessly, enabling the process to be quickened up.

Jobs and Benefits Offices: Pre-pandemic Services

3. **Ms Armstrong** asked the Minister for Communities when jobs and benefits offices will return to pre-pandemic operating levels facilitating face-to-face drop-in visits between staff and claimants. (AQO 3222/17-22)

Ms Hargey: On 5 May 2021, jobs and benefits offices reopened for people on a one-in, one-out appointment basis. That was extended to multiple appointments in the autumn of last year. Face-to-face services continue to be prioritised for vulnerable groupings: young people aged 18-24; those not engaging using telephone or digital channels; and those who need to verify their identity to make a new claim.

Concern about the COVID omicron variant has meant that plans for the wider resumption of services, which include opening digital zones and offering a drop-in service, have been put temporarily on hold. My Department, in conjunction with other Departments, is considering the COVID-19 measures that are in place throughout its workplaces, in line with Public Health Agency (PHA) advice. While face-to-face services continue to be constrained by measures such as social distancing, jobs and benefits offices are using other service delivery channels, such as video, telephone and digital, to ensure that people requiring assistance are supported.

Ms Armstrong: I thank the Minister for her response. Minister, on, I think, 24 February, you announced the launch of labour market partnerships (LMPs) for council areas. Can you confirm how those new labour market partnerships will work with our jobs and benefits offices?

Ms Hargey: Labour market partnerships are a new approach, working through the 11 councils. Rather than have just regional programmes, LMPs are tailored to meet the needs of each council area. I recently visited Armagh City, Banbridge and Craigavon (ABC) Borough Council, which was the first to undertake the programme and put forward its proposals. Councils will meet regularly as part of a regional group that will tie in all local labour market partnerships directly with the Department. The LMPs will have ongoing engagement and liaison with the Department, and not just with jobs and benefits offices but across the Department. Up to now, there has been really good work, for example, in the ABC council area, where there was an identified shortage of HGV drivers due to Brexit and other issues. It was able to run a programme to start to recruit people to fill a gap in that council area. That is one example.

We are working with the remaining councils to get their action plans and priorities in place. That is really about bringing the private, public and community and voluntary sectors together to respond to the needs of individuals who are looking for work or to progress and the needs of employers with regard to where employment opportunities will be over coming years. It is an exciting programme, and we look forward to seeing the roll-out and the impact that it will have at a local level.

Ms Dolan: Following on from your last response, Minister, can you give an additional update on the measures that you are taking to help to create employment opportunities?

Ms Hargey: As I said, we are rolling out those new labour market partnership approaches. That is really where they will operate: in each of the council areas. The councils will come together through those partnerships, working with the private sector and the community and voluntary sectors to develop action plans to meet the employment and economic needs of their boroughs.

As I said, some really good programmes are beginning to run in the Armagh, Banbridge and Craigavon area, which I went to. Of course, other councils are coming forward with their proposed action plans, which we will look to implement as soon as possible. Obviously, we continue to look at other employment programmes, even through the adviser discretion fund, where I have supported upfront childcare costs. We are now seeing more and more families availing themselves of that opportunity to allow them to access employment. Recently, I launched a £10 million skills and employment fund targeted at the creative industries, the culture, arts and heritage sectors and the community and voluntary sector that will see upfront employment opportunities for the next three years for people from those sectors. Applications have been going really well, with organisations in the community applying to create hundreds of posts.

Mr Durkan: I place on record my party's gratitude to the hard-working staff in jobs and benefits offices. It is a stressful job at the best of times, but it is fair to say that the past couple of years have been unprecedented in terms not just of demand but of people's desperation and the situations that they have found themselves in and needing help to get out of.

Minister, for clarity, can you outline for the House what support is provided by jobs and benefits offices to benefit claimants, such as those in receipt of universal credit (UC), who are not computer-literate to ensure that they are not disadvantaged by the online system?

Ms Hargey: There is practical hands-on support from work coaches who work directly with individuals to go through all their needs with regard to processing their benefit claims or maintaining the benefit that they may be on. They also help them with interview skills and writing applications. Obviously, there was the Job Start programme, where we gave 25 hours per week of practical experience to young

people up to the age of 25 to test out employment sectors that they were interested in working in.

As I said, we offer upfront childcare costs through the adviser discretion fund. We can cover other costs — clothing, for example. That may be available for people who want to go to interviews. At the minute, we are looking to continue to expand the adviser discretion fund, for example, to look at the whole issue of digital connectivity and ways in which we can support those who are unemployed or looking for work at the moment with digital inclusion. I hope to make an announcement on those issues and enhancements in due course.

Charity Sector: Support

5. **Mrs Barton** asked the Minister for Communities how she will support the charity sector, in the absence of a First Minister and deputy First Minister. (AQO 3224/17-22)

Ms Hargey: All Departments provide funding to charities to help to deliver our Programme for Government outcomes, and we will continue to do so in the absence of our First Ministers. As the strategic lead in the Executive for those sectors, I made nearly £90 million of Executive COVID support and recovery funding available in the 2021-22 financial year to charities, social enterprises and the wider voluntary and community sectors, including culture, languages, arts, heritage and sports organisations. The funding prevented the potential closure of local charities as a result of the pandemic, supporting their vital work at a time when it was needed most.

I have made £1·5 million of funding available to existing European social fund (ESF) projects that are continuing into 2022-23. That will help to provide some certainty and security for those vital organisations.

I have also made £43 million of Executive COVID recovery funding available in this financial year. Some £23 million is to help organisations to manage their financial positions where they have COVID-related deficits. Up to £20 million will be used to support salary costs for new entrants through the COVID employment and skills initiative. That will help organisations to attract and, importantly, to retain staff in those critical sectors.

I am considering the independent review of charity regulation in the North to ensure that our system of regulation is appropriate, proportionate and provides public confidence. The most recent Charities Bill 2022 is awaiting Royal Assent, having passed its Final Stage in the Assembly. That will restore the regulatory framework following the McBride judgement, thereby providing certainty for over 6,500 charities.

Mrs Barton: Thank you, Minister, for that comprehensive answer. Many charities provide an essential service, particularly in rural areas. Have you had any conversations with the Minister of Agriculture, Environment and Rural Affairs to support those charities and work with them in rural areas with regard to phone calls in the morning and things like that?

Ms Hargey: There has been good collaboration with DAERA and the Department for Infrastructure in looking at the needs of rural communities. We came up with a bespoke COVID recovery revitalisation programme that was targeted at those rural communities, and we continue to engage with those Departments on the work that we do in the Department for Communities.

As I said, a range of financial supports has gone out to charities across the board to assist them throughout the COVID pandemic, particularly where there has been a loss of income or where the closure and stopping of their fundraising activities has stunted their ability to deliver much-needed services. As the Member said, our charities have been excellent throughout the COVID pandemic in responding to people. In the Warm, Well and Connected programme that we ran in the Department, those charities really stepped up to the plate in working with us to meet the needs of rural residents and in looking at the issue of isolation, connectivity and, particularly, mental health and well-being. The financial assistance was critical to them in making sure that, first, they remained open but also that they could move to new modes of interaction; for example, going online and trying to do door-to-door services. Even our libraries extended those services throughout the COVID pandemic.

We need to look at legislative protection. I will continue to work with DAERA and DFI around rural infrastructure to look at what we can do to further support them. The collaborative approach where we brought money together from the three Departments was good, and I have written to them to see how we can develop that and keep that approach going.

Mr Delargy: Minister, will you provide an update on the uptake of the COVID-19 charities

fund, which was set up to help to protect that sector during the pandemic?

Ms Hargey: Funding has gone out during the COVID pandemic. There has been over £130 million of additional support, and over 9,000 awards have been made to individuals and organisations to mitigate the worst financial impacts of the pandemic. We did a lot of work to support charity organisations to make sure that we could stabilise them and that, despite the loss of income that they would normally fundraise for, they could still deliver their services and keep their doors open. The first fund has been going well, and the second fund that we opened recently has also been drawing down well for many charity organisations across the board.

We continue to work with the charities sector on recent legislation that we passed around regulation on the back of the McBride judgement in 2019. On the independent review of charity regulation and support, there was good, extensive engagement with the independent panel that was set up. It had good engagement with charities and looked at their needs going forward.

I am hopeful that, in the next mandate, on the basis of that review, we can bring forward more robust legislation that further protects and enhances the work of that sector.

2.30 pm

Mr Speaker: That ends the period for listed questions. We now move to 15 minutes of topical questions.

DLA/PIP/ESA: Face-to-face Appeal Appointments

T1. **Mr Newton** asked the Minister for Communities to state the average waiting time for face-to-face appeal appointments for those people who have been refused disability living allowance (DLA), personal independence payment (PIP) and employment and support allowance (ESA) payments. (AQT 2121/17-22)

Ms Hargey: I know that I gave an answer last month on the average waiting time. I do not have the exact figure, but I will communicate that to you directly.

Obviously, there was a backlog, and the pandemic exacerbated things. We have been moving at pace to try to resume hearings and deal with the backlog. We are also moving to other modes of contact. We are doing interviews through the use of digital technology, such as the telephone, for those who choose it, and other methods. We know that, for many, that is their preferred method, but there are still those who want face-to-face contact. We are working at pace, in conjunction with the Public Health Agency and other Departments, to try to fully resume face-to-face listings and deal with the backlog, which has been impacted by the pandemic. I will communicate directly with you on the waiting times.

Mr Newton: I thank the Minister for her answer. I recently did an appeal for a constituent who had been waiting for over three years. I have a number of other constituents who are not technology-savvy and are not able to get a face-to-face appeal. I think in particular of those who suffer from mental health issues or those whose mental health is a priority in their illness. Minister, what action will you take to ensure that the waiting time is reduced and that a three-year wait is a thing of the past?

Ms Hargey: We are working at pace to try to address the backlog in appeal hearings. As I said at a previous Question Time, we are working with the appeals service to see what we can do. The main issue with appeals is the availability of medical evidence and, indeed, new medical evidence that has come forward. We are working with the appeals service to try to front-load as much of that as we can.

As I said, I agree that a good section of the population wants a face-to-face hearing and interview and does not want to do either over the phone, albeit we have enhanced that service for those who do. We are continuing to work with the appeals service to deal with the backlog. Dealing with and making progress on the backlog is a priority for the Department.

In the longer term, the function will transfer to DOJ, but, because there is no functioning Executive, that had to cease. I assume that, if an Executive are up and running after the election, that will be picked up again and the transfer of those functions will continue.

Ukrainian Refugees: DFC Help

T2. **Mr Sheehan** asked the Minister for Communities, who will know about the unfolding humanitarian crisis in Ukraine, as a result of the Russian invasion, to outline what she can do to help refugees who are fleeing that war zone. (AQT 2122/17-22)

Ms Hargey: We are all seeing distressing images on the TV of people fleeing their homes because of violence on their streets and in their communities. Our thoughts are with the almost two million people who have been forced to flee and become refugees as a result of what is happening in Ukraine. My Department has a long-standing history of welcoming people from war-torn countries into our communities. Indeed, the community as a whole here has been very open to welcoming refugees and asylum seekers, who want to remain in their home but who, through no choice of their own, have had to leave because of conflict and violence. Indeed, we have run the Syrian resettlement scheme to address some of those issues.

At the moment, there are obvious difficulties because we do not have a functioning Executive. Normally, those issues would be highlighted around that table. However, despite the barriers that that may create, I have written to the head of the Civil Service to ensure that my Department stands ready to look at a refugee scheme and to make sure that we are up and running to assist in any way that we can with the humanitarian crisis faced by many Ukrainians. I hope that the Department can roll out a scheme similar to the one that we ran for the Syrian refugees. If a proactive way can be found around the lack of a functioning Executive, my Department stands ready and able to receive Ukrainian refugees. We are ready and waiting for that to happen.

Mr Sheehan: Gabhaim buíochas leis an Aire as ucht a freagra. I thank the Minister for that answer. Given the difficulties that the Minister outlined, I welcome her commitment to provide concrete support for refugees. Does the Minister agree that addressing the needs of people seeking sanctuary from a war-torn country should be a priority for every party in the Assembly?

Ms Hargey: Definitely, yes. This is a humanitarian crisis, and we need to do all that we can to provide support and sanctuary, as we have done in previous crises. I will work to provide solutions, and that is where my focus is at the moment. I wrote to the head of the Civil Service so that my Department can start to get the work done, even in the absence of a functioning Executive, due to a party walking away. The Ukrainian people should have not just our solidarity but our proactive support in their time of greatest need. My Department and I are ready to take on whatever role or function is needed to ensure the safe passage of refugees from the conflict that they have been impacted by.

Welfare Mitigations: Review

T3. **Mr McHugh** asked the Minister for Communities to detail how welfare mitigations will be reviewed going forward. (AQT 2123/17-22)

Ms Hargey: We have just extended the existing mitigation schemes. I am glad that I got the Assembly's support in doing that. Last week, we had the Final Stage of the Bill that removed the end date of the bedroom tax mitigation. That mitigation will continue to run, thus binning the bedroom tax, which is a progressive step that the Assembly has taken. Under New Decade, New Approach, there was a commitment to review the existing welfare mitigations. To that effect, I have set up an independent advisory panel to carry out that review and make recommendations on future mitigation packages. In particular, I asked the panel to consider a wide range of new mitigations, including looking at the two-child policy and at financial support for people who are making a new claim to universal credit and for carers. Les Allamby, the former chief commissioner of the Human Rights Commission, is leading that review, and I expect its recommendations in the coming week or so.

Mr McHugh: Gabhaim buíochas leis an Aire as ucht a freagra. Thank you, Minister, for your answer. Given the limited capacity of all Ministers because there is no Executive, I commend the Minister on the great work that she has already done to address some of those issues. Minister, given the scale of the Tory welfare cuts and the cost-of-living increase that we are all experiencing, is it likely that top-up payments will be necessary in the near future and on a continuing basis? As such, how can we ever take responsibility for and address those issues unless the authority is in our hands?

Ms Hargey: The current mitigations will continue to run. Thankfully, the bedroom tax no longer has an end date, and that is good. Any review of mitigations must look at additionality, so it was not about stopping one of the existing mitigations. To do so would have a completely negative consequence on addressing poverty and inequality. I have asked the current review panel to look at a number of areas, such as the two-child policy and the wait for universal credit. Again, that is in the context of a time when the Executive were functioning.

We spend over £600 million mitigating the worst effects of Tory welfare changes, and we need a

serious conversation about what more we need to do. We know the levels of poverty that are out there. We know in particular that those who are in work, the working poor, are really struggling not just with the current cost-of-living crisis but through the trajectory that we have seen for those whose incomes do not supplement their outgoings and rising costs. We need to look at the matter. The emerging anti-poverty strategy will dovetail and work in coordination with the review of welfare mitigations, as will the disability, gender equality and LGBTQI strategies, so they need to be given the utmost urgency and importance in a new Executive.

I agree with as many powers as possible coming back to the Assembly, which is made up of locally elected representatives, and taking them away from Westminster so that the people here can decide on their future. For all laws, it would make sense to look at the financial powers that we have because, at the moment, where the cost of living is concerned —

Mr Speaker: Your time is up.

Ms Hargey: — the British Government need to stand up and do a lot more to meet the needs of people on the ground.

Rent Freeze: Housing Association Properties

T4. **Mr McAleer** asked the Minister for Communities whether she has had any conversations with the housing associations about a rent freeze, similar to that which she has ordered for Housing Executive properties. (AQT 2124/17-22)

Ms Hargey: I made the decision on the rent freeze in response to the cost-of-living crisis that residents are facing. I made a similar move throughout the COVID pandemic, because people are making stark choices about their outgoings and the cost-of-living crisis is really beginning to hit.

I have called on housing associations to follow suit. They are autonomous bodies. I do not have direct control of their rent, but I asked that they follow my direction and call for a freeze this year because of the crisis that people are dealing with in the here and now.

Mr McAleer: I thank the Minister for her response, and I welcome her call. Her decision on a rent freeze has been welcomed by the thousands of families who are facing the spiralling cost of living. Whilst many of its causes are beyond the control of the Assembly — in most cases, they are due to Tory austerity and Brexit — will the Minister agree that it is important that Ministers do whatever they can to help to ease the burden on hard-pressed households?

Ms Hargey: Definitely, yes. We need to look at what we can do in order to ease the burden for people. We also need a bigger conversation on the type of economy that we have, the level of wages and rights around collective bargaining on, for example, terms and conditions.

Private Members' Bills on enhancing those rights are going through the Assembly. I welcome them, but we need a critical conversation around even gender-proofing budgets that we have. For example, I recently made an announcement on improving the terms and conditions for those who are in the community and voluntary sector. They have seen the first pay increase in over a decade through the decision that I made. However, when you analyse the figures, you see that 84% of those who will now receive, as a minimum, the real living wage are employed in the women's sector. Therefore, there is a direct correlation between terms and conditions of employment and how they impact on women and children and their direct impact on poverty.

We need a difference in approach. The current economic system globally is not meeting the needs of the majority of people. It is there to serve a small interest, because in all these cost-of-living increases, somebody is making a profit. It is the large, multinational companies that are making profits. Their profits have not been impacted. Instead, it is the people who are on the ground struggling every day who are making up the cost and the difference. Therefore, we need a different conversation about how we protect people and rebalance the economy to make it one that works for small businesses and, importantly, for workers.

Mr Speaker: Members, please take your ease before we move on to the next item in the Order Paper.

2.45 pm

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

Executive Committee Business

Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2022

Debate resumed on motion:

That the draft Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2022 be approved. — [Mr Swann (The Minister of Health).]

Mrs Cameron: I support the motion, which deals with an amendment to the Human Medicines Regulations 2012, which govern the arrangements across the UK for the licensing, manufacture, wholesale dealing, sale and supply of human medicines for human use.

The 2012 regulations were amended in 2020 to temporarily set aside some of the normal rules governing the preparation of COVID-19 and flu vaccines and their supply to patients. Those amendments were used to address legal issues that came up in relation to mass vaccination. Of course, those were temporary changes, and therefore the statutory instrument before us is necessary to make some of them permanent. Those arrangements include the range of registered healthcare professionals who can administer flu and COVID vaccines. There is also an extension to 31 March 2024 of the ability to share flu and COVID vaccine stocks between locations without the need for a wholesale dealer licence, which will allow for the final stages of the coronavirus vaccination programme to be completed without the need for additional marketing authorisations or manufacturing licences to be in place.

The legislative changes before us are sensible, and they will see us through what we all hope is the tail end of the pandemic. We are all very grateful for the fantastic roll-out of the vaccination services and to the very many people who were involved in rolling them out so swiftly to protect the public. I support the motion.

Mr McGrath: Likewise, the SDLP supports the motion. We all know the importance of having access to those vaccines, so, if we can ensure that the process by which they reach our vaccination centres is streamlined and more efficient, it will only benefit the public by providing better access, which is exactly what we need most.

Quite literally, the vaccines save lives. Unfortunately, many communities across the world have not had access to them yet. As we emerge from the pandemic, it is my hope, and that of the SDLP, that access to a range of vaccines in the global neighbourhood, particularly in developing nations, will be more streamlined and efficient, as it is here, to ensure that those who need them most can get them. We support the motion.

Ms Bradshaw: I support the regulations. Ultimately, the regulations arise from the largely successful vaccine programmes for the coronavirus and the flu virus since 2020. They enable the extension of some aspects of the provision of human medicines for a further two years to April 2024. In effect, they also enable the permanent carrying out of vaccination programmes in the way that we have seen them being carried out over the past 18 months.

It does not need to be re-emphasised how important it is for us to ensure that vaccinations are available and carried out in as widespread a manner as possible, given that, alongside developing treatments and voluntary adaptations to behaviour, they are our sole defence against what continues to be a deadly virus. The amendments to existing law will enable the ongoing provision of broad public coronavirus vaccination programmes alongside those for flu. That should provide significant reassurance to the population of Northern Ireland and across the UK.

I continue to urge those who have not been vaccinated or who have not had all the vaccines to which they are entitled to come forward. That remains our best way of protecting ourselves, our health service and each other.

Mr Swann: I thank the Health Committee Chair, Deputy Chair and members for their contributions. The importance of the vaccination programme has been well rehearsed, not just today but throughout the past number of months. I thank Members for their contributions and for how they approached the SIs. I have heard the SIs described in the past, and in this debate, as offering a practical and flexible approach and as sensible and efficient, and that is why I thank Members for supporting this SI.

Ms Bradshaw encouraged everyone to come forward and take the opportunity to get vaccinated. That applies not just to the COVID vaccine, should that be the first, second or booster dose, but to our flu vaccine programme, our HPV programme and all the school programmes, including meningitis programmes,

that we have running. Those programmes are well-established in the public health response to many concerns in Northern Ireland.

I commend this SI to the House.

Question put and agreed to.

Resolved:

That the draft Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2022 be approved.

Human Medicines (Amendments Relating to the Early Access to Medicines Scheme) Regulations 2022

Mr Swann (The Minister of Health): I beg to move

That the draft Human Medicines (Amendments Relating to the Early Access to Medicines Scheme) Regulations 2022 be approved.

Mr Deputy Speaker (Mr Beggs): The Business Committee has agreed that there should be no time limit on this debate.

Mr Swann: I am seeking the Assembly's approval of the regulations, which will put the existing early access to medicines scheme (EAMS) on a statutory footing.

The EAMS aims to give patients with life-threatening or serious debilitating conditions early access to promising new medicines that do not yet have marketing authorisation. Under the scheme, the Medicines and Healthcare products Regulatory Agency (MHRA) gives a scientific opinion on the benefit-risk balance of using a medicine. That opinion provides independent assurance to prescribers, who may wish to prescribe an unlicensed or off-label medicine in cases where there is an unmet medical need.

Since its inception in 2014, the EAMS has acted as an important regulatory flexibility for early access. Significant numbers of patients in all parts of the UK, across a range of conditions including cancers and rare diseases, have benefited from more than 40 scientific opinions issued by the regulator. During the EAMS period, the EAMS medicines are provided by the company free of charge to Health and Social Care (HSC). Once a marketing authorisation has been granted, arrangements are put in place for existing patients to continue to receive supplies free of charge. Access to new patients is governed by existing HSC processes for the managed entry of new medicines into the health service.

Even just one new product made available through the EAMS can benefit hundreds of patients. For example, through EAMS, UK patients were amongst some of the first in the world to access the breakthrough treatment of pembrolizumab. Approximately 500 patients with advanced melanoma received that medicine when no other treatment was available to them.

It is, however, the case that, at present, there is no UK legislation that specifically covers EAMS, and the scheme is entirely non-statutory. The supply of EAMS products is regulated by exemptions in the Human Medicines Regulations 2012 that govern the supply of unlicensed medicines in certain circumstances. Those regulations have a much wider remit and are not tailored to EAMS specifically. There are some aspects of EAMS that would benefit from clarification in law.

Placing the EAMS on a statutory footing allows us to maximise the benefits of this valuable scheme for patients and pharmaceutical companies, ensuring that the EAMS remains an attractive option for companies to provide medicines to patients prior to licensing. It will also make the EAMS more visible to those who are developing medicines and will ensure that the UK remains internationally competitive in the pre-market medicines access landscape.

It is proposed, therefore, to mandate the scheme by making specific legislative provisions for the EAMS in the human medicines regulations (HMRs). Following extensive stakeholder engagement and a public consultation, it is now proposed to amend the HMRs in order to, first, provide clarity around EAMS medicinal products and establish EAMS licensing authority functions; secondly, to allow for the manufacture, assembly, importation, distribution and supply of EAMS medicinal products; thirdly, to set out pharmacovigilance compliances; fourthly, to introduce the new and important arrangements for the collection of real-world data; and, fifthly, to provide for transitional arrangements prior to the regulations coming into force.

A UK-wide consultation took place on the proposed amending regulations during August and September 2021. My Department ensured that the consultation was circulated as widely as possible in Northern Ireland. Overall, there was broad agreement, including from Northern

Ireland stakeholders, that introducing the core principles of the EAMS on a statutory basis would provide legal clarity, which would benefit industry, patients and healthcare professionals alike. While some respondents focused on the procedural elements of the scheme, it is intended that those will be addressed through the provision of updated, bespoke EAMS guidance to supplement the new provisions.

The EAMS has already demonstrated its enormous value in transforming the lives and health outcomes for hundreds of patients throughout the UK as a whole. Already this year, scientific opinions for new, innovative medicines to treat sickle cell disease and chronic myeloid leukaemia have been issued. The new regulations allow us to build on that solid foundation and to deliver a scheme that goes even further in boosting access to life-changing treatments while, at the same time, enhancing safeguards to protect patients and driving forward opportunities for innovation and the development of new medicines.

At an evidence session with my officials on 3 February 2022, the Health Committee was content with the policy intent of the draft regulations, and on 24 February 2022, the Committee raised no issues with the content of the regulations. With the Committee's support, I commend the draft regulations to the House.

Mr Gildernew (The Chairperson of the Committee for Health): I will make some brief remarks as Chair and then some comments as my party's health spokesperson. The early access to medicines scheme is important because it allows patients in the North of Ireland with a life-threatening or seriously debilitating condition to get access to a medicine before it has gained approval from the UK's Medicines and Healthcare products Regulatory Agency.

As the Minister has outlined, however, the early access scheme currently operates on a non-statutory basis. The new regulations seek to put the scheme on a statutory footing, and that is to be welcomed. The Committee was briefed by departmental officials on the regulation on 3 February 2022. Officials outlined to Committee members the processes that are in place to allow for early access to medicines, and they provided further detail on the consultation that has taken place on the new regulation.

The Committee sought further information on the number of patients here who have benefited from the scheme. The Department advised in writing that 45 patients from the North had applied to the scheme over the last three years. Officials advised the Committee that, by placing the scheme on a statutory footing, they would expect the number of applicants to increase as the scheme should simplify the process. I thank the officials for engaging with the Committee in relation to that. The Committee considered the statutory instrument, and members were content that it be approved by the Assembly.

Very briefly, as Sinn Féin's health spokesperson, I will say that the scheme offers a small degree of flexibility to address unmet clinical need in rare cases or diseases by allowing access to potentially life-saving or life-changing medication. The small number of cases and the impact of costs should be relatively low. However, future widespread use will still need to be considered by the appropriate authority, which is the National Institute for Health and Care Excellence (NICE) at this time.

The scheme will, hopefully, help those hard and rare cases to get help and support sooner, and I know that, as MLAs, we have all been involved in cases or campaigns where that has been an issue. Sinn Féin supports improving access to medicines.

3.00 pm

Mrs Cameron: Again, I support the motion before us. This time, it is the draft Human Medicines (Amendments Relating to the Early Access to Medicines Scheme) Regulations 2022. We understand, as we did before, that the Human Medicines Regulations 2012 govern the arrangements across the UK for the licensing, manufacture, wholesale dealing and sale or supply of human medicines for human use. Rather than repeat the Chairman's remarks, I will simply say that this is a sensible move and that, as a party, we welcome the new provisions, which will provide clarity and practical solutions for dealing with EAMS, medicinal products and licensing authority functions.

Mr McGrath: The regulations aim to provide the early access to medicines scheme with a legal basis for delivering the relevant medicines. Patients with the rarest conditions are facing challenges about which we are still very much learning. Very often, those conditions are identified in young children, so it is only right and proper that we do all in our power to try to make life easier for those children and their families, whose lives are turned upside down as a result of some genetic conditions. The hope for us, however, is that many new medicines are being developed and

that they have the promise of being genuinely life-changing for those who suffer from such conditions. In fact, I understand that about 40% of the medicines currently in development are for rare or very rare conditions, and they include many cell and gene therapies that are personalised to individual patients. We therefore cannot afford to be left behind in the fight against such diseases. Developing new and better medicines for such debilitating and genetic conditions takes time and effort, to say nothing of funding. We must place that task in the hands of our scientists and virologists, with trust and optimism that they know what they are doing and what they are trained to do, which is to improve the lives of people everywhere. The SDLP supports the motion.

Ms Bradshaw: Again, I will say a few words in support of what is, in effect, a complicated but necessary set of regulations that will amend existing law to put the early access to medicines scheme on a statutory footing. Over the past two years or so, we have seen how essential clinical trials are to our common well-being. In 2014, the early access to medicines scheme was developed as a further lifeline. There is no doubt about the positive impact that it has had, not least for people with rare diseases, who would otherwise simply never have had access to medicines. It is also good news for those of us who sit on the newly formed all-party group (APG) on rare disease, because it is something on which we will be working.

There have, however, been occasions on which the scheme has been a cause of frustration to people, including some who have contacted my constituency office. No doubt, part of the reason for that is because the scheme remained non-statutory. It is evident that placing the scheme on a statutory footing will provide legal clarity for pharmaceutical companies, as they now have a clear framework for operation in Northern Ireland and across the UK, as well as clarity around data collection. It does much more than that, however. There is a significant element of tidying up which licences are necessary. That will do much not just for the providers but, more importantly, for people, by getting medicines out to them faster. There is also clarity around the prohibition of the advertising of unlicensed products and around monitoring the risks of medicines that are relatively rarely prescribed.

Uniquely in the UK, for Northern Ireland the regulation of medicines is a devolved matter. I trust that that will enable us to respond swiftly to any concerns pharmacists or other healthcare professionals raise about how the scheme will be continued here once it is put on a statutory footing. We must therefore proceed with appropriate caution. Overall, however, this step makes a lot of sense and provides welcome clarity.

Mr Deputy Speaker (Mr Beggs): I call the Minister of Health to conclude and make a winding-up speech.

Mr Swann: I thank the Chair, Deputy Chair and members of the Health Committee for their contribution to the debate. I will make a few comments on the contributions made. Mr McGrath said that we must put our trust and optimism in the scientists and virologists as they seek to develop our medications, as we did especially during the development of our COVID vaccines. Others talked about the ability to improve access to the specific medications that are being brought forward. My officials and I look forward to engaging with Ms Bradshaw, through the APG on rare disease, on how moving EAMS on to a statutory footing can make a difference. The statutory scheme will continue to be open to any medicines that meet the EAMS criteria. To date, those have predominantly been treatments for cancer, but other examples include heart conditions and chronic hepatitis. The scheme is equally open to all treatments that may be available in the future for different conditions.

I commend the motion to the House.

Question put and agreed to.

Resolved:

That the draft Human Medicines (Amendments Relating to the Early Access to Medicines Scheme) Regulations 2022 be approved.

Adoption and Children Bill (NIA Bill 37/17-22): Further Consideration Stage

Mr Deputy Speaker (Mr Beggs): I call the Minister of Health, Robin Swann, to move the Further Consideration Stage of the Adoption and Children Bill.

Moved. — [Mr Swann (The Minister of Health).]

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 five amendments which deals with regulations, review, special guardianship and the duties in respect of looked-after children. I remind Members who intend to speak during the debate on the single group of amendments that they should address all the amendments on which they wish to comment. Once the 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 will proceed.

Clause 119 (Special guardianship)

Mr Deputy Speaker (Mr Beggs): We now come to the single group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 5. I call the Minister of Health, Robin Swann, to move amendment No 1 and address the other amendments in the group.

Mr Swann (The Minister of Health): I beg to move amendment No 1:In page 72, line 24, leave out from "where—" to end of line 34 and insert—

"where that person falls within—

(a) any of sub-paragraphs (a) to (d) of paragraph (3); or

(b) a prescribed description."

The following amendments stood on the Marshalled List:

No 2: In clause 122, page 75, line 32, leave out from "achievement" to end of line 33 and insert—

"—

(a) learning and development; and

(b) achievement in relation to education or training."— [Mr Swann (The Minister of Health).]

No 3: In clause 155, page 96, line 2, at end insert—

"(ba) section 24;

(bb) section 52;

(bc) section 77;".— [Mr Gildernew (The Chairperson of the Committee for Health).]

No 4: In clause 158, page 97, line 32, leave out subsections (1) and (2) and insert—

"(1) The Department must, at least once every three years—

(a) prepare and publish a report on the implementation of each of the provisions of Parts 1 and 2, and

(b) lay a copy of the report before the Assembly.

(2) The first report under subsection (1) must be prepared and published within the period of 3 years beginning with the date on which this Act is passed."— [Mr Swann (The Minister of Health).]

No 5: In clause 158, page 98, line 1, leave out subsections (3) and (4) and insert—

"(3) This section expires at the end of the period of ten years beginning with the date on which this Act is passed, but this is subject to subsection (4).

(4) Subsection (3) does not have effect unless all of the provisions of Parts 1 and 2 have been commenced and included in a report under this section."— [Mr Swann (The Minister of Health).]

Mr Swann: I am pleased to open the debate on the Further Consideration Stage of the Bill. Moving such a significant piece of legislation to this stage marks a further milestone in its progression to make a real difference to the lives of adopted children and adults, their adoptive parents and birth relatives, children in care, children on the edge of care and care leavers. I place on record my thanks to the Chair, members and staff of the Health Committee for their willingness to work with my officials to reach a consensus around the amendments standing in my name.

Only five amendments have been tabled for debate: four are in my name and one is tabled on behalf of the Committee. The amendments that I propose are technical in nature. Although they propose changes to provisions that were inserted into the Bill by way of amendments tabled by the Committee at Consideration Stage, they do not, in my view, alter the policy intent of the Committee in tabling them. The amendments are intended to strengthen the Bill, to provide greater clarity and to ensure consistency of drafting with related clauses. In moving amendment No 1, I will also speak to amendment Nos 2, 3, 4 and 5.

Amendment No 1 amends the new article 14F(7) being inserted by clause 119, which places a duty on an authority to provide special guardianship support services that have been assessed as needed to certain specified categories of persons. The purpose of this amendment is to align that duty more closely to the corresponding duty, set out in new article 14F(3), that is placed on health and social care trusts to undertake assessments of need for support services and, as a result, to provide greater clarity on the categories of persons in relation to whom the duty to provide support services will apply. Given that the duty to provide relates only to services that have been assessed as needed, there should be consistency between the relevant provisions in paragraphs (3) and (7). By way of example, that is the way in which the duties to assess and to provide in relation to adoption support services have been aligned in clause 5. If the two provisions are not aligned, and if there is no corresponding duty to assess, any duty to provide services will be significantly weakened and, arguably, will not make sense.

Amendment No 1 replaces the existing list of persons that is set out in sub-paragraphs (a) to (f) in article 14F(7) with new sub-paragraph (a), which provides that the duty to provide services assessed as needed will apply to any of those categories or persons specified in sub-paragraphs (a) to (d) in article 14F(3) in respect of those to whom an authority has a duty to undertake an assessment.

The definition of "relevant child" and "prospective special guardian" provided in article 14F(4) will also apply in relation to article 14F(7), once it is amended. The amendment will also retain the power to prescribe additional categories of persons in respect of those to whom the duty to provide services should apply. New sub-paragraph (b) in article 14F(7) provides for that.

The amendment will not in any way weaken the duty to provide services, which Members agreed to insert in the Bill. The duty will still apply to children in respect of whom a special guardianship order (SGO) is in force, their special guardians and parents, and children in respect of whom a person has given notice of intention to apply for an SGO or a court is considering whether to make an SGO for their prospective special guardians and parents.

