



Northern Ireland
Assembly

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Dillon, Ms Linda (Mid Ulster)
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Hargey, Ms Deirdre (South Belfast)
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Swann, Robin (North Antrim)
Weir, Peter (Strangford)
Wells, Jim (South Down)
Woods, Miss Rachel (North Down)

Northern Ireland Assembly

Tuesday 15 December 2020

The Assembly met at 10.30 am (Mr Speaker in the Chair).

Members observed two minutes' silence.

Assembly Business

Mr Speaker: Before we begin today's business, I remind Members that, as the Business Committee is not meeting today, there will be no lunchtime suspension. Business will continue until 2.00 pm, when it will be interrupted for Question Time.

Public Petition: Provision of Free Period Products in all Schools

Mr Speaker: Mr Chris Lyttle has sought leave to present a public petition in accordance with Standing Order 22. The Member will have up to three minutes to speak.

Mr Lyttle: It is my privilege to present this petition for free period products in schools. I do so on behalf of the 5,000 people who have signed it and the organising charity, The Homeless Period Belfast, which is a volunteer-led initiative that was founded and is managed by Katrina McDonnell. It alleviates period poverty by providing period packs and by campaigning for universal access to free period products. The Homeless Period Belfast's Menstruation Matters campaign is calling on the Education Minister to bring Northern Ireland in line with other parts of the UK by providing free period products in all schools. Schools provide free toilet roll, hand soap and hand towels in toilets. We would never accept children bringing any of those essential items to school, and period products should be no different.

The Homeless Period Belfast conducted a survey of 200 schoolgirls in Northern Ireland, and it found that 74% left school early or missed school because of a lack of period products; 87% said that a lack of period products negatively impacted on their attention in class; and 91% had used toilet roll as a temporary measure, due to a lack of access to period products. In a Homeless Period Belfast survey of 100 teachers in Northern Ireland, 60% had bought period products for use in their school. The survey also asked pupils how

access to free period products would impact on their experience at school. One schoolgirl said, "I wouldn't miss as much class time and would feel a lot happier in knowing that the products are in toilets so that I don't have to feel embarrassed in approaching the school nurse or my teachers". Another schoolgirl said, "I dread getting my period in school. I pretend I am sick so I can go home because I am too embarrassed to tell my friends that I do not have any money for pads and can't ask my mummy because she has lost her job and is struggling to do food shopping for me and my brother. I use toilet roll instead, and I'd much rather use that at home and risk leaking in my own house than in school, where everyone could see."

No young person should suffer this experience or have their education disrupted by a bodily function as natural as their period. Free period products in schools would ensure that every young girl has equal opportunity to learn and achieve their potential. The Education Committee has written to the Department of Education in support of this campaign, and I will be glad to submit this petition to your office electronically for the consideration and response of the Education Minister.

Mr Speaker: Thank you, Mr Lyttle. Normally, I would invite the Member to bring his petition to the Table and present it here. However, the Member is aware that, in light of social distancing, I will ask him to remain in his place, and I will make arrangements for him to submit the petition to my office. I thank the Member for bringing the petition to the attention of the Assembly. Once the petition is received, I will forward it to the Minister of Education and send a copy to the Committee.

Ministerial Statements

North/South Ministerial Council: Tourism

Mr Speaker: I have received notice from the Minister of the Economy that she wishes to make a statement. Before I call the Minister, I remind Members that, in light of the social-distancing practices being observed by parties, the Speaker's ruling that Members must be in the Chamber to hear a statement if they wish to ask a question has been relaxed. Members still have to make sure that their name is on the speaking list if they wish to be called, but they can do that by rising in their place or by notifying the Business Office or Speaker's Table directly. I remind Members to be concise in asking their questions. I also remind Members that, in accordance with long-established procedure, points of order are not normally accepted during a statement or in the period for questions afterwards.

Mrs Dodds (The Minister for the Economy): With your permission, Mr Speaker, I wish to make a statement, in compliance with section 52 of the Northern Ireland Act 1998, regarding a meeting of the North/South Ministerial Council (NSMC) in tourism sectoral format. The meeting was held via videoconference on 25 November 2020. I represented the Northern Ireland Executive and was accompanied by Minister Conor Murphy. The Irish Government were represented by Minister Catherine Martin TD, Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, who chaired the meeting. The statement has been agreed with Minister Murphy, and I make it on behalf of us both.

Ministers noted the efforts made to deal with the effects of the COVID-19 pandemic on the tourism industry and acknowledged the importance of continued cooperation across both jurisdictions to address the impact of COVID-19 as the sector begins to recover.

Ministers noted the activity undertaken by Tourism Ireland to prepare for the UK's withdrawal from the EU and that the Department for the Economy and the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media will continue to support Tourism Ireland in this regard.

The Council received a report from the chairperson of Tourism Ireland on the work of the board since the last NSMC tourism meeting. The report outlined the work of the board in developing, approving and monitoring the

business plans for 2017, 2018, 2019 and 2020 and the corporate plans for 2017-19 and 2020-22. Ministers also noted the progress made in delivering Tourism Ireland's performance goals from 2016 to February 2020 and its activity during the COVID-19 pandemic since March 2020. The NSMC noted the progress made in developing the COVID-19 recovery planning framework — restart, rebuild, redesign — to support the recovery of the tourism industry.

The Council approved Tourism Ireland's business plans and budgets grants for 2017, 2018 and 2019, and Tourism Ireland's 2017-19 corporate plan, which has been agreed by the sponsor Departments and Finance Ministers. Ministers noted that Tourism Ireland's business plan for 2020, including the budget grant provision, has been completed and submitted to sponsor Departments and will be brought to a future NSMC meeting for approval. The NSMC noted that Tourism Ireland has prepared an addendum to the 2020 business plan to guide its operations in light of the COVID-19 pandemic.

The Council noted that the Tourism Ireland 2020-22 corporate plan has been approved at board level but is currently being reviewed in the light of COVID-19. An amended plan will be brought to a future NSMC meeting for approval. The Council noted the annual reports and accounts for the years 2015, 2016, 2017 and 2018, which have been laid before the Northern Ireland Assembly and both Houses in Dublin.

Ministers noted that, on 17 December 2019, the Tourism Ireland board approved the granting of a general power of attorney as a short-term measure until further board directors were appointed by the NSMC and agreed that that power of attorney was to remain effective until the board meeting on 25 March 2020. The Council noted the continuation of the appointment of the chief executive officer of Tourism Ireland. It also noted recent developments in Tourism Ireland's staffing complement and that officials will take forward discussions on that and report back to a future meeting.

The NSMC agreed that officials from the Department for the Economy and the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media will review the existing work programme in the NSMC tourism sector and report back to the next meeting of the Council in that sector.

The Council agreed to meet again in tourism sectoral format in early 2021, on a date to be

confirmed. I commend the statement to the Assembly.

Dr Archibald (The Chairperson of the Committee for the Economy): I thank the Minister for her statement. Tourism is a very important sector in the North, and the pandemic has had a particularly hard impact on it. In the couple of months that the sector was able to open during the summer, there was a large increase in all-island tourism. In the light of that, what work is being done, particularly on marketing and the development of experience packages, because, even though we may have a vaccine online, next summer we are likely still to be dependent very much on domestic tourism to compensate for the loss of international visitors?

When do you expect the corporate plan for 2020-22 to be signed off?

Mrs Dodds: I thank the Member for her questions. The marketing of Northern Ireland in the Republic of Ireland is, of course, a matter for Tourism Northern Ireland. We will take forward those issues with Tourism Northern Ireland.

You are also absolutely correct in saying that we have seen a 30% increase in visitors from the Republic of Ireland. That has been very important for supporting tourism businesses over what has been an extraordinary period for them. We will continue that marketing with Tourism Northern Ireland and will continue to use the Northern Ireland brand of "Embrace a Giant Spirit" in that market to encourage our neighbours in the Republic of Ireland to come and spend some time with us and support our tourism industry.

Mr Middleton: I thank the Minister for her statement. The tourism sector is a vitally important one for us in Northern Ireland. How can we use the centenary year of 2021 to promote Northern Ireland as a tourism destination across the world?

Mrs Dodds: I know that in the House there will be different views on Northern Ireland's centenary, but I think that we can come together and use the 100 years of Northern Ireland to drive forward the new economy of Northern Ireland and not just commemorate, celebrate or whatever way we want to look at those 100 years of Northern Ireland but look forward to the new economy of Northern Ireland. Tourism has an absolutely pivotal part to play in that.

In the next year — vaccine and COVID permitting — we will drive forward our marketing campaigns in GB, because we see there as being a pivotal market and one of the easiest markets for a return to tourism activity. We will drive forward our campaign with Tourism Northern Ireland in the Republic of Ireland and will be working with international tour operators. There is no doubt that Northern Ireland's centenary will play a key role in that marketing.

Ms McLaughlin: Thank you, Minister, for your statement. Tourism is an extremely important sector in Derry and along the coastal route, the Wild Atlantic Way. Is the Minister working with the Irish Government to develop a continuation of the Wild Atlantic Way along the northern coast? The brand is so strong worldwide that we should be locking on to it in order to grow tourism in Northern Ireland.

10.45 am

Mrs Dodds: I thank the Member for her question. I agree that tourism is extremely important for the north-west of Northern Ireland; it is hugely important. Just last year, Tourism Northern Ireland launched its own brand for the promotion of Northern Ireland, and that is Embrace a Giant Spirit. We have been going into the GB marketplace with that brand, and Tourism Ireland delivered, in September and October, a very specific campaign in the GB marketplace around the "Embrace a Giant Spirit" brand. That is what we have been using when we have been having our meetings with buyers from outside and other world markets, and that is the brand that we will be using. No doubt, the Wild Atlantic Way is a well-known brand, but the brand for Northern Ireland is Embrace a Giant Spirit.

Dr Aiken: Thank you very much indeed, Minister, for your statement. I am aware that, in the past, Tourism Ireland has been accused of over-promoting Dublin Airport. Bearing in mind that the Northern Ireland Executive provide a third of Tourism Ireland's budget, what steps is the Minister taking so that at least our airports will be equally supported in the forthcoming years, as we deal with COVID and Brexit, as Dublin Airport seems to be? That seems to be an underlying, key element in what Tourism Ireland has been doing over the last couple of years.

Mrs Dodds: Of course, Dublin Airport is an important route for international visitors into Northern Ireland, but I believe that we can support and develop our own airports. I have

had recent conversations with Belfast International about routes to North America, and I have had conversations with Belfast City about a wider network of routes throughout Europe. In Northern Ireland's centenary year, we would like to explore how we, with our national Government, can support and grow that network of routes for Northern Ireland, and I have already taken up that challenge with Grant Shapps, the Transport Minister.

Mr Dickson: Thank you, Minister, for your statement this morning. Up to now, EU funds have made a considerable contribution to the whole tourism project, particularly in border counties. What action are you proposing to take to ensure that we maintain comparable amounts of support after Brexit, given the news yesterday from the Finance Minister that he expects the prosperity fund to have a deficit of some £70 million in year 1?

Mrs Dodds: Of course, tourism was not specifically supported under PEACE or INTERREG in the last iteration of those funds, although there were environmental programmes that support the tourism sector. I hope that the wider range of funding will support tourism, particularly in border counties. There is some very important work to be done on, for example, tourism on the waterways. On the Member's wider question, I am in the process of preparing a paper on this for the Executive. Our national Government promised us a like-for-like replacement for European funding. I would like to see that being honoured, and I will do what I can to make sure that it is honoured. Of course, European funding is very important for the Department for the Economy in terms of employability and providing support for social enterprise and those who are far from the labour market, and we need to continue that very important work.

Mr Dunne: I thank the Minister for her statement. We are all very much aware of the challenges faced by the tourism sector in 2020. What more can Tourism Ireland do to bring life back to our major tourist attractions such as Titanic Belfast, the Ulster Folk Museum and the Antrim coast and, of course, to get tour buses back up around Stormont to see what goes on?

Mrs Dodds: The Member makes a really important point. I have been working with Tourism Ireland to make sure that Northern Ireland, as a brand and as a destination, is part of its campaigning. I have also been looking at its research on the general tourism area.

Let me share with you some of the conclusions that Tourism Ireland has come to on the research and insights for tourism for the next year. All the research indicates that holidaymakers are still planning and dreaming of taking their next trip away and that that is an important part of people's personal planning for 2021. The most influential parts in that will be the roll-out of the vaccine and driving down COVID transmissions over the next number of months. Summer 2021 is seen as the most opportune time for people to take further breaks. You are absolutely right to say that we need to drive forward that spend in Northern Ireland.

Over the last number of months, a campaign has been rolled out since August, September and very early October, promoting Northern Ireland as a tourism destination in the GB market. We allocated three quarters of a million pounds to that campaign, which was done, as I said, under the "Embrace a Giant Spirit" banner. That ceased in early October because of increases in virus transmissions. That campaign included talking to travel journalists, influencers, having relationships and media partnerships with 'The Guardian', marketing activity in Scotland and social and traditional media marketing. Those are the important things that were carried out, and we will continue to do that work.

Ms Ennis: I thank the Minister for her statement. She will be aware that the Narrow Water bridge project is gaining pace. When that project is finally completed, it will act as a major catalyst to economic and tourism growth in the wider south Down area. We need the region to go from one that people pass through to a region that people stay in. That can be achieved through extending Ireland's Ancient East marketing franchise to the north-east counties of Ireland, as opposed to the ambiguous nature of "Embrace a Giant Spirit". I am not even sure what that means.

Will the Minister commit to exploring that with Tourism Ireland and ensure that it will be on the agenda when tourism is discussed at the next NSMC on tourism?

Mrs Dodds: As someone who comes from south Down but who lives in upper Bann, I know that part of Northern Ireland very well. We need to drive tourism in that area forward, and I look forward to looking at, for example, Kilkeel harbour's plans for expansion as well as the Narrow Water bridge project. Those will drive tourism forward in the area, although real economic development would allow lorries to pass on the bridge, as opposed to the more

limited form that it is in. Those are really important issues for south Down.

Tourism Northern Ireland has spent a considerable amount of time using the "Embrace a Giant Spirit" logo to sell Northern Ireland to international destinations. That has been going very well, and that is the logo that we will use for Northern Ireland in the future.

Mr Stalford: At least 15 presidents of the United States of America can trace their family back to the province of Ulster. The migration of Ulster Scots down the Shenandoah valley had a huge influence, particularly in shaping the development of country music. How does the Minister's Department intend to tap into not only the huge diaspora that exists in the United States but into the interest in music and the arts as a means of marketing Northern Ireland as a tourism destination?

Mrs Dodds: I thank the Member for his question. One of my first jobs in politics was to chair the tourism committee of Belfast City Council when we set up the Belfast-Nashville partnership. I still think that that is a very strong partnership for not just Belfast but wider Northern Ireland, given, as you say, the general interest in music and the historic connections with the area.

The greatest thing that we can do is to increase our connectivity to the area, not just for tourism but for business. One of our greatest FDI partners in Northern Ireland is North America, so I would really like to see connectivity enhanced. That is why I said, in response to Mr Aiken, that those are the things that we would need to explore to take full advantage of for the future, particularly in Northern Ireland's centenary year.

Ms Dolan: The importance of all-Ireland tourism has been mentioned, but the importance of all-Ireland tourism to Fermanagh is of the utmost importance. Initiatives such as the Shannon-Erne Waterway have provided a unique opportunity for visitors to travel through Leitrim, Fermanagh and Cavan by boat. Minister, you mentioned the potential of waterways. Have any commitments been made regarding further investment in the Shannon-Erne Waterway as a major tourism initiative, particularly in the linkages between Clones and Upper Lough Erne, which were set out in New Decade, New Approach?

Mrs Dodds: The Member asks a specific question, as well as making a general point. We can cooperate with our neighbours in the

Republic of Ireland to ensure the exchange of tourists, which is important for the economies of both jurisdictions on this island. I look forward to working to ensure that that happens. As someone who has Fermanagh links, I understand the importance of that to the county. It is hugely important.

We have just completed our first NSMC meeting after I do not know how many years — I think that 2016 was the last NSMC meeting — and those issues will come forward in due course.

Mr O'Toole: Minister, the Irish pub is critical to our international tourist offer on both sides of the border, but because of COVID-19, pubs everywhere, particularly on the island of Ireland, are in terminal crisis. What thought is the Minister giving to a long-term rescue and revitalisation plan for our pub industry? We have to be realistic in the next couple of months, so what is the Minister doing for the long term, with her colleagues in the South, to think about rescuing and revitalising pubs on the island? Furthermore, will she speak to the Communities Minister about licensing reform, including reform of the surrender principle, which could mean that we lose a load of pubs in the coming months if they do not feel able to reopen?

Mrs Dodds: The Member is quite right that licensing is a matter for the Minister for Communities, but that is something that we can look at together.

With regard to the wider pub trade in Northern Ireland, we all know that pubs have been enormously impacted on by COVID-19. As I have said many times in the House, no amount of grants, money or funding that we can provide is enough to sustain them in this repeated round of closures. I am finalising — it should be ready for the Executive on Thursday — the grant that will look at traditional pubs that have been closed, virtually continuously, since March. In the long term, revitalising our tourism and hospitality industries is the way that we will be able to help pubs to sustain themselves.

In 2019 in Northern Ireland, tourism and hospitality contributed about £1 billion to the economy and employed about 70,000 people. That is an enormous contribution to the overall economy, so driving forward tourism will help our hospitality industry to get back on its feet.

Mrs Barton: Minister, thank you for your statement and some of your answers. I heard your party colleague refer to tourism in a

number of places in Northern Ireland. However, he forgot to mention his home county.

Minister, can you inform the House how you intend to market the beauty of the lakes in Fermanagh, especially to get trade that is coming into Belfast to move west into Fermanagh and, further along, to Donegal?

11.00 am

Mrs Dodds: Fermanagh is indeed a beautiful county and is very important to the tourism industry in Northern Ireland. I was recently down in one of the large sites in Fermanagh overlooking a lake, and it was absolutely beautiful and wonderful to see it in all its glory.

We need to make sure that tourism covers all of Northern Ireland and is not concentrated on just the wider Belfast region or the north coast. We need to do two different things. It is about driving the product and the destination of tourism. We will always associate Fermanagh with the fishing, the waterways, the golf and the wonderful hospitality. In my home town of Banbridge in Upper Bann, we will offer a new tourism product next year with the opening of the 'Game of Thrones' exhibition and tour, which will be world-renowned. We need to develop product in the different regions and then try to maximise our audience with our promotional activity.

Mr McGuigan: Minister, I noted in the press yesterday that the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media in the South, Catherine Martin, responded positively when asked by a TD if she would consider extending an invitation to Ireland to the organisers of the Tour de France. Minister, I hope that you will be aware that I submitted a question for written answer on 15 October — nine weeks ago — which I resubmitted on 2 November, asking whether, given the success of the Giro d'Italia Grande Partenza in 2014, you would work with your ministerial counterpart in the South, Catherine Martin, whom you met at this meeting, to put together a bid to bring the Tour de France to Ireland, in particular to my constituency along the north coast and the glens of Antrim. Minister, given that major events have the potential to drive participation in sport and contribute to trade, tourism, business, community pride, community engagement and economic growth, will you give a commitment that you will look at the issue and work towards bringing the Tour de France back to Ireland?

Mrs Dodds: There are a number of initiatives around at the moment. There is an initiative around a five-nations approach to the soccer and rugby World Cups. As you rightly said, we had an enormously successful time with the Giro d'Italia in Northern Ireland, and we have had contact with it again. We would be happy to look at whatever is proposed in relation to the Tour de France. These are enormous, world-renowned events that have a lasting impact. We need to take events tourism forward. We had an enormously successful Irish Open golf tournament at Galgorm in Ballymena, in September, and I look forward to engaging with the Royal and Ancient with a view to bringing the tournament back to Northern Ireland. Events tourism is hugely important. However, to strike a note of reality for the House, events tourism requires huge financial support. We would have to work as a whole Executive to ensure that the financial support is there to help to encourage events tourism.

Mr Allister: I return to the question of the centenary. Unfortunately, much of the promotion has to rely on Tourism Ireland by virtue of the subordination of Tourism NI. Why, then, is there no mention in the statement of discussions about the centenary? In checking what the board of Tourism Ireland's attitude might be to such matters, I ask why the board minutes do not appear on its website.

Mrs Dodds: The Member makes an excellent point and one that I have made to Tourism Ireland. That is why I am still waiting for the revised plans.

Mr Speaker: That concludes questions on the statement. I ask Members to take their ease for a moment or two.

(Mr Principal Deputy Speaker [Mr Stalford] in the Chair)

North/South Ministerial Council: Trade and Business Development

Mr Principal Deputy Speaker: I have received notice from the Minister for the Economy that she wishes to make an additional statement.

Mrs Dodds (The Minister for the Economy): Mr Principal Deputy Speaker, with your permission, I wish to make a statement in compliance with section 52 of the Northern Ireland Act 1998 about a meeting of the North/South Ministerial Council (NSMC) in trade and business development sectoral format. The meeting was held in Armagh by

videoconference on 25 November 2020. Minister Conor Murphy MLA and I represented the Northern Ireland Executive. The Irish Government were represented by Leo Varadkar, Minister for Enterprise, Trade and Employment and Tánaiste. The statement has been agreed with Minister Murphy, and I make it on behalf of us both.

The Council noted the impact of the pandemic on society and on the economy in both jurisdictions and the measures put in place by both Administrations to support communities and businesses affected by the crisis and to assist economic recovery. Ministers welcomed the productive cooperation between both Administrations and InterTradelreland on support for businesses facing challenges arising from the COVID-19 pandemic and noted that InterTradelreland will continue to provide support to assist businesses in coping with the challenges posed by the pandemic, particularly in the areas of supply chain management, health and safety and human resources.

Ministers noted the work being carried out to prepare for the end of the transition period and the implications for cooperation in the trade and business development sector arising from the UK's withdrawal.

Ministers welcomed the overall achievements of InterTradelreland from 2016 to 2020 and recognised the valuable contribution that it has made through its trade and development programmes for small and medium-sized companies trading across the border and in both jurisdictions. Ministers commended InterTradelreland for its work in helping businesses to prepare for the UK withdrawal from the EU and for its research on the issue. The Council recognised the impact of the innovation and technology programmes run by InterTradelreland and its support for building relationships between companies and researchers.

The Council approved InterTradelreland's business plans, budgets and grants for 2017, 2018, 2019 and 2020 and its 2017-19 corporate plan, which have been completed in accordance with agreed guidance issued by the Department of Finance and the Department of Public Expenditure and Reform and agreed by the sponsor Departments and Finance Ministers. Ministers noted InterTradelreland's annual reports and accounts for 2016, 2017 and 2018, which have been certified by the Comptrollers and Auditors General and laid before the Northern Ireland Assembly and both Houses of the Oireachtas.

Ministers asked sponsor Departments to consider InterTradelreland's staffing complement, in consultation with the NSMC secretariat and the Finance Departments, and to provide an update to the next trade and business development meeting. The Council approved the appointment of Martin McVicar as vice chairman, Michael Hanley and Richard Kennedy, and the re-appointment of Florence Bayliss, Adrienne McGuinness and Micheál Briody, to the board of InterTradelreland.

Ministers noted the progress and current position of North/South collaboration in relation to the Horizon 2020 programme and the achievements and current position of the US-Ireland R&D Partnership. Ministers noted that InterTradelreland will continue to work with relevant stakeholders, including sponsor Departments, to explore new ways, both financial and non-financial, to maintain and strengthen research and innovation collaboration across both jurisdictions.

Ministers noted that the process for appointing a chief executive officer to InterTradelreland has commenced, using the existing approved process and following consultation with the NSMC joint secretariat and the respective Finance Departments.

Finally, Ministers thanked Aidan Gough and Margaret Hearty for their work in successfully leading InterTradelreland, as designated officer and assistant designated officer respectively, since they were appointed to those positions in September 2017. The Council agreed to meet again in trade and business development format in spring 2021. I commend the statement to the Assembly.

Dr Archibald: I thank the Minister for her statement. In it, she said that it was noted that work was carried out to prepare for the end of the transition period. A couple of weeks ago, the Committee for the Economy received a briefing from officials on business preparedness. We were told that InterTradelreland's all-island business monitor for quarter 3 showed that only 9% of firms had plans in place to mitigate the impacts of Brexit. In the light of that, what is being done by both the Department and InterTradelreland to help businesses to prepare following the announcements last week on the protocol and the ongoing lack of clarity about the overall trade deal?

Mrs Dodds: I thank the Member for her question. InterTradelreland has a number of programmes that it has been using to help those businesses that it works with to prepare

for the end of the transition period. That, as well as the work that Invest Northern Ireland is doing, has been important in helping businesses to prepare.

Just so that we could have a little bit of thought about that, I printed off, for the week beginning 7 December, the kind of things that, for example, Invest Northern Ireland was doing with businesses. They include working with businesses in the chemicals industry, fisheries and the legal sphere; looking at authorised economic operator status, the export of live animals and animal products, the moving of animal products from 1 January, inward processing relief, customs warehousing, and the trading and moving of goods in and out of Northern Ireland; and providing a large range of information and webinar support to businesses just last week.

Of course, the Member is absolutely correct: last week's announcement will have helped significantly, particularly around the movement of goods from Northern Ireland to Great Britain and the fact that there will not be excess paperwork and bureaucracy. That still leaves the issue of the Trader Support Service and the hope that it will work; that enough firms in Northern Ireland have signed up, as well as enough firms in Great Britain, to make sure that it works. It also includes the small derogations for a brief and limited period. Those are real, live issues that need resolution. It has avoided a hard stop but not provided that resolution.

11.15 am

Mr Dunne: I thank the Member for her statement. We all recognise the need for continuous support to help business recovery during the pandemic. Those of us who have been around for a while recognise the good work of InterTradelreland, but what is being done to ensure that there is no overlap in the efforts of InterTradelreland and Invest NI in supporting businesses?

Mrs Dodds: I thank the Member for his question. He is right about the work that InterTradelreland has been doing. I draw the House's attention to two particular aspects of InterTradelreland's work. The E-Merge programme provides consultancy support of £2,500 to help businesses to develop online sales, marketing and e-commerce solutions. From April to June, it supported 140 businesses. The next phase of the programme supported 270 businesses. That made available almost £1 million of support to those businesses. There is also the emergency

business solutions programme. Those are the kinds of things that InterTradelreland is doing. It mainly works with much smaller businesses that are dipping their toe into the export market by doing cross-border exchanges. That is the value of the InterTradelreland work, whereas Invest NI's work tends to be wider, larger and focused on a more international audience.

Ms McLaughlin: What practical steps has the Department taking in conjunction with the Irish Government to maximise the opportunities that the protocol on Ireland/Northern Ireland has given us?

Mrs Dodds: There is always room for cooperation. However, the Member should remember that, in the search for FDI, the Irish Government are our competitors. That is an important distinction. I do not say that in a political sense; it is a practical, economic reality. The protocol has given us trade that will flow between us and the Republic of Ireland and, indeed, between us and the rest of Europe, but it has given us significant disruptions to trade within the United Kingdom's internal market. I could not and would not support the protocol because I believe the interruption of the United Kingdom's internal market to be wholly wrong. However, I am also a realist, and the House voted to instigate the protocol, and we must ensure that we help businesses in Northern Ireland to navigate this complex scenario as best we can.

Dr Aiken: I declare an interest as the ex-chief executive of the British Irish Chamber of Commerce. The Minister talked about the success of InterTradelreland, but the reality for many small and medium enterprises that have been involved with InterTradelreland is that, in the past, it was seen to be especially bureaucratic and not particularly helpful in their development. Come 1 January, we will be through Brexit, and the protocol will be in place. Will she therefore commit to InterTradelreland refocusing its present role of supporting the move towards Brexit to one of promoting Northern Ireland businesses, particularly those in the small and medium-sized businesses?

Mrs Dodds: I am sorry to hear that the Member thinks that some of the processes of InterTradelreland are overly bureaucratic. If he has details of specific instances that I can take up with InterTradelreland, I will be very happy to do so.

We will all need to leave Brexit behind and move forward to promoting Northern Ireland as a really good place to do business, to live, to

work, to bring up a family and to have a really good all-round education. That is what I will be doing in the next year.

I look forward, along with InterTradeIreland, Invest Northern Ireland and, indeed, the wider Executive, to being able to get back out into the wider international sphere to attend some of the fairs, particularly in Dubai and elsewhere in the Middle East, explore new markets for Northern Ireland and try to get that side of Northern Ireland's promotional activity going again.

Mr Dickson: Minister, I am pleased that you noted the progress made on, and the current position of, North/South collaboration through the Horizon 2020 programme. Given that that is an EU programme, what action are you going to take to make sure that such research cooperation can be continued on a cross-border basis before those whom you supported consign the EU to the scrapheap, along with the funds and support that we have received up until now?

Mrs Dodds: I am not going to bite at the last remark, you will be happy to know.

Research and development and innovation for Northern Ireland firms are really important elements of how we build the economy. I have some brilliant examples of innovation and creativity by Northern Ireland firms, even during the COVID pandemic, such as how they linked up with our universities to produce goods that go to market in the current situation. Innovation and research and development are therefore the way forward. They will build the economy of the future, which is very important.

The United Kingdom would be wise to become a partner in Horizon 2020 and its successor programmes if it can prove that it is value for money for it to do so. Horizon 2020 and its forerunner, FP7, are successful programmes, but they are focused on very large businesses, and that has been one of their downfalls. One of the successes of FP7 was that one of its greatest benefactors was Israel, which, the last time that I looked, was not in the European Union. That kind of research, collaboration and buy-in to the programme is perfectly possible and feasible, and our Government have said that it is something that they would like to do.

One of the other programmes that we are supporting is the US-Ireland R&D Partnership. The Member will probably have noticed the number of COVID-related joint research funding applications that we submitted yesterday. As I said in my statement, COVID knows no

barriers, so, in our search for solutions, we should not either.

Mr Middleton: The Chair of the Economy Committee mentioned the officials who came to the Committee and raised the issue of the low levels of preparedness of businesses and firms, primarily because many of them have been focused on the COVID-19 pandemic, and rightly so. Minister, what engagement have you had with counterparts across the UK to ensure that businesses are prepared, particularly for the disastrous east-west trading implications of the protocol?

Mrs Dodds: Those are huge issues for Northern Ireland. Fundamentally, the House should remember, when it thinks about the protocol and the interruption to the UK's internal market that it represents, which our Prime Minister instigated, that GB is Northern Ireland's biggest market by far. We sell more in the GB market than we do in the Republic of Ireland, the rest of Europe and the rest of the world put together, so any interruptions to that business will be very serious and very difficult. The announcements last week did help us with NI to GB trade and also helped us somewhat with tariffs. However, the best thing that can happen is that we have that zero-tariff, zero-quota deal so that we are able to trade freely in all directions; between GB and Northern Ireland, North/South and with the rest of Europe. That is massively important.

I took the opportunity last week to talk to the Northern Ireland Office Minister, Mr Robin Walker, about not just Northern Ireland's centenary — we are looking at promotional work for Northern Ireland in really important trade markets — but the £400 million funding that was announced. We should have a synergy between what the Northern Ireland Office is going to look at with that funding and what the Executive are looking at so that we can reskill and rebuild for the future.

Mr O'Dowd: The Minister will be aware that the latest NISRA figures show that more businesses are trading North/South than to anywhere else, including Britain, and that the value of that trade is growing year on year. What discussions has the Minister had with her Dublin counterparts about protecting the supply chain and the intermediary trades that are involved in that trade to ensure that our businesses are not disrupted as a result of Brexit and that that growth area continues to grow?

Mrs Dodds: Of course, the Member is right that more businesses trade North/South, but the largest impact and the largest volume is with GB. We need to remember that. I am hoping that we will be able to grow our markets North/South, east-west and throughout Europe and use the new trade agreements that the UK has signed to explore potential in those markets. I was really encouraged last week when I spoke to the red meat industry; the first exports of beef to America were from Northern Ireland. Those are huge opportunities for Northern Ireland in wider international markets. We must take those as part of the new opportunity that we will have in the next number of years.

Mr O'Toole: The Minister is right: Brexit will lead to North/South and east-west disruption to Northern Ireland's trade. Whatever about the scant detail in the statement, Brexit will, unfortunately, cost jobs and lead to severe disruption. Since the referendum in 2016, and indeed the supply and confidence arrangement in June 2017, the DUP is the sole party in the Assembly that has had the power to force the whole UK into a soft Brexit and a closer relationship between the UK and the European Union, which would have been in the interests of not just Northern Ireland but all businesses and workers in the UK. Since the DUP did not use that power and has left us at the precipice of chaos, would the Economy Minister like to take this opportunity to express regret for the actions of her party? Indeed, would she like to apologise to the people and businesses of Northern Ireland for the situation that we face?

Mrs Dodds: I —.

Mr Principal Deputy Speaker: Order. I ask the Minister to resume her seat. I generally allow leeway, and I do not mind back-and-forward; indeed, when I am not in the Chair, I engage in back-and-forward myself and I enjoy a bit of sport, but I remind Members that, when they ask a question, they should, in so far as is possible, try to relate it directly to the content of the statement that the Minister has given to the House. If the Minister wishes to respond, I am happy to let her do so.

Mrs Dodds: Thank you, Mr Principal Deputy Speaker. I am going to resist getting into too detailed a response, except to say that I thought that Sinn Féin was the only party in the House to rewrite history; I now discover that the SDLP is at it as well. What we need for Northern Ireland going forward is the ease of movement of goods between us and our largest market in GB, and between it and us. That is

fundamental to the Northern Ireland economy and to jobs and families in Northern Ireland. That is something that I have worked at since I became a Minister. We had some easement of that last week with the agreements around the protocol, but I would much rather that we did not have to do that at all, that the UK's internal market remained intact and that we could trade as a third country with the EU on that basis.

11.30 am

Mrs Barton: I thank the Minister for her answers so far. Will she clarify the support that transport firms have been given for transporting goods back and forth between Northern Ireland and the Republic and east-west and west-east to ensure that there is least disruption?

Mrs Dodds: The Member will be aware that transport is a matter for my Executive colleague the Minister for Infrastructure. However, if the Member looks at the things that Invest NI has been doing, she will see that significant work has been done on transport.

I will focus on one area of transport that is very important for Northern Ireland's economy, which is ensuring that Northern Ireland lorries taking goods to the south of England that prefer to use the Dublin to Holyhead route should be free to do so, given that Dublin would also like to use the transition agreement to allow lorries to cross GB for access to the EU. That is a really important issue for Northern Ireland hauliers and firms because around 20% of our goods go to market in GB in that way.

Mr Allister: The statement says:

"Ministers asked Sponsor Departments to consider InterTradeIreland's staffing complement".

Does that mean more staff and more cost for InterTradeIreland? Given the perilous state of our trade and the threats to it with our main market, would it not be better now to refocus and create an "InterTradeUK"? Would the Minister work for and support such a body?

Mrs Dodds: The Member knows that to consider something is not to consent to it. That is exactly what the position is on staffing. Those issues will, no doubt, be discussed further down the line, given finance or direction of travel on the matter.

Yes; the Member and I are absolutely in agreement that trade with our biggest market — the internal UK market — is the most valuable

thing for Northern Ireland. We must protect it and allow it to grow in future years. If the Member wants to write to me with his proposals for such a body, I will be happy to look at it and take it forward.

Mr Principal Deputy Speaker: That concludes questions on the ministerial statement. I ask Members to take their ease for a few moments. If you are leaving the Chamber, please make sure that you clean your surfaces and what have you. Thank you.

Assembly Business

Mr Principal Deputy Speaker: I have an item of business that I have to transact. Members will have in front of them the revised indicative timings for today's business, which show that the Minister of Education was to be on his feet at roughly 12.35 pm. It is now 11.34 am, so I think that I can anticipate the response that I will get.

The statement arrived in the Speaker's Office at 11.18 am. Standing Order 18A(2) requires that a written copy of a statement be made available at least half an hour before it is delivered in the Chamber. That has not happened in this instance, but, as I said, I suspect I know what the explanation will be. Therefore, before calling the Minister, I propose, by leave of the Assembly, to suspend the sitting until 10.45 am in order to allow 10 minutes for Members to familiarise themselves with the statement [*Interruption.*] Mr O'Toole, do you want to make a point of order?

Mr O'Toole: Pardon me, Mr Principal Deputy Speaker: I did not mean to do it from a sedentary position. I believe that you said 10.45 am, but it will be 11.45 am.

Mr Principal Deputy Speaker: The record is corrected. We will return at 11.45 am, so that Members have the chance to read the statement before questions.

Mr Lyttle: On a point of order, Mr Principal Deputy Speaker. I may have missed your initial remarks, but this applies to two back-to-back statements effectively. We are getting 10 minutes to read two significant statements.

Mr Principal Deputy Speaker: I will tell you what I will do: we will have 10 minutes for the first one and five minutes for the next one. All right? Grand. Ten minutes, folks. The sitting is suspended for 10 minutes.

The sitting was suspended at 11.36 am and resumed at 11.45 am.

Ministerial Statements

Summer 2021 Examinations: Contingency Arrangements

Mr Principal Deputy Speaker: Order, Members. I have received notice from the Minister of Education that he wishes to make a statement. Before I call the Minister, it is my obligation under Standing Order 18A(2) to ask him to state to the House the reasons for the statement arriving with less than 30 minutes' prior notice.

Mr Weir (The Minister of Education): Thank you, Mr Principal Deputy Speaker. I apologise to the House for the late arrival of the statement. From the original indicative timings, I had anticipated that the statement would happen a little later in the day, and I have been caught slightly unawares and missed the deadline. I have been around this place long enough to know that timings will alter, but I humbly apologise to the House and, indeed, all Members for missing the deadline. My intention had been to brief the Chair and the Deputy Chair of the Committee prior to the statement. Obviously, because of the timings, that was not possible. I put on record that, subsequent to today's statements, officials and I will be available to the Chair and the Deputy Chair to discuss any details that are not drawn out by questions. I am happy to meet them after the statements.

Mr Principal Deputy Speaker: I thank the Minister for that, and it is now on the record. I call the Minister of Education, Mr Peter Weir, to make his statement.

Mr Weir: I welcome the opportunity to make a statement to the Assembly. Today, I am announcing a further package of comprehensive measures, which, I believe, will ensure fair, inclusive and flexible public examinations in 2021. As I have said on a number of occasions, exams will go ahead but will be underpinned by contingencies for all scenarios. However, it is not business as usual. I know that our students are facing unprecedented disruption to their learning, which is why our qualifications will be different next year and why I will be taking exceptional steps to ensure that they are as fair as possible.

Over the past few weeks, my officials have been working closely with the Council for the Curriculum, Examinations and Assessment (CCEA) to develop wide-ranging measures that will best support students in these

unprecedented times. In doing so, they have engaged with the Education and Training Inspectorate (ETI), school leaders, teachers and, very importantly, young people to seek their views on the way forward. I believe that the changes that I am announcing will provide young people with the clarity and confidence that they need to achieve success. The changes include not only more generous grading across all qualifications but significant reductions in the content that will be assessed in comparison with a normal year. I am conscious that our young people have faced incredible challenges as a result of the pandemic. In making these far-reaching adaptations, we will ensure that their lives are not defined or held back by the disruption that they have experienced in 2020.

I start by publicly thanking each and every teacher, school leader, governor and all the vital support staff who work in and around our schools for their incredible efforts. They have dealt with a wide range of difficult and exceptional issues. Thanks to those efforts, our children have been able to return to school and continue their education. In particular, I pay tribute to the work of the many dedicated teachers who continue to go above and beyond to give every pupil, whether in school or at home, a high quality education.

I recognise that this is a difficult period for young people. Many of them have been personally impacted by the pandemic and are particularly concerned about how there can be fairness in the examination process. I trust that the changes that I am announcing today will go some considerable way to reassure those young people that we will continue to support them and help them to succeed.

I reiterate: I will not be cancelling examinations. I have been clear about that over the past number of months, and my position has not changed. Indeed, with the COVID vaccine being rolled out across the country, I am confident that examinations will be delivered in summer 2021. The recent November series went extremely well and heralded a successful return to public examinations. I have heard the calls from some for me to cancel examinations. Those voices have been loud and clear, but I have also heard the quieter voices of those who are equally as anxious that exams go ahead and have urged me to stand firm. While some have called for centre-assessed grades — I entirely understand their position — I have equally heard from many who feel that the cancellation of exams will put school leaders and teachers under terrible pressure and put

schools at risk of numerous appeals and litigation.

In recent days, I have also heard from many young people who want exams to go ahead.

Just last week, my officials met groups of sixth-formers across a range of different school types, in different sectors and in selective and non-selective schools, and many were not in favour of replacing exams with centre assessments. They expressed concern about objectivity and fairness and wanted the opportunity to demonstrate their knowledge and skills through the examination process. I am also conscious that our focus needs to be on the well-being of our children and young people. Cancelling exams would lead to further months of continuous testing, adding to the stress and anxiety experienced by pupils; in effect, it would be the worst of all worlds. That point was very well articulated by the sixth-formers.

Some other jurisdictions that are purporting to avoid exams are instead running them by the back door. In Wales, young people will face externally-set assessments, and they will be taken earlier than usual. The harsh reality is that there is no alternative to assessment or examinations in one form or another. The education system in 2021 must ensure that the cycle of over-testing is broken. I know that numerous concerns have been raised about what is happening on the ground with pupils. Over-testing is not healthy and is not in the interests of those pupils. That time could be better spent on concentrating on teaching the specification and preparing them for progression to the next stage of their education. With exams, pupils know that they will be assessed, the form and timing of that assessment, and they will be able to focus their learning on revision and progression.

As Education Minister, it is my job to weigh up these differing views, to consider all the evidence and to make a decision that, I think, is in the best interests of all the young people in our schools. It would be easy sometimes to make a seemingly populist decision, but being in government is about making the right decision in the interests of all. While, on the face of it, simply cancelling exams may seem like a good approach as we sit here today, I do not believe that it is the right longer-term approach for our young people. The best way to ensure fairness and comparable standards across all schools is to have a common assessment tool that is applied under the same conditions in every school and is marked externally to ensure fairness.

I genuinely believe that the experience of summer 2020 has shown us that exams remain the fairest method of assessing and awarding qualifications. We saw right across the UK and, indeed, in much of western Europe that, despite every effort and good intention, other forms of assessment are likely to be more inequitable. Cancelling exams would undoubtedly lead to different sorts of anxieties for young people and would put incredible additional pressures on schools. Therefore, I believe that it is in the best interests of pupils and schools that public examinations go ahead. Exams are the best way of giving young people the opportunity to show what they can do, and that is why it is so important that they take place next summer.

I will turn to standards. First, I want to reassure all our young people that we will take a generous approach to grading, similar to that recently announced in England. These are extraordinary circumstances in which you have had to complete your qualifications. In recognition of the challenges that this cohort has faced and is facing, I have decided that grading will carry forward the overall generosity and standards of 2020. That will ensure that the 2021 cohort are treated fairly, relative to their 2020 peers. Students will be awarded more generous grades in line with last summer's significantly improved results. Schools can be confident that my Department and CCEA have the tools to make summer 2021 exams fair and that young people in Northern Ireland will not be disadvantaged. The aim should be to achieve a level playing field for all candidates right across the UK.

I have also agreed that the collection and publication of school-level outcomes through the summary of annual examination results should be suspended for a further year in recognition of the significant disruption experienced by schools. The 2021 examination outcomes will not be used for accountability purposes. I want our school leaders and teachers to feel supported and confident as they prepare young people for public examination. That will lead to collaboration and cohesion across our system rather than competition.

In October, I announced a range of changes to CCEA qualifications, making a range of public health adaptations to ensure safety in delivery and reducing the number of examinations that pupils will take. I have also agreed that CCEA should delay the start of the summer exam series by one week to provide more time for preparation. In the October announcement, I said that GCSE candidates would be able to

omit assessment of one unit of each of their qualifications, up to a maximum of 40% of each qualification. Taken as a total package, this represents a considerable reduction in the assessment burden and goes significantly further than adaptations in England, where 100% of the course will be assessed.

Recognising the difficult public health circumstances and continued disruption, I have decided that pupils taking GCSE maths in January and June 2021 will be provided with additional support materials. These support sheets will relieve candidates of the burden of memorising all the information that they would normally have to memorise. I feel that they will be more prepared and more confident as a result, and this aligns with the recent announcement in England.

Today, I am also announcing significant changes to AS-level and A-level qualifications, which will sit alongside the earlier amendments to GCSEs. In recognition of the challenges of studying for level 3 qualifications in such disrupted times, I am taking unprecedented steps to reduce the assessment across all these qualifications. Young people will have the opportunity to omit up to 60% of their AS or A2 assessment. In a significant number of subjects, this will mean taking only one unit of assessment. The key requirement is that the unit or units assessed must comprise at least 40% of the AS or A2 qualification. At the centre of this reduction is choice. Our schools and colleges will choose which unit or units of assessment their pupils will take. Our young people will be assessed on topics and content about which they feel most confident and for which they are well prepared, allowing them to demonstrate their skills and knowledge to the highest possible level. In line with the emphasis on choice, individual candidates will be able, should they so desire, to take all their AS or A-level units.

I believe that these changes will relieve much of the stress that our young people are experiencing. The approach will allow them to focus on key topics for a small number of examinations whilst enjoying teaching and learning in other areas of the qualifications that will not be examined. This is a flexible and unique solution. It is designed to reflect the differing approaches to and experiences of teaching and learning across schools and colleges whilst retaining the rigour of external assessment that universities have told us is so important. Our universities have told us that, while preferring regulated, external assessment, they will take a sensible and pragmatic approach in these extremely difficult circumstances. The solution that I have

presented today provides assurances to universities that the outcomes in Northern Ireland will be robust and comparable between learners whilst recognising the need to reduce the burden and safeguard the well-being and mental health of our young people. I will write to schools, pupils and parents tomorrow setting out my decisions and providing more details. I am confident that the changes announced today will help all learners to build their understanding and knowledge of these important qualifications.

There will be a reserve exam series for A2 candidates who miss exams through illness or self-isolating. This will remove any doubts or uncertainties and ensure that every young person has the opportunity to progress to education, employment or training in 2021. The reserve series will run in early July, immediately after the main A-level series. The timing is to ensure that results are available to the system and to pupils who wish to move into tertiary education. The results will therefore be available to every pupil at the same time. CCEA is working to develop a process that facilitates the award of grades to candidates who legitimately miss GCSE exams due to, for example, illness or self-isolation, thereby facilitating their progression.

I turn to the mitigations for different levels of disruption. Disruption to learning has not been uniform across Northern Ireland or even within schools and families. Last week, my officials met young people who had experienced vastly different levels of disruption. Some had missed significant periods of school; others had missed none. First, I reassure candidates who have been ill during the academic year that CCEA's existing special consideration process will continue to be available and will operate as it has done in previous years. In addition, a process to consider COVID-specific special circumstances for young people will have to be developed. I will therefore explore the possibility of a COVID allowance or tariff for young people who have missed a significant number of days of face-to-face teaching due to self-isolation. This will allow specific account to be taken of the variations in disrupted learning since September. To be clear, I reiterate that this will be separate from and additional to the existing special consideration scheme.

I have asked CCEA to work closely with other awarding bodies to develop a UK-wide approach to any potential scheme. It is, as with all of these things, important that our students are not disadvantaged in that respect compared with their counterparts in other jurisdictions.

12.00 noon

In conclusion, I thank the House for the opportunity to address it on these important issues. My Department is working hard to make sure that we take into account the effects of the pandemic; to make the best contingency arrangements that we can; and to make sure that exam results will be fair and command public confidence. Fairness to pupils is my priority, and it will continue to be at the forefront of every decision that is taken in the lead-up to exams next summer. Exams are the fairest way of judging students' performance, so they will go ahead underpinned by contingency measures developed in partnership with the sector. In these exceptional times, I have taken exceptional and unprecedented steps to ensure that our young people are supported to progress in education, training or employment.

Let me make one further commitment to our students. Across GCSEs, AS levels and A levels, candidates will be awarded a grade based on their performance in the units of assessment that they have taken. Their work will determine their final marks and grades. There will be not be, this year, the use of algorithms or anything that goes beyond that. Again, I commend all our school leaders and teachers for their efforts in these difficult times.

In closing, to all those in our schools — staff, pupils and their families — at the end of what has been a very difficult year, I send my best wishes for a quiet and restful Christmas, and I wish every success to all our students in 2021.

Mr Lyttle: The Education Minister's inaction, indecision and U-turn caused grading chaos in 2020, so we are entitled to expect more than a statement that was late in its arrival and vague in its commitments. The statement mentioned generous grading, reduced content, support sheets, a COVID allowance tariff and a UK-wide approach, but it was without any great detail on any of those commitments. Other jurisdictions have taken decisive action to cancel or modify significantly examinations in 2021, owing to the unprecedented disruption to learning. In the week commencing 12 October, approximately 50,000 children were unable to attend school. We know that some pupils are on their fourth period of self-isolation, and many staff are in self-isolation as well. What level of COVID-related pupil absence is the Education Minister willing to accept before introducing moderated teacher grading and centre-assessed grading for 2021?

Mr Weir: I wish the Member a very happy Christmas as well.

I will respond to some of the issues that he has raised. He mentioned other jurisdictions. Scotland has made a decision to use some form of assessment but has not come up with the details of that. Wales's position is one of flux, where it is effectively introducing examinations by the back door but has still to hammer out a reasonable level of detail. England has made some announcements but, again, still has to sketch out some of the details. As I have said, we also need to make sure that none of our students is in any way disadvantaged compared with other students.

The Member mentioned the levels of absenteeism, and the position is that there are always a number of pupils who will be missing at any particular time. He mentioned a particular week: in that week, for those whose absence was related to the COVID situation, 2.4% of the school population were isolating because of some level of illness, while another 5%, roughly speaking, were not there because they were isolating because of contacts. That was the peak point. There will be other students who were missing during that time for a range of reasons. Let us remember, however, that, although it is important that the situation be taken into account, those pupils were receiving remote learning and other learning throughout. Let us not create a situation in which we simply equate students' not physically being in school on a particular day with not working hard at home. I want to make that fairly clear.

The Member mentioned centre-assessed grading. Anywhere that that has happened, grades have been mitigated. Again, that creates one of the problems that we saw in 2020, because it is not fair across the system. Schools will take different approaches. Schools may well have a situation in which they give particular grades to their pupils, knowing that they are likely to be reduced. We would be faced again with the spectacle of a situation where a pupil gets a grade that differs from what their school gave them — generally speaking, it will be lower — and that will create a level of conflict. It is also the case that, to reach that grade — this is one of the dangers that could happen in the system — you will have six months of continuous assessment where pupils feel that they are under the microscope every day. There is no route out where there will be no examinations. The alternative will be a range of examinations, possibly on a weekly basis, by schools, because they will feel concerned that a

disgruntled parent might try to sue them, for example.

We need something that is recognised clearly and has the support of universities but is also fair to students. I appreciate that, in current circumstances, getting something that is fair across the board is difficult to achieve. If you make a move in one direction, it is maybe fairer for some and less fair for others. The mitigations that I have put forward go further than what is in England. They also avoid, quite frankly, the confusion in Wales — they will have external examinations but will just not call them external examinations — or the uncertainty that will happen in Scotland, which, in any event, has a completely different examination system. This is the fairest way forward.

Mr Newton: I thank the Minister for this work, for all the hard work that has gone into the preparation of the statement and, indeed, for the initiatives that he is prepared to undertake. Can I just seek total clarity? Minister, you mentioned consultation in your statement and said that your officials had worked extensively with CCEA and that you had engaged with the Education and Training Inspectorate, school leaders, teachers and, importantly, as you said, the young people or pupils themselves to seek a way forward. Will you clarify that the new assessments at AS and A2 level will effectively be reduced by up to 60%?

Mr Weir: Yes, extensive work has gone on. Obviously, because of the nature of this, it has had to go on in the background with CCEA and the ETI. We have worked with a group of school principals and stakeholders drawn from a range of schools of widely differing nature in terms of sector but also in terms of whether they are selective or non-selective and whether they go to sixth form or not. There are a range of things. This has been teased out on a number of occasions and discussed back and forward, making sure of what is doable. There is no point in producing some idyllic solution that then cannot be implemented on that basis. Also, significantly, last week, my officials met confidentially within a number of schools to talk through with the sixth-formers what they saw as the options. Again, there was strong support for this type of route in connection with that.

The issue is — this should not be forgotten — that, when talking about A levels and AS levels, we are putting a minimum standard of a 40% floor. Some schools will take a different view of which units they would like to see assessed. We appreciate that some will have had different levels of disruption at different times of the year. They will want to ensure that the units that they

take will be ones that relate most directly to their circumstances and their children. That will lift the burden of up to 60% of the assessment from children at A level and AS level. There is a different arrangement for GCSE, where units have been taken out at a slightly earlier stage, but, again, there will be a considerable reduction there. That runs alongside some of the other measures, including the generosity of grading.

Ms Mullan: I thank the Minister for bringing the statement to the Floor today to give students some assurance before Christmas.

Minister, I heard you say before that nothing replaces in-classroom learning. Following on from the Chair's point, your answer to him was that those students are working hard at home, but we know that there is very much a varied learning experience at home, particularly for those who have special educational needs and need that in-classroom support. For those students and the others who have missed up to eight weeks and will continue to be disrupted, when will you publish the full details of the special circumstances?

Mr Weir: I want to work with colleagues across jurisdictions on that. You make a very good point about where it will be in the individual side of things. The system-wide adaptations will go a long way to meeting that, so if a student is expected to be assessed only on particular units — they will know from their school very early on which units those are — they are, effectively, being assessed on 40% of the course. That removes more than half the course from the assessment, which means that even with considerable time missed, there is still that level of compensation.

It is important to consider special circumstances, because if we reach a point where it is possible that that is universal across jurisdictions, we should try to create a situation where our students are not disadvantaged. One option is that some additional tariffs or marks could be given to students who missed a particular length of time, and if we reached a point, for example, where our students are getting a much higher tariff than anyone else, there would be a suspicion in universities and other places that, effectively, a Northern Ireland or CCEA qualification has come from an easier exam than anywhere else.

We also have to take into account in the comparability that we have about 20% of our students at A level and AS level sitting exams set by boards that are outside Northern Ireland.

I should make it very clear what can be delivered on. I appreciate that sometimes this has probably been a bone of contention between me and the honourable Member for Upper Bann, but, at present, we want to make sure that children are also treated equally to one another.

On the flip side of the coin, if we were simply to go on a solo run with special circumstances and did not go as far as other jurisdictions, achieving particular grades would be harder in Northern Ireland than anywhere else. A bit of work needs to be done so that we can reach a common position, if at all possible, between different jurisdictions to try to make sure that special circumstances are reflected so that no one is disadvantaged in future employment, for example, or a university place. Sometimes you get different levels in university places. We want to make sure that our students are given that level playing field.