Amendment No 2 amends clause 122. When the Bill was introduced, the provision in clause 122 amended article 26 of the Children (Northern Ireland) Order 1995 by inserting new paragraph (1A), which, as part of an authority's duty to safeguard and promote the welfare of a child whom it looks after, placed a duty to promote the child's educational achievement. The Health Committee subsequently tabled two amendments to that clause during Consideration Stage, and, as a result, an authority will be under:

> *"a duty to promote, facilitate and support the child's achievement and development in relation to education or training."*

I have no issue with the addition of the words "facilitate and support" and do not propose any amendment to that today.

I turn to:

> *"the child's achievement and development in relation to education or training".*

The Committee's report on the Bill stated that its reason for proposing such an amendment was that it:

> *"felt that the term educational achievement may feel unattainable for some children and young people and place unnecessary focus on academic achievement."*

When my officials consulted the Department of Education about the Committee's proposed amendment, it suggested that it may be preferable for a new paragraph (1)(a) to refer to the child's learning and development, rather than the child's:

> *"achievement and development in relation to education or training."*

That is intended to reflect that we should be seeking much for looked-after children over and above educational achievement, which tends to be measured by academic success, ie the number of GCSEs or A levels. As a result, during the Consideration Stage debate on the Committee's amendment, I indicated that, if agreed, I would seek to table an amendment, as suggested by the Department of Education, at Further Consideration Stage. Following further consultation with Health Committee members, the amendment that I propose retains the reference to:

> *"achievement in relation to education or training".*

That is in new paragraph (1)(a) under clause 122. It also extends it to include "learning and development" without any qualification. By

separating learning and development from education or training, the duty that we seek to apply to health and social care trusts will extend more widely to fully acknowledge that we should be seeking the absolute best for looked-after children and equipping them to give their best. As a result, if my amendment No 2 is agreed, the health and social care trusts will be required "to promote, facilitate and support" looked-after children's "learning and development" and also their:

> *"achievement in relation to education or training."*

I turn to amendment No 3, which has been tabled on behalf of the Health Committee. Members may recall that, during Consideration Stage, I advised that the Examiner of Statutory Rules had recommended that consideration should be given to whether the required level of Assembly control should be altered from negative to affirmative resolution in relation to the regulations to be made under clause 7. During that stage, I tabled amendments to provide for that in relation to four clauses that the Examiner had highlighted. However, I also indicated to Members that I did not propose to make amendments to the three remaining clauses: clause 24, which relates to contact; clause 52, which enables modifications to be made to the Children Order in relation to adoption; and clause 77, which enables the Department of Finance to prescribe in regulations the information that must be provided to the Registrar General when seeking to obtain:

> *"a certified copy of an entry in the Adopted Children Register relating to an adopted person who has not attained the age of 18 years".*

During the debate, I described at length the matters that were expected to be included in those regulations. I demonstrated that they would be procedural in nature, which supported my view that the negative resolution procedure was appropriate. I do not intend to repeat those reasons today. However, it is clear that the Committee remains determined to give effect to all of the examiner's recommendations. While I continue to be of the view that the regulations do not require the level of scrutiny from the Chamber that the affirmative resolution procedure would require, I do not intend to oppose the Committee's amendments.

3.15 pm

I will deal with amendment Nos 4 and 5 together. Clause 158 was inserted into the Bill following an amendment tabled on behalf of the Health Committee at Consideration Stage. It places a duty on the Department to review and make a report on the implementation of each provision of Part 1 and Part 2. The requirement will not apply until as soon as is practicable after the third anniversary of the commencement of each of the provisions in Part 1 and Part 2 and at least once in every five years thereafter, again in relation to each of the provisions that have been commenced. Having given further consideration to the reporting requirements in the clause, I consider that the practical outworkings could result in piecemeal reporting, with progress being made more difficult to track. As my Department proposes that the implementation of the Bill will be on a phased basis over three years, that could result in a period of annual reporting in years 2026, 2027, 2028, and again in 2031 and 2032. It may also have the unintended consequence of creating a perverse incentive to delay the commencement of some provisions in order to avoid such annual reporting requirements.

While I accept that reporting on implementation is important — hence my overall support for clause 158 — we need to ensure that reporting does not take valuable staff resource away from the priority task of implementation. That was recognised by the Committee and Members when they considered whether to support the Department's amendment of the duty to report on the Children Order from an annual to a three-year requirement. To address that, amendment No 4, which I propose, amends clause 158 and inserts new subsections (1) and (2). In order to streamline and provide for a more efficient and effective reporting process and to take account of the fact that the implementation will be on a phased basis, new subsection (1) will place a duty on my Department, at least once every three years, to:

> *"(a) prepare and publish a report on the implementation of each of the provisions of Parts 1 and 2, and*
> *(b) lay a copy of the report before the Assembly."*

New subsection (2) provides:

> *"The first report ... must be prepared and published within ... 3 years beginning with the date on which this Act is passed."*

That is the date on which the Bill receives Royal Assent. Clause 158(3) provides that the Department may bring forward regulations to remove the requirement to report on the

implementation of the Bill but not before the tenth anniversary of the Bill's receiving Royal Assent.

At Consideration Stage, I advised Members that I considered that it would have been more appropriate to include in the clause a sunset provision so that the duty automatically ceases to apply after a specified period or once all provisions have been fully commenced. I indicated that I would table a technical amendment at Further Consideration Stage. Amendment No 5 inserts a sunset clause. New subsections (3) and (4) will be inserted to provide that the duty to report will cease to have effect on the tenth anniversary of the date on which the Act is passed but only if all the provisions in Part 1 and Part 2 have been commenced and have been included in a report.

In tabling the amendments, my intention is to ensure that, in fulfilling the duty to report, the reporting process will be more effective and efficient and will result in comprehensive and timely reports being produced. That concludes my remarks on the amendments that have been tabled for consideration today. I believe that the Committee has indicated that it is content with the amendments that I have tabled. I am glad that we have been able to reach an outcome that is acceptable to all. I thank Members for bearing with me, and I look forward to hearing the views on the amendments.

Mr Gildernew (The Chairperson of the Committee for Health): I welcome the opportunity to speak on behalf of the Committee at Further Consideration Stage. I will outline the Committee's views on the amendments tabled by the Minister and provide further information on the Committee's amendment No 3.

At the outset, I thank the Minister and his officials for the way in which they have worked with the Committee on the Bill. The Committee is grateful that the Minister has listened to the Committee's views and has tabled amendments at this stage and at the previous stage that, we believe, strengthen and enhance the Bill. That is a good example of a Committee and a Department working together for the benefit of those whose lives legislation in this place is designed to improve.

The Committee was briefed by officials on the Minister's amendments last week. Amendment No 1 provides greater clarity on the categories of person in relation to whom the duty to provide support services will apply and aligns that duty to the corresponding duty placed on trusts to undertake assessments of need for support services. The Committee agreed that the amendment provides further clarity and will therefore support it.

Amendment No 2 is to clause 12 and concerns the

> *"duty to promote, facilitate and support the child's achievement and development in relation to education or training."*

When officials briefed the Committee last week, the proposed amendment was to replace:

> *"achievement and development in relation to education or training"*

with "learning and development". That was on the basis that much of a child's learning and development can and, indeed, absolutely does take place outside of formal education settings. The Committee considered the rationale for the amendment and understood the intent behind it. However, we felt that better clarity could be achieved by including "learning and development" alongside:

> *"achievement in relation to education or training."*

The Committee asked the Department to consider that, and we welcome the fact that the amendment before us today includes both terms. We feel that that strengthens the duty, and I thank the Minister for considering the request and revising the amendment in the short time that was available to him. The Committee will support amendment No 2.

The purpose of amendment No 3, which I will move on behalf of the Committee, is to bring regulations in clauses 24, 52 and 77 under the draft affirmative procedure. Clause 24 enables regulations to be made by the Department, setting out the steps required to be taken by an agency that has exercised its power under clause 24(2) to refuse to allow contact that would otherwise be required by virtue of a contact order under clause 23. Clause 52(1) enables the Department to make regulations applying with modifications or disapplying certain provisions of the Children Order in relation to a child whom an adoption authority is authorised to place for adoption or a child who is less than six weeks old and has been placed for adoption by an authority. Clause 77(3) provides that a person is not entitled to have a certified copy of an entry in the adopted children register relating to an adopted person who has not attained the age of 18 years unless

prescribed particulars have been provided to the Registrar General. The Committee agrees that the clauses provide for regulations on significant issues and that it would be appropriate for regulations under the clauses to go through the draft affirmative procedure. Therefore, we tabled amendment No 3, and I welcome the Minister's indication that he will not oppose it.

Amendment Nos 4 and 5 are amendments to a new clause agreed at Consideration Stage that would provide a duty on the Department of Health to report on the implementation of Parts 1 and 2 of the Bill. Amendment No 4 proposes that the Department will report every three years on implementation, which lines up with the duty on the Department to report on the Children Order every three years. Amendment No 5 provides a sunset clause in relation to the reporting provision. The duty to report on the implementation of the Bill will cease after 10 years. The Committee is content to support amendment Nos 4 and 5.

I thank the Minister and his officials for their work on the amendments. I also thank members of the Committee for their input into the Bill. As ever, I extend the Committee's deep appreciation to the Clerk and the Committee staff for their work in assisting us with scrutiny and, I believe, in making significant improvements to the Bill. The Committee will support all of the amendments tabled for today.

I will make a few remarks as Sinn Féin health spokesperson. This is among the most significant and important legislation that the Assembly will consider and put through in this mandate. The Bill is for an extremely vulnerable sector of our community, and, in that sense, it is long overdue. We have had significant engagement across the sectors that has made clear to us the importance of the Bill and the potential impact that it will have on children and young people and on the families who support, love, care for and adopt them.

I welcome the fact that we and the Department have worked throughout the passage of the Bill to increase the supports and the rigour and transparency of the implementation of the Bill. That will all be to the good, and I look forward to seeing it unfold.

I have mentioned previously — the Committee report included this — that there is a need to continue to see how we can support, promote and underpin North/South adoptions and work in that field more generally, given that we have many good kinship relationships in areas that would be to the benefit of the children and young people whom we are discussing.

I express my and my party's gratitude to all those who contributed, across an extended period, the very rich evidence, analysis and experience that has improved the Committee's ability to engage on the Bill and led to a better Bill coming out of the process. That is to the good. I look forward to the implementation of the Bill. It will improve the lives of people outside the Chamber and provide a framework that sees further improvements, development and support rolled out to the sector.

Mr Deputy Speaker (Mr Beggs): I encourage Members to remember that this is Further Consideration Stage. Final Stage, which is when people can give their summary of the proceedings, is still to come. I urge Members to concentrate on the amendments before them. I will allow a degree of latitude beyond that, but please do not overstretch it.

Mrs Cameron: You will be pleased to know, Mr Deputy Speaker, that I will be brief.

Before I address the amendments, I restate the support of my party for the Bill in addressing the need for more responsive, fit-for-purpose and child-focused adoption processes in Northern Ireland. In all our consideration of the Bill, we must remember that children and young people are at the forefront. It is crucial that we reform our adoption system and bring it into the 21st century. A new, clearer and more robust system will ensure better outcomes for the child, the new parents and the social care staff, who do immense work supporting those in the system.

I move on to the amendments. At Consideration Stage, an amendment was made to stipulate the categories of person for whom the Department must provide an assessment of need for special guardianship support services. Amendment No 1 to clause 119 would bring the list of persons to whom the Department may provide services into line with that. That amendment is appropriate because it would ensure that there is effective overlap between the duties to assess and to provide services.

Amendment No 2 is to clause 122, which places a duty on authorities to safeguard and promote the welfare of a child. At Consideration Stage, the wording of the Bill was changed to require authorities to promote a child's:

> *"achievement and development in relation to education or training".*

The Department of Education has suggested that it may be preferable for new paragraph (1A) to refer to the child's "learning and development". The amendment uses that wording whilst retaining the separate reference to "achievement" in relation to education and training. The amendment reflects the professional evidence on the appropriate wording and the definitions used. The twin-track approach of learning and development and achievement seems comprehensive.

The amendments to clause 158 place a duty on the Department to review and make a report on the implementation of each provision of Parts 1 and 2. Under the Bill as drafted, the Department would have to report on each provision as soon as is practicable after the third anniversary of enactment and once every five years thereafter. Amendment No 4 adjusts that to place a duty on the Department to:

"at least once every three years —
(a) prepare and publish a report on the implementation of each of the provisions of Parts 1 and 2,
and
(b) lay a copy of the report before the Assembly."

Amendment No 5 would ensure that the reporting requirement would cease to have effect on the tenth anniversary of the date on which the Act is passed if all the provisions in Parts 1 and 2 have been commenced and included in a report.

As a party, we understand that the intention of the amendment is to ensure that reporting is not piecemeal and that it can bring benefits in understanding the wider impact of the provisions.

We welcome the amendments, which will ensure greater accountability in the implementation of this overhaul of the adoption system. I welcome the progress of the Bill to date and thank the Minister, his officials and the Committee Clerk for the huge amount of work that has been carried out on it. I trust that it will bring about the reform that is so needed in the area.

Mr McGrath: I welcome that we are progressing the Bill to its next stage. Throughout the process, the Minister, the Department, and the Committee — everybody involved — have been focused on the end goal of delivering legislation that places children at the centre of our efforts. The legislation that we deliver in the Chamber must deliver for children in their lives. It is essential that we get this done and across the line before the end of the mandate, because the reform is long awaited and we cannot allow it to fall. I am glad to see that we are progressing towards that achievement.

The amendments continue that effort and are a result of the Committee's deliberation and engagement with the Minister and Department. Amendment No 1 provides further clarification on how the process of guardianship will progress. It is a technical amendment, and the SDLP is content with it.

Amendment No 2 tidies up a previous Committee amendment to ensure that there is an obligation on the Department to ensure a child's education and learning. There was much discussion about exactly what those terms meant and how they would be enacted in reality with children in their day-to-day lives. The tidy-up in the amendment was welcomed by everyone at the Committee, and we are content with it.

Amendment No 3 will ensure that three key areas are subject to draft affirmative procedure rather than negative resolution procedure. Without overburdening the Assembly, it is always better, where possible, for legislation to come here and be subject to the draft affirmative procedure, because that allows for more engagement and discussion amongst MLAs before decisions are taken. With the negative resolution procedure, the discussion takes place after the decisions have been taken. We are content with that amendment.

Amendment Nos 4 and 5 are to do with the reporting process. As a result of the amendments, that will take place once every three years, with a sunset clause after 10 years. We are content with that because it is somewhat similar to the original draft, but I am glad that we got it drilled down and have been able to agree it.

I reiterate that the focus must be on the children and young people who are in need of a home. We must deliver a system that is fit to meet the needs of the 21st century and our ever-evolving society. With each stage of the process, we are getting closer to delivering legislation that will provide that. The SDLP is happy to support the amendments, and I look forward to seeing the legislation being delivered.

Mr Chambers: The amendments are an example of how to help make a very good law that little bit better. There has been much cooperation between the Minister, his

Department and the Health Committee on producing the much needed and significant legislation that is before us.

I welcome all the amendments and commend them to the House. The Ulster Unionist Party will support them all. The end result and benefits of the Bill for children and adopters will be felt for years to come.

Ms Bradshaw: The Bill is a very complex piece of legislation, and I am glad that we now approach the finishing line so that we can move towards implementation. We are 27 years on from the Children Order. Much has changed in that time, but the legislative position on adoption has not. We have no further time to lose on this.

Of the five amendments, I will make some brief comments on amendment No 2. I am still not entirely satisfied with where the amendment has landed. As a Committee, we had broad discussion on that part of the Bill throughout our deliberations, particularly clause 122(1). I still think that the amendments that were tabled by the Committee at Consideration Stage reflect that discussion fairly. For me, and for most of the Committee, it is meant to go well beyond formal education. I am nonetheless happy that the reporting mechanisms in the Bill are now sound and that, importantly, we have covered "harm" more effectively.

I retain my concern that, where a child is conceived as a result of rape, the perpetrator may still apply for access. I urge any incoming Executive to act swiftly to address that, as well as other broader areas of child abuse. Nevertheless, it falls to us to get on with passing this legislation so that we can address the very human penalty that is being paid as a result of such outdated provisions relating to adoption. We have improved the Bill; now it is time to get on with delivering it to make life better for countless children and families across Northern Ireland.

Mr Deputy Speaker (Mr Beggs): I call on the Minister of Health, Robin Swann, to make a winding-up speech on the debate on the single group of amendments.

Mr Swann: I thank the Members for their contributions to the debate on the amendments at Further Consideration Stage.

There were general comments about the cooperation and close partnership working involved in getting to this stage. Mr McGrath indicated the technical nature of the Bill. Ms Bradshaw indicated that it has been a long time since we amended the legislation: it started when my party colleague Michael McGimpsey was in this post but was not subsequently picked up. That is why this is such a large Bill.

To have got to the Further Consideration Stage of a Bill this size with only five technical amendments — four from me and one from the Committee — is testimony to the interaction and working together that we saw throughout the deliberation stages of the Bill: Second Stage, Consideration Stage and Committee Stage. The Committee Chair indicated the interaction and engagement with stakeholders and all those interested.

The Bill is about making a real difference to the lives of adopted children, adults — adoptive parents and birth relatives — children in care, children on the edge of care and care leavers. The Bill demonstrates the best of this place, which is when the Assembly, the Committee, the Department and Ministers work together to take forward legislation that will benefit everyone.

It is clear how many important issues the Bill touches on and how important it is that we get it right. What we are talking about will impact on the lives of some of the most vulnerable children: the arrangements for their future care and the ability of caregivers to provide that care. We should not forget that as we take decisions on these amendments.

That brings me to the end of my concluding remarks. I can but thank the Members for their support and engagement in getting to this stage.

Amendment agreed to.

Clause 122 (Duty of authorities to promote educational achievement and prevent disruption of education and training)

Amendment No 2 made:

In page 75, line 32, leave out from "achievement" to end of line 33 and insert—

"—

(a) learning and development; and

(b) achievement in relation to education or training."— [Mr Swann (The Minister of Health).]

Clause 155 (Regulations and orders)

Amendment No 3 made:

In page 96, line 2, at end insert—

"(ba) section 24;

(bb) section 52;

(bc) section 77;".— [Mr Gildernew (The Chairperson of the Committee for Health).]

Clause 158 (Review)

Amendment No 4 made:

In page 97, line 32, leave out subsections (1) and (2) and insert—

"(1) The Department must, at least once every three years—

(a) prepare and publish a report on the implementation of each of the provisions of Parts 1 and 2, and

(b) lay a copy of the report before the Assembly.

(2) The first report under subsection (1) must be prepared and published within the period of 3 years beginning with the date on which this Act is passed."— [Mr Swann (The Minister of Health).]

Amendment No 5 made:

In page 98, line 1, leave out subsections (3) and (4) and insert—

"(3) This section expires at the end of the period of ten years beginning with the date on which this Act is passed, but this is subject to subsection (4).

(4) Subsection (3) does not have effect unless all of the provisions of Parts 1 and 2 have been commenced and included in a report under this section."— [Mr Swann (The Minister of Health).]

Mr Deputy Speaker (Mr Beggs): That concludes the Further Consideration Stage of the Adoption and Children Bill. The Bill stands referred to the Speaker.

I ask Members to take their ease for a few moments before the next item of business.

Justice (Sexual Offences and Trafficking Victims) Bill: Further Consideration Stage

Mr Deputy Speaker (Mr Beggs): I call the Minister of Justice, Naomi Long, to move the Further Consideration Stage of the Bill.

Moved. — [Mrs Long (The Minister of Justice).]

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 are two groups of amendments, and we will debate the amendments in each group in turn.

The first debate will be on amendment Nos 1 to 30 and 42 to 47, which deal with sexual offences, including voyeurism, cyber-flashing and abuses of trust, and related guidance. The second debate will be on amendment Nos 31 to 41, which deal with the support for trafficking victims.

I remind Members who intend to speak that, during the debates on the two groups of amendments, they should address all the amendments in each 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 to everyone, we will proceed.

Clause 1 (Voyeurism: additional offences)

Mr Deputy Speaker (Mr Beggs): We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 30 and 42 to 47. In this group, amendment No 7 is consequential to amendment No 3; amendment No 9 is consequential to amendment No 5; and amendment Nos 6 to 18 are consequential to amendment Nos 14 or 15. Amendment No 20 is mutually exclusive to amendment No 19.

Amendment No 26 is consequential to amendment No 24, and amendment Nos 42, 43, 44, 46 and 47 are consequential to amendment No 12. In addition, there are a number of paving amendments, which will be identified as we go through the Further Consideration Stage.

I call the Chair of the Committee for Justice, Mervyn Storey, to move amendment No 1 and to address the other amendments in the group.

3.45 pm

Mr Storey (The Chairperson of the Committee for Justice): I beg to move amendment No 1:In page 1, line 13, leave out "for a purpose mentioned in paragraph (3),".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

The following amendments stood on the Marshalled List:

No 2: In page 1, leave out from line 19 to end of line 2 on page 2 and insert—

"(c) either condition 1 or condition 2 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 3: In page 2, line 2, at end insert—

"(1A) Condition 1 is that—

(a) A operates the equipment with the intention of enabling the observation for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(1B) Condition 2 is that—

(a) A operates the equipment with the intention of enabling the observation—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and

(c) B is humiliated, alarmed or distressed."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 4: In page 2, leave out lines 11 to 15 and insert—

"(c) either condition 3 or condition 4 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 5: In page 2, leave out lines 16 to 18 and insert—

"(3) Condition 3 is that—

(a) A records the image with the intention that A or another person (C) will look at it for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(3A) Condition 4 is that—

(a) A records the image with the intention that A or another person will look at it,

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and (d) B is humiliated, alarmed or distressed.

(3B) Paragraph (3C) applies where—

(a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and

(b) A operates the equipment, or records the image, for a different or additional purpose.

(3C) Where this paragraph applies, then for the purposes of paragraph (1B)(a) or paragraph (3A)(b) (as the case may be)—

(a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and

(b) A is to be taken as having had a reasonable belief as to B's consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose".— [Mr Storey (The Chairperson of the Committee for Justice).]

No 6: In page 2, line 29, leave out "for a purpose mentioned in paragraph (3),".*— [Mr Storey (The Chairperson of the Committee for Justice).]*

No 7: In page 2, leave out lines 34 to 36 and insert—

"(c) either condition 1 or condition 2 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 8: In page 2, line 36, at end insert—

"(1A) Condition 1 is that—

(a) A operates the equipment with the intention of enabling the observation for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(1B) Condition 2 is that—

(a) A operates the equipment with the intention of enabling the observation—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and (c) B is humiliated, alarmed or distressed."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 9: In page 3, leave out lines 4 to 8 and insert—

"(c) either condition 3 or condition 4 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 10: In page 3, leave out lines 9 to 11 and insert—

"(3) Condition 3 is that—

(a) A records the image with the intention that A or another person (C) will look at it for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(3A) Condition 4 is that—

(a) A records the image with the intention that A or another person will look at it,

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and (d) B is humiliated, alarmed or distressed.

(3B) Paragraph (3C) applies where—

(a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and

(b) A operates the equipment, or records the image, for a different or additional purpose.

(3C) Where this paragraph applies, then for the purposes of paragraph (1B)(a) or paragraph (3A)(b) (as the case may be)—

(a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and

(b) A is to be taken as having had a reasonable belief as to B's consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 11: In page 3, line 22, leave out subsection (4).*— [Mr Storey (The Chairperson of the Committee for Justice).]*

No 12: After clause 1 insert—

*"**Sending etc an unwanted sexual image***

***1A.**—(1) After Article 72 of the Sexual Offences (Northern Ireland) Order 2008 insert—*

'Sending etc an unwanted sexual image

72A.— (1) A person (A) commits an offence if—

(a) A intentionally sends or gives to another person (B) a sexual image,

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents, and

(c) either condition 1 or condition 2 is met.

(2) Condition 1 is that A intends that B will look at the image and that doing so will cause humiliation, distress or alarm to B.

(3) Condition 2 is that—

(a) A's purpose in sending or giving the image is to obtain sexual gratification, and

(b) A is reckless as to whether B is humiliated, distress or alarmed.

(4) For the purposes of this Article, a sexual image is a photograph or film of—

(a) any person engaging in a sexual activity, or

(b) any person's genitals.

(5) In paragraph (4)—

'photograph' includes the negative as well as the positive version;

'film' means a moving image.

(6) References to a photograph or film also include—

(a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,

(b) a copy of a photograph, film or image within sub-paragraph (a), and

(c) data stored by any means which is capable of conversion into a photograph, film or image within sub-paragraph (a).

(7) References to sending or giving such a photograph or film to another person include, in particular—

(a) sending it to another person by any means, electronically or otherwise,

(b) showing it to another person, and

(c) placing it for a particular person to find.

(8) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.'"— [Mr Storey (The Chairperson of the Committee for Justice).]

No 13: After clause 1 insert—

"Amendments consequential on sections 1 and 1A

1B.—(1) Schedule 1 contains amendments consequential on the insertions made by

sections 1(2) and 1A".— [Mr Storey (The Chairperson of the Committee for Justice).]

No 14: In clause 3, page 6, line 17, at end insert—

"(1A) For the purposes of Articles 23 to 26, a person (A) is in a position of trust in relation to another person (B) if A provides tuition to B in an individual or group setting."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 15: In clause 3, page 6, line 17, at end insert—

"(1B) For the purposes of Articles 23 to 26, a person (A) is in a position of trust in relation to another person (B) if A provides leadership or instruction in youth activities in which B participates in an individual or group setting."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 16: In clause 3, page 6, line 25, at end insert—

"(2A) In paragraph (1A), 'tuition' includes any tuition provided for the purpose of—

(a) achieving a level of proficiency for which practice is required,

(b) completion of a recognised examination, or

(c) competition or display.

(2B) In paragraph (1B), 'youth activities' includes any activity which is organised for the purpose of bringing together young people as participants in an age-restricted context."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 17: In clause 3, page 6, line 26, leave out "Paragraph (1) does" and insert "Paragraphs (1) to (1B) do".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

No 18: In clause 3, page 6, line 30, at end insert—

"(b) amend paragraphs (1A) and (2A) so as to add or remove an activity in which a person may be provided with tuition (however construed).

(c) amend paragraphs (1B) and (2B) so as to add or remove an activity in which a person may be provided with leadership or instruction in an individual or group setting offered for the benefit of young people in an age-restricted context".— [Mr Storey (The Chairperson of the Committee for Justice).]

No 19: In clause 3, page 6, line 39, at end insert—

"(6) The Department of Justice must, within the period of 2 years beginning with the day of the coming into operation of this section—

(a) carry out an assessment of the effectiveness of Article 29A(1) to (3) of the Sexual Offences (Northern Ireland) Order 2008 since that day, and

(b) determine whether the power in Article 29A(4) of that Order should be exercised in light of the assessment."— [Mrs Long (The Minister of Justice).]

No 20: In clause 3, page 6, line 39, at end insert—

"(6) The Department must annually review Article 29A(1) to (2B) of the Sexual Offences (Northern Ireland) Order 2008 so as to inform the Department on whether the power in Article 29A(4) of that Order should be exercised."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 21: In clause 11, page 14, line 15, at end insert—

"(aa) an offence under section 2 of the Attempted Rape, etc., Act (Northern Ireland) 1960 (assault with intent to commit rape);

(ab) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust);".— [Mrs Long (The Minister of Justice).]

No 22: In clause 11, page 14, line 32, leave out from "under" to "listed" on line 33 and insert "specified".— *[Mrs Long (The Minister of Justice).]*

No 23: In clause 18, page 23, line 39, leave out from "other" to end of line 40 and insert—

"associated matters as the Department considers appropriate as to criminal law or procedure."— [Mrs Long (The Minister of Justice).]

No 24: In clause 18, page 23, line 41, leave out subsections (2) and (3).— *[Mrs Long (The Minister of Justice).]*

No 25: In clause 18, page 24, line 9, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

No 26: In clause 18, page 24, line 9, at end insert—

"(4A) Guidance under this section must include such information in suitable form for use in training for staff or personnel working within the criminal justice sector as the Department of Justice considers appropriate."— [Mrs Long (The Minister of Justice).]

No 27: In clause 18, page 24, line 11, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

No 28: In clause 18, page 24, line 12, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

No 29: In clause 18, page 24, line 13, at end insert—

"(5A) A review of guidance under this section must take account of such views on the operation of this Part obtained by the Department of Justice from bodies or agencies having functions within the criminal justice sector as the Department considers appropriate."— [Mrs Long (The Minister of Justice).]

No 30: In clause 18, page 24, line 16, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

No 42: In schedule 1, page 30, line 8, after "71B" insert ", 72A".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

No 43: In schedule 1, page 30, line 11, after "71B" insert ", 72A".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

No 44: In schedule 1, page 30, line 15, after "71B" insert ", 72A".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

No 45: In schedule 1, page 30, line 22, leave out "71A(3)(a) and 71B(3)(a)" and insert—

"71A(1A)(a)(i) and (3)(a)(i) and 71B(1A)(a)(i) and (3) (a)(i)".— [Mr Storey (The Chairperson of the Committee for Justice).]

No 46: In schedule 1, page 30, line 33, at end insert—

"92VB.—(1) An offence under Article 72A of that Order (sending etc an unwanted sexual image), if—

(a) the offence was committed for the purpose mentioned in Article 72A(3)(a) (sexual gratification), and

(b) the relevant condition is met.

(2) Where the offender was under 18, the relevant condition is that the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

(3) In any other case, the relevant condition is that—

(a) the victim was under 18, or

(b) the offender, in respect of the offence or finding, is or has been—

(i) sentenced to a term of imprisonment,

(ii) detained in a hospital, or

(iii) made the subject of a community sentence of at least 12 months."— [Mr Storey (The Chairperson of the Committee for Justice).]

No 47: In schedule 1, page 31, line 7, at end insert—

"Article 72A (sending etc an unwanted sexual image),".— [Mr Storey (The Chairperson of the Committee for Justice).]

Mr Storey: Before I comment specifically on the amendments before us today, I welcome and acknowledge, on behalf of the Justice Committee, the engagement that has taken place with the Minister and departmental officials on those amendments and, in particular, the constructive and collaborative approach adopted to each of the amendments to clause 1, which take account of the Committee's concerns that the offences of upskirting and downblousing provided for in the clause are not currently adequately framed and could result in loopholes. The amendments also provide for a new offence of cyber-flashing.

I turn to the Committee's amendment Nos 1 to 10 to clause 1 and amendment No 45 to schedule 1. Clause 1 provides for new offences of upskirting and downblousing. In the evidence received by the Committee, there was strong support for those new offences from a wide range of organisations, with views expressed that, despite violating a person's privacy and causing them distress, such behaviour has, to date, been seen as a bit of fun and dismissed or not recognised as seriously as other sexual crimes. As a consequence, the Committee was advised that, although it is on the increase owing to the increasing numbers of smartphones, such behaviour is still under-reported. The new offences will therefore address a gap in the law, which, until this legislation, did not criminalise such invasive behaviours, which can be used to distress, humiliate, control or coerce victims.

The PSNI welcomed their being made offences, noting that they will prevent crimes of that nature and improve criminal justice outcomes for victims. The Public Prosecution Service (PPS) welcomed the fact that there will no longer be a need to rely on older legislation that was drafted at a time when it was not envisaged that behaviour such as upskirting or downblousing could occur.

Although there was widespread support for the new offences, concerns were raised with the Committee that their scope was framed too narrowly, with the requirement to provide proof that the perpetrator acted with the intention of looking at the image for the purpose of sexual gratification or to humiliate, alarm or distress the victim. Views were expressed that it should be unnecessary to prove motivation if consent was not given and that the difficulty in proving the nature of an offender's intentions beyond reasonable doubt may render the offence ineffective. The fact that the impact of the offence on the victim is not dictated by the intentions of the perpetrator was also emphasised.

To address those concerns, a number of organisations, including the Northern Ireland Human Rights Commission (NIHRC), believe that a conviction should rest on whether consent was given for the image or video to be taken, with no need to prove motivation. If the offences were not going to be based on the need to demonstrate consent, it was suggested that their scope should be widened to capture instances in which an individual claimed that the act was just a bit of fun by including recklessness as to whether the victim is caused distress, alarm or humiliation.

The Committee also met informally with a victim of voyeurism offences. Members heard of the devastating impact that the offences had on the person at the time and the lasting impact on her life and the lives of her family. The handling of the case by the criminal justice agencies and the fact that it was not treated as a sexual offence added to the trauma that they suffered. Although that case clearly illustrates the need for the specific offences of upskirting and downblousing, the victim was concerned that the offence as drafted would not deal with her type of case, which was, it was claimed, done for a prank, particularly if the perpetrator were under the age of 18.

In the victim's view, there should be no grey areas where such behaviour is tolerated. A clear message needs to be sent out that that behaviour is wrong in any circumstances and that people who make a choice to do that will face the consequences. I again place on record the Committee's appreciation of that victim's sharing their experience and their views on the new offences. It set out clearly to the Committee the responsibility that we have to get the legislation right and ensure that it is comprehensible and operational.

During the Committee Stage, the Committee discussed with the PSNI, the Public Prosecution Service and departmental officials the concerns regarding the narrow scope of the offence and the potential difficulties in proving motivation and explored the proposals that had been put to the Committee to address those. The Committee was advised that proving intent is an integral part of any criminal offence. The Department also outlined its concerns that removing motivations and basing the offences solely on consent might broaden them to the extent that they become unworkable and would not provide the ability to identify those who act in a thoughtless or reckless manner without thinking through the consequences of their actions. The Department advised that it wanted to differentiate between people who technically commit the offence but do so without real malice or intent to cause harm or distress or to obtain sexual gratification and those whose behaviour is predatory, malicious, more dangerous and damaging and/or of greater concern. The Committee also noted that the Gillen review of serious sexual offences recommended that work should be undertaken on the issue of consent, and that is a large-scale exercise.

While discussing clause 1, members continued to have concerns that the need to prove motivations was an additional element required

to prove the offences of upskirting and downblousing and that it could prevent victims from reporting the offences if they believed that it might lessen the chances of a conviction being secured. Members were also not convinced that the current framing of the offence would satisfactorily address a scenario in which the offences were committed or are claimed to have been committed for reasons of "banter" or "group bonding". The Committee decided that an appropriate approach to address its concerns was to include a "reasonable person" test in the motivation requirement, rather than base the offences solely on consent, and tabled amendments at Consideration Stage that were subsequently not moved. The decision not to move the amendments at Consideration Stage came about following a meeting with the Minister during which she outlined her concerns that the addition of a "reasonable person" test would significantly widen the scope of the offences and would have potentially unintended consequences by creating a serious risk that children and young people or vulnerable people who act on the spur of the moment without proper consideration of the consequences of their actions would be unnecessarily and inappropriately criminalised. While continuing to have questions regarding whether the new offences were framed entirely satisfactorily, given the views and concerns expressed in the evidence received, in light of the Minister's concerns, the Committee agreed to support clause 1 but to have further discussions with departmental officials to address the concerns raised and ensure that, as far as possible, any loopholes were covered.

Following discussions over the past couple of weeks, I am pleased to move amendment Nos 1 to 10 and amendment No 45 today, which the Minister has indicated that she will support. The amendments provide for a separate, stand-alone reckless element to be included in the upskirting and downblousing offences to cover a situation in which a person is reckless as to whether the victim is humiliated, alarmed or distressed and they are any of those things. That is a balanced and proportionate approach to address both the Committee's concerns that the offences as currently in the Bill are not comprehensive enough and the Minister's concerns about an approach that would lead to over-criminalisation. The substantial work that has gone into the amendments, including the assistance of the Office of the Legislative Counsel (OLC), which is very much appreciated, will increase the effectiveness of the offences, and I trust that the Assembly will support them today.

I now turn to Committee amendment Nos 11, 12, 13, 42, 43, 44, 46 and 47 on the new offence of cyber-flashing. In the evidence received on the Bill, the issue of cyber-flashing was brought to the Committee's attention by Professor McGlynn of Durham University, who is an expert on laws relating to image-based sexual abuse. Professor McGlynn advocated the creation of a new offence of cyber-flashing to clearly criminalise the sending of unsolicited pictures of genitals. She urged that the offence should be based on non-consent and cover all forms of cyber-flashing regardless of a perpetrator's motives. She also provided evidence on the prevalence of incidents of cyber-flashing, including a recent Ofsted review that:

> *"found that nearly 90% of girls said being sent explicit pictures or videos of things they did not want to see happens a lot or sometimes to them or their peers,"*

and that included pictures of genitals.

According to Professor McGlynn, the benefits of adopting a bespoke criminal offence to address cyber-flashing included making it clear that such actions are wrong and potentially harmful and recognising the victims' experiences. It would facilitate successful prosecutions by removing the need to shoehorn cyber-flashing into other laws, and it would provide a positive foundation for education and prevention initiatives. She also believed that the offence must be framed as a sexual offence to recognise its nature and harms, to grant victims anonymity and protections in court and to permit suitable sentencing options.

Professor McGlynn also described the distribution of deepfake and fake porn without consent as a growing and harmful problem. She outlined that her research interviewing victims of intimate image abuse found that 34% of images created without consent had been digitally altered. To assist with its consideration of those issues, the Committee commissioned a research paper that provided an overview of the legislative arrangements and practices in other jurisdictions in relation to cyber-flashing and deepfake pornography.

During the oral evidence sessions on the Bill, the Committee also sought the views of other witnesses on whether there was a requirement for a specific offence of cyber-flashing and received favourable responses, including from the Northern Ireland Human Rights Commission. In its written submission, the commission highlighted that:

"Technology has evolved which means different forms of gender-based violence have transformed into offences perpetrated across distance, without physical contact".

When the issue was raised with the PPS, it was unable to say with certainty that cyber-flashing and deepfakes could be prosecuted under existing legislation, although it thought that they may be captured by the Communications Act offences.

The Committee discussed the Scottish cyber-flashing offence, which has been in existence since 2010 with departmental officials, who advised that the UK Government had committed to making cyber-flashing an offence in England and Wales on the basis of the Law Commission's recommendation and provided information on the Irish offence of:

"Distributing, publishing or sending threatening or grossly offensive communication".

The officials indicated that the Department intended to review the existing and proposed legislation, to consider its applicability to Northern Ireland and to develop policy proposals for consultation with an aim of legislating for an offence of cyber-flashing in the next Assembly mandate.

In early January, when undertaking its deliberations on the Bill, the Committee discussed the potential to legislate for a specific offence of cyber-flashing. Given that the legislation has been in place for a number of years in Scotland and the UK Government's commitment to legislate for it in England and Wales in the near future, the Committee considered that it would be an opportune time to provide for a similar offence in Northern Ireland and to ensure that this jurisdiction is not left behind. The Committee therefore agreed to table an amendment at Consideration Stage to introduce a new offence of cyber-flashing that would cover sending a person a sexual image without that person consenting or without any reasonable belief that the person consents for the purposes of sexual gratification or humiliating, distressing or alarming the person. "Sexual image" was defined as an image of a person, whether real or imaginary, engaging in a sexual activity or an image of a person's genitals, whether real or imaginary, to cover digitally altered images. The potential penalty for the offence was:

"imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both",

on summary conviction and, on conviction on indictment:

"imprisonment for a term not exceeding 2 years."

The Committee included a "reasonable person" condition in the offence. For that reason, the Minister, while indicating that she had no objection in principle to the introduction of an amendment to provide for an offence of cyber-flashing, raised the same concerns about the text of the amendment in relation to clause 1 amendments. The Committee therefore agreed to consider replacing the "reasonable person" element before bringing an amendment forward at Further Consideration Stage.

4.00 pm

The Committee is grateful to the Minister, departmental officials and the OLC for their assistance and the collaborative approach that was adopted to arrive at the text of the amendments, which provide for a balanced and proportionate approach that can be supported by everyone while aiming to ensure that the offence is as effective as possible.

The text now includes a "reckless" element, which would be criminalised where it was combined with the sexual gratification motivation. That is based on the approach recommended by the Law Commission in its review and the report on malicious communications offences, which advised that, if recklessness were to stand on its own as one of the alternative ways of committing an offence without any limiting factors, the offence becomes very wide and could lead to over-criminalisation.

The amendment inserts a new offence into the main sexual offences framework — the Sexual Offences (Northern Ireland) Order 2008 — rather than its sitting as a free-standing provision in the legislation and refers to:

"Sending etc an unwanted sexual image"

rather than:

"coercing a person into looking at a sexual image"

to avoid a potential loophole, with the argument that the offence is not committed if the victim does not open the images sent to them. Consequential provision has been included to bring it within the scope of other relevant

legislation, including notification requirements often referred to as the sex offenders register and risk management orders such as sexual offences prevention orders and public protection sentences.

To avoid over-criminalisation, the notification and risk management measures apply only when sexual gratification is proven. While this is a departure from the approach adopted in Scotland, which legislated for those factors to apply regardless of motivation — England and Wales may adopt that approach, although the position has not yet been confirmed — and having discussed the issue with departmental officials at our meeting on 24 February, the Committee is content with that approach, given the specific purpose of the notification requirements of the sex offenders register, which is to control potentially dangerous sex offenders rather than also using it to register other instances of cyber-flashing intending to distress, alarm or humiliate a person, particularly given the serious implications that being on the register has for a person's future.

Committee members visited the PSNI cybercrime suite last week and heard about the changing nature of offending and how the internet and technology are facilitating and playing a very large part in this. Amendment Nos 11, 12, 13, 42, 43, 44, 46 and 47, if made, will criminalise cyber-flashing in Northern Ireland and ensure that we are at least keeping abreast with other jurisdictions on the issue. The Committee recognises, however, that there is much to be done in the area of technology-supported criminal behaviour, and that will be a challenge going forward.

Following the Committee's visit to the cybercrime unit, I pay a word of appreciation to the officers who work in that unit. To say that my colleagues and I were affected by what we heard pales into insignificance compared with what those officers have to see. There is a room in that building where images have to be graded A, B and C so that a judge, rightly, does not have to see them. I am still affected by that to this very day. What goes on is harrowing — absolutely harrowing. Not only do those who are involved in that type of activity need to be brought before the law but the full rigour of the law needs to be brought to bear upon them. I place on record our appreciation of those who work in that unit.

I turn to amendment Nos 14 to 18 and amendment No 20 in the Committee's name and amendment No 19 in the Minister's name, which relate to the abuse of trust provisions. This morning, the Committee decided not to move amendment Nos 14 to 18, which would widen the scope of the abuse of trust provisions to include non-statutory tutors and uniformed organisations. Given that decision, the Committee's proposed amendment No 20 becomes all the more important. Therefore, with your permission for latitude, Mr Deputy Speaker, in outlining amendment No 20 and explaining its necessity, I will set out the background to the Committee's position on the abuse of trust provision.

As I outlined at Consideration Stage, in light of the evidence received by the Committee, particularly the views expressed by the Northern Ireland Commissioner for Children and Young People (NICCY), the NSPCC and Barnardo's, the Committee was concerned that the approach being taken by the Department to widen the scope of the abuse of trust was not comprehensive enough. The Committee was also concerned that the provision lacked clarity and could cause confusion about what activities fell within the definition that is now provided in clause 3.

The Committee considered tabling an amendment at Consideration Stage to extend the scope to include all persons in a position of trust with young people. However, the Minister expressed the view that that may have significant consequences. There were concerns that widening the scope further could attract legal challenges based on the rights of an individual under article 8 of the European Convention on Human Rights (ECHR) — the right to private and family life — that there was a clear risk of inappropriately increasing the age of sexual consent by stealth, which would be open to successful legal challenge, and that framing the positions of trust provision too widely would run the risk of over-criminalising young people, who could be considered to be breaking the law if, for example, a person aged 18 had a sexual relationship with a person aged 16 or 17. Given the limited time to complete Committee Stage, the Committee agreed not to table an amendment to extend the scope further at that stage. Instead, the Committee decided to take the opportunity at Consideration Stage to seek further information on and clarification of the basis for the Minister's concerns regarding extending the scope of abuse of trust further.

The Committee supported the amendment that was tabled by the Minister at Consideration Stage to extend the scope of abuse of trust to include certain activities carried out in sports and faith settings, but it sought further information from her on how robust the position would be going forward, given the views

expressed that it would not be expansive enough to protect children from adults in positions of trust.

The Committee also requested clarification of how exactly widening the scope further could interfere with article 8 rights in a way that widening it to cover sports and faith settings did not and on what basis there is any greater risk of inappropriately increasing the age of sexual consent by stealth or criminalising young people unnecessarily, taking account of the fact that the provision relates solely to those in positions of trust. I also indicated that, depending on the information and clarification provided, the Committee might wish to consider the matter again before Further Consideration Stage.

Following Consideration Stage, the Committee returned to the matter at its meeting on 17 February, and members continued to have concerns that gaps existed, particularly for uniformed organisations, such as the Scouts, Guides etc, and non-statutory tutors, such as music teachers. How to address these concerns without criminalising a consensual relationship between an 18-year-old and a 17-year-old was the challenge, although it was noted that such a relationship could occur in a sports setting, which is now included in the abuse of trust provision.

The potential to include a statutory review mechanism to place a duty on the Department to regularly review the evidence of risk of harm in settings that are not included in the abuse of trust provisions was also proposed. The Committee agreed to move away from its original proposal for an amendment to include all those who are in a position of trust with young people and to consider tabling more targeted amendments to cover non-statutory tutors and uniformed organisations and provide for a review mechanism.

At our meeting on 24 February, the Committee considered and agreed the text of amendment Nos 14, 15, 16, 17, 18 and 20. In doing so, the Committee noted the challenge to define "uniformed organisations" and, therefore, tabled the amendment covering youth activities. The Committee advised the Minister on 25 February of the amendments that it intended to table, and it provided the text for her information.

The Minister subsequently wrote to the Committee on 2 March, following the deadline for submitting amendments for Further Consideration Stage, indicating that she still remained seriously concerned about the further extension of the abuse of trust provisions into tuition and youth activities. In her view, the provisions were far too indiscriminate in their coverage and engaged the same problems that she had previously raised regarding the Committee's first proposal to extend provisions to include all those who are in a position of trust with young people. Those problems included the potential to attract legal challenge based on the rights of an individual under article 8 of the ECHR, which is a right to a private and family life, and the potential to over-criminalise young people. She outlined that she therefore intended to oppose the amendments and asked the Committee to reconsider moving them at Further Consideration Stage.

The Minister also advised the Committee that, while she was supportive of a review mechanism being placed in the Bill, she considered that having a review on an annual basis, as provided for in Committee amendment No 20, would place a disproportionate burden on the Department. Therefore, she brought an alternative amendment to commit the Department to completing a review within two years of the abuse of trust provisions in the Bill coming into operation. That would be augmented by a firm departmental commitment to keep a watching brief on the working of the provisions and on the developments in other jurisdictions and to give an undertaking that, where emerging evidence of uncovered abuse arises or clear risk factors are identified, the Department would move swiftly to activate its regulatory powers to extend the abuse of trust provisions to include other groups.

Mrs Long (The Minister of Justice): I thank the Committee Chairman for giving way on this key point. You will be aware that there are two competing amendments before us today: amendment No 19 and amendment No 20. I have not had the opportunity to speak specifically to the Committee about this, so I want to make clear at this stage that I believe that amendment No 19 offers the wide-ranging review that the Committee is seeking. That review would look at the entire landscape across the board and determine what further provision can be added.

Given that the Committee's abuse of trust amendments will not be moved, amendment No 19 now focuses on reviewing what will be in the Bill, which is the abuse of trust in either a church or religious setting or in a sports setting. We would annually review what is already there rather than having the wider review that the Committee had intended.

To be clear, that is notwithstanding the commitment that I have given to the Committee

that, on the two areas that it identified in its abuse of trust amendments — they are not being moved today — the Department intends to move forward with a specific and urgent review irrespective of whether we choose amendment No 19 or amendment No 20 today. We will continue to do that urgent review, as I promised in my correspondence to the Committee. I want to place that on record, as I will do in my speech, but I thought that it was important to do that at this point.

Mr Storey: I thank the Minister for her comments. Members will take those issues into consideration as we progress through the Bill.

It is unfortunate that we got ourselves into a position so late in the day that necessitated back and forth between us and the Department. Obviously, that, in and of itself, creates some degree of uneasiness, but I appreciate the work of the Committee staff, the Bill Office and the Committee members, who have worked in a very collective way to ensure that we get the best possible outcome. I thank the Minister for giving her particular perspective on that issue. I trust that we will move a little bit further on these issues.

4.15 pm

The Committee considered the Minister's correspondence at its meeting last Thursday and agreed to seek clarification on her position before holding an additional meeting, which took place earlier today, to consider the issues and concerns that were raised. The meeting also provided an opportunity to informally discuss amendment Nos 14 to 18 with the Attorney General, who raised some scope and drafting issues and outlined the process if, in her view, the Bill strayed outside the competence of the Assembly. In light of that additional information and the potential risks involved, the Committee has decided to not move amendment Nos 14 to 18, as it does not want in any way to prevent or delay the Bill coming into force. However, after taking that decision, the Committee's amendment No 20, which provides for the Department to annually review the position and assess the risk of harm on an ongoing basis, becomes particularly crucial.

The Committee tabled the amendments to widen the scope of the abuse of trust provisions in good faith to address the concern of Members that there are gaps. Those concerns were based on the views of the Northern Ireland Commissioner for Children and Young People, the National Society for the Prevention of Cruelty to Children (NSPCC) and Barnardo's, and it is fair to say that we remain to be convinced that the abuse of trust provisions, as drafted, are expansive enough to provide the protection that all children and young people are entitled to from adults in a position of trust. We cannot say that loudly enough and want to clearly put it on the record that we are particularly exercised by that concern.

The Children's Commissioner advised that she was deeply concerned that provisions to address current legislative gaps in the safeguarding of children and young people from abuse and exploitation by those in positions of trust should not be limited to certain settings. She noted that abuse of trust protections in law should take account of the power dynamics of sexual abuse and exploitation and reflect that children and young people can be subject to abuse by those in positions of trust across a wide range of relationships and activities rather than focus on a limited number of settings. The Children's Commissioner also had significant concerns about the position of the Department that further evidence must be provided that children have been sexually abused by adults in positions of trust outside of sporting and religious settings before further amendments to widen the scope can be considered.

Barnardo's also stated that the abuse of trust provisions were too narrow in scope. In its view, the legislation should be as strong as possible from the outset, stating that children deserve protection in the law now, no matter the setting, and should not have to wait until an incident of abuse in an additional setting is exposed in order to receive that protection. Barnardo's advised the Committee that it knows that perpetrators of child abuse and sexual exploitation deliberately seek out loopholes in the law and settings where they will go undetected.

The NSPCC reiterated its view that the provisions do not go far enough and are not expansive enough to protect children from adults who are in a position of trust to them. The NSPCC stated that adults who are working in non-statutory settings and are in positions of trust to 16- and 17-year-olds in areas other than religion and sport will remain outside the law. It wanted to see the provisions widened to give 16- and 17-year-olds protection from all adults who are working in a position of trust to them, regardless of the setting.

It is clear, therefore, that there are genuine concerns in the children's sector that the abuse of trust provisions will not provide the necessary protection for children. Therefore, the need for a

robust, regular and ongoing review mechanism is of even greater importance. We believe that the review mechanisms that are provided by amendment No 20 will provide that.

The Minister's amendment No 19 provides for the Department to complete a review within two years of the abuse of trust provisions of the Bill coming into operation. In the view of the Committee, that is not sufficient as it does not contain an ongoing requirement. The Minister advised the Committee in writing, on 4 March, that she would have been content to support amendment No 20 and not move her amendment No 19 if amendment Nos 14 to 18 were not moved, however she expressed the view that that would not be possible as the amendment was not a stand-alone provision. That has now been clarified. I hope that the Minister will support amendment No 20 and not move amendment No 19.

The Minister also advised the Committee that she is willing to commit to officials engaging with the sectors identified in the Committee's amendment Nos 14 to 18 and the wider children's sector to explore the need for the extension of the abuse of trust provisions as a matter of urgency and would give that firm commitment today on the Floor. I ask the Minister to do so, and to confirm that that work will commence before the end of the mandate to enable it to continue during dissolution, and in the event that the Executive and Assembly are not in place.

The aim of the Committee throughout this process has been to ensure that, through the legislation, the best protection possible is provided for children and young people. In doing so, we do not wish to pose any risk to the Bill, given the other crucial elements contained in it that will provide essential protections for some of the most vulnerable in society. Given the limited time available, the best course of action is the one that is being taken by the Committee. It would have been helpful if the issues with amendment Nos 14 to 18 had been brought to the Committee's attention earlier, as they may have been able to have been addressed if we had had more time.

I turn, briefly, to amendment Nos 21 to 30. On 2 March, the Department advised the Committee of the Minister's intention to table amendment Nos 21 and 22 and stated that it would address points raised by the Public Prosecution Service in its evidence to the Committee about the operation of the Bill's provisions relating to the anonymity of suspects. The PPS identified the possibility that some repealed offences could still be prosecuted for offending before the date of repeal and would be captured by the Bill's provisions. The Committee noted the position at its meeting on Thursday.

Amendment Nos 23 to 30 make minor changes to clause 18, which requires the Department to issue guidance on Part 1 of the legislation. When the Minister attended the Committee meeting on 10 February, she advised the Committee that there were technical and minor drafting issues with some of the amendments that the Committee was tabling at Consideration Stage and that, assuming that the amendments were agreed by the Assembly, those issues would need to be addressed at Further Consideration Stage. She confirmed that the amendments would not change the intention or effect of the clauses, but are aimed at ensuring consistency with the rest of the legislation and addressing any anomalies. The Department subsequently provided the text of the amendments, which the Committee noted at its meeting on 24 February.

Mr Speaker, I apologise for taking up so much time at the Bill's Further Consideration Stage, but I believe that it was appropriate and necessary to fully set out how the Committee reached its position on the amendments that it has tabled to clauses 1 and 3, and on providing for a new offence of cyber-flashing, to assist the House in understanding what has been a complex, and sometimes challenging, journey through the Bill's stages to date. The Committee welcomes the Minister's support for the amendments to clause 1, and for the inclusion of the offence of cyber-flashing, and looks forward to the debate on the amendments to clause 3.

Ms Ennis: I will not speak at any great length, because the Chair has summed things up quite well. I will add to his comments about our visit to the PSNI cybercrime centre. It was a harrowing experience. Hearing what officers have to go through daily has left a mark on me, as a mother. We thanked those officers on the day, but it is important to reiterate our thanks here and place them on record. What we saw at the centre confirms the need to make sure that there is maximum protection from sexual exploitation, particularly for children.

I will speak to the group 1 amendments. The amendments to the upskirting and downblousing provisions in clause 1 are important, as they strengthen the legislation by including a condition of recklessness. Upskirting and downblousing offences were a priority concern for the Justice Committee and for Sinn Féin. We were concerned, however, that the clause as drafted had some gaps that needed

to be fixed. After hearing evidence from experts in the area, we had concerns that a person charged with the new upskirting or downblousing offences might have an unintended defence in that their actions were a joke or, somehow, banter. The Committee wanted to ensure that such a defence would not be available, regardless of how likely it might be to be accepted.

Amendment Nos 1 to 11 introduce a new, standalone component of recklessness to clause 1 that would exist alongside the offence as it stands. That means that a person can be convicted of an offence of upskirting or downblousing if they were "reckless as to whether" the victim was "humiliated, alarmed or distressed". That represents a fair compromise and a proportionate and balanced way forward that avoids over-criminalising whilst addressing the Committee's concerns, and Sinn Féin is happy to support it.

Sinn Féin will also support amendment Nos 12 and 13, which introduce a new offence of cyber-flashing that outlaws the sending of unsolicited or unwanted sexual images. With more and more sophisticated technology being available to people, cyber-flashing is a sexual offence that is on the rise, and more people are falling victim to that behaviour. Whether it is the act of sending an image anonymously to a stranger's phone when they are on public transport or of sending sexual pictures to people online, that predatory and disgusting behaviour must be tackled. The new cyber-flashing offence will be inserted into the main sexual offences framework, and that reflects the seriousness of the offence and of our response to it. It will also allow many of those who commit that offence to be captured in the sex offender notification and risk management requirements. If a person commits the cyber-flashing offence with the motivation of sexual gratification, they can be put on the sex offenders register. That sends out a strong message that such behaviour cannot and will not be tolerated, and I am pleased to support that message today.

I will touch on amendment No 20, which relates to abuse of positions of trust offences. Although I share the Minister's concern and have articulated the view in Committee that an annual review may not be necessary and may be too frequent, it represents a fair way forward, given that the Committee has not tabled amendments to broaden the abuse of positions of trust legislation. It is my understanding that new article 29A(4) already gives the Department the "add or remove" mechanism and allows it to expand the provisions further to cover those other sectors, should evidence show the need to do so. The Committee's amendment No 20 is linked to article 29A(4).

Mrs Long: Will the Member give way?

Ms Ennis: Go ahead. Yes, of course.

Mrs Long: I appreciate that the Member has been candid about her view on an annual review. First, my concern is that an annual review would be incredibly onerous for the Department if it were to be done properly. None of us wants it to be a box-ticking exercise. Secondly, the issue is that the review would focus on what is in the Bill. It would review the operation of it. It would not prevent the Department from going further. Whilst I would be willing to go further and undertake a wider review periodically rather than annually — an annual review would simply not be possible within resource — I cannot give that commitment today on behalf of a Minister who has not yet been appointed. We do not know who the Minister will be in future mandates. We can, however, place a wider review in the Bill so that we have absolute surety that we will get one that looks at the entire operation of abuse of trust legislation. Without amendment No 19, we will not have that; we will have a very focused and narrow annual review rather than a more-general review. The Member is correct, of course, that the urgent review, which I have also undertaken to do, will be unaffected by whether amendment No 19 or amendment No 20 passes.

Ms Ennis: Thank you. I hear what the Minister is saying, but, as I said, that provision is already there, in article 29A(4), should the Department want to trigger it at any time to widen the scope. The Committee was honest and open about wanting to provide the maximum protection from sexual exploitation. Again, I hear what the Minister says about amendment Nos 19 and 20, but I do not see the difference between them.

4.30 pm

Mrs Long: Will the Member give way?

Ms Ennis: Go ahead.

Mrs Long: I did not necessarily see the difference either, but, when we took the amendments to the Office of the Legislative Counsel and spoke to it, it did see the difference, because its speciality is the interpretation of legislation. It is therefore an issue of legislative interpretation, and, when things are not mentioned in a clause, it is

presumed that they are not intended to be included. If you say that you are going to do a wide review and then list nothing, you have all the scope in the world to decide what is in and what is out. As soon as you list things, however, anything that is not included is presumed to have been left out intentionally, and that is where the difficulty arises. This is not about drafting but about the interpretation of the law in the normal way. The advice to us has been that the Committee's amendment does not provide as wide a mechanism as possible. It does not prevent the Department from going wide, but it does not require it to. I therefore caution the Committee against assuming that every Minister will come to the matter with the same broad approach to wanting to do a wide review, particularly when resources are limited.

Ms Ennis: I will contradict what the Minister has said. The advice that we got was that —

Mrs Long: Which was not a legislative interpretation.

Ms Ennis: If the Minister will let me finish, I will continue.

With amendment No 20, we are attempting not to override but to complement article 29A(4). It simply compels the Department to review annually whether the power that is already contained in the Bill that the Department put in there needs to be triggered. That is all that it does. It does not attempt to override what is already there. I cannot see a situation in which the Department would review the mechanisms that are already in the Bill around sporting and religious settings, find that there is a problem and then not act.

Mrs Long: Will the Member give way?

Ms Ennis: Go ahead.

Mrs Long: It is quite possible that the Department would review the operational working of the provisions in the Bill that relate to religious and sporting settings and find that no changes are needed to the operation of those elements of the Bill and therefore that there is no further work to be done, whereas I propose that we do a wider review of the entire landscape of the issues around abuse of trust and look at what also could be included, not just the operation of those parts of the Bill that are already in statute. That is the key point that I am trying to make. The wider review is the most important part of this. I believe that that is what the Committee is seeking to achieve, but the legal advice that we have had on the interpretation of the clause is that it would not achieve what the Committee has set out to achieve.

Ms Ennis: I am sure that the Minister will get a chance to expand on that further in her summing-up. The Committee arrived at amendment No 20 in good faith in an attempt to provide the maximum protection. As I said, an annual review is excessive, but a one-off review after two years does not go far enough. The amendment is our best attempt to land somewhere in the middle.

I hope that everybody, both inside and outside the Chamber, recognises that what drove the Committee from the very start was the need to afford the utmost and best protection from sexual exploitation that we could. That is the only driver that we had through all of this. It is not that we are particularly precious that it has to be our amendment that is made. We just feel that that is the best way forward.

I recognise that we did not have enough time to ensure that we were able to draft legally competent amendments. That is to be pitied, but we need to find a balance between protecting young people from sexual exploitation and over-criminalising healthy and legal relationships. It is vital that the issue be kept on the table, that we ensure that the law is kept up to date and that, where new evidence emerges, we are able to respond to it quickly. We should not have to wait until someone is harmed before we act. The Committee's amendment No 20 would ensure that the Department works with the wider children's sector to explore the need for further extension of the abuse of trust provisions as a matter of urgency.

Finally, Sinn Féin will support the technical and corrective amendment Nos 21 to 47, which tidy up what really has turned out to be a fantastic Bill. I reiterate the point: it is a fantastic Bill, and we should not be distracted by those two amendments, which, at the end of the day, we are splitting hairs over. The Bill is good. It includes many improvements to the criminal justice system and many supports for victims of serious crimes and strengthens society's response to those sexual crimes. I will bring my remarks to a close there.

Ms S Bradley: Today, on behalf of the SDLP, I stand in recognition of this Bill. I genuinely welcome the fact that it has reached Further Consideration Stage. I will take a moment place to on record our thanks to the Clerks and the departmental officials, who, it has to be said, have worked tirelessly to progress the passage

of the Bill within the very limited window of time that this mandate has afforded, and to all of the stakeholders who highlighted the absolute need for the Bill to be introduced. It is an important piece of legislation that seeks to better protect victims of sexual offences and the deplorable crime of trafficking.

The Bill will implement certain elements of the Gillen report on serious sexual offence cases, including the exclusion of the public from all serious sexual offence hearings. It also includes provisions arising from the outcome of a review of the law on child sexual exploitation and sexual offences against children.

Other provisions include the creation of the new offence of upskirting and downblousing, and the proposed offence, which is in this group of amendments, of cyber-flashing. These provisions are to be welcomed and are long overdue. However, a comment that I will make repeatedly is regarding the absolute need for the inclusion of this type of Bill and law in a really well-rounded relationships and sexuality education (RSE) scheme in schools.

Among other things, the Bill is important in that it provides a further layer of protection for children who may be targeted by adults who, for example, may attempt to groom a child by pretending to be a child themselves online. That provision is to be warmly welcomed as, sadly, sexual offences online continue to grow at an alarming rate.

I turn specifically to the amendments. Amendment Nos 1 through to 11 set the context for the application that introduces the action of recklessness. I will not repeat the great deal of debate that led us to this point, but the introduction of recklessness found us a reasonable landing place in trying to pin down what we were trying to achieve at Committee. As others have indicated, these amendments were drafted to widen the scope of the offence so that the so-called banter or joking defence could not be used. If you do not mind me saying so, Mr Deputy Speaker — and I say this quite firmly — having listened to the stakeholders and victims' engagement, it has to be said that, without exception, there is absolutely no laughing matter about any of the offences that are being created. I genuinely welcome the fact that we have these amendments in front of us today.

I move on to the amendment relating to cyber-flashing. The term "cyber-flashing" is used to refer to a range of behaviours, but it most commonly involves a man sending an unsolicited picture of his genitals to a woman. Cyber-flashing can be distinguished from other forms of intimate image abuse where the victim is the subject of the image. With cyber-flashing, the victim is not the subject of the image but rather the recipient. It appears that, unfortunately, as with many sexual offences, women, and young women in particular, disproportionately face the highest rates of victimisation. We have heard evidence as to the ongoing trauma that can result from the receipt of such images.

The need for the inclusion of this offence was very clear, as it is uncertain whether the current legislation covering exposure is adequate to cover that offence — whether it covers non-live acts, such as photos and videos. I am delighted to support the inclusion of that offence, which is novel to this place. It has been raised in other parts, but Northern Ireland is certainly leading the way. The expressed will of the Assembly across many debates has been to intervene and ensure that the safeguarding of women and girls becomes a priority. The inclusion of this amendment will send a clear and unambiguous message that cyber-flashing is deemed to be so unacceptable that it has warranted inclusion in our statute books.

I know that it is not common practice, but it is important to acknowledge the amendments that are not being moved, purely because I believe that there is a link directly to amendment No 20, which concerns reporting. For good reason — I believe that it is with an absolute level of regret — we have been unable to proceed with those amendments, but I note the Department's recognition of the objectives that they tried to secure in widening the scope on the abuse of trust element. I also hear the Minister when she speaks of her commitment to finding a way forward that is human-rights compliant, does not over-criminalise and does not compromise the commencement or operation of this critical legislation.

Given that those amendments are not being moved today, the SDLP firmly believes that the emphasis on the monitoring and reporting becomes all the more critical. I hear what the Minister says and her comments about when something is not included or has been deliberately excluded, but I am genuinely and firmly of the belief that the need for an annual review speaks to the timeliness in the need for a review, because we do not want a situation where we have to act retrospectively. If we can see trends and gather information, an annual review will lead us to a safer place and more timely implementation of the Bill.

It is very important legislation, which is focused on enhancing public safety and improving services for victims of trafficking and exploitation. It is, therefore, essential that the Bill progresses before the end of the mandate, and I particularly welcome the fact that we are at this stage today. I close my comments by saying that the SDLP will support the remaining, mostly technical, amendments that are in this group.

Ms Bradshaw: I will support all the amendments in this group except for amendment No 20, which, we feel, runs contrary to amendment No 19. For the record, in group 2, I will oppose amendment No 33, which runs contrary to amendment No 32. I will keep the remainder of my remarks specific to this group.

Fundamentally, we are here to enhance public safety, particularly for potentially vulnerable people, and to improve services for victims of trafficking and sexual exploitation. In that regard, amendment Nos 1, 12 and 13, although they are technical, are particularly important. Amendment No 1 strengthens and broadens the provisions relating to voyeurism, and the new clauses created by amendment Nos 12 and 13 and amendment Nos 42 and 47, which are consequential to them, serve to modernise the Bill by adding to it the offence that is now commonly known as "cyber-flashing". I should also draw attention to amendment Nos 21 and 22, which add to offences deemed to be sexual offences and thus create further consistency around suspects who may remain anonymous.

I recognise absolutely that predatory behaviour can occur in any environment where one person has power over another, particularly when an adult has significant influence over a young person in their care. We have to ensure that we have a Bill that addresses that while remaining in scope to address offences occurring where there is significant imbalance in power between adult and child and there is the potential for that power to be abused. The amendments as a whole provide for important extension of the abuse of trust provisions and technical tidying up while also demonstrating constructive work between the Minister and the Justice Committee.

Miss Woods: I welcome the opportunity to speak on the Further Consideration Stage of the Justice (Sexual Offences and Trafficking Victims) Bill and the amendments tabled by the Justice Committee and the Minister of Justice in group 1. I will not go over everything that the Chair outlined. He gave a very comprehensive description of events up until today.

On amendment Nos 1 to 11, proposed by the Committee and drafted with the Department, I fully welcome the changes to add the provision of recklessness, which reflects the evidence that the Committee received and strengthens the operation of the offence. The additional limb will allow for prosecution where the alleged perpetrator has been reckless as to whether the alleged victim is humiliated, alarmed or distressed. That is essential to cover those circumstances where the purpose of recording the image cannot clearly be tied to obtaining sexual gratification or, indeed, a deliberate attempt to humiliate, alarm or distress the alleged victim.

The court will now have to consider whether the behaviour was reckless in causing the alleged victim to feel humiliated, alarmed or distressed. That is significant, because it properly recognises the impact on the victim and closes a potential loophole for the alleged perpetrator to claim that their behaviour was simply a joke with no harm intended. The amendments are a clear statement that that is not a credible argument and that such behaviour will not be tolerated in any shape or form.

4.45 pm

I also welcome amendment No 12, with the new clause that it would add to provide for an offence of sending an unwanted image. The key changes from what the Committee originally explored are crucial, moving beyond simply coercing a person to look at such an image and adding the provision for recklessness in causing humiliation, distress or alarm where the purpose is to obtain sexual gratification. Similar to the amendments to the upskirting and downblousing offences, that, rightly, captures the impact on the victim.

The deliberate wording in proposed article 72A(6) to the Sexual Offences (Northern Ireland) Order 2008 to cover deepfakes is also significant. They are a growing problem, and we must examine it and tackle it head-on. The Committee should be commended for its efforts in getting this new offence into the Bill and for the collaborative working with the Department that was key to that. It shows what can be done when there is a will and we work together constructively to develop innovative legislation.

I welcome those changes. For the record, they will be the subject of guidance, given that the amendment that was made at Consideration Stage applies to them. That will be important when it comes to the commencement and the

roll-out of the new offences, their investigation and their prosecution.

On amendment Nos 14 to 18 and issues of abuse of trust, again, I do not intend to go over what has been said at Second Stage, Consideration Stage or, indeed, Committee Stage, but I will highlight some of the key issues that have led us to this point. While I understand why, I put on record disappointment that the Committee will not move the amendments. The amendment at Consideration Stage that included a regulation-making power that would allow the Department to capture other settings and activities in future is, in essence, about exactly that: a power to determine the scope of the abuse of trust provisions in the Sexual Offences Order.