Mr McCrossan: I thank the Minister for the statement. Minister, in order for your Department to engage in evidence-based policymaking for these examinations and recognising the potential for differential adverse impact, it will be necessary — this is the view of the Children's Law Centre — for your Department to screen the policy and carry out a full equality impact assessment of each available policy option, including having proper consultation with affected young people and their family, educators, exam bodies and other affected stakeholders. Have you done that, Minister? A human rights impact assessment and a rural impact assessment should also have been conducted. Have you done those also?

Mr Weir: All necessary procedures will have been gone through, and we have done that level of consultation. There have been accusations that we have delayed this. The Member needs to be aware that we have been trying to ensure that this has been got right. We could spend the next six months consulting on all these things, but that is not going to be a great deal of use in giving some certainty to pupils. We need to ensure that what we have is robust and has a broader level of buy-in. Indeed, in our adaptations, we have gone a bit further than England while ensuring that those are still acceptable to universities. We have given a level of clarity that is not there in other jurisdictions.

Mr Butler: I join the Minister in thanking our teachers for their hard work. I wish them all a happy Christmas, and you, too, Minister. There

is some good news in today's announcement on A levels and the 60% omission, which I have been pushing for. However, I have a 15-year-old constituent who has missed 18 weeks of face-to-face teaching in Lagan Valley, and his father is at pains to understand how that lost learning will be mitigated. Given that we have 60% omission at A level, why can we not have 60% omission at GCSE, where, actually, there is no equity across the subjects?

Mr Weir: The problem with reduction there is trying to get something that is equitable. The position on GCSEs was declared earlier through the unit omission. That means that the same units can be omitted across the board so that everybody is on a level playing field with that.

12.15 pm

It should be noted that, in trying to reach something that is equitable this year, perhaps the focus, at times, has been on the grading of A levels and AS levels. The generosity on grading will also take into account the 2020 standards for GCSEs. As I said, there will be further work on individual special circumstances. We need to make sure that the coverage at GCSE level enables pupils to progress to AS levels and A levels, so there has to be a level of grounding there.

Across the board for specific GCSE subjects, the particular units omitted have already been worked on, and schools have been working on those. If, at this stage, we were to say, "We can take further units out", although clear guidance was given to schools to try to, as much as possible, do things in the same order, we would be omitting some units that some schools might have dealt with extensively and others which they would not have dealt with. Therefore, it is not quite the same position. Again, we are talking about up to a 40% omission on GCSEs as well.

Mr M Bradley: Thank you, Minister, for your statement. Minister, can you clarify two points? Can schools and school leaders now choose which units they wish their pupils to be examined on? Secondly, can you confirm that no algorithms or z scores will be used to calculate a student's grade and that it is all now based on the student's performance? Is that the case?

Mr Weir: It is. The answer to both questions is yes. On A levels and AS levels, schools will make that choice. That is, in part, because there will have been different levels of

disruption in schools, and because a large section of a year group may have been off when a particular component of a course was being covered. Schools will be allowed that choice and to concentrate on some of the things that have already been taught. Not every school will have taught things in the same order, so this will enable flexibility to be put in place. As I said, there may still be a very small number of students who want to do everything, and there will be an opportunity for them to do that.

On the issue of the calculations, if someone is sitting one paper, they will simply get the mark that they get, and the grade they get from that paper will not be adjusted by algorithms, which are a mathematical formula, and which were seen to be externally put in place, and that created great concern. Similarly, what is normal for a missed unit is that a Z score is used, which can adjust where a pupil will be. The only adjustment that will be made is if someone is doing, for instance, two papers and those papers are weighted differently, so you may get a situation where, to make up the 40%, two units are used. One unit would normally be worth 20%, and the second worth 30%. In those circumstances, the 30% unit will count 50% more than the 20% unit, if you understand what I mean. The marks that they get in the exam will be scaled up, if you like.

People can be assured that there will not be an intervention from above. A lot of problems and concerns were created because pupils expected to get a particular grade and then found that, as a result of whatever calculations had been put in place — this was particularly true for small cohorts — they got a different, often lower, grade than anticipated. Although, in some cases, it produced a higher one. The change means that a grade will be awarded purely on how a student performs in an examination.

Ms Brogan: I thank the Minister for his statement. Minister, much of the speculation and media interest in today's statement has centred on GCSE and A-level students, but I want to ask, on behalf of anxious BTEC students, what these arrangements will mean for them, given the massive coursework burden that they have had to shoulder despite months of disruption to their education.

Mr Weir: I am a little bit restricted in what I can say, as BTECs, and, indeed, the vocational side, come under the control of the Department for the Economy, although I suspect that there will be some read-across. We have been working with the Department for the Economy,

but is not my place to make an announcement on behalf of the Economy Minister. Clearly, there will be implications. Across the board, work has been ongoing on how BTECs are reflected, not just here but in other jurisdictions to make sure that we have a fair reflection of the circumstances for BTEC students as well.

Mr Humphrey: I join the Minister in thanking all the staff in our schools across Northern Ireland for their work and dedication in this most difficult year.

Minister, I welcome the engagement; it is hugely important. You mentioned that no child in Northern Ireland should be disadvantaged across the United Kingdom. You also mentioned mitigations for students who have had to endure significant remote learning or, sadly, have been ill during COVID. I ask the Minister to confirm that he is looking at other scoping mitigations, on top of those that are already in place from CCEA, that would ease the already difficult circumstances that young people have found themselves in throughout the pandemic?

Mr Weir: Yes. On the special circumstances, I want us to have, broadly speaking, a level playing field across the UK. We need to give a good deal of thought to the mitigations, as there are things that can be put in place, which will facilitate students taking those examinations and protect their opportunity to do so. The individual measures that can be put in place will need to be examined.

Today's statement is about providing system-wide mitigations. They go a long way in covering individual circumstances, however, there will be those who will still be disadvantaged. It is important that a level of protection is put in place, and that will require further work. Rather than give something which is definitive and may end up being wrong, we want to work with colleagues across different jurisdictions and exam boards to put in place, ideally, something to meet special circumstances. It is accepted by the Minister for Education in Westminster, in that, as much as possible, if we can reach a UK-wide position on special circumstances, that would be of advantage to all pupils. Depending upon what direction you go in, there is disadvantage in either direction if there is not parity across the board.

Mr O'Dowd: I thank the Minister for his statement and answers thus far. This has been an awful year for students, particularly first-year students in our further and higher education

institutions. What consultations has the Minister had with the Minister for the Economy, colleges and universities on today's statement?

If students are being assessed on 40% of the course, is there a danger that they are taught 40% of the course, which limits their horizons for the next phase of their learning at colleges and universities?

Mr Weir: There is no perfect solution, but work has been ongoing, particularly with universities, to try to make sure that there is something in place that is acceptable on grading. While certain decisions lie within the remit of the Minister for the Economy, I will be working alongside her on those issues.

The Member makes a valid point about the level of assessment that is there. The aim would be to try to ensure that the full course is taught, however, there is a degree of danger that it will lead to a level of skewing of the course. To be fair, in all of these there is some level of difficulty with any potential solution. I suspect that it will mean that areas that will be directly examined will have a higher percentage level of concentration from the schools. That becomes a certain level of natural consequence. The aim is to ensure that the full course is covered, and we are trying to make the best of the situation.

I acknowledge that this has been a difficult year for everyone, particularly students. However, while there is hope on the horizon, we are not out of the woods yet.

Mr McNulty: I thank the Minister for his statement and his answers thus far. There have been disproportionate adverse impacts on children's education as an outcome of the pandemic. The gap is widening. Children and young people from disadvantaged backgrounds and children with special educational needs are falling further behind. How do your proposals on exams address that? Can you confirm that the algorithm fiasco from earlier this year will not be repeated?

Mr Weir: I am very happy to confirm that. As much as we can get fairness and objectivity in the system, it can still depend upon somebody giving a subjective opinion or using a mathematical calculation which adjusts according to how one school does compared to another school. That is a problem that would be there with moderation and centre assessment grades (CAGs).

I can give the Member an absolute assurance on the algorithm. While I am sure that not many of us would be algorithm experts, no algorithm will apply z scores this year. It will be purely on the basis of what a student achieves directly on their own merits and marks, against a backdrop of generosity.

The Member is right about differential disruption. Ensuring a considerably reduced level of content goes a long way to meeting a lot of those measures. As I said, I want to explore, hopefully on a cross-jurisdictional basis, how we can apply special circumstances for individual students. That would be in addition to the current provisions. As I am sure the Member is aware, there are already mechanisms whereby, if someone in a — let us call it — normal year has special circumstances through illness or whatever, provision can be made. Anything that we do this year will be on top of that. For instance, if someone is ill for another reason, we need to see how we can adapt that, particularly for those who missed out because of COVID.

Mrs Barton: Minister, you spoke about students not being disadvantaged if they wanted to go to universities in England, Scotland, Wales etc. As you will be aware, quite a few students in Northern Ireland still like to study at Trinity College Dublin. Have you had any discussions with the universities down there about what would be acceptable?

Mr Weir: I would have to get more detail on that. At the moment, while things are a bit unclear in the Republic of Ireland, the suggestion is that they will be doing all the Leaving Cert by way of examinations. We believe that a system that is, broadly speaking, acceptable to universities should be acceptable across the board. However, there will be further engagement as we move ahead, particularly with our colleagues in the Republic of Ireland.

There is a North/South Ministerial Council meeting on Friday, so I may be in a position then to raise that issue directly with my opposite number, Norma Foley. Unfortunately, the meeting is not in the beautiful city of Armagh. I say that just to make sure that Mr McNulty is paying attention. We will be doing the meeting via Zoom, but that will still enable that level of engagement.

Ms Armstrong: Thank you very much, Minister. I declare an interest as the mother of a young person who is going through their A2s shortly. You must feel for me.

Minister, you mentioned the COVID allowance or tariff. When will that be published? Will it, for instance, specify how many missed school days will be necessary for a pupil to receive the COVID grade tariff? Young people need confidence now, and if we can publish such specifications, it would help them.

Mr Weir: I understand that. That is one of a number of options, and probably the most likely option. The point that I am making about any tariff is that we want to make sure that it is, if at all possible, universal. I sympathise with you being the mother of an A2 student, but, at A2 and A level, about 20% of our cohort will do that from boards that are outside Northern Ireland, so we want to make sure that everybody is treated fairly. If, for example, we end up with a COVID tariff and that is the route that we go down for special circumstances — we will need to work with other jurisdictions — I do not want our results to be viewed with suspicion by employers or universities because they have a more generous tariff than elsewhere or — I am sure that this would be of grave concern — if we had a tariff that applied at a much lower level than other jurisdictions, that we would disadvantage our pupils in terms of grades.

There is work to be done between boards, with Ofqual and between jurisdictions to try as much as possible — it may or may not be 100% possible — to reach a common position across jurisdictions.

12.30 pm

Mr O'Toole: Given what the Minister has said about the need to introduce special circumstances and the fact that CCEA will be responsible for dealing with a vast and, I am afraid, inevitably chaotic process of appeals, first, is he confident that CCEA has the resources to deal with this unprecedented and Byzantine process that is going to be inflicted on it and the young people of Northern Ireland? Secondly, Minister, can you confirm that the upshot of your statement is that, if Gavin Williamson, who is widely thought to be an incompetent and chaotic Secretary of State in England, has to perform a U-turn on exams proceeding in England, we, in Northern Ireland, will simply follow what he has done?

Mr Weir: I always want to make sure, above all else, that our students are not disadvantaged. Obviously, at times, we will have to look at what happens in other jurisdictions. We cannot have Northern Ireland as an outlier. However, England's position on examinations has been made very clear. Some examinations went

ahead very successfully in November, and we anticipate that the pandemic will not be as great a level next summer as it was at that time. I should say, from a historical point of view, that, while being accused of being Byzantine is obviously a form of insult, that was a very successful empire for many centuries prior to its collapse [*Laughter.*] Members of the DUP are sometimes accused of harping back to the 17th century but there may be more classical civilisations that we could look to as well.

Mr Carroll: The Minister ended his statement by saying:

"Fairness to pupils is my priority".

He also stated:

"Over-testing is not healthy"

for pupils.

Can the Minister explain how it is fair or, indeed, healthy that post-primary exams will go ahead in the new year despite pupils being in the middle of a health pandemic, with many thousands having so much time off school and missing so much teaching, not to mention the serious concerns that exist around children's safety that his Department has still not addressed?

Mr Principal Deputy Speaker: Order. For the second time today: post-primary transfer was not in the statement issued by the Minister. I have to remind Members that questions should relate to the statement. The Minister is at liberty to answer that question if he wishes, but he does not have to.

Mr Weir: At the broader level, we will always make sure that any examinations take place in accordance with public health guidelines. As the Principal Deputy Speaker said, post-primary transfer is not the subject of today's statement. However, from a health point of view, if we are talking about roughly 300,000 pupils being in each day, accommodating 10,000 on a particular day does not seem to be beyond the bounds of possibility. I want to make sure that all our examinations are as fair as possible. We have taken very far-reaching decisions today on reduction in course content and on grades, which will create a unique circumstance. It will mean that pupils in 2021 will be in a very different position from those in 2019. That is where an accommodation has to be reflected. Again, I thank the Member for his good wishes.

Ms Sugden: Thank you, Minister. Given the process that you have outlined, can we assume that students will perform better than would have been expected? How will this affect admissions to FE and HE, particularly for competitive courses? Does it also open up options for students who did not think that they would perform as well to apply to different courses? I ask that in the midst of the university admissions process. Lastly, how are we supporting teachers? This seems quite chaotic, and I understand that today's statement may be news to them. How will we support teachers through the next six months?

Mr Weir: There are a number of points there. Yes; it may mean that because there has been a shift in where the boundaries are. What it does mean is that those who are sitting exams in 2021 will be put in a very similar position, at least in terms of eventual outcomes, to those who sat exams in 2020. Some people will not have taken up university and FE places in 2020. They may have deferred entry or simply felt that, "I do not want to apply at this stage because I will not be getting the full university experience". It will mean that those who graduate in 2021 and those who graduated in 2020 will be on a level playing field with each other.

Ms Sugden mentioned teachers in particular. One of the advantages of this approach for teachers is that the changes in assessment will reduce their burden. I appreciate that, with every subject, there will be a range of opinions. However, teachers not having to make a central assessment of individual pupils will relieve some of the pressure on them. It will allow them not only to say what they feel students should get but to rank them. No matter how great the level of confidentiality, there will always be a concern among some teachers, who will look over their shoulder and ask themselves whether there will be any comeback if they do not give someone a certain grade. This approach will relieve that burden.

Also, because the choice will be made at a school level, that gives schools an opportunity to be flexible. This will not simply be imposed on schools. Other options involved a high-level reduction being imposed by CCEA on all schools. However, because of where we are in the school year, it would not have given schools that level of flexibility.

Mr Principal Deputy Speaker: No other Members have indicated that they wish to ask a question. That concludes questions on the first statement by the Minister of Education. I ask

the House to take its ease for a few moments while we change the top Table.

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

Independent Review of Education: Terms of Reference

Mr Deputy Speaker (Mr Beggs): Order. The Minister of Education has indicated that he wishes to make another statement.

Mr Weir (The Minister of Education): I would like to make a statement to the Assembly about the establishment of the independent review of education. Members will be aware of the commitment in 'New Decade, New Approach' (NDNA) to:

"establish an external, independent review of education provision, with a focus on securing greater efficiency in delivery costs, raising standards, access to the curriculum for all pupils, and the prospects of moving towards a single education system."

Indeed, there are a couple of other direct references to the review in NDNA.

Work to establish the review had to be suspended in March 2020 due to the onset of the COVID-19 pandemic. I am keen to make further progress on establishing the review, and, to that end, I secured the Executive's agreement in principle to the draft terms of reference, which will now be published.

This is very much the start of the beginning. The real work lies ahead, once the independent panel has been recruited and the evidence gathering commences. However, the agreement in principle of the draft terms of reference is an important first step, and it signals the intent to have a wide-ranging review of our education system with a view to improving outcomes for children and young people.

We should not underestimate the task ahead. The review and the delivery of whatever recommendations it makes could radically reshape the design and delivery of education in Northern Ireland. Reform and transformation, however, will occur only with political and stakeholder agreement and wider community engagement, as well as the provision of adequate funding.

Education in Northern Ireland operates in both a congested and contested space, and change is inevitably a highly emotive issue. A non-

political, non-sectoral and wholly independent review is an essential starting point. It is important that we approach the review with an open mind and without our own predetermined views on what its findings will be. We must also recognise that, although the education system faces many significant challenges, we are building from a position of strength. There are many areas of excellence in the current system. We can be proud of our school leaders, teachers and pupils. We have a well-trained and highly committed workforce delivering innovative practice, and our children and young people continue to achieve high levels of attainment. Those strengths need to be built on to ensure that they permeate the entire system, and challenges must be identified and addressed. We are all in agreement that, if we are to continue to deliver world-class education, we need to reform, modernise and transform. We should always strive to improve services and deliver better outcomes.

Indeed, a significant amount of work is already happening in the field of education transformation and reform, and it is important that the review build on such work rather than try to stall or duplicate it. Members will be aware of the ongoing work of the expert panel on persistent educational underachievement, which is also an NDNA commitment. Further to that, my Department continues to work closely with the Department for the Economy on a strategy for 14- to 19-year-olds, and work is commencing on the delivery of nine workforce reviews linked to the teachers' pay agreement.

The review panel will need to be cognisant of a wide range of work across the Executive that links to improving outcomes for children and young people. All good education systems look continually at how they might improve the quality of provision, and all good schools want to improve further. There is now an opportunity to review education policy, services and provision strategically and to set out a clear vision of how education should be delivered in Northern Ireland in the 21st century.

The review's terms of reference have been agreed by the Executive and will now be published. The review will commence in 2021, once an independent panel can be appointed. That will be done via an open public appointments process to ensure that the panel is wholly independent, with an appropriate breadth of experience and range of expertise. The panel will work over a period of approximately 18 months, producing an interim report after 12 months. I am open to providing further time, if required and requested, to ensure that a quality piece of work is produced.

The panel will be made up of a chairperson, a vice-chairperson and three panel members. Those roles will be remunerated. The agreed terms of reference set out the scope of the review and the expected deliverables from the independent panel.

The review is based around three core strands. Strand 1 will focus on the educational journey of children and young people and the outcomes that they achieve. It will consider all aspects of pupils' experience of education from early years to transition into careers. That will include a range of issues, such as transition and transfer at age 11, the experience of children with special educational needs (SEN) and the delivery of the curriculum, as well as many other important aspects.

Strand 2 will focus on support for settings and schools, including the issue of funding and local governance arrangements. That strand will wish to consider how we support our schools and teachers to best teach our children and young people. Again, it will cover many different issues, including the challenging roles of school leaders and teachers, the role of inspection and school improvement, and the role of technology in education to support learning, pedagogy and qualifications.

Strand 3 will then consider how the education system is designed, delivered and administered. The panel will wish to consider the barriers to effective delivery and areas of duplication or inefficiency. That will be a complex work area, with a focus on the core structural issues that may negatively impact on delivery and outcomes.

Although the terms of reference and scope of the review cover a wide range of areas, it is clear to me that there is one element that still requires further refinement, and that is to ensure that the review is ambitious enough to encompass a vision of change and puts in place the practical steps for learners' journey beyond school and into further and higher education, fully preparing them for work and life.

To that extent, today's announcement is not the finalised position, and, given the critical involvement of the Department for the Economy, I will engage with the Economy Minister in the time ahead to see what additions are needed to the terms of reference. None of that will detract from the existing terms of reference but will add to them before the panel commences its work. Any additions will be brought to the Executive and then confirmed in a statement to the Assembly.

12.45 pm

I reiterate that nothing in the review will or should act as an obstacle or delay to the necessary reforms that may be made in the interim by my Department by itself or in conjunction with the Department for the Economy, such as the 14-to-19 strategy or the need to prepare our future workforce by embedding a digital spine in our young people's education. Nothing in the review should be allowed to impede progress or be used by anyone as an excuse to avoid difficult issues by attempting to kick the can down the road.

In addition to the three distinct strands, the panel will be asked to outline a clear vision for what education in Northern Ireland should aspire to be in the 21st century, the outcomes it should deliver, the appropriate indicators of success and the key actions required to make that vision a reality. It will be for the appointed chairperson to set the work plan and agree the methodology for engaging with stakeholders. However, I expect the review to be delivered in a collaborative manner with significant engagement in order to gather evidence and assess issues.

Education has a wide range of stakeholders, and it is essential that they have an opportunity to support and inform the review. I am keen that the voice of children and young people be central to the work of the review and that their views be considered on how education is currently delivered in Northern Ireland and how it might be improved. Parents and carers also have a critical role in shaping the needs of our education system and will be critical to ensuring that the review progresses successfully. Our school leaders and teachers will also be able to provide insight on current provision, gaps in services and barriers to improved outcomes. There should also be significant engagement with education sectoral bodies and trade unions, as well as wider representative groups.

While engaging with children and young people, practitioners, trade unions etc, it is vital that all viewpoints, all stages, all sectors and all school types, including special education, are involved. There will also be cross-departmental working, with many areas of government having a role in the delivery of education or in improving outcomes for children and young people. In particular, I expect close working with the Department for the Economy on matters relating to further and higher education and the preparation of young people for the world of work. Engagement at a political level is also vital. I see little value in taking time and

spending money on delivering the review if its recommendations cannot be put into action. It is incumbent on all of us to work together to find solutions to the challenges that we face, build consensus on delivery of those actions and secure the necessary resources and commitment for educational transformation.

I firmly believe that everyone in the House wants the same things for our children and young people and our education system. We all want a system that provides children and young people with the absolute best start in life. We all want a system that develops children's personalities, talents and mental and physical abilities to their fullest and equips them to thrive in later life. We all want a system that is fair and open to all and provides appropriate support for those who need it most. We all want a system that values its workforce and provides them with the tools that they need to be effective. We all want a system that is sustainable, effective and joined up. Fundamentally, I believe that, despite our differences at times, we all want the same things for our children and young people, our workforce and our schools: it is just that sometimes we disagree about the method for obtaining those outcomes. It is as if we are at the start of a journey and we can all agree on where we want to go but have different opinions on the best route to get to that destination.

We must all approach the review with open minds. The review must be based on evidence, learn from best practice locally and elsewhere and be informed by the voice of stakeholders. The panel will operate with objectivity, and, once that review concludes, we, as the final decision-makers, must do so also. I look forward to the review commencing later in 2021 and ask Members to appreciate that it will take some months to run the recruitment process. I am sure that everyone in the House will support the work of the panel once it is in place.

Mr Lyttle (The Chairperson of the Committee for Education): The time that was given to the Assembly to read the key statements on exams and now the fundamental external review of education was completely unacceptable. I hope that that will be dealt with by the Speaker's Office.

I, nonetheless, welcome this important statement on the independent review of education, a proposal that was made by the Alliance Party during the New Decade, New Approach talks. It is obviously a key opportunity to reshape an education system that is high on quality, low on equity; is in financial crisis; separates children and young people at the age of five; and trains our teachers separately. It is

an opportunity for fundamental reform to put in place equal educational opportunity for children and have children learning together. When will the independent review start, when will it report and when will the fundamental reform commence?

Mr Weir: Going back to my remarks on timing, we are in a slightly different position in that there were a few detailed comments from, for instance, the Education Committee that we were able to take on board. On the terms of reference, the Member will be aware that, while the final decision on those lay with the Executive, we were in a position to give draft terms of reference to some sectoral bodies and the Committee for Education and to take on board some suggestions

In terms of the timescale, the aim is to move as quickly possible, but it will probably be a few months into 2021 before the panel is fully established. There will need to be a recruitment process with, first of all, expressions of interest by way of public appointment. Then there will need to be some way of ensuring that people are appointable, be it by interview or whatever. Appointments will then be made, and provision will then be made to support them.

The Member will be aware that, when it came to the expert panel, which was arguably a simpler process, we were in a position to make an announcement, I think, in June and to have the work start in September. There will not be the same time frame in this case, but the process will commence in 2021.

The Member asked about a time frame: again, to some extent, that will be up to the panel. We have given an indication that there should be a full report within 18 months and an interim report within 12 months. Initially, there were slightly tighter time frames, but one piece of feedback that we got from a range of the sectors was that that would, given the scope that would have to be encompassed by the panel, potentially be challenging to deliver. As I said, there will be an 18-month period to report, with an interim report after 12 months. Also, should the panel members feel that they need a little more time, there will be an opportunity to ask for additional time of up to six months, and that will be a call for the chair.

It is important that whatever emerges is got right. While it is critical that this is delivered, it is not a question of rushing something to meet a particular absolute deadline. I should indicate some of the issues that will be covered, as they will be of interest to the Chair and the Committee. If there are changes that can be

made in education, it will not be a question of waiting for a report. If there are issues that we can get consensus on and work through, we need to make that progress in the meantime. None of this should be an obstacle to any level of change that can be brought about.

Mr Humphrey: I thank the Minister for his statement. Minister, I welcome your commitment to the review and particularly to the establishment of a panel on educational underachievement, which is very important and is a policy that I hugely endorse and support. Will 18 months for the deliberations be long enough for the panel to conclude its work and report?

Mr Weir: As I indicated, there needs to be a balance. We do not want to have something moving into the ether and never reporting, and we need to have a realistic time frame. The original time frame envisaged that a final report would be done within 15 months. There was considerable feedback from a number of those whom we consulted that that would be tight. The balance that we have struck is that there is an expectation of a final report within 18 months, but there is an opportunity for the panel, if it feels that there is further work that needs to be done, to request an extension. The request should come from the panel rather than either me, as Minister, or my successor in title trying to impose an additional time frame.

Ms Mullan: Minister, I welcome the work that your Department has done in bringing forward the commitments in 'New Decade, New Approach'. I share the concern about whether the in-depth review that we require will be achieved in that time frame, but I thank you for your answer.

You mentioned the Department for the Economy when you were talking about cross-departmental working. Do you agree that the Department of Health plays a vital role, particularly in our young people's well-being and ensuring that that is provided for in a modern-day education system?

Mr Weir: I take on board what has been said about the time frame. If difficulties arise because of it, I am sure that it could be amended. By the same token, however, there will be issues that all of us in the Chamber could debate until the cows come home. We cannot have something that is entirely open-ended. There will be a level of reflection, and, ultimately, as a process issue, we may have to alter it. We have to see how it works out.

I gave the specific example of the Economy Department, but other issues will come into play that will require cross-departmental support. The Member highlighted clearly the Department of Health as a key consideration. I suspect that, even tangentially, there will be other Departments that this will touch on. I want to see the panel engaging with the widest possible range of stakeholders. That will probably vary to some extent according to the subject matter that the panel is looking at. If it is looking at progression to further and higher education, the key focus will be the learner journey and the economy. If we are looking at support in the system for vulnerable children and children with special educational needs, Health will probably be the key Department because there will be cross-fertilisation. There may be issues that touch on other areas: if school transport is looked at, there could be a role for the Department for Infrastructure.

There is nothing that circumscribes whom or what organisations the panel can meet. The point needs to be made that it goes beyond the remit of the Department of Education. It is not simply within government: a lot of good work has happened at times on the ground through third-sector bodies and individuals. As well as those who are formally in education, the role of parents will be critical as we move ahead.

Mr McCrossan: I welcome the statement from the Minister. I welcome the review and the opportunity, on behalf of the SDLP, to engage with the panel on educational underachievement. It was very useful.

Minister, why is your Department and the Education Authority (EA) outside the scope of the review, considering how vital those organisations are to the effective operation of the education system? Surely DE and EA should have been part of strand 3. Is EA separate? If so, why? Surely it should have been part of the review, particularly given the trail of chaos to date in relation to aspects of its remit on SEN and other matters.

Mr Weir: First, there is a separate review of EA that is due about now. I think that this will involve all organisations. There is a clear reference to what the strands can contain, and, effectively, therefore, there is an expectation of what they can contain. It is put in a very permissive way so that if, in terms of the wider position as regards governance or anything else, the panel seeks to move beyond the definitions in the terms of reference, there is no bar on it looking at anything, including the Education Authority or, for that matter, DE.

Mr Butler: I thank the Minister for his statement; it is an important piece of work. The Minister rightly pointed out that a number of strategies are ongoing and are not mutually exclusive with the strategy. The best start to education is vital for any pupil. The Minister is aware that Northern Ireland has the lowest starting age in Europe. He is also aware that children born prematurely, underweight or with a birth date in May or June are at a developmental and academic disadvantage. Can he update us on the call for a flexible school start age, or will that have to wait for the independent review to pick it up as a critical issue?

Mr Weir: I probably gave a couple of examples that had crossover with Economy, but I made it clear in the statement that, where changes can and should be made ahead of any report, particularly within the next year and a half of the Assembly's lifetime, they should be made.

The Member makes a valid point, particularly about premature babies. I am keen to look at what can be done and, from initial exploration, I think that it would require a legislative change. At the moment, the school starting age is set rigidly in legislation. If legislative action can be taken during this term to create a greater level of flexibility, I would be keen to see that happening. We need to scope out precisely how that can be done, but that is a very good example of something that can be changed and should not be put on the long finger until the report comes out. I share the Member's position on that.

1.00 pm

In order to make sure that the matter was looked at — I think that it was suggested in the Education Committee — there is now an explicit reference to flexibility in the final terms of reference. The Member makes a valid point.

Mr Newton: I agree with other Members that today's announcement is, indeed, a timely one. It is very ambitious and will undoubtedly be welcomed across the Chamber and throughout the education sector.

I note that, as others mentioned, this is the second New Decade, New Approach initiative that the Minister has announced. I will quote from the statement:

"This is very much the start of the beginning. The real work lies ahead once the

independent panel is recruited and the evidence gathering commences."

What will be the most challenging aspect that the panel will face?

Mr Weir: There will be challenges across the board. Some issues will be more contentious than others. There will be challenges around the breadth of issues, which, by necessity, an independent review has to encompass. We are talking about the education of children from preschool up to and beyond secondary-school age. There is a wide remit to cover.

The other issue is that, while the panel will scope out what is needed to support particular aspects, it will also try to ensure that those are financially realisable. I cannot prejudge what will come forward but there may be certain proposals, it might be argued, that will create greater efficiencies and save money. However, some proposals will lead to additional expenditure. It will be about trying to make sure that we have a broader way forward that can also be compatible with what, ultimately, is affordable. We may all come with very different visions but, if any of us were given an extra £1 billion for education, an awful lot of problems could be solved. It is about a mix of what is available financially and the need for best practice in reform because the two go hand in hand.

Mr Deputy Speaker (Mr Beggs): I encourage the Minister to use his microphone in order to ensure that what he is saying is picked up by Hansard.

Ms Brogan: I thank the Minister for his statement. New Decade, New Approach outlined that an independent review would look at a number of aspects of the education system here, including special education. The Minister is aware that regulations and a code of practice are being consulted on for the new special educational needs framework. Is that new framework beyond the scope of the review? What impact will the independent review have on the new framework?

Mr Weir: I will try to speak into the microphone. I know that, at times, there may be some who feel that not hearing what I am saying may be a positive advantage. Nevertheless, for the sake of Hansard, I will make sure that I speak into the microphone.

Special education is a part of all of that. That goes back to one of the issues that has been raised. Work is ongoing in special education,

and we should not wait for the review to report before those things can be put in place. As the Member outlined, the work on the SEN regulations and the code of practice is coming to a conclusion. There was a slight extension to the time frame to allow for discussions on those matters. While I will wait to see precisely what emerges from that, the only limitation on the speed and the extent to which it could be implemented would be the budgetary position, which has not as yet been determined for 2021-22. SEN regulations will, probably, be my top priority for next year's budget. It is important that they are implemented. We must ensure that, as well as providing protection and support for young people who have special educational needs, the SEN regulations and the code of practice have a positive long-term impact. A lot of it is about ensuring collaboration and cooperation and that, as far as possible, there are earlier interventions, which would be of benefit to the young people and the wider system.

Mr O'Dowd: I welcome the Minister's statement, with the caveat that the upcoming centenary of the state will remind us of why we have the educational structures that we have. There will be concern that some of those structures may find themselves under pressure, but we will wait for the review and give evidence to it. I welcome the fact that decisions are going to continue to be made in education, because reviews can delay progress. Will the Minister soon be in a position to announce the outcome of the 14-19 review, which has been going on for a very long time?

Mr Weir: There is further work to be done on that between myself and the Economy Minister. The Member makes a valid point that there should not be any delays. There is always somebody within the system — in any area — who, because the decision is not to their liking, will be keen to push it down the road. It is important that that does not happen on a range of decisions. There will be ongoing work to ensure that we reach a point, during 2021, at which we can have a full declaration on the 14-19 strategy. That will require further work with the Economy Minister. There will be an examination of how we impact on the learner journey, and that should not be delayed by this. We need to move ahead with finalising that.

Mr McNulty: I thank the Minister for his statement. I warmly welcome any endeavour to improve education for our children and young people and for our teachers and school leaders. I would like to see a focus on improving education for children and young people from

disadvantaged backgrounds. I did not see that referenced in the statement or the terms of reference. The scope of the terms of reference should very much focus on improving education for those young people. Why does the ongoing review not marry with the review that is going on in the Education Authority? Surely, there should be a symbiotic relationship there. When will the Minister report on the independent review of this year's exams that was undertaken by Deloitte?

Mr Weir: There are about three questions there. I will try to remember them. Sometimes, with Mr McNulty, it is like the prizes going past on 'The Generation Game'. Yes, the idea is to have a symbiotic relationship with any of the reviews that are taking place. The point is that they should not obstruct other reviews but be cognisant of them. That relates not only to the Education Authority but to the wider context of where there is disadvantage in the system, which will be part of the review.

With regard to the terms of reference, the point is to have something that is relatively succinct in its nature but to have no bar to what the panel should look at beyond what is put down on paper. The Member also mentioned disadvantaged backgrounds. There is cognisance of the fact that we have a panel looking at educational underachievement, currently, and it is due to report in May of next year. The idea, as it is with other reports, is that, as the panel works, it is cognisant of what is happening elsewhere and what may well be reported elsewhere. Deloitte has carried out a review of the 2020 situation. As I understand it, the report is at draft stage. I anticipate that it will be published early in the new year.

Mrs Barton: I thank the Minister for his answers so far. We all want our young people to have the best educational experience possible, but I do not see any mention of the preschool sector in the review. Will it be included in the review, because it is extremely important? Children start to learn from the age of two.

Mr Weir: Preschool is considered. One of the bullet points refers to the preparation of children. The first bullet point of strand 1 reads:

"The preparation of children for schooling in the early years, including childcare, pre-school and transition into primary school".

Preschool will therefore be a part of the review.

The Member is right about the critical nature of preschool. Without rehearsing other arguments, I recognise that we sometimes clash over what provision is put in place at certain points in the lifetime of pupils. Getting it right from the start, in the preschool area, is important in shaping our young people. That is not to say that, once children get to the age of five or six, things are abandoned. However, if we try to catch up at a later stage, and we have not had that focus on the preschool stage, there is a danger of children already being behind on the first day of P1.

Ms Armstrong: Minister, I will not ask what is contained in the document. As the person who wrote the definition of what was going into it, I am quite happy with what is there. However, I am disappointed that only your Department is looking at this review. 'New Decade, New Approach' clearly stated that there was to be a cross-departmental consideration of an independent review of education. You mentioned that you will work with the Economy Department. However, as mentioned earlier, all Departments need to be involved, including Infrastructure, Communities and Health.

Who will be on the recruitment panel? Paragraphs 34 and 35 of the terms of reference state that the Department of Education will come up with a panel and that the criteria for that independent panel, including "experience, skills and personal qualities", will be specified. When will those criteria be published, and will the Executive feed into them?

Mr Weir: The aim is to advertise publicly early in the new year for expressions of interest, and we will list the criteria in connection with that. I thank the Member for all the work that she has done in this sphere. Had she written the terms of reference for this a year or two ago, it would have saved my officials an awful lot of work.

The Member makes the valid point that the review is cross-departmental. However, with any review or panel, one Department always has the lead role. Consequently, while the review will touch upon a range of other departmental subjects, the strongest place for an independent review of education is within the Department of Education.

The Member is right that the NDNA commitments are cross-cutting and apply across the Executive. That is why, for example, we sought the views of stakeholders on the terms of reference prior to moving forward with them. The principal point is that the review had to get approval from the whole Executive. Without speaking out of turn, I can say that the

Executive welcomed this, and, for example, the Economy Minister suggested some changes, and the Justice Minister suggested a change in the use of language, which we were able to take into account. Although the Department of Education is leading on this, it is a wider Executive commitment, which is why it has been through the Executive and why, if there were to be any adjustment at a later stage, we would seek the Executive's approval for it.

Mr O'Toole: Minister, there is always a risk with these things that, if you prioritise everything, you prioritise nothing. The scale of what is described here is truly vast in its ambition. Although that is welcome, it is important that we see proper resourcing and that those who undertake the study are genuinely independent. In relation to that independence, the statement specifically says that open-mindedness will be key for all of us as we approach this review. Given that few internationally respected educationalists believe that selection at age 11 is a good idea, if they say that it should be reformed or abolished, will the Minister retain his open mind and change his approach?

Mr Weir: I am sure that I will retain the same level of open-mindedness as the honourable Member on the subject.

Mr Boylan: I thank the Minister for his statement. He knows that the British Government have reneged on certain financial arrangements and commitments under NDNA. What financial commitments has the Minister been given in relation to the review?

Mr Weir: The establishment of the panel has been scoped out. Its work can clearly be done within budget. For instance, the estimated cost for the 18 months is a little bit over a quarter of a million pounds. I know that we in the Government can have disputes at times over where financial support should be allocated to, but this can be afforded and is well within budget.

1.15 pm

Mr Allister: I want to probe why the terms of reference have been considerably expanded beyond what is in 'New Decade, New Approach'. The document summarises the focus as being on:

"greater efficiency ... raising standards, access to the curriculum ... and the prospects of moving towards a single system."

Within the terms of reference, however, as was just referred to, the transfer system is now subject to review. Was the Minister worked over in the Executive by the anti-selection brigade? Is that why the transfer test is in the review? Is the panel's independence called into question by virtue of the fact that its interim report goes secretly to the Executive and the Education Committee, although, no doubt, we will all hear about it on the BBC? Is that an indication that the Executive want to shape the outcome of the review rather than truly submit themselves to an independent review?

Mr Weir: I appreciate the point that the Member has made. First, I have not been done over in any way. The full review of education has to be comprehensive in nature. Different Members in the Chamber, including me, will have particular views on selection. The Member said that the norm is that an interim report will be produced, and that is the case in most sets of circumstances. The wider review simply reflects the need to cover a wide scope, if we are to have a proper review that covers all of education. Again, Members should not fixate on one particular aspect of the review over the wider context. If particular changes are recommended at any stage in the future, it will be for the House to determine what change happens.

Ms Sugden: The Minister talks about outcomes-based accountability and cross-departmental working. You would think that it was 2016, albeit without the five years still ahead of us. Minister, I welcome the review. Out of the context of a Programme for Government, however, I wonder how cross-departmental and outcomes-based the review can be. To truly affect outcomes, it has to dovetail with other reviews and policy across all Departments in areas such as childcare, social disadvantage, justice, trauma and civil responsibility. We could stand here all day and talk about the opportunities that education can create in those various areas. How realistic is it that a substantial and worthwhile review can be progressed without a Programme for Government, which realistically will not happen until after the next election?

Mr Weir: There will be some work done. It is not really for me to answer directly on the Programme for Government, as that lies with the Executive Office, but progress will be made on it. Whether in the Department of Education or across government, there is no doubt that we have all had to change course because of the COVID situation. As part of the short- and medium-term actions that can be taken,

however, there is an attempt to establish a wider vision for education that goes beyond Assembly mandates. All those things will therefore be able to be taken into account.

The point that I made earlier is that we need to reach a wider political and societal consensus on as many issues as possible, and that is why there needs to be consultation with the panel. There is no point in simply producing a report that gathers dust just because, "He said such-and-such, while she said such-and-such", and, as a result, there is no common understanding. That is one of the major challenges that lies ahead. Earlier, I described the review as being the "start of the beginning". Although a level of dovetailing with the Programme for Government and other things is clearly needed, we need to make a start on the review.

Mr Deputy Speaker (Mr Beggs): That concludes questions to the Minister on his statement. I ask Members who are leaving the Chamber to make sure that they sanitise their area. We will take a few brief moments as we change those at the Table.

(Mr Speaker in the Chair)

Executive Committee Business

Domestic Abuse and Family Proceedings Bill: Further Consideration Stage

Mr Speaker: I call the Minister of Justice, Naomi Long, to move the Bill.

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

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. Members should note that the Marshalled List is dated 15 December, and both it and the grouping list supersede the ones that were issued for the debate that was scheduled to take place on 7 December. Members will have received printed and electronic copies of the documents, but additional printed copies are available in the rotunda, if needed for the debate — that is, the papers for 15 December.

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 8 and amendment No 13, which deal with additional protection for children and support for victims of domestic abuse. The second debate will be on amendment Nos 9 to 12 and amendment Nos 14 to 17, which deal with the implementation and operation of the offence and technical matters.

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 has been 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, Members, we shall move on.

We now come to the first group of amendments for debate. With amendment No 1, it will be convenient, as I said, to debate amendment Nos 2 to 8 and amendment No 13. I call the Minister of Justice, Ms Naomi Long, to move amendment No 1 and to address the other amendments in the group.

Mrs Long: I beg to move amendment No 1:

New Clause

Before clause 26 insert –

"Information-sharing with schools etc.

A26.—(1) *The Department of Justice may by regulations make provision—*

(a) enabling or requiring a relevant person to inform a designated person in relation to an education provider of an incident of domestic abuse concerning a child who is a pupil or a student of the education provider,

(b) for the purpose of or in connection with functions exercisable by a relevant person or a designated person accordingly.

(2) Here—

(a) a relevant person is a person of a description (or acting in a particular capacity) specified in regulations under this section,

(b) a designated person in relation to an education provider is a person of a description (or acting in a particular capacity) specified in regulations under this section,

(c) an education provider is—

(i) a school or a college,

(ii) a non-school body which provides pre-school education (or any facility or setting at which pre-school education is provided), or

(iii) any other body or facility which provides education or training of any kind (or any facility or setting at which education or training of any kind is provided),

(d) an incident is one whether alleged or proved,

(e) a child is a person under 18 years of age.

(3) A relevant person, as may be referred to in regulations under this section, must be a person who has functions of a public nature.

(4) Regulations under this section may include provision—

(a) describing what is to be regarded as an incident of domestic abuse concerning a child,

(b) concerning—

(i) pupils or students generally, or particular categories of pupil or student,

(ii) education providers generally, or particular categories of provider (or particular facilities or settings within different categories),

(c) stating who is to be regarded as a pupil or a student of an education provider,

(d) setting out circumstances in or reasons for which—

(i) a relevant person may or must give information to a designated person or a designated person may or must give information to a relevant person,

(ii) a different person (including of a description specified) may or must give information to a relevant person or a designated person,

(e) with respect to information—

(i) regulating or limiting the use or disclosure of information by a relevant person or a designated person,

(ii) specifying offences and penalties for unauthorised use or disclosure of information.

(5) Regulations under this section may include provision involving such further matters as the Department of Justice considers appropriate.

(6) Regulations under this section may include provision amending statutory provisions (as construed in accordance with section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(7) Regulations under this section may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly."

The following amendments stood on the Marshalled List:

No 2: Leave out clause 26 and insert –

"Protective measures for victims of abuse

26.—(1) *The Department of Justice may by regulations make provision—*

(a) enabling or requiring steps to be taken or measures to be imposed for protecting a person from abusive behaviour,

(b) for the purpose of or in connection with such steps or measures for protecting a person from abusive behaviour.

(2) Steps or measures which may be provided for in regulations under this section are not limited to notices or orders as referred to in this section (and nothing in the following subsections of this section is to the prejudice of the generality of what may be provided for in regulations under this section).

(3) Protecting a person from abusive behaviour is—

(a) protecting a person from abusive behaviour perpetrated by someone to whom the person is personally connected, or

(b) protecting a person from risk of abusive behaviour perpetrated by someone to whom the person is personally connected.

(4) What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.

(5) Regulations under this section—

(a) may include provision to the effect that steps or measures are available on the basis of alleged as well as proven behaviour,

(b) must include provision to the effect that steps or measures—

(i) are for protecting persons who are at least 16 years of age, and

(ii) are to apply in relation to perpetrators or alleged perpetrators of abusive behaviour who are at least 18 years of age.

(6) Regulations under this section may include provision—

(a) about the giving of notices to perpetrators or alleged perpetrators of abusive behaviour (or for review or withdrawal of notices) by a police officer,

(b) setting out grounds for giving notices, conditions to be met before notices may be given or circumstances in which notices may be given (including matters to be taken into account before notices are given),

(c) setting out—

(i) what requirements, including restrictions or prohibitions, may be imposed by notices (and for how long and as to which places),

(ii) specifying information to be included in notices,

(d) allowing notices to impose requirements relating to, as well as relating to persons for whose protection notices are given, children of or residing with persons for whose protection notices are given.

(7) Regulations under this section may include provision—

(a) about the making of orders against perpetrators or alleged perpetrators of abusive behaviour (including orders extending, varying or revoking previous orders) by a court,

(b) setting out grounds for making orders, conditions to be met before orders may be made or circumstances in which orders may be made (including matters to be taken into account before orders are made),

(c) setting out—

(i) what requirements, including restrictions or prohibitions, may be imposed by orders,

(ii) conditions to be met for imposing electronic monitoring requirements in orders,

(d) allowing orders to impose requirements relating to, as well as relating to persons for whose protection orders are made, children of or residing with persons for whose protection orders are made,

(e) allowing orders—

(i) to apply for specific periods (or to have temporary effect),

(ii) to apply generally or to be expressly limited to particular localities,

(f) specifying—

(i) who may make applications for orders, whether notification of applications is required or circumstances in which applications may or must be made,

(ii) proceedings in which orders may be made or circumstances in which applications need not be made in such proceedings,

(g) in relation to proceedings as to orders—

(i) prescribing rules of procedure to be followed,

(ii) stating what evidence may be heard or must be considered,

(iii) making special measures available for the benefit of witnesses,

(iv) deeming proceedings to be either civil or criminal proceedings,

(h) enabling—

(i) rules of court, county court rules or magistrates' courts rules to make provision for procedures in relation to orders (so far as other powers to make rules cannot be relied on for this),

(ii) appeals to be made to a court against the making of orders or against decisions not to make orders (and for appeals to be final).

(8) Regulations under this section may include provision—

(a) imposing notification requirements on persons subject to orders,

(b) conferring on police officers powers exercisable in particular circumstances to take samples or images from or of persons believed by them to be subject to such notification requirements.

(9) Regulations under this section may include provision to the effect that—

(a) persons who are subject to orders that are not expressly limited to particular localities must comply with such orders—

(i) in all parts of the United Kingdom,

(ii) outside the United Kingdom if particular conditions in relation to having a residential connection with Northern Ireland, or being a national of the United Kingdom, are met,

(b) every other provision in such regulations, particularly with respect to breaches of orders, applies accordingly.

(10) Regulations under this section may include provision—

(a) conferring on police officers powers of arrest exercisable with a warrant or powers of arrest exercisable without a warrant—

(i) in relation to breaches or suspected breaches of notices,

(ii) in relation to breaches or suspected breaches of orders,

(b) requiring persons arrested for breaches or suspected breaches of notices or orders to be brought before a court within specified time limits,

(c) authorising persons arrested for breaches or suspected breaches of notices or orders to be detained in custody, pending being brought before a court—

(i) in specified circumstances,

(ii) for periods not exceeding specified limits,

(d) authorising persons brought before a court in relation to breaches or suspected breaches of notices or orders to be remanded in custody, or granted bail (with or without conditions attached)—

(i) in specified circumstances,

(ii) for periods not exceeding specified limits,

(e) specifying offences and penalties—

(i) for breaches of notices or for breaches of orders,

(ii) for breaches of notification requirements by persons subject to notices or orders.

(11) Regulations under this section may include provision regulating or limiting the use of, or controlling or requiring the retention or destruction of, samples or images taken from or of persons under such regulations.

(12) Regulations under this section may include provision—

(a) for the Department of Justice to—

(i) issue or publish guidance about the exercise of functions under such regulations (except judicial functions),

(ii) keep such guidance under review or revise such guidance in light of review,

(b) specifying who is to have regard to such guidance when issued or published or circumstances in which regard is to be had to such guidance.

(13) Regulations under this section may include provision involving such further matters as the Department of Justice considers appropriate.

(14) Regulations under this section may include provision amending statutory provisions (as construed in accordance with section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(15) 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 Chapters 1 and 2 come into operation.

(16) Regulations under this section may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly."— [Mrs Long (The Minister of Justice).]

No 3: Leave out clause 27 and insert –

"Eligibility of victims for civil legal aid

27.—(1) In the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, in regulation 10 (waiver of eligibility limits in proceedings relating to domestic violence or forced marriage)—

(a) after paragraph (1) insert—

'(1A) This regulation applies to an application by a client for the funding of representation (lower courts) in proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995 if—

(a) the client is the respondent in the proceedings, and

(b) the Director is satisfied that—

(i) the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by the applicant seeking the order, and

(ii) the applicant seeking the order is someone to whom the client is personally connected.'

(b) after paragraph (4) insert—

'(5) The following apply for the purposes of paragraph (1A) as they apply for the purposes of Chapter 1 of Part 1 of the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020 (to give meanings to certain expressions)—

(a) section 2 (as read with section 3(2)) of that Act,

(b) sections 4 and 5 of that Act.'

(2) Guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 must describe the basis, particularly as regards applicable information about the commission or alleged commission of an offence involving domestic abuse, on which the Director may be satisfied as mentioned in regulation 10(1A) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(3) An offence involving domestic abuse is—

(a) an offence under section 1, or

(b) an offence of any kind that is aggravated as provided for in section 15.

(4) The Director is as defined in the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(5) This section is without prejudice to—

(a) any power to make regulations under the Access to Justice (Northern Ireland) Order 2003,

(b) the power to give guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014."— [Mrs Long (The Minister of Justice).]

No 4: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), after "funding of" insert "advice and assistance or".— [Miss Woods.]

No 5: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), leave out "(lower courts)".— [Ms S Bradley.]

parties from being prolonged unduly by the abusive person by virtue of having access to funded services.

No 6: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), leave out (a) and (b) and insert –

(4) *Qualifying proceedings are—*

"the Director is satisfied that—

(a) *proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995, or*

(a) *the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by another party to the proceedings, and*

(b) *proceedings on appeal arising from proceedings for an order that is an Article 8 Order within the meaning of the Children (Northern Ireland) Order 1995.*

(b) *the other party to the proceedings is someone to whom the client is personally connected."*— [Miss Woods.]

(5) *A relevant client is a client who is or appears to be the victim of abusive behaviour.*

No 7: New Clause

(6) *An abusive person is someone—*

After clause 27 insert –

(a) *who is the perpetrator or apparent perpetrator of abusive behaviour of which the relevant client is or appears to be the victim, and*

"Proposals as to availability of civil legal aid

27A.—(1) *The Department of Justice must lay before the Assembly a report setting out the Department's proposals for—*

(b) *to whom the relevant client is personally connected.*

(a) *making regulations under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose, or*

(7) *A conclusion by the Director, when acting by virtue of regulations made under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose—*

(b) *taking some different course of action for the prescribed purpose.*

(a) *as to whether—*

(2) *A report under this section must be laid before the Assembly before the end of the period of 2 years beginning with the day on which this Act receives Royal Assent.*

(i) *a person is or appears to be the victim of abusive behaviour, or*

(3) *The prescribed purpose is that of—*

(ii) *someone is the perpetrator or apparent perpetrator of abusive behaviour, or*

(a) *reducing (including to nil), in specific circumstances, financial costs to be incurred by a relevant client with respect to receiving funded services in or in relation to qualifying proceedings to which an abusive person as well as the relevant client are parties, or*

(b) *as to whether two people are personally connected to each other,*

(b) *preventing, so far as reasonably possible—*

may be reached, particularly on the basis of applicable information about the commission or alleged commission of an offence involving domestic abuse, having regard to appropriate guidance given under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.

(i) *qualifying proceedings from being initiated unduly against a relevant client by an abusive person by virtue of having access to funded services, or*

(8) *What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.*

(ii) *qualifying proceedings to which both a relevant client and an abusive person are*

(9) *An offence involving domestic abuse is—*

(a) an offence under section 1, or

(b) an offence of any kind that is aggravated as provided for in section 15.

(10) A reference in this section to a client or funded services, or to the Director, is to be construed in accordance with the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.— [Mrs Long (The Minister of Justice).]

No 8: In clause 28, page 14, line 36, leave out subsection (2).— [Mrs Long (The Minister of Justice).]

No 13: In clause 38, page 32, line 27, at end insert –

"(1ZA) Section 27 comes into operation at the end of the period of 12 months beginning with the day on which this Act receives Royal Assent."— [Mr Givan (The Chairperson of the Committee for Justice).]

Mrs Long: Before turning to the detail of amendment No 1, I would like to highlight that, prior to and following Consideration Stage, there has been ongoing engagement with the Justice Committee to further develop, refine and improve a number of provisions in the Bill, including the clause on information sharing with schools. As a result, the amendments that I withdrew or did not move ahead of Consideration Stage have been further enhanced and will better serve the needs of all victims of domestic abuse. I thank the Committee for its constructive engagement on that. As a result of our collective collaborative efforts, we are able to bring forward further improved provisions in the Bill, strengthening how the new offence will operate and be reported upon, as well as the safeguards and protections that will be afforded to victims of domestic abuse and children who are affected by it.

As a result of the constructive engagement with the Committee, we are able to make a number of positive changes to the Bill. For example, amendment No 1, which is on information sharing with schools, has been widened to include preschools and is greatly expanded on through the framework of the enabling powers. In addition, the provision on protective measures for victims of abuse, which is the next amendment in this group, now includes a subsection providing that steps or measures to protect individuals are not limited to the notices and orders that are set out in that clause. The

framework for the enabling powers in that clause has also been greatly expanded upon. That would enable other provisions for protective steps and measures to be made that are entirely separate from any domestic abuse protection notices and orders. I welcome the Committee's engagement and hope that it will allow us to positively progress those amendments today. There will, no doubt, be a lively debate on the legal aid clauses, and I ask the House to support my amendments on that.

I will now turn to the details of the amendments that I am bringing forward and advise the House of my position on the other amendments in this group that the Committee and individual Members tabled. Amendment No 1 relates to information sharing with schools in order to advise them that there has been an incident of domestic abuse the previous evening. The amendment allows for the expansion of the current provisions in the enabling regulation, making powers as well as a number of small textual refinements. New clause A26 will replace the current provision, which will be removed from clause 28 through amendment No 8. As I noted, the amendment builds upon, strengthens and improves the current provision in the Bill by more expansively setting out what can be provided for in regulations.