During the debate several weeks ago and throughout the Committee's deliberations, the rationale for limiting the scope of those provisions to sport and religious settings was constantly repeated by the Minister and the Department. It was based on the available evidence. I will explore that argument further. It is important to compare what we have in law and what is being proposed with what is in place elsewhere. Why is it that abuse of trust provisions in the laws of other jurisdictions such as Jersey cover an extensive range of positions of trust but our provisions will not?

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: The reason is that the laws in Jersey apply only where an adult who is paid to supervise a young person is in one-to-one contact with them. Our law allows for that to cover group settings too, and that is the difference. In expanding the abuse of trust provision to cover any adult — anybody over 18 — who works alongside anyone under 18 — a 17- or 16-year-old — it becomes much more intrusive on people's article 8 rights than the provision in Jersey, which applies only where someone works directly and exclusively with that person on a one-to-one basis.

Miss Woods: I thank the Minister for the clarification of the differences in where the laws are coming from, but it is about the expansion of the conditions for abuse of trust to cover other situations. My point is that we have sport and religion here, but, in other jurisdictions, other areas are considered.

Mrs Long: Only in one-to-one situations.

Mr Deputy Speaker (Mr Beggs): Order. All comments should come through the Chair, please.

Miss Woods: In the Sexual Offences (Jersey) Law 2018, Part 6 defines people in positions of trust according to five conditions, which are laid out in article 19. One: an adult who looks after a child in a children's home, a school, a nursing home, hospital or any other institution in which a child may be detained. That is covered by our current law. Two: an adult who looks after a child on an individual basis. I appreciate the Minister's comments.

However, in Jersey, that covers:

> *"education or training ... coaching, motivating, guiding or training the child for a sport, hobby, career, or competitive event"*

in pursuance of requirements imposed by the courts or in exercise of functions conferred by a legal order. Three: the adult "regularly has unsupervised contact" with the child in the exercise of various statutory duties. Granted, that is already covered. Four: the adult is an officer with responsibilities delegated to them by ministerial powers and functions conferred by various laws. Five: the adult is appointed as the legal guardian of the child or the child's "tuteur", a person who is responsible for the administration of property.

The Jersey law goes on, in section 20, to guide interpretation of those conditions. It says:

> *" For the purpose of Article 19, an adult –*
>
> *(a) looks after children if the adult is regularly involved in caring for, teaching, training, supervising or being in sole charge"*

or — this is paragraph (b),not an additional subsection —

> *"(b) looks after a child on an individual basis".*

I draw the Assembly's attention back to condition two. Does this jurisdiction have a broader base of evidence to suggest that this form of abuse happens beyond simply statutory, sport and religious settings? In Jersey, this is covered in condition two:

> *"as a person engaged, on a professional or voluntary basis and not as a family member, in coaching, motivating, guiding or training the child for a sport, hobby, career, or competitive event".*

Are we to believe that a position of trust in Jersey, in the scenarios that I outlined, is different from one in Northern Ireland, notwithstanding the different drafting and wording of the scenarios in amendment Nos 14 to 18 on the Marshalled List?

The second point is that we were told that evidence of abuse would not necessarily be required for changes to the scope of the provisions and that evidence of risk would be sufficient. Again, that begs a fundamental question: in those jurisdictions where there is an option for a broader definition of the position of trust in those scenarios, have they encountered evidence of risk that we have not? Is the risk in this place lower than in other jurisdictions? The settings and activities captured in the Committee's amendments are there because they pose a considerable risk.

The evidence of risk is there for me, and I have direct knowledge of a case of an abuse of trust in relation to a uniformed youth organisation. It would have been captured in the Committee's amendment Nos 15 and 16 but not by the Bill as it stands, as the loophole would remain. Fundamentally, what is the difference between a scout leader and a sports coach when it comes to evidence of risk? Is there a scenario where a one-to-one session with a music teacher is less risky than with a religious leader? What is the difference between the article 8 rights that are causing the issue with widening the scope? Why do they not apply to religious or sports settings? Are the same rights not potentially engaged? How are they different?

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: The Jersey jurisdiction was incredibly careful to ensure proportionality in the amendments that expanded the issue of abuse of trust into other sectors. Therefore, it covers only where someone has one-to-one contact with a young person in isolation. That was to offset the potential damage to the article 8 rights of a young person aged 16 or 17 to form a relationship.

The Committee's amendments were widely scoped, with the result that an 18-year-old tutoring their girlfriend in the same class at school could be deemed to have had an abuse of trust relationship because they were providing tuition. That is how widely drawn the amendments were. That rows back on the age of consent for young people. That is not my opinion: the Attorney General intervened in the process to make it clear that what was proposed by the Committee was beyond the competence of the House. While Members may agree that there are issues that need to be addressed, this is not about the Department trying to hold back progress. For that very reason, no other jurisdiction has expanded into non-statutory settings other than where that expansion has been restricted to one-to-one contact. We are far from being out of step with other jurisdictions. We are not ignoring risk. We are simply saying that it is a balance of rights and the right of the young person to form a relationship has to be considered.

Miss Woods: I thank the Minister for her intervention. The point that I will continue to come back to is that an abuse of trust is still happening. This is not about increasing the age of consent in any way. This is child sexual exploitation, and that position of trust is still there. I am more than happy to debate the matter and to look in much more detail at the group setting versus the individual. A one-to-one relationship is going on in both those scenarios, so I do not know that argument. For me, it does not stack up. There is still a one-to-one relationship between the person in the position of trust and the child. That is where I am coming from.

I do not want to raise the age of consent by stealth. I do not in any way want to make 18 the age of consent, and I have said that throughout the discussions on the Bill. I do not want to legislate against children's rights; indeed, we need fuller implementation of the United Nations Convention on the Rights of the Child (UNCRC), not less.

I, like other Committee members, want to protect young people from abuse and to close those loopholes. I do not want to see young people without protection because of arbitrary distinctions concerning the type of activity or setting. I do not accept that the amendments will criminalise healthy relationships between young people, and I do not accept that they could be challenged under article 8 any more than the clause that is in the Bill could be challenged under article 8. We are talking about child sexual exploitation, and, as I said, all the factors surrounding the offence still apply: investigation; evidence gathering; prosecution tests; and so on. Those are matters that I raised at Consideration Stage. The criminal investigation process, which means the prosecution, the information and the evidence, means that the case would still be required to happen.

I fully support the review mechanism, and all those issues should of course be kept under constant review. I welcome the Committee considering my request on the matter favourably, which was previously raised by the children's sector. My view is that the evidence of risk is there and that we need to close those loopholes. I accept that amendment Nos 19 and 20 have pros and cons from the Department's perspective, but the most important thing is that the work is done comprehensively and expeditiously. That is why I will support the Committee's amendment.

Mr Deputy Speaker (Mr Beggs): I invite the Minister of Justice, Naomi Long, to respond to the debate on the group 1 amendments.

Mrs Long: I will speak in support of the Committee amendments to provide for the addition of a recklessness element in clause 1 and to provide for a new offence of cyber-flashing. I will also speak in favour of my amendments to clause 11 to ensure that the "Anonymity of suspects" provisions operate as intended and in favour of the technical amendments that I tabled to correct some small drafting issues with clause 18, which the Committee brought forward at Consideration Stage and which relates to guidance about Part 1 of the Bill. I will then address the Committee's amendments to the "Abuse of position of trust" provisions in clause 3, which would extend the scope of the categories and introduce a review mechanism. As the Chair of the Committee mentioned, there have been significant developments in that area since the amendments were tabled, so I am grateful to Committee members for considering and acting on engagement by the Attorney General and me to reach a suitable position that avoids anything that would take the Bill beyond the competence of the House while addressing the Committee's fundamental concerns.

Amendment Nos 1 to 11 relate to changes to strengthen clause 1. As I said at Consideration Stage, I very much welcome the Committee's decision not to proceed with its initial amendment to the upskirting and downblousing provisions and to work with my officials to develop the current provisions. Upskirting and downblousing are abhorrent and intrusive behaviours. Such behaviours can never be labelled "funny". They are never acceptable. They are not banter. Upskirting and downblousing represent a totally unacceptable invasion of privacy. The so-called humour in upskirting depends on it being different from taking pictures of other parts of a person's body, and the humour lies in the potential to cause humiliation, alarm or distress. The so-called joke defence is therefore self-defeating, a fact that is widely understood by prosecutors, juries and the judiciary.

5.00 pm

As Members know, I had grave concerns about the Committee's initial inclusion of a reasonable-person test in the motivation requirements and felt that it would lead to significant over-criminalisation. I set out my concerns in detail at Consideration Stage and will not revisit them now, but I thank the Committee Chair and members for listening to my concerns and agreeing to work with my officials to find a way of restructuring the offences that is mutually acceptable and effective.

I very much understand and appreciate the Committee's wish to see legislation that is as robust as possible and captures a full range of offending behaviour. My concern has primarily been that any amendments should not inappropriately criminalise those who are foolish or naive and act without thinking through the consequences of their actions. My officials have worked closely with the Committee, legal advisers and the Office of the Legislative Counsel to develop a amendment that meets both the Committee's concerns and mine. The amendment that was tabled and moved by the Committee Chair, which now includes a stand-alone recklessness provision alongside the unchanged motivation requirements, achieves that. I am satisfied that the recast offence will capture all the intrusive and abhorrent behaviours that it should whilst safeguarding against over-criminalisation. I am, therefore, happy to support those amendments.

I also support amendment No 12, which provides for a new offence of cyber-flashing. I congratulate the Committee on tabling that important amendment to create the new offence of cyber-flashing and securing our full support for that. Unfortunately, cyber-flashing seems to have become an increasingly prevalent form of behaviour, where the victim is the recipient of unsolicited images of sexual activity or genitalia. As with other forms of intimate image abuse, even though the victim is not the subject of the image, that abhorrent behaviour can make victims feel humiliated, violated, frightened and upset. The Committee intended to move a variant of that amendment at Consideration Stage. Again, I must thank Committee members for pausing their amendment at that time and agreeing to work with my officials to redraft the offence to tighten it.

The amendment now includes a recklessness element in the offence, but, in this case, recklessness will be criminalised only where it is combined with a sexual gratification motivation, recognising the sexualised nature of the offence. Recklessness is not a stand-alone provision, as is proposed in the clause 1 amendment, reflecting the legal advice that that would make the scope of the offence too wide and result in over-criminalisation. That is in line with the thinking of the Law Commission in England and Wales, which, after considerable consultation and consideration, recommended a similarly structured recklessness element to that which is proposed in the Committee amendment. The Law Commission considered such an approach to be important in helping to avoid over-criminalisation in such instances where, for example, someone sent a message, uncertain of whether there was consent, but where they genuinely believed that no harm would result. An example would be if someone was in a relationship with the person to whom they sent the image, or where, through lack of maturity, they were unaware of such a risk. I am satisfied that the proposed amendment avoids over-criminalisation and provides for an effective offence to deal with this abhorrent behaviour. I am, therefore, happy to support amendment No 12, related amendment No 13 and connected amendment Nos 42 to 47, which make associated adjustments to schedule 1.

I now want to move on to the amendments that are tabled in my name. I will deal first with amendment No 21 and associated amendment No 22. Amendment No 21 proposes the addition of two offences to clause 11(1), which lists sexual offences for the purposes of clause 10. Clause 10 provides for the anonymity of the suspect in sexual offence cases. The amendment addresses some concerns that were raised by the Public Prosecution Service in its response to the Committee's call for evidence as part of its scrutiny of the Bill. The PPS response highlighted that some repealed offences, which could still be used to prosecute offenders for offending before the date of repeal, might not be caught in the provisions of clause 11(1). That would mean that the suspect in a case where such a repealed offence applied would not be granted anonymity. Following consultation with legal advisers to identify those relevant offences, the amendment proposes the insertion of the following offences into clause 11(1):

> *"section 2 of the Attempted Rape, etc., Act (Northern Ireland) 1960 (assault with intent to commit rape)",*

and

> *"section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust)".*

For clarity, I should explain that the section 3 offence of the abuse of position of trust in the 2000 Act applied in Northern Ireland prior to the introduction of the Northern Ireland specific abuse of trust offences in the Sexual Offences (Northern Ireland) Order 2008 but would still potentially be applied in historical cases.

The amendment also proposes a minor amendment to clause 11(1)(k) to clarify that the common law offence of rape and all statutory offences listed in part 2 of schedule 2 to the Criminal Justice (Northern Ireland) Order 2008 are within the scope of clause 10. The amendment will ensure that the anonymity provisions operate as intended and that all suspects in sexual offence cases are able to have their anonymity protected up to the point of charge. The amendment does not change the policy intent or the operational outcomes of clause 11 but ensures that the clause operates as intended. I encourage Members to support amendment Nos 21 and 22.

The next eight amendments, amendment Nos 23 to 30, are all technical amendments to address some small drafting issues with aspects of clause 18 relating to guidance on Part 1. There is not a huge amount to say about that — I am sure that you will be glad to hear that, Mr Deputy Speaker — other than to reassure Members that they are solely intended to ensure that clause 18, which the Committee took forward for inclusion in the Bill at Consideration Stage, operates as the Committee intended. The Committee has indicated that it is content with the provisions. I, therefore, encourage Members to support them.

I will now speak to what were the proposed amendments to clause 3 on abuse of positions of trust. As Members will be aware, clause 3 already extends the current abuse of positions of trust offences to capture those responsible for young people in the areas of sport and religion. The Committee had tabled amendments to extend the scope of provisions to capture two further areas — tuition and general youth activities — and to provide for a statutory review mechanism requiring my Department to carry out a review on a recurring annual basis with no end date, with a view to adding to current categories.

I was concerned that the Committee's amendments, which would greatly extend the

scope of the current clause 3 provision, were not supported by solid evidence, and that key stakeholders and those directly affected had not been consulted. Miss Woods raised the issue of the difference between ourselves and Jersey. That is a key difference as there was not that evidence base and consultation and engagement with those sectors had simply not been undertaken. The proposals appear to have been based on a narrow view that abuse of trust could happen, rather than being supported by clear and robust evidence that there was a genuine risk of it happening. That risks creating bad law and an array of unintended consequences.

In compliance with human rights law, it is important that, at all times, we maintain a proportionate balance between protecting our young people in vulnerable situations whilst respecting that they are young adults who have a right to engage in legal consensual activity in a relationship from the age of 16. Framing the provisions of trust too widely risks over-criminalising young people who could, without any malign or criminal intent in entering a relationship, find themselves guilty of breaking the law. The amendments would have substantially widened the scope of the abuse of trust and, in effect, would have raised the age of sexual consent by stealth even though Members were clear that that was not their intent.

Miss Woods: I thank the Minister for giving way. Will the Minister outline how her Department is assessing risk in those situations?

Mrs Long: By engaging with the sectors and talking to them about their experiences in those areas, by engaging with the children's sector and talking to them about the level of risk, by looking to the abuse of trust provisions that are already there and where the gaps lie, and by engaging with other jurisdictions in their horizon-scanning exercises. We are doing it in a thorough way, but we cannot impose it on, for example, uniformed organisations without having had any engagement with those organisations on the issues in the run-up to doing so.

Take, for example, a patrol leader or team leader of a uniformed organisation who has no real, meaningful authority over the young people in their care but who may be 18 as opposed to 16 or 17, which some of the troop may be. Is a relationship between two young people in that uniformed organisation something that we wish to criminalise simply because one of those young people has two stripes on their uniform instead of one? We need to be seriously aware of the impact that that could have in criminalising normal teenage activity between consenting people who have the right to consent to sexual activity.

Mr Storey: I thank the Minister for giving way. She talks about engaging with the sector. We heard from the Northern Ireland Commissioner for Children and Young People, the NSPCC and Barnardo's, all of which have a considerable degree of expertise — probably more than we have — in the field. They said that there are gaps, and it is fair to say that they remain to be convinced that the abuse of trust provisions, as currently drafted, are expansive enough to provide for the protection of all children and young people. Given that level of concern, should the Minister not be equally concerned about the issue?

Mrs Long: I have never said that I am not concerned about it, and that is why I have committed to the Department's undertaking a review. The issue here, however, is about proportionality in order that we do not breach article 8. Those who are more knowledgeable on the law than I am, with whom you have already had this conversation, are very clear that the Department's stance is correct, in that we would potentially be exceeding the authority of the House to be able to do so.

Miss Woods: I thank the Minister for giving way. I raised this point earlier at Committee. The advice that we were given today by the Attorney General was based on the drafting of the amendments, not the actual contents.

Mrs Long: That is precisely the point: work has not been done with the sector to draft suitably proportionate amendments. Instead, wide-ranging amendments were tabled. That is the precise point.

In Jersey, for example, they have gone beyond the statutory sector and also included things like tuition, but they restricted it to one-to-one tuition, so an abuse of trust provision is required only where a person is alone with a 16- or 17-year-old. That is the exact point: if we do not do the due diligence and we bring forward well-intentioned amendments, we could put the scope of the Bill beyond the House's legislative ability. That, in itself, should be a warning not just to the Justice Committee, which has done a good job in its scrutiny, but to all Committees that we need to be cautious about tabling amendments, however well intentioned, unless full legal rigour has been applied to their unintended consequences.

Mr Storey: Will the Minister give way?

Mrs Long: Yes.

Mr Storey: Other Committee members can speak more definitively on this, but, during the passage of the Domestic Abuse and Civil Proceedings Bill, there was a discussion with the previous Attorney General, who raised concerns about the introduction of that legislation. Amendments were made, the Bill became law and those fears have not been realised. There has been an attempt in the House today to say that, somehow, because the Attorney General, whose office we respect and whom we respect, has expressed a view, we cannot have a different view in the House on the legal advice that comes before Committees.

Mrs Long: With respect, the Committee does not receive legal advice unless it goes and seeks it out. That is a lacuna in the development of legislation that Mr Storey and I have discovered through trial and error in this process. It is my understanding, from having engaged with the Attorney General, that the Speaker's Office does not rule on the competence of amendments, including Committee amendments, that are tabled to Bills in the House. Committees have therefore presumed that, if something is on the Marshalled List, it is fit for purpose and within the competence of the House and have not specifically sought the Attorney General's view on the matter as a matter of routine; whereas those of us who have to go through the Executive process get that review as a matter of routine. These are not matters that are critical of the Committee in any sense.

Rather, this is about due process. The issue is something that perhaps needs to be referred to elsewhere to be dealt with. It has been highlighted by this Bill, but it is not this Bill that will deal with it.

5.15 pm

I will move on. My concern was that the amendments could well attract legal challenge, based on the rights of an individual to a private and family life under article 8 of the ECHR. The amendments could be successful and take the Bill beyond the legislative competence of the House. I will be clear about the consequences. If we were to proceed with the wide-ranging amendments, the Bill could not be referred for Royal Assent. The Attorney General would first have to refer the Bill to the Supreme Court for it to make a judgement on the article 8 issue, and it could strike down any part or all parts of the Bill. The risk is that we could, at best, delay the entire Bill's coming into law or, worse, derail certain sections of it.

(Mr Deputy Speaker [Mr McGlone] in the Chair)

As we make legislation, it is incredibly important that we listen to those who are legally qualified and have experience of legal drafting and legislative interpretation, which is in itself a skill, and that we take account of the advice that they give us. It is not only about evidence. It is also a test of proportionality and scope. Those are therefore important issues. I am very grateful to the Committee that, following that advice, it will not move amendment Nos 14 to 18, which cover tuition and youth activities.

I understand what the Chair said about the issues not being raised early enough, but the issues emerged only when we saw the final draft. We knew that the Committee was intent on tabling amendments on the abuse of trust, but we could judge their scale and scope only once we saw the text of them. Miss Woods is quite correct that, had they been much more tightly drafted, the amendments might not have interfered with article 8 rights, but the amendments as drafted do. It is what the amendments as drafted would do in law, not the principles behind them or their intent, that we are voting on here today.

This is not a Back-Bench motion. This is going to create law that could see people go to court, end up on the sex offenders' register and face other quite serious consequences. We therefore have to be absolutely sure of our footing as we go forward. It is also the case that it is the responsibility of those who table amendments to check their competence, and that includes checking Committee amendments. It would appear that now the only way in which to do that is for Committee Chairs to refer their amendments directly to the Attorney General for advice.

We have raised the tabling and other issues at every stage. I hope that the Chair of the Committee will agree that, at every stage, we have sought to raise our concerns at the earliest possible point and to be flexible about providing access to the Departmental Solicitor's Office (DSO) and my officials, as well as for me to come along and speak to the Committee. The Department is not here to try to restrict the Committee in bringing forward issues that address its concerns. That is not my intent. My intent is to get a Bill that does what it intends to

do and that the Committee can be proud of at the end of the process.

In recognition of the Committee's genuine concerns about the possibility of an abuse of trust occurring in areas such as tuition and uniformed and, indeed, non-uniformed youth activities, I commit today to my Department's carrying out an urgent review of those sectors to determine whether there is evidence of a risk of harm that would warrant a legislative intervention. That review will give us some protection when it comes to article 8, because it will allow us to demonstrate that we have acted in a proportionate and evidence-based manner. Should the urgent review identify evidence of risk of harm in those areas, my officials will act swiftly to bring forward a statutory instrument to add categories to the abuse of power provisions in the Sexual Offences (Northern Ireland) Order 2008.

I will also speak briefly about the proposals for the wider review of those provisions. I want to make it clear to Members that this does not in any way impact on the commitment that I have just made to the urgent review. That will go ahead. It will start in this mandate, and we will proceed with that as quickly as is possible. What I am going to say now relates to only a future review or series of reviews, but the issues that the Committee has brought to my attention around youth work and tuition are areas that we will take forward irrespective of the decision with respect to amendment Nos 20 and 19.

The Committee amendment places a statutory requirement on my Department to annually review articles 29A(1) to (2B) of the Sexual Offences (Northern Ireland) Order 2008 so as to inform the Department:

> *"whether the power in Article 29A(4) of that Order should be exercised."*

Article 29A(4) provides a delegated power enabling the abuse of trust provisions of the 2008 Order to be amended by secondary legislation to include new categories beyond those currently provided for at clause 3 of the Bill. I am in favour of a review mechanism being in the Bill, but I have reservations, first of all, at the frequency of the review in the Committee amendment. However, I was content to support the Committee's amendment in this respect and not move my alternative until a number of specific issues emerged when this became a stand-alone provision on the Committee's decision not to move the amendments on abuse of trust. I am extremely grateful to the Committee for raising the issue, but my review commitment is a balanced and proportionate way forward.

Amendment Nos 19 and 20 both seek to establish a review mechanism relating to abuse of trust, but amendment No 20 has significant limitations that frustrate the Committee's good intentions. The Committee amendment places a statutory requirement on my Department to annually review 29A(1) to (2B) of the Sexual Offences (Northern Ireland) Order 2008 to inform the Department whether the power in article 29A(4) of that Order should be exercised. I have explained what article 29A(4) does, so I will not do so again. What it does, however, is simply to put an operational requirement on the Department to conduct a review of those items already allowed for under abuse of trust legislation. It would therefore place a disproportionate burden on departmental resources and, potentially, render further reviews after the first year relatively meaningless, because it would simply be looking at the same provisions year after year after year.

The withdrawal of the Committee's amendments to extend the scope of the abuse of position of trust to tuition and youth activities also means that the Committee's review amendment cannot be fully effective, because it originally referenced a review of articles 29A(1) to (2B) of the Order. As the Committee has not moved its tuition and youth activities amendments, a new article 29A(2B) is not created, so the Committee's review mechanism would point in one part to a legislative reference that does not exist. It would therefore only require a review of article 29A(1), which relates to areas of sport and religion, which are already in the legislation, and would miss the areas of concern that members have sought to see covered.

My alternative, amendment No 19, reinforces my commitment to review the entire landscape, but in a measured and proportionate way. I know that the Committee was seeking a much wider review, and I believe that my amendment No 19, which requires the Department to make a full assessment of the effectiveness of the abuse of trust provision, is far better able to deliver against the Committee's requirements and expectations than the limited review proposed at amendment No 20. It is for this reason and this reason only that I am minded to proceed with that amendment, in the hope that the Committee will be able to support it. However, if it is clear at the point of Division that Committee members are not content to support it, I do not intend to divide the House on the matter. I want to give Committee members

the opportunity, having heard what I had to say about the amendment that I tabled, to reconsider their position, even at this stage.

I stress that that is not to disparage the amendment that was tabled by the Committee or, in any way, to disparage the work done by the Bill Office. However, the Bill Office is not giving the Committee legal interpretative advice. The advice of our legislative interpreters in the OLC and the people whom it commissioned is that what the Committee drafted is now incredibly narrow because of the loss of the second part of the clause. What I proposed is much broader. I am appealing to common sense, so that we can find a way through. I will not force a Division on it, but, when we have a call for voices, I hope that Committee members will consider whether a broader review may be a wiser choice.

I remain absolutely committed to undertaking the urgent review that I mentioned earlier today. However, my amendment has the advantage of ensuring that any future Minister of Justice would be compelled in law to undertake a wider landscaping review. That provides reassurance at this late stage in the mandate that it cannot become a tick-box exercise after this mandate has concluded. To restate: it is entirely additional to the commitment that I gave to carry out an immediate and urgent review of the two sectors that were raised by the Committee.

I call on Members to support amendment No 19. If it falls, I will not oppose amendment No 20. Although it is limited, it does no harm to the Bill and would still allow for a Minister who so wished to carry out a broader review. It would not prevent them from doing so, but its weakness is that it would not require them to do so. That is a weakness in the Committee amendment that is addressed in mine.

With that, I commend the amendments to the Assembly. I hope that we will be able to resolve the issues with amendment Nos 19 and 20, even in the next few minutes. I genuinely believe that the Department and the Committee are not at cross purposes on that matter, but, perhaps, we are not entirely clear about the basis on which our concerns are founded.

Mr Storey: First, I thank all the Members and the Minister for their contributions to the debate on the group 1 amendments. I do not want to take up much more time. Therefore, I will make some general remarks rather than respond to everyone's contributions. However, that does not mean that they were any less appreciated in the House.

I am particularly pleased at the support across the House for the amendments to clause 1 and those that provide for a new offence of cyber-flashing. The Committee proposed those amendments with the support and assistance of the OLC, and I again place on record the Committee's appreciation of the OLC. The amendments aim to strengthen the legislation and to ensure, as far as possible, the protection of victims from that type of degrading and offensive behaviour. It is another example of us being able to reach an outcome when we work collaboratively. Sometimes, I am concerned that some Members express a dismissive attitude to amendments that are tabled by other Members. The House is a place where we can debate amendments and make our arguments and points rather than, as can be the case, being dismissive.

I turn to the amendments to clause 3, which relate to the abuse of trust provision. As previously outlined, the Committee will not move amendment Nos 14 to 18. I note the comments and views of the Minister on the Committee's amendment No 20. The Committee is satisfied that there is already provision in article 29A(4) of the 2008 Order:

> *"to add or remove an activity in which a person may be coached, taught, trained, supervised or instructed."*

In its evidence, the Department clearly indicated that that is the provision that gives it the elasticity to add other categories at a further point, as needed.

The importance of article 29A(4) has sometimes been missed during the debate on the review, because:

> *"The Department may by regulations amend paragraphs (1) and (2) so as to add or remove an activity in which a person may be coached, taught, trained, supervised or instructed."*

5.30 pm

Mrs Long: Will the Chair give way?

Mr Storey: Yes, I will give way just for a moment.

Mrs Long: I do not wish to over-labour the point. That is not my primary concern. My primary concern is that all we have to review, based on your amendment, is what is in the Bill. A Minister who chose to save time and energy in the Department by doing only that would be

able to do so. With my amendment, that Minister would not; they would have to take that wider review within two years.

Mr Storey: I thank the Minister. Amendment No 20 is drafted with a view to informing the power of article 29A(4), so it would be a very narrow reading that would find the provisions for sport and religion fall short of its intended effect as a result of the actions mandated by an amendment and not trigger the power in 29A(4) to add or remove an activity as a result. The amendment provides for an annual review to inform whether the power in article 29A(4) is exercised, and the amendment in no way prevents the Department from reviewing tuition and youth activities. It can review anything at any time. The issue is the regular annual reviews.

I appreciate the Deputy Chair's comments on amendment No 20, and I also note the accusation that is levelled at the Committee that while amendment Nos 14 to 18 are too wide, amendment No 20 is too constraining. We need to have an acceptance, and I think that the Minister now accepts that, ultimately, the House will determine whether it will choose amendment No 19 or amendment No 20. I accept that the Minister has maybe decided that, if amendment No 19 is made, she will not divide the House on amendment No 20. There is clearly an intent.

There is another issue. Given the concerns — I thank the Minister for taking an intervention on this — that were raised by the Children's Commissioner, the NSPCC and Barnardo's, which have campaigned tirelessly for the scope of abuse of trust to be widened, and the limited approach adopted by the Department in including only some activities in sporting and religious settings in the Bill, the regular review is crucial.

Something else needs to be said. I listened to what the Minister said about engaging with the other organisations that do not fall within the scope of the Bill. What happens if something takes place in those settings and we then discover, when we come back to look at this issue and there is a forensic examination of it, that we had the ability to do more on the basis of information provided to us by the NSPCC, the Children's Commissioner and Barnardo's? The public would seriously question the competency of the Assembly, not whether or not the provision was article 8 compliant or whether or not we had sought legal advice. This can sound like a very legislative, academic and procedural process, but we are talking about potential abuse of trust in those settings. One Committee member outlined in Committee and on the Floor where that has already taken place, so we need an assurance that we have covered every possible avenue and taken every possible opportunity not to make bad law but to improve on the current law.

Mr Frew: I thank the Member for giving way. I have listened to the debate with great interest. This is not the first time that the interface between us as legislators and the legal profession — the courts — has caused friction. Again, I simply plead that we are here as legislators, and we should be allowed to do that job without having one hand tied behind our back. There should be balance but there should also be the measuring of risk whereby amendments should go forward. I do not know that that balance has been struck.

Mr Storey: I thank the Member —

Mrs Long: Will the Chair give way on that specific point?

Mr Storey: I will give way, yes.

Mrs Long: The Chair has been very gracious in giving way —

Mr Storey: I am a very gracious individual.

Mrs Long: — and I am always very pleased that he is so.

The purpose here is to remember what the competence of the Assembly is. The Assembly has no competence when it comes to making law that impacts on human rights. Human rights are not a devolved matter, and that is where the problem lies. We would be changing human rights legislation that we have no permission to alter, and that is the risk.

I entirely agree with the Committee Chair that these are serious issues. However, process, procedure, scrutiny and all of those things need to take precedence over emotive issues, because we are creating law. This is not just a debate about the rights and wrongs of the abuse of trust: if it were, there would not be even a paper-thin division between any of us. This is about creating law that must be robust, enforceable and meaningful if we are to protect the very vulnerable young people whom the Committee is concerned about. I make it absolutely clear that my commitment to the urgent review of tuition and youth organisations is not subject to amendment Nos 19 or 20. I am making that commitment irrespective of those amendments. You do not need to vote for

amendment No 20 to ensure that that happens. You have my commitment that that will happen, and it will start in this mandate.

Mr Storey: I thank the Minister for that intervention and for her recognition that I am a gracious individual, although I have to say that there are times when the Minister pushes the limits of my graciousness.

Mrs Long: I try my best. *[Laughter.]*

Mr Storey: Earlier, the Minister made a comment about the competence of the Committee in its operations. It is not a matter for the Committee but for the courts to determine. We are tasked to make the best legislation possible, and Members are not to be, in a sense, constrained into second-guessing the law. I think that we adopt a respectful view of the work of our law officers and of the separation of powers. We also have to keep that in mind when we come to any of these issues.

Despite the arguments that have been made, it is still our intention to hold with amendment No 20, as I am mandated to do by the Committee. It is still the view of the Committee that amendment No 20 gives us the outcome that we desire. It also gives the Department the power that is to be exercised in relation to article 29A(4) of the 2008 Order, and the House will make its decision on that.

In conclusion, I wish to place on record my thanks to the Deputy Chair of the Committee for Justice and the Committee members, who have worked very hard in the short time between Consideration Stage and Further Consideration Stage, including holding an additional meeting this morning to ensure that we reached an agreed position with the Minister on the amendments to clause 1, to provide for an offence of cyber-flashing that reflects her and the Committee's concerns and to come to as proportionate a position as possible on the abuse of trust amendments. I have outlined the reasons for the need for amendment No 20 — it is needed in light of no further widening of the scope of the abuse of trust provisions — and I commend it to the Assembly.

I also wish to place on record my appreciation to the staff of the Bill Office and the staff of the Justice Committee. Without their labours, we would not be able to perform here this afternoon. We appreciate all the time and effort that they put into ensuring that we are able to do our work.

Amendment agreed to.

Amendment No 2 made:

In page 1, leave out from line 19 to end of line 2 on page 2 and insert—

"(c) either condition 1 or condition 2 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 3 made:

In page 2, line 2, at end insert—

"(1A) Condition 1 is that—

(a) A operates the equipment with the intention of enabling the observation for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(1B) Condition 2 is that—

(a) A operates the equipment with the intention of enabling the observation—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and

(c) B is humiliated, alarmed or distressed."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 4 made:

In page 2, leave out lines 11 to 15 and insert—

"(c) either condition 3 or condition 4 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 5 made:

In page 2, leave out lines 16 to 18 and insert—

"(3) Condition 3 is that—

(a) A records the image with the intention that A or another person (C) will look at it for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(3A) Condition 4 is that—

(a) A records the image with the intention that A or another person will look at it,

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and (d) B is humiliated, alarmed or distressed.

(3B) Paragraph (3C) applies where—

(a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and

(b) A operates the equipment, or records the image, for a different or additional purpose.

(3C) Where this paragraph applies, then for the purposes of paragraph (1B)(a) or paragraph (3A)(b) (as the case may be)—

(a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and

(b) A is to be taken as having had a reasonable belief as to B's consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose".— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 6 made:

In page 2, line 29, leave out "for a purpose mentioned in paragraph (3),".*— [Mr Storey (The Chairperson of the Committee for Justice).]*

Amendment No 7 made:

In page 2, leave out lines 34 to 36 and insert—

"(c) either condition 1 or condition 2 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 8 made:

In page 2, line 36, at end insert—

"(1A) Condition 1 is that—

(a) A operates the equipment with the intention of enabling the observation for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(1B) Condition 2 is that—

(a) A operates the equipment with the intention of enabling the observation—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and (c) B is humiliated, alarmed or distressed."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 9 made:

In page 3, leave out lines 4 to 8 and insert—

"(c) either condition 3 or condition 4 is met."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 10 made:

In page 3, leave out lines 9 to 11 and insert—

"(3) Condition 3 is that—

(a) A records the image with the intention that A or another person (C) will look at it for the purpose of—

(i) obtaining sexual gratification (whether for A or C), or

(ii) humiliating, alarming or distressing B, and

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents.