The amendment ensures that the regulations can set out who information can be shared with and to; what is deemed to be an education provider, including a school or college, providers of preschool education or any other body, facility or setting that provides education or training of any kind; who are pupils or students of schools; and who are education providers. That will include colleges or other bodies, facilities or settings providing education or training programmes. They will set out what a domestic abuse incident concerning a child is, the circumstances in which information can be shared and unauthorised disclosure of information as well as the offences and penalties that are associated with that.

The Justice Committee asked that preschools be captured in the Bill, including those that form part of a primary school as well as independent entities. Those are now provided for, with the Department of Education content that early-years education should be covered in the Bill. Importantly, the amendment now includes reference to preschool provision outside of a school setting, with a school already captured in the Bill.

Changes have also been made to the provisions to ensure that we can capture instances where a child or young person is

educated somewhere other than at school, with around 30 such centres across Northern Ireland. That amendment, which the Committee is supportive of, ensures that the enabling powers are as robust as possible in what can be achieved via regulations and that we have the necessary coverage in what is to be provided for through the scheme going forward.

1.30 pm

Amendment No 2 is a substitute amendment to clause 26 on protective measures for victims of abuse. Similar to the approach adopted for the information sharing with schools provision, it is intended to build on and expand the Committee amendment, setting out a more detailed framework for the underpinning regulation-making powers. This is another area in which further changes have been made in light of constructive discussions with the Justice Committee. The amendment provides that the regulation powers will enable the protection of a person from abusive behaviour and will set out steps or measures that can be taken in connection with this. As I have clearly set out before, my preference remains to reflect the detail of these provisions in the next Justice Bill, which is the miscellaneous provisions Bill. However, it is also vital that, in order for the enabling power to be effective, if it were to be utilised, it is as robust as possible.

While the amendment provides for the possible scope in the introduction of new domestic abuse protection notices and orders, following further discussions with the Committee, it now also ensures that we are not limited to that. Without prejudice to the detail set out in the clause on possible domestic abuse protection notices and orders, the amendment includes a new subsection providing that steps or measures to protect victims of abusive behaviour are not limited to the notices and orders covered in the clause. I thank the Committee for its intervention in that respect. Its deliberations have been an important part of ensuring that the enabling powers are as wide as possible and do not unnecessarily constrain us. This would enable other provisions to be made that are entirely separate from domestic abuse protection notices and orders in order to protect victims of domestic abuse, should that be considered necessary.

A further key change is that the amendment makes it explicit that requirements including restrictions or prohibitions for notices and orders would apply to children of or living with those for whom protection notices and orders are made. For the avoidance of any doubt, the provision now makes that explicit.

Before I turn to the detail of amendment No 2, Members will wish to note that I have today published for consultation proposals for new domestic abuse protection notices (DAPNs) and orders (DAPOs). The new notices, which will be issued by the police, aim to deliver immediate short-term protection from all forms of domestic abuse, whether physical or non-physical abusive behaviour. The intention is that they would be followed up with longer-term protection through domestic abuse protection orders granted by the courts. A domestic abuse protection order would provide flexible, longer-term protection for victims. The duration of orders could be from six months to one or two years but could be longer where that is deemed necessary and proportionate.

With regard to protective steps or measures, the amendment provides that this will apply in relation to abusive behaviour and those who are personally connected, as set out in chapter 1. With regard to the detail of the enabling powers, it makes it clear that any protective steps or measures can apply with regard to alleged or proven abusive behaviour. Importantly, with regard to the protection that may be afforded, an offence does not have to be committed, and this could be based on the risk of abusive behaviour that is present. The new notices and orders would apply for the purpose of directly protecting those aged 16 or over, as well as associated children. Perpetrators or alleged perpetrators would need to be aged 18 or over. That reflects the concerns that the new notices and orders could criminalise young people for breach of the notice or order where no offence may have been committed. Furthermore, a lower threshold of, say, 16-plus could result in young people being removed from their home where, again, an offence might not have been committed. Both those age thresholds reflect the position on the domestic violence protection notices (DVPNs) and orders (DVPOs) that were passed by the House in 2015, as well as draft legislation in England, Wales and Scotland. It is also a position that is supported by the National Society for the Prevention of Cruelty to Children (NSPCC) and accepted by the Northern Ireland Commissioner for Children and Young People (NICCY).

The enabling powers provide that regulations can make provision about setting out the grounds for giving notices and orders, the conditions to be met and the circumstances in which they can be given. It is intended that, in the short term, the notices and orders would set out what requirements could be imposed on individuals with regard to requiring an alleged

perpetrator not to contact the victim, not to come within a certain distance of their home, not to enter their home or in requiring them to leave the victim's home.

The operation of the prohibitions would be introduced, stabilised and mainstreamed ahead of any longer-term provisions that would enable positive requirements to be introduced, subject to the necessary funding being secured. That could include, for example, a requirement to attend behavioural change or substance misuse programmes or to be electronically monitored, with the latter most likely applying in criminal court cases.

The regulations also make provision that would enable domestic abuse protection orders to be made by the criminal, civil or family courts of their own volition during other court proceedings that would not necessarily have to be domestic abuse-related but where concerns relating to domestic abuse emerge during those proceedings. Applications could also be made to the court. The court would have the power to extend, vary or revoke the orders.

Notification requirements are provided for under the enabling power, meaning that the notices and orders will require individuals to notify the police of their name and address and any changes to that information while the measures are in effect.

There is a range of provisions associated with the breach of notices and orders — for example, that this would be an arrestable offence or could be dealt with by way of contempt of court. The provision on complying with the extent of the order will ensure that we can capture behaviour carried out elsewhere but which must also have a locus back in Northern Ireland.

I turn now to the amendments on legal aid: amendment Nos 3, 7 and 13. At Consideration Stage, I made clear my serious concerns about clause 27, which currently stands part of the Bill. Since that time, my officials and I have had the opportunity to engage with members of the Justice Committee and with stakeholders to talk about those concerns in more detail. From those discussions, it is clear that we have a shared ambition to help victims who need help. That is the whole purpose of the Bill. It is important that our actions, particularly in such a technically and costly area as legal aid, are considered and evidence-based.

Clause 27 is running and running fast before we can walk. To put it another way, it is like trying to build a house without a clear design and

solid foundations. Amendment No 7 is simply designed to put those foundations in place, while amendment No 3 focuses clause 27 in a way that will help victims more immediately while minimising unintended consequences.

The most serious of those unintended consequences in clause 27, as it stands, is that it is open to exploitation by abusers. That worries me greatly, and it should worry all Members. Through the current clause, there is nothing to prevent abusers masquerading as victims in order to access legal aid and using it to continue their campaign of tyranny through the family courts at public expense. That undermines the entire purpose of what was a well-intentioned provision. To be clear, the feature of the current clause that makes it dangerous in this way to victims is that it allows people to use the waiver to bring as well as to defend applications. If we are going to help all the people who need protection from the waiver, we will not be able to have the strictest of tests for identifying genuine victims. There will be people who will not have secured a conviction or court order against their abuser and may not have previously reported their abuse to the police. Those people may still need and deserve help. We need to set a test that those deserving people can pass. That means, however, that abusers could also manage to pass that test by trying to pass it dishonestly. We cannot allow those abusers to use the waiver to access public funds to drag their victims back into court repeatedly. The only way to avoid that terrible and perverse outcome is to limit the waiver to people who are defending applications by their abusers. That protects victims and locks the door on abusers trying to cheat the system.

Amendment No 3 focuses assistance on enabling victims to access legal aid to defend themselves in family proceedings initiated at the family proceedings court by the perpetrator or alleged perpetrator of domestic abuse. That is my reading of the Assembly's intention in clause 27, and it is what amendment No 3 tries to do: to support victims in a targeted way.

Cost is, of course, an important consideration. Legal aid is public money, and we all have a common goal of ensuring that scarce public resources are targeted to help those in greatest need. Budgets are under pressure, and there is no sign that the Executive's financial position will improve in the next few years. That makes it all the more important that any additional spend on legal aid is focused properly for the benefit of those most in need and for those who are victims of crime. Clause 27, as it stands, will cost many multiples of what is needed to

support victims. By our calculations, the current clause could add up to an additional £14 million to the legal aid bill each year. Amendment No 3 would reduce that bill considerably by targeting support on those who have the greatest need of it: victims who are defending themselves in cases brought against them by an alleged perpetrator in the family courts in a vexatious manner.

I know that, for some, amendment No 3 does not go far enough. It will certainly not solve all the problems that victims of abuse encounter in the family courts; no legal aid provision could. That is why I am also moving amendment No 7 and the ancillary commencement provision at amendment No 14. Amendment No 7 will place a duty on the Department to examine and report to the Assembly on what further protections would be useful for victims of domestic abuse involved in article 8 proceedings.

I remain to be convinced that a legal aid waiver is the most effective way to support victims of domestic abuse in the family courts, though I absolutely concede that such support is necessary. Amendment No 7, however, gives the Department an opportunity to examine the operation and the effectiveness of the waiver and to identify if and where it falls short in the support of victims who are in need and what else needs to be done to supplement that. It is about building solid foundations for the future, and so it complements amendment No 3. I am keen to ensure that the work on the report gathers and analyses appropriate evidence and involves key stakeholders. That is the best way to ensure the right outcomes for victims in the medium and longer term.

Legal aid is a complex and contested area of law, and it interacts in many different ways with the experience of people in contact with the civil courts. Because of how the issue has been introduced into the Bill, the detailed research work needed to fully understand the likely implications of the cost protections offered has not been able to be undertaken. Therefore, it simply does not make sense to hold firm to the very wide-ranging changes in clause 27, as it stands, with no clear idea of the impact that it would have. That is why I urge the House today to support amendment Nos 3 and 7 while rejecting amendment No 4 and, most critically, amendment No 6. Amendment No 3 ensures targeted help now while the foundations for a sustainable, evidence-based and affordable long-term approach to the problem is developed through the work that will be undertaken if amendment No 7 becomes law.

I turn now to the other legal aid amendments — amendment Nos 4, 5 and 6 — which essentially undo some of what is being done by amendment No 3 and largely restore clause 27 as it stands. I will resist the amendments to different degrees for reasons that I have outlined.

Amendment No 4 would broaden the waiver to cover advice and assistance. Advice and assistance is the most basic form of legal aid and is intended to provide limited legal advice on a point of Northern Ireland law: nothing more. It is not needed in these circumstances, and passing the amendment would create additional cost for no tangible benefit to victims. That is because the types of help offered through advice and assistance are already included as part of the service provided by a solicitor through representation in the lower courts. All the advice and assistance that a person needs in relation to their case, including access to mediation and other forms of support, are available through the waiver without the need for amendment No 4. It effectively duplicates payment for a service already included in the waiver.

Amendment No 5 is well intentioned and is designed to extend the waiver to the higher courts. I understand and sympathise with the intention and am concerned about rushing the provision without a clear understanding of its impact on victims. In particular, applying the waiver at this level will interact in a complex and ambiguous way with the other rules for the calculation of the contributions that people need to pay towards their costs. It could lead, for example, to quite high contributions being paid by people of limited means and very low contributions being paid by people of much greater means. In my view, victims of abuse would be better served by careful consideration of how existing and, if necessary, new protections can be used to protect those who need it. This is one of the issues that should ideally be explored through the report envisaged at amendment No 7. However, in the event that amendment No 5 is adopted, it may be that, as a result of the reports that we bring to the Assembly, we will need further legislation to address any issues of how it interacts. While I am not in favour of the amendment, I accept that there is merit in it. Therefore, while I will not support it, I will leave it to Members to judge for themselves whether they feel that it should stand part of the Bill.

1.45 pm

The vast majority of family proceedings start in the lower courts. Some 80% of cases are heard

there. With increased access to legal aid, there should be less and less reason for people to need recourse to the higher courts, given that access to justice in the lower courts should be significantly improved. For the other 20% of cases, a better approach would be to use the existing discretion available to the director of legal aid casework around the application of the financial eligibility test to support those victims who need to defend proceedings in the higher courts and allow time for the work proposed in amendment No 7 to examine whether that or an alternative is the best long-term way of supporting victims. For those reasons, I will not personally support amendment No 5, but, as I say, I will leave it to Members.

Miss Woods: I thank the Minister for giving way. Can she outline how many times the existing discretionary power of the director of the Legal Services Agency has been used in the higher courts?

Mrs Long: I can give the Member an answer to her question because she has asked it before: it has not been used to date. That is the one the reasons why, in the legislation, we intend to define how that discretion would be applied in order that it can be used in future. With due respect to the Member, looking at what has happened to date is not really a good place to start. Looking at what happens from here on is what really matters. The importance of defining when that waiver is to be used in the higher courts is the part that is of most value. That is what we intend to do. The waiver has not been used to date due to the risk of appeal and challenge against it, because it is so poorly defined. It is the Department's intention to address that issue in response to the fact that it has been raised by a number of Members.

As I said, amendment No 6 is by far the most problematic of the three amendments. It seeks to broaden the scope of legal aid waivers significantly. It enables individuals not only to defend themselves but to initiate article 8 proceedings. The breadth of that application makes it much easier for a perpetrator to access legal aid in order to continue their campaign of abuse by masquerading as a victim. That is not a hypothetical or potential side effect; it is a gaping hole in the provision that we can be sure a coercive and controlling abuser will seize upon. We cannot allow that to happen. Of course, my Department will provide guidance to the Legal Services Agency on the definition of a victim of domestic abuse that will try to reduce the risk. However, against the backdrop of a very broadly drawn legal waiver, as envisaged by amendment No 6, that risk cannot be removed entirely without defining

very tightly, through guidance, the definition of a victim. That would mean some genuine victims of abuse being excluded from help. That, in my view, would be wrong. In the event that amendment No 6 is adopted, however, there may be no other safe course of action. It would therefore be far better to reject amendment No 6 while supporting amendment No 3. By taking that course, we would be able to focus support on helping genuine victims to defend themselves in family proceedings brought by their abuser in a vexatious and controlling manner. In tandem, the Department will, through amendment No 7, invest time and energy in examining whether and in what circumstances victims should be able to benefit from legal aid when initiating proceedings. I strongly commend that approach to the House.

Finally, on amendment No 13, I have been very clear that there are potentially large and currently unquantified risks associated with the introduction of the waiver, not least the possibility that it could have repercussive financial impacts here and in other UK jurisdictions. I have asked Members not to introduce commencement provisions that would lock us in to a course of action that we might all later come to regret. The amendment continues to take us down that unwise path. We have now decoupled the commencement of the abuse provisions from the commencement of the legal aid provisions. However, the amendment still requires that we commence the legal aid provisions, regardless of any advice that we receive and regardless of whether it is repercussive. I have received suggestions that if, following proper economic appraisal of the waiver provisions, it is considered too unsafe to allow them to come into effect, they could simply be repealed. This is an extraordinary approach to making legislation. It is also wholly unnecessary. I have given a commitment, and I give it again today —.

Ms S Bradley: Will the Minister give way?

Mrs Long: Yes.

Ms S Bradley: Minister, I thank you for moving Further Consideration Stage. On amendment No 13, can the Minister at least recognise that, beyond these four walls, there is not much confidence in this place and that there is not much confidence among stakeholders that this commencement will happen unless it is in the Bill? I appreciate that the Minister has given assurances in other places. Can she give an assurance, however, in the House and for Hansard, that, for the remainder of her term,

she will be held accountable for commencement happening?

Mrs Long: Had the Member not intervened, I was about to give such a commitment on the record in the House. I will do the work necessary to understand the impacts of the provisions, share the analysis that is produced and, if it is safe to do so, commence the provisions in good time. That is a commitment made by an Executive Minister to the Assembly.

We must continue to work on the basis of trust. If we want to raise expectations of our standing in the community, we must be willing to trust one another when we make such commitments. I trust that that assurance will satisfy Members. To require an alternative approach that might needlessly tie up Assembly time and legislative drafting resources, in what is a very short term with a considerable amount of drafting pressure, is unprecedented and unnecessary.

Further to my commitment, there was already a case before the law lords that sets out, with clarity, that, where a Minister has legislation that requires commencement, that Minister cannot simply opt not to commence it. That was decided in a case before the law lords in 1995. A Minister is compelled to commence all parts of the legislation, other than where there is very good reason not to do so. Having very good reason not to do so would need to be something of the scale of the repercussive costs in the rest of the UK. If Members therefore do not wish to put their faith in me, they can put their faith in the law. It would be right, for the Justice Committee above all, to have faith in the law.

I am asking Members to accept my assurance and that of the law on that point and to reject amendment No 13.

Mr Speaker: I ask Members to take their ease until 2.00 pm, when Question Time will commence. The debate will continue after Question Time, and the next contributor will be the Chairperson of the Committee for Justice, Mr Paul Givan.

The debate stood suspended.

2.00 pm

Oral Answers to Questions

Health

COVID-19 Vaccine: Roll-out

1. **Ms Anderson** asked the Minister of Health to outline plans for the roll-out of a COVID-19 vaccine. (AQO 1360/17-22)

8. **Mr McGlone** asked the Minister of Health for an update on the roll-out of a COVID-19 vaccine. (AQO 1367/17-22)

12. **Mrs Cameron** asked the Minister of Health for an update on preparations to administer COVID-19 vaccinations to those living within residential care settings. (AQO 1371/17-22)

15. **Mr Easton** asked the Minister of Health for an update on plans for the roll-out of COVID-19 vaccination in North Down. (AQO 1374/17-22)

Mr Swann (The Minister of Health): Mr Speaker, I intend to answer questions 1, 8, 12 and 15 together, so I ask for additional time for this response.

Northern Ireland has been planning for the deployment of the COVID-19 vaccine for many months and, along with the other devolved Administrations, will adhere to the Joint Committee on Vaccination and Immunisation (JCVI) advice on the prioritisation of the vaccine. JCVI advised:

"the first priorities for any COVID-19 vaccination programme should be the prevention of COVID-19 mortality and the protection of health and social care staff and systems. Secondary priorities could include vaccination of those at increased risk of hospitalisation and at increased risk of exposure, and to maintain resilience in essential public services."

The model for vaccine deployment has been designed to be pragmatic, agile and flexible. Teams of vaccinators from a range of professional backgrounds have been trained. In addition to existing health and social care (HSC) staff and primary care staff, 870 individuals have now submitted application forms to help out as vaccinators during the vaccination programme.

Phase 1 of the programme officially began on Tuesday 8 December, with all four UK countries launching their vaccination programme. In Northern Ireland, the programme began at the Belfast Trust vaccination site, where vaccinators from across Northern Ireland were invited to receive the first dose of the COVID-19 vaccine. All the trusts intended to start vaccinating health and social care workers in the week commencing 14 December. However, in light of the planned delivery schedules of the vaccine in December and January, the staff programme will now have to be phased, starting with those who are at greatest risk or those who work directly with patients at the greatest risk. Ultimately, all health and social care workers will have the opportunity to be vaccinated, and that is expected to be within the first quarter of 2021. There will be seven trust vaccination sites operating in Northern Ireland. Those will be located at the Royal Victoria Hospital; the Ulster Hospital in Dundonald; South Lake Leisure Centre in Craigavon; Seven Towers Leisure Centre in Ballymena; Foyle Arena in Londonderry/Derry; Omagh Leisure Complex; and Lakeland Forum in Enniskillen.

My officials have worked closely with the Medicines and Healthcare products Regulatory Agency (MHRA) to develop a deployment model that will enable deployment in care homes and that takes into account the unique characteristics of the vaccine, including transport requirements. Teams from health trusts will vaccinate care home residents, working closely with local GPs under comprehensive health trust governance arrangements that are designed to ensure that the integrity and efficacy of the vaccine is maintained throughout. Trust mobile vaccination teams intend to visit all the homes over the next few weeks subject to dealing with any that have a current COVID-19 outbreak.

We are considering how the arrangements might be extended to include the over-80s living in the community. Due to the logistics of the strict handling conditions attached to the use of the Pfizer vaccine, it is very difficult to deploy the vaccine in a GP setting. However, every effort is being made to try to arrange either a trust-based or GP-based programme for the over-80s. From early January 2021, subject to the availability of a suitable vaccine, it is intended to roll out the programme through primary care-led vaccination clinics that will be responsible for the vast majority of eligible individuals of 50 years and over. GPs will work their way down through the eligible cohorts, starting with the oldest.

While the start of the vaccination programme is a highly positive development, I stress that it will be months before the vaccination programme is complete. We are entering an extremely challenging winter for the NHS in Northern Ireland. I cannot stress enough the importance of the population following the public health advice in order to drive down infections.

Ms Anderson: Minister, by common consent, the British Government have been somewhat shambolic in their handling of the pandemic since its outset. I cannot point to a single thing that they have got right. Given what you said about the vaccine, it is unfortunate that we have to depend on them for the supply of it.

In light of what the Minister said about the phased approach, can he guarantee that all healthcare and social care workers will have access to the vaccine within a clearly defined time frame, particularly the staff at Altnagelvin Area Hospital and domiciliary care workers, who have been under considerable pressure for a long time?

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

Mr Swann: I thank the Member for her comments. However, as I am sure that she is aware, I do not agree with them with regard to the vaccine. If we had been left to procure the vaccine on our own, we would have neither the buying power nor the financial capability to pre-buy seven different vaccines to the extent that we have, or been able to provide the accreditation or certification that the MHRA has provided to allow us to be part of the first delivery of vaccines across the world. We are now delivering them into care homes and vaccinating their staff and residents.

With regard to the delivery of vaccines, we have already received upwards of 50,000 of the Pfizer vaccine, which allows us to vaccinate just over 20,000 individuals. As I have said, the JCVI has set clear prioritisation for those who receive the vaccine, and at certain levels. Therefore, as regards whether I can guarantee access to the vaccine, yes, I can, because we are part of that UK pre-buying, which will see a massive number of vaccines being made available to us. Additional vaccines, once they have received MHRA accreditation and approval, will also be part of the additional programme.

Mrs Cameron: I want to put on record my thanks to the British Government for, first of all, bringing forward this incredible vaccine at this

time, being the first in the world to do so, and ensuring that Northern Ireland is part of that supply, as is the rest of the UK.

When the vaccination programme has been completed in an individual care home, will restrictions on visiting be relaxed? How soon will we see that happen, given that many care home residents are, often, in the last years or months of their lives?

Mr Swann: I thank the Member for that point. As we have made clear in the past, it is not the initial vaccination that is most important but the second one and giving it time for the efficacy to kick in. I can update the Member that, as of today, we have had vaccination teams across all five trusts and have vaccinated in up to 54 care homes. We have started with those that have the largest number of residents. That is just shy of 4,000 individuals, including care home residents and workers and the vaccination teams themselves.

While the vaccine provides a crucial tool to allow visiting to take place, we must ensure that not only do we get the first vaccination in place but we get the second one in place and encourage as many residents and staff to take up the offer of a free vaccine, which is delivered by the NHS and supported and paid for by the British Government.

Mr Easton: I, too, put on record my thanks to the UK Government for rolling out the vaccine; the first in the world to do so. Can the Minister outline plans for the roll-out of the vaccine in North Down and potential venues that are being looked at?

Mr Swann: I thank the Member for his request for a press release. I can give him the update that there will be no geographically specific priorities for an area. Those will stick strictly to the JCVI's accreditation and deliberations on who needs the vaccine most. As I said earlier, the venue that will be used in the Southern Trust area is the South Lake Leisure Centre in Craigavon. In the South Eastern Trust area, it will be the Ulster Hospital at Dundonald. That is where initial programmes will start. Care homes in the Member's constituency will also receive the vaccine for their residents and staff.

COVID-19 Vaccine: Training Costs

2. **Miss McIlveen** asked the Minister of Health how much has been spent on training for those administering the COVID-19 vaccine programme to date. (AQO 1361/17-22)

Mr Swann: I thank the Member for her question. Training for those who administer the COVID-19 vaccine is mostly completed online. The HSC Clinical Education Centre has provided some one-to-one training under the service level agreement. To date, there have been no additional costs.

Miss McIlveen: I thank the Minister for his answer. What consideration is being given to review the policy that only nurses who retired after 2015 can be added to the Nursing and Midwifery Council (NMC) register when, clearly, a sizeable number of qualified people who retired prior to that date could assist with the vaccination programme?

Mr Swann: The Member makes a valid point about the cut-off date for accreditation. If she knows of anyone, I will gladly take their contact details. I have been contacted by a number of GPs who find themselves in exactly the same position with the timeline. However, they can engage, and, after an hour or an hour and a half of online training, they can be part of the vaccination programme. If the Member knows of individuals, I am happy to take their details. We are encouraged by the high numbers of people who have come forward to be part of this important programme. To date, 870 people have come forward to go through a process to assist in what will, hopefully, be mass vaccination programmes across the entirety of Northern Ireland, including North Down.

Mr Gildernew: The Public Health Agency, in common with many agencies, has been greatly challenged by the significant demands of COVID-19. Will the Minister ensure that the lessons learned and experience gained over recent months is retained so that the Public Health Agency emerges from this crisis with greater and wider capacity?

Mr Swann: I thank the Member for his question, although I am unsure how it links in with the substantive question from the Member for Strangford. However, I can answer that. There has been expansive investment in the PHA, not only in finance but in people, to ensure that it could complete all its duties over the period of the pandemic, including an impressive increase in the test, trace and protect system. It is now contacting well over 90% of individuals within a 24-hour period, and, to a lesser extent, within a 48-hour period, at a more effective level than other devolved Administrations. The strength of the Public Health Agency has been added to and improved and will continue to be invested in.

The First Minister and deputy First Minister and I visited our test, trace and protect system in the PHA building in County Hall, Ballymena, on Friday, and, as far as I am aware from their press statements and public statements, they were impressed with what they saw and the service being delivered.

Mrs Barton: I welcome the quality training that has been given to the vaccinators, which maintains our health service's high professional standards. How many vaccinators has the Department employed to administer the vaccine?

Mr Swann: I thank the Member for her question. As I said in answer to the original question, 870 people have come forward to be part of the vaccination programme. They are part of the initial wave of those who will receive the vaccine. Those 870 individuals have submitted application forms to help out as vaccinators during the programme. They will be supported by administrative workers, delivery workers, pharmacists and everybody else who is playing a vital role in making sure that we get the vaccine delivered in compliance with the strict delivery processes and management protocols.

Waiting Lists

3. **Mr Newton** asked the Minister of Health what action he is taking to address waiting lists. (AQO 1362/17-22)

Mr Swann: Mr Deputy Speaker, with your indulgence, I ask for extra time to address this question as it is an important subject.

Elective care waiting times were unacceptable before COVID-19, and, unfortunately, they will be even worse after COVID-19, because the need to redirect HSC resources to respond to the pandemic has had an inevitable and serious impact on waiting lists. The spread of coronavirus is continuing to cause serious disruption to our health and social care system, and it was unavoidable that elective care activity would reduce due to the need to redeploy staff to COVID-related activity.

In the wake of the first wave of the pandemic, I was clear that rebuilding services across all programmes of care, including elective care, while protecting staff and the public from COVID-19 was a key priority for the health service. Thanks to the huge efforts of our health service staff, much progress was made to restart elective care services.

During the first wave, our health and social care system delivered 12,150 new outpatient consultations in April, and there were 29,163 in October. Some 4,859 inpatient or day-case procedures were delivered in April compared with 13,301 in October.

Similarly, there were 39,907 outpatient reviews in April compared with 56,071 in October. Overall, there was over 73% more activity in October than there was in April. Our surge and rebuild plans were effective in keeping services going.

2.15 pm

Each trust surpassed its target for the period of July to September, but the pandemic has undoubtedly exacerbated what was already a crisis with waiting times. Given the reduction in the level of elective activity that can be delivered by trusts as they focus their efforts on responding to the pandemic, they have been utilising the local independent sector's capacity to support the delivery of core health service activities and the rebuilding of our services. During the period from 1 April to 15 November, approximately 3,500 patients had their procedures carried out in the independent sector, which was paid for by the health service.

In rebuilding services, trusts have taken into account new and innovative practices that were introduced during the first wave of the pandemic. For example, there has been a much greater use of technologies, such as telephone and virtual clinics. Outpatient appointments have, where possible and appropriate, moved to telephone appointments. In addition, a growing number of specialities are adopting virtual clinics, using videoconferencing. Embedding those recent innovations will be essential to maximising elective activity during the pandemic and in the future.

Waiting lists were a clear priority in New Decade, New Approach. However, those plans have been delayed by the pandemic, and I am conscious that public spending is likely to be very constrained next year and that all Departments will be facing serious funding pressures. Tackling waiting lists will not be possible without sustained and substantial investment and additional staffing.

Mr Newton: I thank the Minister for his very detailed answer; it is obviously a subject that he is taking very seriously. I pay tribute to the Minister because, when I have raised matters on waiting lists or when procedures will take place, he has always been extremely helpful.

Minister, the picture that you have painted is a rather bleak one for those who are in the diagnostic area awaiting treatments, such as cancer patients and diabetes patients. From what you have said, Minister, I assume that you will be making a bid to the Executive for increased funding in the forthcoming days. If that funding becomes available, when might we expect to see waiting lists coming down so that they are approaching a level that one would see in a normal situation?

Mr Swann: I thank the Member for his pertinent question. With regard to bidding, I will be chancing my arm for as much as I possibly can get to tackle waiting lists. As I said, when I took up this post back in January, waiting lists were an Executive priority and there were additional moneys in New Decade, New Approach assigned to address them because, as an Executive, an Assembly and a society, we realised that they were too long.

Waiting lists have got longer, and we are looking at how we can reconfigure some of our services from day elective units in Lagan Valley, which I visited last week. The surgeons, the nurses and the rest of the staff there have exciting plans on how they can reconfigure the way in which we deliver services across Northern Ireland. One of the things that has come out of COVID has been a breaking down of silos that were not created intentionally or systemically but that grew over time. We have seen surgeons from Belfast being willing to travel to the South West Acute Hospital (SWAH) and take lists and patients with them to make use of our facilities that are in another part of Northern Ireland. We are no longer looking at simply working in trusts or trying to centralise services; we are looking at a regional approach. I am hopeful that, once we get through this pandemic, which I firmly believe that we will, the new working procedures and collaborations that we have seen across a number of specialities in a number of disciplines will make a serious dent in our waiting lists. Additional funding will be necessary to do that, because with that we can support more staff to deliver the services that we need.

Ms Sheerin: In the past, some have used the cross-border directive as a means of getting treated in the Twenty-six Counties because of the long waiting lists. Minister, what actions have you taken to ensure that that will still be available post-Brexit?

Mr Swann: That conversation is ongoing, not just between the Irish Government and us but,

because some parts of this are devolved and some are centralised, between the Irish Government and Westminster. A three-way conversation with officials is ongoing. We will raise the subject again at the meeting of the North/South Ministerial Council that is due to take place in a few days' time. We are fully aware of not only patients from Northern Ireland traveling to the Republic of Ireland but large numbers of patients from the Republic of Ireland coming to Northern Ireland for cataract operations and suchlike. We already have, as we touched on yesterday, a number of cross-border working relationships: children's cardiac surgery is being performed in Dublin; and Altnagelvin provides support for cancer services and palliative care. Those will work regardless of Brexit. They are negotiated relationships with the Irish Government, and they will continue. We will continue to build on them by looking, for example, at how we can provide some kidney transplant and other organ transplant services for patients from the Irish Republic.

Ms Hunter: Does the Minister have an update on waiting lists in the Western Trust, which was recently identified as having some of the highest waiting lists in Northern Ireland?

Mr Swann: I thank the Member for her question. I do not have those statistics to hand today but I can certainly provide her with an update. We are looking at a more regionalised approach to waiting lists across a number of disciplines. I would like to see the same level of access to a procedure no matter where somebody lives in Northern Ireland. It should not depend solely on the capacity in one trust. As I said earlier, one of the things to emerge from COVID is greater collaboration. Surgeons and patients are more willing to travel, and we are able to deliver services to people when they need it, but it will not always be on their doorstep. As politicians, we often face that challenge in our health service, and campaigns are run by people trying to retain everything on their doorstep. Patients and health professionals are willing to travel, so the Assembly's support for the work that our health service is willing to do to tackle our waiting lists and support patients would be well placed.

Ms Bradshaw: I am led to believe that no neonatal cots are available at any hospital in Northern Ireland or, indeed, the island of Ireland. Will you, Minister, clarify whether that is the position? If it is, what urgent action is being taken to avoid transfers to GB?

Mr Swann: I thank the Member for her question. I am unsure of what exactly she

means by "neonatal cots" or the point of time at which none was available. The departmental website details the number of available ICU paediatric beds, and I do not think that it has shown that they were completely full at any time. I am happy to take up that specific matter with the Member after Question Time.

We are able to transfer patients, especially paediatric patients, to the Republic of Ireland. We have built up a relationship, especially in critical care, so that, if need be, patients can move from North to South or from South to North. It is also important that patients can move from west to east because, as I am fully aware, when we need to send patients, including vulnerable children, for specialist surgery, it is important that we have access to skilled professionals in Birmingham hospital and Evelina hospital. Those working relationships are in place.

If the Member provides me with details, I will follow up on the specific issue that she raised about no neonatal cots being available on the island.

HSC Staff: Lost Wages

4. **Mr O'Dowd** asked the Minister of Health when health and social care (HSC) trust staff will be reimbursed for pay lost due to industrial action that took place 12 months ago. (AQO 1363/17-22)

Mr Swann: I thank the Member for his question. The Executive have discussed this matter many times and sought numerous pieces of legal advice. I am pleased to report that the Executive agreed to my latest proposals at our meeting last Tuesday. The regional Business Services Organisation (BSO) has been instructed to make the necessary arrangements for the reimbursement of any deductions previously made to pay.

Mr O'Dowd: I thank the Minister for his answer. My question was tabled before last week's very welcome announcement. I may claim in the press that my question forced you to do it. Can he indicate whether those nurses will have that money in their wage packet before the Christmas break?

Mr Swann: The Member will not be the only one to take credit for my announcements. Like anything else, success and delivery have many fathers.

It is hoped that the payments will be made by the Business Services Organisation in time for

the December payroll. BSO has done a tremendous amount of work since I gave it the direction to try to get that money in place. I can guarantee that, if it is not in the December payroll, the money will definitely be paid in January. Our intention is to get it out to as many as possible before Christmas. I thank and congratulate the Business Services Organisation for moving so swiftly to deliver it.

Mr Durkan: Does the Minister acknowledge the vital role that is played by student nurses and midwives who are working alongside paid — albeit underpaid — health workers in extreme circumstances? Will he reconsider the decision not to pay them for their priceless contribution at this time, when the situation because of COVID appears as perilous as ever?

Mr Deputy Speaker (Mr Beggs): That is yet another question that is clearly beyond the scope of the original question. The Minister may or may not choose to answer it.

Mr Swann: Thank you for your direction, Mr Deputy Speaker, but I often answer many such questions in here.

The Member said that a decision was made not to pay student nurses, but it is a regulatory requirement that nursing and midwifery students must complete 2,300 clinical placement hours in order to be able to join the NMC register. The emergency standards ended on 30 September, and students returned to supernumerary status. There are no plans at present to reinstate those arrangements. That is a UK-wide position. The Nursing and Midwifery Council has issued a joint statement, which was signed by the four UK Chief Nursing Officers, confirming the present position on keeping programmes on track and safeguarding supernumerary status. As Members will be aware, that decision was taken by the Nursing and Midwifery Council in order to meet its requirements for students to be able to complete the 2,300 clinical placement hours. It is not that we do not value greatly the work that they do and the commitment that they give to those roles, even in a training capacity, because we do. The statement was made by the Nursing and Midwifery Council regarding the supernumerary status of nursing students.

Mrs Cameron: Is the Minister concerned that nurses will be forced to strike again in future, given that, to date, there has been no movement on the safe staffing legislation?

Mr Swann: I do not see any opportunity that would move nurses to take strike action,

because I do not recognise the statement that there has been no movement to date on safe staffing. There have been conversations about the terms of reference, and there has been engagement on workforce planning between my Department and the unions that are involved.

The Member will be fully aware that I and the Executive gave a commitment when we were able to bring our nurses and other healthcare workers off the picket line earlier this year that not only pay parity but safe staffing would be a priority for me, my Department and the Executive. That work is ongoing, and a number of avenues are being looked at — whether we follow the Scottish or the Welsh model, whether it requires legislation or a framework model, and what can be done in the time that we have left in the rest of the mandate to bring forward that legislation — to make sure that safe staffing and the rest of the framework commitments that the Executive signed up to are delivered.

Mr Deputy Speaker (Mr Beggs): I call Sinéad Ennis, but the Member may not get a supplementary question.

Care Home Visiting: Christmas Guidance

5. **Ms Ennis** asked the Minister of Health whether guidance on visiting residents of care homes over the Christmas period will be revised. (AQO 1364/17-22)

Mr Swann: I thank the Member for her question. On 10 December, my Department issued additional guidance on Christmas visiting arrangements in care home settings, and that is available on the nidirect and Department of Health websites. That additional guidance emphasises that care homes should recognise the right to a family life for those in their care. In particular, it acknowledges the importance that many people attach to seeing family and friends over the Christmas period.

2.30 pm

Care homes are asked to make particular efforts at this time to facilitate visiting, in line with the regional visiting guidance, by offering a range of options for visiting. They include indoor visiting rooms or areas, visiting pods, outdoor visiting and virtual visits that can take place in line with the care home's visiting policy. Visits into care homes are preferable to those out of care homes by the residents. Longer visits

away from the home carry greater risk. Shorter visits, ideally, for a few hours, are, therefore, preferable if a visit away from the care home is to take place.

If a visit out of the care home is agreed, a number of measures to mitigate the risk of bringing infection back into the care home are identified. When away from the care home, the resident should be in contact with only one household bubble. Members of that bubble should strictly limit their contact with others in the two weeks before a visit from the care home resident. Other precautions, such as good personal hygiene and regular handwashing by everyone, should be maintained. On returning to the home, even if visiting away for only a few hours, the resident will have to self-isolate. The impact of that period of isolation on the resident, as well as on the care home's ability to accommodate such periods of self-isolation, should be carefully considered by the resident, family, friends and care home staff in any discussions.

I recognise the need for families to come together at Christmas, but it is critical that we keep doing everything that we can to stop the virus spreading as we begin the process of vaccinating those who are considered to be most at risk from coronavirus.

Mr Deputy Speaker (Mr Beggs): That is the end of our period for listed questions to the Minister of Health. We move on to topical questions.

Care Homes: COVID-19 Rapid Testing Regime

T1. **Ms Bunting** asked the Minister of Health when he anticipates a move to a rapid testing regime for care homes. (AQT 841/17-22)

Mr Swann: I thank the Member for her question regarding the support that we have given to care homes. We are managing 87 care homes that have had outbreaks. It is a challenging time for those homes and the residents in them, but I welcome today's indicator that we are beginning to see that number decrease. That has been brought about by the testing regime, in which we test weekly, that we have in place. Due to the weekly programme, we have seen a greater ability to identify asymptomatic residents and staff. Only 40 of the 87 confirmed homes are currently showing symptomatic residents. Our weekly testing programme has picked those up.

My expert advisory group on testing is keeping an eye on the mass testing programme that we

have seen being piloted in parts of south-east England to make sure that we can use that testing to maximum efficiency and efficacy not only to facilitate support for the care home residents and staff but to allow safer visiting.

Ms Bunting: I am grateful to the Minister for his answer. The Minister will be aware that numerous people have underlying conditions that will prevent them from taking the vaccine, but they will remain vulnerable until an alternative is found. When does he envisage something being available to protect people who have underlying conditions and who remain vulnerable in these circumstances?

Mr Swann: We have been working closely with, and taking guidance from, MHRA and the Joint Committee on Vaccination and Immunisation with regard to what vaccines are suitable for certain cohorts. It is a welcome step that the Pfizer vaccine is suitable and can be used for care home residents and staff, because we can get it. That vaccination programme has been started. As I said, just over 4,000 people have been vaccinated since we received that accreditation. As each vaccine is accredited by MHRA, we look at the green book guidance to see what clinical groups it is suitable for and to ensure that we know what clinical groups it is not suitable for. That is the guidance and training that is given to all our vaccinators before they go out to deliver a vaccine.

School Pupils: Christmas Contact Tracing

T2. **Ms Armstrong** asked the Minister of Health to confirm, in light of the fact that some pupils in Northern Ireland will be in school on 21 and 22 December, who will be responsible for contact tracing any pupils who test positive after that time, given that it is her understanding that the PHA's dedicated education contact tracing team will close for Christmas on 23 December at 4.00 pm. (AQT 842/17-22)

Mr Swann: The PHA's contact tracing team; the greater team will take over what has been the work of a very specialised cell to support principals and staff.

Ms Armstrong: Parents are not aware of how to report this, because children will be out of school at that stage. As a parent of a pupil, I ask whether any work will be done by the PHA and yourselves to make sure that that goes through the education system before children finish for Christmas.

Mr Swann: Specific guidance will be provided, I am sure, by the Education Authority to schools. However, I will ask and ensure that the PHA carries forward that communication, so that a clear line of sight and guidance is there and accessible. Any child who presents with symptoms of COVID-19 goes through the same process as an adult when it comes to identifying or accessing testing after that point, if they are not in school.

Care Homes: Capacity

T3. **Mr McAleer** asked the Minister of Health to state his advice for care homes that do not have the capacity to manage situations in which residents have to isolate for 14 days following an outside visit, which was a requirement that he stated in response to a previous question. (AQT 843/17-22)

Mr Swann: I thank the Member. That is part of the guidance that we have given for care home visiting over Christmas. It is important for those individuals and families who are able to take someone out of a care home for a family visit during this special time of year that we take the same precautions when that individual returns to the care home, so there are additional pressures. That is what I said with regard to someone coming back into a care home as well. On returning to the care home, the resident will have to self-isolate. The impact of that period of isolation on the resident has to be taken into consideration. What may be a supportive and welcome three-hour respite over the Christmas period back in the family home has to be balanced with the challenges to that individual of the period of self-isolation that they will have to take part in when they return to the care home. That is why I said in an earlier answer that that should be carefully considered by residents, families, friends and care home staff. The more residents who leave a care home and return, the more pressure will be put on some of the care home facilities with regard to being able to provide that supportive self-isolation.

Mr McAleer: The Minister will be aware that visiting restrictions also remain in place in maternity wards, for example. Has the Minister any plans to review that in the coming weeks?

Mr Swann: Our visiting policies are kept under constant review, especially with regard to where we see the coronavirus spread across the community. Where we see increased community spread, we have to add additional restrictions on visiting capacity. Until we get into a place where we see a continued reduction in

the number of COVID cases that are active in our community, it is highly unlikely that we will see a massive change in any visiting policy for hospitals. We must remember, even coming up to Christmas, that the virus does not recognise the time of the year, the calendar or social events. We always have to take the same due care and caution, no matter what the time of year. That is what the Member's original question was about.

Organ Donation: Opt-out System

T4. **Mr Beattie** asked the Minister of Health, in an attempt to get away from COVID and to focus on some good news stories that, sometimes, get missed in all the doom and gloom, and maybe even to bring a smile to the Minister's face, to outline, following the end of the consultation process in February, the next steps in the process to bring an opt-out organ donation system to Northern Ireland, given that, come March 2021, Northern Ireland will be the only part of the UK without such a system. (AQT 844/17-22)

Mr Swann: I thank the Member. I try to smile occasionally, but it is not easy, being an Ulster Unionist. *[Laughter.]* The Member will be fully aware of the work that was originally commenced on this issue by our party colleague Jo-Anne Dobson. It is something that we, as a party, have committed to in the past. That is why I was pleased to launch the public consultation on the introduction of a statutory soft opt-out system earlier this week. That consultation runs until 19 February. At that point, my Department will publish details of public engagement events that will take place in the new year to ensure that all stakeholders have an opportunity to hear about the proposals and submit responses. Legislation will be required to give effect to these proposals and, following the consultation period, it is my intention to bring a draft Bill to the Assembly at the earliest opportunity, subject to the advice of the Office of the Legislative Counsel and the agreement of the Executive, within the current mandate, if feasible.

I encourage everyone to read about the consultation and to submit a response on the Department's website. In the meantime, I urge everyone to discuss their wishes for organ donation with their family and friends. I look forward to the support of the Health Committee in bringing forward the legislation as expediently and quickly as possible.

Mr Beattie: I want to go on the record to recognise the work that was done by Jo-Anne

Dobson. Sticking to the donation issue, further changes to blood donation deferral rules have been brought in to allow more gay men to donate. Will the Minister outline the changes to and the benefits of that?

Mr Swann: I thank the Member. The changes were announced over the weekend. I made the decision based on advice from the Advisory Committee on the Safety of Blood, Tissues and Organs (SaBTO) following its consideration of a report by the For the Assessment of Individualised Risk (FAIR) steering group. The recommendation was to implement the introduction of an individual behaviour-based risk assessment that will allow some men who have sex with men (MSM) to donate blood if they have one sexual partner who has been their partner for more than three months. I am pleased to be able to introduce that change to the donor deferral policy in Northern Ireland, which means that MSM in longer-term partnerships will no longer be automatically deferred from donating blood provided they have been with the same partner for the previous three months.

I want to see more people being able to donate blood. However, I also want to make sure that it is safe, and my decision to reduce the deferral period from 12 months to three earlier this year was also based on SaBTO advice. I look forward to seeing more donors on the Northern Ireland Blood Transfusion Service's register. Being a regular donor myself, I know the vital importance of giving blood. Every donation can save or have an effect on up to three lives. The more people we have who are eligible to donate blood, the better it is for all of us.

Mr Deputy Speaker (Mr Beggs): Question 5 has been withdrawn.

COVID-19: Christmas Restrictions

T6. **Mr Middleton** asked the Minister of Health for his assessment of what action should be taken regarding Christmas restrictions, given that, later today, Michael Gove will host a meeting between the four nations to consider the restrictions over the Christmas period. (AQT 846/17-22)

Mr Swann: I thank the Member for his question. He is right: the discussion with the three devolved nations, which will be chaired by Michael Gove, takes place this afternoon. As he will be aware, the announcement was made on a UK-wide basis by the UK Prime Minister, First Ministers and deputy First Ministers. That discussion is being supported by the decisions

and recommendations of the four Chief Medical Officers from across the nations. As the Member well knows, I never comment before a discussion has taken place and a decision is made. We will wait to see the outcome of the meeting and what it recommends.

Mr Middleton: I thank the Minister for his response. I am going to put the question in a slightly different way. Dr Tom Black said that he believes that a four-week lockdown would be "logical". What is the view of the Minister and the Chief Medical Officer on whether additional restrictions are required before or during the Christmas period?

Mr Swann: I could nearly just say, "I refer the Member to my previous answer". However, he will be aware that where we currently see the spread of COVID, the infection rates are stable but still increasing slightly. The number of inpatients in our hospitals has not decreased at all over the last number of weeks. The two-week restrictions have seen a stabilisation of the numbers, but those are still too high. I do not think that the Member will be surprised to know that I will bring a paper to the Executive on Thursday with a number of recommendations. As I said, he knows me well enough to know that I will make those recommendations to the Executive so that they can have the discussion.

COVID-19: Christmas Restrictions

T7. **Ms Anderson** asked the Minister of Health what his Department can do to encourage social care organisations to avail themselves of care home sick leave support funding in order that carers can receive some kind of financial support. (AQT 847/17-22)

Mr Swann: The Member rightly identifies one of the biggest frustrations for the Department and me. At the start of the outbreak and during the initial waves of the pandemic, care homes owners needed help to give their workers financial support so that they were not impeded by having to take statutory sick pay should they either contract COVID or become a contact case.

We put financial supports in place that will help care homes to support their workers through what will be a challenging period of isolation. We have regular engagement with care home providers, and that is ongoing in a number of other areas, so I encourage all care home providers, owners and shareholders to take up the financial supports provided by my Department to ensure that their workers are

supported during any period of illness when they have to take time off due to being either a positive COVID-19 case or a contact case. That is what the finance, guidance and support is there for.

2.45 pm

Mr Deputy Speaker (Mr Beggs): The Member can have a brief supplementary question.

Ms Anderson: One of my constituents contacted me today. There have been a number of cases across Derry, and they are being forced to take their annual leave and are not getting that kind of support. Can you do more to encourage the use of the supports? I know that you are encouraging the organisations, but we need to get that message across, particularly to carers.

Mr Swann: The Member's raising it here today and my answer will hopefully reinforce the message that the support and funding are there for a reason: to support the workers and the owners of care homes but, most importantly, to support the residents of care homes. The message has been loud and clear, and it is one that my Department will continue to make to care home providers.

Mr Deputy Speaker (Mr Beggs): That is the end of the period for questions to the Minister of Health. I ask Members to take their ease for a few moments as we change those at the Table.

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

Infrastructure

Unadopted Streets and Housing Estates

1. **Ms Dillon** asked the Minister for Infrastructure to outline her Department's approach to the issue of long-term unadopted streets and housing estates. (AQO 1375/17-22)

Ms Mallon (The Minister for Infrastructure): I thank the Member for her question. My Department manages the adoption of roads that are proposed for adoption through the private streets determination process that is undertaken as part of the planning process. Once planning permission is received, my officials work closely with developers and financial institutions to pursue the adoption of the development roads in a timely fashion. My Department has undertaken almost 1,100

private street adoptions in developments over the last five years, and progress has been made in adopting a significant number of unadopted developments that emanated from the property crash in 2007.

The Member will also appreciate that the adoption of private streets in developments is a developer-led process and the majority progress to adoption without the need for intervention by my Department or Northern Ireland Water (NIW). I also fully appreciate the concerns of residents in unadopted developments and the difficult situations that some find themselves in. My Department continues to work closely with developers, NI Water, financial institutions and residents to get roads and sewerage infrastructure adopted.

I am committed to ensuring that developers provide road and sewerage infrastructure to a standard suitable for adoption in a timely manner and to impressing on developers the need to provide safe and adequate infrastructure for residents in the interim period prior to adoption.

Ms Dillon: I thank the Minister for her answer, but I refer more to the historical issue with unadopted roads, developments and streets. This is not a new thing since 2007, where you have the bond, and we have been able to resolve a number of those issues in my constituency. There is an inequality and a real-life issue for people every day. This has been going on in some areas for up to 50 years, when the old councils built the developments and did not do what needed to be done at that time. We have a responsibility to these people, and we need to start delivering for them now. There are no developers for them to go back to and nowhere that they can turn. The Executive really need to start to deal with the issues. Will the Minister engage with some of the residents in my constituency, particularly around Coalisland and Donaghmore, where a number of estates and streets have this historical issue?

Ms Mallon: I thank the Member for her question. She is correct: there are historical unadopted roads and laneways in Northern Ireland that sit outside the private streets process. Article 9 of the Private Streets Order 1980 allows my Department to consider the adoption of some roads if the majority of the owners or frontagers request it and the road or street is first brought up to the required adoption standard. While I understand that there is a desire among frontagers on private roads and lanes to have improvement works carried out by my Department, the reality is that it is not feasible due to the current budget

position and the many pressures faced by my Department. A scoping study was carried out in 2011 and found that there were over 620 kilometres of unadopted roads and laneways in Northern Ireland. At that time, the estimated cost to bring those up to standard was in the region of £300 million, which excluded any land purchase, required structures or utility works. This is an issue, but it requires huge resource.

Mrs D Kelly: Minister, I know that your Department is undertaking a planning policy review. Will that review include looking at some of the developer contributions to the adoption of roads, and will it ensure that there is a significant financial penalty for not doing so?

Ms Mallon: I thank the Member for her question. She is right: my Department is carrying out a review of the Planning Act. The purpose of the review is to ensure that the objectives that were intended through that legislation are being met. It will also examine things that can be retained, amended or repealed, and my officials are going out to consultation with councils, businesses, environmental groups and other key stakeholders. I am sure that the issue will be raised with them.

Mr Buckley: The Minister knows that I have long championed the issue in my constituency in relation to Birchwood Manor. I echo Linda Dillon's comments that it is an issue that, I know, the Minister finds unacceptable, but, to date, limited progress has been made on some of the outstanding issues across many constituencies. I thank the Minister for her Department's willingness since then to engage with residents and, indeed, with NI Water on road development. Will she agree that there is a need to engage with the banks to ensure that we can get a timely and satisfactory outcome and allow the residents to live in peace in their developments?

Ms Mallon: I thank the Member for his question and for his kind comments on officials' work on the issue. It is a complex issue, and my Department is working to address it with developers and with residents, as the Member rightly pointed out. He also correctly said that it is important to engage with the financial institutions as we try to resolve this difficulty.

Sewerage Upgrade: Saintfield

2. **Mr Harvey** asked the Minister for Infrastructure for an update on the sewerage upgrade in Saintfield. (AQO 1376/17-22)

Ms Mallon: I thank the Member for his question. In 2019 and 2020, Northern Ireland Water and DFI Roads undertook measures to remove considerable amounts of storm water from the foul sewerage system. It was that excess storm water that, during periods of intense rainfall, was the cause of out-of-sewer flooding in Saintfield. DFI Roads has replaced a damaged storm culvert on Listooder Road, and Northern Ireland Water has undertaken repair work on sewer pipes in the same area. Additionally, the sewers in Old Grand Jury Road have been repaired by Northern Ireland Water, greatly increasing the resilience of the sewerage system during heavy rainfall.

NI Water conducted extensive CCTV and flow surveys for use in developing a drainage area sewer network model in 2019. The model build phase was completed in December 2019 and audited for use in 2020. The output of the model has been shared with the Northern Ireland Environment Agency (NIEA), which will come back to NI Water once it has completed its assessment of the data.

Mr Harvey: I thank the Minister for her answer. I appreciate that she is considering upgrades in all constituencies to allow the building of new homes to continue. Can she assure me that she will address the current infrastructure issues in Strangford, particularly in relation to flooding, which poses a health and safety risk?

Ms Mallon: I thank the Member for his question. My Department has not identified any significant flood risk areas in the Strangford area. However, coastal areas and roads can be subject to large overtopping waves when strong onshore winds occur and sea levels are high. My Department has well-rehearsed emergency response plans that have been developed in conjunction with multi-agency partners, should there be a need to respond to flooding in the area. I am also aware that owners of some of the isolated properties at flood risk have availed themselves of my Department's homeowner flood protection grant scheme, which is intended to assist homeowners to make their property more resilient to flooding.

Mr Nesbitt: The Minister may be aware that, elsewhere in the Strangford constituency, a major development at Rivenwood in Newtownards is under threat because of an unexpected £1 million bill for the developers due to a lack of sewerage infrastructure. Can the Minister detail how many planning applications are being withheld due to

sewerage infrastructure being at or above capacity?

Ms Mallon: I thank the Member for his question. He raises an important issue and difficulty. While I do not have at hand the number of planning applications that are being impacted, I can advise the Member that there are 116 locations across Northern Ireland that are at or almost at maximum capacity, thereby curtailing their developmental potential. It is an issue of huge concern. It impacts on every constituency, and it impacts on every local development plan that is being developed by our councils. It will curtail the number of homes, schools and hospitals that we can build. The Utility Regulator has identified £2 billion of investment that is required for the next price control period. The issue affects every Department and community, and it is one that we must tackle.

Ammonia Emissions

3. **Ms Bailey** asked the Minister for Infrastructure what discussions she has had with the Minister of Agriculture, Environment and Rural Affairs in relation to a review of the planning application process to ensure planners have appropriate guidance on ammonia, including being led by science and data to mitigate ammonia emissions. (AQO 1377/17-22)

Ms Mallon: As the Member may remember from the recent Assembly debate on ammonia, I advised that I had written to the Minister for Agriculture, Environment and Rural Affairs about the ongoing ammonia and nitrates deposition issues that we face, particularly as they affect the planning system. I highlighted the need for DAERA to urgently revise its current operational protocol on ammonia-emitting projects, which is used as the basis for DAERA's advice to planning authorities in its role as a statutory consultee. I also asked for an update on the current position with the ammonia strategy and how, in the interim, the Northern Ireland Environment Agency can provide the advice needed to enable planning applications for ammonia-emitting development that are currently on hold to be determined. Furthermore, I committed my Department to assisting DAERA in taking forward work on its proposed ammonia strategy, which, I understand, is to include a review of the operational protocol.

In his response to me, Minister Poots advised that work on the ammonia strategy is in its final stages of preparation and will be completed

before the end of this year. When completed, it will be issued for public consultation. He also stated that, with regard to the ammonia-related planning consultations that have been delayed, they are currently under consideration and he will shortly be discussing them with his officials.

Ms Bailey: I thank the Minister for her comprehensive answer; it is heartening to hear. The Minister will be very aware of the ongoing high risk to human health and the environmental damage that occurs the longer we do not tackle the problem. During the same debate in the Assembly, there was a commitment to consult fully the farming and agri-food sector. Has that happened, whether by you or someone in your Department?

Ms Mallon: As the Member has highlighted, that issue was discussed. My role in this is from a planning perspective. I am also conscious that, during the same debate, there was a discussion around implementing a moratorium on planning approvals. I can confirm that I have engaged with the AERA Minister directly. As yet, we have not gone out further afield. My view on this is that the urgency that is required is on the review and updating of the operational protocol by DAERA to ensure that it is able to respond to consultations in a way that is based on the most recent case law and the most up-to-date scientific data on the issue of ammonia.

Ms Flynn: Improving the guidance on ammonia has been mentioned. Can the Minister elaborate on whether there is any scope in the planning review to look at improving other environmental aspects of the planning system?

Ms Mallon: I thank the Member for her question. As I outlined in the response to Dolores Kelly, the review of the Act is to ensure that it is meeting the intended objectives.

As I said, my officials are doing a targeted consultation exercise. I encourage people to engage with my officials and raise those issues so that we can explore what can be done, if not within the framework of the current review, certainly at a later date.

3.00 pm

Mr Muir: The Minister will be aware of Shared Environmental Services and the role that it plays. Will she outline when a review was last conducted of Shared Environmental Services?

Ms Mallon: The Member is correct to point out that Shared Environmental Services is a service

that is shared across all the councils. It was developed when we moved to the two-tier planning system. I am not aware of a subsequent review of it. I am aware, though, that councils have been asked to increase their financial contributions to Shared Environmental Services given the increase in consultation responses and the work that it has to engage in. If there has been a review since the transfer of planning powers, I will certainly be happy to update the Member.

Mr Allister: Not for the first time, we have a passing of the parcel between two Departments, the victims of which are the many farmers who have been waiting for months or years for planning approvals. The situation is at its most farcical for those who want to replace old houses with more environmentally friendly houses with lower output, yet they are the very people who are failing to have their needs met. When will the Executive get a grip on that issue?

Ms Mallon: I thank the Member for his question. I think that he was present during the debate on the issue, so he will be well aware that the difficulty is that DAERA has not updated its operational protocol. That is causing delays in the determination of planning applications. If I recall correctly, around 19 planning applications are being held in the planning system pending determination. One of the key issues in resolving the matter is for DAERA to complete the work that is has indicated that it is undertaking. That will allow it to update its operational protocol and ensure that the most up-to-date responses are provided to applications and that they can be appropriately processed.

A5: Update

4. **Mr McAleer** asked the Minister for Infrastructure for an update on the A5 road project. (AQO 1378/17-22)

Ms Mallon: I thank the Member for his question. I reiterate my commitment to the A5 and to tackling regional imbalance, connecting communities and improving road safety. Many communities can benefit from investment in the A5 project, particularly those in rural parts west of the Bann.

The project has been subject to three separate legal challenges since its inception in 2007. The most recent was in December 2017, when a new decision to proceed with the scheme, made in the absence of a Minister, was challenged, which led to the quashing of the

statutory orders in November 2018. Since then, my Department has been progressing the necessary work to enable a fresh decision to be made.

In spring 2019, an addendum to the environmental statement of 2016 and other environmental reports were published for consultation. That resulted in a further public inquiry, which concluded in March. My Department received an interim report from the inspector in September. My officials have considered the issues raised and recommendations made in the interim report and taken legal advice. I will consider that legal advice, and all advice, carefully before deciding on the next steps for the scheme and the timing of the publication of the inspector's report. I assure the Member of my commitment to the scheme.

Mr McAleer: I am glad to hear of the Minister's commitment to the scheme, and I thank her very much for her answer. The Minister will be aware that the project is crucial to the west and, indeed, the north-west of the island of Ireland. Will she update us on any recent contact or consultation that she has had with her counterpart, Minister Ryan, in Dublin on the Irish Government's part funding of the scheme?

Ms Mallon: I thank the Member for his question and welcome the Irish Government's reaffirmation of their commitment in New Decade, New Approach to contribute £75 million to the project. I assure the Member that I have had useful discussions with the Irish Transport Minister, Minister Ryan, and the Taoiseach on delivering our shared commitments. In October, the Taoiseach announced that €500 million will be made available through the shared island fund to deliver on the Irish Government's commitment to build shared island infrastructure, which is underpinned by the Good Friday Agreement. That was very good news. That funding is intended to contribute to the delivery of key infrastructure initiatives, including the A5. I assure the Member that I am committed to working with my colleagues in the Irish Government to ensure that we deliver for our citizens. In fact, we are due to meet again at the North/South Ministerial Council on Friday, at which the matter will no doubt be raised.

Mr McCrossan: It is always a great honour to speak about the A5, as it is something about which I feel very strongly. The SDLP strongly supports its development. Minister, your commitment to the A5 has been a cast-iron one, and the people of West Tyrone are grateful

to your office for making it such a strong priority. Many people are looking forward to seeing boots on the ground. Have you any indication of when that might happen?

Ms Mallon: As I indicated, my officials have obtained detailed legal advice on the report that we received. I will be considering that advice very carefully, along with all other advice, before announcing my next steps. It is not possible to give a clear time frame until that decision is reached. I assure the House, as I have said on multiple occasions, that I am committed to the project and am keen to see it progressed as far as possible during my tenure.

A6: Update

5. **Mr Middleton** asked the Minister for Infrastructure for an update on the progress of the A6 upgrade. (AQO 1379/17-22)

Ms Mallon: I thank the Member for his question. Construction work is progressing well on the two flagship dualling schemes on the A6 road, which are the Randalstown to Castledawson scheme and the Dungiven to Drumahoe scheme. Together, the schemes represent an investment of over £400 million to enhance the connectivity of the north-west, improve journey time reliability, reduce journey times and improve road safety.

COVID-19 disrupted or stopped many activities as a result of difficulties in the supply chain, social-distancing requirements and staff absences. I am pleased, however, to advise that the projects are on track. I was pleased to see at first hand the new 5-kilometre section of the Randalstown to Castledawson scheme that opened to traffic last week. That means that the entire 15-kilometre scheme is now open to traffic, although there are still works ongoing, and temporary traffic management will be in place for several months. The benefits of the scheme are already being realised and fully welcomed by the public. The scheme will be fully complete in the spring. The 25.5-kilometre Dungiven to Drumahoe scheme is expected to complete in 2022, largely as planned.

Finally, the delivery of phase 2 of the A6 Derry to Dungiven road project, which extends from Drumahoe to the Caw roundabout, is key and will depend on a range of factors, including future Budget settlements.

Mr Middleton: I thank the Minister for her response. I put on record my thanks to her Department and the contractor for working with residents on some local issues along the route

of the scheme. I welcome that. Can the Minister give any clarity on whether the scheme is on budget? Are there any concerns about lack of funds to complete the scheme?

Ms Mallon: Funding has been set aside. Things moved rather quickly because of the COVID impact, so I made a bid for £14.8 million to the Executive and the Finance Minister. We increased the budget by that amount so that it could move ahead. From the advice that I have received from officials, I do not have any concerns in that regard. We are on track to meet all the targets and deadlines for delivery of the project, particularly around the time frame. That will be welcome news to the Member.

Ms Anderson: Minister, as you know, Chris Hazzard from Sinn Féin championed this in 2016 and secured the funding. I was glad to hear you talk about the Caw roundabout to Drumahoe as being crucial and key. What efforts are being made to take us through the statutory process before you get to the point of putting in the bid?

Ms Mallon: As the Member said, phase 2 of the A6 Derry to Dungiven road project extends from Drumahoe to the A2 Caw roundabout. That 7-kilometre section is estimated to cost around £200 million and forms part of the A6 flagship project. As the Member will know, parts of the work will encroach on the Mobuoy waste site, and the final design will need to take that into account. Delivery of that phase of the project, which is not part of the current Dungiven to Drumahoe construction contract, is key and will depend on a range of factors, including future Budget settlements. I look forward to the Member joining me in making representations to the Executive to secure the funding that is required.

Mr Beggs: The completion of the A6 will considerably improve the travel time between the north-west and Belfast, and, indeed, Dublin. Undoubtedly, that will have some effect on the viability of Derry city airport, where more people will choose to travel. When is that road expected to be completed, and how will that influence subsequent additional funding that continues to be passed to Derry city airport?

Ms Mallon: I thank the Member for his question. As I indicated in previous responses, we are on track to meet the time frame for the A6. That section is due for completion in 2022.

In respect of City of Derry Airport, the Member may be aware that York Aviation was

commissioned to carry out a study into the viability of the airport, and it will analyse all the surrounding factors. That report has been submitted to a number of Departments, given that the statutory responsibilities for airports cut across a number of Ministries. My officials are considering that, as will I with my Executive colleagues.

Ms Hunter: I welcome the progress so far on the A6, and I welcome the work from you and your Department. The route will have many major benefits for my constituents. My question pertains to an update on the section of A6 from the Castledawson roundabout to Dungiven.

Ms Mallon: I thank the Member for her question. My Department is developing a new regional strategic transport network transport plan — a nice snappy title — which will set out future investment and improvement for our strategic transport networks in road, rail and bus, and it will reflect my commitment to improving connectivity for the benefit of our economy and communities across Northern Ireland. This will consider proposals for the further development of strategic road improvement schemes, including the Castledawson to Dungiven section of the A6, and how they might facilitate complementary improvements to promote sustainable travel choices, connect people and communities, and create thriving and liveable places. I intend to publish the draft regional strategic transport network transport plan for public consultation in late 2021, with a view to issuing the finalised plan in spring 2022.

Mr Storey: I thank the Minister for clarifying, because, for some time, we have been waiting for the subregional transport plan. I have been in correspondence with her in relation to the continuation of the A26 in my constituency, which would connect Ballymena right through to Coleraine. Obviously it is very important.

The Minister did say late 20-21. Is she saying that it will be published before the end of this year, or like most things, will it be pushed into 2021 in terms of the latter part of the year, so that it will not be published this year but will be published next year?

Ms Mallon: For clarity, I intend publishing the draft regional strategic transport network transport plan [*Laughter*] for public consultation in late 2021, with a view to issuing the finalised plan in spring 2022.

Belfast Bicycle Network: Update

6. **Mr Lyttle** asked the Minister for Infrastructure for an update on the Belfast bicycle network plan. (AQO 1380/17-22)

Ms Mallon: I thank the Member for his question. My vision is for Belfast to become a cycle-friendly city where anyone can have the freedom and confidence to use the bicycle for their everyday journeys.

The bicycle strategy, published in August 2015 by one of my predecessors, set out the objective of building a comprehensive network for the bicycle. One of the elements of that was to develop bicycle networks for the main urban areas in Northern Ireland. The intention was that the first would be for Belfast. A public consultation on the draft Belfast bicycle network was held in 2017. Following consideration of the many responses — some of which were very detailed — a consultation report was published in 2018, during the period when the Assembly was suspended.

There was general support for the idea of a network but the consultation highlighted the need to look more closely at the north and west of the city, where levels of cycling were lower and where there was less walking and cycling infrastructure. My Department engaged Sustrans to carry out further work on an active travel feasibility study for north and west Belfast in 2019. A final report for those two areas was provided to my Department earlier this year. Some work has been undertaken to revise the proposed network in light of that, and I have asked officials to ensure that a final document is ready for publication in the new year.

3.15 pm

Mr Lyttle: I thank the Minister for her update on the Belfast cycle network plan. As she said, the delivery of an easy-to-access, easy-to-understand Belfast cycle network is a key aim of the cycling strategy, but progress has been delayed for the reasons that she outlines. The Active Travel (Wales) Act 2013 places a legal requirement on local government to map and plan suitable routes for active travel and to build and improve their infrastructure every year. Is an active travel Act necessary in Northern Ireland to see substantive progress on our cycle network?

Ms Mallon: I thank the Member for his question. I do not know the answer; I do not know whether it is essential. One of the biggest challenges is changing the culture in

government and outside of it. We have seen, during COVID, the success of active travel pilots, limited in number though they are, and how citizens will embrace active travel if they are given the opportunity to engage in it safely. I reassure the Member that I have initiated policy changes in the Department and appointed a walking and cycling champion to ensure a culture change at the heart of my Department. I have also asked my officials to bring to me a submission so that I can consider the merits of active travel legislation. I have to operate within the reality that we do not have a significantly long period left in the mandate and that we have many other pressures, not to mention COVID and Brexit. I assure the Member that, where change can be made, be it through resource allocation or policy change, I am committed to exploring all avenues, including legislation.

Mr Deputy Speaker (Mr McGlone): There is time for a brief question from Robbie Butler and a brief answer.

Mr Butler: I know that the Minister's heart is absolutely in getting people on bikes. Will she commit — I know that this is not her purview — to work with her Executive colleagues to ensure that there is no financial barrier to those who are disproportionately financially burdened in availing themselves of a bicycle to get them fit and tackle their mental health?

Ms Mallon: Yes, it is important that we have inclusively and affordability at the heart of this. The truth is that so many families across Northern Ireland cannot afford to own a car and are reliant on public transport. They could benefit hugely from being able to access safe infrastructure for cycling and walking. It is an environmental issue for me, but it is also an issue of social justice. I remain committed to doing what I can during my tenure to bring about change in the lives of citizens across the North.

Mr Deputy Speaker (Mr McGlone): That ends the period for listed questions. We now move on to 15 minutes of topical questions.

HGV Drivers

T1. **Dr Aiken** asked the Minister for Infrastructure what provisions are being made for local HGV drivers to allow them to operate in the EU after 1 January. (AQT 851/17-22)

Ms Mallon: I thank the Member for his question. He raises an important point. I am

sensitive to the fact that discussions between negotiating teams are ongoing and the outcome will be determined by the British Government and the EU. Any outcome that places a limit on the number of hauliers permitted to travel South to transport and receive goods, such as the need for a European Conference of Ministers of Transport (ECMT) permit, will have the potential for serious supply chain disruption and detrimental economic impacts in the North. I welcome the recent no-deal contingency arrangements announced by the EU, which are subject to UK reciprocity and confirm that hauliers will not require an ECMT permit. However, I have some concerns that hauliers will not be allowed to conduct cabotage or cross trade. My officials continue to stress to the British Government the importance of free movement for road hauliers on the island of Ireland.

Dr Aiken: I thank the Minister for her answer. Can she feed into the Joint Ministerial Council the fact that Northern Ireland haulage firms should be given a commitment that they will indeed be able to work unimpeded in Great Britain, the EU and Northern Ireland, particularly under the provisions of the protocol?

Ms Mallon: I assure the Member that my officials stress at every opportunity the importance and uniqueness of the North and its situation and raise the concerns that hauliers rightly express to us. As a Department, we have regular engagement with the haulage sector, and I have written to Grant Shapps to raise those concerns directly. I raise them any time that I am on a Zoom meeting or a conference call with the British Government. I have also written to the Irish Government to highlight my concerns. I assure the Member that we will continue to avail ourselves of every opportunity to raise the issues and concerns of our haulage sector, given that it is so critical to our economy.

Taxi Drivers: Financial Support

T2. **Mr Dunne** asked the Minister for Infrastructure, given that she will be aware that a large number of taxi drivers have been unable to access her Department's financial support scheme, whether she will look at how the criteria could be amended to assist those who had the correct insurance cover and licence at the beginning of lockdown and who are now struggling to make a living. (AQT 852/17-22)

Ms Mallon: I thank the Member for raising the issue. The taxi driver financial assistance

scheme opened on 13 November, 10 days after my Department was given the power to create a scheme. It closed two weeks later on 27 November. The scheme, which was agreed by the Executive, is designed to provide a contribution to the overhead costs, including PPE, that were incurred as a result of the COVID-19 pandemic. It was designed in consultation with taxi industry representatives, who said that, while drivers were eligible for the self-employed income support scheme, they still had static and high overhead costs, not least their taxi insurance, which they struggled to pay. That is why the scheme was designed to make a contribution to overhead costs.

The scheme was set up as a means to help drivers with their ongoing overhead costs, but, in order to ensure value for money, it is dependent on actual expenses being incurred during 22 March and 30 September. That is because it is a retrospective scheme. I am aware of instances where taxi drivers who had continuous insurance were not able to obtain evidence of that. I am pleased to say that my Department has worked with insurance companies, which will provide a letter that we will accept as validation of that. I am also aware of a situation where many taxi drivers dropped their taxi insurance during that difficult period. I have said that I will continue to work with the sector to provide it with support during this time.

I remain disappointed that opportunities have been missed for taxi drivers' inclusion in the part B scheme run by the Department of the Economy, because they have been impacted by the restrictions on our hospitality sector.

Mr Dunne: I thank the Minister for her answer. Will the Minister outline the rationale for the decision not to open the scheme to taxi operators? I am talking not about drivers but about operators. Will she give a commitment to meet the operators to discuss the circumstances that they now find their businesses in, which are most difficult during the COVID crisis?

Ms Mallon: I thank the Member for his question. My officials and I have met the taxi operators. As part of the stakeholder engagement process for the financial support schemes, as I said, officials and I held meetings with taxi operators on 30 September and 27 October. Officials also met taxi operators on 20 October and 27 November. With regard to the available financial support schemes and sector eligibility, because taxi operators did not have premises they did not qualify for the Northern Ireland Executive support schemes for businesses. However, taxi businesses and

operators who had premises could have availed themselves of one or other of the business support grant or loan schemes available. That was clear from the evidence and the information that they provided during the scheme's development stage. For those reasons, the scheme that I put in place is designed to assist taxi drivers who could not avail themselves of the existing schemes but still incurred overhead costs from March until September of this year. In addition, taxi operators advised that providing financial support directly to drivers would provide the operators with indirect support because we were helping taxi drivers to remain in business and in work.

A5: Time Frame

T3. **Mr Gildernew** asked the Minister for Infrastructure when we can expect construction to begin on the essential and long overdue A5 road scheme, given that although the public inquiry concluded in March 2020, we are still waiting for a decision. (AQT 853/17-22)

Ms Mallon: I thank the Member for his question. It was raised in questions for oral answer by your party colleague and other Members. My Department received the report on the A5 in September. It raised a number of detailed issues that we had to get legal advice on. I will consider that legal advice and all advice carefully before I decide on the next steps. It is, therefore, not possible at this stage to provide you with a definitive time frame, but I assure you that I remain committed to the delivery of the project. It is a strategic road project and a key road safety project. It is also critical to tackling regional imbalance.

Mr Gildernew: Thank you for that answer, Minister. It is important that the Irish Government honour their commitment to co-fund the project. Will you comment on how much of the Shared Island Fund the A5 is expected to receive and whether you are considering multiple simultaneous phases of the project?

Ms Mallon: I thank the Member for his question. He is right to point out that the Taoiseach has announced €500 million for the Shared Island unit that is for North/South infrastructure projects. I have discussed the A5, the Narrow Water bridge and the other commitments in 'New Decade, New Approach' with my ministerial counterpart, Eamon Ryan, and with the Taoiseach. We are due to meet again as an NSMC this Friday, and I have no doubt that the A5 and the other commitments in

'New Decade, New Approach' will be discussed.

Road Safety at Christmas

T4. **Mrs D Kelly** asked the Minister for Infrastructure, after thanking her for her hard work with the travel industry — in particular with Translink to keep people safe during the pandemic — whether she has any measures in place to deal with Christmas road safety challenges such as drink-driving and drug taking. (AQT 854/17-22)

Ms Mallon: The Member asks an important question as families prepare to make their way home this Christmas to bubble in line with government regulations. COVID-19 remains very much with us, and we are at risk, so we all must do what we can to protect ourselves and our families from the virus. I urge all travellers to plan ahead, wear a face covering, keep your distance and wash your hands. Today, I issued a statement urging those travelling, whether by private or public transport, to take care.

I have reminded drivers that my Department will carry out parking and moving traffic bus lane enforcement as normal to ensure that vehicles are parked safely and are not causing disruption in bus lanes and elsewhere.

As many of us will, hopefully, be able to enjoy time with our families safely, I want to warn very clearly that driving while taking drink and drugs is never acceptable. One drink can impair decision-making and cause a collision that can kill. I implore drivers never to drink or take drugs and drive — this Christmas or ever.

Finally, as your public transport services continue to operate throughout the pandemic and are available all over the Christmas period, I remind passengers, including post-primary children, that they must wear a face covering, because I am conscious that that is an issue that Members have been raising.

Mrs D Kelly: Thank you, Minister. That was a comprehensive answer, but can you also advise whether the PSNI is providing additional resources to clamp down on drink-driving and drug taking?

Ms Mallon: The Member will know that, last month, I introduced a change in the law that will abolish a driver's right to request a replacement blood or urine specimen where a breath specimen is marginally above the legal alcohol limit. The removal of the statutory option is a much-needed update to road traffic legislation

in Northern Ireland, and I worked closely and in collaboration with the PSNI on its delivery.

There is no excuse for drink-driving. I want to take a zero-tolerance approach to it, and I know that the PSNI is taking a zero-tolerance approach too. We will continue to work together to tackle drink-driving and to send a clear message that it is unacceptable and that it kills.

Cycle Counters: Investment

T5. **Mr Lyttle** asked the Minister for Infrastructure, in light of the fact that Comber greenway usage has increased by more than 75% from April to November 2020, which is a welcome increase and an evidence base on which to target investment in walking and cycling along that route, not least through lighting, whether she will commit to investing in a new network of cycle counters on key streets, roads and greenways to enable further targeted investment in Active Travel across Northern Ireland. (AQT 855/17-22)

Ms Mallon: I thank the Member for his question. It is something that we are actively exploring as part of our blue/green fund. The Member rightly mentioned the increase in usage figures for the Comber greenway. At the recent Waterways Ireland meeting, we were reminded again of the exponential growth in the number of people embracing our greenways, so I want to do what I can to progress that.

I am a firm believer in "If you build it, they will come". However, we always need an evidence base, and that is why we are looking at whether we can put more counters in places so that we can provide the evidence of what is happening. There is a quiet revolution of people embracing Active Travel and reconnecting with nature and with one another.

Mr Lyttle: Can the Minister provide an update on the budget allocation for Active Travel in the next financial year?

Ms Mallon: I wish that I could. I wish that I could say that we had seen a vast increase in the allocations to my Department to enable me to do so much more. However, I assure the Member that, even in the absence of that information, I remain committed to doing what I can to progress that agenda while I remain Minister for Infrastructure.

3.30 pm

Dangerous Trees

T6. **Ms Dillon** asked the Minister for Infrastructure, having previously discussed the issue of dangerous trees along roadsides, with the Minister outlining the Department's official position, whether the Department will complete a scoping exercise into anything further that can be done, particularly because she has reported many dangerous trees, including those that have fallen across roads, and, given that, will the Minister commit to meeting with her and one of her constituents whose daddy was killed last year by a falling tree, leading to her campaigning to have the issue addressed. (AQT 856/17-22)

Ms Mallon: I am very aware of the case that the Member has raised and the fact that she has made representations to me on the issue. The Member will know that there are complex issues around land ownership and legal responsibility in that regard. However, I am more than happy to meet the Member and her constituent to discuss what the Department is doing, our approach and what we can do working with other partners.

Mr Deputy Speaker (Mr McGlone): Thank you, Minister. Time is up. I ask Members to take their ease, please, while we change the top Table and prepare for the next item of business.

(Mr Speaker in the Chair)

Executive Committee Business

Domestic Abuse and Family Proceedings Bill: Further Consideration Stage

New Clause

Debate resumed on amendment No 1, which amendment was:

Before clause 26 insert –

"Information-sharing with schools etc.

A26.—*(1) The Department of Justice may by regulations make provision—*

(a) enabling or requiring a relevant person to inform a designated person in relation to an education provider of an incident of domestic abuse concerning a child who is a pupil or a student of the education provider,

(b) for the purpose of or in connection with functions exercisable by a relevant person or a designated person accordingly.

(2) Here—

(a) a relevant person is a person of a description (or acting in a particular capacity) specified in regulations under this section,

(b) a designated person in relation to an education provider is a person of a description (or acting in a particular capacity) specified in regulations under this section,

(c) an education provider is—

(i) a school or a college,

(ii) a non-school body which provides pre-school education (or any facility or setting at which pre-school education is provided), or

(iii) any other body or facility which provides education or training of any kind (or any facility or setting at which education or training of any kind is provided),

(d) an incident is one whether alleged or proved,

(e) a child is a person under 18 years of age.

(3) A relevant person, as may be referred to in regulations under this section, must be a person who has functions of a public nature.

(4) Regulations under this section may include provision—

(a) describing what is to be regarded as an incident of domestic abuse concerning a child,

(b) concerning—

(i) pupils or students generally, or particular categories of pupil or student,

(ii) education providers generally, or particular categories of provider (or particular facilities or settings within different categories),

(c) stating who is to be regarded as a pupil or a student of an education provider,

(d) setting out circumstances in or reasons for which—

(i) a relevant person may or must give information to a designated person or a designated person may or must give information to a relevant person,

(ii) a different person (including of a description specified) may or must give information to a relevant person or a designated person,

(e) with respect to information—

(i) regulating or limiting the use or disclosure of information by a relevant person or a designated person,

(ii) specifying offences and penalties for unauthorised use or disclosure of information.

(5) Regulations under this section may include provision involving such further matters as the Department of Justice considers appropriate.

(6) Regulations under this section may include provision amending statutory provisions (as construed in accordance with section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(7) Regulations under this section may not be made unless a draft of the regulations has been

laid before and approved by a resolution of the Assembly.”— [Mrs Long (The Minister of Justice).]

The following amendments stood on the Marshalled List:

No 2: Leave out clause 26 and insert –

"Protective measures for victims of abuse

26.—(1) *The Department of Justice may by regulations make provision—*

(a) enabling or requiring steps to be taken or measures to be imposed for protecting a person from abusive behaviour,

(b) for the purpose of or in connection with such steps or measures for protecting a person from abusive behaviour.

(2) Steps or measures which may be provided for in regulations under this section are not limited to notices or orders as referred to in this section (and nothing in the following subsections of this section is to the prejudice of the generality of what may be provided for in regulations under this section).

(3) Protecting a person from abusive behaviour is—

(a) protecting a person from abusive behaviour perpetrated by someone to whom the person is personally connected, or

(b) protecting a person from risk of abusive behaviour perpetrated by someone to whom the person is personally connected.

(4) What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.

(5) Regulations under this section—

(a) may include provision to the effect that steps or measures are available on the basis of alleged as well as proven behaviour,

(b) must include provision to the effect that steps or measures—

(i) are for protecting persons who are at least 16 years of age, and

(ii) are to apply in relation to perpetrators or alleged perpetrators of abusive behaviour who are at least 18 years of age.

(6) Regulations under this section may include provision—

(a) about the giving of notices to perpetrators or alleged perpetrators of abusive behaviour (or for review or withdrawal of notices) by a police officer,

(b) setting out grounds for giving notices, conditions to be met before notices may be given or circumstances in which notices may be given (including matters to be taken into account before notices are given),

(c) setting out—

(i) what requirements, including restrictions or prohibitions, may be imposed by notices (and for how long and as to which places),

(ii) specifying information to be included in notices,

(d) allowing notices to impose requirements relating to, as well as relating to persons for whose protection notices are given, children of or residing with persons for whose protection notices are given.

(7) Regulations under this section may include provision—

(a) about the making of orders against perpetrators or alleged perpetrators of abusive behaviour (including orders extending, varying or revoking previous orders) by a court,

(b) setting out grounds for making orders, conditions to be met before orders may be made or circumstances in which orders may be made (including matters to be taken into account before orders are made),

(c) setting out—

(i) what requirements, including restrictions or prohibitions, may be imposed by orders,

(ii) conditions to be met for imposing electronic monitoring requirements in orders,

(d) allowing orders to impose requirements relating to, as well as relating to persons for whose protection orders are made, children of

or residing with persons for whose protection orders are made,

(e) allowing orders—

(i) to apply for specific periods (or to have temporary effect),

(ii) to apply generally or to be expressly limited to particular localities,

(f) specifying—

(i) who may make applications for orders, whether notification of applications is required or circumstances in which applications may or must be made,

(ii) proceedings in which orders may be made or circumstances in which applications need not be made in such proceedings,

(g) in relation to proceedings as to orders—

(i) prescribing rules of procedure to be followed,

(ii) stating what evidence may be heard or must be considered,

(iii) making special measures available for the benefit of witnesses,

(iv) deeming proceedings to be either civil or criminal proceedings,

(h) enabling—

(i) rules of court, county court rules or magistrates' courts rules to make provision for procedures in relation to orders (so far as other powers to make rules cannot be relied on for this),

(ii) appeals to be made to a court against the making of orders or against decisions not to make orders (and for appeals to be final).

(8) Regulations under this section may include provision—

(a) imposing notification requirements on persons subject to orders,

(b) conferring on police officers powers exercisable in particular circumstances to take samples or images from or of persons believed by them to be subject to such notification requirements.

(9) Regulations under this section may include provision to the effect that—

(a) persons who are subject to orders that are not expressly limited to particular localities must comply with such orders—

(i) in all parts of the United Kingdom,

(ii) outside the United Kingdom if particular conditions in relation to having a residential connection with Northern Ireland, or being a national of the United Kingdom, are met,

(b) every other provision in such regulations, particularly with respect to breaches of orders, applies accordingly.

(10) Regulations under this section may include provision—

(a) conferring on police officers powers of arrest exercisable with a warrant or powers of arrest exercisable without a warrant—

(i) in relation to breaches or suspected breaches of notices,

(ii) in relation to breaches or suspected breaches of orders,

(b) requiring persons arrested for breaches or suspected breaches of notices or orders to be brought before a court within specified time limits,

(c) authorising persons arrested for breaches or suspected breaches of notices or orders to be detained in custody, pending being brought before a court—

(i) in specified circumstances,

(ii) for periods not exceeding specified limits,

(d) authorising persons brought before a court in relation to breaches or suspected breaches of notices or orders to be remanded in custody, or granted bail (with or without conditions attached)—

(i) in specified circumstances,

(ii) for periods not exceeding specified limits,

(e) specifying offences and penalties—

(i) for breaches of notices or for breaches of orders,

(ii) for breaches of notification requirements by persons subject to notices or orders.

(11) Regulations under this section may include provision regulating or limiting the use of, or controlling or requiring the retention or destruction of, samples or images taken from or of persons under such regulations.

(12) Regulations under this section may include provision—

(a) for the Department of Justice to—

(i) issue or publish guidance about the exercise of functions under such regulations (except judicial functions),

(ii) keep such guidance under review or revise such guidance in light of review,

(b) specifying who is to have regard to such guidance when issued or published or circumstances in which regard is to be had to such guidance.

(13) Regulations under this section may include provision involving such further matters as the Department of Justice considers appropriate.

(14) Regulations under this section may include provision amending statutory provisions (as construed in accordance with section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(15) 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 Chapters 1 and 2 come into operation.

(16) Regulations under this section may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.”— [Mrs Long (The Minister of Justice).]

No 3: Leave out clause 27 and insert –

"Eligibility of victims for civil legal aid

27.—(1) In the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, in regulation 10 (waiver of eligibility limits in proceedings relating to domestic violence or forced marriage)—

(a) after paragraph (1) insert—

‘(1A) This regulation applies to an application by a client for the funding of representation (lower courts) in proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995 if—

(a) the client is the respondent in the proceedings, and

(b) the Director is satisfied that—

(i) the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by the applicant seeking the order, and

(ii) the applicant seeking the order is someone to whom the client is personally connected.’,

(b) after paragraph (4) insert—

‘(5) The following apply for the purposes of paragraph (1A) as they apply for the purposes of Chapter 1 of Part 1 of the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020 (to give meanings to certain expressions)—

(a) section 2 (as read with section 3(2)) of that Act,

(b) sections 4 and 5 of that Act.’.

(2) Guidance under section 3 of the Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 must describe the basis, particularly as regards applicable information about the commission or alleged commission of an offence involving domestic abuse, on which the Director may be satisfied as mentioned in regulation 10(1A) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(3) An offence involving domestic abuse is—

(a) an offence under section 1, or

(b) an offence of any kind that is aggravated as provided for in section 15.

(4) The Director is as defined in the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(5) This section is without prejudice to—

(a) any power to make regulations under the Access to Justice (Northern Ireland) Order 2003,

(b) the power to give guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.— [Mrs Long (The Minister of Justice).]

No 4: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), after "funding of" insert "advice and assistance or".— [Miss Woods.]

No 5: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), leave out "(lower courts)".— [Ms S Bradley.]

No 6: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), leave out (a) and (b) and insert –

"the Director is satisfied that—

(a) the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by another party to the proceedings, and

(b) the other party to the proceedings is someone to whom the client is personally connected.".— [Miss Woods.]

No 7: New Clause

After clause 27 insert –

"Proposals as to availability of civil legal aid

27A.—(1) The Department of Justice must lay before the Assembly a report setting out the Department's proposals for—

(a) making regulations under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose, or

(b) taking some different course of action for the prescribed purpose.

(2) A report under this section must be laid before the Assembly before the end of the period of 2 years beginning with the day on which this Act receives Royal Assent.

(3) The prescribed purpose is that of—

(a) reducing (including to nil), in specific circumstances, financial costs to be incurred by

a relevant client with respect to receiving funded services in or in relation to qualifying proceedings to which an abusive person as well as the relevant client are parties, or

(b) preventing, so far as reasonably possible—

(i) qualifying proceedings from being initiated unduly against a relevant client by an abusive person by virtue of having access to funded services, or

(ii) qualifying proceedings to which both a relevant client and an abusive person are parties from being prolonged unduly by the abusive person by virtue of having access to funded services.

(4) Qualifying proceedings are—

(a) proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995, or

(b) proceedings on appeal arising from proceedings for an order that is an Article 8 Order within the meaning of the Children (Northern Ireland) Order 1995.

(5) A relevant client is a client who is or appears to be the victim of abusive behaviour.

(6) An abusive person is someone—

(a) who is the perpetrator or apparent perpetrator of abusive behaviour of which the relevant client is or appears to be the victim, and

(b) to whom the relevant client is personally connected.

(7) A conclusion by the Director, when acting by virtue of regulations made under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose—

(a) as to whether—

(i) a person is or appears to be the victim of abusive behaviour, or

(ii) someone is the perpetrator or apparent perpetrator of abusive behaviour, or

(b) as to whether two people are personally connected to each other,

may be reached, particularly on the basis of applicable information about the commission or alleged commission of an offence involving domestic abuse, having regard to appropriate guidance given under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.

(8) What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.

(9) An offence involving domestic abuse is—

(a) an offence under section 1, or

(b) an offence of any kind that is aggravated as provided for in section 15.

(10) A reference in this section to a client or funded services, or to the Director, is to be construed in accordance with the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.— [Mrs Long (The Minister of Justice).]

No 8: In clause 28, page 14, line 36, leave out subsection (2).— [Mrs Long (The Minister of Justice).]

No 13: In clause 38, page 32, line 27, at end insert –

"(1ZA) Section 27 comes into operation at the end of the period of 12 months beginning with the day on which this Act receives Royal Assent."— [Mr Givan (The Chairperson of the Committee for Justice).]

Mr Givan (The Chairperson of the Committee for Justice): Before I comment specifically on the amendments before us, I, on behalf of the Justice Committee, acknowledge the early notice that the Department provided of its intention to bring forward a number of amendments at Further Consideration Stage, which was very helpful. I also welcome the officials' engagement on the proposed amendments to the provisions that the Committee brought forward at Consideration Stage that were supported by the Assembly, and the constructive approach adopted to changes that the Committee requested to the text of the draft amendments before they were finalised and tabled for consideration by the House today.

I turn to amendment Nos 1 and 8, which, as the Minister outlined, replace the current provision in the Bill to enable the sharing of information between the police and schools for well-being as opposed to for child protection purposes. That will ensure that schools are in a better position to understand and be supportive of the child's needs and possible behaviours as a result of being notified when a domestic abuse incident to which the police have been called out has occurred the previous night. Prior to Consideration Stage, the Minister advised the Committee that she agreed that there was considerable merit in a provision to enable information to be shared for the purpose of an Operation Encompass-type approach, and, if the Committee amendment were made, it was her intention to table an amendment at Further Consideration Stage to ensure that the provision was as robust as possible and fully provided for the necessary regulations to be brought forward. The Committee welcomed the Minister's support for that provision and indicated that it would be happy to consider any amendments to improve it before the Bill completed its passage.

At its meetings on 26 November and 1 December, the Committee considered the amendments to leave out subsection 2 of clause 8 and to replace it with a new clause. Following consideration of the initial draft of amendment No 1, the Committee was content with widening the scope to cover instances where a child or young person is educated in centres other than schools but asked the Department to consider also including preschool settings; those in primary schools and other preschool settings. Officials undertook to consider that, in conjunction with Department of Education colleagues, and subsequently provided revised texts that covered that aspect as well. The amendment that is before us will now ensure that children and young people are better safeguarded against the short-, medium- and long-term effects of domestic abuse, regardless of whether they are being educated in a preschool setting, in school or in a centre other than a school.

Amendment No 1 also enhances and strengthens the provision that was brought forward by the Committee at Consideration Stage by providing increased detail and clarity to ensure that the provision will fully meet the intended purpose and that the enabling powers are as robust as possible. The Committee, therefore, welcomes and supports amendment Nos 1 and 8.

Amendment No 2 is intended to replace clause 26 with a much more detailed provision, building on and expanding the provision and setting out a detailed framework for the underpinning regulation-making powers. The initial draft of the amendment provided by the Department focused solely on covering domestic abuse protection notices and orders and left out the provision of measures other than court orders that is currently provided for in clause 26. The Committee believes that the flexibility that is provided by the inclusion of that is important and, therefore, asked the Department to reflect that aspect in the amendment that it was bringing forward. That has been done.

Committee members also questioned officials on the need for such detail to be included in the Bill and whether it was being too prescriptive; whether the text was modelled on the domestic abuse protection notices and orders that are being brought forward in England and Wales; whether the intention was still to legislate for those notices and orders in a Justice miscellaneous provisions Bill; and whether there was enough flexibility to take account of the results of the Department's proposed consultation on that policy area. Officials confirmed that the intention was still to bring forward amendments during the passage of the Justice miscellaneous provisions Bill to provide for domestic abuse protection notices and orders and that the aim of the amendment was to build on and strengthen the provision now in the Bill and to ensure that it provides the required authority to enable the Department to take forward the notices and orders by way of regulation if there were unforeseen circumstances that prevented them being progressed in the miscellaneous provisions Bill. They also confirmed that account would be taken of the results of the consultation on the proposed protection notices and orders, which has just been launched, before legislative provision is made.

Mrs Long (The Minister of Justice): I thank the Chairman for giving way. I want to correct something that I said in my opening remarks, which was that I launched the consultation on DAPNs and DAPOs today. I actually launched it last week, so I was underselling what the Department had managed to do in the time available. I apologise for that. I hope that that corrects the record, Mr Speaker.

Mr Givan: I thank the Minister for that.

Questions were also raised about the different age thresholds for protecting persons and about perpetrators or alleged perpetrators in the

amendment. Officials agreed to check the age thresholds that apply in other jurisdictions regarding similar notices and orders and to seek the views of the Northern Ireland Commissioner for Children and Young People (NICCY) on whether there was a need to address the differential. Following further information and clarification on that issue from the Department, which indicated that the Commissioner for Children and Young People and the National Society for the Prevention of Cruelty to Children (NSPCC) are keen to ensure that measures do not inappropriately criminalise young people, given that there are other interventions to deal with abusive behaviour, protections would continue to be afforded where the alleged perpetrator is under 18 years of age through non-molestation and occupation orders.

In England and Wales, and in Scotland, domestic abuse protection notices and orders apply to alleged perpetrators who are aged 18 or over. The Committee agreed that it was content with the approach being adopted by the Department. Having received assurances on the range of issues raised, and with the change that we requested now incorporated, the Committee is therefore content to support amendment No 2.

Before turning to the Committee's amendment, I will address amendment Nos 3 and 7, which relate to clause 27 and the eligibility of victims for civil legal aid. As outlined at Consideration Stage, the Committee did not have an opportunity to consider the amendment on the eligibility of victims for legal aid, which is now clause 27, and therefore did not have a position on it.

Following Consideration Stage, the Department provided information to the Committee setting out its concerns regarding clause 27, which the Minister has already articulated, and the text of a draft amendment. Members discussed those in detail with officials at the meeting on 26 November and expressed concerns that the proposed amendment made significant changes to clause 27 and provided for a report to be produced, rather than a specific outcome, which appeared to undo what had been agreed by the Assembly at Consideration Stage. The Committee agreed that, if the Department brought forward a revised amendment, it would consider it at a meeting on 1 December. Discussions took place on 1 December on amendment Nos 3 and 7. Again, a number of members raised a range of issues and concerns regarding those amendments and indicated that they were not content with what was being proposed by the Department. The

Committee subsequently agreed to note the departmental amendments. Individual members could bring forward further amendments if they wished to do so, and those would be considered during this debate.

The Justice Committee's amendment, amendment No 13, provides for clause 27 to come into operation 12 months after the Bill receives Royal Assent. As most, if not all, Members will be aware, the Committee initially brought forward an amendment to provide for clause 27 to be commenced at the same time as chapters 1 and 2 of the Bill. The Minister's clear opposition to the amendment made by the Assembly at Consideration Stage to insert clause 27, which deals with eligibility for civil legal aid, resulted in subsequent draft amendments provided by the Department. These appeared to delay or defer any implementation of the provision, which would be against the will of the Assembly. In light of this, Committee members were of the view that it was important to include more specific details on the commencement of clause 27, rather than leaving it to the Department's discretion. The Committee, at its meeting on 1 December, therefore agreed to bring forward the amendment that I have just described, which was amendment No 15 in the previous Marshalled List.

On the day before Consideration Stage, which was a Sunday, a joint letter was received from the Ministers of Justice and Finance asking me, in my capacity as Chairman of the Committee, to consider not moving that amendment. The letter indicated that, while the Ministers were sympathetic to the aim of supporting victims of abuse involved in article 8 Children Order hearings, they were concerned that the potential financial implications of clause 27 could be significant.

When the Minister did not move Further Consideration Stage last Monday, on the basis that I had not given a commitment not to move the Committee's amendment, I made it clear to the House that I could not unilaterally change a decision of the Committee, even if I wished to do so. No doubt, if I did, the members of the Justice Committee would hold me to account.

With the correspondence coming at such short notice, it provided no opportunity to arrange a meeting of the Committee before Monday lunchtime, when Further Consideration Stage was scheduled to take place. However, in light of the deferral of Further Consideration Stage, an emergency meeting of the Committee was arranged for last Tuesday, and the Minister and permanent secretary were able to attend to

provide further information and clarification of the financial concerns highlighted in the letter. I place on record my appreciation to the Minister and permanent secretary for being able to attend at such short notice.

The session was very useful as it provided an opportunity to explore the position and the financial concerns in more detail than had been provided in the letter received by the Committee and upon which the Minister had wanted the Committee's amendment to be abandoned.

During the evidence session, Committee members sought information on a range of issues, including the scope of the potential costs; the possible repercussive implications; the timescale for completion of the due diligence exercise; details of other court cases referred to by the Minister and the permanent secretary; the victims who would be eligible for civil legal aid under the Department's proposed amendment to clause 27; and the threshold or evidential test that would be applied. Potential ways in which to alter the Committee's amendment were also explored with the Minister, but she did not see any of those proposals as being a satisfactory way in which to proceed.

3.45 pm

Following that session, and before the Committee discussed what approach it wished to adopt, a representative from the Women's Aid Federation joined the meeting to discuss the civil legal aid eligibility clause — clause 27 — which is already part of the Bill. I place on record the Committee's appreciation of the work carried out by the Women's Aid Federation and by its representative, who made herself available to attend the Committee meeting, which, again, was called at very short notice. I reassure other groups that support domestic abuse victims that it was only the very tight timescale within which the Committee was considering the matter that prevented us from holding further discussions with them.

Women's Aid emphasised how pleased women whom they represent are that legal aid is being discussed and has been included in the Bill. The representative highlighted the fact that reform of legal aid has been promised in the past with little being achieved and that there is a fear that clause 27 will not be commenced. She provided information on a range of case studies in which perpetrators are already using the system to continue to abuse, illustrating that the cost to victims is substantial and ongoing for a considerable period. She also provided

further obvious reasons for why they would like to see the scope of provision being as wide as possible. She indicated that those women to whom she had spoken before coming to the Committee really wanted to see the issue fully addressed in the Bill.

Following the evidence sessions, the Committee spent a considerable amount of time discussing the additional information provided and the most appropriate way in which to progress the issue. I thank the members of the Committee for the time and effort that they spent on the matter. Although members were content to decouple the commencement of clause 27 from Parts 1 and 2 of the Bill, as provided for in the Committee's original amendment, which the Minister had indicated would prevent her from taking forward the rest of the Bill, including the new offence that everyone wants to see brought in as soon as possible, there was a range of views on whether an alternative amendment relating to the commencement of clause 27 should be brought forward.

Although some members did not feel able to support a further commencement amendment, others expressed the view that it was important to provide some certainty on the timescale for the commencement of the legal aid clause, particularly given the views expressed by, and the expectation of, victims. Concerns were also expressed that a number of differing figures and costs had been mentioned by the Department without a reference point, and it was clear that, until the due diligence exercise has been completed, it will not be possible to provide figures or information on the likely impact with any degree of accuracy. Although the Minister gave a commitment during the evidence session to commence clause 27 if the outcome of the due diligence exercise was satisfactory, the timescales for that to be completed were vague. The lack of evidence and firm timescales was a factor for members.

Mrs Long: I thank the Chairman for giving way. We could not give a definite timescale for how long due diligence would take, but I was able to reassure the Committee that it was my intention, if the due diligence exercise proved that there were no repercussive costs, to commence the offences and the legal aid provisions at the same time. That reassurance was also given in writing by me and the Finance Minister in our letter to the Committee.

Mr Givan: I thank the Minister for that. When I am speaking as a private Member, I will go into that more. As Members will appreciate, I am

just setting out the context of how the Committee considered all those things.

The Committee subsequently agreed to withdraw its original amendment No 15 and table what is now amendment No 13, which, as I outlined earlier, provides for clause 27 to come into operation 12 months after the Bill receives Royal Assent. Members viewed that as a reasonable way forward to enable the Minister to progress the Bill while setting a timescale for the legal aid provision. It provides more than 12 months for the due diligence exercise to be completed. If the exercise indicates that there are no or minimal implications, the Minister can commence the legal aid provision. If the exercise indicates that the repercussive impact will be as she fears, members who support the Committee amendment have already placed on record during the Committee meeting — I am sure that they will repeat it during the debate today — that they would support her bringing forward either a provision in the Justice Bill or a very short stand-alone Bill through accelerated passage to repeal the legal aid provision.

Although all Committee members were content to withdraw the original amendment, not all supported amendment No 13. I am sure that they will outline their reasons for that today. I will also expand on why I support the approach of the Committee when I speak as an individual MLA.

Following the Committee's decision to bring forward amendment No 13, the Minister wrote to the Committee indicating that she would resist the amendment. The Minister also repeated her undertaking that, if, after appropriate due diligence, the legal aid provisions are not deemed to be repercussive, she would accede to the Assembly's wishes and commence clause 27. She also stated that, by convention, a Minister's assurances on those matters are usually sufficient, and that she was disappointed with the approach that was adopted by the Committee. I reassure the Minister that Committee members have made it clear that this is not a matter of trust in her. No one knows what will happen over the coming months. Given that no specific timescales could be provided to the Committee with regard to the completion of the due diligence exercise, and with the end of the mandate coming in approximately 15 months' time, following which there may be a change of Minister, the Committee amendment provides reassurance that clause 27 will be commenced within a reasonable timescale but with commitments that, if there are significant repercussive impacts, support will be forthcoming to repeal

clause 27. I ask Members to support the Committee amendment, which has been brought forward to balance and address the concerns of the Minister and the sector and to enable all of the provisions in the Bill to be enacted at the earliest opportunity.

That concludes my commentary in my role as Chairman of the Committee. I will now make some individual remarks. Obviously, I welcome the fact that we have reached Further Consideration Stage today. This issue was addressed briefly when the Bill was not moved. In respect of what was originally amendment No 15, which, subsequently, was withdrawn, and is now amendment No 13, the Minister, in her letter to the Committee, made it clear that it does not address the fundamental point that she made at the Committee session. The fundamental premise on which the Minister chose not to move Further Consideration Stage a week ago has, according to her, not changed, and yet Further Consideration Stage was moved today.

Mrs Long: Will the Member give way?

Mr Givan: In one moment, after I elaborate. That begs the question of why. The Committee carried out its role with efficiency and detailed scrutiny in the expectation that the Bill would receive Royal Assent before the end of this year. However, by not moving last week, that is now not possible; Final Stage will not take place until January. We have lost five or six weeks. The Committee carried out its work expeditiously, as it wanted to complete the Bill well in advance of Westminster, but we now have a six-week delay, which, based on what the Minister said, is entirely unnecessary.

I give way to the Minister.

Mrs Long: I am happy to clarify that my point was that the issue of commencing legislation that was fundamentally flawed and could lead to repercussive costs had not been addressed. I am able to bring forward Further Consideration Stage this week because it is no longer coupled to the commencement of the offences, which means that the entire Bill would not be destroyed.

I correct the Member on a further point that he made when he was elucidating on those points: Royal Assent was never going to be received this side of Christmas. Final Stage was intended for today, but Royal Assent would not have been forthcoming until January because of the delay between Final Stage and Royal Assent. There has been a one-week delay in

the Bill's progress. That is regrettable, but I am glad that we are here today to conclude the proceedings as quickly as possible.

Ms Bradshaw: Will the Member give way?

Mr Givan: I will give way to the Member for South Belfast shortly.

I do not want to repeat myself, because we are making progress. These are more points of accuracy and completeness so that the record will show, when we have this in years to come, if people want to look back in order to have a full picture. So these are more points of accuracy, and I mentioned the responsibilities that I have in my role as Chairman to carry out the will of the Committee, even if I do not agree with the Committee. I made it clear earlier in my commentary that a letter was received very late on Sunday evening. Subsequently, the Minister was accusing me of having been the cause of the delay and, indeed, in not moving the Further Consideration Stage, said:

*"I asked the Chair of the Committee not to move amendment No. 15, but he refused to give me that assurance this morning."—
[Official Report (Hansard), 7 December 2020, p18, col 2].*

That was last week. I do not recall, at any stage, the Minister phoning me or sending me any text messages when it came to seeking that assurance. I do recall walking into the Chamber, where the Minister and Mr Frew were engaged in —

Mrs Long: A conversation.

Mr Givan: — a conversation. I took my seat, getting ready to make a point of order, and you, Minister, asked me about this while I wanted to deal with Assembly business. Yet you took that as a definitive response that I was not in a position to give you that response and that you would have to wait.

Mrs Long: Will the Member give way?

Mr Givan: You took that as the basis for then not moving the Further Consideration Stage and used it as justification for what you said in the House and, indeed, for what subsequently went out on Twitter. I would expect that, when you are seeking formal communication from me as Chairman, it would go beyond just me walking in on an exchange between you and this Member. That was the basis on which you proceeded to justify the action.

Mrs Long: I thank the Member for giving way. I am happy to place the exchange on the record, because I think that it is helpful to other Members to understand why. As you know, the particular issue did not arise until the weekend, and therefore there was a very small amount of time for us to turn that around. I did write to the Committee Chair, and the letter was circulated to Committee members. For whatever reason, they could not meet on the Monday morning. That is not my business, nor is it for me to direct the operations of the Committee. However, when I asked the Chairman in good faith in this Chamber, face to face, which is an appropriate exchange between two professional individuals, I was told, "You'll see when you see." On that basis, I was not in a position to proceed with Further Consideration Stage last week.

Mr Speaker: I think that we are now getting bogged down in a "When I said what to whom in what circumstances" exchange, which is not adding substance to the debate.

Mr Givan: Thank you, Mr Speaker. I will take your guidance on that. I have put on record how I felt it should have been done, as opposed to the approach that was taken. Again, on a point of accuracy, when Further Consideration Stage was not moved, the Department issued press releases saying that the legal aid amendments were Justice Committee amendments. They were not; they were tabled by Rachel Woods. Mr Frew added his name to them, but they were not Justice Committee amendments. The press release that went out in respect of that matter was inaccurate.

On the substance of legal aid and the associated costs, the Minister is right to raise concerns about setting parameters and wanting to make sure that there are no uncostered provisions. No Member would want to sign up to that. It is worth putting on the record, though, that if the Department is right that clause 27, as it appears in the Bill, could cost £14 million, then there is a very real issue for victims of domestic abuse. I do not accept that there is a basis in evidence to say that there is a gaping hole and that abusers would benefit from it. I know that my colleague Mr Frew will elaborate on some of those points. The basis of opposition has been predicated on this notion of helping abusers. Many of the people whom I have spoken to indicate that the abusers often have legal aid already, but that they do not. In that regard, I want to put on record my thanks to the members of the Women's Aid branch in Lisburn in my constituency, whom I met only a number of weeks ago after Consideration

Stage, and the women from the Atlas Women's Centre, who are facing the very real problem of domestic abuse and from whom I heard first-hand about the challenges that they face. There is a real problem that, if it is £14 million, it is victims of domestic abuse who are having to pay for it out of their own pocket. The public, rightly, are concerned about that.

The Minister indicated that her amendment No 3, if unamended by amendment Nos 4, 5 and 6, would reduce that exposure to half a million pounds. It is, therefore, a very significant change from £14 million to half a million pounds. That is something that Members will have to bear in mind.