(3A) Condition 4 is that—

(a) A records the image with the intention that A or another person will look at it,

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents,

(c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and (d) B is humiliated, alarmed or distressed.

(3B) Paragraph (3C) applies where—

(a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and

(b) A operates the equipment, or records the image, for a different or additional purpose.

(3C) Where this paragraph applies, then for the purposes of paragraph (1B)(a) or paragraph (3A)(b) (as the case may be)—

(a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and

(b) A is to be taken as having had a reasonable belief as to B's consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 11 made:

In page 3, line 22, leave out subsection (4).— *[Mr Storey (The Chairperson of the Committee for Justice).]*

New Clause

Amendment No 12 made:

After clause 1 insert—

*"**Sending etc an unwanted sexual image***

***1A.**—(1) After Article 72 of the Sexual Offences (Northern Ireland) Order 2008 insert—*

'Sending etc an unwanted sexual image

72A.— (1) A person (A) commits an offence if—

(a) A intentionally sends or gives to another person (B) a sexual image,

(b) A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents, and

(c) either condition 1 or condition 2 is met.

(2) Condition 1 is that A intends that B will look at the image and that doing so will cause humiliation, distress or alarm to B.

(3) Condition 2 is that—

(a) A's purpose in sending or giving the image is to obtain sexual gratification, and

(b) A is reckless as to whether B is humiliated, distress or alarmed.

(4) For the purposes of this Article, a sexual image is a photograph or film of—

(a) any person engaging in a sexual activity, or

(b) any person's genitals.

(5) In paragraph (4)—

'photograph' includes the negative as well as the positive version;

'film' means a moving image.

(6) References to a photograph or film also include—

(a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,

(b) a copy of a photograph, film or image within sub-paragraph (a), and

(c) data stored by any means which is capable of conversion into a photograph, film or image within sub-paragraph (a).

(7) References to sending or giving such a photograph or film to another person include, in particular—

(a) sending it to another person by any means, electronically or otherwise,

(b) showing it to another person, and

(c) placing it for a particular person to find.

(8) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.'"— [Mr Storey (The Chairperson of the Committee for Justice).]

5.45 pm

New Clause

Amendment No 13 made:

After clause 1 insert—

"Amendments consequential on sections 1 and 1A

1B.—(1) Schedule 1 contains amendments consequential on the insertions made by sections 1(2) and 1A".— [Mr Storey (The Chairperson of the Committee for Justice).]

Clause 3 (Abuse of position of trust: relevant positions)

Amendment Nos 14 and 15 not moved.

Mr Deputy Speaker (Mr McGlone): I will not call amendment Nos 16, 17 or 18 as they are consequential to amendment Nos 14 and 15, neither of which have been made.

Amendment No 19 proposed:

In page 6, line 39, at end insert—

"(6) The Department of Justice must, within the period of 2 years beginning with the day of the coming into operation of this section—

(a) carry out an assessment of the effectiveness of Article 29A(1) to (3) of the Sexual Offences (Northern Ireland) Order 2008 since that day, and

(b) determine whether the power in Article 29A(4) of that Order should be exercised in light of the assessment."— [Mrs Long (The Minister of Justice).]

Question put, That the amendment be made.

Some Members: Aye.

Some Members: No.

Mr Deputy Speaker (Mr McGlone): Again. Call it again here. All those in favour say Aye.

Some Members: Aye.

Mr Deputy Speaker (Mr McGlone): Contrary, No?

Some Members: No.

Mr Deputy Speaker (Mr McGlone): I note —. I note the party has opposed the Question; sorry, has been in favour of the Question here and that the majority do have it. So I do believe that that amendment has *[Inaudible]* made it.

Ms Bradshaw: On a point of order, Mr Deputy Speaker. Just we would like it properly recorded that the Alliance Party is —. Our vote on that. Sorry. Thank you.

Mr Deputy Speaker (Mr McGlone): Yes. That is what I was trying to indicate there. So we will have that recorded that the Alliance Party, please, just how they have voted.

Mr Allister: On a point of order, Mr Deputy Speaker. I also shouted for the amendment.

Mr Deputy Speaker (Mr McGlone): Yes, and you wish to be recorded, too. Is that what you are saying?

Mr Allister: I do. I think that it is a more sensible time period.

Mr Deputy Speaker (Mr McGlone): OK.

Amendment No 19 negatived.

Amendment No 20 made:

In page 6, line 39, at end insert—

"(6) The Department must annually review Article 29A(1) to (2B) of the Sexual Offences (Northern Ireland) Order 2008 so as to inform the Department on whether the power in Article 29A(4) of that Order should be exercised."— [Mr Storey (The Chairperson of the Committee for Justice).]

Clause 11 (Meaning of sexual offence in section 10)

Amendment No 21 made:

In page 14, line 15, at end insert—

"(aa) an offence under section 2 of the Attempted Rape, etc., Act (Northern Ireland) 1960 (assault with intent to commit rape);

(ab) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust);".— [Mrs Long (The Minister of Justice).]

Amendment No 22 made:

In page 14, line 32, leave out from "under" to "listed" on line 33 and insert "specified".— *[Mrs Long (The Minister of Justice).]*

Clause 18 (Guidance about this Part)

Amendment No 23 made:

In page 23, line 39, leave out from "other" to end of line 40 and insert—

"associated matters as the Department considers appropriate as to criminal law or procedure."— [Mrs Long (The Minister of Justice).]

Amendment No 24 made:

In page 23, line 41, leave out subsections (2) and (3).— *[Mrs Long (The Minister of Justice).]*

Amendment No 25 made:

In page 24, line 9, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

Amendment No 26 made:

In page 24, line 9, at end insert—

"(4A) Guidance under this section must include such information in suitable form for use in training for staff or personnel working within the criminal justice sector as the Department of Justice considers appropriate."— [Mrs Long (The Minister of Justice).]

Amendment No 27 made:

In page 24, line 11, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

Amendment No 28 made:

In page 24, line 12, leave out "Part" and insert "section".— *[Mrs Long (The Minister of Justice).]*

Amendment No 29 made:

In page 24, line 13, at end insert—

"(5A) A review of guidance under this section must take account of such views on the operation of this Part obtained by the Department of Justice from bodies or agencies having functions within the criminal justice sector as the Department considers

appropriate."— [Mrs Long (The Minister of Justice).]

Amendment No 30 made:

In page 24, line 16, leave out "Part" and insert "section".*— [Mrs Long (The Minister of Justice).]*

Clause 19 (Support for victims of trafficking etc)

Mr Deputy Speaker (Mr McGlone): We now come to the second group of amendments for debate. With amendment No 31, it will be convenient to debate amendment Nos 32 to 41. In this group, amendment No 33 is mutually exclusive with amendment No 32. I call the Minister of Justice to move amendment No 31 and to address the other amendments in the group.

Mrs Long: I beg to move amendment No 31:In page 25, line 3, leave out "(or more based on need)" and insert—

", or such longer period as the Department thinks necessary".

The following amendments stood on the Marshalled List:

No 32: In page 25, line 4, leave out from "for" to end of line 5 and insert—

"after 'period' insert 'of up to 12 months, or longer than 12 months,'".— [Mrs Long (The Minister of Justice).]

No 33: In page 25, line 5, at end insert—

"(ca) after subsection (9), insert—

'(9A) The Department may, in exceptional circumstances, extend assistance and support (set out in subsection (9)) beyond 12 months for such period as the Department thinks necessary.'"— [Mr Storey.]

No 34: In page 25, line 12, leave out subsection (4) and insert new clause—

*"**Defence for slavery and trafficking victims***

***(19A)**In section 22 (defence for slavery and trafficking victims in relation to certain offences) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015—*

(a) in subsection (9)(a)(i), after 'of a' insert 'Class A,';

(b) in subsection (9)(a)(ii), after 'of a' insert 'Class A or'."— [Mrs Long (The Minister of Justice).]

No 35: In clause 21, page 25, line 22, leave out from ", within" to "Assent" in line 23.*— [Mrs Long (The Minister of Justice).]*

No 36: In clause 21, page 25, line 25, leave out "from slavery or trafficking" and insert—

"who is, or who appears to be at risk of becoming, a relevant victim".— [Mrs Long (The Minister of Justice).]

No 37: In clause 21, page 25, line 27, leave out "from slavery or trafficking" and insert—

"who is, or who appears to be at risk of becoming, a relevant victim".— [Mrs Long (The Minister of Justice).]

No 38: In clause 21, page 25, line 27, at end insert—

"(1A) A reference in this section to a relevant victim is to be construed is the same way as a reference to a qualifying victim in section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015."— [Mrs Long (The Minister of Justice).]

No 39: In clause 21, page 25, line 29, leave out "are not limited to" and insert "include (but are not limited to)".*— [Mrs Long (The Minister of Justice).]*

No 40: In clause 21, page 25, line 29, at end insert—

"(2A) A draft of regulations under this section must be laid before the Assembly no later than the end of the period of 2 years beginning with the day on which this section comes into operation."— [Mrs Long (The Minister of Justice).]

No 41: In clause 21, page 25, line 30, leave out "The regulations may not be made unless a draft" and insert—

"Regulations under this section may not be made unless a draft of them".— [Mrs Long (The Minister of Justice).]

Mrs Long: Amendment No 31 is one of a small number of amendments that I have tabled to correct some technical issues with aspects of the support for victims of trafficking provisions that the Committee added to Part 2 of the Bill at Consideration Stage. Amendment Nos 31, 32 and 34 to 41 are all amendments to correct aspects of the human trafficking additions to the Bill that the Committee sought.

As with the technical amendments to clause 18 in group 1, there is not really much more to say on the amendments, other than to reassure Members that they are intended only to make the Committee's provisions operate as intended. Therefore, I do not intend to detain the House any longer on those matters. Given that they have the Committee's support, I encourage Members to vote for their inclusion in the Bill.

The only other amendment in the group is amendment No 33, which has been tabled by the DUP members of the Justice Committee. I do not consider that amendment to be necessary, as my amendment No 32 delivers exactly what that amendment seeks to achieve. Amendment No 32 will amend the same section of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (HTEA) to provide that:

> *"the Department may nevertheless ensure that assistance and support continues to be provided to that person under this section for such further period of up to 12 months, or longer than 12 months, as the Department thinks necessary. "*

I will repeat that it is for a:

> *"further period of up to 12 months, or longer than 12 months, as the Department thinks necessary."*

My amendment not only renders the DUP alternative nugatory but is a more open solution in that the provision does not make any reference to exceptionality in order to do so. I therefore oppose amendment No 33 and encourage Members to vote for my amendment No 32 instead.

It is heartening that, despite the fierce debate that we had on the first group of amendments, we managed to agree on pretty much everything when it came to the vote. The time was not wasted, but that exposed that, whilst we have different perspectives, we have a unity of purpose in trying to get a Bill that is fit for purpose and sustainable. I hope that that will also be the case on the second group of amendments. I will draw my remarks to a close, because I realise that the Committee Chair has been incredibly gracious and feels that his graciousness is being tested. I will not detain him any longer than is absolutely necessary.

Mr Storey: Yes, I am a very gracious individual. I will let the Minister judge that in a minute or two, after I have finished.

As Committee Chair, I will address amendment Nos 31, 32, and 34 to 41. As I outlined to the House earlier, the Minister advised the Committee that some technical and minor drafting issues would need to be addressed at Further Consideration Stage. As the Minister has set out, amendment Nos 31, 32 and 34 to 41 tidy up clauses 19 and 21. Having been provided with the text of the amendments by the Department, the Committee is content that they do not change the intention or effect of the clauses.

The Minister will be glad to know that I will not move the DUP amendment No 33, which is in my name and that of my colleagues. That is not because the Alliance Party, in the guise of the Minister of Justice, has made nugatory the DUP; it is the reverse. We tabled our amendment because we felt, after consulting organisations such as Care NI, that the Minister had not adequately addressed the issue in the Bill. She will be glad to know that Care NI supports our view. Given that the Minister has moved to our ground on the matter, we very much appreciate her graciousness. That is probably the first time that that has been said about the Minister of Justice. *[Laughter.]* We have to come back to a sense of reality. We can be jovial about the issues, but the issue of human trafficking is not jovial. It is an issue that has caused grave concern. Sadly, even when we see the awful circumstances that are taking place in Ukraine, there are still those who, despite all that is taking place in that part of the world, are still prepared to be involved in that most heinous of crimes. I am pleased to be part of an Assembly that has already led the way with the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, which was championed by my friend and colleague Lord Morrow. We place on record our thanks to him for all the work that he did on that legislation. I am delighted that the legacy of that legislation is set to continue with the Justice (Sexual Offences and Trafficking Victims) Bill.

Without going into all the issues that we have rehearsed in the House on many occasions, it

is our intention not to move amendment No 33 in my name and those of my colleagues Mr Peter Weir and Mr Robin Newton. The Minister, by tabling amendment No 32, has added to the assistance and help that victims of that vile crime will receive. They will know that Northern Ireland is a place where they will get much-needed support and help. With those brief comments — they were a lot briefer than the first ones — I support the amendments.

Mr Deputy Speaker (Mr McGlone): I call Paula Bradshaw.

Ms Bradshaw: Mr Deputy Speaker, I was not planning to speak on this group. Thank you.

Mr Deputy Speaker (Mr McGlone): We have not been notified of any other Members who wish to speak, so I call the Minister to wind up.

Mrs Long: I certainly do not want to wind anyone up; I will just wind up the debate. I thank the Chair and members of the Committee. We have navigated a complex space at a difficult time. The Committee has been of great assistance to me and the Department in bringing forward things that I, as a Minister, could not do in the absence of an Executive, so I appreciate that flexibility.

I also recognise that, while we are and should be good-humoured in the Chamber when we agree, the issues that we are dealing with are not humorous or funny. They are serious issues. I think that we are all particularly aware at the moment of their impact on those who, for whatever reason, need to flee difficult situations.

We think particularly of Ukraine at this time, but there are many other places across the globe where people face war and destitution and seek refuge in a safe place. It is important that they be able to do that, because the danger is that, if they cannot do that via safe routes, they will fall prey to human traffickers who would exploit them in the most heinous fashion. It is right that, as a society, we should ensure that there are safe routes, but we should also ensure that, when people come here having been trafficked, we support them in starting to rebuild their life and restore their dignity.

The Bill represents the last of five substantive pieces of legislation that I wished to see pass through the House over the past two years. We will have an opportunity — soon, hopefully — at Final Stage to have a wider debate. Their commitment to progressing important and necessary legislation that is in the interests of our entire community reflects well on the Assembly and especially on the Justice Committee, past and present. I particularly thank the Justice Committee, its current and previous Chairs and Deputy Chairs, Committee members and support staff for their continued engagement and commitment throughout this period and for the positive and constructive measure of that. I am also grateful to the Office of the Legislative Counsel for its expertise and support in turning legislative ambitions that I had at the start of the mandate and that the Committee had towards the end of the mandate into sound legislation and to the legal resources in the Departmental Solicitor's Office for their tireless advice and support.

I also acknowledge the efforts of my officials, who went the extra mile in dealing effectively with the many and varied challenges that the pandemic and the shortened mandate have thrown up as we seek to legislate. They also sought ways in which we could ensure that the Committee's ambitions for the Bill were not constrained by the fact that I was unable to table new or novel amendments but that the Committee was able to do so on issues such as cyberstalking and many others. It stands to the determination of the Department of Justice that, irrespective of who the Minister may be, there is a commitment at official level to drive forward the process to protect the most vulnerable.

Last and by no means least, I thank victims' organisations. I also thank victims themselves, who have come forward and discussed the issues with us. The Chairman rightly mentioned those who have been working in particular with people who are vulnerable as a result of human trafficking and as a result of migration and, indeed, migration crime. It is hugely important that their voices be heard and that they be able to feel ownership and agency on the issues that impact so directly on their lives. I am proud of how the Committee and the Department have engaged consistently with victims' groups and organisations, listening carefully to their views. One of the most important lessons in my role as Minister is that, often, listening to the experiences of victims will find us at odds with what our expectations of process might be. It is important that we hear from those who are living the experience in order to know where improvements need to be made, and we must commit to continuing to do that. It is through the combined efforts of all those groups that this last Bill has reached the point at which there is only one final hurdle to clear.

I thank the DUP Members, who will not move their amendment. I will not veer into the political and say whether I negated them or they drew

me on to their territory. It is sufficient to say that, on matters of this importance, the entire House stands united. That might be something that we do not see often in the Assembly and in our politics, but, on issues of this importance and this seriousness, I hope that it gives comfort to those who are vulnerable that, on all sides of the House, we agree that the support needs to be there for those at that most vulnerable point.

On that note, I will finish by thanking all those who contributed to the debate. It was constructive, if short, and I hope that, when we get to the Final Stage, we will —.

Mr Storey: Will the Minister give way?

Mrs Long: I will indeed, your grace.

Mr Storey: This is not my swansong, I assure you. I just seek clarity on that point. We will withdraw our amendment, but will the Minister confirm that the provision of support for confirmed victims of modern slavery under section 18(9) of the HTEA, as amended by amendment No 32, will apply to all victims who receive a positive conclusive grounds decision, in line with the Justice Committee's intentions?

Mrs Long: That is the case, but, as the Member will be aware, it will be based on their need at that time. If someone no longer needs support, we will not direct it to them, but, if they need that support, it will continue. I reassure Members about that.

It is good that we can finish united on a point at this stage, having had such a lively debate earlier. It will also be good to send the strong message to the community that there are times, even in such a divided place as this, when we speak with one voice. It tends to be those times when our voice is raised on behalf of those who do not raise a voice of their own.

Amendment agreed to.

Amendment No 32 made:

In page 25, line 4, leave out from "for" to end of line 5 and insert—

"after 'period' insert 'of up to 12 months, or longer than 12 months,'".— [Mrs Long (The Minister of Justice).]

Mr Deputy Speaker (Mr McGlone): Amendment No 33 is mutually exclusive to amendment No 32, which has just been made, so it will not be called. Mr Storey indicated that he would not have proposed it anyway.

Amendment No 34 made:

In page 25, line 12, leave out subsection (4) and insert new clause—

*"**Defence for slavery and trafficking victims***

***(19A)**In section 22 (defence for slavery and trafficking victims in relation to certain offences) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015—*

(a) in subsection (9)(a)(i), after 'of a' insert 'Class A,';

(b) in subsection (9)(a)(ii), after 'of a' insert 'Class A or'."— [Mrs Long (The Minister of Justice).]

Clause 21 (Protective measures for victims of slavery or trafficking)

Amendment No 35 made:

In page 25, line 22, leave out from ", within" to "Assent" in line 23.— *[Mrs Long (The Minister of Justice).]*

Amendment No 36 made:

In page 25, line 25, leave out "from slavery or trafficking" and insert—

"who is, or who appears to be at risk of becoming, a relevant victim".— [Mrs Long (The Minister of Justice).]

Amendment No 37 made:

In page 25, line 27, leave out "from slavery or trafficking" and insert—

"who is, or who appears to be at risk of becoming, a relevant victim".— [Mrs Long (The Minister of Justice).]

Amendment No 38 made:

In page 25, line 27, at end insert—

"(1A) A reference in this section to a relevant victim is to be construed is the same way as a reference to a qualifying victim in section 18 of the Human Trafficking and Exploitation

(Criminal Justice and Support for Victims) Act (Northern Ireland) 2015."— [Mrs Long (The Minister of Justice).]

Amendment No 39 made:

In page 25, line 29, leave out "are not limited to" and insert "include (but are not limited to)".— *[Mrs Long (The Minister of Justice).]*

Amendment No 40 made:

In page 25, line 29, at end insert—

"(2A) A draft of regulations under this section must be laid before the Assembly no later than the end of the period of 2 years beginning with the day on which this section comes into operation."— [Mrs Long (The Minister of Justice).]

Amendment No 41 made:

In page 25, line 30, leave out "The regulations may not be made unless a draft" and insert—

"Regulations under this section may not be made unless a draft of them".— [Mrs Long (The Minister of Justice).]

Schedule 1 (Consequential amendments: voyeurism (additional offences))

Amendment No 42 made:

In page 30, line 8, after "71B" insert ", 72A".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

Amendment No 43 made:

In page 30, line 11, after "71B" insert ", 72A".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

Amendment No 44 made:

In page 30, line 15, after "71B" insert ", 72A".— *[Mr Storey (The Chairperson of the Committee for Justice).]*

Amendment No 45 made:

In page 30, line 22, leave out "71A(3)(a) and 71B(3)(a)" and insert—

"71A(1A)(a)(i) and (3)(a)(i) and 71B(1A)(a)(i) and (3) (a)(i)".— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 46 made:

In page 30, line 33, at end insert—

"92VB.—(1) An offence under Article 72A of that Order (sending etc an unwanted sexual image), if—

(a) the offence was committed for the purpose mentioned in Article 72A(3)(a) (sexual gratification), and

(b) the relevant condition is met.

(2) Where the offender was under 18, the relevant condition is that the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

(3) In any other case, the relevant condition is that—

(a) the victim was under 18, or

(b) the offender, in respect of the offence or finding, is or has been—

(i) sentenced to a term of imprisonment,

(ii) detained in a hospital, or

(iii) made the subject of a community sentence of at least 12 months."— [Mr Storey (The Chairperson of the Committee for Justice).]

Amendment No 47 made:

In page 31, line 7, at end insert—

"Article 72A (sending etc an unwanted sexual image),".— [Mr Storey (The Chairperson of the Committee for Justice).]

Mr Deputy Speaker (Mr McGlone): That concludes the Further Consideration Stage of the Justice (Sexual Offences and Trafficking Victims) Bill. The Bill now stands referred to the Speaker.

Members should take their ease while we move to the next item of business, please.

Police, Crime, Sentencing and Courts Bill: Legislative Consent Motion

Mrs Long (The Minister of Justice): I beg to move

That this Assembly agrees in principle to the extension to Northern Ireland of the provisions in chapter 3 of Part 2 of the Police, Crime, Sentencing and Courts Bill, in so far as they relate to Northern Ireland, and agrees that commencement of those provisions would be conditional on Assembly agreement to consider whether the code of practice, following the public consultation, complies with protected rights and requirements.

Mr Deputy Speaker (Mr McGlone): The Business Committee has agreed that there should be no time limit on the debate. I call the Minister of Justice to open the debate on the motion.

6.15 pm

Mrs Long: This is the second legislative consent motion (LCM) on the Police, Crime, Sentencing and Courts Bill that has been brought to the Assembly for debate. As I said in the previous debate, although the Bill that was introduced in Westminster in March 2021 deals with a number of very contentious policing and justice issues, Members will be aware that the powers included in the Bill will apply only in England and Wales and that they will have their own positions on those matters in Westminster. However, with due respect to those particular issues, there are some non-contentious and important provisions in the Bill that impact on devolved responsibilities. Our seeking a legislative consent motion on those non-contentious matters is without prejudice to individual parties' positions on the wider Bill.

Today's motion covers an unrelated matter that will extend to Northern Ireland: a legal basis for the extraction of information from digital devices of complainants, witnesses and others. For most of us, our lives are integrated with technology. Increasingly, the extraction of data from mobile devices is a reasonable line of inquiry in criminal investigations. Indeed, in the previous debate, the Justice Committee referred to the time that it spent with the cybercrime unit of the PSNI. I also recently visited that unit, and I have to say that the work that it does, particularly in relation to the Dark Web, is troubling and disturbing. However, it is also incredibly reassuring that that unit is there, trying to ensure that many of those issues are kept under some kind of supervision and control.

The extraction of data from mobile devices is incredibly important. With so much of our lives being lived online, the ability to extract that information has become a crucial factor in helping law enforcement to bring offenders to justice. The expansion of digital and mobile connectivity means that the relevant evidence needed to support prosecution is very often held on a device belonging to a complainant. However, the rapid and sustained growth of digital devices and the volume of information that they contain present a clear challenge, particularly when much of that information may not be relevant to the case. Everyone needs to have confidence in this critical area of investigative practice in which information is only taken and should only be taken when it is absolutely necessary to the investigation to do so, rather than simply as a matter of course.

In 2020, the Information Commissioner's Office (ICO) published a report into mobile phone data extraction in England and Wales. That report identified inconsistencies in the approach taken by police to the extraction of data and to the complex legal framework that governs that practice, especially when the device belongs to a victim or witness of crime. A subsequent ICO report on mobile phone data extraction by the PSNI from 2021 further recommended that the legislative framework on data extraction should be strengthened to ensure clarity for victims, witnesses and offenders and to clarify the lawful basis for such extraction.

In response to those concerns, the provisions in chapter 3 of Part 2 of the Police, Crimes, Sentencing and Courts Bill introduce a specific legal basis for the extraction of information from the digital devices of complainants, witnesses and others, such as deceased or missing persons. Taken as a whole, the provisions are intended to:

> *"provide a nationally consistent legal basis for the purpose of preventing, detecting, investigating or prosecuting criminal offences and for safeguarding and preventing serious harm."*

There are eight clauses in chapter 3 of Part 2 and one associated schedule.

Insofar as it may assist the Assembly in considering the motion, I will summarise the nature and extent of the powers in short form as follows. Clause 37 creates a clear statutory basis for extracting information from digital

devices with the agreement of the user of the device. That power can be used for the purposes of:

> *"(a) preventing, detecting, investigating or prosecuting crime,*
> *(b) helping to locate a missing person, or*
> *(c) protecting a child or an at-risk adult from ... harm."*

Clause 41 states a clear statutory basis for extracting information from digital devices in the investigation of a death if the device is believed to have been used by the deceased prior to their death and where there may be an investigation by a coroner. Those powers will be applicable to specified law enforcement and regulatory agencies that extract information to support investigations or to protect vulnerable people from harm. They will be exercisable only by the specifically named authorised persons listed in schedule 3. That includes all police forces and other authorities with investigatory functions.

The powers are for use overtly with the device user's agreement. They cannot be used to extract or intercept data for any covert purpose that must otherwise be authorised by warrant under the Investigatory Powers Act 2016. In certain cases, the powers may be exercisable without agreement: where the user is deceased; where the user is a child or adult without capacity and the authorised person believes that their life is at risk or that there is a risk of serious harm to them; or where a user is missing and the authorised person believes their life to be at risk or that there is a risk of serious harm to them.

The powers do not replace the existing statutory powers for the seizure of devices from suspects or any other specific powers available to authorised persons listed in schedule 3, including those available to the PSNI under the Police and Criminal Evidence (Northern Ireland) Order 1989. The powers do not replace the existing requirements of data protection legislation, and authorised persons must continue to comply with all existing legal frameworks that are relevant to their particular area of practice. That means that, in every case where authorised persons are extracting personal material from a device under those powers, they must continue to meet the strict necessity threshold under the Data Protection Act 2018 when processing information for law enforcement purposes. Where authorised persons are extracting information from a device for non-law enforcement purposes, such as an inquest, they must also continue to meet the requirements of the General Data Protection Regulation, including that information is processed lawfully, fairly and in a transparent manner, and only where it is necessary.

The powers will also be supported by a statutory code of practice, the publication of which is made mandatory by clause 42. The code seeks to ensure that authorised persons exercise data extraction powers only where necessary and, thereafter, only in a manner that is proportionate, in accordance with the law and pursuant to a reasonable belief that there is relevant information on the device; that they have access to practical guidance on the exercise of data extraction powers in practice, including to determine whether such powers are the most appropriate for use in any particular case; and that they have access to specific guidance on the considerations that they should make and the greater level of sensitivity that they should apply when interacting with victims and witnesses of a crime, especially vulnerable victims of serious offences such as rape and other sexual offences. The code is admissible in evidence in criminal or civil proceedings, and a court may take into account a failure to act in accordance with it in determining any relevant question in those proceedings.

The code has been drafted by the Home Office in collaboration with key stakeholders and interested parties, including my Department. A draft code was published at the House of Commons Report Stage in July 2021, and an updated draft was produced ahead of the Bill's being presented to the House of Lords in October 2021. The UK Government will launch a public consultation on the code once the Bill achieves Royal Assent. Data extraction powers will not be commenced until the final code has been prepared and laid before Parliament.

Although the code remains in draft form, the current text already demonstrates the depth and detail of the guidance that will benefit authorised persons in the exercise of data extraction powers. In Northern Ireland, in particular, the Department has liaised with and benefited from the advice and assistance of the Departmental Solicitor's Office, the Northern Ireland Human Rights Commission and the Office of the Attorney General. Input from all parties has been shared with Home Office officials regularly and has clearly influenced the drafting of the code and clauses from the Commons Report Stage to date.

While significant progress has been made on the draft code, some concerns remain on the part of the Northern Ireland Human Rights Commission and the Office of the Attorney General. Those concerns have been shared

with the Home Office, and the Department has indicated that, should the Assembly agree to the LCM, it will require all relevant concerns to be addressed, as far as practicable, prior to the Bill's provisions coming into force in Northern Ireland. Since the Bill is now at an advanced stage in the House of Lords, it is unlikely that the code will be amended further before Royal Assent is given. However, potentially extensive amendments are expected as a result of public consultation. My Department will continue to work with Home Office officials from the time that Royal Assent is received until the proposed time of commencement.

In that context, Home Office officials have assured the Department that a copy of the consultation documentation, including a draft updated code, will be provided in advance of the public consultation. They have also given assurances that relevant feedback, whether it is received from the Department or via the public consultation, will be captured in the final text.

Whilst Home Office assurances on the code have been gratefully received, in order to ensure that the commencement of the data extraction provisions in Northern Ireland require satisfactory completion of the code of practice, I have proposed, and the Northern Ireland Executive have agreed, to support a conditional form of legislative consent as presented in the motion. In practice, that conditional form of consent envisages that the Assembly will be consulted following the completion of the public consultation on the code. Thereafter and following further consultation with the Assembly, it will be for the Justice Minister to confirm with the Home Office whether the provisions can be commenced in Northern Ireland.

In the event that the code remains objectively unsatisfactory at the end of public consultation, I have committed to seeking the consent of the Assembly to commence the provisions only when any outstanding issues are satisfactorily resolved. I ask Members to note that if we do not agree to the provisions on that basis, we risk there being no clear statutory basis for the PSNI to use the powers when there is clarity in the code of practice. That would, in turn, result in an inconsistent approach to police practice across the UK.

In addition, Northern Ireland will not have addressed the Information Commissioner's Office recommendations on the extraction of data from electronic devices. That said, I reassure Members that I am not suggesting that we agree to the proposed changes without being satisfied that the code of practice meets our requirements.

I trust that Members will agree that the form of consent that is proposed is a reasonable compromise, allowing the Home Office to proceed, as it does, in a uniform manner to Royal Assent while ensuring that the Assembly retains control over the commencement pending the resolution of outstanding issues in the code of practice.

Members may ask whether those matters could be legislated for locally in the Assembly. In some matters, we are dealing with legislation that is made at Westminster or that applies across the UK, therefore necessitating the Westminster route. Also, given the advanced stage of the Bill and the timescales that are involved, it would not be possible to legislate locally on those matters even if we were given permission by Westminster to do so.

Members will be aware that, while some provisions of the Bill are controversial, the elements that are in the LCM are not. I also believe that, in the matters concerned, it is important to maintain consistency across the UK and that that is best achieved through an LCM process. Westminster colleagues are keen to have the request considered as soon as possible, as the timescales are challenging.

Before I finish, I will place on record my thanks to the Justice Committee for its report, and I welcome its support for the LCM. I will also record my thanks to ministerial colleagues for their consideration of the issues. Building on that support, I am keen to hear the views of Members and to seek legislative consent today.

Mr Storey (The Chairperson of the Committee for Justice): I am pleased to speak on behalf of the Committee for Justice in order to outline the Committee's consideration of the provisions that are to be included in the supplementary legislative consent motion for the Police, Crime, Sentencing and Courts Bill.

During its consideration of the provisions that were included in the LCM, which was previously agreed by the Assembly, the Committee was first advised on 17 February last year that consent would be required in order to allow for the powers to extract information from mobile devices. The data extraction provision aims to address a recommendation by the Information Commissioner's Office that the legislative framework be strengthened to ensure clarity for victims, witnesses and offenders in order to address inconsistencies between forces and to clarify the lawful basis for data extraction.

The Committee agreed to ask the Northern Ireland Human Rights Commission, the Attorney General for Northern Ireland and the Northern Ireland Commissioner for Children and Young People for their views on all the provisions that are to be included in the initial LCM, including their compatibility with the European Convention on Human Rights. In their responses, the Human Rights Commission and the Attorney General drew attention to issues in the provisions regarding the extraction of data from mobile devices, which the Committee forwarded to the Department for comment.

In its response, the Department advised that it had consulted the Home Office and that it was considered that the issues raised by the Attorney General were capable of being addressed in the code of practice. The Department also provided the response from the Home Office to the Human Rights Commission's recommendations in respect of engagement and consultation on the code of practice, specific matters that should be included in the code and clarification of the oversight arrangements for authorised persons with jurisdiction to exercise the powers in Northern Ireland.

6.30 pm

On 27 May 2021, the Committee agreed to forward the Department's response to the Human Rights Commission for further views and comments. However, subsequent correspondence from the Department on 16 June advised that the Executive had not agreed to the inclusion of the data extraction provision in the LCM, but may return to the issue once the related code of practice had been consulted on. The Committee, therefore, continued to follow that matter up separately, following the completion of its report on the other provisions included in the previous LCM for the Bill.

The Human Rights Commission wrote to the Committee on 28 September to confirm that it had received a copy of the draft code of practice. The commission indicated that it had responded to the Department, stressing the benefit of further consultation and engagement, and called for more detailed guidance on the application of the human rights legislation to decision-making. It also recommended that the code be drafted to reflect the best trauma-informed practice and include practical advice to prevent, or at least mitigate, the secondary victimisation that can result from such data extraction. The Committee agreed to seek assurance from the Department that the commission's views would be conveyed to the Home Office and seek the details of the other stakeholders that had been consulted on the draft code of practice.

The Department confirmed on 15 November that the views of the Human Rights Commission and the Attorney General had been copied to the Rt Hon Kit Malthouse MP, Minister of State for Crime and Policing in the Home Office, and advised that a further iteration of the code from the Home Office had also been provided to both of them. The Department also informed the Committee that the Minister was exploring whether the provisions could be included in the Bill but not commenced in Northern Ireland until any outstanding issues with the code had been resolved.

Subsequent correspondence from the Minister of Justice on 1 December 2021 requested the Committee's views on the proposal to proceed with an LCM on the basis that the data extraction provision would extend to Northern Ireland but not commence until the code of practice had been finalised and not without the agreement of the Assembly. The Committee noted that correspondence at its meeting on 2 December, which also advised that the Minister was seeking Executive approval in relation to the LCM.

The Committee considered a further departmental written briefing paper on 3 February 2022, which provided a list of changes and amendments relevant to Northern Ireland that had been made to the code to date as well as a comparison of the original and amended provisions of the draft Bill to be read alongside the code. The Committee noted that, whilst significant progress had been made on the draft code of practice, concerns remained for the Human Rights Commission and the Attorney General. The Department had shared those concerns with the Home Office, indicating that it would require all relevant concerns to be addressed as far as possible, prior to the provisions of the Bill coming into force in Northern Ireland.