4.00 pm

In our approach to this, my party and I have recognised it as a real issue. It has been laid by other Members, and the Department has been responding to that, but this is a very real issue that we want to see addressed. We want to have it commenced. We accept that amendment No 7, which would enable a wider review to take place on contact orders when it comes to legal aid, is something that we want to see. Our problem with amendment No 7 is that it suggests a two-year process that commits the Department to bring forward only proposals. It does not have an outcome other than the Department bringing forward proposals two years later. I regard clause 27, which is subject to the amendments being voted on, as a catalyst to ensuring that this is dealt with by the Department, because all the organisations that I have spoken to feel let down. They feel that promises have been made but not carried through. We need to ensure that they are. Clause 27 will ensure that amendment No 7 is enacted.

I will move now to the concerns on legal aid. The Minister and the Department will know that the Legal Services Agency has had its accounts qualified for years. I do not believe that, since it was formed, it has not had its accounts qualified for fraud and error. I read a report that the Committee received recently, and I saw that the agency's error on the lower confidence side of its estimates is £6.5 million, and, on the upper end, it is £10 million. It strikes a median and says that it believes that error in the Legal Services Agency amounts to around £8 million — around £2 million in underpayments and £6 million in overpayments.

We are in a place where victims of domestic abuse are asking for more support from legal aid but the Department is resisting because of

the £14 million and has an amendment to reduce it to £500,000. Yet, according to a report that we have, the Legal Services Agency, in its own figures, is handing out around 11% of its total budget through error. I would love the Legal Services Agency to be able to put its house in order and to be efficient. If it was, we would have in the region of £6 million at least, without seeking additional funding for legal aid, that could go towards funding the provisions that the Assembly wants to make. The Department's case on protecting the public purse would be much stronger if the Legal Services Agency was able to put its house in order.

That, of course, takes us to those who already qualify for legal aid. Often, we hear from the public that those who are being prosecuted for criminal offences do not seem to have a problem in being able to fund and get legal aid for all the legal defence teams that represent them. We need to have a much broader review of the legal aid budget. The Minister's predecessor, Mr Ford, took forward the reform of standardised fees, and he faced significant resistance from the profession when doing so. I was Chair of the Committee at that time, and I supported him in that process. There is, therefore, a track record of seeking to reform legal aid. We need to listen very closely to what the victims of domestic abuse are telling us when they say that they need support. I want to see the wider reform of legal aid in its entirety, not just on contact orders. I would support the Minister's bringing forward proposals on a more holistic reform, but we need to have clause 27, subject to these amendments.

I assure the Minister that, whatever the outworkings of amendment Nos 4, 5 and 6, I will support amendment No 3. It gives a structure and framework. However, we reserve our position on amendment Nos 4 and 6. We will listen to what Members say in respect of them, and I know that colleagues from my party will elaborate on them. We will support amendment No 5, in the name of Sinéad Bradley and Rachel Woods.

Ms Dillon: I thank the Minister for her opening remarks. We concur with much of what the Chairperson said, particularly his remarks about the assistance that organisations, and individual victims, have given us. At the end of the day, it is all about those people.

As I outlined at the Committee meeting last week, we talk about "stakeholders". In this place, we really get into that language: talking about "stakeholders" and who you "engage with". The language becomes very similar.

However, when we talk about "stakeholders" in this Bill, we mean victims and the many people who suffer terrible abuse. Most of those who will benefit from this Bill do not yet know that this is for them; they have not yet been a victim or do not yet know that they are a victim. We talk about people we have "engaged with", but we have not engaged with the many people on whose lives this Bill will have the biggest impact. We need to be conscious of that.

I place on record my thanks to Women's Aid, Cara-Friend, the Men's Advisory Project, The Rainbow Project, the Children's Commissioner and many others who have engaged with us and been really helpful. We are here to legislate, but we have to take advice from those who know what they are talking about. That is particularly so from a human rights perspective, and that is what this is about — human rights.

In group 1, amendment No 1 was very important for me. It was probably the most easily agreed amendment between the Committee and the Department. I appreciate the work that the Department did in enhancing this amendment. I place on record my thanks to the Departments of Justice and Education for working so well together to ensure that the amendment could come forward and that we could deliver something that will make a real difference in young people's lives. I said that in the original debate, so I do not need to go over it again. Nevertheless, it is important. We have focused on it over a number of years, and I want it placed on the record again. I thank Sinéad Bradley for her addition to it, with respect to preschool children, and for asking the Department to have that addition placed into the amendment, as it has further enhanced it.

In our schools and among our teaching staff, we have much to be grateful for. There have been many changes over the last number of years in recognition of what nurture is all about. This is another addition to nurture. Having this phrase in the Bill is important even for those who are not young but who are exposed to domestic abuse, as schools and teaching staff are aware that none of us knows what any young person coming into our teaching facilities has experienced at home. We must always be conscious of that. Therefore, amendment No 1 is extremely important for me, and I thank both Ministers for the work that they did, and for the speed with which they did it, to ensure that preschool children could be included.

Amendment No 2 relates to domestic abuse protection orders (DAPOs) and domestic abuse protection notices (DAPNs). Again, I see this as

important. All members agreed, at the beginning of this process, that the current operation of non-molestation orders is pathetic. They do nothing for victims. We see victims repeatedly go for non-molestation orders, often at their own cost, because they are low paid and therefore just above the threshold for assistance. We see people go to court and get a non-molestation order for two weeks, only to be brought back to court by the perpetrator.

I have seen in my constituency office people in this circumstance, particularly women but also others, who are at their wits' end because they cannot afford to go back to court for another non-molestation order. These are instances of serious domestic abuse and violence. Perpetrators are allowed access to the victims repeatedly, because their victims are not in a position to protect themselves. For me, it is important that the PSNI can issue the notice so that it happens immediately and does not mean waiting for a court process. We need to ensure that the PSNI has the right training and understands how to use tools effectively to protect victims. Training will be referred to later in the debate.

I thank the Minister and the Department for meeting the Committee halfway with the DAPOs and DAPNs. There was some resistance to that, but the Department listened and understood why it was important to the Committee. The Committee understood the challenges that the Department faced, but the Department has now gone out to consultation. I am hopeful that not only sectors and stakeholders will engage with the consultation but the individuals who come to our constituency offices day and daily for help and who need the protective notices and orders to be put in place.

Amendment No 3 is the Minister's amendment on legal aid. I do not intend to repeat everything that the Chair said on legal aid issues, but the Committee debated the issue at great length and found it difficult to agree on. That was not because the Committee thought that victims should not have more access to legal aid, because that was the one thing that the Committee did agree on. Every member of the Committee believed that victims need additional access to legal aid, as they currently do not have enough.

Last weekend, I spoke to Women's Aid, a number of other organisations and legal professionals who do pro bono work for victims. I spoke to those legal professionals because they are a good source of information. They highlighted the fact that respondents are being

repeatedly dragged through the courts and are being financially and psychologically abused. They also highlighted the fact that there are issues for applicants, as the Committee is well aware. I understand why Rachel Woods wants applicants to be included — so do I — but it would be better if it were done through the Department's amendment as it would give a fuller picture and limit the opportunity for it to be abused by perpetrators.

My biggest concern is not money. The Chair is right: money can be saved in legal services, and we need to look at how that could be done. There needs to be an overall review of legal aid that will show where money can be saved. The amendment is not about money; it is about protecting victims and ensuring that, whatever is put in place, will not create new victims. The Department has already outlined to the Committee that, if legal aid is widened for applicants, the definition of what constitutes a victim will be narrowed. From discussions with Women's Aid and others, we know that, if the definition is narrowed to only those cases with a conviction, very few victims will be able to avail themselves of legal aid, as there are very few convictions for domestic abuse and violence. Hopefully, what is about to be put into legislation will address some of that problem, but it will not address all of it because there are many issues. It is not just about what is in legislation; it is about the victims, and some do not want to go through the process. There are many challenging issues in that area.

I put this on record because it needs to be heard by the public. People need to recognise that domestic abuse is not just something that goes on in private homes and is private business. It is a criminal act. It is the most heinous of criminal acts because it is carried out by someone who is supposed to love and protect a person, but they are abusing that person in the place where they should feel most safe. We need to say that, and the legal aid issue needs to be addressed in a more fulsome way.

I will support amendment No 5, which removes the lower courts. While I accept that this caused some issues for the Department, which it has highlighted, there is not a strong enough argument against it. It has been raised with me that some people cannot access legal aid for serious child access cases that go to the High Court.

We have not fully established whether that is because that is not there for them, whether it is just that they do not know how to access it or whether it is because of the challenges that the

Minister outlined. I am not really sure, and that is the reason why I will support amendment No 5, which is in the name of Rachel Woods and Sinéad Bradley. We cannot take the chance that we will have cases moving from the lower courts to the higher courts without access to legal aid. It is important for that to be addressed.

4.15 pm

We will not support amendment No 6, and that is based on what I have already said about opening it up to applicants and our concerns around that creating new victims through the very fact that you will either allow perpetrators to be able to abuse this or you will narrow the definition of a victim so much that it will not be of any use to the people who need it most — that is, the many victims who are being dragged back through the courts repeatedly because of issues relating to access to their children.

Miss Woods: I thank the Member for giving way. Does the Member not agree that the potential misuse of the waiver will be an issue only if the Department does not produce the relevant guidance and processes to prevent it happening and that everything that the Department needs to do is in subsection (3) of the Minister's amendment?

Ms Dillon: I agree that it is the Department's role to do that, but that is exactly where my fear lies. I fear that the definition of who constitutes a victim will be narrowed so much that we will almost, if not actually, be at the point where people are considered to be victims only if the perpetrator has been convicted, and that will rule so many people out. That is not where we want to be. It is certainly not where the Member wants to be, because she brought the issue of the legal aid forward. That is vital, and we know from listening to the organisations and victims how important access to legal aid is. I absolutely support the Member's intent around this. It is nothing but good, honest and proper intent to help those who most need it, but I fear that we will end up helping fewer people by widening the scope. That is not to say that, when the proposals come forward, we should not then widen the scope based on those proposals.

Sinéad Bradley said earlier that faith in this House and the faith of the organisations and victims in us to deliver for them is at an all-time low. That is faith in all of us. Remember that: it is faith in all of us, including every member of the Committee, every MLA and Ministers, so, if we want to ensure that we deliver for them, we

all have to do it. We should not put that responsibility on any individual, on any Committee or on a current Committee, because there will potentially be different MLAs on different Committees in the next mandate. However, I would like to think that we have placed this on the record today to ensure that it will be honoured by any Assembly and any Member who sits in the Assembly and that any future Justice Committee will look at whatever proposals are brought forward and understand why they are so important to the sector.

I can certainly speak for myself when I say that, regardless of whether I am on the Justice Committee or whether I am an MLA, I represent my party and my party's views. My party is well aware that I expect members of my party to deliver in relation to this on any future Justice Committee. It is not just for me as an individual but is absolutely for whoever comes behind me to ensure that this is delivered. None of us knows how long we will be here and no Minister knows how long they will be in post, so we need to ensure that, when we start something, we do it with the intent that those who come behind us will complete the job. By doing that, we will truly regain some belief in this House and in us as individuals.

Unfortunately, we are unable to support amendment No 13, and I had already given a commitment that we would not support the original amendment No 15, which was around linking the commencement. It is for the reason that I just outlined: we all have a responsibility to ensure that what is in the Bill is delivered. Again, I will give an absolute guarantee on the record that, as long as I am on the Justice Committee and as long as my party has members on the Justice Committee, what is in the Bill will be delivered. It will only be as good as its roll-out, and it will only be as good as how well the Committee scrutinises it. We have put a lot in the Bill — we will speak to it in the next group of amendments — on the reporting and the independent oversight. That is extremely important, and I am glad that it is there. However, as a Committee, we have oversight of anything in the Department. We know what we have added to the Bill, why we added it and why it is important. We will therefore have a responsibility in relation to that. It is helpful to us that somebody independent will have oversight and to have the reporting processes in the Bill. That will give us the information that we need to ensure that we do the best with this Bill.

It is my hope that Members will support the amendments that we have asked to be supported. I am not asking Members to oppose the amendments that we oppose. That is not

my argument to make. I outlined the reasons why we will oppose them, but I am certainly not asking Members across the House to follow our lead. I ask only that Members consider the points that I have made.

Ms S Bradley: First, I am not just happy but relieved that Further Consideration Stage has been moved today.

I will go straight to the first group of amendments. Amendment No 1 inserts a new clause on information sharing with schools. The version presented is comprehensive, well drafted and carries on the intent contained in the Justice Committee's earlier amendment. This amendment provides one of many opportunities to place on record my thanks to departmental officials, who diligently listened to the views of Committee members and endeavoured to capture them in their amendments. It may also be an opportune time to thank the Bill Office, which assisted us in framing our thoughts on what we were trying to express in different amendments throughout the Bill. I am satisfied that the Committee has made a very robust contribution, as evidenced in the Bill at this stage.

In bringing forward this amendment, we recognise the ripple effect that domestic abuse can have on young lives. Children who are caught up in a domestic abuse incident of whatever form need support and protection. Without knowledge of an incident, school leaders and teachers will not know that the child may be in need of additional support or reassurance. The need to interpret any behaviours in the context of a potential cry for help needs to be flagged up at the earliest possible opportunity. Schools and teachers can and do offer a safe, steady and nurturing environment for our young people. It is in their interests to know when domestic abuse is an issue, and it is our duty to ensure that those same professionals are resourced adequately to deal with such reports. Amendment No 1 could be the lifeline that many young lives depend upon when domestic abuse becomes unbearable. I thank the Department and the Minister for following up on my request to add preschool education to this amendment. I very much welcome the amendment as a strong addition to the Bill.

Amendment No 2 is also a thorough and detailed development of the original intent. I have no doubt that, when operational, the protective measures for victims of abuse will provide significant reassurance to those who are unfortunate enough to become reliant on their outworkings. The breadth of regulations

and provisions that can be derived from having this clause in the Bill are extensive. A period of two years for the operation of clauses 1 and 2 gives them an actionable time frame, and the House should also note that the regulations stemming from this clause cannot be made without the resolution of the Assembly.

I welcome the Justice Minister's proposals in amendment No 3, which seeks to honour the earlier vote in the House to make legal aid available to victims and survivors of domestic abuse who have been further victimised by their abuser through the court system. Regardless of the debate that will ensue on the issue, it is important to note that this is in the Bill. In supporting amendment No 3, I hope that it will stay in the Bill and that legal aid will become available to those victims. When the clause was added, there was widespread agreement that more work needed to be done to refine the parameters of the entitlement, and I believe that the Minister's amendment goes some way to doing that. That, however, is with the addition of amendment No 5.

During the many deliberations and engagements with stakeholders, the SDLP was left with a very clear understanding of the effect that vexatious claims in the family court system was having on victims. The relentless stories of abusers who were using the court system to retain control or power over their victim was and is disturbing. A common and recurring theme in those instances included an abuser who had entitlement to legal aid and a victim who did not. Victims who are in employment and in receipt of working tax credits, and perhaps also child tax credits and housing benefit, are likely to be refused legal aid support, as those benefits, which we all know are not a disposable income, are treated as such. Their income calculation perversely excludes them from legal aid, and their need to respond to court cases brought by their abuser has the power to break them financially. The working-poor victims are people who want to work. Their workplace can be of critical importance to them as they set out to rebuild their life. Their job is the focus of their life beyond the abuse. It is the environment that builds their confidence and their contacts with normality. Their need and want to work offers much more than a financial income: it becomes a sanctuary for their mental health. Supporting those working-poor victims at this juncture offers them the opportunity to stay in work, and it represents the strongest method of using public money to help empower those individuals.

Ms Dillon: Will the Member take an intervention?

Ms S Bradley: I will, yes.

Ms Dillon: Does the Member agree with me that the fact that there will be a cost saved somewhere within the system is exactly why access to legal aid should not be about cost savings? We know that there are people who leave their job to be able to access legal aid because they can no longer afford to stay in work.

Ms S Bradley: I thank the Member for the intervention, and I agree. I go further: the social cost of not helping could be much greater, and we should explore that reality in more detail.

By not supporting them via the legal aid system, we may set victims on a downward spiral of becoming unemployed and more heavily reliant on the benefits system. It could be strongly argued that, by not supporting victims at that critical point, we are merely delaying the social cost, which will present in different forms at a later time. Early intervention through legal aid could offer a steady pathway to building a life beyond domestic abuse. The SDLP therefore welcomes the Minister's amendment and supports it, with that one further amendment being required.

Clause 27 sets out a clear principle in law that victims of domestic abuse who are being brought through the family courts by their abuser will be supported by legal aid. The clause as drafted, however, does not extend to the family care centre, which is where many cases are destined to end. Cases transferred by a judge or that are presented to the family care centre via a right of appeal could see many of those victims financially compromised at that point, where the support that they require will not be available without the addition of amendment No 5. Although I acknowledge and appreciate that a more thorough assessment of income is completed on application for legal aid at the higher court, and that it is more likely that a victim will receive support, albeit with a contribution, it is also true in those circumstances to note that the principle of support would be lacking in that clause. For all the reasons that I have outlined, I ask Members to consider supporting amendment No 5. I believe that it is of critical importance that, in our offer, we consent to support victims throughout the family court system.

Those who tabled amendment Nos 4 and 7 will know of my absolute support for wanting to move to that space and to support victims in that regard. Given the timeline of the Bill to

date, however, along with the lack of consideration and full and thorough debate that we have been able to have on the issue, I am not today satisfied that we have drafted or pinned it down well enough to commence at this stage. It is with regret that I say that we will not be supporting those amendments. Going forward, however, we will work with the Minister on amendment No 7 — proposed new clause 27A — to try to encapsulate what has been attempted to be achieved here.

I will move to the Committee amendment, which started out as amendment No 15 but is now being presented as amendment No 13.

On 7 December, the Minister did not move the Domestic Abuse and Family Proceedings Bill because of concerns that had been raised by her with the Finance Minister on the Friday before. I will not go over all that, because the Committee Chair has accurately reflected the timeline. However, I will quote one thing from the letter:

"we are concerned that the potential financial implications of the legal aid provisions in the Domestic Abuse ... Bill could be significant, and in particular could have a ... repercussive effect."

4.30 pm

The clause that, the Minister said, could have that effect was clause 27, and it could continue to have that effect even if the Minister's amendment is approved today. In light of that new information, while it was vague, it was clear that both Ministers anticipated the possible difficulties that might be realised via clause 27 and that any of the proposed amendments on that day would have been compounded by the passing of the Committee's amendment No 15. Amendment No 15 would have seen clause 27, as was likely to be amended by the Minister on that day, commenced along with parts of the Bill that create the offence of domestic abuse. While the potential risks that the Minister referred to rest exclusively in clause 27, the coupling of commencement dates provided no space for the Minister to assess the likelihood or scale of the potential risk. Therefore, it was only proper that the Ministers' joint communication, which presumably took a day or two to be shared, used the words "could be significant".

For the benefit of Ministers Long and Murphy, I place it on record that their words of warning of potential chaos did not land lightly with me. I heard them, I valued them and I am every bit as

eager as they are to urgently understand the likelihood and scale of any potential effect that may come into play. As a representative of South Down, I take seriously my role of respecting the view of the House, acting with caution and being responsible in any proposals or positions that I adopt.

Despite my disappointment and the disappointment expressed by many, on behalf of the SDLP I immediately entered into solution mode. Having heard the distressing accounts of domestic abuse conveyed to us all during the deliberations on the Bill, one thing was clear: stalemate was and is not an option. I appreciate all those across the sector who facilitated emergency calls and meetings with me on that day and the days that followed. I thank the Minister, who agreed to my request for an emergency meeting, and the Chair of the Justice Committee, who agreed to call an emergency meeting of the Committee. I thank the Bill Office, which assisted me in deliberations at that time, and the representatives from across the sector who shared their views on the potential effects and on a way forward. In particular, I single out for thanks the family solicitor Sinéad Larkin and Sonya McMullan from the Women's Aid Federation.

During my discussions with stakeholders who had so generously given of their time throughout the development of the Bill, it was made clear that it served nobody if the Further Consideration Stage of the Bill was not moved. Therefore, I genuinely welcome the fact that it has been moved today. I put that down in no small part to the work that played out in Committee. It must be noted that the short but ambitious time frame for commencing the Bill has played a significant role in creating little room for full investigation. That may be a flaw in the process, as opposed to calling it a flaw to have to revise any established Bill.

Ahead of any vote on amendment No 13 and any outcome that might arise from that Division, I welcome the Minister's assurance following my intervention on the Floor of the House today. Likewise, I have satisfied myself that there is, as the Minister stated, an unambiguous legal duty on her to commence the Bill. I also repeat my assurance and place it firmly on record that the SDLP will listen to any warnings and, if they become factual, will support any revocation that may be required.

It remains our preference that the commencement of legal aid be stipulated in Bill. However, the dilemma was this: could we stand by in good conscience and watch the Bill not

moved today or at Final Stage? In particular, we should put that in a context where we all know that domestic abuse incidents are on the rise during COVID, particularly during lockdown. Let it be clear that everybody in the House agrees that domestic abuse is a criminal offence and we need it to be on the statute books as such. The SDLP, like others, is committed to realising that the commencement on legal aid will be realised. However, in a bid to ensure the passage of the Bill, we will not force the commencement issue in the form of amendment No 13.

Mr Beattie: Every conversation, every debate, every clause, every amendment and every amendment to an amendment to the Domestic Abuse and Family Proceedings Bill have been had for the right reasons. Not one person has put something forward for the wrong reason; it has all been for the right reason. Today, at Further Consideration Stage, we are refining and balancing what is a really good Bill. We have done a fantastic job in the time frame to create what we have created. In many respects, the Chair and Deputy Chair of the Committee have expressed my views on many of the amendments. I am never one to stand and talk about an amendment for the sake of it when the point has already been put across. The points about amendment Nos 1 and 2 have been put across, and the Ulster Unionist Party will support them.

I want to mention one thing on amendment No 1, if I may. It is something that I picked up on and that resonated with me. It was, I think, during a debate in Committee when Mr Frew explained amendment No 1 in real terms. It really resonated with me given what we are trying to achieve. Amendment No 1 is about information sharing with schools. He talked about a child going to school having had no sleep, possibly being late, having no lunch when they turned up and being met by an angry teacher who brought them in, not knowing that that child had possibly been involved in a domestic abuse incident the previous night. The opposite is that amendment No 1 may mean that that child, who is possibly already traumatised by what may have happened, will be met by an understanding teacher who will take them by the hand, lead them in and support them. The small vignettes that I got from Paul Frew and other members of the Committee really stayed with me and showed me that what we are trying to achieve in the Bill is absolutely the right thing. At the end of this, we will produce a Bill in January that will be fit for purpose and good for those who suffer the awful crime of domestic abuse.

Amendment No 2 has been explained in some detail. Amendment Nos 3 and 7 deal with legal aid, and we have spoken about legal aid and those amendments at length. Legal aid is complex. I get the sentiment where people say, "It is not about money, and it is not about how much we spend". The reality is that, unfortunately, if we are really honest, it is, in some cases.

By saying that I do not mean that we are going to deny people legal aid. However, the reality is that we do not have the funding to go round, and we end up salami-slicing what we have, and some people will lose out. Nobody in this room wants to have to say, "You lose out, but you are going to get it". We have to be fiscally responsible.

I have raised the issue of legal aid long before now, as has the Chair, and the Minister knows that. We are close on three times the legal aid bill of Scotland, by head of population. In the European Union, we are second only to Norway in our legal aid bill. We have to be fiscally responsible.

Legal aid is complex. It is not just about savings; it is about understanding how we use the money that is available to us to make sure that we support the right people. Amendment Nos 3 and 7 do exactly that. They define it and they define it well.

Amendments Nos 4, 5 and 6 are to amendment No 3. The arguments on amendment Nos 4 and 6 have been eloquently made. I guess that I can add to it. Amendment No 4 talks about "advice and assistance", whereas in the original amendment No 3, it is just "representation". In amendment No 4, that is not defined, which is a little bit too loose for me. For me, "representation" covers that. Normally, the first meeting with a solicitor is free anyway, and he gives you advice, and you should get support. I am happy with amendment No 3, without having to amend it with amendment No 4, so neither I nor my party will be supporting amendment No 4.

We will be supporting amendment No 5. Again, it has been laid out quite well, and there is no point in my talking for the sake of talking.

We are not supporting amendment No 6 because there is an issue about the respondent. I have said before that we can all talk about people whom we have spoken to and we can all give vignettes — I have done it. I have spoken to people, women who have been domestically abused and who are being taken to court time and time again, and they do not

have legal aid but the abuser does. It is a fine line and a fine balance, and we cannot support amendment No 6 for that reason.

I turn to amendment No 13, previously amendment No 15. I will be absolutely honest: I supported amendment No 15, which was to start legal aid when the Act came into force. I supported that, but we received new information from the Minister that there may be a serious financial implication to it, including a repercussive effect. That was new information. Had we brought amendment No 15 to the Floor a week ago with that new information, I would not have been able to support it; I would have voted against it.

The Committee having met — how and when we met has been explained by numerous people — decided that we would remove amendment No 15, that there was a danger, and that the Minister needed time to do her checks and balances to make sure that we would not be given a legal aid bill in perpetuity that would have serious financial implications for our block grant and for all the other Departments that would have to chip in to help to fix it. Amendment No 13 says that, having agreed that the Minister needs time do checks and balances, we tell her, "OK, but you have 12 months". I am not in that space to say to the Minister, "You have 12 months"; I am in that space where the Minister tells me that she has a problem with it. If I agree that we have a problem with it, I need the Minister to be given the time and space to deal with that problem.

4.45 pm

I have trust. I have trust in our Ministers, and I have trust in the Committee Chair, the Deputy Chair, Committee members and other people that they will do exactly what they say they will do. The Minister has said that, if, having done the checks, there is no adverse effect, she will make sure that the amended clause 27 and new clause 27A will be commenced, and I believe her. I, therefore, support her in that.

The reality is that we do not know where we will be in 12 months. Nobody knows what will happen in 12 months. I think that the Chair said that, and he is absolutely right. I could go to the absolute extreme and say that, if we were to pass amendment No 13 and the change were put in place, but the Assembly then collapses in six months' time, we would have to pay out what could be an excessive amount of money. I do not feel the need to make that amendment, so, to me, it becomes superfluous to what we are trying to achieve here. As I said in the Justice Committee, we will not support

amendment No 13. We will, however, make sure — I know that the Minister expects us all to do this — that she is held to her word and that she will bring in clause 27 and clause 27A, once she has done the checks and balances and assures herself that there will be no repercussive effects that will affect our block grant.

I will finish by saying that the work done by the Committee has been exceptional. As I said at the start, every conversation that we had was about making the Bill better — it really was. Some of the things that have been inserted in the Bill have taken me by surprise because I would never have thought of them. That is because there is a real diligence in the Committee. Right now, at the eleventh hour, what we need to do is unite and understand what we are trying to achieve with the Bill. What we are trying to achieve is good legislation that helps victims of domestic violence — that horrific crime. By not dividing on the amendments, we will be sending out a good signal to those victims that we stand united in supporting them.

Ms Bradshaw: Before I move into my main speech, I just want to address a point that the Chairman of the Justice Committee raised about losing a week because of the vital information that the Justice Minister and the Finance Minister brought to the Committee. This summer, we in the Health Committee recognised how much work was ahead of us and what we had to deal with, so we had hardly any recess — we were closed for two weeks — unlike the Justice Committee, which decided to take off nearly the whole summer. If you had not taken those extra four or five weeks, you would be about three or four weeks ahead of where you are now.

Mr Speaker: I ask the Member to go back to the clause.

Ms Bradshaw: I thought that that was an important point, because nobody —.

Mr Speaker: I know, but I suggested earlier —. Sorry, will you take your seat, please? I made the point earlier that we were digressing into a matter of who said what and when, and I do not want to continue in that vein. This is very important business, and it is being dealt with in a very moderate way this evening. I would like you to return to the Order Paper.

Ms Bradshaw: Thank you, Mr Speaker.

Many of the issues that are dealt with in the Bill have already been rehearsed, and they are extremely important. I want to focus specifically on amendment Nos 1 to 8 and amendment No 13. I will support amendment Nos 1 to 3 and amendment Nos 7 and 8. I am opposed to the amendments to amendment No 3, namely amendments Nos 4 and 6. I am also opposed to amendment No 13, which arises from those amendments.

Amendment No 1 is an extremely important addition to the Bill, particularly in the context of the time through which we are living. One of the most challenging aspects of the pandemic has been the necessary absence, either through school closure or self-isolation, of pupils from school, including preschool. That, of course, has an impact on development and education. It also has a particular impact on the ability of social workers and the authorities in general to detect signs of abuse in the home at the very moment when there is less ability to escape from that home. Amendment No 1 recognises the importance of all education providers being made aware of incidents of abuse, and, clearly, in the context of the Bill, that means domestic abuse. A new clause before clause 26 will enable or require:

"a relevant person to inform a designated person"

— at the "education provider", which is not only a school but a college, any training facility or a preschool —

"of an incident of domestic abuse concerning a child"

in education or training with that provider. In our view, that renders a subsection of clause 28 unnecessary, as removed by amendment No 8.

Amendment No 1 is important as it ensures that the enabling powers are robust in what can be achieved via regulations. That is particularly important in relation to offences and penalties.

Amendment No 2 provides a consensus across the Department and the Committee on the explicit protection of people from abusive behaviour. I take this opportunity to draw attention to clause 26(2), which states:

"Steps or measures which may be provided for in regulations under this section are not limited to notices or orders as referred to in this section".

For too long, the authorities' abilities to respond to domestic abuse have lacked clarification. However, this clause has the potential to change that. The regulations that follow on will be vital scrutiny work for the Assembly.

Amendment No 3, is a carefully worded clause that enables access to legal aid for those who appear to be victims of domestic abuse behaviour and is designed specifically to ensure that this goes to the victims and not the perpetrators. It is important to have the wording exactly as it is in amendment No 3 and amendment No 7, precisely in order to ensure that legal aid is available to the right people in the right way.

It is my personal hope that we will be able to move early on in the debate to a much broader reform of legal aid, as has been mentioned, which will manage this and many other aspects of access to justice more comprehensively and efficiently. However, I share the Committee's insistence that we have to make progress on it in the Bill. I emphasise that progress must be in support of victims, which is why amendment No 3 is written as it is.

Amendment No 4 is unnecessary and would increase the cost without any benefit for victims.

A similar issue applies to amendment No 5, in that it is simply unnecessary as the discretion already applies in the higher courts where the waiver has been used in the lower courts. This is why amendment No 3 is written as it is and replicates the protection already available for applicants for non-molestation orders. It enables fair consideration of what support is necessary and justified.

While amendment Nos 4 and 5 are, in my view, unnecessary, amendment No 6 concerns me most because it is blatantly counterproductive. The practical outworking would simply be to make it easier for perpetrators to access legal aid while masquerading as the victim. I urge Members to consider carefully whether that is what they really —

Miss Woods: I thank the Member for giving way. I will repeat my earlier intervention. Does the Member agree with me that the potential misuse of the waiver is an issue only if the Department does not produce the relevant guidance and processes to prevent it from happening?

Ms Bradshaw: The Minister and her officials have been clear that they will take forward what the Committee has said. When they produce

the guidance, they will take full account of what the Committee said on those issues.

Mrs Long: I thank the Member for giving way. She is correct in that we said that we would bring this forward. However, our concern about amendment No 6 is that, if we have to so delineate between victim and perpetrator, it could, for example, be necessary to go to court and make police reports against the abuser. We could end up excluding victims who have done neither, are entitled to the waiver but, until that point, have not taken any action against their abuser. The real risk is that, if we define the victim narrowly, in terms of legal aid, we will deprive victims of legal aid but allow perpetrators to masquerade as victims.

Ms Bradshaw: Thank you. Members need to reflect on the fact that none of the amendments has been consulted upon. Our focus should be on support for victims who bring forward serious issues and not for perpetrators pushing spurious litigation.

I will move to amendment No 13. It is highly irregular to put in place a specific time for the commencement of legal aid provisions when it is unclear how long preparations will take. It constitutes poor lawmaking and serves no useful purpose. We cannot apply these provisions until guidance has been developed by legal professionals, administrative and operational arrangements have been put in place, and relevant changes to IT systems have been completed. Most of all, it has been clarified by Ministers that attempting to pursue this could lead, in effect, to the Northern Ireland Executive, and thus the Northern Ireland ratepayer, having to cover additionally the cost of some legal aid in England and Wales. Again, none of that has been consulted upon, had the financial implications fully considered or been checked to see whether it is even competent. We would not draft initial legislation without having done all those checks, so why would we allow it to have been amended without having done them? The Assembly must see that amendment for what it is and reject it as fundamentally poor process and, potentially, bad law.

It is good that consensus has been reached on most points, and there is no question that amendment Nos 1 to 3 strengthen the Bill, enabling and requiring information to be provided to all education providers where necessary and appropriate, recognising and acting on the need to protect people from domestic abuse in the first place and not just punish the perpetrators after it has happened, and providing access to justice for all. We need

to be careful, however, that we do not create bad law by not allowing guidance to be developed, administrative arrangements to be made and systems to be changed before new provisions, particularly around legal aid, come into operation.

It is for those reasons that I commend to the House the amendments appearing in the Minister's name, but I urge Members to consider rejecting amendment Nos 4 to 6, as their focus moves away from the interests of the victims and of good law. While we have improved the Bill by adding legal aid provisions, Members must absolutely reject amendment No 13, as it has not been financially appraised and risks the same sort of lack of proper scrutiny that led to the whole RHI scandal. That does not bear repeating.

Mr Frew: I have enjoyed my time on the Committee. I have enjoyed my time scrutinising this Bill, and I very much believe that the members on that Committee made a massive and positive difference to the Bill. In a positive way, as best I can, I wish that the Department had been more forthcoming with its amendments so that the Committee could have done its work in good time instead of having the delays that the Member opposite just talked about.

I will commence by thanking the Department and the Minister for moving the Bill at this stage. Last week, it was in doubt. I never thought that the Domestic Abuse and Family Proceedings Bill would have been put in jeopardy and delayed as it was because of amendments that the Committee sought to put down in order to strengthen the Bill, and that really worries me. As I walked this journey with Committee members and the Assembly, I saw good things, positive things, scary things and things that puzzled me, and I will get to those later. What I have also seen is the curtailment of the democratic process, which horrifies me, and I will talk about that a wee bit later.

I will thank the Department for moving the Bill at this stage and the Minister, of course, for bringing forward the amendments early between Consideration Stage and Further Consideration Stage. That is what a Committee would expect, and that is what a Committee had sought during the summer months, but it was not forthcoming. I would ask the Member to reflect on that and look back on the history of the good work that this Committee has given to the Assembly.

Mr Givan: I thank the Member for giving way. I regret not giving way to the Member for Belfast South because I recall that she did ask.

The Member will know that at no stage did the Justice Committee — I am not sure of the exact turn of phrase — not do its work throughout the summer months. Quite the opposite; we did. Indeed, the Minister herself praised the Committee for the excellent work that has been carried out. I understand that there is this narrative that the Member has, rightly, picked up on from the Member for Belfast South. Her desire to defend her Minister is admirable, but let us not let facts get in the way of truth.

5.00 pm

Mr Speaker: We are going to end up opening up this debate again to what I consider to be a bit of nonsense, to be honest with you. We all know what we are dealing with here. Tremendous work has been done between the Department and the Committee. Everybody understands that sterling work has been done. The stakes are high. The objective is to get measures in place that will help victims of domestic abuse in our community. Let us go back to the task of doing that without any further immoderate suggestions of who did what when. I do not want to listen to that again for the rest of the evening. Thank you.

Mr Frew: I agree completely with your sentiments, Mr Speaker. I will move on.

I thank the Committee Clerk and staff for their excellent work over the months that we took to scrutinise the Bill. I also offer my thanks to the Bill Office for its sterling work and advice to the Committee. All of us, as a team, from the Minister and the Department right down, have made this a much better Bill for victims. I commend the democratic process and everybody who deals with that part of it.

I will go to the amendments. Linda and Doug mentioned information sharing with schools, which has always been a no-brainer. The Committee caught this very quickly and was disappointed that it was not in the Bill from the start. The Committee was therefore determined to ensure that its voice was heard. When we put down our amendment, we tried to give the Minister and the Department as much latitude as possible. I commend the Department and the Minister for bringing forward a very fulfilling, robust and thorough amendment on sharing information with schools. As I have said, I welcome the fact that they came early to the Committee. When they came early, the

Department could ask the Committee what it thought of the amendment. When we batted an amendment back to the Department, it was gracious enough to amend it before seeking to insert it in the Bill.

We have been able to include not only schools and colleges but, for those who are younger, nursery provision so that the package of care that needs to be provided to young people who fall victim to this heinous crime is complete. Children do not necessarily have to be the direct victims. If a child experiences or feels the aftermath of domestic abuse, without even realising it, it has a tremendous impact. It will affect them for the rest of their lives. Children who see it, and even those on whom it has an indirect impact, cannot get over it. This is therefore a very important piece of the Bill. As Doug rightly said, we need the child to be surrounded by caring, loving people. There is nobody better in that role than the teacher. It is vital that this amendment is passed and that the provision is included in the Bill.

Moving on to amendment No 2, I repeat what I have said about the Department and the Minister. Amendments were brought to the Committee quickly, and we were able to assist the Department. Mr Speaker, as you know, we are also there to assist the Department. We were very keen to ensure that we gave ultimate flexibility to the Minister and the Department. That is why we wanted the amendment not to be strictly about orders and, perhaps, to include something other than orders. The Committee and the House realise that there may well be problems with orders down the line: how effective they can be, how much impact they can have and how hard they are to get. There may well be different tools out there, now and in the future, that will lead to better protections for victims and their families. Again, it is a given that this provision needs to be in the Bill.

We then have the report. Amendment No 8 merely leaves out what we had inserted, which, because of amendment No 1, the new clause, is fine.

I now come to what is probably the crux of the matter: clause 27 and the proposed amendments to it. That is what led to the delay last week, which concerns me greatly, simply because the Minister sent the Committee Chair a letter on the Sunday, which she followed up with another letter on the Monday, seeking for him not to move the amendment. The Chairperson does not have the power to make that decision without the Committee's backing and say-so. It was therefore very important that we, as a Committee, had the collective sense to meet. It

was hard for me to take that the Minister did not move this stage of the Bill last week. She had her own reasons for that, and I respect her right not to move it. What we know, however, is that, seemingly, the Department of Finance had raised the issue on the Thursday, yet the Committee Chair received correspondence only on the Sunday. Although that might seem to Members to be a quick enough turnaround, what the Minister was then asking the Chair to do within 24 hours or less was not reasonable. We have to be fair with time and allow the collective body that is the Committee time to meet, assess and come to a collective decision, or not. That is what we were able to do last week.

After meeting the Minister, we did remove the then amendment No 15. We felt the need to table the new amendment No 13, however. It brings about the commencement of clause 27 after a year in order to allow the Minister time to do due diligence around that aspect. I listened to the Minister speak about clause 27 in her opening address. She asked us to take her on trust. When did we ever make it about trust in this House? It is not about trust but about scrutiny. It is about democratic accountability. It has never been about trust, because trust is a personal issue for an MLA and between an MLA and a Minister. The House has never been about trust. It is about scrutiny, accountability and the democratic process, which we — every single one of us, MLA and Minister — should defend.

I will pick up on some of the things that the Minister said about clause 27 in her opening remarks. She said that there was nothing to prevent abusers using that clause. The first thing that struck me was that there is nothing to prevent abusers getting legal aid. We see it day in, day out.

Mrs Long: Will the Member give way?

Mr Frew: Yes, I will.

Mrs Long: The key point here — indeed, the Member's colleague the Committee Chairperson raised the issue of why amendment No 6 is problematic — is that, at the minute, there is a barrier to abusers getting legal aid. There is a financial barrier. It may not be the correct barrier, but it is a barrier to people's being able to get legal aid. The waiver would, in effect, remove any barrier to abusers getting legal aid, provided that they claimed to be a victim. One of two things would therefore happen: either more abusers would be able to get legal aid in order to do the very thing with

which Mr Frew takes issue, which is to exert coercive control over their partner, or, alternatively, we would have to specify so tightly who a victim is that it could exclude those who have not previously taken legal action against an abusive partner. Neither of those is the desired outcome that any of us in the Chamber intends. That is the difference.

Mr Frew: That is the reason that the Minister tabled amendment No 3, which we welcomed and had asked the Minister to bring forward at the previous stage. A new clause was therefore proposed, and clause 27 now stands part of the Bill. The Member who proposed that can speak for herself if she wishes to make an intervention, but she welcomed the Minister's engagement at that time to try to make the Bill better and safer, and I support that engagement.

Before I move on to the actual wording of the amendment, one thing that I would say is this. The Minister states that she remains to be convinced that the waiver is the best way to support victims, Well, I can tell her now that it is not the best way to support victims, but it is an essential tool going forward that will assist victims. Here is the rub of this whole issue: why is clause 27 so important? When I was on my feet late that night — I think that I walked out of this Building at 2.15 am — I realised then, by the amount of engagement, messages and phone calls, even at that late hour, that we had completed something quite special. I had more correspondence on that one issue — clause 27 — than I had about the whole Bill. Now, I am not rubbishing the Bill; of course not. There is a lot of good work in this Bill, but that is the one issue that the Bill did not tackle. People out there are crying out for assistance, because this is one of the most harmful tools in the abusers' hands. It struck me last week when Sonya McMullan from Women's Aid graciously came to see us at short notice. She said that sometimes the only relief that a victim gets is when their child turns a certain age. Is that not a horrendous prospect: that you are trying to raise a family, and you realise that you are going to be pulled through the courts year in, year out until your child reaches adulthood? Victims who have suffered a horrendous experience are now having horrendous experiences in court, of all places, and they then get to the point where they wish their child's life away to adulthood so that they can get respite. That is how damaging that aspect of domestic violence is. That is why we are determined to ensure that there are safeguards in place for victims in that regard.

It is not about access to justice. We are not trying to prevent people from gaining access to justice. We are just trying to level the playing field to allow victims that same right and to ensure that the resources and savings that they have worked hard for to raise their families do not dwindle over 10 years or more.

Ms Dillon: I thank the Member for taking an intervention. Maybe we can ask the Minister to speak with officials, because there is a bigger piece of work even than legal aid to be done here in relation to the family courts. I accept that the Department and our Committee have a heavy legislative workload and probably, realistically, very little room to do anything else, but I think that there needs to be preparatory work done now for the next mandate to see what we can do to address those issues in reality and totality, rather than just trying to address it in a piecemeal manner through legal aid and other means. We need to address it fully.

Mr Frew: I thank the Member for that.

We have to remember the Department's position on clause 27. The Minister opposed clause 27. The Department opposed clause 27, and what the Department brought to the Committee after Consideration Stage was what is now amendment No 7, which proposes a report on access to justice and allowing a level playing field. What the Department was trying to do, then, after this House had made its determination at Consideration Stage, was to reduce that clause from one of action to one of reporting: a two-year report, no less. That basically means a delay that would have affected victims.

When members of the Committee said, "No, we're not happy with that, Minister", for the reasons that I have outlined, the Department was very good, went away, looked at it again and came back with another amendment. Let me be fair: amendment No 3, which relates to the eligibility of victims for civil legal aid and would replace clause 27, would restrict the provisions of clause 27 so much that, it seems, it would reduce the risk and everything else that the Minister is concerned about. She seems happy to move amendment No 3 but is not so happy to move the commencement order, which is amendment No 13.

5.15 pm

Before I go on to that, it is clear that amendment No 3 stifles clause 27, which reflects the will of the House, because of its

restrictive nature and the safeguards that are in it. I know that this is a democracy, so it will be on the Floor that these things are decided. That is why the Minister should have moved the Further Consideration Stage last week. It will be the House that decides which amendments it sees fit to go into the Bill and which it does not. I have grave concerns about amendment No 3, but I am happy to support it because of the concerns that the Minister has relayed and because it is a step forward. Clause 27 was vague so that the Minister and Department could amend it. However, amendment Nos 4, 5 and 6 expand amendment No 3. In Committee, the Minister said that clause 27 would cost £14 million. When I look at the £14 million cost, I do not see it as a burden; I see that as the amount of money that is coming out of the pockets of victims of domestic violence.

Mrs Long: I thank the Member for giving way. Of course, that is not accurate, because the £14 million estimate is based on the fact that people who do not currently receive legal aid would be in receipt of legal aid — not all those people would be victims — and that more cases would be taken because of the availability of legal aid and people choosing that route instead of mediation. The £14 million is not coming out of the pockets of victims; it is an additional cost burden that will be created by clause 27 if it remains unamended. It is not money out of the pockets of victims; it relates specifically to additional costs that would be created by having the waiver for victims and, potentially, perpetrators and the increase in the volume of legal aid cases being taken.

Mr Frew: I thank the Minister for her intervention, because that is an interesting point. What we, as a House, need to know now is this: what is the present cost to victims? The Minister cannot tell us that. She can tell us that the top line is £14 million if clause 27 stands and that, if her amendment is successful, that bill will be reduced to half a million pounds. Now, that is still a lot —.

Mrs Long: Will the Member give way?

Mr Frew: Yes, I will.

Mrs Long: The Member is incorrect. I cannot give him the cost to individual victims because, in some instances where legal aid is not granted, cases are taken pro bono, but I can certainly give him the differential in how the costs were anticipated. In the year to 30 June 2020, LSA issued 3,036 certificates for individuals to be represented in article 8 proceedings. According to Courts and Tribunal

Service data, there were at least 7,876 parties to article 8 applications in the same period, so there were at least 4,840 participants in such proceedings who were not in receipt of legal aid. The average cost of funding article 8 proceedings for the LSA is around £1,009 at the family proceedings court and £6,900-odd in the higher courts. Roughly 20% of proceedings take place in the higher courts. The costs are well defined. We cannot predict accurately what the cost may be in future, as this is a demand-led service.

Mr Frew: I thank the Minister for her intervention. I will have to look at Hansard because my mental arithmetic is not great. I thank her for that detail; I think that that is the first time that Members have received it. How long have we been looking at the Bill? How long have we been looking at clause 27? I rest my case in that regard.

This is a golden opportunity. When we put that clause in the Bill, the impact on victims' groups was mighty. If you were to speak them, they would tell you that they have been searching for a way of assisting victims in that regard for years. I think that it has been 20 years since we last had a chance to do so in legislation. That is why it is so important that we have a commencement order. Victims' groups have waited so long, but they would tell you that they are willing to wait a wee bit longer if it means that we get good, secure law and that the Minister and the Department can satisfy themselves, through due diligence, that concerns about repercussion are not realised. Amendment No 13 — the Committee amendment — which concerns commencement within one year of Royal Assent, affords the Minister and the Department an opportunity — a whole year — to get down to due diligence. There are many times when Departments have to use due diligence. I do not think that any of them have taken a year.

Mrs Long: Will the Member give way?

Mr Frew: I will give way if the Minister wishes.

Mrs Long: The point has been made already that the issue is not the time to do the due diligence; it is the outcome of the due diligence. Were we to do the due diligence and find out that this had repercussive costs, it would be in primary legislation that we had to commence these parts of the Bill anyway. That is the problem. We could walk out of here having placed something in the Bill that could be problematic. I know that the Member does not want to rely on trust, but we would have to trust

the good grace of the Committee to find the time to work through an accelerated passage Bill to rescind that in the next year. Given the pressure of legislation in the next year, which you, Mr Speaker, will be aware of, that is taking quite a risk. It is not good practice to include things in legislation that you know may need to be rescinded. That is poor practice. We, as an Assembly, need to raise the bar in terms of the quality of the legislation that we produce rather than just the amount.

Mr Frew: I thank the Minister for her intervention yet again. It betrayed her stance throughout the whole Bill. Members can table amendments to any Bill as they see fit. The House will attest to that. If the House decides to pass an amendment or a clause, so be it. Ministers should obey the House. Ultimately, this is the place in which decisions are taken on legislation; it is not the Executive or a Minister.

Mrs Long: On a point of order, Mr Speaker. Is it in order for a Member to intimate that, at any time in these proceedings, I have suggested that I would defy the will of the House? I do not recall doing so at any stage of the proceedings. On the contrary, I have said that I would be bound by the proceedings of the House, even though it may be highly problematic.

Mr Speaker: That is my recollection of the nature of the discourse. Will you stick to the amendments?

Mr Frew: I will, Mr Speaker.

The commencement order is contained in amendment No 13; it was amendment No 15 last week. The Minister came to the House seeking preconditions before she would move Further Consideration Stage. If that is not stifling democratic accountability and debate, I do not know what is.

We move on —.

Mrs Long: On a point of order, Mr Speaker. I asked for a ruling from the Chair on the matter during last week's proceedings. The ruling was that it was entirely in order for me not to move that stage of the Bill, and I gave my reasons to the House as to why that was the case. It was not to stifle debate or discussion; it was to protect against an unforeseen consequence.

Mr Speaker: It is very unfortunate that the debate is descending — for part of the afternoon it has descended — to a place where it does not need to go. It is unworthy of the subject of the Bill that people are being

personal and are throwing insults at others. I do not want to hear any more of it. Let us stick to the Order Paper. There are amendments on the Floor for discussion and debate. Members may be robust and make their arguments as they see fit, but they should do so respectfully. They should not interpret for other Members what they are thinking or suggesting. I say again today — I want to make a strict ruling on this — that I want Members to stick to the amendments. Otherwise, we will be here at midnight, and the public, who deserve a better service from MLAs, will not be served. I ask you, Mr Frew, to stick to the group of amendments that you are addressing.

Mr Frew: I will accept your ruling graciously, Mr Speaker, 100%.

I turn to the Minister's amendment No. 3. When she sought to come to the Committee about it last week, she said that she would give the information. The information was not contained in either of the two letters that she provided to the Committee. When we had a good chance, then, to ask the Minister at the Committee, I asked for all of the correspondence between the Department of Justice and the Department of Finance. That was last Tuesday, and we have yet to see any of that information.

The House is about scrutiny. A Minister or any Member can say that a clause is bad, but we need evidence and proof. The Committee or individual Members have yet to see the correspondence between the Department of Finance and the Department of Justice. Questions were asked of the Department of Finance, and we have not yet seen or read those questions with regard to repercussiveness. That is important, because the Minister says that, if clause 27 stands as it is now, it could cost the block grant £400 million. I must get that on record because that is a very serious issue. If that is correct, it would blow a wide hole in the Northern Ireland Assembly's budget. It would have been important for Members to see the questions that were asked of the Department of Finance, but they were not forthcoming.

We were grateful to the Minister for outlining that she is seeking legal counsel and hopes to have it before Christmas. That is good, timely advice, and, of course, it is privileged to her. That will help with the due diligence with regard to clause 27. I wish the Minister and the Department well in scrutinising that due diligence and getting through it in a timely fashion for victims of domestic violence. That aspect is so important. It is one of the most grievous tools in the hands of a perpetrator that

they can use the court as a weapon to hurt and inflict pain on a victim of domestic violence.

The Minister has been gracious in giving us detailed costings today, and I look forward to reading them back in Hansard. That is important.

There is one other aspect that I would like to raise, and the Minister raised it in Committee last week. She maintained that, even though this is her Bill, given that she had got the Executive's support to introduce it, the Executive parties should support the Bill: I agree with that. However, she thought that Members should be whipped to support amendments or vote against them if she saw fit or was resistant to them. I see that as having a grievous impact on the democratic process. I am here to make a Bill better, and that is why I have put my name to some amendments to clauses.

Mrs Long: Will the Member give way?

Mr Frew: Yes, I will give way.

Mrs Long: It would be helpful, if the Member is going to persist, despite being asked not to do so, in quoting or, more accurately, misquoting what I say, if I point out what I said.

I said that it is in Executive guidance on the handling of Bills that a Minister must write to Executive colleagues seeking their support to amend a Bill, to resist an amendment to a Bill or other such changes that are of a substantive nature to the Bill. It is for parties in the Executive to ensure that there is sufficient support on the Floor for those decisions of the Executive to be carried. At no time did I mention that parties should be whipped in any shape or form.

5.30 pm

Mr Speaker: Before you continue, Mr Frew, I will make a ruling. I am very tempted to suspend the session for as long as I think appropriate, if this continues. Every Member is entitled to have their say on the matter under debate, so long as it is within the scope of the topic, of course. I want you to return to the scope of the debate, without adding any narrative that reflects on any other Member, including the Minister. That is the ruling. I do not want to have any more crossed arguments between two Members. We have been sitting here for two hours, and six Members have spoken. That is not doing service to the matter that we are discussing. I do not want to have to

repeat that again. Mr Frew, continue with your contribution.

Mr Frew: Thank you very much, Mr Speaker. As I have outlined, it is important that the House supports the commencement of clause 27, in whatever shape it falls. Ultimately, it is the House that will make the decision as to what clause 27 will look like. It is important that there is a commencement order, because this is one of the biggest issues facing victims. They have been let down many times in the past. As my colleague Linda Dillon said, it is incumbent on every MLA to pass good, robust legislation that will make a difference to people's lives, not least the lives of the victims of domestic violence and their families. I plead with Members. Amendment No 13 is critical in providing assurance and confidence, and in giving victims the ability to protect themselves in a court of law. Court is a very scary place for most people. This would at least afford them a level playing field against their perpetrators and ensure that they have the same protection. If they have to battle in court from their child is four until he or she is 18, so be it, but at least they will have been afforded the protection of a level playing field, and their resources — their hard-earned money and savings — will not dwindle to zero, to niets. They will be able to provide a good life for themselves, their family and their children.

It is vital that we carry on our task to make the Bill even better. We all have an influence. I will support the right of any MLA to table amendments that we can scrutinise and debate. As MLAs, we have good ideas. We see what happens to our constituents and to victims. We should be able to make an input into the decision-making process. We should be able to engage in debate, robust as it may be, in order to make the Bill better. I commend amendment No 13 to the House.

I support amendment No 1, which is one of the Minister's amendments. I also support amendment No 2, which replaces clause 26. I will support clause 27 in whatever guise it takes, because I believe that it is a win. It is a win, not for Members, political parties or Ministers but for the victims who have been trying, grievously, to change this for so long. They are within a whiff of success. Let us give that success to those people who have suffered grievously over the years; let us give them something; let us give them the assurance for which they yearn. I have met them; a lot of Members have met them. That is what this is all about. Most of this group of amendments is about clause 27. I plead with the House to support clause 27 and the commencement

order. Let us get it done. Thank you very much, Mr Speaker.

Ms Rogan: I do not wish to rehearse all that has already been said. I support amendment No 1, which is probably the simplest of the amendments that we looked at. We welcome the Minister's amendment on Operation Encompass. Our party has been stressing the importance of Operation Encompass from the beginning of the Bill's legislative process. My colleague Linda Dillon raised the issue at every Committee meeting. Linda insisted that it was a simple but effective tool that the PSNI could use in dealing with a domestic abuse incident where a child has been involved.