The Department informed the Committee that it was unlikely that the code would be amended further before the Bill receives Royal Assent. However, potentially extensive amendments are expected as a result of the public consultation, and the Department advised that it will continue to work with Home Office officials until the proposed time for the commencement of the provisions. The Department has been assured by the Home Office that a copy of the

consultation documentation and updated draft code will be provided in advance of the public consultation and that the final text will capture relevant feedback from either the Department or the public consultation. The Department's briefing paper also confirmed that the Executive have given their support for a conditional LCM to be taken forward for those provisions. In that regard, the Minister, as she outlined, will consult with the Assembly on the code following completion of the public consultation and the commencement of the provisions will not be agreed without the consent of the Assembly.

The Committee was also advised of a further amendment to the extraction clauses, which will put the exercise of data extraction powers for confidential information in the Bill rather than in regulations.

The Department stated that the amendment would not materially alter the scope of the extraction powers envisaged by the Bill but, instead, provides greater clarity on the exercise of the powers in the context of confidential information.

Having considered the detailed information provided, the Committee agreed, on 3 February 2022, that it was content in principle with the proposed approach that had been outlined. On 17 February, the Committee considered the memorandum that had been laid by the Department of Justice on 7 February and agreed that it was content with the proposal to extend to Northern Ireland by way of a supplementary legislative consent motion the provisions in chapter 3 of Part 2 of the Police, Crime, Sentencing and Courts Bill insofar as they relate to Northern Ireland, and that commencement of those provisions would be conditional on Assembly agreement to consider whether the code of practice, following the public consultation, complies with protected rights and requirements. I can therefore confirm, as set out in the Committee report, that the Committee for Justice supports the Minister of Justice in seeking the Assembly's endorsement of the supplementary legislative consent motion.

Ms Ennis: Sinn Féin will support the LCM on the Police, Crime, Sentencing and Courts Bill, although we still have concerns with the Bill itself. We put those concerns to the Justice Minister, and I believe that she may share some of them.

Strengthening the legal framework that allows for the police and others to extract data from electronic devices to ensure clarity for victims, witnesses and offenders was a key recommendation from the Information Commissioner's Office. In implementing the recommendation, however, we need to ensure that we are not just box-ticking and that, as recommended, we put in place a fit-for-purpose regime that genuinely improves the regime. In doing so, human rights must be paramount and the concerns of human rights experts resolved.

We resisted the inclusion of the provision in a previous LCM for that reason and agreed to consider the provision alongside a code of practice that has been approved by the Human Rights Commission and the Attorney General's office. That has not yet been done. Sufficient safeguards have not yet been achieved, and it would be inappropriate to agree to commencing the powers until that work is completed. Therefore, I welcome the compromise that allows the legislation to progress on a conditional basis without those powers being commenced prematurely. That will allow time for the various human rights concerns to be addressed and for a code of practice to be consulted on publicly. Crucially for us, it will give the Assembly a further opportunity to approve or reject the commencement of the provisions once all that work is concluded. Therefore, I am happy to support the conditional LCM and look forward to considering the matter, once human rights have been sufficiently safeguarded.

Ms S Bradley: I did not intend to speak to the LCM other than to say that the SDLP has very much led on its concerns on this in Westminster. With the heavy caveats that have been laid there, we support it coming through the House in this guise.

Mr Dickson: First, I thank the Minister of Justice and her ministerial colleagues for their important work on the LCM. Like others, I will keep my remarks brief.

I am entirely supportive of the Minister's proposals. The Bill is going through Westminster, where, as others have said, it has had its difficulties and is highly contentious. However, the LCM simply deals with the essential section of the legislation on the extraction of vital technological information.

Many of our laws were enacted before today's technology was even thought about. Since then, mobile devices have become a prominent part of everybody's daily life. Statistics from Ofcom suggest that 78% of adults use a smartphone every day. Those devices can be beneficial in criminal investigations, offering insight into an individual's actions, movements and state of mind. However, that encroachment

on somebody's privacy must be used only when absolutely necessary.

Of course, we must recognise the challenges that the police face in the digital age. The Information Commissioner's report suggested that a broad approach is needed to address privacy concerns while achieving modern criminal justice objectives. Therefore, it is entirely welcome that the Minister has taken steps to ensure that only information relevant to an investigation will be taken. As other Members have said, it is a complex area that engages not just data protection law but human rights law and the criminal justice system.

Moving on from today, I hope that the police and the broader criminal justice system will reassure the public that the most private and sensitive information will continue to be protected and that only information necessary to an investigation will be examined.

Mrs Long: I thank Members for considering the motion and for their valuable contributions to the debate. I note the concerns that some Members have expressed regarding the wider Police, Crime, Sentencing and Courts Bill, and I am glad and relieved that devolution means that we are removed from some of the more authoritarian aspects of that legislation.

The proposed legislation to which we are consenting this evening will provide much-needed clarity and consistency in respect of the relevant law, namely where, how and when it should be applied. Fundamentally, it is about ensuring that the police can obtain digital evidence to prosecute criminals whilst providing additional safeguards so that only information that is directly relevant to an investigation is taken. That is needed to protect privacy and to ensure support for victims of crime and others who voluntarily provide information to the police. It is incredibly important for us to be able to do that.

Publishing a code of practice will help to guide the police and provide clarity and consistency in the approach to obtaining digital evidence from victims and others. I am pleased with the support that colleagues have shown in their comments this evening and with their recognition that it is sensible for these provisions to be carried in a Westminster Bill. On this occasion, it is appropriate for us to provide consent via a legislative consent motion. I am happy to ask the House to agree the motion.

Question put and agreed to.

Resolved:

That this Assembly agrees in principle to the extension to Northern Ireland of the provisions in chapter 3 of Part 2 of the Police, Crime, Sentencing and Courts Bill, in so far as they relate to Northern Ireland, and agrees that commencement of those provisions would be conditional on Assembly agreement to consider whether the code of practice, following the public consultation, complies with protected rights and requirements.

Mr Deputy Speaker (Mr McGlone): I ask Members to take their ease while we move to the next item of business, please.

6.45 pm

Committee Business

Budget 2022-25: Committee for Finance and Northern Ireland Fiscal Council Reports

Dr Aiken (The Chairperson of the Committee for Finance): I beg to move

That this Assembly takes note of the Committee for Finance and the Northern Ireland Fiscal Council reports on the 2022-25 draft Budget; and calls on the Minister of Finance to give due regard to their findings.

Mr Deputy Speaker (Mr McGlone): The Business Committee has agreed to allocate two hours for the debate. The proposer of the motion will have 15 minutes in which to propose and 15 minutes in which to make a winding-up speech. The Minister of Finance will have up to 20 minutes in which to respond, and all other Members who are called to speak will have five minutes.

Dr Aiken: On behalf of the Committee for Finance, I thank the Business Committee for scheduling the debate and the Minister for agreeing to respond to it.

The debate is informed by the Budget document itself, the consultation on which had been scheduled to close today. It is also informed by the very useful Fiscal Council report, by the excellent scrutiny undertaken by Statutory Committees and by papers produced by the Assembly Research and Information Service (RaISe). I also thank the Fiscal Council and RaISe for their work and all the Statutory Committees that were able to respond with their thoughts and views. All that information from Committees and RaISe was shared with Members more than a week ago and will be in the public domain from now. The Fiscal Council report was, of course, published in January.

This, I think, will be our only chance in the mandate to debate the 2022-25 draft Budget. As the possible related financial decisions will have far-reaching consequences, I do not propose to waste this important opportunity. What is there to talk about? First and importantly, it is a three-year Budget with more money than usual in it compared with the pre-COVID baseline position. If we look at the figures from RaISe, we see that it is a Budget of somewhere around £47·9 billion. I will say that again: £47·9 billion. That is a significant amount of resource. The Fiscal Council tells us that that continues the upward trajectory of devolved spending and that we can be reasonably confident that promised money will materialise as we get through what is left of 2022 and on to 2025. That bigger Budget envelope would give us the opportunity to plan for change and reform, but with reform must come decisions and, indeed, consequences. To some degree, the Budget sets out both of those; in other respects, we are left to underscore or fill in the blanks ourselves.

The Budget is not linked to a Programme for Government (PFG). Its capital spend was not shaped by an agreed investment strategy. The Budget itself has not been agreed by the Executive, because there is no Executive; indeed, in the absence of the Executive, the consultation process has been paused, and we have already spoken about that.

The draft Budget also seems to include a kind of public-sector pay promise that appears to be about 2% per annum, with more for the health sector. It also appears that regional rates will be frozen for the relevant period, although, again, formal Executive agreement for that is limited to one year. I mentioned both those aspects because they have large consequences for public finances. Those impacts, like the other impacts of the budget changes for Departments and the pressures that they create, are generally not fully expounded in the consultation documentation. There are also references to but not much explanation of big-ticket policy items such as green growth, which, presumably, will be greatly influenced by the anticipated passage of the climate change legislation, whichever Bill gets through. It therefore seems that the Programme for Government, the investment strategy, climate change, public finance and all Executive agreement carts have all been put before the Budget horse.

As for the horse itself, it has a general direction of travel, but the route — the point of the Budget — is perhaps not as completely clear in all of the detail as it might be.

I will now turn to the point of the Budget that is perhaps the most challenging policy issue of all: that is, of course, in health. It is an immediate problem that has been with us and has been growing for quite a while. We all know that hard decisions in respect of health provision will be required. That is not to say that climate change is, in some way, not an emergency; it is. It is also not to say that the economy or the education system do not need the Executive's renewed support; they do. However, the size of the health problem, if not necessarily all of the solutions, is certainly bigger, nearer and getting

a bit clearer all the time. There is certainly a logic to the draft Budget, but those consequences and decisions that I mentioned earlier are perhaps something that we need to further explore before we decide on the way forward. The one thing that we can all agree on is that the three-year settlement is an opportunity. Where we are right now feels very much like "make your mind up time" on this budgetary process.

We all agree that health requires reform, patient waiting lists need to be reduced, outcomes need to be improved and our vital healthcare workers need better and more sustainable support mechanisms. Considerable sums have been earmarked, and there is an obvious timeline: it is three years. So, for many of us, what could be simpler? Let us get on with it and let us get moving. Nevertheless, however attractive that proposition might be — that is, if we had an Executive, which we do not — it is also fair to say that the Executive do not perhaps have the best record in that regard, whether in terms of either their own resilience; the delivery of complicated, long-term, expensive projects; the overuse of consultants; or the use of the well-worn panacea of things like the voluntary exit scheme, which seems to have cost as much to deliver as it supposedly made in savings. Therefore, there is more that the House needs to know before it can sign off on such a Budget with any degree of confidence. In some areas, such as health and education, we will clearly need the buy-in of all the political parties in the Executive, health and education professionals and, crucially, above all, the general public, if we are to deliver what is to be a truly transformative process.

Statutory Committees have provided some very useful commentary on the draft Budget. I expect that the Chairpersons and members of those Committees will set out their views shortly, and I have a few short remarks by way of summary. Almost all the Committees highlighted pressures in the 2022-25 period. In some cases, including the victims' pension scheme and replacing EU funding, the actual settlement from our own Government has not quite materialised yet so, although those are very important, they remain hard to quantify or put a timescale on.

There are other clearer and very important pressures that are perhaps a bit more quantifiable. I am thinking of those that are identified in Agriculture, Economy and Justice. Those just might be addressed in some considerable part by the substantial carry-over from 2021-22 and by other future in-year savings. That is where the absence of political certainty right now and over the next few months may prove to be telling.

There is then another group of pressures in Infrastructure, Communities, Education and probably Health which appear to be very substantial indeed. I cannot speak to the veracity of all the claims that all of the Departments made when they were questioned by Committees; I will leave that to the Committee Chairpersons. However, as a former member of a number of Statutory Committees, I know that Departments can be prone to a little exaggeration in those regards. My evidence for that is the very substantial bids and very surprising levels of reduced requirements in this year's and other years' monitoring rounds. Perhaps the Minister will share his thoughts on that in his response. Even allowing for that, however, it appears that the Budget will present a significant challenge to a number of Departments. I hope that the Committee Chairpersons will fulsomely set out their views in that regard.

I suspect that, notwithstanding the above, a successor Executive, whenever they appear, will have to address those problems, and a wider transformation will be required in order to deal with the underlying costs for all Departments and their arm's-length bodies. Regardless of the challenges that I have set out, it is clearly a good idea to have a three-year Budget, particularly one at the substantial level that we are talking about. It is also a good idea, obviously, to have a longer-term plan for all our services and how we deliver them.

The present process of informed public debate can be eliminated and the necessary exposition provided. In that regard, I hope that the Minister, in his response, might provide some commentary on the pressures identified by the Departments and the financial control measures that, he thinks, will be needed for the three-year Budget period, including the potential for a fourth annual monitoring round or more departmental bid transparency or, perhaps, the inclusion of a three-year Budget projection in all of our new Estimates memoranda. We have a lot to talk about.

I will conclude there and commend the motion to the House. I await with interest the feedback from Members and, indeed, the Minister.

Mr Deputy Speaker (Mr McGlone): Glaoim ar Chathaoirleach an Choiste Sláinte, Colm Gildernew. I call the Chairperson of the Health Committee, Colm Gildernew.

Mr Gildernew (The Chairperson of the Committee for Health): I welcome the opportunity to participate in today's debate as Chair of the Health Committee. I will make some very brief remarks as Chair of the Committee before making further remarks as my party's health spokesperson.

The Health Committee has not yet been able to come to a formal position on the 2022-25 draft Budget. The Committee received a briefing from the Department on the draft Budget in December and has raised the matter at a number of briefings with stakeholders and departmental officials. However, due to pressures in relation to legislation, including the consideration of seven Bills, numerous COVID regulations and a number of legislative consent motions (LCMs) and statutory instruments, the Committee has not been able to spend as much time as it would have liked on scrutinising and taking evidence on the Department of Health's draft budget.

The draft budget for the next three years is an important priority for the Committee. Therefore, over the coming weeks, through to the end of the mandate, the Committee will continue to take briefings on a number of issues that will help members to come to a view on the draft budget. They will include briefings on transformation, the cancer strategy and recovery out of COVID and briefings from the Minister and the permanent secretary.

The Committee also welcomes the commitment from the Executive that Health would be the top priority and that the focus of the draft Budget has been on providing additional resources for transforming the health service and reducing waiting lists on a permanent basis.

Mr O'Toole: I thank the Member for giving way. He is right: there was and remains broad agreement that, given the state of our health service and waiting lists, we have to have prioritisation around health. Does he feel that he, as Committee Chair, has had enough clarity from the Department about how it intends to use that prioritised money? Does he feel that he knows enough from the Department about how it is going to use its allocation, whether it is from this Budget or another that is signed off post-election, to get waiting lists down in 2022-25, and beyond, because, at the minute, from my perspective, there is a bit of opacity?

Mr Deputy Speaker (Mr McGlone): The Member has an extra minute.

Mr Gildernew: The Committee would have sought to drill further into those figures, because that has been a recurring feature of some of the difficulties that the Committee has had in tracking money through from where it is allocated to how it lands on the ground and, crucially, what impact it has on some of the key aims, including the reduction of health inequalities, which is a major issue, and transformation.

The Committee welcomes the comments made by the Minister of Finance in the Chamber on 13 December 2021, when he stated that:

> *"prioritising our health service means a proposal for other Departments to contribute 2% of their opening baseline. That contribution would provide an additional £523 million over the three years, which would form part of an overall general allocation of £1·9 billion. That could be used at the Health Minister's discretion to help to address the significant funding pressures identified. On top of that, the draft Budget would provide £120 million, £182·4 million and £255·3 million over the three-year Budget to meet in full the Health Minister's bids for elective care, cancer and mental health rebuild strategies." [Official Report (Hansard), 13 December 2021, p15, col 1].*

The Committee welcomes the introduction of a multi-year Budget. It has called for a multi-year Budget for a number of years, as it is only through that mechanism that the transformation agenda can be properly progressed. The Committee was briefed on transformation last week. The Committee sees the transformation agenda as key to addressing waiting lists and providing the best levels of care that we can. The Department needs to place transformation at the centre of all its budgetary considerations and to consider how funding can be directed and allocated into that crucial transformation of our health service.

The reduction of waiting lists and the funding of elective care is a priority for the Committee and will be an issue —

7.00 pm

Dr Aiken: Thank you for giving way. It is probably unusual for one Chair to come to another like this. You make a very valid point, which is that the Department of Health and the Health Minister have already identified what they need to do over the three years to make the transformation work.

Even from the Committee's initial scrutiny, do you have a sense that, if a Budget were agreed and out there, we would be able to meet many of those health requirements?

Mr Gildernew: There is no getting around how challenging the situation is. The difficulty, however, is that, without the Budget, we certainly will not make the type of progress that we need. Health, above all areas, requires a longer-term spend. You have to invest in your workforce. Without the workforce, we have no services. No staff: no services — it is as simple as that. Those are major commitments that will require longer-term thinking. There was certainly much interest in the plans that were set out. They required significant funding, and, in the Minister's approach to the Executive, he got consensus on the need for that. As a society, we need that to be progressed. We will include in our legacy report the view that the incoming Committee should keep an eye on that as a priority. It is important that any incoming Committee scrutinise the Health Department's budget in detail to ensure that those important priorities are progressed.

I will now make a few brief remarks on the issues arising. Clearly, Members, the issues are all well rehearsed and well understood in the Assembly. The health service is facing a crisis. I mentioned the workforce: over 6,000 — the number is growing — posts are vacant across the healthcare system, in a workforce that is already stretched and tired, that has been overly relied on throughout the pandemic and that was under severe pressure even before the pandemic.

The transformation agenda must be progressed. We need to see the roll-out of multidisciplinary teams. We need to see the recruitment of physiotherapists, occupational therapists and social workers to go into communities to support people's health and well-being and to support GPs. Today, in this Building, we heard about the impact that not having a properly funded Budget would have on dentistry. One person in four of our population is on a waiting list; we cannot ignore that. Addressing all those issues requires a Budget to be in place. It is therefore crucial that we see progress and that Members take on board the impact that losing out on that three-year Budget will have and is having on confidence out there, on planning and on the delivery of health and social care services.

Mr K Buchanan: I rise to speak as a member of the Finance Committee. As the Chairman of the Committee did, I thank the officials and Committees that provided written and oral responses to the draft Budget 2022-25.

The motion is to take note of the Finance Committee and the Northern Ireland Fiscal Council reports on the 2022-25 draft Budget — a Budget that was backed only ever by Sinn Féin Ministers. It was never agreed to by my party. The Budget was put out for consultation, but, for whatever reason, that was halted.

The Finance Minister's draft Budget would lead to massive cuts to public services. The Chief Constable, school principals and housing bodies have all outlined the grave impact that it would have. The chief executive of the Housing Executive said that the Budget represents:

> *"a bleak outlook for housing with negative consequences especially for those relying on homeless services or those on the waiting list for social housing".*

The Committee for Communities noted that it was:

> *"very concerned that allocations for the housing development programme do not match"*

what was outlined in the Communities Minister's recent strategy on delivering social housing. Departmental officials also confirmed:

> *"the capital budget is a decreasing budget over the three years".*

Investors are attracted to Northern Ireland because of our skills, our people, our low cost base and the incentives offered by Invest NI. This Budget would decimate Invest NI's ability to offer financial help to companies. In a response to the Finance Committee, the Committee for the Economy highlighted:

> *"the potential savings modelled by the Department are deeply concerning and could set back an already structurally weak economy much further. Reducing investment in skills would have a cumulative impact and would make our economy increasingly uncompetitive and less attractive to investors".*

In particular, the denigration of policing and justice in the proposals is disgraceful. Justice is the only portfolio to see a net reduction in its resource allocation. One thousand PSNI officers and 350 staff would be at risk by 2025. Training on new offences such as stalking and coercive control would be under threat. The

Committee for Justice also raised concerns about the draft Budget, and, in its response to the Committee for Finance, it stated:

> *"The Committee believes that important progress has been made over recent years which could be slowed or even reversed by a budget of this nature. The overall proportion of the budget that currently goes on staffing resources and to fund policing provides little flexibility and difficult decisions will have to be taken."*

Even where additional sums are provided — for example, to Health — there is no accompanying strategy for reform. The Fiscal Council is critical of the fact that the draft Budget does not contain a clear or systematic explanation of why certain allocations are prioritised. The Fiscal Council report also demonstrates the immense scale of the support provided via the block grant and that receipts from that grant are higher than expected for the period covered by the draft Budget. Those in the Chamber who deride the Treasury and our membership of the United Kingdom should reflect on that contribution.

It seems counter-intuitive to agree a multi-year Budget at the tail end of a mandate when the parties that will form the next Executive are yet to agree a Programme for Government as a basis for expenditure. The Fiscal Council indicated the importance of such a connection. Those talking up the prospect of a cliff edge are being irresponsible. There is a legislative provision, which is due to be debated tomorrow, to ensure that public services continue to be funded and to be operable in the next financial year.

It is clear from the Fiscal Council report and feedback from Committees that the Budget proposal is not all that it seems.

Ms McLaughlin (The Chairperson of the Committee for The Executive Office): Members will be aware that the Executive Office is a rather unusual Department. In financial terms, although the Department has a relatively small budget, there is often the requirement to dispose of large amounts of money for specific programmes. That leads to significant fluctuations in Budget allocations.

In this case, the opening position for the resource departmental expenditure limit (DEL) of £120 million is to increase to £210 million for 2022-23 and to £231 million and £230 million in the subsequent years. The reasons for that are the redress payments for victims and survivors of historical institutional abuse (HIA), the Troubles permanent disablement payment scheme and the truth recovery programme relating to victims and survivors of mother-and-baby homes and Magdalene laundries.

The Committee has worked hard to ensure that those programmes are timely, efficient, sensitive and victim-centred. Where victims and survivors felt that they were not, the Committee intervened, with the most significant intervention being our call for a review of the HIA redress process. Those ring-fenced funds make up the larger part of the departmental budget. The baseline of £72 million per annum appears to be an increase on the £60 million of the previous year, but, in fact, that makes up for a loss of the financial transactions capital, of which the Department can no longer avail itself and which, in reality, amounts to a £1·2 million cut.

The Committee was also pleased to note the continued provision from central funds of £12 million of Shared Future funding. That was Fresh Start money, which ended in March 2021, but continues in the draft Budget from our own resources. Ring-fenced funds that we would have expected to see in the Department's budget are being held centrally. Those include match funding for the Peace Programme and funding for the dedicated mechanism for monitoring article 2 of the Ireland/Northern Ireland protocol and funding to tackle paramilitaries through the Communities in Transition initiative. Our successor Committee will need to work with the successor Finance Committee to ensure effective scrutiny of those centrally held funds.

The capital DEL of £15 million a year is mainly for Urban Villages projects. The Committee noted with dismay delays in capital projects such as Meenan Square. The Department is urged to resolve the issues that hold up such important projects for local areas in the coming years.

Areas of expenditure are missing from the Department's budget. For example, in engagement with stakeholders on the development of an important strategy for ending male violence against women and girls, the Committee was told of the importance of funding being attached to the strategy. The Committee also heard from the joint chairs of the Commission on Flags, Identity, Culture and Tradition. Although its report was published in December, no budget is assigned to the implementation of any recommendations.

Similarly, there are outstanding aspects of the New Decade, New Approach agreement, such

as the establishment of new language and identity structures. How much will they cost, and why are they not budgeted for? The Committee also visited the Maze/Long Kesh site, which has huge potential for development as a major North/South and east-west hub. The Committee understands the sensitivities about the prison buildings, but there is so much more that could be done in and around the site that would pay dividends if it were exploited. That will need to have a budget attached to it.

In summary, while the Executive Office has a small budget, it tends to be the repository for important, high-profile and, potentially, high-cost programmes at short notice. The Committee is concerned that the real-term reduction in the baseline funds for the Department may impact on the capacity for timely and efficient delivery. Indeed, the Committee has commented elsewhere on the recourse to agency workers and secondments from the Strategic Investment Board rather than investment in the capacity of our Civil Service.

Dr Archibald (The Chairperson of the Committee for the Economy): I will speak first as Chair of the Economy Committee. I thank the Finance Committee and the Fiscal Council for their work on the 2022-25 Budget. The Economy Committee was briefed by officials and the Minister on the Department for the Economy's response to the draft Budget. As with most Departments, the Department for the Economy has a 2% baseline cut annually across the Budget cycle, which equates to a cut of £16·4 million per annum. Additionally, however, there is a loss of £65 million of EU structural funding per annum, which will mean a £40 million reduction per year for the provision of key departmental services. The Department is facing inescapable pressures of £78 million in 2022-23, £109 million in 2023-24 and £125 million in 2024-25. Additionally, the Department will experience a 56% reduction in conventional capital by 2024-25. The Department set out that as approximately 73% of its budget goes on education and skills, it will be those areas that are most likely to face cuts in provision, with a knock-on impact on economic development. The Committee has expressed considerable concern about the loss of EU structural funding, as that will impact on a range of departmental provisions, such as key skills programmes like apprenticeships, as well as the ability of Invest NI to support new business.

(Mr Speaker in the Chair)

If applied, the savings that have been modelled by the Department would have a detrimental impact on the development of our skills base, attempts to correct structural issues in our economy and efforts to widen opportunities to disadvantaged young people and communities. Cuts to the numbers of students and the support that is afforded to them, combined with rising tuition fees, would be likely to make further and higher education unaffordable for many. While the modelled savings are suggestions and the Minister has said that he has made no decisions, the Committee is already, understandably, receiving correspondence from sectors that will be affected by the draft Budget.

I will now make some brief comments as Sinn Féin economy spokesperson. As the Chair of the Finance Committee said, today should have been the closing date for the consultation on the draft Budget for the next three years. People across the various sectors of our society were keen to make their views known, and were inputting into that process. Some of those views were critical, as were those of some MLAs. The unfortunate reality, however, is that none of those concerns, or even views of support or any input at all, can be taken into account when setting a Budget for the next three years because the DUP chose, for its own selfish electoral interests, to resign its First Minister and collapse the Executive.

The Department for the Economy's response to the draft Budget, which I outlined, was alarming. It had modelled savings that would have a detrimental impact on our economic recovery and undermined efforts to address historical issues of poor productivity. The most striking thing about the Department for the Economy's budget for the next three years, however, was that it was getting an uplift in its allocation of £50 million over the three years, but, at the same time, it was losing £100 million of EU funding for core Department functions.

By the way, the loss of £20 million per year in European regional development fund (ERDF) money is what is putting Invest NI's budget under pressure. We have consistently heard from the British Government that they will replace our lost EU funding. However, like many British Government commitments, that has not been realised.

Instead, we have a complete lack of detail on the much-mooted Shared Prosperity Fund, and, if the interim measure, the Community Renewal Fund, is anything to go by, we are in trouble. Those funds are being centrally administered by the British Government with no input from the Executive, no ability to ensure alignment with PFG commitments or Executive priorities

and nothing to prevent duplication or provide for coordination.

7.15 pm

The Fiscal Council talks about aligning the Budget with the PFG, and I am sure that most of us would not disagree with that intent. However, here we have a large amount of funding for important activities for which there is no ability for our locally elected Minister or us, as MLAs, to influence where it goes to ensure that it aligns with our priorities. We have DUP Ministers and representatives complaining about the draft Budget, but the big, fat elephant in the room is that one of the biggest problems facing the Departments they are responsible for is the loss of vital EU funding, which is due to the Brexit that they championed.

We face a perfect storm in respect of rising prices and rising inflation, and the Russian invasion of Ukraine has added to the upward pressure on prices. The cost of living is soaring beyond most people's worst imaginings, with energy prices hitting unprecedented highs, oil prices at their highest in over a decade and food prices rising. We have £300 million that, among other things, could help people with the cost of living but cannot be allocated because the DUP has put its party interest before people. That is a disgraceful dereliction of duty, and, rather than posturing —

Mr Speaker: The Member's time is up.

Dr Archibald: — if the DUP leader really wants to help people struggling with the cost of living, he will get back to doing his job in the Executive by nominating a First Minister.

Mr Buckley (The Chairperson of the Committee for Infrastructure): The Committee for Infrastructure has considerable concerns regarding the significant difference between the Department's overall resource requirements and the proposed allocations to it in the draft Budget 2022-25. The Committee and the Department are concerned that, if the proposed allocations are reflected in the final Budget, the result will be wide-ranging and long-term problems for the Department, Translink and Northern Ireland Water.

One important issue that has been raised by the Department is that it requires a resource budget that is adequate to deliver capital projects. The Department has informed the Committee that its reliance on in-year resource funding raises many difficulties in delivering capital projects. For the past number of years, the resource baseline position for the Department has not been sufficient to deliver its core services and additional monitoring round funding has been required to deliver them. That directly impacts on the Department's ability to deliver capital projects —

Dr Aiken: I thank the Member for giving way. One of the big questions that we have had on the Finance Committee has been about the uplifts that we have regularly seen coming through for Northern Ireland Water. Does the Chair have any idea of the quantum that is needed to get Northern Ireland Water on a sustainable footing? Has the Minister addressed how Northern Ireland Water is likely to get to that point?

Mr Speaker: The Member has an additional minute.

Mr Buckley: I thank the Member for his intervention. While I do not have the figure to hand, we are due a briefing from NI Water in light of the situation that is developing. The particular difficulty that we find ourselves in with Northern Ireland Water is that it is the largest consumer of electricity. With the situation even more dire in relation to the war between Russia and Ukraine, Northern Ireland Water is in a dangerous position. I will come on to some further comments on that.

As has been mentioned, there is a direct impact on the Department's ability to deliver capital budgets, as it has insufficient resource funding to undertake activities such as developing schemes for progression and procurement. That also limits the Department's capacity to effectively plan and deliver schemes late in a financial year or even into future years.

Regarding proposed capital allocations, the Minister for Infrastructure informed the Committee that year 3 of the draft capital budget allocations in particular present a significant funding gap compared with the indicative capital requirements submitted by the Department. If that gap is reflected in the final Budget, there will, in the Minister's view, be insufficient funding to fully address flagship, inescapable and pre-committed schemes. That would require a prioritisation of schemes over the Budget period, which could result in the delay of some schemes into later years.

The proposed ring-fenced allocation for Northern Ireland Water does not address the organisation's inescapable pressures, including energy pressures.

The price of electricity is largely determined by the wholesale price of gas. Gas prices have more than doubled in the 2021-22 financial year and continue to rise. The Utility Regulator has stated that high energy costs are likely to continue for a further 36 months. That, coupled with higher than expected inflation, will have a very significant impact on Northern Ireland Water's resource budget. Members, please be aware that the Utility Regulator's warning of high energy costs for the next three years that I mentioned was given prior to Russia invading Ukraine. The situation will be further exacerbated in intensity and duration.

Translink informed the Committee that the public transport network is managed with low levels of funding in the budget and by relying on in-year bids to try to remain financially viable. That approach leads to an inability to plan for the future and undermines the confidence of the public. It also undermines the confidence of suppliers and pushes up risk premiums, thereby increasing costs. According to Translink, that comes at a time when Governments across the world are investing in public transport to support a green recovery from COVID-19, to address climate change and to support social, economic and environmental well-being. The Committee is not optimistic that the final budget allocation will differ significantly from what is proposed in the draft Budget 2022-25.

On that basis, the Committee recognises that the proposed Budget allocation's not meeting the Department's inescapable pressures will lead to difficult decisions on what the Department can prioritise and deliver over the Budget period.

Mr McAleer (The Chairperson of the Committee for Agriculture, Environment and Rural Affairs): I welcome the opportunity to speak on behalf of the Committee for Agriculture, Environment and Rural Affairs on the Committee for Finance motion on the 2022-25 draft Budget. The Committee scrutinised DAERA's multi-year budget proposals in January and provided the Committee for Finance with its written conclusions on 17 February.

On resource DEL, the Fiscal Council's report on the draft Budget finds that DAERA fares relatively well in comparison with other Executive Departments, with a 3·7% projected increase in revenue over the three-year period. Several major resource pressures, however, are anticipated over the Budget period, including an approximate deficit of £6 million per annum against the environment fund and strategic environment fund. That will inevitably delay the progress of initiatives such as the environment and peatland strategies and climate change plans.

Furthermore, the Committee is concerned that no allocation has been made to projects to tackle rural poverty and social isolation, and that DAERA intends to resource those by in-year monitoring exercises and additional allocations from the Treasury. The Committee considers funding for those schemes to be a priority and strongly encourages DAERA to seek any and all options to secure resource for those vital initiatives, which are crucial to supporting the health and well-being of people living in rural communities.

While the outcome of the negotiations between the British Government and the EU on the potential revision of the protocol is awaited, it is likely that DAERA will have to continue to provide some degree of enhanced checking at ports of entry. It will be crucial to ensure that the Department has the necessary human and capital resources in place to discharge its legal responsibilities associated with the protocol and EU exit in the years ahead.

On capital resource, the Department has made a substantive bid for additional moneys including £600 million for the green growth strategy. The Committee was provided with limited assurance about the robustness of the methodology used by the Department to determine the £600 million figure, which was based on an indicative profile that DAERA felt would be required to reduce greenhouse gas emissions until 2026-27.

Nevertheless, the Department was allocated £170 million in the draft Budget for the green growth strategy. While the Committee was not provided with any clarity on what outcomes would be delivered via that funding, it is likely that DAERA will struggle to meet pledges from that allocation. It is difficult to quantify what impact that will have on schemes to improve environmental health, support a green economy and meet the legislative requirements of an impending climate change Act.

DAERA has allocated £37 million capital funding for the green growth challenge fund over the course of the multi-year Budget, which aims to stimulate projects to test solutions that may help to reduce emissions. Whilst the Committee recognises the importance of encouraging innovation and new ways of working, it has been provided with little assurance about how the fund will be managed. Furthermore, there is a well-established evidence base for solutions that are proven to

mitigate climate change, including nature-based interventions such as peatland restoration, rewilding of landscapes and forestry.

The Committee considers that providing robust resource plans for such initiatives is likely to be more effective and deliver better value for the environment and society than pursuing unproven schemes and that a balance must be struck between funding innovations, which could, theoretically, lead to gains, and delivering demonstrably effective strategies.

The Committee also identified a concern about the long-term funding and sustainability of the rural development programme (RDP). I am sure that Members across the House acknowledge the value and importance of the rural development programme projects, which have been supported by EU funding for years, and the benefits that they brought to local communities by developing infrastructure, supporting small businesses, improving connectivity and supporting social mobility. The last year in which DAERA can claim match funding from the EU for existing RDP schemes will be 2023, and, as a consequence, there is anticipated to be a significant drop-off in funding for those initiatives of 67% in the final year of the multi-year Budget. That presents a real risk to the long-term viability and sustainability of the rural development programme. While DAERA intends to explore alternative sources to replace EU funding via the Shared Prosperity Fund and PEACE PLUS, it is currently unclear how those schemes will operate and the likelihood or otherwise of securing the requisite level of resource to maintain and expand RDP projects.

In summary, the Committee for Agriculture, Environment and Rural Affairs supports the Committee for Finance's report and scrutiny of the 2022-25 draft Budget proposals and welcomes the opportunity to contribute to this discussion. In relation to DAERA's projected spending plans, the Committee has identified a number of issues and several resource and capital pressures that are likely to hamper progress in key strategic policies. It is unfortunate that, due to extenuating circumstances, the draft multi-year Budget cannot be brought forward legislatively, and this will, undoubtedly, increase uncertainty.

Mr Speaker: The Member's time is up.

Mr McAleer: OK. Go raibh maith agat, I will conclude my comments at that point.

Ms P Bradley (The Chairperson of the Committee for Communities): I welcome the opportunity to speak on the draft Budget 2022-25. I thank the Committee for Finance for collating Committee responses to the draft Budget. Even in the circumstances of this draft Budget, it is good that we are discussing departmental spending plans and financial concerns, as that gives us all an indication of the key pressures.

The Committee had welcomed the opportunity to have a three-year draft Budget as the Department for Communities provides many life-changing support programmes and services that need continuity of funding beyond a one-year budget. The Committee remains supportive of the Minister as she continues to lobby the Minister for Finance for additional funding to support the people who are most vulnerable.

The Committee had a briefing session with officials on 13 January on the draft Budget, and I want to highlight some of the key issues that arose. The Committee was extremely concerned about the Department's position in the draft Budget as it presented significant challenges in the constrained spending review outcome against existing baselines in the context of recovery from the pandemic. The Committee heard that the Department had developed its resource bids in line with the four COVID-19 recovery strategy pillars endorsed by the Executive: sustainable economic growth, green growth and sustainability, tackling inequalities and health of population.

The Committee accepted that it had not been a straightforward task for the Department to arrange its bids in priority order, given its wide range of responsibilities, and the Committee supported the view that all the resource bids were critical. The Committee supported the Department's approach to capital bids, which grouped bids by business area with the agreement of the Department of Finance.

The Committee noted that the Department submitted significant resource bids to reflect COVID recovery pressures and New Decade, New Approach commitments, in addition to the pressures faced in order to maintain existing baseline services. The Committee expresses grave concerns that the resource bids were very far from being met in the draft Budget. The stark reality is that, over the 2022-25 period, the proposed allocation reflected only 15%, 13% and 14% of the Department's bids in each respective year. The Department effectively faced a real-term budget reduction, which would increase in each year of the draft Budget.

7.30 pm

The Committee wishes to highlight a number of bids that were not met in the draft Budget, as they clearly show pressures that the Department will face: the £45 million bid for the COVID-19 benefit delivery response was not met in each of the three years; homelessness bids totalling around £43 million were not met over the total of the three years; COVID recovery labour market intervention bids totalling just over £21 million were not met over the total of the three years; pay and inflationary pressure bids totalling just over £37 million were not met over the total of the three years; and an inescapable pressures bid of £1·8 million was not met in each of the three years for the North/South Language Body, the Building Safety Bill and the review of liquor licensing.

The Committee also wishes to highlight the substantial amount of failed bids to support benefit delivery, as there have been significant increases in working-age benefit caseloads. Over 800 additional staff have been recruited and brought into the Department to deliver that work.

Officials advised the Committee that bids totalling over £670 million over the three years to progress planned work in areas that the Committee views as vital were not met. Bids included those in the areas of housing revitalisation; culture, arts and heritage sector recovery; the community sector recovery fund; the Housing Executive's fundamental review of allocations; climate change; and potential new welfare mitigations, including mitigation of the two-child policy. If sufficient additional funding is not available, that will impact on the ability to introduce any new mitigations that may flow from the work of the independent advisory panel.

On the capital position, the Committee heard that the net capital allocation generally showed significant reductions against the opening 2021-22 position.

I note that I am almost out of time, so I again thank the Committee for Finance for collating the information.

Mr Storey (The Chairperson of the Committee for Justice): The Committee undertook detailed scrutiny of the 2022-25 draft departmental budget for the Department of Justice. As well as receiving written and oral briefings from departmental officials, Committee members discussed the draft Budget with the Minister of Justice at its meeting of 15 February 2022. The Committee also heard directly from key organisations and stakeholders across the system and received written responses from the justice non-departmental public bodies (NDPBs).

At the outset, I highlight the Committee's appreciation of the intention to prioritise the health service in the multi-year draft Budget. The blanket approach by which every other Department is required to contribute 2% of its baseline to the health service is too simplistic, however. The Fiscal Council's assessment was that the approach appears "even-handed" but creates "winners and losers" among Executive Departments. Its report includes a table that clearly shows that Justice is the only Department for which funding will be reduced over the three-year Budget period. Baseline funding for the Department of Justice includes security funding, which the Minister contends should not be included, as that funding is provided directly to the PSNI from the NIO. The Department advises that, when that funding is removed, along with the funding for the domestic abuse strategy, which is cross-cutting but included in the Department's baseline, the draft Budget allocation will be 0·1% below last year's baseline for the first year of the Budget period and just 0·7% and 0·1% above the baseline for the following two years.

The evidence received by the Committee illustrates the serious concerns about the impact that the Budget will have right across the justice system, including on the provision of services that contribute to and assist the health service. That is described in some places as the "downstream effect" of those particular financial challenges.

Recently, the PSNI postponed its intake of new officers that was planned for this month, owing to the uncertainty that sufficient recruitment funding would be available for those officers. The Committee was advised that the number of officers over the Budget period may be reduced by up to 1,000, while the number of support staff may be reduced by 350. Members will be aware of the NDNA commitment to increasing the number of officers to 7,500. Instead of progressing towards that number, however, the number may end up at 15% below what it is currently. Of course, it seems that you can cherry-pick what you do and do not support from NDNA.

It seems that, in the House, that is the way in which some parties operate.

The PSNI is not the only organisation that will be required to reduce its headcount. The Probation Board could lose up to 15 probation officers in the first year alone, with reductions of 25 and 33 in the following years. Criminal Justice Inspection will cut a full-time inspector position. The Prison Service may need to reduce the number of staff by 84 in each of the two years, while the Youth Justice Agency may be able to live within its indicative budget for the next year but only by not filling positions that are currently vacant. If demand increases, staff will need to be replaced. In all, the Department has indicated that 11 justice organisations may need to reduce headcount. The effects could be wider, however, as the reduction in the legal aid budget will adversely impact on the legal profession and affect access to justice.

That concludes my comments as Chair of the Justice Committee. In the concluding moments, I will take a moment to say that I listened to some of the contributions from members of the party opposite, who are keen to remind us of my party's actions and claim that we have put party before the people. They have short memories: they were prepared to stay out of this place for three years, three years when we did not have a Budget or Ministers. Then, of course, it suited their political agenda. Now, of course, they have a go at the Tories for their austerity. However, it was the party and the Minister opposite who were not prepared. I remember sitting with the Minister in a room not far from this Building when he was unprepared to put through the regulations for welfare reform. Now, all of a sudden, his party have become champions of welfare reform. Who put the regulations through for welfare reform? It was the big, bad Tories. Of course, it was always them. They did the heavy lifting, and Sinn Féin takes the credit. Is there anything new in that? When it comes to finances, the Fiscal Council —

Mr Speaker: The Member's time is up.

Mr Storey: — and dealing with the Budget for Northern Ireland, we do not need to take lectures from a party that supported —

Mr Speaker: The Member's time is up.

Mr Storey: — the bombing of the heart of Northern Ireland —

Mr Speaker: The Member's time is up.

Mr Storey: — for 40 years and destroyed its economy.

Mr Speaker: The Member's time is up. Mr Storey, thank you very much.

Mr O'Toole: I am delighted that we have the opportunity to debate the motion, particularly given that we will not really have the opportunity to debate a final draft Budget for 2022-25 before the end of the mandate. However, there is something wrong with the way in which we have debated this today, and I will be direct about it. Every time we debate a Budget Bill — I think that we have the Final Stage next week — we stand up, time after time, and people on various Committees say, "There is a pressure here. That is not being met. This is not being met.", and then Members from literally every party in the Assembly stand up and say, "You need to fund x community centre in my constituency, or x, y and z". It is the same with Committees and constituencies. I am not singling out any party — all parties do it — but it goes to a fundamental problem with how we debate budgeting in this place, which is that it is not strategic.

If you read the excellent Fiscal Council document on the Northern Ireland draft Budget, you will see that it says many interesting things. It talks about winners and losers. It points out the lack of an investment strategy. It points out the pressures created by the loss of EU funding. However, the most important thing that it points to is the lack of a single, overarching strategy. It means that we are flying blind when we scrutinise this stuff. With respect to the Committee Chairs who have stood up today and listed the pressures, I am afraid that what we need to do when we scrutinise the Executive's Budget is to have a proper sense of what the strategy is. In the absence of a Programme for Government, the default strategy-making document is the Budget, whether that is the one-year Budgets that we have had over the past few years or the multi-year Budget that we hoped to have but will not now have for obvious political reasons. We are not talking about that three-year Budget, so I want to focus, in the few minutes that I have, on what the Fiscal Council said.

As I have said to the Minister before, I welcome the fact that he created the Fiscal Council and the Fiscal Commission. However, the Fiscal Council says that there is a lack of strategy in the document. It says that the three-year Budget is:

> *"notable for areas where the Department of Finance has asked for suggestions in the consultation but made no detailed suggestions or proposals of its own to comment on".*

The Finance Minister and the Finance Department are not just there to make allocations, but I am afraid that our scrutiny of Budgets here reinforces the idea that they are and that it is simply about doling out allocations that come from London and there is no strategy or intervening process in that. There clearly is.

The Finance Minister has made many decisions. I have agreed with many of them in terms of prioritisations; others I have not. However, in how we debate and scrutinise this stuff, we need to understand how the prioritisation has worked. We have talked about the prioritisation of health. My party agrees that health needs to be prioritised, but, in order for us to test whether the three-year Budget is properly delivering on that prioritisation, we need to see a strategy from the Department of Health, and the Department of Finance needs to agree on that. It is not meaningful simply to say that we will prioritise health and for Health to say, "Great, we will gobble up all that money". For us as MLAs not to be able to tell our constituents, "This is how they are going to get waiting lists down with the extra allocation that we have made", it lacks meaning.

It is the same when it comes to some of the other big strategic priorities that we face. We all talk about the cost-of-living crisis, and we will be talking about that on the doorsteps of our constituents and at hustings events over the next few months, not just because of what is happening in Ukraine and Russia, but that is adding to the pressures. Costs are becoming unsustainable especially for people on low incomes and, frankly, also for people on middle incomes. We need to understand the strategic interventions that lie behind that. I accept that the three-year Budget was developed before the cost-of-living crisis became just quite as acute as it is now.

Thirdly, on our broader economic development strategy, we remain the least productive part of these islands. We have really acute economic challenges, but we simply do not have a joined-up strategy to deal with them. On that joined-up strategy, one of the particular things that is picked out by the Fiscal Council is the lack of a detailed investment strategy. In a sense, the document would have wasted the opportunity from the draft multi-year Budget by not having an investment strategy.

Lastly, I want to touch on climate change. Hopefully, the thing that will define this century and will define all our lives in politics and some of our lives in general is the transition to a new low-carbon economy and to adjusting the way that we live our lives to deal with that. The multi-year Budget should have embedded the low-carbon transition to net zero in its targets, and I hope that, post election and a new Executive, should certain parties be willing to come in and form one, we will have that.

I welcome the fact that we have had the debate today. The formation of the Fiscal Council and the Fiscal Commission is a good thing. I hope that we have some more hard conversations about how we raise revenue —

Mr Speaker: The Member's time is up.

Mr O'Toole: — and how we prioritise. I am sure that the Finance Minister will be back after the election to have more of these debates —

Mr Speaker: The Member's time is up.

Mr O'Toole: — because we need to have them in the Chamber.

Mr Muir: I welcome the Finance Committee tabling today's motion. I understand that the motion is:

> *"That this Assembly takes note of the Committee for Finance and the Northern Ireland Fiscal Council reports on the 2022-25 Draft Budget".*

The previous Member rightly spoke about the Fiscal Council's reports and analysis of it. I am, however, very aware that this is somewhat of an academic debate, because there is no Executive at present to agree any draft Budget to make it into a finalised Budget. In the Minister's response, I would like him to bring clarity to the suggestion that has been circulated that a Budget can be agreed without an Executive. My reading of the legislation is very clear that a Budget cannot be agreed without an Executive, and, frankly, some of the comments are quite difficult to take. People criticise and decry the lack of a Budget, yet they are the impediments to us being able to agree that.

I am disappointed that the Minister pulled the consultation on the draft Budget. That was an opportunity for people to give their feedback on it. The Alliance Party agreed in the Executive for a consultation to proceed on the draft Budget. We had serious concerns about it, but we agreed that it was important to proceed and allow a consultation to take place as the necessary next step to allow a Budget to be agreed, whatever it may be.

As I said, the Fiscal Council's report was extremely useful, particularly page 39, where it stated:

> *"The next stage was to reduce the funding for each Executive department other than Health by 2 per cent of its baseline."*

That is the story that was told about the Budget.

On page 40, it stated that "specific allocations" were made. Then, on page 41, it stated that "general allocations" were made. The clear statement from the Fiscal Council was:

> *"One might argue that the combined impact of the 2 per cent cut and the general allocations is the best indicator of the 'winners and losers' from the proposals."*

Page 41 outlines that. It is in clear detail what exactly the draft Budget was about. It was very clear that the Department of Justice was one of the key losers. Yes, my party agreed that the Budget should go forward to consultation, but our views were very clear. There is an awful lot of smoke and mirrors in the draft Budget proposals.

7.45 pm

As a party, we are keen on investment in health and social care but in the context that we should tackle the causes and symptoms of ill health. Preventative healthcare should be a cross-departmental responsibility. That is lacking in the draft Budget and needs to be brought forward and tied to the transformation programme. Specific funds should be set aside to allow that transformation.

The recent Fiscal Council report makes it clear that there should be linkages to the Programme for Government. However, the report also states:

> *"A common criticism from stakeholders was that the Executive should publish a Draft Budget in September".*

I understand that the timescales associated with the Budget are down to the Treasury. It is important to put on record that the timescales for the Treasury to confirm the envelope for the three-year Budget for Northern Ireland were late in the day, and that has inhibited a lot of what we seek to achieve.

There is a precedent for agreeing a Budget in advance of a mandate. A Member of the House, the current Chair of the Justice Committee, brought forward a one-year Budget for 2016-17. We should have an Executive and the ability to agree a Budget, taking into account the criticisms that I have outlined and the Budget envelope that Westminster has given us.

A 2% pay rise was predicated on the draft Budget. We all know what the rate of inflation is. We all know what the challenges will be on pay. The draft Budget also needs to tackle the cost of division, which costs over £1 million a day, yet the draft Budget did not outline what to do about that or about the increasing cost-of-living crisis that households across Northern Ireland face.

The three-year Budget was a golden opportunity to address those issues, transformation in our health service and the climate crisis. We have been robbed of that opportunity. The Assembly and the people of Northern Ireland have been robbed of that opportunity. People tell us that we can still agree a Budget without an Executive, so what is the point of the First Minister's resignation? It is only a stunt, and it is hurting the people of Northern Ireland. We should be able to agree a Budget and implement it for Northern Ireland.

Mr Catney: As I listened to the debate on the Budget, I thought of the song, 'I May Never Come This Way Again'. Committee Chairs and Members put much work into the Budget.

In the Budget debates, I was clear about recognising the difficulties in bringing forward a Budget, whether that is due to our political nonsense, the pandemic or the current global crisis towards which we seem to be looming. There is no doubt that a full, detailed Budget will be a difficult proposition. However, we cannot overlook the clear criticisms made by the Northern Ireland Fiscal Council about the draft Budget. Those criticisms are mostly based on lack of detail. The report states:

> *"the Draft Budget is also notable for areas where the Department of Finance has asked for suggestions in the consultation but made no proposals yet of its own."*

The consultation asks:

> *"Should we in NI raise more money for public services."*

The draft Budget makes no concrete suggestions, which even the Fiscal Council found surprising. With an election looming, the consultation asks:

"Where should we look to save money through better efficiencies?"

The draft Budget makes no concrete suggestions. The consultation asks:

"Do we need to reduce or completely stop delivering any services?"

No explicit proposals have been put forward for consultation. The report continues:

"We are told that capital spending allocations are based on a bottom-up assessment of departments' needs but there is no Executive-agreed ranking of potential projects".

The report also states:

"Much has been made of the 2 per cent cuts that most departments other than Health have been asked to accept in the Draft Budget, which conveys an aura of even-handedness. But little explanation is given of the relative size of the general allocations that departments have then been given and to what extent this reflects a rigorous attempt at priority-setting."

The report is clear that Budget allocations need to be:

"linked more clearly to plans and targets set out in a Programme for Government".

It continues:

"The Northern Ireland Act 1998 requires the Executive to bring forward such a PfG and the New Decade New Approach agreement also highlighted the importance of linking multi-year Budgets to a PfG."

We are not there, of course. We do not even have an Executive any more, and, on the basis of recent conversations, I am not convinced that some here will approach in good faith the discussions to form an Executive after the election. Even if the Executive were to be set up and they agreed a Programme for Government, it is uncertain how much it would reflect the allocations in the draft Budget.

I will finish with what the Fiscal Council had to say about the return of multi-year Budgets:

"we argued the opportunity to return to multi-year budgeting in NI after seven successive single-year Budgets was a golden opportunity for greater long-term thinking and policy action, especially in areas like healthcare reform and infrastructure planning.

With the five parties in the Executive failing to reach agreement on the substance of the Draft Budget, this is not a particularly encouraging start. It is also notable that the Budget contains very little by way of earmarked funding for transformation – just the £49 million a year from New Decade New Approach as against £14 billion of total resource spending. And that there is very little evidence of systematic and well-explained priority-setting beyond the top spot given to Health."

Last week, I spoke about those who come to my office because they are struggling. They are not getting the benefits that they deserve and cannot keep up with the cost of living. This week, we saw a huge increase in the price of oil — 35% — when we already have some of the highest numbers living in fuel poverty. Quite simply, more needs to be done.

Mr Speaker: I thank the Member. I call the Minister of Finance, Conor Murphy, to respond the debate. The Minister has up to 20 minutes.

Mr C Murphy (The Minister of Finance): I thank the Finance Committee for tabling the motion for debate and for its report.

The public consultation on the draft Budget should be closing today. The Executive should be entering intensive discussions to agree a final Budget. As part of those discussions, the Executive should be deciding how to allocate an extra £300 million for 2022-23 in areas such as skills, policing, schools, homelessness and the cost of living. Departments should then be receiving a multi-year Budget settlement, which the Fiscal Council described as "a golden opportunity" to reform public services. Health should be benefiting from a 10% uplift in its budget, with cancer, mental health and waiting list strategies funded in full. All other Departments should be receiving a budget increase.

All that has been denied by the DUP's decision to collapse the Executive in protest at the protocol — the protocol that is the result of the DUP pursuing the most extreme Brexit possible in an effort to impose a hard border in Ireland. The DUP, full of hubris from its position as kingmaker in Westminster, overplayed its hand, and the party's negotiation strategy led to the protocol.

Initially, of course, the DUP was going to cut its losses and make the best of this "gateway of opportunity", as it described it. However, the opinion polls made the DUP panic that voters might intend to punish the party for mishandling its position of power in Westminster, so the DUP embarked on a campaign against the protocol. Collapsing the Executive was the latest stunt in a cynical campaign. It will have no impact on the protocol negotiations, but it will damage public services, particularly our health service, which has so much to lose from financial uncertainty and so much to gain from a three-year Budget.

Mr Storey: Will the Minister give way?

Mr C Murphy: I am happy to give way.

Mr Storey: I am glad that the Minister is so concerned about the financial implications for Northern Ireland. Will he comment on the £1 million a day that is lost to Northern Ireland because of the rigorous implementation of the protocol that he and his colleagues in the House have supported?

Mr C Murphy: That figure has been rubbished by any credible economists. It was a back-of-a-cigarette-box exercise that came together across four firms that measured that figure against a "no Brexit" situation. Go off and get a credible economic position before you come back with figures like that.

Of course, in an attempt to avoid the disastrous consequences of the DUP collapsing the Executive, I obtained the legal advice that Mr Muir asked about from the Departmental Solicitor's Office and the Attorney General. I asked whether I could set a Budget in the absence of an Executive, and the clear answer was no. Section 64 of the Northern Ireland Act 1998 is very explicit about this: any Budget that I bring before the Assembly must be agreed by an Executive. So having prevented —

Mr Muir: Will the Minister give way?

Mr C Murphy: I will give way.

Mr Muir: I thank the Minister for outlining that. I have read the Northern Ireland Act 1998, and it is explicit that a Budget must be agreed by the Executive. Is it not really disingenuous to tell the people that it can be otherwise?

Mr C Murphy: That is the point *[Interruption.]* Mervyn talked about short memories. He should remember that, in February 2018, there was a deal on the table that his party leadership accepted. At the time, all the internal wranglings in that party were undercover — they are now obviously much more illuminated in the public sphere — and some in the party scuppered that deal, so we spent a further two years out of an Executive and the institutions before the DUP came back to exactly the same deal. Do not talk to us about being out of the Executive for three years when you were responsible —

Mr Storey: You were.

Mr C Murphy: You were responsible for two of them.

Having prevented —

Mr Storey: On a point of order, Mr Speaker. In your role as the Speaker, could you rule whether we are discussing the Fiscal Council or the internal workings of the DUP, which seem to be exercising the Minister?

Mr Speaker: The Member will recall that, not that long ago, he referred to other parties in a similarly disparaging manner. What is good for the goose is good for the gander.

Mr C Murphy: The debate is about the potential for a draft Budget, which has been scuppered by the actions of the Member's party. Having prevented the Budget being agreed, the DUP now says that it wants to rectify the situation and has put forward nonsense suggestions to try to create diversions for people. The solution is very straightforward: appoint a First Minister so that the Executive can meet and agree a Budget. That is a very simple solution, and it could be done tomorrow. *[Interruption.]* Do not start spoofing to people about party leaders' meetings to agree a Budget. As far as I am aware, only one person at the party leaders' meeting is a member of the Executive. Be honest with people at least and go off and appoint a First Minister. The protest against the protocol is meaningless, and it is having absolutely no impact on it. The only impact that it is having is on the people whom we collectively represent and who want funding to be allocated.

I also want to focus my remarks on transparency, because it was one of the issues that the Fiscal Council and the Committee set out. Indeed, I raised it in my time as Chair of the Finance Committee; therefore, I am the first to recognise that the Budget process and its reporting can be opaque and often complicated. That is why I set up the Fiscal Council and the

Fiscal Commission. It is also why I progressed the financial reporting legislation, which will improve transparency in the Budget and Estimates processes. It is also why I welcome the recent Audit Office and Public Accounts Committee reports on the Budget. It is imperative that a financial process that supports the delivery of public services is as accessible as possible.

In one of its six concluding reflections, the Fiscal Council highlighted the advances that the draft Budget publication made in improving transparency. Funding-related political agreements and city growth deals were included; departmental allocations were shown alongside the 2021-22 agreed final Budget positions and the departmental baselines; more details were provided of payments under public-private partnership and private finance initiative projects; additional details were provided of the breakdown of principal interest payments for reinvestment and reform initiative (RRI) borrowing; and the draft Budget identified how much of the RRI principal is being repaid through the regional rates revenue each year. In that regard, I welcome the council's view that there were advances in transparency in the draft Budget document. I also accept that there is a need and scope to do more, and the recent Audit Office and PAC reports on the Budget will be helpful as we seek to improve that process.

I will address some of the issues that Members raised. Steve Aiken, the Chair of the Finance Committee, raised the point — Matthew O'Toole majored on this as well — about a lack of strategic documents on the process. The difficulty is that it is not my responsibility to bring forward a Programme for Government or an investment strategy. That is the collective responsibility of the Executive. The Budget has a legislative deadline. The Programme for Government and the investment strategy do not. That is why I had to bring forward a Budget in December. Now, unfortunately, we are stuck without an Executive to agree such a Budget, which they should have been doing in the next week or so.

Steve Aiken also raised points about Departments bidding for and surrendering funds. It was reflected in the commentary from almost all the Committee Chairs who are here that Departments will always aim to get as much as possible when they make bids.

It is true that in-year resources are given back, and that is why we bring in-year monitoring rounds to the Assembly. It would be good financial management to have opportunities to scrutinise how Departments bid and what they should get. Of course, they should be bidding realistically. It seems to me that, based on the accounts that were given to some Committees about the Budget, there was, as someone said, a difference between what the Departments said they wanted and what they would realistically spend. It would have been up to the Executive to continue to monitor the Budget in the time ahead.

8.00 pm

Mr Buchanan talked about all the negative impacts that the Budget would have across a range of Departments. There are a couple of basic truths in all of this. One is that if we decide that the priority is Health — that is the key question, and Matthew O'Toole touched on it in his contribution — and we have a finite Budget, that means that other Departments will not get as much money as they would like. The other option is that we decide that Health is not the priority. I note that, in a recent statement, a DUP Member said that the DUP has a plan to fix Health. That person did not say what the plan was, and, based on Mr Buchanan's contribution to the debate, it clearly does not involve giving Health any more money, so I am not sure how it is intended to work. Health needs the ability to invest in its own staff and to create the possibility of transformation.

Of course, all the other Departments will undoubtedly face pressures next year, because, even though they all got an increase in their budget baselines, they did not get anywhere near what they needed. We can go back to a previous discussion. Your party had the opportunity to choose whether to support a Government that were delivering austerity policies or support a Government that intended to invest in public services. You chose to keep the Tory Government in power as opposed to choosing a Labour Government. This is the consequence of some of those decisions. We would have had £300 million next year to invest in other Departments to enable them to meet pressures around policing and a whole range of other priority areas such as skills, but we cannot do that without an Executive.

Mr Gildernew: Will the Minister give way?

Mr C Murphy: Yes.

Mr Gildernew: Does the Minister agree that the Health Committee has heard that, without the Budget, there are not sufficient funds in the Department of Health to deliver the transformation and workforce strategies that are needed?

Mr C Murphy: Yes. I have had that conversation with the Health Minister many times. The Health Department would take more money than we are proposing to give it and spend it, but there is a balance to be struck. The rhetoric that everybody in the Chamber employed over the last number of years was that Health was the priority: Health was going to be the number-one issue and Health needed to be fixed. However, it looks like, when it comes to putting your money where your mouth is, a lot of people are running and saying, "Oh, it is Health, but we need this done, we need that done, we need the other thing done. We need money in Infrastructure. We need money in a lot of very worthy areas". You cannot have it all, particularly when you keep in place a Government that intend to follow through on austerity policies and continue to cut public spending. In putting together the Budget proposition, I matched the rhetoric that parties here had been expressing for the last number of years. It appears that, when it comes to standing up to be counted, people are prepared to back off. It is a bit like Rishi Sunak and Boris Johnson clapping in Downing Street for the health service workers: when it came to it, they did not put their hands in their pockets and provide money for them. Nonetheless, I believe that, if we had had an Executive in place, we would have reached an agreement on a Budget in the next week or so.

Caoimhe Archibald mentioned one of our key challenges being in relation to skills. I accept that, and it is a challenge for the Department for the Economy, but it is a challenge because we have lost EU funding, which is another consequence of Brexit. The British Government promised us replacement funding in full, but they are not replacing EU funding in full. The biggest loss is the funding that used to go to the Department for the Economy to support skills and training. That is very badly needed, and we have to try to find that money from within our own resources.

We have had the argument about the Justice budget, and Mervyn Storey raised it again. There are figures that have not been included in the Fiscal Council report, and it is my clear view that, like all other Departments, Justice did receive an increase in its baseline each year for three years.

Mr Storey: Will the Minister give way?

Mr C Murphy: I am happy to give way.

Mr Storey: The Minister saw it himself, because a Member showed the graph from the Fiscal Council report. The only Department with a net negative result is the Department of Justice. That cannot be denied, despite all the spin that you and your colleagues have tried to put on it that, somehow, you are giving additional money to Justice.

It ain't happening. If you talk about openness and transparency, you have to face up to that reality.

Mr C Murphy: It is clear that the Fiscal Council took an approach that did not include some figures that will go to the Department of Justice. That makes a difference between the Department of Justice having a loss and having a net gain over the three years. There is no spin attached to it; it is a different view of the figures that go into the Department of Justice budget and where they come from.

As I said, Matthew O'Toole talked about strategising. I have to say that I would much prefer that a Programme for Government and an investment strategy were in place. In the absence of those, however, I still have to go ahead with the Budget. There was a three-year prioritisation for Health. There were costed plans for elective care, costed plans for cancer treatment, costed plans for a mental health strategy and costed plans for the transformation of the health service. There was a strategy attached. I absolutely accept the Fiscal Council's criticism that those other strategies and documentation should be in place, but that is outside my responsibility. I cannot wait on that, because I have a legal responsibility to bring a Budget before the end of the financial year. As I said, a strategy was attached to those issues to try to give support.

Pat Catney mentioned a number of issues and Departments. It was another case of, "Somebody should do something about these issues. We don't know who and we don't know what, but somebody should do something about them anyway." That brings me back to the central point that I have been making since the start of this debate: if we have a finite Budget, we have to prioritise. We have consistently said that Health needs to be the priority but, when it came to prioritising Health, we suddenly recognised that there were a whole range of other pressures that were not being met. That will absolutely be the case. Now, had we decided to roll everybody's budget over and give Health no prioritisation, Departments would not have enough resources anyway because of the impact of austerity over 10 years.

Mr Storey: I thank the Minister for giving way. Does he accept that, while we will argue that it is acceptable that we give Health more money, there are health-related provisions in other Departments that will now be negatively impacted, such as the custody suite in Musgrave Street police station in this city, which has reduced attendance at A&E departments by some 45%? If that multi-agency approach is not funded, the figures in A&E departments will increase again.

Mr C Murphy: We have said many times at the Executive, and I accept, that the health of the population is not the sole responsibility of the Department of Health. However, one of the factors of the Good Friday Agreement is the autonomy within each Department; that was a part of our power-sharing arrangements. There is autonomy for individual Ministers, whoever they may be. The people who hold the ministerial positions now may not be re-elected, may not be back in the same Department or may not be appointed as Ministers by their parties, but it will apply to whoever holds those positions.

One of the factors was that the Executive, in planning their priorities, could do so without individuals wearing departmental hats. Some Ministers have struggled to separate that from the Department that they will represent for the next number of weeks or months but, clearly, there was an opportunity to do that. Ministers have responsibility for prioritisation within their own departmental budgets. If those things are a priority for them, they will have to decide which other areas are not a priority for them. They can make that contribution, because that is a part of the arrangement that we have under the Good Friday Agreement.

There is a significant degree of autonomy within Departments. I cannot go into Departments and tell people how to spend their money. All that we can do is get the Executive to agree how much money they get and try to bring some broader degree of prioritisation to it. That is what I had attempted to do in the draft Budget, by prioritising an area that, we had all agreed, required it.

I hope that we can come to that position, whoever may be in the Executive and whenever an Executive may be formed, which I hope will be sooner rather than later. As I said, the people who are suffering as a consequence of this are not those who are negotiating between the British Government and the EU on the protocol issues; it is the people whom we collectively represent in this part of the world who are suffering as a consequence of our inability to take decisions on a draft Budget.

The debate has been useful, although it is obviously limited, given that we find ourselves without an Executive to take the decisions that need to be taken. I thank Members for their contributions. I would like Members who raise all the areas that they want to see funded to go off and think about how they intend to do that, given the fact that we have a finite Budget. The approach that those Members have been taking is that everything is a priority and nothing is a priority.

Every issue that they have mentioned is a priority, but that means that nothing will be prioritised in the time ahead.

I thank Members for their contributions, but, finally, I put on record my frustration, as Finance Minister, with the situation that we find ourselves in and with how the actions of some are putting at risk the outcomes for all.

Mr Speaker: I call the Chairperson of the Finance Committee, Steve Aiken, to conclude and make a winding-up speech on the debate. The Member has 15 minutes.

Dr Aiken: I am sure that Members will be delighted to know that I will not be taking up the full 15 minutes.

Some Members: Hear, hear.

Dr Aiken: I will take up 14 minutes, 59 seconds. First, I thank all of the contributors to the debate. As the Minister and many Members have pointed out, we wish that we were in a position to debate the real Budget and that that Budget could come forward. It is a matter of regret for all of us in the Assembly that we are not in a position to do that. We can talk about the argy-bargy of why we are in that position and all the rest of it, but it is regrettable because there are real pressures in Northern Ireland, particularly for our health service and in education, the economy and justice. We have seen them all.

After asking for a three-year Budget settlement, for many years, we now have it for the first time. We know that £47·9 billion is there for us to use for improving our services. We have heard time and again from civil servants and across the sectors in Northern Ireland that all we need is a bit of stability, understanding and long-term budgeting and we will be able to deliver. We had that opportunity, but we do not have it now.

Many of us will ask, "Why have a debate on something that we can't possibly manage because we don't have a Budget before us?". Regrettably, many of us sat for three years when nothing was going on here. I had numerous conversations with permanent secretaries about finance and where finances were going. On every occasion, they said, "Oh, we'll do what was in the last draft Budget. What we'll do is what was the intent of the Assembly". That was their interpretation of it. That did not exist. It was, basically, made up by some permanent secretaries. When we look at some of the decisions that were made over the past couple of years, when we were not here, we realise the problems and where they lay. That is one of the main reasons why the Finance Committee decided that it was important to have the take-note debate. It will be recorded in Hansard. We can refer to it, and all Members will see our areas of priority and concern and the things that, we said, we should look at intently.

I will not rehash what every Member has said, because each Member and Committee has stated valid positions and points as we have gone through the debate. It is important that we listen to those because, despite the Budget that we have, it is obvious that there are considerable pressures out there. The word that we have heard time and again is "prioritisation". We need to prioritise what is essential and what we need to do. We need to recover from COVID; we need to sort out the problems with the health system; we need to deal with education; and we must do something about the catastrophic skills shortage in Northern Ireland.

We know that we had a Programme for Government. I have given up on how many outcomes and deliverables there were in it. Most normal places have three or four deliverables in their Programme for Government. If we were to write down the four things that we need to deliver for Northern Ireland, we know what they would be. That will be the role of the next Executive, if we have a next Executive, and the political parties. We must look at what our priorities are, listen to what everybody has said in the Assembly, take that as the baseline for where we need to go to and get it moving. We cannot afford to delay and dither. The world is moving on. It does not revolve around Northern Ireland. The issues that are going on in Ukraine and all over the world and the issues relating to the climate emergency mean that we cannot afford to sit on our hands, yet again, and pontificate for two or three years without an Executive or a Budget.

I thank the Committee for Finance for all of the hard work that it has done, RaISe for the work that it has done and the Minister for noting the fact that it was the Ulster Unionist Party that first asked, way back in Stormont House, for a Fiscal Council to be set up, as we needed somebody to check our homework because, frankly, we were not to be trusted to do that.