Operation Encompass is an information-sharing mechanism that allows the police to communicate with designated persons in a school to inform them of instances of domestic abuse that involve a pupil at that school. Domestic abuse has been identified as an adverse childhood experience and can lead to emotional, physical and psychological harm. Operation Encompass, or information sharing with schools, aims to mitigate that harm by enabling immediate support and helping to make a child's day better, with something simple, such as asking them, "Are you OK this morning?". Key to that is providing a secure and sympathetic environment for children.

The Chief Constable himself raised the subject of Operation Encompass when he gave oral evidence to the Committee in February. He advised that he wanted to see it brought to fruition here. In my constituency of South Down, a pilot on Operation Encompass is due to take place shortly. It has the potential to drastically improve the lives of many children across all types of school.

The Assembly approved the Committee's amendment at Consideration Stage, but, following discussion with the Department's officials, it became apparent that further work was needed. That has been done, and the amendment has been strengthened. The current amendment No 1 does this. The officials presented an overview of the amendment to the Justice Committee, and, following discussions, the Committee recommended expanding amendment No 1 to include preschool children within its remit. It is to the Department's credit that it moved swiftly and efficiently and ensured that preschools are included in amendment No 1. I support that amendment.

Ms Hunter: I thank the Minister for being here. I support this important legislation. I will focus my remarks on amendment No 1, which my party

colleagues and I fully support. It regards sharing information with schools.

The impact that domestic abuse and violence in the home has on children and young people cannot be overestimated. As Barnardo's and the NSPCC stated in their helpful briefing prior to the debate, children are the hidden victims of domestic abuse. Experiencing domestic abuse in the home is considered an adverse childhood experience. Even if the child has not necessarily witnessed the abuse, growing up in a home where domestic abuse is happening impacts on a child's development and mental health in both the short and long term. Many children exposed to the raised voices, unspoken hostility and tension will develop signs of psychological distress and can be affected in all arenas of development — emotional, social and cognitive. It is crucial to raise in the Assembly the importance of being aware of the symptoms and developmental impact. Amendment No 1 takes a key and positive step in protecting children through liaison with teachers to give the full picture of what is really going on at home.

I welcome amendment No 1, and I thank my colleague Sinéad Bradley, our Justice spokesperson, for raising the issue of including preschools. I also thank the Committee for including them in today's consideration.

While this legislation and its implementation is welcome at any time, it seems more pressing than ever that we act now, given what we have heard in recent months about the rise in domestic abuse, as people have had to spend far more time in their homes as a result of the COVID-19 restrictions. In its report, 'Not just Collateral Damage', Barnardo's states that the long-term impacts of domestic abuse include the potential of youth offending, risk of harmful sexual behaviour, future cycles of abuse and, of course, a severe impact on mental health.

I am a passionate advocate for better mental health care and, more importantly, early intervention. In meeting after meeting that I have with mental health groups and charities, it is evident that what we see all too often is that nothing can compensate or substitute for a secure and loving childhood, free from abuse and fear. As elected representatives, we have a responsibility to do all that we can to protect the vulnerable in our society. Children and young people who grow up in homes experiencing domestic abuse are, of course, among the most vulnerable of all. I hope that this legislation will go at least some way to allowing us to do more to protect children and families who suffer domestic abuse in their home every day.

Ms Dolan: First, I will speak in support of amendment No 2, which replaces the original clause 26. It places a responsibility on the Justice Minister to make provision for domestic abuse protection orders and notices within 24 months of commencement in order to protect and support the victims of domestic abuse. Clearly, the whole Bill is about protecting and supporting the victim in one way or another, and domestic abuse protection orders and notices are one way of doing that. I commend the Department for facilitating the Committee's concerns about clause 26. The Minister intends to bring forward detailed primary legislation to provide for domestic abuse protection orders and notices. She therefore rejected the Committee's amendment at Consideration Stage. However, thankfully, the Department has brought forward a substantial amendment, which we will support.

One particular element of the amendment that I support is that the regulations:

"must include provision to the effect that steps or measures—
(i) are for protecting persons who are at least 16 years of age, and
(ii) are to apply in relation to perpetrators or alleged perpetrators of abusive behaviour who are at least 18 years of age."

The issue of age was raised with the NSPCC, and it was keen to ensure that under-18s were not drawn into the criminal justice system for breaching an order. The NSPCC wishes to see a more child-centred approach being taken where the perpetrator is a child under the age of 18. Where a young person is experiencing abuse and a child is engaged in harmful behaviours, the response should be child-centred. It should seek to prevent further harm and promote rehabilitation that will challenge and change that harmful behaviour. However, it is vital not to wait until a young person reaches that point before interventions take place. I have already said in the Chamber, as have others, that the operation of the Bill needs to be accompanied by education for our children and young people on healthy and positive relationships.

The provision on compliance with the order, which will capture behaviour that happened elsewhere if the perpetrator has a base in the North, has also been expanded. Further revisions have been made to strengthen the provisions and make it explicit that requirements, including restrictions or prohibitions for notices and orders, apply to

children of, or living with, those for whom protection notices and orders are made.

I am also in favour of amendment No 7, which is new clause 27A. The new clause places an obligation on the Department of Justice to lay a report before the Assembly, no more than 24 months after the Bill comes into play, setting out proposals for reducing the costs incurred by a victim of domestic abuse or:

"preventing, so far as reasonably possible—
(i) qualifying proceedings from being initiated unduly against a relevant client by an abusive person by virtue of having access to funded services,".

Domestic abuse does not discriminate against people because of their income, background or perceived social standing. However, the amendment will be beneficial to low-paid and low-income victims. At present, many victims may not qualify for legal aid because they are just above the current threshold but cannot afford legal representation. They are the working poor: those who earn enough to be just above the breadline but still face many financial struggles. It is important to put in place adequate support for these people, and I want that to be addressed as part of the clause 27A review. Access to justice is incredibly important for everyone who needs it. As was said at Consideration Stage:

"The success of legislation depends on its effective implementation."

— [Official Report (Hansard), 17 November 2020, p93, col 1].

Therefore, I call on the Department to make its obligations, as outlined in these amendments, a priority.

Mr Dunne: I welcome the opportunity to speak at Further Consideration Stage. Considerable work has been done to get the Bill to this advanced stage, and I welcome the significant steps forward on such an important piece of work. We share the regret, as expressed by victim support groups, that the Bill did not reach Further Consideration Stage last week. It is important, though, that we get this legislation right. Today, I am glad that the Assembly has the opportunity to advance this important legislation.

We all share the aim of strengthening our domestic abuse legislation to better reflect how widespread this appalling abuse is across Northern Ireland, to better support victims of

domestic abuse and to bring more offenders to justice.

I believe that that is the desire, and that was certainly reflected right across the House at Consideration Stage in November. We must remain committed to and focused on ensuring that the legislation fully covers all potential forms of abuse so that it can be dealt with effectively and efficiently, and the Bill rightly recognises that domestic abuse today can be so much more than physical abuse.

5.45 pm

The Bill also introduces important and timely measures to support children, who are so often innocently caught up in domestic abuse situations. Children can sometimes be the forgotten victims of domestic abuse and can be used and abused so tragically in unfortunate situations. Sadly, that is becoming an ever-growing problem in society. Since Consideration Stage, we have heard the shocking figures that were released by the PSNI to the BBC on 26 November. They showed that, since 2015, six women in Northern Ireland have been murdered despite previously reporting their violent partner to the police. That is a very alarming development, and that statistic, along with the revelation that domestic abuse now accounts for 19.1% of all crime recorded by the PSNI, is further recognition, if it were ever required, of the need to strengthen our domestic abuse laws. It also very much reinforces the need for action, which was so clearly and passionately presented at our Committee evidence sessions by many stakeholders, including victims and victim support groups, which are so often at the coalface of tackling this most cruel and horrific form of abuse.

I believe that amendment No 1, which will widen information-sharing with schools, including in preschool settings, is a positive step forward and something that should help to protect children who may have inadvertently become victims of domestic abuse. Education providers can now be much more than just a formal school arrangement, and the widened approach in amendment No 1 allows a level of flexibility to include a non-school body that provides education or training of any kind, including in preschool and college settings. Education settings can play a valuable role in supporting children and young people through what can be very difficult days. That information-sharing, however, will have to be carried out in a very sensitive and professional way in order to ensure that the child is not

made to feel more vulnerable, and that should help schools better understand the individual circumstances and needs of families that may be experiencing some form of domestic abuse.

The introduction of measures to protect a person from abusive behaviour, as outlined in amendment No 2, will be another positive step forward, and I believe that there is a desire for the PSNI to be required to deliver progress in the area. That desire for progress was also reflected at Committee Stage by various stakeholders, with many feeling that there was a need to strengthen protective measures for abuse victims beyond non-molestation orders, which many believe do not go far enough to protect vulnerable victims.

I also welcome the public consultation that the Minister launched earlier this month to enhance legal protections for domestic abuse victims and ensure short-term protection from all forms of domestic abuse. There has been considerable debate on the potential costs of legal aid. I welcome the commitment in amendment No 7 to a report on the availability and affordability of legal aid. Unfortunately, many victims of domestic abuse are unable to access legal aid. That can sometimes be as a result of complex financial arrangements with their former partner, and that can often deny the victim much-needed support through very difficult proceedings. That can sometimes result in the perpetrator getting better support than the victim; that is wrong and needs to be addressed. I welcome the long-awaited progress to date on such an important issue, and I trust that we will continue to see more progress made as the House seeks to further support victims of domestic abuse, many of whom, sadly, continue to suffer in silence.

Mr Speaker: As this is Nicola Brogan's first opportunity to speak as a private Member, I remind the House that it is the convention that a maiden speech is made without interruption. I advise the Member that, if she chooses to express views that might provoke an interruption, however we determine that, she is likely to forfeit that protection. I call Nicola Brogan to speak. You are very welcome to the Chamber.

Ms Brogan: Is onóir mhór liom bheith ag labhairt anseo inniu. It is an honour for me to speak here today as a representative of West Tyrone. First, I take this opportunity to pay tribute to my predecessor, Ms Catherine Kelly. Catherine worked tirelessly for the people of West Tyrone. As an MLA, she stood up for the rights of children and young people throughout the North, and she campaigned for an overall

fairer society. As an activist in West Tyrone, Catherine worked incredibly hard for the local community. Throughout her time as an MLA, she was at the fore, helping the most vulnerable in our society, so I thank her for all of her hard work and wish her the very best for the future.

As one of three Sinn Féin MLAs in West Tyrone, I am grateful to have the support and guidance of both Declan McAleer and Maolíosa McHugh alongside our MP, Órfhlaith Begley. I look forward to working closely with them, our Sinn Féin council team and all elected representatives in our constituency and, indeed, throughout Ireland. I am a proud Tyrone woman, and I am proud to represent the brilliant and diverse community of West Tyrone. I will do all that I can to ensure that its voice is heard in this Assembly.

My focus in the time ahead will be on working for the completion of the Strule educational campus in Omagh. It is an Executive flagship project that will help to regenerate Omagh town and will bring huge educational benefits for our young people. I welcome the fact that Arvalee School and Resource Centre is already on site as part of the first phase, and I look forward to having Omagh High School, Omagh CBS, the Academy, Sacred Heart College and the school that I attended, Loreto Grammar, on site soon. I also want to focus my efforts on ensuring that rural schools in West Tyrone are kept high on the agenda and are properly supported.

I will pay particular attention to the children in our education system with special educational needs. This is a matter that is close to my heart, and I think that we can do more to support these children and their parents, teachers, classroom assistants and coordinators to ensure that no child is left behind and that they are all given equal learning opportunities. As an MLA for West Tyrone, I will represent all of the citizens in this area, and I will champion the issues that will improve the lives of my constituents. I will work alongside all elected representatives to ensure the delivery of the A5 upgrade and the roll-out of adequate broadband provision.

Of course, however, the enormous cloud of Brexit hangs over all politics on this island and these islands. Already, in my constituency, there is a palpable sense of apprehension. Brexit was imposed on us against our democratically expressed wishes. Brexit will challenge everyone in this Assembly in the time ahead. The narrow, inward-facing agenda of the right-wing English Brexiteers offers nothing to our people. As an Irish republican, I am committed to a very different society: an

inclusive, modern, outward-looking Ireland that puts our workers and their families first and which is built on equality and respect for every one of our citizens, a society that celebrates and is enriched by its growing diversity. Society is changing, and politics is changing. I want to be part of that agenda for change for the people of Tyrone and the people of Ireland. As the MLA for West Tyrone and as a Sinn Féin activist, I will play a full and enthusiastic part in building a new, inclusive, tolerant and united Ireland.

I turn now to the very important issue of the Domestic Abuse and Family Proceedings Bill. As the Sinn Féin spokesperson on children and young people, I urge Members to support amendment No 1. Domestic abuse incidents have a devastating effect on the lives of our young people, and I believe that this amendment demonstrates the importance of raising awareness of domestic abuse within schools and educational settings. None of us truly know what goes on behind closed doors. We cannot take for granted that all children have loving and caring homes. This amendment should act as a guide for staff in school settings to be mindful of that.

Domestic abuse is recognised as an adverse childhood experience (ACE), and we know that ACEs can have a hugely detrimental impact on a child, both during childhood and later in life. The impact of domestic abuse often follows children and young people into their school setting, where, of course, they spend so much time. That is why amendment No 1 is of such vital importance. It is intended to provide a smooth process to allow for the rapid exchange of information to a designated school staff member, which will help teachers and other school staff to provide a more compassionate and caring environment for the children who most need it.

It will allow them to make positive interventions to improve a child's welfare and to help to mitigate the wider effects of abuse on those children.

It is of concern to me that amendment No 1 is relevant only to people who are in school up to the age of 18. Many of our young people with special educational needs stay in school until the age of 19. I hope that the PSNI will work closely with schools to fully support our young people with special educational needs. It is important to start the conversation with our young people to teach them what a healthy relationship looks like in order to break the pattern of domestic abuse being witnessed in the home. The education setting should work

closely with groups such as Women's Aid, the Men's Advisory Project, NICCY and the NSPCC. In conclusion, I ask Members to support the amendment.

Miss Woods: I, too, am glad that we are here at Further Consideration Stage. From the outset, I give a warning that this will not be a short speech.

First, I acknowledge and commend the Department for its proposed changes to the Committee amendment that was made at Consideration Stage to deal with Operation Encompass, which is encapsulated in amendment Nos 1 and 8. At Consideration Stage, I, alongside other Members, mentioned that we needed to look at the inclusion of other educational settings that children and young people attend, such as preschools and nurseries. I am glad that, after raising the matter in Committee with the Department, the Minister is bringing forward the relevant provisions. To proceed with a legislative gap in Operation Encompass between children who attend a primary school that is in the big school or campus and those who attend nursery or preschool away from it would be a mistake. As all of us will know, not all preschools are attached to primary or post-primary schools, and there should not be an arbitrary distinction of where a call could be made by the PSNI after an incident for the sake of children's well-being. As we know, early years are a crucial developmental time for children, and I welcome the necessary detail in amendment No 1.

With regard to amendment No 2 — I raised this at Committee — I am still a bit uneasy about the approach taken to age limits. I recognise the view and position of the NSPCC and the Children's Commissioner on injunctions against perpetrators or alleged perpetrators who are under 18 years of age. I wholeheartedly agree that we should not criminalise young people. However, could the amendment leave victims who have suffered abuse perpetrated by someone of that age with no recourse to a protective order that would prevent contact by a perpetrator who is 18 years old or older? It begs this question: is there an intention to provide those victims with a different kind of protection, and, if so, what does it look like? I speak with reference to subsection (5)(b)(i) and (ii). It is my understanding that that wording means that a 16-year-old victim would not be able to access a protective order against their 17-year-old abuser. That means that a victim of abuse can get protection against a perpetrator who is 18 years old but not one who is 17 years old or perhaps the protection that is available to them will be different. For future consideration, why

should that be the case? Does that distinction exist in the case of, say, non-molestation orders or any other form of injunction that is available? If not, is there a particular reason why?

I reiterate that I fully understand the views of NICCY, and I agree that the criminal justice system should not be the first port of call for children and young people. I fully support looking at more effective and holistic approaches, but we cannot leave victims without protection; those are two very different things. A protective injunction against an alleged perpetrator of domestic abuse is not simply a case of criminalising a young person. The measures and mechanisms that could be developed could be developed in a way that prevents criminalisation entirely, but leaving the gap in protection is a concern.

As the Department ably demonstrated in its rationale for lowering the age of the parental responsibility exclusion, a person who is aged 16 or 17 can be prosecuted for domestic abuse, join the armed forces and get married with parental consent, and I point out that they can also work full-time and leave their family home if they wish. Why a person aged 16 or 17, who can do all those things — it must be stressed that they can be prosecuted for domestic abuse via the Bill as it stands — cannot be subject to a protective injunction to prevent them abusing their victim is baffling. I ask the Minister to outline how those victims will be protected, especially in the case of a young couple. I would appreciate the Minister outlining in her summing up on this group of amendments what protections will still exist, what the Department will do to develop effective and holistic approaches for addressing abusive behaviour among our children and young people and whether it will commit to working with children's organisations to ensure that the best possible system is in place.

6.00 pm

With regards to victims and survivors' access to legal aid, I would like to speak to amendment No 7 and then move on to amendment No 3 and the amendments listed in my name and in Sinéad Bradley's. I am glad that she, too, saw the merit in not excluding the lower courts. I would like to place on record the origins of amendment No 7 and proposed new clause 27A.

Following Consideration Stage and the addition of clause 27, which was opposed solely by the Minister and her party, the Department's initial response was to ignore the will of the House and attempt to change the entire purpose of

clause 27; from giving victims access to legal aid to simply producing a report on victims' access to legal aid. As I, and other members of the Committee, made clear to officials, that was not what the Assembly voted for at Consideration Stage, and the Department's proposal appeared to fly in the face of the Assembly's rules on admissibility at Further Consideration Stage. I, and other members of the Committee, welcomed the suggestion of a report to investigate and bring forward possible solutions to the issue of victims and survivors of abuse being dragged through the courts and having their finances drained by their former abusers. However, a report would be of little use and bring little comfort to those who would encounter such horrible circumstances between now and when any such proposals are fully implemented. Therefore, I was relieved when the Department eventually departed from its initial position on clause 27, which I had always stated was not a comprehensive solution but something that could make a real difference until more detailed measures came into place.

That is the origin of amendment No 7 and proposed new clause 27A. It was initially drafted by the Department to prevent clause 27 coming into force, to prevent victims and survivors from getting access to the legal aid waiver, and to kick the can down the road. Let that be known to the House. I fully welcome the provision in the Bill to conduct a review into the availability of legal aid for victims of abuse, but not as an alternative to clause 27. It is not an either/or situation, nor should it be. A report about the issue in a few years' time would never have sufficed, compared with a limited measure that deals with the issue.

There is another very important point to make about amendment No 7, and proposed new clause 27A, which is apparent from the debate and came to light at the Justice Committee on 1 December. That is the convenient role that amendment No 7 plays for the Minister and her Department in their attempts to gloss over the deficiencies of amendment No 3. Amendment No 7 and new clause 27A is the crutch that officials have lent on, and it is the one that has been relied on today in attempts to mask the problems with amendment No 3.

The argument is that, if victims are missing out, it will be captured in the report, and the Department will bring forward proposals to fix that. However, amendment No 7 does not and cannot justify the shortcomings of amendment No 3 in any way. It is not a credible position to claim that you know that something will not work for victims but that you will keep an eye on it for a year after it comes into effect and then

suggest some solutions. I do not need to remind the House that we will have gone through an election by then and entered a new mandate.

First and foremost, I urge the House to reject the idea that amendment No 3, as drafted, is palatable or acceptable, in spite of its shortcomings, because of amendment No 7. That is not a credible position. In fact, it is an insult to the very people who will be unable to access the waiver if amendment No 3, as drafted, is made. Yes, I support new clause 27A. Yes, that is exactly the kind of provision that we need to critically assess the operation of clause 27 and how victims can be protected further anyway. Yes, that work needs to commence urgently. Ideally, we should not have to legislate for that; it should already be being done.

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: As the Member is well aware, I agree that we do not have to legislate for it. Of course, the point that I made at Consideration Stage was that we should do it by regulation. It is all well and good for Members to talk about what should be being done, but we know that it is not happening. In my role as Minister, over the last number of months, I have been trying to ensure that that happens in future. I cannot rewrite history.

It could have been done by regulation. That would have been a simpler, faster process and allowed a more agile response when we saw the uptake of any changes that were made, but the House made the choice that it wanted to legislate for it with primary legislation. I accept that, so we are now trying to ensure that there is sufficient flexibility to respond to new gaps that may be there. It is not correct to say that we expect that amendment No 3 is deficient. We know that with these things, in test and trial and error in the courts, we often find gaps or loopholes. It is for those that we wish to report and bring forward subsequent corrections.

Miss Woods: I thank the Minister for that intervention. I appreciate that, in responding to the gaps, we must plug them. That is why I am supporting clause 27A. None of this is an excuse for the problematic approach that is evident in amendment No 3.

Before I go on to discuss amendment No 3 in detail and address my amendments, I want to remind Members that clause 27 is about

helping victims and survivors of abuse in family proceedings, and it is confined to the orders listed in article 8 of The Children (Northern Ireland) Order, namely, child contact orders, occupation orders, prohibited steps orders and specific issue orders only. This must be reiterated as, for some reason, it keeps causing confusion.

It is also important to state again that clause 27 is about victims and survivors. It is about helping them financially; helping those working people and single parents who are pushed into poverty because of legal fees. That is what clause 27 is about, and it should not be forgotten in the debate. Victims and survivors should be front and centre when Members decide how they will vote on these amendments. Whilst I appreciate that the Minister and others are concerned with costs and risks, as am I, there is a balance to be struck between these issues and how we best support victims. I do not agree with the approach that has been taken in amendment No 3. The proposed new clause 27 is all about limiting costs and risk to the detriment of the very people that the Bill seeks to help.

Mr Carroll: Will the Member give way?

Miss Woods: I will.

Mr Carroll: Does the Member agree that, if her amendments do not pass, in reality, there will be a piece of legislation that says that you can get justice if you can afford it?

Miss Woods: I thank the Member for that intervention. Again, this is something that we need to look at. Sinéad Bradley spoke at length in Committee about the unfairness of a system where there are those who can afford justice and those who cannot. These are the people that we are trying to encapsulate with this amendment on legal aid and child contact — people who are just over the line but cannot get access to legal aid.

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: Does the Member accept that the characterisation by Mr Carroll that you can access justice only when you can afford it, stands at odds with what other Members have said on the issue of how high our legal aid bill is compared to other jurisdictions? For that reason —

Mr Speaker: Sorry, Minister. You are straying into a debate that is unnecessary. The Member made a comment, and, whatever the veracity of the substance, it does not require an answer from you at this time.

Miss Woods: Thank you, Mr Speaker. Amendment No 3, as it stands, will create an arbitrary distinction between victims, simply because they are either taking a case or defending one. The Minister's amendment will mean that only victims that are the respondent to proceedings will be granted access to legal aid through the waiver of the financial eligibility limit. Those who have to appeal decisions or initiate proceedings to protect themselves and their children will not have access to the waiver. That is unfair and unnecessary.

When I asked officials, on 1 December, to confirm whether, under the Minister's proposed amendment, the waiver will only assist victims who are being taken to court by the perpetrator and will not help victims who need to take a case against their former abuser, even on appeal, they confirmed that this, indeed, is the case. The Department and the Minister may think that it is acceptable to make a distinction around access to legal aid through the waiver between a victim who is defending a case and a victim who has to initiate proceedings to protect themselves and their children. I do not. All victims and survivors of domestic abuse should be able to access the financial eligibility waiver for the purposes listed above. That was the purpose of clause 27, and there should be no distinction between victims simply because they are taking or defending a case. Amendment No 3, as drafted, means that the very people that clause 27 should help will no longer benefit.

I am speaking here of the single mum who requires an occupation order to prevent an abusive partner from returning to the home, or the victim or survivor who needs to appeal a child contact decision to prevent further abuse by the perpetrator. All those people would miss out under the Minister's amendment No 3 and new clause 27, and that is simply not good enough.

As a consequence of or linked to the condition that the victim must be only a respondent to proceedings, the Minister's amendment also includes a stipulation that legal aid will be granted only for representation and will not be granted to a victim for advice and assistance from a solicitor. According to officials, this would not be required if the client were only a respondent to the proceedings, but it was unclear whether advice and assistance covered

legal costs for attempted mediation between parties or even pre-proceedings.

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: I can clarify that point, Mr Speaker. Advice and assistance does not extend to mediation, and the clause to which the Member refers would not extend to mediation. Furthermore, all the advice and assistance that a person would require that would be covered by the waiver is included with advice and assistance, so this, essentially, double counts advice and assistance, both as part of the waiver and then as a separate clause.

Miss Woods: I thank the Minister for her intervention. I am still unclear about the duplication, so we are just putting it in the Bill as it was in clause 27.

The absence of the provision for advice and assistance is yet another attempt to restrict the scope of clause 27 and to reduce costs, with the effect that victims and survivors of abuse will see less and less benefit from the waiver or, indeed, its actual uptake, which has already been affected by the changes previously made to legal aid. I do not agree with that approach.

The other major problem with —

Mrs Long: I thank the Member for giving way. It is correct that it is a cost-saving measure; it is not correct to say that it would have any impact on victims because, as I already stated three times, I think, during the debate, the issue of advice and assistance is already covered in the waiver. Therefore, victims would receive nothing in addition to what they would receive under the waiver, but solicitors may be paid a second time for providing the same basic advice and assistance.

Miss Woods: I thank the Minister for her intervention. I am unsure about the solicitors being paid for a second time. Surely that would have to come from the Legal Services Agency and would need to be looked at through its processes to make sure that that did not happen.

The other major problem with amendment No 3 is the issue of limiting the waiver to the lower courts. That will mean that the most vulnerable victims and those who have suffered through multiple cases of long-drawn-out proceedings — the very people whom clause 27 speaks to and tries to help — will lose out. This was again

confirmed by departmental officials on 1 December when I asked them whether the waiver would no longer apply to any case in the higher courts, even when a case has started in the lower courts and the victim could be granted legal aid through the waiver. That would effectively be taken from them if their case were referred upwards. According to officials:

"When the case is referred from the family proceedings centre to the family care centre or to the High Court, the waiver would no longer apply."

That is according to the Minister's amendment. Cases that are referred to the family care centre or to the High Court are the very cases that involve the most vulnerable victims and survivors of abuse. Cases are often referred because a victim is struggling with their mental health, for example, or because of what the courts term an "implacable hostility" between partners or the two parties involved. Officials confirmed that, with regard to such complex cases moved to the higher courts that involve serious allegations of offences or where a party to the proceedings may be suffering from serious mental health issues, the waiver would not apply. That leaves the most vulnerable without access to the waiver — again, the very people whom clause 27 seeks to help. In my view, that is totally wrong. We cannot leave these people behind. They are victims and survivors of abuse, with most complex needs, and they should have access to the financial support that is available through the waiver.

When I pressed the officials on this point, their response was:

"We would need to look at what other protections might apply in respect of the representation higher and the ongoing proceedings, but the principle would be that the person is not less favourably treated when the proceedings transfer to the higher courts than they are under the existing scheme."

Mr Speaker, needing:

"to look at what other protections might apply"

is not good enough for Members here at Further Consideration Stage, and nor will it help victims when the Bill and these provisions come into effect.

Without anything in the Minister's amendment to state what other protections will apply, the

only conclusion that we can reach at this stage is that victims will be less favourably treated when the proceedings transfer to the higher courts. That is yet another reason why amendment No 3 as drafted falls short.

6.15 pm

In short, my amendments solve the problems that I have outlined with amendment No 3 and the Minister's proposed new clause 27. They are a victim-focused, victim-centred way of looking at the issue and balance the concerns about costs and other risks. They are also interlinked, and I hope that Members read them as such. Amendment No 4 is linked to amendment No 6 and returns the scope of the waiver to cover the costs of legal advice and assistance for the victim not only in attempted pre-proceedings. If amendment No 6 were made, victims and survivors could access the necessary financial support to get the help that they need from legal professionals prior to initiating proceedings. As any solicitor will tell you, advice and assistance are key in complex law cases, particularly those that involve article 8 orders. People just do not go and take out a child order without giving it serious consideration. It is a really big deal, and they need a lot of advice and assistance to get them there. Victims and survivors of abuse should have recourse to financial support for that and should not be excluded from the waiver.

Amendment No 5 removes the restriction of the waiver to the lower courts, thereby granting victims access to legal aid in the higher courts. For all the reasons that I have just outlined, that is essential to ensure that the most vulnerable people do not miss out. I would like to say again that the family care centre is treated as a higher court. I do not accept the argument that widening the scope to the higher courts is not needed because a different financial eligibility test applies. There will still be victims and survivors who will miss out. Nor do I accept the assertion that the director's current discretionary powers — again, I highlighted those earlier and asked the Department for examples of their use, only to be told that they have never been used — might provide a solution and therefore that we do not need to widen the scope to the higher courts.

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: To clarify: the advice given was that they have never been used in these circumstances. That is an important distinction.

In terms of what we would bring back to the Committee, the purpose of providing advice and guidance to the LSA is in order to allow those powers to be used in these circumstances.

Miss Woods: I thank the Minister for her intervention. I do apologise. These are the circumstances that we are discussing, and it has been clarified that the powers have not been used in these circumstances. I do apologise, and I put that on the record.

In fact, that discretionary power and clause 27 are not mutually exclusive, so the House can approve amendment No 5 and the Department can still work with the Legal Services Agency to develop a better system to support victims using the discretionary powers, if that is required. Without amendment No 5, we have no baseline from which to work, no safeguard and no guarantee that people will not be disadvantaged when their case moves to the higher courts.

Amendment No 6 effectively removes the condition that the victim has to be a respondent in the proceedings. As I have explained, that restriction is inherently flawed from the perspective of victims who need to seek orders in order to protect themselves and their children. It is illogical and unfair to suggest that, for example, the same victim or survivor would be granted access to legal aid only if the case was taken by their former abuser and not if they needed to appeal a decision that allowed that same perpetrator an opportunity to further the abuse. I do not accept the argument that that condition effectively deals with the issue of fraud or perpetrators posing as victims in order to get access to legal aid through the waiver and initiate proceedings. If someone is determined to misuse the waiver, they will do so. Limiting its scope to clients who are only respondents in proceedings will not prevent that. If a perpetrator were determined to misuse the system, they could also do so by claiming to be a victim when defending a case, in line with the Minister's amendment. The Minister's proposed solution to stop a perpetrator claiming to be a victim does not solve anything in that regard —.

Mrs Long: I thank the Member for her generosity in giving way. The issue that we are trying to stop with that is people initiating cases in order to maintain unwanted contact with a former partner; so, an abusive partner repeatedly going to court to initiate legal action against a partner who no longer wants that contact. The issue of someone pretending to be a victim to gain a waiver to defend an action does not fulfil that criteria and does not have

any relevance to this discussion. The purpose of limiting it to respondents is to ensure that only those who are brought, unwillingly and repeatedly, to court by a former partner would have access to the waiver and that we would not, essentially, be opening the gate to fund abusers who might use legal aid to bring more cases against their estranged partners.

Miss Woods: I thank the Minister for her intervention, but I think that people will bring those cases anyway, as a form of abuse. It happens now and will continue. This aims to level the playing field when it comes to financial eligibility for legal aid.

The Minister's proposed solution to stop perpetrators claiming to be victims does not solve anything; it just limits the opportunities for it to occur. In doing so, it limits victims' ability to access legal aid when they need it. The way to deal with the risk of perpetrators abusing the legal aid waiver is not to limit the scope according to which court the case is heard in, or to limit the scope to whether the client is a respondent as opposed to having initiated proceedings. These risks can be managed effectively through careful consideration of how a client's eligibility is assessed. What is applicable information? That is for the Department to provide, as outlined in the Minister's amendment.

Ms Dillon: I thank the Member for giving way. She has been very generous with her time.

This is at the heart of one of the concerns that I raised. If we place such tight limits on who is a victim, we know that, with the best will in the world, victims will be limited to those in relation to whom there is a conviction or those who are almost in that situation. We will create a bigger barrier for victims. I accept that this is not perfect, which is why clause 27A is so important. I spoke with organisations that represent these people and asked them how we could help the largest number of victims. I asked how we could give the most help to victims and whether it was by limiting who a victim is or limiting this to respondents, which was the Committee's initial intention. They said that we should not limit who a victim was because, potentially, that would limit the number of people who could access this.

Miss Woods: I thank the Member for her intervention. Mr Speaker, I told you that this would be a long speech.

I will address Ms Dillon's point. The Minister's amendment creates an arbitrary small group of

potential victims, and we see that through the financial details that have come forward. It is up to the Department to ensure that its guidance and checks are in place. I agree with the argument put forward by officials that these detailed eligibility proposals do not belong in primary legislation but should be developed in close consultation with those in the sector and with victims and survivors themselves. That is the best way to prevent the misuse of the waiver. If the Department spent time consulting the PSNI, the PPS, the public prosecution unit, social workers, solicitors, education authorities, health professionals, support organisations and victims and survivors, it would be able to develop the necessary guidance and processes that the Legal Services Agency needs to ensure the swift, sensitive approval of valid applications and the effective prevention of the abuse of the waiver. That is already provided for in amendment No 3, clause 27, which states, under subsection (2):

"Guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 must describe the basis, particularly as regards applicable information about the commission or alleged commission of an offence involving domestic abuse, on which the Director may be satisfied as mentioned in regulation 10(1A) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015."

Although this provision could be strengthened to ensure that it does not result in a rigid tick-box exercise, the Department will have the freedom and licence to develop something that works well for victims and limits the misuse of the waiver. The House has a simple choice to make: vote for amendment No 3 as drafted, knowing full well that it falls short in helping victims; or pass amendment Nos 4, 5 and 6 and allow victims the access to legal aid that they need, with no artificial or unfair distinction between them. Passing these amendments will not prevent the Department from developing the necessary guidance and processes that the Legal Services Agency needs to prevent the abuse of the waiver. I am deeply disappointed by the level of fearmongering and by the derisory responses to my attempts to get more support for victims into the Bill and deal with the issues that arise from the waiver.

All of what the Minister claims may happen if perpetrators claim to be victims in order to access legal aid and bring cases against their former victim, thus increasing the number of cases, costs and so on, will happen only if the Department does not put anything in place to prevent it. Everything that it needs to prevent it

is in amendment No 3, in subsection (3) of the proposed replacement clause 27. I therefore ask Members to support the amendments standing in my name — amendment Nos 4 and 6 — and amendment No 5, which Sinéad Bradley and I tabled. That will ensure that the legal aid waiver can be accessed by those who desperately need it.

I turn now to Committee amendment No 13 on the commencement of legal aid. This is my first opportunity to place on record how disappointing it is that we are having this debate today when it could have happened last week. The Bill will now not get to Final Stage and receive Royal Assent until the new year. That is frustrating for everyone who has a stake in the legislation: those who have worked very hard to get to this point and the victims and survivors who need it.

I understand the serious concerns around repercussiveness that emerged at the eleventh hour. I, of course, do not in any way endorse the risk that Northern Ireland's block grant could be reduced in order to cover the cost of legal aid in other jurisdictions. I made that very clear last week in Committee. That is simply unfair and unjust. What amendment No 13 is really about, however, is ensuring that victims and survivors get the access to legal aid that they need, and that is why I support it. Amendment No 13 would never have come about if the Minister and her Department had been constructive and engaged with us properly about how the legal aid provisions would work.

The Minister and her Department have continually sought to stymie the provision, by voting against it and seeking to remove it, dilute it or alter it. They are now attempting to restrict it so that very few would benefit from it. At times, I have been made to feel belittled in my attempts to get the provision into the Bill and to work out some of the issues arising from it. Indeed, on a separate amendment, I was told that it was unusual for such an amendment from a Back-Bench MLA or MP to end up in legislation, even though it is the right of every Member to seek to amend and improve Bills.

Mr Frew: I thank the Member for giving way. Again, that goes back to my point about stifling debate and democratic accountability, and that is a very dangerous place to be in.

Miss Woods: I thank the Member for his intervention.

Mr Speaker: Sorry, but will the Member take her seat a wee second?

The Member may have missed discussions earlier in the debate. I do not want subjective interventions or unnecessary commentary that adds nothing to the subject that we are debating. I therefore ask you now to return to the subject matter in hand. Thank you.

Miss Woods: Thank you, Mr Speaker. I will.

Since the legal aid provisions were added, the only thing that I have heard is about cost implications, and it is the same in the Chamber today: risks and costs, costs and risks. What about the risks faced by victims and survivors of abuse? What about the cost to them of having to fight legal cases against their former abuser? What kind of message is it to send out to victims of abuse that, according to the Minister, the Bill was agreed to by the Executive only because there were no cost implications? To suggest that the Executive's budget is off limits to measures that will help victims and survivors of abuse is not good enough. It is also unrealistic.

Mrs Long: Will the Member give way?

Miss Woods: I will.

Mrs Long: The issue was not that there would be no cost implications but whether those cost implications would be able to be contained within the Department and its budget and whether we would be able to manage any such cost implications. I am quite sure that, had we sought additional funding, as we have for other measures, we would have been able to consider that in the round with the Department of Finance.

Costs from Bill as it stood, however, were something that, we believed, we could contain within the budget that was set by the Department, and that is what is expected of every Minister, because the Department of Finance has limited resources, and money taken from one Department will inevitably impact on the same victims whom we are funding through another Department.

Miss Woods: I thank the Minister for her intervention. The Committee therefore has a job going forward in its budget scrutiny to reallocate budgets to appropriate places.

The lack of sensitivity to the actual issue, and the emphasis on costs, is misplaced. This is about victims, and that is why I found the Minister's comments last week about "RHI on steroids" to be deeply regrettable and

unfortunate. There was never any need to make comparisons with a botched subsidy scheme that benefited many privileged people in society. Throughout this entire process, I have been fighting for and seeking to help some of the most vulnerable.

The opposition to amendment No 13 can be summarised in a very clear and succinct way. It boils down to the fact that there was always a desire to retain the option of never commencing or implementing the provisions with regard —.

6.30 pm

Mrs Long: On a point of order, Mr Speaker —.

Mr Speaker: Sorry, Minister. Look, Rachel Woods, I have already tried to draw your attention to an intervention that I had to make a while ago. I do not want to return to it. If I have to return to it where you are interpreting the Minister's, or any other Member's, opinions or reasons for doing things or taking certain actions, I will not allow you to continue your contribution.

Mrs Long: On a point of order, Mr Speaker. On at least three occasions now in the Chamber, I have given my assurance that that was not my intention. Is it in order for a Member of the House to essentially accuse a Minister at the Dispatch Box, giving their time to the Assembly Chamber, of lying to the House? That is essentially what has just happened.

Mr Speaker: I will reflect on the precise wording that has been used. I have made it clear that I am not prepared to listen to much more of this this evening. I have made it clear to the Member, who I can tell you has sailed very close to the wind, that I am not prepared to allow it to continue. Stick to the Order Paper, stick to the clauses, stick to the amendments, and we will all get through this in a more moderate way.

Miss Woods: Thank you, Mr Speaker.

The Minister claims that this is about repercussiveness, but the Committee was provided with little evidence to back up the assessment of potential risks and so many questions remain unanswered. Why have the figures and estimated costs fluctuated so much? How can it be claimed that something might cost over £1 billion, then £400 million and then £500,000? How have those projected costs been calculated? What is the breakdown of the figures? Where is the referencing? I would like to know what assumptions have

been made in the numbers. If there are differences between legal aid systems here and in other UK jurisdictions, how would this be allowed to develop, given the risk of repercussive costs? How many legal challenges have there been in relation to differences across regions? What effects —.

Ms Bradshaw: Will the Member take an intervention?

Miss Woods: I will.

Ms Bradshaw: The whole reason why the Minister did not move the motion last week, and why we have reached this position, is that she wanted her departmental officials to have time and space to do the due diligence and work out those figures. That is why the precise figures are not here at present.

Miss Woods: I thank the Member for her intervention. I do not have the figures. The Committee has not been provided with the figures. There are so many questions that have still not been answered to an adequate level of detail. We do not have a sufficient assessment —.

Mrs Long: Will the Member give way?

Miss Woods: I think that I have been very generous with giving way throughout. I would like to finish —.

Mrs Long: On a point of order, Mr Speaker.

Mr Speaker: That is not a point of order.

Mrs Long: It is a point of order.

Mr Speaker: Sorry, Minister. It is not a point of order.

Mrs Long: It is a point of order, Mr Speaker.

Mr Speaker: It is not a point of order.

Mrs Long: You have not heard it. It is a point of order.

Mr Speaker: It is not a point of order. I am moving on. I am going to ask Rachel Woods to finish her remarks fairly quickly, and certainly without any interpretation of anyone else's contribution or their motivation or reason for putting forward propositions. I remind you that, if I were a victim of domestic abuse watching or listening to this debate, I would be quite

disturbed by some of the behaviour of a small number of Members. Let us not abuse this debate any longer. Continue your remarks, Miss Woods.

Miss Woods: Thank you, Mr Speaker. You will be glad to know that I have only a couple of lines left.

In the absence of such, I consider the Committee amendment which decouples the commencement of the legal aid provisions from the new offence and gives the Department 12 months to carry out the due diligence that it needs to do in order to properly implement it to be a significant compromise.

Mr Givan: Will the Member give way? It is on your amendment.

Miss Woods: I will.

Mr Givan: I thank the Member for this. I missed her closing commentary on her amendment No 6. As I said I would at the start, I have been listening very carefully to reach a position on amendment Nos 4 and 6, and I just want some clarity on amendment No 6. I commend the Member, because she has pursued this vigorously and it is an important debate. Miss Woods, in your view, does your amendment No 6 address the concerns being raised about the abuser benefiting from legal aid? In effect, what amendment No 6 is doing is removing (1A)(a) and restricting this to respondents in proceedings.

Miss Woods: I thank the Member for his intervention. Yes, that is what it does. However, it also ties in with subsection 3 in the Minister's amendment No 3, which clarifies the departmental guidance and sets out the criteria that the Department can use to assure itself that perpetrators cannot pose as victims in order to access legal aid. Therefore, it ties in with subsection 3 of the Minister's amendment.

Mr Frew: I thank the Member for giving way. I ask for clarification on amendment No 6 and whether it would interact very well with a victim who has to take a case to appeal. Does it mean that that person would not be ruled out of receiving the assistance that they had enjoyed previously in a lower court? Is that correct? Am I reading that correctly?

Miss Woods: I thank the Member for his intervention. That is correct. That is why I said at the start that all three of the amendments that are tabled in my name should be read together in order to square that circle.

Therefore, in finishing, I fully support the Committee's amendment. I believe that we should take the opportunity now rather than wait more years to be told what we know. We must do all that we can in this place to give hope to those who have little left.

Mr Speaker: Order, Members. I propose, by leave of the Assembly, to suspend the sitting for 10 minutes until 6.50 pm for a comfort break. The sitting is, by leave, suspended.

The sitting was suspended at 6.36 pm and resumed at 6.50 pm.

Mr Speaker: The sitting is resumed. I call Gerry Carroll.

Mr Carroll: My comments will be brief. For the benefit of the House, I will not criticise, undermine or call into question the motivation of the Minister, even though I disagree with some of the points and the amendments that she is advocating. It is my duty, as an MLA who is not in the Executive, to criticise all legislation, including the Bill that is before us.

I speak in favour of all amendments in group 1 except for amendment No 3 from the Minister. I am very glad that amendments have been submitted by private Members that would strip away the more restrictive elements of the Minister's proposed provisions for legal aid. I have been troubled, as others have been, by the language that has been used to justify the limitations. They seem to focus primarily on affordability. I was shocked last week to hear the Minister referring to the potential costs as "RHI on steroids". I have not been provided with a figure to back up such a claim. I believe that the figures that were provided by the Minister earlier today were nothing close to those concerning RHI.

Mrs Long: Will the Member give way?

Mr Carroll: I will.

Mrs Long: The comment was specifically in respect of the repercussive nature of this in the UK. It was not about the cost of legal aid, which is a justifiable cost and part of the safety net for those who are on low incomes; it is about the potential repercussiveness. The best estimate that we have been able to achieve in terms of the Committee and the time available is around £400 million. That was the contrastive message that I made when I referred to it as being like RHI on steroids, which was also a botched

scheme that led to significant potential costs being carried by the block grant.

Mr Carroll: I thank the Minister for her clarification, but it was an unhelpful comment last week. If the scale of domestic violence is such that it costs anything like £650 million in legal aid, the first response should not be, "The money isn't there"; it should be, "This is a massive issue in our society. Let's put the investment in to tackling it and ensuring that people have the support to do that".

Ms Dillon: I thank the Member for giving way. I agree with you: the £400 million, £600 million or whatever it is is crazy money, but that is in relation to the repercussive nature, which would mean that it would not be spent on victims of domestic abuse here; we would, effectively, have money taken out of our block grant, which would go to England, Wales and Scotland. It would not be for here. That is where the issue arises. I agree with the Member that we should not be looking at how much it costs; we need to look at how we protect those people. We, as an Executive, could not take on the responsibility of looking after victims of domestic abuse across the water.

Mr Carroll: I thank the Member for her intervention. They were not my comments; I am putting on record my views on them. The same arguments around affordability creep in to justify limiting legal aid to the lower courts.

In my view, that would be an unnecessarily blunt and restrictive approach. Claims that support already exists in the higher court were, helpfully, challenged earlier today by Rachel Woods when she enquired as to how many times that support had been accessed. I believe that the answer was none. Therefore, claims that legal aid that can be accessed for the higher courts would, essentially, double the budget for such support were also dashed because, obviously, you cannot double none.

That is why I will be supporting Rachel Woods and Sinéad Bradley's amendment No 5 to widen the scope of legal aid provision. We do not — and nobody should — support a hierarchy of victims that arbitrarily divides people, denying some of them access to vital funding and support. The cost to society of not breaking down barriers for victims to report domestic abuse and to seek support and escape from it is, obviously, massive. Consequently, it takes more investment to overcome because services that support those women need additional funding down the line. The Assembly should be focused

wholeheartedly on providing whatever support it can to those who need it now. If it saves money down the line that is all the better.

I will also support amendment No 6. The arguments for it have been well made by Rachel Woods already, and I will not take up time to repeat many of them. However, I will say that the idea that we should not support the amendment because it might allow access to aid for those who would wrongfully claim it is not one that I could go along with. For me, it echoes the mantra that, in order to prevent benefit fraud, we should stop benefit provision for many people. Again, that is a blunt and restrictive response to making sure that victims of domestic abuse have access to aid whenever they need it.

Ms Dillon: Will the Member give way?

Mr Carroll: I will, yes; go ahead.

Ms Dillon: I agree with the Member's comments that, if this was just about cost, that is exactly what you would be saying. Victims of domestic abuse are not responsible for those who fraudulently access legal aid. However, what do we do about the new victims who are created by those who abuse the system? It is not the fact that they get the money; getting the money is one part of it. How do we protect the victims or potential victims of those who, then, misuse it? That is where my concern lies.

Mr Carroll: It is a fair question. I do not have a prescriptive proposal. Rachel Woods made some suggestions, and a lot of the responsibility for that falls to the Minister. Provision needs to be put in place — or as much as is possible — to ensure that that does not happen.

The Minister has, correctly, endorsed amendments that would guarantee regular reporting to make sure that the Bill does what it is intended to do. It would allow her and her Department to make adjustments to provisions where necessary. Here today, at the beginning of making this law, we should ensure that we are making every support and aid available to victims. If funding issues are identified, as the Minister suggests, by way of reporting, there should be adequate opportunity to address and correct them.

We have a chance here today to support women and children who are victims of domestic abuse by properly funding access to justice. Concerns about the legal aid budget will be dwarfed by the impact on many other

Departments' budgets if we do not tackle the issues now. It is worth emphasising that my party — I am sure that others do also — stands with groups such as Women's Aid on the issue, which is to say that provision should be as wide-ranging as possible. Indeed, we share their fears that some elements of the Bill will not be commenced. Therefore, I will support Committee amendment No 13.

The Minister has appealed to Members to trust the Department to ensure that the Bill is commenced and, if we cannot, to support the law. I do not mean any slight on the Minister or the Department, but it is worth saying that any cursory reading of the Committee minutes on the subject of the Bill would paint a picture of Committee members being told that certain things were not possible in the Bill. However, those things are now written into the Bill and have been endorsed by the House.

Therefore, with respect, I will support, as I stated, the amendments guaranteeing that commencement is written into the Bill. I support all the amendments in this group, apart from amendment No 3.

Mr Speaker: I call the Minister of Justice to make a winding-up speech on the first group of amendments.

7.00 pm

Mrs Long: I thank Members for their contributions to the debate and to the Bill. I thank the Chairman, Paul Givan; the Deputy Chair, Linda Dillon; Sinéad Bradley; Doug Beattie; Paula Bradshaw; Paul Frew; Emma Rogan; Cara Hunter; Jemma Dolan; Gordon Dunne; Nicola Brogan; Rachel Woods; and, finally, Gerry Carroll. I also take the opportunity to congratulate Nicola Brogan on an excellent maiden speech, and I welcome her to the Chamber officially now that she has made her speech. I am sure that she will not get such an easy passage on the next occasion that she speaks. Nevertheless, it is always good to see someone choose a debate as important as this in which to make their first contribution to the business of the Assembly. I very much welcome the fact that she selected this debate.

A number of positive changes are being brought forward in this group of amendments. Amendment No 1, along with amendment No 8, will see a more robust enabling power to help us to introduce information-sharing powers through the introduction of an Operation Encompass model. That will give schools an early indication of where there has been an

incident the night before, thus ensuring that children can be better supported. I thank the Committee, particularly Linda Dillon and Sinéad Bradley, for its work on this matter, and colleagues in the Department of Education for their assistance. Linda and Sinéad campaigned to get Operation Encompass included in the Bill, and Sinéad asked that nursery schools specifically be included. That was a wise and timely intervention.

I will take this opportunity to provide Emma Rogan with an update on the roll-out of the pilot in her constituency, which she referred to. The operationalisation of Operation Encompass is being considered and progressed via a multi-agency task and finish group. The group includes officials from a local domestic and sexual violence partnership; the Departments of Education, Health and Justice; the police; and the Safeguarding Board for Northern Ireland. The Down sector of the Newry, Mourne and Down District Council area has been selected for a pilot study catchment zone. It was selected on the basis of schools in the south-eastern area having undertaken training through the Women's Aid Helping Hands programme. That raised awareness around domestic abuse, and it included an Operation Encompass-model approach, which provides a good basis for a pilot study where consent will be sought for involvement. Obviously, any further roll-out will need to take account of the findings of that pilot, but it is a very important first step in rolling out additional support, particularly to children who are vulnerable after being subjected to or witnessing domestic abuse in the home.

Similarly, amendment No 2 strengthens the enabling powers that would allow us to bring forward the domestic abuse protection notices and orders currently being consulted on. It also ensures that, if that power were to be used, it would not be limited to those notices and orders, and other measures could be considered. Jemma Dolan asked about the opportunity to move that forward in the miscellaneous provisions Bill and about how we intend to do so. I have been clear in my intention to provide for new protection provisions in the future miscellaneous provisions Bill. Given the complexity of the issue, I believe that primary legislation is the correct place for that to be brought forward. As Mr Gordon Dunne acknowledged, on 7 December, I published consultation proposals and set out, in detail, the way forward. That is also being discussed with our voluntary and community sector partners. Given the timing of the consultation, other work pressures and the target date for the introduction of the

miscellaneous provisions Bill, these measures will be brought forward as amendments ahead of Consideration Stage. We will do so at the earliest possible juncture to ensure that the Committee has the opportunity to scrutinise those amendments as fully as we wish them to do. I trust that the Justice Committee and the House will support me in developing and progressing those measures in due course.

On the issue of notices and orders, Rachel Woods asked about individuals who are under 18, what protections will be given to young victims and how young perpetrators could be handled. The approach taken reflects the approach adopted in the domestic violence and protection notices and orders that the House approved in 2015, as well as the approach adopted in the rest of the UK, including England and Wales, where there are similar age thresholds for the application of the offence.

The NSPCC has indicated that a threshold of 18-plus is better than the alternative of 16-plus. The Children's Commissioner also accepts the rationale for that threshold. A threshold below the age of 18 would mean that children could be criminalised for breaching an order where an offence may not have occurred. There would also be concerns about making a young person homeless in the absence of an offence having occurred. There is also a need to ensure that, in all that we do across the justice system, we adopt a child-centred approach as far as that is possible, taking account of the needs of victims as well as addressing abusive behaviour.

Youth Justice Agency officials have also advised that any response should be commensurate with the young person's age, maturity, needs and understanding. Where a young person is experiencing abuse and a child is engaged in harmful behaviours, the response should be child-centred, seek to prevent further harm and promote recovery. Youth Justice Agency staff are also trained to recognise and respond to issues of domestic abuse whether a young person is a victim or a perpetrator. They are required to negotiate the procedural and process requirements of safeguarding systems as they impact on children and adults, while supporting service users to engage with a range of support requirements and safety plans. Specialised interventions are delivered as part of any community or court order disposals, often in collaboration with other statutory and voluntary organisations.

For those who display harmful behaviour, there should be a coordinated approach by the health and social care trusts, the police, the public protection arrangements in Northern Ireland,

the Public Prosecution Service, victim support services and youth justice bodies so that relevant professionals from the sector can understand the risks that the young person may pose to other young people. That coordinated response should include working with the young person whose behaviour has been harmful and those working with the young person who has been harmed. Consideration should also be given to whether a young person who abuses others should be the subject of a child protection case conference if that young person is considered to be at risk of continuing harm. Furthermore, non-molestation orders or protection orders will continue to be available for 16- and 17-year-olds.

I have also sought to set out for Members the risks associated with the amendment on legal aid that was introduced at Consideration Stage. I want to be absolutely clear that my reference to RHI was to do with the potential repercussiveness, not legal aid costs themselves. Legal aid is a vital part of the social safety net that allows everyone equal access to justice. It is important. I defend it, and we should protect and guard it. That requires us to make such changes to legal aid as are properly thought through and developed with good policy intent. I am hopeful that the improved provision proposed as amendment No 3 and the supplementary commitment to develop new and better forms of protection provided by amendment No 7 will provide that sensible basis on which to progress the ambition that we all share, which is to protect victims of domestic abuse in the best way we can.

I put on record my thanks to Doug Beattie for his sensible and sensitive comments about the need to consider how we target resources and, crucially, where the money will come from to fund new commitments. It comes from budgets that support victims in other ways, so what we implement in one place in the House has implications for budgets in another. We must all, with good intent, be conscious of where the money comes from and how it is spent, in order to ensure that it is targeted at those who are most in need.