8.15 pm

Mr O'Toole: Will the Member give way?

Dr Aiken: Yes. Go ahead, Matthew.

Mr O'Toole: I agree with a lot of what the Member has said, but, with regard to his characterisation of the Fiscal Council and his comments on how we are not to be trusted to mark our own homework, is it not a better way of looking at it, rather than looking as if we are patronising Stormont and MLAs who are not able to do their job — I pass no comment on that — to recognise that, in London, Dublin and, indeed, Edinburgh, they have independent fiscal advisory councils to scrutinise and give clarity to the public and the people whom they serve? It is not necessarily about second-guessing us as institutions; it is about giving robustness to how we do budgeting.

Dr Aiken: Indeed. The beauty of having the Fiscal Council and the Fiscal Commission is being able to have people with independent views and perspectives to look at our processes. Anybody who has read the Fiscal Council's report will know that it makes for sobering reading. In effect, it tells us where we need to make improvements and make them work. As we go forward, hopefully, we need to develop an open relationship among the Fiscal Council, the Assembly's Committees and the Executive so that we understand not only how our moneys are being spent but how they are being spent effectively.

Mr Storey: I thank the Member for giving way. Earlier, one of the contributors to the debate talked about the "big, fat elephant in the room". There is another one: a five-party mandatory coalition. The Finance Minister rightly said that, if everything is a priority, nothing is a priority. We have an Opposition within the Government. A five-party mandatory coalition does not work. Given the probable trajectory of the demographics of Northern Ireland over the next number of years, I am sure that it will not be long until some parties will want us to go back to majority rule, something that they vigorously opposed. At present, majority rule does not suit them, so they are happy to be in a five-party

mandatory coalition that does not work. That big, fat elephant has to be dealt with.

Mr Catney: Will the Member give way? *[Inaudible owing to poor sound quality.]*

[Laughter.]

Dr Aiken: You have to wait until I stand up again. *[Interruption.]*

Mr Speaker: Order, Members.

Dr Aiken: I shall say a few words.

Mr Speaker: Keep it calm.

Dr Aiken: I will give way now.

Mr Catney: Sorry. I will be all right.

Mr Speaker: I am sure that you are all right, but the Member there has the Floor, not you. Somebody get up.

Dr Aiken: The Member gives way. After you, Pat.

Mr Catney: I will just come back on that point. All that I know is that, since I have been here, having a Government — an Executive — in place has always been better than the position that we are in at the minute, which is that of having no Government.

Mr Speaker: Members should remind themselves that we are speaking about the Fiscal Council's report and not about the parties.

Dr Aiken: Mr Speaker, there is no way that we would ever try to abuse your position and role in the Assembly.

I will wind up fairly shortly with this point. The key message is that we have been given an opportunity. We must get some form of Executive back to enable us to take advantage of it. We must prioritise. We cannot lose the opportunity. The one thing that I can be certain about is that, if we end up with only 45% of the Budget that can be spent by the end of July and if we then have to go into special measures to get to 95% of the Budget by the end of the year — the baseline of last year's Budget, not the one that there is now — that will have real implications for our services, our policing numbers, our nurses, our teachers and our economy. Ladies and gentlemen, Members of the Assembly, we must do much better.

I thank everybody for attending the debate tonight.

Mr Speaker: I thank all the Members for their contributions this evening.

Question put and agreed to.

Resolved:

That this Assembly takes note of the Committee for Finance and the Northern Ireland Fiscal Council reports on the 2022-25 draft Budget; and calls on the Minister of Finance to give due regard to their findings.

Mr Speaker: Members, please take your ease for a moment or two before we move on to the next item.

Private Members' Business

Autism (Amendment) Bill: Final Stage

Mrs Cameron: I beg to move

That the Autism (Amendment) Bill [NIA 31/17-22] do now pass.

Mr Speaker: The Business Committee has agreed that there should be no time limit on the debate.

Mrs Cameron: I am incredibly proud and grateful to be bringing the Autism (Amendment) Bill to its Final Stage this evening. More than 10 years ago, another chairperson of the all-party group on autism introduced the Autism Act (Northern Ireland) 2011. When the former SDLP MLA Dominic Bradley introduced the Autism Act in Northern Ireland, it was the first legislation passed by the Assembly that mandated cross-departmental service planning and delivery across adult and children's services. It was a landmark piece of legislation, without which we would not be standing here today.

Unfortunately, despite the cross-departmental nature of the legislation, Departments have not fulfilled their duties to the autism community. We have heard evidence throughout this process that highlighted how the current service provision is leaving individuals and their loved ones without essential support. We know that waiting lists for diagnosis and assessment are frighteningly long for many and that that is not an acceptable situation. We need to do more than improve our resourcing and funding for diagnostic services. We need to ensure that diagnosis comes with support and that those who are waiting on diagnosis are not left without vital intervention.

The Bill aims to enhance the Autism Act 2011 and to improve services for every autistic individual, regardless of where they fall on the spectrum and what stage they are at in life, whether they are a non-verbal young child experiencing extreme distress in a nursery, a young woman in a secondary school feeling overwhelmed by anxiety or an older gentleman feeling isolated and needing support to manage social engagement and relationships. The Bill recognises that every individual with autism is unique, experiences their autism in a different way and needs access to person-centred supports and services.

Clause 1 strengthens the data collected to inform service provision by ensuring that prevalence data is collected on adults as well as children. Clause 2 introduces duties to ensure that training will be provided to Northern Ireland Departments and public bodies. An early intervention service for children, young people and adults and an information service will be created. Clause 2 also places a duty on the autism strategy to specifically address the needs of adults in various areas.

Clause 3 ensures that the autism strategy must be person-centred, multidisciplinary and cross-departmental; take into account international best practice; and be judged by measurable targets agreed in consultation with the autism community. Crucially, clause 3 ensures consistency of autism practice across Northern Ireland. Thanks to the Health Committee's amendments, consistency of practice needs to be achieved in education services along with health and social care trusts. That is to end the postcode lottery of waiting times for assessment and intervention.

Clause 4 introduces annual autism funding reports to be produced by the Minister of Health, setting out how funding for autism has been provided to meet need. Although there have been some concerns about those reports, they are intended to ensure that Departments meet their duties when it comes to autism funding. To give an example of that need, representatives from every health and social care trust stated in evidence to the Health Committee that current services were not resourced to meet demand.

Finally, clause 5 introduces an independent scrutiny mechanism in the form of an autism reviewer. That reviewer is not designed to be an autism advocate. There are many fantastic advocates out there. In fact, many of them are in the Public Gallery this evening. The reviewer is designed to monitor funding, law and practice and the effectiveness of services relating to autism. The reviewer will be able to commission independent research. The reviewer is to issue an annual report, which will be laid before the Assembly.

Crucially, the autism reviewer will be an individual appointed by the Department based on their qualifications and experience. The position will be paid, and the Department must provide the reviewer with all the necessary resource to carry out their functions. Amendments that were introduced by the Health Committee strengthen the independence of that role; they ensure that the reviewer cannot be a departmental employee or under

the direction or control of Northern Ireland Departments. The autism reviewer must be truly independent from government and other organisations. The autism reviewer is designed to be an impartial individual who scrutinises the Departments' work for the better of the autism community. The individual must work for and engage with the entirety of the autism community, including the many incredible autism advocates whom we have.

I thank Members for their support and commitment so far to driving change for our autism community. I will save my full thanks for later, as there are many individuals who have contributed to the Bill's reaching its Final Stage today. I urge Members to continue in the spirit of collaboration that we have seen throughout the Bill's progress and to support the Autism (Amendment) Bill as amended at Further Consideration Stage. That will show the autism community that we have heard their concerns and that we are determined to make a difference.

Mr Gildernew (The Chairperson of the Committee for Health): Is mór an onóir domh bheith anseo anocht ar an Bhille seo. I am extremely pleased to be here tonight, debating this Bill. I welcome the Final Stage of the Autism (Amendment) Bill. I thank the Deputy Chairperson of the Committee, Pam Cameron MLA, for introducing it. I also thank the all-party group on autism and Autism NI for their support in bringing this legislation forward. I acknowledge that we are joined in the Chamber by Kerry Boyd and Arlene Cassidy and by very many people who are watching the debate to see how the Assembly can make a difference to real lives in real ways.

The Committee welcomes the Bill and its aims. It believes that the Bill can have a real impact and provide support and help to children, adults and young people with autism and to their families and carers. The Committee welcomes the aim of strengthening the consultation process to include people with autism and their families and carers. We, as a Committee, have believed throughout the current mandate that co-design and co-production are absolutely key to seeing services improve and to people getting the help and support that they need.

We welcome that the autism strategy must set out how the Department is to make provision for an autism support and early intervention service and that the strategy must set out how the Department will reduce waiting times for assessment and treatment. We are all too aware of the stories of our constituents, who have outlined the difficulties that they are having with waiting for assessments to take place and the length of waiting lists. The Committee hopes that the Bill will provide help and support at the earliest opportunity.

We welcome that the strategy must set out how the needs of adults with autism will be addressed; in particular, their needs in respect of lifelong training, employment, support, recreation, physical health, emotional and mental well-being, supported living, and housing. We also welcome that the Bill will introduce the role of an autism reviewer. The Committee believes that that role can have a real impact in reviewing the work of the Department in delivering for children, young people and adults with autism. The Committee places on record its thanks to the organisations that provided written and oral evidence to the Committee.

8.30 pm

I thank Committee members for their consideration of the Bill. The Committee tabled a number of amendments at Consideration Stage and Further Consideration Stage to strengthen the Bill, and I thank members for their engagement and consensus on the Bill's progression through the Committee process. I commend the Bill to the Assembly and look forward to seeing the real impacts and benefits that it will have for people with autism and their families and carers.

I will now make a few remarks as Sinn Féin health spokesperson. I am delighted that we are seeing a Bill that will further strengthen supports for all the people in our community who struggle with autism, with access to services, with waiting lists and with all that flows from that. Just on Saturday, I met a constituent who, over the past short while, has had to spend over £2,000 to access assessment and on services to support her child. That, Members, challenges the very idea of a national health service free at the point of need. We absolutely need to address that and work on it. It is clear that workforce issues are a barrier to services, and we need to see those issues progressed.

In particular, I welcome the way in which the Bill has come to pass through the work of the all-party group. My party colleague Cathal Boylan has been instrumental for many years in that all-party group, and its continuous work introduced a Bill that was brought to Committee Stage and worked on by the sector, the Committee, the Bill sponsor and all those who have an interest in ensuring that legislation will be effective, meaningful and make a real

difference. I think, Members, that that is this Assembly at its very best. It is where we, inside this Building, are engaging with the people outside in our community who require support and require us to do our job as legislators. We then convert that information into real and substantial improvement. I welcome the Bill, and Sinn Féin is delighted to support it.

Mr McGrath: I welcome the opportunity to speak on the Bill this evening. In doing so, I pay tribute to all those who have helped the legislative process and brought the Bill to its conclusion. In particular, I thank the Bill sponsor, Pam Cameron. It is great that any Bill gets through this place, but, as it is a private Member's Bill, I congratulate the Member on her work to make this a reality. It is the first private Member's Bill to go through with people watching from the Public Gallery. That is really appropriate as the Bill will reach out to the community to help and support it. It is absolutely wonderful that, on the first day that we have people in the Public Gallery, we see something like this reach its conclusion. We also have the all-party group to thank, and we had the support of Autism NI, which has helped to make sure that this important amending Bill has made its way through.

Autism is a complex issue, not only because there are many and varied needs in the spectrum of autism but because, for those who are living with autism, it does not always present itself in such a way that impacts on physical health or mobility but more on social and communication capacities. As MLAs, we have all heard the stories from constituents of how autism is affecting their lives. For instance, it has only been in the past few years that we have seen the advancement of information on ADHD, which has required a tremendous level of education and consultation. As a result of that, the local community has stepped up, and I commend initiatives in the areas that I represent. Those include the ADHD Hub in Newcastle, which was set up so that the families of those who have a diagnosis of ADHD have somewhere to go and make a contribution to their community. There is also the Downpatrick Autism Family Support Group, which was set up as a means to provide support for families in the Downpatrick area.

I know from my work in the Patrician Youth Centre in Downpatrick that it also has a programme for young people with autism, providing them with that special space and with opportunities to go out and mix with other young people. It is wonderful that the work that many in the Chamber have done in the past few years is helping to make those initiatives come alive and that people with autism are being given the opportunity to fully participate in society.

Such examples also show the importance of the collection of data, which is very much part of the Bill, and of how that data is brought together and used to provide the services and direct the resources that are needed in our community.

I hope and firmly believe that the legislation will help those living with autism and their families. As we go forward, there is work to be done on how assessments are carried out of individuals who seek things like the personal independence payment (PIP), as that process seems to be particularly unfair and puts them at a disadvantage. Elements of the Bill will, hopefully, help to address those shortcomings in other Departments and in the work that is taking place. Much of the minutiae of that will be for a future Assembly to try to work with.

In bringing my comments to a close, I advocate the Bill as important legislation. It proves that this place can work and that, when we get together and have the right agenda for the right reasons, we can deliver results that help people in our community. If that is not the motivation for any of us to be in the Chamber, we need to go off and think about why we are in it.

I will close with words that I read by an individual with autism who spoke about the need for greater support and services. He said:

> *"On our own we simply don't know how to get things done the same way you do things. But, like everyone else, we want to do the best we possibly can. When we sense you've given up on us, it makes us feel miserable. So please keep helping us, through to the end."*

With those words, I hope that we can realise that, in getting the Bill to Final Stage tonight, we are doing what we can to help people. That is why we in the SDLP are delighted to support the Bill.

Ms Bradshaw: I support the Bill at Final Stage, and I put on record my thanks to the Bill sponsor and the Health Committee for working so constructively on it.

The Bill addresses some troubling gaps in provision, and it provides lessons for other areas of our health service. Most of all, it reinforces the need to move beyond silos and embed multidisciplinary teams. The establishment of an independent autism

reviewer, for example, may provide a useful example for other areas of scrutiny.

I repeat my thanks from previous debates to Autism NI for its work on the Bill, its support for the all-party group on autism and its swift responses to queries raised by me and my office as we considered the Bill. I thank the National Autistic Society, the trusts and the Department of Health for their very important input throughout the process. Finally, I thank the individuals who have been in contact with me and my office on the topic. The Health Committee staff worked amazingly, as always, and the Bill Office provided great support and guidance.

The proof of the pudding is in the eating. The key to all this, in the end, is ensuring that the Bill makes the difference that it is intended to make. Let us now proceed swiftly with implementation.

Mr Boylan: I will speak in favour of the Bill. It has been a long haul, and I start by thanking the administrative back-up in the form of Autism NI and the National Autistic Society, which have worked hard with us over a number of years. I have been on the all-party group on autism for 15 years, and I am delighted to be its vice chair.

I preface my next comment by saying that we have tried strategies and action plans. However, although the Bill has only eight pages and eight clauses, with five main clauses, that little blue document will, I hope, provide services for some of the most vulnerable. That is the way that I look at it. I am glad that the Minister is here tonight, and I look forward to his response. We worked very hard as an all-party group over the last two years to structure the Autism (Amendment) Bill so that it would enhance the Autism Act, which was passed in 2011.

I also welcome everyone who is in the Gallery, especially Wings of Hope Autism Support Group from north Belfast and the other people who have helped Pam and the rest of us to bring the issue to the fore and have supported us. It is good to see those people in the Gallery, because that is what it is about. The Bill is a private Member's Bill, and it is well supported. There was a good response to the consultations.

I will outline the three main objectives, or planks, of the Bill that I think are vitally important. The Minister will know them. As with every other piece of legislation, I and the members of the all-party group certainly do not want to see the Bill sit on the shelf. The pandemic was very difficult for us all, but I guarantee that it was more difficult for people who are on the spectrum and their carers.

I will not repeat all that has been clearly outlined by the sponsor of the Bill, who I thank. The first main plank of the Bill is:

> *"To enhance the autism strategy by strengthening the consultation process and the collection of data."*

We have been trying for years to get that. We have written to various Ministers. We will work with the Minister and others, because this is a cross-departmental issue. It concerns not only children but adults, and it concerns the needs of over-19s and how their needs cross into the various Departments. I would like to see those Departments meet their responsibilities. An action plan back in 2016 outlined the responsibilities and roles of other Departments in delivering on their commitments, but that did not happen.

The second main plank is:

> *"To provide information on autism training for staff of public bodies; to set out details of an autism early intervention service; details of a new autism information service; and specific information on the needs of adults with autism."*

The third objective, and this is an important one, concerns the role of an autism reviewer. That is the mechanism through which we will hold accountability. Whichever Members are returned in the coming election, I hope that they will pursue the aims of the Bill. If we are serious about looking after our people, there is enough in the Bill that ensures that we can do that.

Minister, as we started the process with the sponsor of the Bill, you gave an early indication that you would be keen to work on the Bill and with the group. We put a lot of work into it. At the very start of the process, when we introduced the Bill, people asked "Why autism?". Well, why not autism? The Autism Act was passed by the Assembly in 2011. It is in statute, but areas of it were never acted on. Therefore, we are having a second go at it, and this piece of legislation will support the Minister, but we are not saying that it is all down to the Department of Health.

I welcome the debate on the Final Stage. I am glad to be part of it, and I am thankful that we had a good team around us. I am grateful to the team that supported us and to all the Members over all those years who played their part in the

all-party group on autism. I thank the sponsor of the Bill. I pay tribute to the Chair of the Health Committee for the key amendments that the Committee tabled at Consideration Stage, which clearly identified where we needed to go in order to enhance the Bill.

I am delighted that we have got to this stage and that I can say with confidence that we will agree the Final Stage. More importantly, I look forward to what the Minister and the other Members who will speak will say, and I obviously look forward to what the sponsor of the Bill will say when she makes her winding-up speech.

8.45 pm

Mrs Erskine: I will not go into a huge amount of what has already been said. I thank the Bill sponsor — my colleague and friend Pam Cameron, who is also the Deputy Chair of the Health Committee — for the huge amount of work that she undertook in order to see the Bill reach its Final Stage.

Like the Member who spoke before me, I hope that the Bill will not sit on a shelf gathering dust and that instead it will make effective change in the lives of those with autism. I fully believe that it will improve services. We all know families who call us or step into our offices and often feel like they are fighting a constant battle for their children or, indeed, themselves. We must not forget those who are diagnosed later in life, and I am glad that we took them into consideration in the Health Committee.

The Bill will effect positive change by providing improvements to the implementation of the autism strategy through steps such as the creation of an early intervention service and the creation of a central autism information service for autistic individuals, families, carers and professionals. The legislation will also ensure that the Minister reports to the Assembly annually on autism funding. The provision in the Bill for the appointment of the autism reviewer to monitor, review and commission work to promote and scrutinise the adequacy and effectiveness of services is vital.

It is vital to ensure that those with autism have the help and support that they need so that they are not burdened with constant battles that they should not have to fight. There should be help for those who need it most. For the people whom I represent in Fermanagh and South Tyrone, ending the postcode lottery for services is vital. That is why having a region-wide early intervention service is an important step. It should not matter whether you live in Belleek or Belfast, Lisbellaw or Lisburn: everybody deserves the same treatment, help and support.

I thank all those for whom today will be another weapon in their armoury and an achievement that they should rightly celebrate and of which they should feel proud. I thank those who engaged with the Committee, particularly Autism NI and the parents and young people who contacted us to tell their stories and seek help. It is really great to see members of Autism NI in the Public Gallery tonight. We salute you for the efforts that you have made to get to this point.

My hope is that the Bill will provide real and much-needed change to the system. Today is another good day for the Health Committee, which has brought forward another very important piece of legislation for people outside the Chamber. It is a privilege to support the legislation tonight.

Ms Brogan: I am delighted to speak in support of the Autism (Amendment) Bill at its Final Stage. It is a really important Bill, and I am pleased that it has got to this stage. A lot of work has gone into getting the Bill to this stage, so I begin by thanking the Bill sponsor, Pam Cameron, for bringing the Bill to the House. I also thank Autism NI for all the work that it has done; the all-party group on autism for the work that it has done to get the Bill to this stage; the Health Committee and its members for tabling amendments at previous stages that really strengthened the Bill; and, of course, all our constituents who raised issues that show the importance of improved services for those with autism. A big thank you to all those advocates for change.

The Bill and the autism strategy that will come out of it are real opportunities to make a positive impact on the lives of many children, young people and adults with autism, as well as on the lives of their families. However, we need to make sure that the Bill is implemented properly so that we can deliver real and positive change for so many families. We need to see proper investment in autism services and a clear commitment to tackling the disparity among trusts in waiting lists for autism assessments and diagnoses. That is one point that we have all encountered while going through the Bill's stages. I am very passionate about that, and it needs to be tackled swiftly. Finally, we need to ensure that there is the right offer of support and guidance for people with autism and their families to help them through any tough days that they have.

It is a really positive day. As I have said, I am delighted to show my support for the Bill. I am sure that every other Member will support it as well.

Mr McNulty: I support the Bill. I stand here as a proud south Armagh man. I stand proud of the invaluable contribution of my south Armagh predecessor and family friend Dominic Bradley, a Bessbrook man, who introduced the Autism Act 2011. That Act was described by Dr Arlene Cassidy of Autism NI as "landmark legislation". I will quote her verbatim:

> *"It is the most comprehensive, lifelong, cross-departmental single-disability equality legislation in Europe and in the world."*

I stand here proud of my SDLP colleague John Fee, a Crossmaglen man, who was the first person to mention autism in the Assembly — the first person — God rest him. Sadly, much of the promise of the original Autism Act has not been achieved. That is why the Autism (Amendment) Bill is so important. We must deliver on the promise of the Autism Act for the one in 22 children who have autism, the 18,000 children in the North who have autism, and all the adults who have autism.

I applaud the Bill sponsor, Autism NI and the National Autistic Society. I see Kerry Boyd and Arlene Cassidy in the Public Gallery, smiling from ear to ear. They know the work that they have done, but they know that the work starts now. We must deliver for children and adults with autism. I thank the parents and advocates, many of whom are in the Public Gallery. They are all very welcome. It is good to see them here; it is the first day that we are open. They know how important the legislation is. I thank the children and adults with autism for their voice.

Amidst all the doom and gloom, of which there has been so much in recent days and weeks, today is a positive day. I stand here as a proud Member of the Assembly; proud that we have sought to provide children and adults with autism with the support that they deserve.

Mr Swann (The Minister of Health): I am pleased to respond to the Final Stage of the Autism (Amendment) Bill. I will start by commending the Bill sponsor, Mrs Pam Cameron, for her work in taking the Bill forward, and her commitment, determination and grit to see it through to this stage. I also commend the Health Committee for its commitment to and scrutiny in the progression of the Bill; the stakeholders who have contributed to shaping it and bringing it to Final Stage; and the campaigners, parents and grandparents, including those who have joined us tonight.

I echo the words of a Member who spoke previously in giving my thanks to the Health Committee for its work in taking forward the private Member's Bill. Earlier, we had the debate at the Further Consideration Stage of the Adoption and Children Bill. The moving of this private Member's Bill to this stage also shows the determination of the Chair, Deputy Chair and members of the Health Committee to progress a number of pieces of legislation to the betterment of health and health provision in Northern Ireland.

Unfortunately, I was not available to participate in the previous debate on the Bill. My tenure as Health Minister did not grant me exemption from COVID at that particular point. I will start this evening by acknowledging that, as has been mentioned, autism has been debated in the House on many occasions. A number of individuals have been named: Dominic Bradley, Kieran McCarthy of the Alliance Party, my predecessor, the Rev Dr Coulter, and Cathal Boylan, who is the remaining Member of that cohort. However, when we speak now of those names and their contributions in this place to autism causes, we can add Ms Pam Cameron to that list for her private Member's Bill.

As the mandate draws to a close, I hope that we will see significant improvements emerging as we work collectively and, hopefully, as a refreshed Executive in the coming months and years. However, I must reinforce, once again, that we can only achieve that progress if we work together.

Undoubtedly, elements of the Bill will present challenges and will require significant resource and investment from the next Executive, I am reassured that the overall direction of the Bill is reflective of the thinking and planning of my Department and across a number of Departments. Work is under way to increase understanding of autism and to ensure that the necessary support and interventions are provided at the time and place where they are most needed: in our health and social care sector, in education, in employment and in housing.

I hope that the Bill and the work that is being undertaken by my Department in implementing the current interim autism strategy and in the development of a longer-term strategy, which will be published next year, will see improved accessibility, increased consistency across our Province and real progress being achieved.

My Department places great importance on ensuring that there is an opportunity for the views of autistic people, their families and carers to be listened to and captured in the work being undertaken in developing and implementing the autism strategy. At the centre of that, the autism forum, which was established by my Department last year and is co-chaired by people with a first-hand lived experience of autism, is taking a prominent role in ensuring that the views and needs of autistic people are captured in the shaping of policy and strategy across Departments and in our health and social care sector. That collaborative approach ensures that autism is not simply regarded as a health problem but that policy reflects the wider lived experience of autistic people, their families and their carers.

I am heartened that there is now greater recognition of the needs of autistic people and that that is being addressed through cross-departmental working. My officials are actively engaged in policy and strategy development and are invited to participate in projects to ensure that autism is represented at the table through collaboration in a number of cross-departmental and health and social care projects around recreation, supported living and housing, employment and learning, as well as health and well-being. Representatives from each of those projects are engaging with the autism forum to ensure that the views and needs of autistic people are reflected and captured.

By way of an example, my officials are working with the Civil Service central training unit in the Department of Finance, in the Centre for Applied Learning, to develop an e-learning course entitled, 'Supporting autistic people'. It has been co-produced by the autism forum to bring lived experience to the fore. The course will be available to all civil servants in the spring and will set out how public servants can support autistic people in the workplace and in our public services. It will also recognise the role of carers and will provide advice as to how they, too, can be supported in the workplace.

That is not the only aspect of the cross-departmental work that the autism forum has been engaged in. At the last autism forum meeting, in January, representatives from the Department for Communities and the Department for the Economy had informative and productive discussions about the work that is being undertaken on skills and employment to support autistic people and, from the views captured, have gained considerations that will inform the development of future support and actions.

At the next forum meeting in April, representatives from the housing sector will attend to discuss how the needs of autistic people are reflected in the provision of housing. At that meeting, a further session will be facilitated for discussion with colleagues from our health and social care sector. In recent months, my Department has been engaging extensively with that sector on waiting lists for autistic assessment and support.

9.00 pm

I have stated many times that I share the concern of many about waiting lists for assessment, and the situation is not unique to autism. We have much to do to improve all our waiting lists for access to services and support across Northern Ireland. I can assure Members that the Health and Social Care Board (HSCB) has been proactive in meeting trusts that have lengthy waiting lists in order to determine the underlying causes and develop plans to address them. That will form part of the ongoing engagement to keep waiting lists under review and to develop regional consistency in accessing support and services across Northern Ireland.

Physical health is paramount for us all. We look forward to support and physical activity being more inclusive and accessible for everyone, with barriers to participation being removed. Additionally, collaborative working between the Department of Health and the Department of Education has been greatly strengthened in recent years by the formation of a special educational needs steering group co-chaired by my Department and the Department of Education. A joint health and education oversight group has also been established. It comprises departmental officials from the two Departments and representatives from the Education Authority (EA) and the health and social care sector. Both groups are proactive in ensuring that the specific needs of children and young people in education, including the needs of those with autism, are addressed.

The Bill provides for the appointment of an autism reviewer. That appointment will establish an independent and robust oversight mechanism to drive further progress and demonstrate through reporting the difference that the autism strategy is making and that outcomes are being measured and met. Although it is stressed that the role will be independent, my Department will welcome the

appointment of an individual to provide an oversight mechanism and form a meaningful and collaborative role alongside the work of the forum. It is vital that the reviewer be totally representative of all sectors that are engaged in working with autistic people. My Department will ensure that the appointment process reflects those values.

I acknowledge that the Bill will introduce an annual autism funding report. I have conveyed my concerns to the Committee about the ability to deliver on that clause. A number of other Ministers and Departments have expressed the same concerns. Owing to the multidisciplinary approach to autism, support must be delivered through a range of programmes of funding and pathways of care that are based on presented need, such as mental health issues, behavioural challenges, an eating disorder or a learning difficulty. For some, that may lead to an autism diagnosis or present as a coexisting condition that will require individualised support and care. It therefore may not be possible for Departments or the health and social care sector to provide the breakdown of funding for autism as a specific condition. I must make Members aware that the identification and preparation of funding reports will require changes to our funding streams and additional resources for all Departments, our health and social care sector, our education sector and our employment sector. That will take time to achieve.

Ms Bradshaw: Will the Minister give way?

Mr Swann: Yes.

Ms Bradshaw: The Minister may be aware that the Health Committee is getting a presentation on encompass this week. From reading the papers earlier, it seems to me that the sort of information that you have mentioned should be easier to collate. Will he speak to that?

Mr Swann: I thank the Member. I do not want to deviate too far into encompass by starting to talk about IT systems and the need for funding, but encompass will provide that data collection. The Bill sponsor and a number of Members have mentioned how a regional approach to data collection will be a strength. Encompass is a computerised system that will cover health and social care across Northern Ireland, and we have not had that up until now.

In establishing the role of the autism reviewer, my Department will give due consideration to the interaction between the reports to be produced and the responsibilities placed on Departments to present funding reports alongside progress reports, which the current Act requires to be laid before the Assembly at intervals of not more than three years. I must, however, reinforce the point that, without our three-year Budget, our financial outlook and the ability to address our services for the coming years will be both compromised and challenging.

Many difficult decisions will have to be made about the competing priorities that we are facing. This means that we must manage our funding expectations, look at ways of working collaboratively and be innovative in our approach to achieve outcomes, because society and those in need of support must not suffer as a result of this. As representatives, we look to Departments and the health and social care sector to achieve that. We must also look at how we work as an Assembly to lead by example.

I look forward to the Bill reinforcing my Department's actions for the next autism strategy and to the next phase of collaborative working. I encourage you all, as representatives of our society, to concentrate on progress and working together to see the real outcomes achieved for autistic people, their families and their carers. Let us take this opportunity to work together and focus our efforts on making a difference where it truly matters.

Mr Speaker: I thank the Minister for that response. I call on Pam Cameron to conclude the debate.

Mrs Cameron: Thank you, Mr Speaker. I want to stay within your good books and briefly express my thanks to everyone who contributed to the Bill and its progress.

I thank past and present members of the all-party group on autism, and the secretariat at Autism NI, for all their work and resource. The fact that this is the second private Member's Bill coming from the all-party group on autism speaks to the commitment of the group. I thank Dr Arlene Cassidy and Kerry Boyd, CEO of Autism NI, for their passion, commitment and absolute determination to see change for the autism community. I thank Kelly Maxwell for contributing her wealth of experience and wisdom. I thank all of Autism NI's staff, who worked so hard on the public consultation that shaped the Bill, and all the individuals, family members and professionals who contributed their views and experiences. This was one of the larger consultation responses in the Assembly, which speaks to the desire to see

the legislation brought forward. The Bill would not exist without the efforts of autistic individuals, their families, friends, advocates and professionals to see meaningful change.

Special thanks must go to my daughter, Hannah Lewis, who has a huge passion for autism with her previous work with autistic adults and her psychology studies. Many late nights and weekends at home have been spent in ensuring that the Bill progressed to each stage. Arlene and Kerry were on hand, literally day or night, to ensure that we made it to this Final Stage debate.

I thank the Bill Office and the drafter for their invaluable guidance throughout the process and their commitment in pushing to make sure that the Bill was ready as soon as possible, despite their incredible workload. I thank my Health Committee colleagues for scrutinising the Bill and bringing forward amendments that strengthened the legislation, and, of course, I thank all who gave evidence to the Committee, which helped to shape the proposed amendments.

I thank Alyson Kilpatrick, chief commissioner of the Human Rights Commission; Shirelle Stewart, director of the National Autistic Society Northern Ireland; Professor Laurence Taggart; Professor Roy McConkey; departmental officials; and the clinicians working in our trusts for all of their contributions. My thanks also to the Clerk of the Health Committee and his team, who worked tirelessly to facilitate the many additional meetings needed to process so much legislation in this mandate.

I thank the Members from all parties who indicated their own passions to make a difference in their constituencies, and who engaged in the collaborative spirit in which the Bill was introduced. I thank Members for their support and the House for its commitment to driving change for autistic individuals.

I specifically thank the Members who contributed to tonight's debate. Colm Gildernew, Chair of the Health Committee, led the Committee through the scrutiny process. Thank you for doing that and for leading on those amendments. I thank Colin McGrath, Paula Bradshaw, Deborah Erskine and Health Committee colleagues, who have been dealing with an incredible amount of work in Committee. I also thank Cathal Boylan, the vice chair of the all-party group on autism, who has a long-held interest in the subject and has always been supportive and there at the right times to push the Bill on. I thank him for that. I also thank Nicola Brogan and Justin McNulty for speaking in tonight's debate and sharing their thoughts on and encouragement about the Bill.

I also thank the Minister for contributing to the Final Stage debate and for his comments. I know that they are being pored over and examined as we speak. I assure him that he and any future Health Minister will have to deal with any of the developments and scrutiny of the implementation of this vital legislation. We want the changes that the autism community needs so badly to take place.

I give a final thanks to you, Mr Speaker, and your office for allowing the previous date to run well over time. That allowed us to reach Final Stage at this point in the mandate.

It is a good day for the Assembly and the autism community. Tonight, we are all voting autism. Thank you very much.

Mr Speaker: I thank the Member and all the Members for their contributions.

Question put and agreed to.

Resolved:

That the Autism (Amendment) Bill [NIA 31/17-22] do now pass.

Mr Speaker: The Bill has now passed its Final Stage. *[Applause.]* I need Members to stay with me for a minute or two. *[Laughter.]*

Assembly Business

Mr Speaker: Before the Assembly adjourns, I would like to advise Members of some slight changes to the business tomorrow and on Wednesday. This morning, I was advised that, before proceeding to Final Stage, the Climate Change (No. 2) Bill must be referred to the Secretary of State. I have since been advised that it will not be possible for the Secretary of State to respond in time for the debate to take place, as scheduled, tomorrow. However, I am hopeful of receiving a response in time for the debate to take place on Wednesday 9 March, and the Minister of Agriculture, Environment and Rural Affairs has indicated that he is content for the Final Stage of his Bill to be deferred until then.

The Business Committee is aware that it would be helpful for the Assembly to know the outcome of the Climate Change (No. 2) Bill before Members are asked to participate in the Consideration Stage of Clare Bailey's Climate Change Bill. Therefore, it has agreed to reschedule the Final Stage of the Climate Change (No. 2) Bill and the Consideration Stage of the Climate Change Bill, which were due to take place tomorrow, to Wednesday. The sponsor of the Climate Change Bill is also content.

All other business remains as scheduled. Revised Order Papers and indicative timings for tomorrow and Wednesday will issue this evening. Safe home.

Adjourned at 9.13 pm.

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