Giving effect to the waiver and developing further protections through the amendment No 7 mechanism will require extensive evidence-gathering and engagement work. I look forward to working with Members, with the Justice Committee and, most importantly, with victims of abuse as, together, we develop policy proposals that can make a genuine difference to people's lives.

The provisions envisioned in amendment No 4, and amendment No 5, to some degree, are unnecessary. They step on the toes of existing protections and interact ambiguously and, at times, illogically with existing statute. In the event that they are adopted, remedial amendments to legal aid statute will be required to ensure that they function correctly and do not give rise to contested, unfair or unclear outcomes. I trust that the Committee will work constructively with us in the Department in that regard, should that eventuality arise. In reality, however, I want to make the case around amendment Nos 4 and 5, because they are different.

Amendment No 4 does not add anything for victims. Amendment No 5 attempts to do so. There may be better ways in which to achieve that, but it at least attempts to do it.

Therefore, whilst I will oppose amendment No 4, I will not push amendment No 5 to a Division, because I do not believe that it is necessary.

In respect of amendment No 4, I want to set out —

Ms Dillon: I thank the Minister for taking an intervention. I just want clarity around one issue in relation to this. The officials told the Committee, if I recall, that mediation services are not provided in cases of domestic violence and that that is the intended course of action in relation to domestic abuse also. Is mediation ruled out in these cases anyhow? I just want clarity around that.

Mrs Long: It is not that mediation is ruled out. The question is how people view the issue of advice and guidance, and that does not equate to mediation. That has been slightly over-egged in the discussion, and I hope to set out clearly what we are actually talking about.

In respect of amendment 4, it is important that we understand exactly what the waiver does. People can get all the advice and assistance that they need to defend proceedings under a representation lower certificate. A victim does not need a separate certificate for advice and assistance if a vexatious application is issued against them. They need something more tangible — representation at court — and that is what the waiver covers. In this way, the waiver is directly analogous to the non-molestation waiver that also extends to representation only. There has been no request to extend that waiver in those purely protective measures, and it would therefore be illogical to extend the

waiver to advice and assistance in matters regarding issues such as contact.

The Access to Justice (Northern Ireland) Order 2003 says:

“representation” means representation for the purposes of proceedings and includes—

(a) all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings;

(b) in the case of civil proceedings, all such assistance as is usually so given in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings”.

I hope that that provides clarity for Ms Dillon and, indeed, others that giving effect to a compromise — essentially, finding mediated outcomes — is covered within the waiver. There is therefore no need for the extension of the waiver to cover advice and assistance. I ask Members to resist this amendment because it costs money, yes, but it delivers nothing additional to victims, who are at the heart of what we are here to do this evening.

With respect to amendment No 5, I want to specifically address the question that has been asked about the higher-tier courts. Miss Rachel Woods asked how often waivers have been used and, as I have said, they have been used. They simply have not been used in these circumstances. However, these protections have been deployed in divorce and ancillary relief proceedings, public family law proceedings and a variety of other contexts. It is not true to say that waivers have not been used. I propose and commit to ensure that discretion can be deployed in a clear, structured and public way to ensure that victims of abuse have access to the representation that they need to protect themselves from their abusers in private family law cases in higher-tier courts. The director of legal services can use his existing discretion to provide appropriate protection in these cases, and I have already made it clear that I intend to task my Department with developing a framework that ensures that that is done in a structured way that gives clarity to everyone about the support that is available and how it can be accessed.

Mr Frew: I thank the Minister for giving way. Are all the waivers that the Minister outlined different from what is in England at the current time? If they are, why is the Minister concerned about the repercussiveness of further measures?

Mrs Long: I am concerned about the repercussiveness of further measures because we have not had time to do due diligence on the legal aid provisions, and that is why putting a commencement date in the Bill would be foolish. It could end up in a situation where, having done that due diligence, if it proved to be repercussive, we would have to go ahead and commence. I have said, both at the Committee and in the Chamber, that it is not the case that every deviation from what happens in England and Wales will lead to repercussive implications. However, how we do that is critical in avoiding repercussive implications, and because of the manner in which the amendments have been brought, we have not been able to secure the adequate knowledge and due diligence to be certain that that will not be the case.

It is not simply to say that there will be no repercussive implications; it is to say that we will be able to look at them as we proceed with the Bill. I also repeat that it is my intention to commence the abuse offences and the legal aid provisions at the same time, provided, of course, that the due diligence that is done on this matter comes back and tells me that there is no repercussive implication. That is the will of the House, and I am bound by it.

7.15 pm

I want to set out my concerns about amendment No 5, but, as I indicated, it is not my intention to divide the House on that. However, I ask Members to reflect on what I say about amendment No 5, because it has consequences. It is unnecessary and could bring confusion and delay. First of all, two very different financial eligibility tests exist for funding before the lower and higher courts. A waiver is, basically, a very simple but crude tool. It works well for high-volume decisions with relatively low value where speed is the main consideration, and, therefore, it is appropriate in the lower tier.

Higher court cases are less frequent and much more expensive for clients and the legal aid fund. In those circumstances, a much more considered approach that gives regard to the individual circumstances of the applicant and the case is required. That is what representation higher discretion allows for, and, with both provisions in place, there is a risk that an applicant will be unsure of what their entitlements are, unclear about what information they need to provide in order to access their entitlement and, critically, will be

left wondering whether, if they are to be granted a waiver, they might have been better off with another form of protection. Having two schemes in place to do essentially the same thing does not help people. It adds confusion and muddies the water in what is an already very complicated situation.

Additionally, linking article 8 applications to other family proceedings in the higher courts will, effectively, bring the waiver into play in cases other than article 8 applications and thereby expose the legal aid fund to an uncertain cost pressure. However, as I said, despite those reservations, I do not intend to resist amendment No 5; I will simply leave it to Members to consider the arguments that I set out.

Finally, on this group of amendments, Rachel Woods mentioned occupation orders a few times in her contribution. I want to be clear for the avoidance of doubt: you cannot get an occupation order under the waiver that she is proposing or under my amendment. The Member is, I think, confusing occupation orders with residence orders, which would come within the vires of the Bill.

I will return to amendment No 6, which is a much more serious problem. It carries with it a significant risk of failing vulnerable victims of abuse by facilitating their further abuse. If we adopt amendment No 6, we will discover later that we voted to make more public funds available to abusers to drag their victims through the courts. Let us be clear about this: a respondent to proceedings cannot drag anyone to the courts. It is only the initiator who can take that course of action. Therefore, saying that you will fund respondents at this time but not initiators ensures that we can prevent abusers dragging their family through the courts. We cannot and must not allow that to happen, so I ask Members to oppose amendment No 6.

I thank the Chairman, Mr Paul Givan, and members of the Committee again for their support in their scrutiny of the Bill. The Chairman raised a number of key points that I want to address, because I think that they are most pertinently addressed under amendment No 6. Mr Givan and others made a very real point about victims who are already subjected to a situation where a perpetrator gets legal aid due to their means and the victim does not get it because of their means, and we all acknowledge that that can incentivise such vexatious article 8 proceedings.

Mr O'Dowd: Will the Minister give way?

Mrs Long: I will, yes.

Mr O'Dowd: For my own mind, I just want to clarify some of the language that has been used during this and previous debates. There have been references to perpetrators and, quite rightly, references to victims. Will the Minister clarify what she means by "perpetrator"? Are we talking about suspects? A suspect is not a perpetrator until they are convicted in a court of law. Alternatively, is the perpetrator that she is referring to in this case someone who has already been convicted of domestic abuse and is continuing that abuse through the court system?

When we are passing criminal legislation, it is important that we understand that our job as legislators is to make law that protects, strange as it may sound, the suspect and the victim. The suspect may or may not be found guilty, but, once they are found guilty, they are a perpetrator.

Mrs Long: The issue here is that this is not about criminal proceedings, so this would not affect those who are accused of a crime. The issue here is perpetrators of domestic abuse who may not have been found guilty of a crime but who are, nevertheless, perpetrators of domestic abuse or violence against a partner and who would be able to argue that they are a victim and use the waiver to further abuse their partner by dragging them through the courts repeatedly. I am not referring to those who are before the courts on charges of domestic abuse, because that is dealt with in a completely different set of circumstances. I am referring to perpetrators only with regard to civil legal aid and family proceedings.

On that point with amendment No 6, my concern is that, regardless of means, a perpetrator who claims to be a victim of abuse will be able to claim the waiver and use legal aid to repeatedly return the victim to the courts. Amendment No 6, therefore, expands the availability to perpetrators to exercise coercive control in that way. If we are to act to reduce that form of abuse, as I believe Members intend, we should not allow an additional route for perpetrators to be created. The only alternative means to prevent such abuse, as the Deputy Chair of the Committee, Linda Dillon, rightly explained, would be to define a victim more strictly in some way. Indeed, her colleague Mr O'Dowd suggested that, for example, a conviction for domestic abuse would absolutely define a perpetrator in law.

However, were we to say that a victim coming before the courts, seeking legal aid in family

proceedings, would first have had to secure a conviction against their partner to be able to get this legal aid waiver for their civil proceedings, we would be limiting the scope of the waiver way beyond the intention of the House. Therefore, I believe that it is important that we have flexibility so that, where there may be other lower-level evidence of domestic abuse in a family, those victims would still be able to claim the waiver on domestic abuse. Where we have no alternative, if amendment No 6 goes ahead, we would have to be much more stringent in how we defend abuse. Indeed, Rachel Woods said that it was a matter for the Department to draw up such rules and regulations to ensure that that would not happen. However, the unacknowledged consequence of that is that genuine victims would be excluded from the waiver.

It is important that we make this wide enough to capture potential victims of domestic abuse but narrow enough to exclude those who would use it to perpetrate abuse on a partner. The way to do that is only at this stage to cover those who are initiating or are respondents to proceedings and not those who are initiating. Amendment No 3, however, allows us to develop proposals for circumstances where victims often rightly need to obtain legal aid — and they will — to commence proceedings in future.

Paul Givan and others queried further the £14 million and where it comes from. I think that Paul Frew asked whether it would not better come out of the legal aid fund than out of the pockets of victims. I want to take a minute to explain where the figures came from. In the year to 30 June 2020, the Legal Services Agency issued 3,036 certificates for individuals to be represented in article 8 proceedings. According to Court Service data, there were at least 7,876 parties to article 8 applications in the same period. That means that there were at least 4,840 participants in such proceedings who are not in receipt of legal aid in the year to 30 June 2020. The average cost to the LSA of funding article 8 proceedings is £1,009.14 at the family proceedings court and £6,973.59 in the higher courts. Roughly 20% of cases take place in the higher courts. Under the provisions currently in the Bill, the proposed waiver would come to apply in most article 8 cases. Based on those numbers, the cost of funding an additional 4,840 participants each year would amount to some £10.6 million annually. In addition, the availability of legal aid to fund article 8 work to people who previously would have been financially ineligible can be expected to generate extra applications to the court, as I have just described.

Each case that comes before the courts will also be complicated by allegations of abuse, on which the courts will need to make findings of fact in the course of the proceedings. That will add delay and further costs to the system. In combination, these effects might be expected to add a further 10% to 20%, or £2 million to £4 million, to the total cost of funding article 8 proceedings. Therefore, these effects have the potential to increase the annual cost of article 8 cases from the current level of around £8 million to as much as £22 million per year; i.e. an extra £14 million, with no available means of assessing where it will fall within that range.

Importantly, the great majority of these costs will arise from an inability to target support on victims of abuse who are seeking to defend themselves against abusive partners. Much of this potential cost could only be avoided by giving the LSA the means in legislation to target support where it is needed. Legal aid is a scarce and important resource. Given that it is used to ensure access to justice for vulnerable people in some of the most trying circumstances that they will ever face in their lives, it is critical that we focus it carefully on those who need its help, and I believe that the current provisions fail to do that. Therefore, with respect to the savings and estimates that were provided to the Committee and where they come from, it is not just from funding people who are not victims; it is also by not funding litigation that would otherwise not occur. I hope that that answers Mr Givan's question.

Paul Givan and Doug Beattie also made reference to legal aid spending more generally, and I remain committed to addressing the two audit qualifications in the latest LSA accounts. The LSA is actively taking forward a range of measures to address those qualifications, and I welcome the Comptroller and Auditor General's recognition of the progress that has been made in addressing those audit qualifications. I also note that the Comptroller and Auditor General has commended the work on fraud and error, which has a number of different strands, and knows that it will take time to develop. Landmark progress was made with the introduction of the legal aid management system during 2019 and 2020. However, other elements of the work programme continue to span a number of financial years. We remain focused on this work and on driving down the levels of fraud and error because it is absolutely the case that we care about the impact of the spending of public money and ensuring that it is directed to those who are most in need.

I have already indicated that, in our report, we will look specifically at the need for support for

those victims who may need to initiate article 8 proceedings. I believe that there is scope to do that within what I have suggested in the amendments that have been brought forward.

Finally, with regard to amendment No 13, I have given a commitment to the Assembly that I will commence these provisions in good time, following the completion of a due diligence process to understand their impact, provided that it is safe to do so. I will share the analysis that informs the decision with the Committee, and I am happy to face scrutiny in the House in due course with regard to the decision to commence or not to commence the provisions. Therefore, amendment No 13 is wholly unnecessary. Its only effect is to replace a straightforward mechanism with a deeply cumbersome one, which, if needed, might eat up valuable Assembly resources and time in what remains of this mandate.

Miss Woods stated that the Department had failed to provide the Committee with any estimate of the costs or reason why they have varied with regard to repercussiveness. As my colleague Paula Bradshaw rightly stated, that is because due diligence has not yet been completed. A fulsome explanation of that, the crudeness of the estimates that we were able to provide and all of the other attendant issues was provided to the Committee. I am happy for those Members who are interested to read Hansard rather than to detain Members further tonight by repeating it into the record.

In addition, if it becomes clear that those provisions are not safe, we will need action by the Assembly to prevent exposure of financial risk, or, worse still, to prevent further harm to victims. That uses up that scarce resource to which I have referred. I have indicated in writing and, today, many times in the House that I intend to commence the legal aid provisions to the Bill, unless there is a repercussive implication. However, to be tied in law to do so, irrespective of the outcome of that due diligence, is bad law, and I urge Members to oppose it.

I have also given an undertaking to the Committee that, should those provisions prove to be repercussive, I have heard what members said about the outcome of legal aid and the provisions that they wish to make, and we will return to the Committee with such proposals that will allow us to implement the intent of those measures safely without exposing us to repercussive costs. Once again, I ask Members to accept those assurances and those contained in the law lords ruling of 1995 and vote against amendment No 13.

7.30 pm

I understand why many victims and many who work in the sector are concerned that we will not deliver what is promised in the Chamber. They are not the only people who doubt us in that matter. This discussion first started in 2016, yet it is now 2020 and there were three years of delay while victims and others were unable to access justice in a way that was intended. I understand, therefore, the desire of the Assembly to do whatever is possible to help victims who are facing appalling and devastating cruelty and threat. I share that desire, and I am confident that every Member of the House does also. That is why I made this my first Bill when I came into office and why I have driven the matter hard throughout the year. It is a great disappointment to me that it has become a contested issue, because it is, in fact, one that I think that, at the core, we are all united around. If people support the amendments that I have indicated that I will support and oppose those that I have indicated that I will oppose, I am confident that we will, in a responsible, measured and properly targeted way, find the best support possible for victims.

Mr Givan: Minister, thank you for giving way. Forgive me for taking you back to amendment No 6, but it is about something that I asked the proposer of the amendment. I know that you are about to conclude, but I would like you to assist me in reaching a final view.

The key issue that I am looking at with amendment No 6 is an attempt to address the concern that you have raised that abusers would benefit. I am trying to point out where that is in amendment No 6, which, to my reading, does nothing but remove that a client is the respondent in proceedings. It retains in legislation that the Director of Public Prosecutions has to be satisfied about what a victim of abuse is and retains the guidance in new clause 27(5) in your amendment No 3, which would provide the outline of all that. How does an abuser still slip through the net in that context?

Mrs Long: Mr Speaker, I addressed that issue a few moments ago, but, if you will indulge me, I am happy to repeat it. An abuser would be able to slip through the net because of the rules that we put in place to guide the discretion that the Legal Services Agency can apply. Those could be very stringent, in which case they could also exclude victims and perpetrators. We could, for example, say that you are entitled to the waiver only if the person who is calling you

to court has a conviction or an arrest record for domestic abuse.

As members of the Committee and Members of the House will be aware, there is a multitude of reasons why those who are subjected to domestic abuse do not take proceedings to court, do not report incidents to police and are fearful of doing so. Although we want to break that down, there will be those, for example, who will have sought advice and guidance from Women's Aid but who have opted not to report the abuse that has taken place to the police. For us to leave it so wide that we were unable to restrict it would mean that an abuser, by making a call to an organisation, could claim that they were not the abuser but the abused. As it is about the initiation of proceedings, we could end up with abusers being able to use legal aid to drag their partners through the courts.

That happens already, and you made that point very clearly in your contribution. At the minute, it is constrained by people's access to legal aid, which is constrained by means. The difficulty is that the amendment would remove that barrier and, therefore, people who wish to torture a partner would be incentivised to take legal aid and do it at the public's expense. By removing the requirement to fund other than respondents, we are saying that anybody being taken to court against their will or wishes by a partner in family proceedings and who claims to be a victim of domestic abuse will be able to access the waiver, but anyone initiating proceedings would not because you cannot drag people to court if you are a respondent. However, we have also said, in the other amendments, that we will bring forward an alternative provision that will allow for cases where a genuine victim needs to initiate a case in the courts to do so in a way that will be much more tightly regulated — I accept that — but will exclude the possibility of large numbers of abusers being able to abuse that particular waiver. That is the core issue around all this. The removal of respondents from this is something that I have raised with practitioners and others. Whilst all recognise that there can be very good reasons why someone has to go to court and initiate proceedings if they are a victim of abuse, most recognise that it can be dealt with in an different way, but opening the waiver to those who initiate abuse will essentially make the situation worse and not better.

In conclusion, as I have said, I understand the reservations that members of the public have around trust in this place. I also understand the desire of the Assembly to do whatever is possible to help victims, and I share that. I

believe that the best way to do that is to support those amendments that I have indicated that I will support and to oppose those that I oppose. We can then work together to make proposals in this Bill that will make a real and tangible but also a positive difference to the lives of victims. It is victims of abuse who are at the heart of all that we have done in the Chamber today. On that note, I conclude my remarks.

Mr Speaker: Thank you to all Members for their contributions. We will move to the voting.

Amendment No 1 agreed to.

New Clause

Amendment No 2 made:

Leave out clause 26 and insert –

"Protective measures for victims of abuse

26.—*(1) The Department of Justice may by regulations make provision—*

(a) enabling or requiring steps to be taken or measures to be imposed for protecting a person from abusive behaviour,

(b) for the purpose of or in connection with such steps or measures for protecting a person from abusive behaviour.

(2) Steps or measures which may be provided for in regulations under this section are not limited to notices or orders as referred to in this section (and nothing in the following subsections of this section is to the prejudice of the generality of what may be provided for in regulations under this section).

(3) Protecting a person from abusive behaviour is—

(a) protecting a person from abusive behaviour perpetrated by someone to whom the person is personally connected, or

(b) protecting a person from risk of abusive behaviour perpetrated by someone to whom the person is personally connected.

(4) What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.

(5) Regulations under this section—

(a) may include provision to the effect that steps or measures are available on the basis of alleged as well as proven behaviour,

(b) must include provision to the effect that steps or measures—

(i) are for protecting persons who are at least 16 years of age, and

(ii) are to apply in relation to perpetrators or alleged perpetrators of abusive behaviour who are at least 18 years of age.

(6) Regulations under this section may include provision—

(a) about the giving of notices to perpetrators or alleged perpetrators of abusive behaviour (or for review or withdrawal of notices) by a police officer,

(b) setting out grounds for giving notices, conditions to be met before notices may be given or circumstances in which notices may be given (including matters to be taken into account before notices are given),

(c) setting out—

(i) what requirements, including restrictions or prohibitions, may be imposed by notices (and for how long and as to which places),

(ii) specifying information to be included in notices,

(d) allowing notices to impose requirements relating to, as well as relating to persons for whose protection notices are given, children of or residing with persons for whose protection notices are given.

(7) Regulations under this section may include provision—

(a) about the making of orders against perpetrators or alleged perpetrators of abusive behaviour (including orders extending, varying or revoking previous orders) by a court,

(b) setting out grounds for making orders, conditions to be met before orders may be made or circumstances in which orders may be made (including matters to be taken into account before orders are made),

(c) setting out—

(i) what requirements, including restrictions or prohibitions, may be imposed by orders,

(ii) conditions to be met for imposing electronic monitoring requirements in orders,

(d) allowing orders to impose requirements relating to, as well as relating to persons for whose protection orders are made, children of or residing with persons for whose protection orders are made,

(e) allowing orders—

(i) to apply for specific periods (or to have temporary effect),

(ii) to apply generally or to be expressly limited to particular localities,

(f) specifying—

(i) who may make applications for orders, whether notification of applications is required or circumstances in which applications may or must be made,

(ii) proceedings in which orders may be made or circumstances in which applications need not be made in such proceedings,

(g) in relation to proceedings as to orders—

(i) prescribing rules of procedure to be followed,

(ii) stating what evidence may be heard or must be considered,

(iii) making special measures available for the benefit of witnesses,

(iv) deeming proceedings to be either civil or criminal proceedings,

(h) enabling—

(i) rules of court, county court rules or magistrates' courts rules to make provision for procedures in relation to orders (so far as other powers to make rules cannot be relied on for this),

(ii) appeals to be made to a court against the making of orders or against decisions not to make orders (and for appeals to be final).

(8) Regulations under this section may include provision—

(a) imposing notification requirements on persons subject to orders,

(b) conferring on police officers powers exercisable in particular circumstances to take samples or images from or of persons believed by them to be subject to such notification requirements.

(9) Regulations under this section may include provision to the effect that—

(a) persons who are subject to orders that are not expressly limited to particular localities must comply with such orders—

(i) in all parts of the United Kingdom,

(ii) outside the United Kingdom if particular conditions in relation to having a residential connection with Northern Ireland, or being a national of the United Kingdom, are met,

(b) every other provision in such regulations, particularly with respect to breaches of orders, applies accordingly.

(10) Regulations under this section may include provision—

(a) conferring on police officers powers of arrest exercisable with a warrant or powers of arrest exercisable without a warrant—

(i) in relation to breaches or suspected breaches of notices,

(ii) in relation to breaches or suspected breaches of orders,

(b) requiring persons arrested for breaches or suspected breaches of notices or orders to be brought before a court within specified time limits,

(c) authorising persons arrested for breaches or suspected breaches of notices or orders to be detained in custody, pending being brought before a court—

(i) in specified circumstances,

(ii) for periods not exceeding specified limits,

(d) authorising persons brought before a court in relation to breaches or suspected breaches

of notices or orders to be remanded in custody, or granted bail (with or without conditions attached)—

(i) in specified circumstances,

(ii) for periods not exceeding specified limits,

(e) specifying offences and penalties—

(i) for breaches of notices or for breaches of orders,

(ii) for breaches of notification requirements by persons subject to notices or orders.

(11) Regulations under this section may include provision regulating or limiting the use of, or controlling or requiring the retention or destruction of, samples or images taken from or of persons under such regulations.

(12) Regulations under this section may include provision—

(a) for the Department of Justice to—

(i) issue or publish guidance about the exercise of functions under such regulations (except judicial functions),

(ii) keep such guidance under review or revise such guidance in light of review,

(b) specifying who is to have regard to such guidance when issued or published or circumstances in which regard is to be had to such guidance.

(13) Regulations under this section may include provision involving such further matters as the Department of Justice considers appropriate.

(14) Regulations under this section may include provision amending statutory provisions (as construed in accordance with section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(15) 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 Chapters 1 and 2 come into operation.

(16) Regulations under this section may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.— [Mrs Long (The Minister of Justice).]

New Clause

Amendment No 3 proposed: Leave out clause 27 and insert —

"Eligibility of victims for civil legal aid

27.—(1) In the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, in regulation 10 (waiver of eligibility limits in proceedings relating to domestic violence or forced marriage)—

(a) after paragraph (1) insert—

‘(1A) This regulation applies to an application by a client for the funding of representation (lower courts) in proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995 if—

(a) the client is the respondent in the proceedings, and

(b) the Director is satisfied that—

(i) the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by the applicant seeking the order, and

(ii) the applicant seeking the order is someone to whom the client is personally connected.’,

(b) after paragraph (4) insert—

‘(5) The following apply for the purposes of paragraph (1A) as they apply for the purposes of Chapter 1 of Part 1 of the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020 (to give meanings to certain expressions)—

(a) section 2 (as read with section 3(2)) of that Act,

(b) sections 4 and 5 of that Act.’.

(2) Guidance under section 3 of the Legal Aid and Coroners’ Courts Act (Northern Ireland) 2014 must describe the basis, particularly as regards applicable information about the commission or alleged commission of an offence involving domestic abuse, on which the Director may be satisfied as mentioned in regulation 10(1A) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.

(3) *An offence involving domestic abuse is—*

(a) *an offence under section 1, or*

(b) *an offence of any kind that is aggravated as provided for in section 15.*

(4) *The Director is as defined in the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.*

(5) *This section is without prejudice to—*

(a) *any power to make regulations under the Access to Justice (Northern Ireland) Order 2003,*

(b) *the power to give guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.*— [Mrs Long (The Minister of Justice).]

Mr Speaker: As amendment Nos 4, 5 and 6 are amendments to amendment No 3, we need to dispose of them first before returning to amendment No 3.

Amendment No 4 proposed: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), after "funding of" insert "advice and assistance or".— [Miss Woods.]

Question put, That amendment No 4 be made.

Some Members: Aye.

Some Members: No.

Mr Speaker: Before I put the Question again — I am obliged to say this — I remind those Members present that it would be preferable if we could avoid a Division.

Question, that the amendment be made, put a second time.

Some Members: Aye.

Some Members: No.

Mr Speaker: Before the Assembly divides, I remind Members that, as per Standing Order 112, the Assembly has proxy voting arrangements in place. Members who have authorised another Member to vote on their behalf are not entitled to vote in person and should not enter the Lobbies. I also remind Members that social distancing should continue to be observed while voting is taking place.

Please be patient at all times and follow the instructions of the Lobby Clerks.

The Assembly divided:

Ayes 25; Noes 56.

AYES

Ms Bailey, Mr M Bradley, Ms P Bradley, Mr K Buchanan, Mr T Buchanan, Mr Buckley, Ms Bunting, Mrs Cameron, Mr Carroll, Mr Clarke, Mr Dunne, Mr Easton, Mr Frew, Mr Givan, Mr Harvey, Mr Hilditch, Mr Humphrey, Mr Irwin, Miss McIlveen, Mr Middleton, Mr Newton, Mr Robinson, Mr Stalford, Mr Storey, Miss Woods.

Tellers for the Ayes: Mr Carroll and Miss Woods

NOES

Dr Aiken, Mr Allen, Ms Anderson, Dr Archibald, Ms Armstrong, Mrs Barton, Mr Beattie, Mr Beggs, Mr Blair, Mr Boylan, Ms S Bradley, Ms Bradshaw, Ms Brogan, Mr Butler, Mr Catney, Mr Chambers, Mr Dickson, Ms Dillon, Ms Dolan, Mr Durkan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Ms Hunter, Mr Kearney, Mrs D Kelly, Mr G Kelly, Ms Kimmins, Mrs Long, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr McCann, Mr McCrossan, Mr McGlone, Mr McGrath, Mr McGuigan, Mr McHugh, Ms McLaughlin, Mr McNulty, Ms Mallon, Mr Muir, Ms Mullan, Mr Murphy, Mr Nesbitt, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr O'Toole, Ms Rogan, Mr Sheehan, Ms Sheerin, Mr Stewart, Mr Swann.

Tellers for the Noes: Ms Armstrong and Ms Bradshaw

The following Members' votes were cast by their notified proxy in this Division:

Mr K Buchanan voted for Ms P Bradley, Mr T Buchanan, Mr Buckley, Mr Dunne, Mr Easton, Mr Givan, Mr Harvey, Mr Hilditch, Mr Irwin, Mr Newton, Mr Robinson, Mr Stalford and Mr Storey.

Mr Butler voted for Mr Allen, Mrs Barton, Mr Beggs, Mr Chambers, Mr Nesbitt, Mr Stewart and Mr Swann.

Mr Lyttle voted for Ms Armstrong [Teller, Noes], Mr Blair, Ms Bradshaw [Teller, Noes], Mr Dickson, Mrs Long, Mr Lunn and Mr Muir.

Mr O'Dowd voted for Ms Anderson, Dr Archibald, Mr Boylan, Ms Brogan, Ms Dillon, Ms Dolan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Mr Kearney, Mr G Kelly, Ms Kimmins,

Mr Lynch, Mr McAleer, Mr McCann, Mr McGuigan, Mr McHugh, Ms Mullan, Mr Murphy, Ms Ní Chuilín, Mrs O'Neill, Ms Rogan, Mr Sheehan and Ms Sheerin.

Mr O'Toole voted for Ms Bradley, Mr Catney, Mr Durkan, Ms Hunter, Mrs D Kelly, Ms Mallon, Mr McCrossan, Mr McGlone, Mr McGrath, Ms McLaughlin and Mr McNulty.

Question accordingly negated.

Amendment No 5 made:

As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), leave out "(lower courts)".— [Ms S Bradley.]

Amendment No 6 proposed: As an amendment to amendment No 3, in clause 27(1), in inserted text (1A), leave out (a) and (b) and insert –

"the Director is satisfied that—

(a) the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by another party to the proceedings, and

(b) the other party to the proceedings is someone to whom the client is personally connected."— [Miss Woods.]

Question put, That the amendment be made.

8.00 pm

Mr Speaker: I have been advised by the party Whips that, in accordance with Standing Order 113(5)(b), there is an agreement that we can dispense with the three minutes and move straight to the Division. I remind all Members to follow the instructions of the Lobby Clerks on the need for social distancing.

The Assembly divided:

Ayes 25; Noes 56.

AYES

Ms Bailey, Mr M Bradley, Ms P Bradley, Mr K Buchanan, Mr T Buchanan, Mr Buckley, Ms Bunting, Mrs Cameron, Mr Carroll, Mr Clarke, Mr Dunne, Mr Easton, Mr Frew, Mr Givan, Mr Harvey, Mr Hilditch, Mr Humphrey, Mr Irwin, Miss McIlveen, Mr Middleton, Mr Newton, Mr Robinson, Mr Stalford, Mr Storey, Miss Woods.

Tellers for the Ayes: Mr Carroll and Miss Woods

NOES

Dr Aiken, Mr Allen, Ms Anderson, Dr Archibald, Ms Armstrong, Mrs Barton, Mr Beattie, Mr Beggs, Mr Blair, Mr Boylan, Ms S Bradley, Ms Bradshaw, Ms Brogan, Mr Butler, Mr Catney, Mr Chambers, Mr Dickson, Ms Dillon, Ms Dolan, Mr Durkan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Ms Hunter, Mr Kearney, Mrs D Kelly, Mr G Kelly, Ms Kimmins, Mrs Long, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr McCann, Mr McCrossan, Mr McGlone, Mr McGrath, Mr McGuigan, Mr McHugh, Ms McLaughlin, Mr McNulty, Ms Mallon, Mr Muir, Ms Mullan, Mr Murphy, Mr Nesbitt, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr O'Toole, Ms Rogan, Mr Sheehan, Ms Sheerin, Mr Stewart, Mr Swann.

Tellers for the Noes: Ms Armstrong and Ms Bradshaw

The following Members' votes were cast by their notified proxy in this Division:

Mr K Buchanan voted for Ms P Bradley, Mr T Buchanan, Mr Buckley, Mr Dunne, Mr Easton, Mr Givan, Mr Harvey, Mr Hilditch, Mr Irwin, Mr Newton, Mr Robinson, Mr Stalford and Mr Storey.

Mr Butler voted for Mr Allen, Mrs Barton, Mr Beggs, Mr Chambers, Mr Nesbitt, Mr Stewart and Mr Swann.

Mr Lyttle voted for Ms Armstrong [Teller, Noes], Mr Blair, Ms Bradshaw [Teller, Noes], Mr Dickson, Mrs Long, Mr Lunn and Mr Muir.

Mr O'Dowd voted for Ms Anderson, Dr Archibald, Mr Boylan, Ms Brogan, Ms Dillon, Ms Dolan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Mr Kearney, Mr G Kelly, Ms Kimmins, Mr Lynch, Mr McAleer, Mr McCann, Mr McGuigan, Mr McHugh, Ms Mullan, Mr Murphy, Ms Ní Chuilín, Mrs O'Neill, Ms Rogan, Mr Sheehan and Ms Sheerin.

Mr O'Toole voted for Ms Bradley, Mr Catney, Mr Durkan, Ms Hunter, Mrs D Kelly, Ms Mallon, Mr McCrossan, Mr McGlone, Mr McGrath, Ms McLaughlin and Mr McNulty.

Question accordingly negated.

Mr Speaker: We now return to amendment No 3.

Amendment No 3, as amended, made: Leave out clause 27 and insert –

"Eligibility of victims for civil legal aid

27.—(1) *In the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, in regulation 10 (waiver of eligibility limits in proceedings relating to domestic violence or forced marriage)—*

(a) *after paragraph (1) insert—*

'(1A) This regulation applies to an application by a client for the funding of representation in proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995 if—

(a) *the client is the respondent in the proceedings, and*

(b) *the Director is satisfied that—*

(i) *the client is or appears to be the victim of abusive behaviour perpetrated or apparently perpetrated by the applicant seeking the order, and*

(ii) *the applicant seeking the order is someone to whom the client is personally connected.'*

(b) *after paragraph (4) insert—*

'(5) The following apply for the purposes of paragraph (1A) as they apply for the purposes of Chapter 1 of Part 1 of the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020 (to give meanings to certain expressions)—

(a) *section 2 (as read with section 3(2)) of that Act,*

(b) *sections 4 and 5 of that Act.'*

(2) *Guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 must describe the basis, particularly as regards applicable information about the commission or alleged commission of an offence involving domestic abuse, on which the Director may be satisfied as mentioned in regulation 10(1A) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.*

(3) *An offence involving domestic abuse is—*

(a) *an offence under section 1, or*

(b) *an offence of any kind that is aggravated as provided for in section 15.*

(4) *The Director is as defined in the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.*

(5) *This section is without prejudice to—*

(a) *any power to make regulations under the Access to Justice (Northern Ireland) Order 2003,*

(b) *the power to give guidance under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.'*— [Mrs Long (The Minister of Justice).]

New Clause

Mr Speaker: Amendment No 7 has already been debated.

Amendment No 7 made:

After clause 27 insert –

"Proposals as to availability of civil legal aid

27A.—(1) *The Department of Justice must lay before the Assembly a report setting out the Department's proposals for—*

(a) *making regulations under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose, or*

(b) *taking some different course of action for the prescribed purpose.*

(2) *A report under this section must be laid before the Assembly before the end of the period of 2 years beginning with the day on which this Act receives Royal Assent.*

(3) *The prescribed purpose is that of—*

(a) *reducing (including to nil), in specific circumstances, financial costs to be incurred by a relevant client with respect to receiving funded services in or in relation to qualifying proceedings to which an abusive person as well as the relevant client are parties, or*

(b) *preventing, so far as reasonably possible—*

(i) *qualifying proceedings from being initiated unduly against a relevant client by an abusive person by virtue of having access to funded services, or*

(ii) qualifying proceedings to which both a relevant client and an abusive person are parties from being prolonged unduly by the abusive person by virtue of having access to funded services.

(4) Qualifying proceedings are—

(a) proceedings for an order that is an Article 8 order within the meaning of the Children (Northern Ireland) Order 1995, or

(b) proceedings on appeal arising from proceedings for an order that is an Article 8 Order within the meaning of the Children (Northern Ireland) Order 1995.

(5) A relevant client is a client who is or appears to be the victim of abusive behaviour.

(6) An abusive person is someone—

(a) who is the perpetrator or apparent perpetrator of abusive behaviour of which the relevant client is or appears to be the victim, and

(b) to whom the relevant client is personally connected.

(7) A conclusion by the Director, when acting by virtue of regulations made under the Access to Justice (Northern Ireland) Order 2003 for the prescribed purpose—

(a) as to whether—

(i) a person is or appears to be the victim of abusive behaviour, or

(ii) someone is the perpetrator or apparent perpetrator of abusive behaviour, or

(b) as to whether two people are personally connected to each other,

may be reached, particularly on the basis of applicable information about the commission or alleged commission of an offence involving domestic abuse, having regard to appropriate guidance given under section 3 of the Legal Aid and Coroners' Courts Act (Northern Ireland) 2014.

(8) What amounts to abusive behaviour is to be construed, or whether two people are personally connected to each other is to be determined, in the same way as is provided for in Chapter 1.

(9) An offence involving domestic abuse is—

(a) an offence under section 1, or

(b) an offence of any kind that is aggravated as provided for in section 15.

(10) A reference in this section to a client or funded services, or to the Director, is to be construed in accordance with the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.— [Mrs Long (The Minister of Justice).]

Clause 28 (Guidance about domestic abuse)

Amendment No 8 made:

In page 14, line 36, leave out subsection (2)— [Mrs Long (The Minister of Justice).]

Mr Speaker: We now come to the second group of amendments. With amendment No 9, it will be convenient to debate amendment Nos 10 to 12 and 14 to 17. I call the Minister of Justice, Naomi Long, to move amendment No 9 and address the other amendments in the group.

Clause 29 (Guidance on data collection)

Mrs Long: I beg to move amendment No 9: In page 15, line 21, leave out paragraph (c).

The following amendments stood on the Marshalled List:

No 10: Leave out clause 30 and insert –

"Training within relevant bodies

30.—(1) Each of the following must provide such training on the effect of this Part as it considers appropriate for its personnel—

(a) the Police Service of Northern Ireland,

(b) the Public Prosecution Service for Northern Ireland,

(c) any additional public body that has functions within the criminal justice system in Northern Ireland which the Department of Justice specifies in connection with this section in regulations.

(2) The Department of Justice must provide such training on the effect of this Part as the Department considers appropriate for—

(a) staff within the Northern Ireland Courts and Tribunal Service,

(b) staff of any additional agency of the Department that has functions within the criminal justice system in Northern Ireland which the Department selects in connection with this section.

(3) A body which must under this section provide training is to do so—

(a) at least annually, and

(b) as something to be undertaken as mandatory—

(i) by such of the relevant personnel or (as the case may be) staff as have responsibilities for dealing with cases involving domestic abuse, and

(ii) for the purpose of ensuring the effective discharge of their responsibilities in relation to such cases.

(4) The Department of Justice must—

(a) publish a statement setting out information held or obtained by the Department about the level of participation by the relevant personnel or (as the case may be) staff in training provided by a body in accordance with this section, and

(b) do so—

(i) before the end of the period of 18 months beginning with the day on which Chapters 1 and 2 come into operation, and

(ii) annually thereafter.

(5) Regulations under this section are subject to negative resolution.”— [Mrs Long (The Minister of Justice).]

No 11: Leave out clause 31 and insert –

"Independent oversight of this Part

31.—(1) The Department of Justice must appoint a person—

(a) to—

(i) report to the Department on the person's assessment of the effectiveness of this Part, and

(ii) make recommendations to the Department in relation to the operation of this Part, and

(b) to advise, and make recommendations to, the Department on the content and review of guidance under section 28.

(2) A report under this section must be completed—

(a) before the end of the period of 2 years beginning with the day on which Chapters 1 and 2 come into operation, and

(b) annually thereafter.

(3) A report under this section—

(a) must be sent to the Department of Justice by the person appointed as soon as practicable after the report is completed, and

(b) must be—

(i) laid before the Assembly by the Department, and

(ii) published by the Department,

as soon as practicable after the report is received by the Department from the person appointed.

(4) An appointment under this section is for the person appointed to act independently of the Department of Justice.

(5) The first appointment under this section must be made before the end of the period of 1 year beginning with the day on which this Act receives Royal Assent.

(6) The preceding subsections of this section cease to have effect at such time, which must not be before the end of the period of 7 years beginning with the day on which Chapters 1 and 2 come into operation, as the Department of Justice may by regulations specify.

(7) Regulations under this section are subject to negative resolution.”— [Mrs Long (The Minister of Justice).]

No 12: Leave out clause 32 and insert –

"Report on the operation of this Part

32.—(1) *The Department of Justice must prepare a report, covering the reporting period, in relation to the following categories of offence—*

(a) *an offence under section 1 (including as alleged to be aggravated as referred to in section 8 or 9),*

(b) *an offence of any kind that is alleged to be aggravated as referred to in section 15.*

(2) *A report under this section must set out this information—*

(a) *the number of—*

(i) *offences under section 1 as recorded by the Police Service of Northern Ireland on the basis of allegations made to them (including as recorded by reference to police districts),*

(ii) *files submitted by the Police Service to the Public Prosecution Service for Northern Ireland in respect of offences within each of the categories,*

(iii) *cases prosecuted by the Public Prosecution Service for offences within each of the categories,*

(iv) *convictions in cases prosecuted by the Public Prosecution Service for offences within each of the categories (particularly where such offences are proved to be aggravated as referred to in section 8 or 9 or (as the case may be) in section 15),*

(b) *the average length of time, for offences within the categories as a whole—*

(i) *from recording of cases by the Police Service on the basis of allegations made to them,*

(ii) *to disposal of cases at court (disregarding appeal processes).*

(3) *A report under this section is to include, so far as available—*

(a) *information about the level of participation by persons in training provided under section 30,*

(b) *information about—*

(i) *how court business is arranged so as to ensure the efficient disposal of cases for offences within the categories as a whole,*

(ii) *the experience at court of witnesses (including witnesses who are children) in cases for offences within the categories as a whole.*

(4) *A report under this section is to include, in addition—*

(a) *any views that the Department of Justice considers appropriate to give in relation to the operation of this Part (including the Department's assessment of the effectiveness of this Part),*

(b) *information about—*

(i) *any issuing, review or revision of guidance by the Department under section 28,*

(ii) *any steps taken by the Department for raising public awareness (particularly awareness of victims) of matters relating to domestic abuse in Northern Ireland,*

(iii) *any activities undertaken by the Department in supporting the operation of this Part,*

(iv) *any further things that the Department considers appropriate.*

(5) *A report under this section must be—*

(a) *laid before the Assembly by the Department of Justice, and*

(b) *published by the Department,*

as soon as practicable after the report is completed by the time and in the form determined by the Department.

(6) *As for the reporting period—*

(a) *the first reporting period is the period, of not less than 2 years and not more than 3 years beginning with the day on which Chapters 1 and 2 come into operation, determined by the Department of Justice,*

(b) *each subsequent reporting period is the period of 3 years coming after the previous reporting period.*

(7) *The preceding subsections of this section cease to have effect at such time, which must not be before the end of the period of 10 years*

beginning with the day on which Chapters 1 and 2 come into operation, as the Department of Justice may by regulations specify.

(8) Regulations under this section are subject to negative resolution.”— [Mrs Long (The Minister of Justice).]

No 14: In clause 38, page 32, line 27, at end insert –

“(1A) Section 27A comes into operation on the day after the day on which this Act receives Royal Assent.”— [Mrs Long (The Minister of Justice).]

No 15: In clause 38, page 32, line 27, at end insert –

“(1B) Section 31 comes into operation on the day after the day on which this Act receives Royal Assent.”— [Mrs Long (The Minister of Justice).]

No 16: In clause 39, page 32, line 33, leave out "Family" and insert "Civil".— *[Mrs Long (The Minister of Justice).]*

No 17: In the long title, leave out from "and prevent" to end and insert –

"regulate the conduct of civil proceedings in particular circumstances; and make provision for connected purposes.”— [Mrs Long (The Minister of Justice).]

Mrs Long: This amendment relates to the data collection provision at clause 29 of the Bill. It removes the reference to the Northern Ireland Courts and Tribunals Service. I consider that to be legislatively inappropriate, given that the court service is an agency of the Department and would otherwise require the Department to give guidance to a part of itself. I can, however, reassure Members that the Northern Ireland Courts and Tribunals Service is an integral part of the discussions that are being held with the PSNI and the Public Prosecution Service around the operationalisation of the offence and information that is to be gathered.

Along with those entities, the Northern Ireland Courts and Tribunals Service will be made aware of the information that is to be provided and what is expected from it.

The absence of a legislative reference will in no way diminish that position.

8.15 pm

Members may ask why that approach differs from the approach in the training clause — clause 30 — and it is important to remember that the provision in clause 29 is permissive and states that I may issue guidance. There is no duty on me to do so and that would involve my Department advising itself, which is illogical. The requirement in relation to the training provision is quite different as it places a duty and obligation on my Department to do something.

Turning to amendment No 10, we are all in agreement on the need for and importance of training for those who are involved in the operationalisation of the new offence. That will be key to ensuring that the offence works as intended and can be seen to be as effective as possible. I indicated at Consideration Stage that I had concerns about clause 30, which, as it stands, would require me and my Department to ensure that sufficient mandatory training is made available to police and criminal justice agencies on an annual basis. As I have advised previously, neither I nor my Department can interfere in the operational independence of those organisations. It is not for the Department to dictate to other independent entities on their operational procedures and requirements. Indeed, if I did so, I would be stepping outside my ministerial powers.

Amendment No 10 instead places the duty on the PSNI and the Public Prosecution Service, given their status as operationally independent bodies, rather than on the Department. The amendment also provides that the duty would apply to any additional public body, which could be specified by the Department in regulations, that has functions within the criminal justice system in Northern Ireland. The duty for training NICTS staff remains with my Department due to its agency status. It would, however, still be named in the Bill.

The amendment also places a duty on my Department to provide training to staff of any additional agency of the Department that has functions within the criminal justice system in Northern Ireland and which the Department selects in connection with that section. The requirement would be to provide such training as is considered appropriate for those who have responsibility for dealing with cases involving domestic abuse and to ensure the effective discharge of those responsibilities in relation to those cases.

From the outset, I have considered that the core agencies that will deal with the new offence are covered. It is important that the provisions focus on those organisations with

key responsibility for criminal proceedings on domestic abuse and aggravated offences. That will also ensure that operational partners are equipped to investigate the new offence, bring forward prosecutions and facilitate convictions. Although the training will be mandatory and annual, ultimately responsibility for it and its effectiveness needs to rest with the operational bodies and should be determined on the basis of operational need. I thank the Committee for agreeing on the approach that is set out in the amended provision.

On training, there is also a requirement to report on the level of participation for the organisations covered, which is included in the training provision itself in clause 30 and the reporting provision in clause 32. Work is being progressed by the PSNI and the Public Prosecution Service in conjunction with our voluntary and community sector service partners on the form that that training will take. That training will make use of operational guidance, which will supplement the guidance that my Department is developing under clause 28 in conjunction with our voluntary and community sector partners. Provision in relation to reporting on training is also provided for in subsection (3)(a) of the clause that deals with reporting on the operation of Part 1 for completeness.

Amendment No 11 builds upon and further refines the Committee amendment that relates to independent oversight. The structure of the clause has been refashioned in part, thereby recasting the provisions. Those related to guidance have been refined to refer to making recommendations:

"on the content and review of guidance".

Provision is included that a report must be prepared that contains an assessment of the effectiveness of Part 1 and includes recommendations on its operation. A report is to be prepared annually, with the first one to be completed within two years of Chapters 1 and 2 coming into operation. There is merit in that, given that it will take a period for the new offence to be bed in and for numbers to be meaningful.

The amendment also makes provision on the laying of the independent person's report at the Assembly and for the clause to have effect for a minimum period of seven years from the day on which Chapters 1 and 2 come into operation. Where the Department brings forward regulations, the functions may cease after that period.

Amendment No 15 provides that clause 31 will come into operation on the day after Royal Assent, enabling the appointment process to be established ahead of the new domestic abuse offence coming into operation. As I noted at Consideration Stage and during my previous discussions with the Committee and Chair, I am reassured that that function does not need to entail an entirely new entity; rather, it is a function that could be undertaken by, for example, the Criminal Justice Inspection or any new victims of crime commissioner. In that respect, there have been helpful discussions with the Chief Inspector of Criminal Justice in Northern Ireland.

Amendment No 12 builds on clause 32, with changes largely to refine some of the language around criminal proceedings so that it more closely aligns with practice. The reporting period is also somewhat broader to reflect that the offence will not be introduced at the start of a financial year, thereby assisting with the period for data collection. Reference is now also made in relation to the domestic abuse offence and data by reference to "police districts". The provisions in relation to guidance have also been refined to refer to:

"issuing, review or revision of guidance",

given that the guidance will have been developed through a multi-party task and finish group involving statutory and voluntary sector partners ahead of the offence coming into operation. Provision is made that there are ongoing reporting requirements, with each reporting period three years after the previous one.

The amendment also provides that the reporting requirement would no longer apply if regulations to that effect were brought forward, with the earliest that those could be brought forward being 10 years after the domestic abuse offence comes into operation. It is considered that, at that point, the offence will be well bedded in and that reporting should take the same form as for any other offence. Of course, this would have to be reviewed further at that point. That aside, information and data would continue to be made available on key offence statistics, such as is currently the case in relation to a wide range of offences.

The last three amendments are technical, albeit important. Amendment No 14 provides that clause 27A will come into effect the day after Royal Assent is secured. Amendment No 16 allows for the short title of the Bill at clause 39 to be amended on foot of changes to the Bill at Consideration Stage. The previous reference to

"Family Proceedings" in the short title will be replaced by "Civil Proceedings", of which family proceedings are a part. A similar change is made to the long title by way of amendment No 17. That will refer to regulating:

"the conduct of civil proceedings in particular circumstances; and make provision for connected purposes."

Again, that is in line with the changes that have been made to the Bill.

That concludes my remarks on the amendments being considered in this group, and I look forward to hearing from Members.

Mr Givan (The Chairperson of the Committee for Justice): Amendment Nos 9, 10, 11, 12 and 15 all relate to provisions that were introduced by the Committee at Consideration Stage. The Department provided the Committee with its proposed text of those amendments, and the Committee requested a number of changes to ensure that the provisions retained their original purpose and intent. The Department responded positively to the Committee requests, and we therefore support the amendments today.

In relation to amendment No 9, the main change to clause 29 is to remove the reference to the Northern Ireland Courts and Tribunals Service. The Department highlighted that the Northern Ireland Courts and Tribunals Service is part of the Department, and it is considered legislatively inappropriate to retain the reference given that it would require the Department to give guidance to itself. Officials provided assurance that the Northern Ireland Courts and Tribunals Service is fully involved, together with the PSNI and the PPS, in the discussions on the operationalisation of the offence and the information to be gathered, and that it will be made clear to the Courts and Tribunals Service what is expected from it and the information that is to be provided. Although the Committee is of the view that the Northern Ireland Courts and Tribunals Service has an important role to play in ensuring that appropriate and robust data is collected to fully and properly assess the operation of the new offence and that it is consistent across the various criminal justice agencies, of which it is one, in order to allow for the tracking of cases and analysis at each stage of the process, it accepts the reason for removing the specific reference in the provision, given the assurances already provided by the Department and provided again by the Minister today.

Clause 30 currently places a duty on the Department to ensure that sufficient and appropriate training is made available to allow for the effective operation of the legislation. The training is mandatory for all those involved in the disposal of domestic abuse cases in policing and criminal justice agencies, and it must be provided annually. The Department must publish the uptake of training by each relevant organisation at the end of each annual reporting period, given its importance to the effective operation of the legislation. The need for such training to fully understand coercive control and the needs of the victim was emphasised by an article in the 'Belfast Telegraph' last Friday. I welcome the confirmation from the Police Service that it is developing a new extensive domestic abuse training package for all front-line officers. Members had sympathy with the Minister's point that it would be more appropriate to place the duty for training their personnel on the police and the PPS respectively, rather than on the Department. At Consideration Stage, I indicated that the Committee was content for the wording of the provision to be tidied up to reflect that. Amendment No 10 does that.

When the Committee considered the first draft of amendment No 10, members were concerned that the Department had removed the requirement to publish the uptake of training by each relevant organisation annually and the provision for training for criminal justice agencies other than the Police Service, the Public Prosecution Service and the Northern Ireland Courts and Tribunals Service to allow for the effective operation of the Act. The Department has now reinstated both those requirements to the Committee's satisfaction, and we are therefore able to support amendment No 10.

I turn now to amendment No 11, which would replace clause 31. Following discussions with departmental officials, the initial wording of the amendment has been revised to reflect more accurately the intent of clause 31(1)(b). In the Bill as it stands, it is for the independent person to:

"review, report and make recommendations in relation to the operation of Part 1"

of the Act. The amendment makes it that the independent person should:

"advise, and make recommendations to, the Department on the content and review of guidance under"

clause 28. The Committee is therefore satisfied with amendment No 11. It also welcomes amendment No 15, which would enable the Department to establish the process to appoint the independent person ahead of the offence coming into operation.

The wording of amendment No 12 builds on the existing provision in the Bill and refines some of the language to align it more closely with criminal proceedings and practice. The Department initially proposed that the amendment should provide for the reporting requirements in clause 32 to cease after nine years rather than remain open-ended. That was removed at the Committee's request, however.

Amendment No 12 now provides that, after the initial report, each reporting period is three years after the previous one. There is also provision for the reporting requirement to come to an end, at the earliest, 10 years after the offence comes into operation. That can be done only by way of regulations subject to negative resolution, which will have to be considered by the Committee. If regulations are not brought forward, the reporting requirement will continue indefinitely. The Committee is of the view that that is a pragmatic approach to adopt and is therefore content with amendment No 12. The Committee supports amendment Nos 16 and 17, which make changes to the short title in clause 39 and to the long title to reflect properly the changes that have been made to the Bill.

Speaking briefly in my role as a Member, I commend Nicola Brogan on her maiden speech. I always admire a Member who decides to introduce a degree of controversy. On this occasion, we decided to let it go, but, next time, Members may wish to have that debate. I have no doubt, given the way in which she spoke, that she will be able to acquit herself very well and articulate her position. She is a Tyrone woman. I am a Lisburn man born and bred, but my family are all from Tyrone, so we have that commonality at least. I wish her well in her time in the Assembly.

At Final Stage, I will commend all the relevant organisations and individuals in more detail. I put on record again my thanks to our Committee staff and to the Bill Clerk who advised the Committee. I also thank Assembly staff for the support that they gave the Committee to get us to this stage. I will elaborate on all of that at Final Stage.

It is likely that this is the last chance that I will get to engage with the Justice Minister before we break for recess. At least, I am sure that the Minister hopes that it is the last time that we talk

before Christmas. A Member kindly offered to provide marriage counselling. I always take the view that, in relationships, it is usually better that they work it out themselves. In any relationship, it takes somebody to take the first step, so let me be the first. In all sincerity, I wish the Minister well over the Christmas period. I thank her for the engagement. At times, I know that it may have appeared to be hostile, and perhaps that is how it feels for others. Iron sharpens iron, however, and the democratic process has brought forward better legislation, even when, at times, it might have seemed difficult to get to that point.

At Christmas time, we remember the new birth, and I know that the Minister is familiar with the Good Book. There is a verse in it that talks about there being:

"a time to embrace, and a time to refrain from embracing".

I know that the Minister would wish to embrace at this stage, but, because of COVID-19, we are not able to do that. I do wish her a peaceful Christmas, and let us hope that we have a good new year.

Some Members: Hear, hear.

8.30 pm

Mr Speaker: On that note, I advise Members that we are organising a hybrid carol service in the coming few days. The Member might be invited along if he continues to behave himself. *[Laughter.]*

Ms Dillon: I do not know how to follow that.

Mr Speaker: Just stick to the amendments.

Ms Dillon: I will keep my remarks very brief.

I concur with the Chair. Obviously, we will say more at Final Stage. I place on record my appreciation of the hard work of the Committee, the Minister and her officials and, obviously, the Committee staff and the Bill Clerk, who has shown great patience with all of us, I can tell you. Everybody has worked very hard, because we believe in the Bill. The Chair talked about Christmas. We know that Christmas is a particularly difficult time for those who suffer domestic abuse. Our thoughts will be with those people over the Christmas period — those who are stuck in their homes with their abusers and potential abusers.

I will not go into any detail. The Chair has covered the detail around these amendments, so there is no need to go into that any further. I will say, however, that they are extremely important amendments. They may not be as contentious as some of those in the first group, but they are really important to the Committee. The first group was about trying to get the abuse Bill right and making sure that we have an offence on the books that will deliver for victims. This group is about ensuring that the Bill's roll-out and training are right and that it is implemented in the best possible way so that it actually delivers for victims, and then reporting on it to ensure that, where there are gaps — and there will be gaps. We have worked really hard on this, but we know that it is not perfect. Nobody in the Chamber will believe for one second that it is going to be perfect. The reporting and the independent oversight will therefore be important for what we do next, because I know — I believe that it is the feeling of the Committee, certainly, and everybody else in the Chamber — that this is not the finish for us. This is only the beginning. Domestic abuse has not even begun to be dealt with; the offence is only one small part of it. Whatever Committee you are on, you will be playing a role in dealing with this. Whatever part or role you play in the Chamber, you will have your part to play, because this is only the beginning of how we start to deal with domestic abuse.

We talked earlier today, and in previous debates, about the importance of education. I want to say again, and to place it on the record, that education is obviously vital in respect of the training of those who will be rolling this out; education on what a healthy relationship is. We do not want people to be found guilty of this offence. We want them not to commit it in the first place. Education is the only way that we will stop that from happening. We need to educate young people on what a healthy relationship is. The conversation about telling young women how to look after and protect themselves needs to stop. We need to say to the potential perpetrators or abusers in the future, "You watch how you behave. You stop doing what you're doing". Not, "Look after each other and keep those who may become victims safe". Stop the people who may become the victim-makers. I really think that education, from all angles and whatever way we can do it, is important. Operation Encompass, as we talked about earlier, is part of that, because we know that the perpetrators of the future are the victims of yesterday. They are caught up in a cycle that nobody has protected or saved them from or intervened in. I hope that, as an Assembly, that is what we will do.

I hope that, when this offence is being reported on in the future, the numbers of people who are using this in the courts do not go up. They will go up initially; that is obviously the way it will happen. It is a new offence, so they will go up, but I hope that, when we are reporting, at some point we see the figures start to come down, because we have not just taken a very narrow approach and dealt with this as a criminal offence. We have decided that we are going to make a real change here, and that we are going to make it for the people who need it most.

Ms S Bradley: Like the Member who spoke previously, I will keep my comments brief. I thank the Chairperson of the Committee for Justice for succinctly outlining the Committee position. It was a fair and thorough assessment.

The Committee teased out many things along the way. Training, oversight and reporting were three issues that made it into the debate. Members of the House, and members of the Committee, know that there were long conversations about many other issues on the fringes that, for one reason or another, did not progress to this stage. Ultimately, these three important tools sit within the framework that is the offence of domestic abuse. That was the key objective at the initial stages of the Bill.

It is important that much of the conversation about issues that we did not manage to progress or get to this stage have not been completely sidelined. They still can come into play.

With regard to training, the Scottish model is the perfect example that shows how important it is to get that right.

I turn to oversight. The Bill, though good, has, ironically, not had the best process. That has to be admitted by all. We were all very eager to see the Bill across the line, but that created very narrow windows of opportunity for us to scrutinise the fine detail and to come to the House fully informed, as we should do. The oversight role is the tool that can say, "Some of these things have been carried into the Bill on a promise". If that is the case, we need somebody who will ask, "Has everything that was intended come to fruition?". That is why, particularly at this late stage, the oversight role starts to have more importance than originally foreseen, even though the intention was good.

Reporting is also important. We cannot anticipate every eventuality. Therefore, we have to have in place a reporting mechanism, because it will be the critical tool that will tell us whether we need to have additions or

amendments to the Bill. It will also tell us where resource should be directed to make the Bill as good as it can be.

I do not want to appear like Scrooge, skipping over Christmas, but my mind runs to Final Stage. I do not want there to be any obstacles in the way of the Bill. I hope that Members' conversations and actions this evening assure the Minister that there can be no stalemate. We need an offence of domestic abuse on statute as quickly as possible.

Mr Beattie: Thank you, Mr Speaker. I was not going to speak but, since I am now on my feet, I will do so. This Bill has not had a laboured process, but it has had a hard-fought one. We have focused a little on legal aid, but there is so much more to the Bill.

In this group of amendments, we had real success with training, as we have made sure that training is annual and mandatory and that it will be registered. We will know what is taking place and whether it is working. That was done through collaboration. The Committee identified what it believed needed to happen and engaged with the Minister and her officials. The Minister came back with an amendment to our amendment. That is a good process; it is the right process. I see merit in the way we have gone about this.

Yes, people have got tetchy on certain issues, but that is because those issues are important to them; they are not tetchy purely to be obstructive. They have a buy-in to this process, and that is why it feels as if they are being tetchy. However, if you stand back a little and look at what we are trying to achieve, you will see that this is a high-stakes game. The word "game" is the wrong one to use.

However, this is high-stakes because, if we get it wrong, the people who are experiencing domestic abuse will suffer: men and women and their children, teenagers and younger. It is high-stakes, and we must remember that. We are drawing near to the end of the process, not just here today but as we come to Final Stage. I honestly believe that the work that has been put in, by the Committee, the Assembly and the Minister and her staff, means that we can be proud of what we produce. It will help people who are in extremely difficult positions. My party and I will support the second group of amendments.

Ms Bradshaw: My party will support all the amendments in this group. Thank you.

Mr Speaker: Paul Frew, follow that *[Laughter.]*

Mr Frew: Mr Speaker, you put me under so much pressure.

The second group of amendments exemplifies exactly the relationship that we should have between Committee, Minister and Department. It is the best model for acceleration that we could ever have, by which I mean that the Bill would have been unthinkable 10 years ago. If someone had said 10 years ago that we would legislate for coercive control, no one would have thought it possible. I am talking about MLAs, people in the street, victims groups and the judiciary. We are at the cusp of making history. The Minister, the Department, the Committees and Members should feel a sense of achievement at progressing the Bill in the way that we have. At Second Stage, I encouraged Members to consider tabling amendments as they saw fit, because MLAs are on the ground, they have constituents, they see victims daily, and they know what needs to be achieved through legislation.

I am satisfied with the content, context and calibre of the amendments on data collection, training, independent oversight and the reporting of that operation. Why are those aspects so important to this Bill when they are maybe not so important to other legislation? It is simply because, for the first time, we are legislating for coercive control, and that is vital. Other jurisdictions have had to do the legislation twice. I suspect that some jurisdictions may have to do it three times. I am not saying that the Bill is perfect, but the reporting mechanisms, data collection and independent oversight mean that we will get the best stab at it. If we have to amend the Bill, we can do that, with the confidence of knowing that provisions on data, information and oversight will be in place. We — the Minister, the Department, the Committees and the Assembly — will be able to move forward together with confidence to ensure that the Bill is even better and protects even more victims.

Linda Dillon made a valid point about the seismic change that must take place to get the message out to perpetrators. I agree 100%. We must not only protect the victim but change ways and rid society, as far as is possible, of the scourge of domestic violence and coercive control. The Bill is our best stab at that, and it should give us a sense of achievement and satisfaction. However, we must never lose sight of the people at the heart of this. They are the victims, their families, the fathers, mothers and children of the victims, who feel and walk this journey with their relatives every day. Those

people are worried sick about the victims of domestic violence and coercive control and the abuse that they suffer. They have tried their best to support their families through thick and thin, and at times they felt completely and utterly helpless.

The Bill is also for Woman's Aid, the Men's Advisory Project and all the organisations — too many to mention — which society needs.

I wish it was not so, but they are much needed. They do sterling work. The Bill is for them. It is to help them, to arm them and to support them in the work that they do in supporting victims. This is a good day. We can move on with confidence, get to the Final Stage as quickly as we can and deliver for the victims of domestic violence and coercive control.

8.45 pm

Ms Rogan: Since the beginning of the process on the Bill, the need for adequate training and resourcing has been a core theme. We all agree that the legislation provides a drastic step change in our approach to tackling domestic abuse by ensuring that the new domestic abuse offence more accurately encapsulates the horrors of domestic abuse, but, in order for the legislation to be effective, it is crucial that we get the training aspect right. Given that the new offence relates to a course of behaviour, this will require the exercise of judgement by the police when they gather evidence and when they attend incidents of domestic abuse. Therefore, a clear understanding and recognition of the behaviours associated with non-physical abuse is of paramount importance. This will be new to many of these officers, but if we are to properly protect victims from abuse, a huge amount of responsibility will fall to those officers, and it is crucial that they are properly supported in their efforts.

Through our discussions with officials, it became apparent that this clause would need to be strengthened. I believe that the Minister's amendment No 10 does that, and I am happy to support it. It will ensure that, legally, training must be provided to personnel in the PSNI, the PPS and any other body that has functions in the criminal justice system in connection with this offence, including the Courts and Tribunals Service and any other agency of the Department of Justice. It will ensure that such training must be provided at least annually and that it is mandatory.

Amendment No 11 is about independent oversight. Independent oversight of the

implementation of the legislation will bring a wide range of benefits that will be of such importance from when the legislation is rolled out until it is fully embedded. It will make it mandatory for whoever is responsible for the independent oversight to report annually on the implementation of the legislation. As has been said, this is new and we are trying to get it right at this stage. Other legislators in other jurisdictions are going at it time and time again, but we are trying to get this right and to get it done first time. Further still, it will provide crucial oversight on the content and review of guidance, the importance of which has been, and presumably will be again, emphasised by other Members.

Independent external oversight has a number of advantages, including being able to review the operation of the legislation in great detail to ensure that it is operating as it is expected to, and, when it is not, the recommendations will play a crucial role in making interventions, where necessary. It can help to monitor and review performance and can ensure the accountability of the Department and the agencies involved in dealing with domestic abuse incidents and prosecutions. It can collect, disaggregate and widely publish data that will help to spot emerging patterns and trends, and it can build confidence among the organisations that support victims of domestic abuse.

I note the Minister's intention to begin the work with a view to the introduction of a victims of crime commissioner, who may well carry many of the same functions as an independent person with responsibility for the oversight of this legislation. However, we cannot wait until a commissioner is in place. We have no timeline for that yet and whether it will be before we review the operation of the legislation. Nonetheless, independent oversight and a victims of crime commissioner should complement each other rather than duplicate each other's work, and I welcome that.

Mr Lynch: A Cheann Comhairle, you will be glad to know that I will keep my comments as short as possible. I will specifically address my remarks to amendment No 10.

As a member of the Policing Board, I have a particular focus on the PSNI, which will play a vital role in the new legislation. The new domestic abuse Bill will mark a step change not only in how we deal with perpetrators of abuse but in how we protect victims. Police officers, who are often the first responders to incidents and who are responsible for gathering and collating evidence, must be adequately supported in their efforts. If a perpetrator

physically lashes out, that can often leave marks, bruises, cuts and scars. However, many forms of abuse that are part of the new offence are more difficult to spot as perpetrators' behaviour is often subtle and covert. Therefore, police, prosecutors and judiciary must have a clear and thorough understanding and recognition of the behaviour associated with non-physical abuse. That is precisely why training will play an important role in the effectiveness of the implementation of this legislation. That point has been raised time and time again by our party, many other parties, victims, victims' organisations and many other stakeholders, so I am glad that we are able to allay those concerns by including amendment No 10.

Police officers, prosecutors and judiciary are very capable of making this legislation a success. However, they must be supported in their duties. Amendment No 10 will ensure that training must legally be provided in the PSNI, the PPS, the Courts and Tribunals Service and any other body that has functions in the criminal justice system in connection with domestic abuse. We all want to see this legislation being successful, not least for those who will be on the front line protecting victims and tackling perpetrators, so it is only right that we equip personnel with the right tools and the knowledge to do so. I commend and support amendment No 10.

Miss Woods: I welcome the opportunity to speak on this positive group of amendments. I will be brief as much of what I wanted to say has already been covered. I concur with the comments of the Chair, the Deputy Chair and other members of the Committee, all of whom have helped to get us here today. Crucially, I thank the Minister, her Department, the Committee staff and the Bill Clerk, who have all done a fantastic job in working with us. I express my immense thanks to my researcher, who has done an amazing job for me.

Amendment No 9, which is on the training requirement, is crucial to the Bill, especially when it becomes an Act. I have pushed for this for months. In my view, training for the PSNI, PPS and the judiciary is critical to the effective implementation of this legislation. As I said at Consideration Stage, this has been fundamental to the effective roll-out and adoption of the Scottish legislation, the so-called gold standard. Amendment No 9 changes the former Committee amendment, now clause 30, to put the onus on the PSNI, PPS and Northern Ireland Courts and Tribunals Service to provide appropriate training for their personnel and staff to allow for the effective

discharge of their responsibilities. Whilst this differs from what the Committee amendment had done, placing a duty on the Department, I still think that it holds merit. I am glad that this now forms part of the Bill at Further Consideration Stage and has the backing of the Committee. Other wording has tied up the clause, which I also welcome.

Again, I raise the fundamental issue that goes hand in hand with training: the sufficient allocation of resources so that training can happen in the fullest and most appropriate way for staff in those organisations and bodies. Again, I urge that all members of the criminal justice system also be trained fully in this new offence, including the judiciary, just as happened in Scotland, where the Judicial Institute commissioned training for all judges and sheriffs. Indeed, the courses also gave participants an insight into the impact of criminal behaviour on victims and children. Before the Scottish Act came into force, newly appointed sheriffs and summary sheriffs had received specific training on the issue of domestic abuse as part of their mandatory induction course. Specific training on domestic abuse issues has also been incorporated, as appropriate, into other training courses, focusing on family cases, vulnerable witnesses, courtroom technology and sentencing. I would welcome our rolling this out as a matter of urgency and as best we can in much-needed legislation.

I welcome the Department's changes to amendment No 12 and the fact that reporting will not end automatically, as previously envisioned, but that the Assembly will now have a scrutiny and oversight role in determining when this requirement will cease. Originally, the Department had drafted this with a sunset provision, and I understand that there may be a future scenario in which these monitoring and evaluation exercises are no longer required, but it should not happen automatically. I welcome the Minister's adopting part of the amendment on reporting that I brought at Consideration Stage, including the requirement on aggravation, as outlined in clauses 1, 8, 9 and 15.

Amendment No 14, which covers the work on the report and the proposals on the availability of legal aid for victims and survivors, will commence straight away, and that is also very welcome.

To finish, I reiterate to those people whom we are trying to legislate for and protect that, if you are at risk of abuse or are a victim of domestic abuse, please reach out. Please make a call or

contact someone. Contact the amazing support organisations that are there, be it the police, a health professional or your GP, or somebody whom you trust. If it is an emergency, please call 999. Please do not continue to suffer in silence.

Mr Speaker: I call the Minister of Justice to conclude and make her winding-up speech on the second group.

Mrs Long: Thank you, Mr Speaker. I will refer back to where we are with this. As Members are aware, amendment No 9 will remove the Northern Ireland Courts and Tribunals Service from the bodies that are advised about data collection, given that doing so would simply be a reiteration of the Department advising itself, which would be a bit of a legislative oddity.

Amendment No 10 deals with training, and responsibility for that will now sit with the correct organisations. I particularly appreciate Seán Lynch's contribution as a member of the Policing Board. It is right that the Policing Board should have its role of scrutinising operational policing recognised.

Amendment No 11 allows for an independent oversight function to provide annual reports and make recommendations to the Department on the effectiveness of Part 1 of the Bill. Amendment No 12 provides for a departmental report on the operation of Part 1. The report will provide a range of data and information that relates to its operation.

When taken together, the amendments ensure that we can effectively consider both how the offence is operating and any changes that may be needed. Members are aware that any legislation may not necessarily work exactly as was anticipated once it is in operation. It is therefore important that we are able to consider the impact of the offence, how it is being implemented and what changes, if any, are needed in order to refine it.

Amendment Nos 14 and 15 deal with commencement, while amendment Nos 16 and 17 adjust the long and short titles of the Bill to better reflect the amended Bill.

In conclusion, I thank all Members who have participated, not just in the debate on the second group of amendments but in all the debates on the Bill. I thank them for engaging on the issue. That engagement with justice partners, the Committee, voluntary and third-sector partners, and, most of all, the victims who came forward and spoke directly with me and the Committee about their experiences — it

is hugely important that they did so — has helped shape the Bill for the better, for them and for the victims who have not yet been able to access protection under the current law.

The legislation is hugely important to me and to Members of the House, but, most of all, it is important to those who are affected by domestic abuse. I thank my departmental officials, Committee members and officials, your own staff, Mr Speaker, and other Assembly staff for facilitating what have often been quite long and time-consuming debates.

As we all turn our minds to Christmas — we have even had something of a Christmas ceasefire, which is quite retro, making it feel like the 1980s — I wish the Chair and the Committee a very peaceful and safe Christmas. I hope that Santa is generous to them and their loved ones and that they get some good rest, because we will have plenty more legislation in 2021 from where this Bill came.

As we think of Christmas, I also remember those for whom home is not a safe place. I think about those for whom Christmas is not a time of peace, rest and joy and assure them that we will return to complete the Bill's passage at the earliest stage possible in the new year. In the meantime, I appeal to those who suffer in silence to speak up, to seek help and to seek protection. You are not alone. You deserve protection, and the police are there, along with our statutory and voluntary partners, to help at Christmas, just as they are at any other time of the year. Do not wait: make the call, take that step and keep you and yours safe this Christmas, and at all other times.

Mr Speaker: Thank you, Minister, for your concluding remarks.

Amendment No 9 agreed to.

Clause 30 (Training)

Amendment No 10 made:

Leave out clause 30 and insert

"Training within relevant bodies

30.—(1) Each of the following must provide such training on the effect of this Part as it considers appropriate for its personnel—

(a) the Police Service of Northern Ireland,

(b) the Public Prosecution Service for Northern Ireland,

(c) any additional public body that has functions within the criminal justice system in Northern Ireland which the Department of Justice specifies in connection with this section in regulations.

(2) The Department of Justice must provide such training on the effect of this Part as the Department considers appropriate for—

(a) staff within the Northern Ireland Courts and Tribunal Service,

(b) staff of any additional agency of the Department that has functions within the criminal justice

system in Northern Ireland which the Department selects in connection with this section.

(3) A body which must under this section provide training is to do so—

(a) at least annually, and

(b) as something to be undertaken as mandatory—

(i) by such of the relevant personnel or (as the case may be) staff as have responsibilities for dealing with cases involving domestic abuse, and

(ii) for the purpose of ensuring the effective discharge of their responsibilities in relation to such cases.

(4) The Department of Justice must—

(a) publish a statement setting out information held or obtained by the Department about the level of participation by the relevant personnel or (as the case may be) staff in training provided by a body in accordance with this section, and

(b) do so—

(i) before the end of the period of 18 months beginning with the day on which Chapters 1 and 2 come into operation, and

(ii) annually thereafter.

(5) Regulations under this section are subject to negative resolution."— [Mrs Long (The Minister of Justice).]

Clause 31 (Independent oversight)

Amendment No 11 made:

Leave out clause 31 and insert

"Independent oversight of this Part

31.—(1) The Department of Justice must appoint a person—

(a) to—

(i) report to the Department on the person's assessment of the effectiveness of this Part, and

(ii) make recommendations to the Department in relation to the operation of this Part, and

(b) to advise, and make recommendations to, the Department on the content and review of guidance under section 28.

(2) A report under this section must be completed—

(a) before the end of the period of 2 years beginning with the day on which Chapters 1 and 2 come into operation, and

(b) annually thereafter.

(3) A report under this section—

(a) must be sent to the Department of Justice by the person appointed as soon as practicable after the report is completed, and

(b) must be—

(i) laid before the Assembly by the Department, and

(ii) published by the Department, as soon as practicable after the report is received by the Department from the person appointed.

(4) An appointment under this section is for the person appointed to act independently of the Department of Justice.

(5) The first appointment under this section must be made before the end of the period of 1

year beginning with the day on which this Act receives Royal Assent.

(6) The preceding subsections of this section cease to have effect at such time, which must not be before the end of the period of 7 years beginning with the day on which Chapters 1 and 2 come into operation, as the Department of Justice may by regulations specify.

(7) Regulations under this section are subject to negative resolution."— [Mrs Long (The Minister of Justice).]

Clause 32 (Report on the operation of this Act)

Amendment No 12 made:

Leave out clause 32 and insert

"Report on the operation of this Part

32.—(1) The Department of Justice must prepare a report, covering the reporting period, in relation to the following categories of offence—

(a) an offence under section 1 (including as alleged to be aggravated as referred to in section 8 or 9),

(b) an offence of any kind that is alleged to be aggravated as referred to in section 15.

(2) A report under this section must set out this information—

(a) the number of—

(i) offences under section 1 as recorded by the Police Service of Northern Ireland on the basis of allegations made to them (including as recorded by reference to police districts),

(ii) files submitted by the Police Service to the Public Prosecution Service for Northern Ireland in respect of offences within each of the categories,

(iii) cases prosecuted by the Public Prosecution Service for offences within each of the categories,

(iv) convictions in cases prosecuted by the Public Prosecution Service for offences within each of the categories (particularly where such offences are proved to be aggravated as

referred to in section 8 or 9 or (as the case may be) in section 15),

(b) the average length of time, for offences within the categories as a whole—

(i) from recording of cases by the Police Service on the basis of allegations made to them,

(ii) to disposal of cases at court (disregarding appeal processes).

(3) A report under this section is to include, so far as available—

(a) information about the level of participation by persons in training provided under section 30,

(b) information about—

(i) how court business is arranged so as to ensure the efficient disposal of cases for offences within the categories as a whole,

(ii) the experience at court of witnesses (including witnesses who are children) in cases for offences within the categories as a whole.

(4) A report under this section is to include, in addition—

(a) any views that the Department of Justice considers appropriate to give in relation to the operation of this Part (including the Department's assessment of the effectiveness of this Part),

(b) information about—

(i) any issuing, review or revision of guidance by the Department under section 28,

(ii) any steps taken by the Department for raising public awareness (particularly awareness of victims) of matters relating to domestic abuse in Northern Ireland,

(iii) any activities undertaken by the Department in supporting the operation of this Part,

(iv) any further things that the Department considers appropriate.

(5) A report under this section must be—

(a) laid before the Assembly by the Department of Justice, and

(b) published by the Department, as soon as practicable after the report is completed by the time and in the form determined by the Department.

(6) As for the reporting period—

(a) the first reporting period is the period, of not less than 2 years and not more than 3 years beginning with the day on which Chapters 1 and 2 come into operation, determined by the Department of Justice,

(b) each subsequent reporting period is the period of 3 years coming after the previous reporting period.

(7) The preceding subsections of this section cease to have effect at such time, which must not be before the end of the period of 10 years beginning with the day on which Chapters 1 and 2 come into operation, as the Department of Justice may by regulations specify.

(8) Regulations under this section are subject to negative resolution."— [Mrs Long (The Minister of Justice).]

Clause 38 (Commencement)

Amendment No 13 proposed: In page 32, line 27, at end insert

"(1ZA) Section 27 comes into operation at the end of the period of 12 months beginning with the day

on which this Act receives Royal Assent."— [Mr Givan (The Chairperson of the Committee for Justice).]

Question put, That amendment No 13 be made.

Some Members: Aye.

Some Members: No.

Mr Speaker: Clear the Lobbies. The Question will be put in three minutes.

Before I put the Question again, I remind Members that, if possible, it would be preferable to avoid a Division.

Question put a second time.

Some Members: Aye.

Some Members: No.

Mr Speaker: Before the Assembly divides, I remind Members that, as per Standing Order 112, the Assembly has proxy voting arrangements in place. Members who have authorised another Member to vote on their behalf are not entitled to vote in person and should not enter the Lobbies. I also remind Members to ensure that social distancing continues to be observed while the Division is taking place. Clear the Lobbies.

The Assembly divided:

Ayes 25; Noes 44.

AYES

Ms Bailey, Mr M Bradley, Ms P Bradley, Mr K Buchanan, Mr T Buchanan, Mr Buckley, Ms Bunting, Mrs Cameron, Mr Carroll, Mr Clarke, Mr Dunne, Mr Easton, Mr Frew, Mr Givan, Mr Harvey, Mr Hilditch, Mr Humphrey, Mr Irwin, Miss McIlveen, Mr Middleton, Mr Newton, Mr Robinson, Mr Stalford, Mr Storey, Miss Woods.

Tellers for the Ayes: Mr Frew and Mr Givan

NOES

Dr Aiken, Mr Allen, Ms Anderson, Dr Archibald, Ms Armstrong, Mrs Barton, Mr Beattie, Mr Beggs, Mr Blair, Mr Boylan, Ms Bradshaw, Ms Brogan, Mr Butler, Mr Chambers, Mr Dickson, Ms Dillon, Ms Dolan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Mr Kearney, Mr G Kelly, Ms Kimmins, Mrs Long, Mr Lunn, Mr Lynch, Mr Lyttle, Mr McAleer, Mr McCann, Mr McGuigan, Mr McHugh, Mr Muir, Ms Mullan, Mr Murphy, Mr Nesbitt, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Ms Rogan, Mr Sheehan, Ms Sheerin, Mr Stewart, Mr Swann.

Tellers for the Noes: Ms Armstrong and Ms Bradshaw.

The following Members voted in both Lobbies and are therefore not counted in the result: Ms S Bradley, Mr Catney, Mr Durkan, Ms Hunter, Mrs D Kelly, Mr McCrossan, Mr McGlone, Mr McGrath, Ms McLaughlin, Mr McNulty, Mr O'Toole

The following Members' votes were cast by their notified proxy in this Division:

Mr K Buchanan voted for Ms P Bradley, Mr T Buchanan, Mr Buckley, Mr Dunne, Mr Easton, Mr Givan, Mr Harvey, Mr Hilditch, Mr Irwin, Mr Newton, Mr Robinson, Mr Stalford and Mr Storey.

Mr Butler voted for Mr Allen, Mrs Barton, Mr Beggs, Mr Chambers, Mr Nesbitt, Mr Stewart and Mr Swann.

Mr Lyttle voted for Ms Armstrong [Teller, Noes], Mr Blair, Ms Bradshaw [Teller, Noes], Mr Dickson, Mrs Long, Mr Lunn and Mr Muir.

Mr O'Dowd voted for Ms Anderson, Dr Archibald, Mr Boylan, Ms Brogan, Ms Dillon, Ms Dolan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Mr Kearney, Mr G Kelly, Ms Kimmins, Mr Lynch, Mr McAleer, Mr McCann, Mr McGuigan, Mr McHugh, Ms Mullan, Mr Murphy, Ms Ní Chuilín, Mrs O'Neill, Ms Rogan, Mr Sheehan and Ms Sheerin.

Mr O'Toole voted for Ms Bradley, Mr Catney, Mr Durkan, Ms Hunter, Mrs D Kelly, Mr McCrossan, Mr McGlone, Mr McGrath, Ms McLaughlin and Mr McNulty.

Question accordingly negatived.

Amendment No 14 made:

In page 32, line 27, at end insert

"(1A) Section 27A comes into operation on the day after the day on which this Act receives Royal Assent."— [Mrs Long (The Minister of Justice).]

Amendment No 15 made:

In page 32, line 27, at end insert –

"(1B) Section 31 comes into operation on the day after the day on which this Act receives Royal Assent."— [Mrs Long (The Minister of Justice).]

Short Title

Amendment No 16 made:

In page 32, line 33, leave out "Family" and insert "Civil".— [Mrs Long (The Minister of Justice).]

Long Title

Amendment No 17 made:

Leave out from "and prevent" to end and insert
–

"regulate the conduct of civil proceedings in particular circumstances; and make provision for connected purposes."— [Mrs Long (The Minister of Justice).]

Mr Speaker: That concludes Further Consideration Stage of the Domestic Abuse and Family Proceedings Bill. The Bill stands referred to the Speaker.

I would like to add my thanks to those expressed earlier. I thank all staff in the Business Office, Usher Services, Hansard, Assembly Broadcasting, Sodexo and the officials in the Speaker's Office.

I ask Members to take their ease before we move on to the final item in the Order Paper.

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

Committee Business

Report on the Evidence received from Local Councils on the Impact of the United Kingdom's Exit from the European Union

Mr McGrath (The Chairperson of the Committee for The Executive Office): I beg to move

That this Assembly notes the evidence from local councils to the Committee for the Executive Office in its report on the Evidence received from Local Councils on the Impact of the United Kingdom's Exit from the European Union [NIA 58/17-22]; and calls on the First Minister and deputy First Minister to urge the UK Government to provide clarity on the implementation of the protocol on Ireland/Northern Ireland to allow local councils to prepare for the post-transition period.

Mr Deputy Speaker (Mr Beggs): The Business Committee has agreed to allow one and a half hours for the debate. The proposer of the motion will have 10 minutes in which to propose and 10 minutes in which to make a winding-up speech. All other Members who are called to speak will have five minutes.

Mr McGrath: As part of its scrutiny of cross-cutting Brexit issues, the Committee for the Executive Office sought evidence from local councils on the issues that they are facing as a result of the UK's exit from the EU. All 11 councils provided written and oral evidence. The Committee's report presents that evidence. It does not make recommendations or come to any conclusions. It simply provides an opportunity for debate and to highlight the difficulties being faced by councils. All evidence received was set against the backdrop of COVID. Councils' readiness for the post-transition period has been hugely affected by the pandemic, with a number referring to the cocktail of COVID-19 and Brexit as the perfect storm. Brexit presents a wide range of fundamental challenges for local government, collectively as a sector and individually as authorities. The addition of COVID-19 to the mix has, in simple terms, made matters worse.

Committee members were presented with a detailed picture of the issues being faced by councils, particularly as a result of the lack of clarity on agri-food, fisheries, customs checks,

tariff levels and cross-border arrangements. The issue of the lack of clarity on funding was raised, and not just on the funding needed to allow council officers to carry out new duties but on EU funding for the delivery of projects and programmes.

Mr Stalford: Will the Member give way?

Mr McGrath: It is very early on, but, yes, go ahead.

Mr Stalford: I appreciate the Member's giving way. Does he acknowledge that, for 90% of the time that it was a member of European Union and its predecessor organisations, the United Kingdom was a net contributor to the funds of the European Union?

Mr McGrath: I thank the Member for his intervention. This is the Committee part of my contribution. I am sure that such interventions will have more relevance when I get on to my personal remarks later.

Ms Anderson: Will the Member give way?

Mr McGrath: For balance, yes.

Ms Anderson: Does the Member not agree that the British Government rebate ensured that we in the North were net beneficiaries of the EU and that the constituency that we should care about is our own?

Mr McGrath: The ping-pong begins, and, I am sure, it will continue for the rest of the debate. I will take no more interventions, as I know that I will not get any extra speaking time.

One of the main messages from councils was that the protocol needs to be implemented in a way that recognises our unique circumstances, in particular the reliance of our economic model on fast and efficient supply chains within the UK and the island of Ireland. On Tuesday past, we got some clarification on the operation of the protocol. We got agreement in principle on entry points, specifically for checks on animals, plants and derived foods; on export declarations; on the supply of medicines; and on the supply of some food products to supermarkets. We also got clarification on the application of state aid under the terms of the protocol.

Many of those issues were raised by councils. Clarification has come at the last minute but is to be welcomed. Time pressures and resource issues still remain, however, and uncertainty

still exists in some areas. There is no doubt that the agreement in principle delivers significant measures to support GB to NI trade. By the UK Government's own admission, however, they do not deal with each and every instance of a new procedure that the protocol may create.

The lack of a definition of "goods at risk" was highlighted by councils as an area of considerable concern. According to the UK Government, the agreement in principle will mean that goods that can be shown to remain in Northern Ireland and the UK's customs territory will not be subject to tariffs. Tariffs will be charged on only goods destined for the EU or where there is uncertainty over, or genuine risk of, onward movement. The UK Government have also confirmed that there will be no requirement for export declarations for NI traders moving their goods from Northern Ireland to Great Britain. A number of councils told us that businesses are not prepared for the end of the transition period, so, hopefully, the agreement in principle has given them some certainty and gone some way to reducing the panic over huge increases in administrative processes and the introduction of tariffs.

As was pointed out by some councils, the protocol keeps Northern Ireland in the EU single market only for goods and not for services, so service-sector businesses here are still waiting to find out what lies ahead for them and whether a deal will be struck with the EU. Hopefully, they will get some certainty in the not-too-distant future.

9.30 pm

Council areas that border counties in the Republic of Ireland highlight particular challenges, and they fear that they will bear the brunt of Brexit. Cross-border travel and movements between NI and Ireland are extensive and, for many people, a systematic feature of everyday life. People make cross-border journeys for a wide variety of reasons, including employment, study, shopping, visiting friends and family, or as tourists. Particular reference was made to the impact of Brexit on farms and businesses that straddle the border, which include waste shipments, cross-border working and commuting, and the dependence on EU migrant workers. I am sure that Members from border areas will elaborate on those concerns.

Funding was identified by 11 councils as a fundamental issue. Following the transition period, the UK will no longer have access to EU structural funds. That is the funding that councils depend heavily on to deliver projects

and programmes that bring huge benefits to our communities. In a recent spending review, the Chancellor set out plans for the UK shared prosperity fund, which is designed to replace EU structural funds. He did not commit to fully replacing the funding that we receive from EU sources, and he suggested that funding levels would ramp up over time until they eventually represented full replacement of the EU income, but he did not repeat his commitment for the individual devolved areas. We need certainty on how the fund will operate here. I hope that the Executive will make every effort to get that clarity as soon as possible. A number of councils also had concerns about the lack of clarity on the role that councils will play in the management of funding schemes and highlighted the potential for job losses within their ranks.

I would now like to make a number of points in my capacity as an individual MLA. Many now accept that Brexit is a disaster. Whether it is a border down the Irish Sea, the threat of a border on the island of Ireland, the impact on the Good Friday Agreement, businesses not knowing what will happen next, community groups not knowing what their future will look like or, as we have highlighted, the real impact on councils, it has been, and looks set to be, an unmitigated disaster. Some promised £350 million per week extra for the National Health Service. They argued that we were taking back control. One has to wonder if they knew what they were playing at. In the best of times, departure from the EU would be disastrous and have a significant impact on life here. To be fair, an idiot would see that one coming. However, in the midst of a global pandemic, the impact is increased tenfold. There will be a future relationship with the EU — there has to be — but the shape and tone of that relationship stands unknown, even at this late stage.

I feel sorry for councils across the North. They are having to deal with the uncertainty of Brexit and the added results of COVID placing a hit on their incomes and reserves. They are indeed facing some challenging times. They hear about a shared prosperity fund, but the detail is lacking. They do not know if they will get the finances that they have become used to and whether with a reduction of finances comes a reduction in the services that they can provide. With this reduction in the service that they can deliver to the communities in their area, they are the ones that will be impacted. We still do not know if the shared prosperity fund will be allocated by the Barnett consequential formula or if it will replace what was previously given. The use of the Barnett consequential would be a bad move for us, as we have always

benefited from EU funds well above other parts of the UK. Will farmers get access to the single farm payments? Will there be tariffs for our fish producers selling into the EU? I am certainly not a fisherman, but even I know that there is not much point in having the ability to catch fish if you cannot sell them. However, as long as we were taking back control, that was all that mattered to some.

It is welcome that the Finance Minister has agreed to engage with the council leaders via the Society of Local Authority Chief Executives (SOLACE) and the Northern Ireland Local Government Association (NILGA) to listen intently to the concerns that they have. That will hopefully allow us, in Stormont, to articulate and problem-solve the many issues that they face and that I have highlighted. I am an MLA in South Down, which is now an interface with the EU. It is critical for businesses and groups in my constituency that they get clarity. They need to know what will happen next. The farmers in my constituency and the fishermen at two of the North's harbours need to know what will take place next. Warrenpoint Harbour in my constituency will take on extra importance and workload, but it needs to know what will happen next. The uncertainty is killing it.

As I said at the start, Brexit is bad. It will be disastrous, and no amount of spin will make it any better or more palatable. Some in this place advocated it. You must now be honest with the people, the businesses, the community groups and the councils in Northern Ireland, who will all suffer, and explain to them the virtues of your stance. I wish you well in trying to spin your way out of that one. You have let the people of Northern Ireland down. You have contributed to the creation of problems that will close many businesses and wreak havoc on many lives and communities, all in the midst of a global pandemic and all in the interests of supporting narrow-minded, blinkered English nationalism.

Mr Deputy Speaker (Mr Beggs): Will the Member draw his remarks to a close?

Mr McGrath: If it were not so serious, I would call it sad.

Mr Clarke: I have to say that the first seven minutes of the Chairman's remarks were probably quite useful; the last three, however, were quite disappointing. The first number of minutes reflected broadly what some of the councils would have to say.

When we set out on this journey, we did so because we wanted to have a round-table

discussion. However, because of conditions, that was not allowed. I have to say with regard to the rant that we have just heard from the Member opposite on his perspective of the issue that the same could be said with regard to some of the councils, depending on where they came from. That is what I feared when we set out on this journey and took evidence from those councils.

Mr Stalford: Will the Member give way?

Mr Clarke: I will, indeed.

Mr Stalford: I would never want to be one to accuse the Chairman of the Committee of engaging in hyperbole. However, apparently, those of us who advocated Brexit should have had the vision to know that COVID-19 was coming down the line and that it would make the outcome of the referendum worse. I have many talents, but not the gift of such foresight. Even at DUP headquarters, we do not have a crystal ball.

Mr Deputy Speaker (Mr Beggs): The Member has an extra minute.

Mr Clarke: Thank you, Mr Deputy Speaker. I agree with the point that my good friend has made.

Even after listening to the councils — I interacted with only a few because the pattern was the same — we had questions from Members on the Benches opposite continually barraging the witnesses on funding. However, let us be clear: the funding was never guaranteed if we had stayed in Europe. I am sure that the Member for Foyle will rant again about funding, as she has done here tonight, and put her own spin on it. I will remind her when I am on my feet that there may be different conditions for Northern Ireland, but the UK did it as a bloc, and the UK was a net contributor.

Mr Robinson: Will the Member give way?

Mr Clarke: Yes, go ahead.

Mr Robinson: Will my colleague agree that it was a useful exercise to hear the different views of all the councils, particularly my own Causeway Coast and Glens Borough Council?

Mr Clarke: It has not gone unnoticed that, without fail, my colleague would refer to his council. Indeed it was useful to listen to some of the councils. I represent South Antrim. Both

councils from my area, Antrim and Newtownabbey Borough Council and Mid and East Antrim Borough Council, were very balanced. I listened to the representatives of Mid and East Antrim, who actually have a port in their council area. They were very proactive. They said that they have good relationships and are working daily to get clarity on those issues.

Broadly speaking, with regard to the motion and the report, no one could disagree that clarity would be useful. However, the chief executive of Mid and East Antrim struck the best tone of them all, because her approach is not the negative doom and gloom of the Committee Chairman. Hers is the pragmatic view that Brexit has happened and that we have to get on with it and do what is best for Northern Ireland.

Ms Sheerin: Will the Member give way?

Mr Clarke: I will indeed.

Ms Sheerin: When the Member refers to the remarks that were made by the chief executive of Mid and East Antrim Borough Council, will he accept that she said that she did have a good relationship with the British Government and had sent correspondence to Michael Gove, and that she then conceded that it had not been listened to? The council did not want border infrastructure at Larne, and that has now happened.

Mr Clarke: Yes: the chief executive might have said that. What I am saying is that she has a good working relationship and is getting the clarity and answers that she requires. Both she and the mayor of the borough said that at our meeting.

Therefore, unlike the Member opposite, I do not see this as a disaster. If I want to feel sorry for anyone, it is the Chairperson of the Committee for his representation of all this. The councils have come at it with a much better approach.

Indeed, I spoke to a senior officer of another council who said that she was disappointed with the Committee's approach on that day. They had put an awful lot of preparation into it, but they thought that the Committee's focus was entirely wrong, particularly Martina Anderson's continual barraging of the councils on the funding issue. The councils were very clear, like most of us on these Benches, that the funding window that we have is for a limited time. It is not guaranteed. If we had stayed in Europe —

Mr Stalford: I am grateful to my friend for giving way. I worked for Mr Allister when he

was a Member of the European Parliament between 2004 and 2007.

As far back as 2004, the direction of funding in Europe was moving away from western Europe towards eastern Europe. Everyone could recognise that the funds coming to this part of the United Kingdom and to countries in the west of Europe as a whole were of a diminishing value.

Mr Clarke: The Member for Foyle is leaving Europe kicking and screaming. That kicking and screaming about Brexit still continues every week, but the fact is that we are leaving. We are not going back, Martina. We are leaving on 1 January, and it will be a new dawn for Northern Ireland.

Mr Sheehan: I am grateful for the opportunity to speak here tonight. It was a very useful exercise to bring councils to the Committee. The evidence that we received was quite repetitive insofar as many councils raised the same themes and issues. The message from most councils to the Executive Office Committee was crystal clear. Most are alarmed at the lack of preparation and communication as we approach the cliff edge on 31 December and the end of the transition period.

Last week brought some clarity about the protocol, but even that announcement contained further uncertainty. The supply of medicines has been put on the long finger for a year, chilled meats for six months and SPS checks for three months. In reality, all that has been achieved is that the blockage has been pushed further down the pipe. As a result, many businesses will continue to face uncertainty and anxiety. New schemes for trading and movement of goods are being introduced without businesses getting clarity about new rules, IT systems and so on. There is a trader assistance scheme, a UK trader scheme and a movement assistance scheme, which all deal with different aspects of movement. Surely throwing all those schemes at traders so late in the year will cause only more confusion.

In this whole debate, those in favour of Brexit often blame the EU for whatever problems arise. We hear that regularly, even in the midst of the ongoing negotiations. One constant theme that most of the councils brought up concerned the lack of preparedness for Brexit at the end of the transition period. That cannot be blamed on the EU. The EU is not responsible for what is happening here at the minute. The only thing that can be blamed is Brexit. The British Government —

Mr McGrath: Will the Member give way?

Mr Sheehan: Sure.

Mr McGrath: The Member makes a point about the lack of clarity and the lack of preparedness. Does he agree that it is farcical that a council in Northern Ireland has employed staff, and, at this stage, it does not know where the funding will come from to pay for those staff and what work they will have to do? The council knows that it needs the bodies, but it does not know what they will be doing. If that funding does not come through, the additional money to pay for those staff will have to come from the ratepayer, which means that the public purse will be hit once again.

Mr Deputy Speaker (Mr Beggs): The Member has an extra minute.

Mr Sheehan: I thank the Member for that intervention. I could not agree more. It is just another example of the type of chaos that we are facing as a result of this calamitous Brexit exercise.

As I was saying, those issues cannot be blamed on the EU. The British Government and the Department for the Economy have responsibility for preparing businesses for the changes that are coming, and they have failed miserably thus far.

Councils in border counties, where a lot of trade is carried on with the South, face particular difficulties. Trade in the Newry, Mourne and Down District Council area, for example, faces great uncertainty. Services trade amounted to over £3 billion, yet we know that services are not covered by the protocol. Service providers in border areas are at the mercy of whatever divergence may happen from next year onwards. The council argued that the South is an important stepping stone into other global markets. It stated:

"It is therefore important that there are no bureaucratic or financial barriers to the market in the South of Ireland."

That exemplifies the difficulties faced by businesses, particularly small and medium-sized enterprises here in the North of Ireland.

9.45 pm

I want to move on to the shared prosperity fund, which the Chairperson mentioned earlier.

Councils were almost unanimous in saying that they had no information about that fund except that it is supposed to replace the funding that comes from the EU. However, the shared prosperity fund will not become operational until 2022, which will result in a loss of £77 million of spending power in the meantime. Lisburn and Castlereagh City Council flagged the risk to jobs and the loss of skills that there will be if funding for various projects ceases until 2022, because people will go looking for other employment and those skills will be lost.

The picture that the report paints for us is very disturbing. Business preparedness in the North is less than half what it is in the South. Cross-border supply chains and labour markets are under threat, and uncertainty and anxiety are the order of the day.

Mr Deputy Speaker (Mr Beggs): Will the Member draw his remarks to a close?

Mr Sheehan: I beg your pardon.

Mr Deputy Speaker (Mr Beggs): Will the Member draw his remarks to a close?

Mr Sheehan: Certainly, yes.

Creating chaos and confusion throughout this process has been a particular feature of the British Government. Our response to the report should be a realistic and cooperative effort to mitigate the destructive effect that Brexit and its surrounding uncertainty —

Mr Deputy Speaker (Mr Beggs): The Member's time is up.

Mr Sheehan: — may have on council services and the local economy.

Ms Armstrong: I welcome the opportunity to speak on this important issue. I thank the Committee staff and the representatives of the local councils who contributed to the report and thank the Committee itself. I do not sit on the Committee, but I sit on the Committee for Communities, and we look regularly at the impacts on councils, which is why I wanted to contribute this evening.

The report will help to inform us on the reality that faces our councils as a result of Brexit. I think that we can all agree at this point, whether you are a Brexiteer or a Remainer, that Brexit is a mess. No one is getting what they want, and the outcome will leave us worse off and more peripheral with fewer rights and less influence.

Things were already looking tough for our councils, and then bang: COVID came along in 2020. From dealing with SOLACE and NILGA through the Committee for Communities, I say that the outlook for our councils is extremely severe. The pandemic has put financial pressures on them that they did not expect, and, added to the Brexit problems, we are looking at a catastrophe. It will not just be our councils that pay for that; it will be our ratepayers.

We can take a bit of comfort from the fact that the UK and the EU are still talking. At least they appear to have worked out some of the details with the protocol, for instance, with the grace period for supermarkets that we have heard about, and thankfully the law-breaking elements of the Internal Market Bill were dropped.

The report highlights a plethora of issues with Brexit and what it brings to local government. My time is short, so I will just hit the themes. For instance, Northern Ireland's agri-food sector is a credit to us, but ensuring that we have access to the same markets and compliance will be a challenge. Much of that will fall to our local government and environmental health departments. One particular concern relates to food labelling and whether Northern Ireland producers can meet the requirements post the transition period. All of that needs to be ironed out, and what we need for that are good local partners in local government.

The transition period is definitely coming to an end on 1 January. That will hit businesses like a sledgehammer, and we need our local government to be there to provide the support. Will they be able to cope with that? I do not know. I asked the First Minister earlier this week about the common framework and how much businesses knew about it. Our councils do not even know about how to give local businesses information.

Our councils are in financial difficulty. On the Committee for Communities, we are extremely concerned about the impact that COVID has had on our councils and their ability to deliver economic regeneration and employer support and to help our community to come back from COVID. If they are to build back better, we need to consider how our councils can work as an effective partner with this Government. On top of that, the Brexit impact is hitting them, and they have made their concerns very clear. As others mentioned, they are worried about funding. The shared prosperity fund is extremely concerning. Why, in Northern Ireland, do we have no details about it? Are we the poor relative who will get the scraps off the table?

Worse still, it might not replace the funding that our councils will lose out on. The complexity of reams of red tape and costs will harm businesses, so we need our councils to support them. It will cost jobs. We need light-touch regulation and clear information campaigns with answers. We need goodwill between the EU and the UK to iron out any issues. It is also vital that good communication exists between the Executive and councils to help to get messages out and engage on the problems that may arise.

The protocol is not perfect. It is the result of the UK seeking the hardest Brexit possible, which brings friction. The backstop was a much better situation. I think that some regret the decision not to accept the backstop and the outcome of decision. For the good of our councils, this place and citizens across Northern Ireland, we need stronger councils. We need to support them more and fund them better in our next Budget period. I am very grateful to the councils that fed into the report. They provided confirmation of what we were all concerned about.

Ards and North Down Borough Council, which covers part of my constituency, highlighted the uncertainty about the fishing industry. I am grateful for today's decision that Northern Ireland vessels can land fish at Northern Ireland ports —

Mr Deputy Speaker (Mr Beggs): I ask the Member to draw her remarks to a close.

Ms Armstrong: — without EU sanitary and phytosanitary (SPS) checks. At least that is one piece of clarity, but we need to provide an awful lot more. We need to build bridges, not borders.

Mr Stalford: There is an irony in this: we will all tear the back out of each other over Brexit, but we will all vote to pass the motion anyway. I suppose that that is just the nature of what the debate has become. At this time of feasting, it is not surprising to be served up the latest course of misery by the Chairman of the Committee, although I do not think that we will choose to swallow it on this occasion.

Speaking as a former councillor and someone who served for 11 years on Belfast City Council, I very much appreciate the effort and time that the various councils put in to presenting evidence to our Committee. It was welcome participation from the 11 councils, and they made useful contributions. I absolutely agree with some of the themes raised by Members thus far. Communication has been poor. People need to be better informed of the

approaches that not only the devolved Government here at Stormont but the national Government at Westminster intend to take. Communication could be improved.

As mentioned by the Member who spoke previously, one of the areas that the Committee has been examining is that of common frameworks. It could be a new role for the British-Irish Council (BIC) to oversee the implementation of common frameworks and how they operate within these islands. Up to now, the British-Irish Council has not really had a very significant role. Maybe the Government here could take that forward. BIC incorporates not only the four UK nations but the Crown dependencies, the Isle of Man and, obviously, the Government of the Republic of Ireland. Everyone in these islands is embraced under the aegis of the British-Irish Council, and the common frameworks will be the practical way in which the outworkings of this situation are applied. As a Committee, we might want to investigate that.

I acknowledge and accept the concerns that have been put on record in relation to funding issues. As I said in my intervention, I worked for three years for a Member of the European Parliament. One of the areas that I worked in was helping groups to access funds, including by helping them to fill in funding applications to get those funds drawn down.

Mr Clarke: Will the Member give way?

Mr Stalford: Certainly.

Mr Clarke: The Member makes an interesting point about drawing down funding. Does he agree that it would be useful to see how the labour expended doing that is converted into money that comes to Northern Ireland?

Mr Deputy Speaker (Mr Beggs): The Member has an extra minute.

Mr Stalford: Thank you, sir.

Yes, I absolutely agree with that. In my experience, one of the problems that those groups always identified was the three-year funding cycle. It takes a year to get a project up and running. It then takes a year to have the time to deliver the project. The next year is spent trying to source the funding to keep the project going. That was a consistent problem with programmes that were being delivered by the European Union.

Another problem was that funding was diminishing. There is no point in denying that. With new member states joining the European Union that were in greater need of investment than we were, the money was inevitably moving from the west of Europe to the east, and particularly to the former Soviet bloc and Warsaw Pact countries. Let us not convince ourselves that the decision to leave the European Union will reduce us to beggary, because that is simply not true.

I would also welcome further details of and more information on the shared prosperity fund. It is important that the Government at Westminster provide that information, because it is essential that groups know how to apply for funding, how to access it and what the conditions will be for spending it. Again, I am speaking from experience, but it would be good if our community groups were not laden with the burden of regulation and monitoring that was imposed on many of them in order to receive European Union funding. If people are engaged in community work and practice, they should be doing that and not constantly filling in monitoring forms. If we can deliver the funds directly and more speedily to bring more benefit to local communities, that will be an improvement on the present situation. I hope that everyone will accept that.

Mr McGrath: Will the Member give way?

Mr Stalford: Ten seconds.

Mr McGrath: The Member speaks about the three-year funding cycle, but many groups in Northern Ireland have an annual funding cycle, which comes from the Executive and not from Europe. Some of our local authorities ask for more monitoring forms to be filled in.

Mr Stalford: I suggest that the Member take that up with his party's Minister in the Executive. I am sure that she will be able to raise the issue for him. If you are going to stand up and criticise the Executive, at least acknowledge the fact that you are in it.

When it comes to worries about freedom of movement of people, I will say that the common travel area existed before either the Republic of Ireland or the United Kingdom was a member state of the European Union —

Mr Deputy Speaker (Mr Beggs): I ask the Member to draw his remarks to a close.

Mr Stalford: — and I have every confidence that that will continue into the future, unless the belligerence of the EU prevents it.

Ms Anderson: As we listened to the 11 councils, some Executive Office Committee members clearly understood that EU laws, policies and functions touch on almost every aspect of life in the North. It is bad enough that councils have to deal with the COVID pandemic, but the Brexit transition and the post-transition outcome, whatever the shape of that is in 16 days' time, have resulted in an intensification of the significant financial pressures that councils are under.

The councils that represent the majority of people who voted to remain in the EU clearly understand the disaster of Brexit. For instance, in my own city of Derry and in the Derry City and Strabane District Council area, 78% of people voted Remain, because they knew that there was no good Brexit. They clearly understood that and did not want to see a hardening of the border in Ireland. From listening to the representatives of those councils that represent areas in which a majority of people voted Leave, it was clear that the penny was starting to drop. The councils that represent farmers and rural dwellers now know that Brexit will rob their pockets and wallets and will have an adverse impact on their livelihoods. Many of them were promised by Brexiteers that the British Government would foot the Brexit bill. They were promised that they would not lose EU funding, because the British Government would replace it. In fact, they were told that there were going to be great benefits from leaving the EU.

Let us see how all of that is going. There is a harder border down the Irish Sea. Blood-red lines, which were to guarantee regulatory alignment, were ignored. Instead, there has been clearly defined regulatory divergence.

On top of that, officials from the Department of Finance informed the Executive Office Committee that farmers will see a reduction of £34 million from what they had been receiving in EU funds over the next three years. Therefore, the promise of EU funding being replaced by the British Government was simply not true.

10.00 pm

There is more. The Committee was informed that the North is a net beneficiary of EU funding and gains €3.6 billion every few years. Out of that sum, €750 million is received from EU

structural funds. Brexiteers told councils, groups and organisations that the British Government would replace that funding. However, the British Government announced a fund of only £220 million for Britain and here, which will result in a pittance of an allocation compared with what we received by being a member of the EU.

The North will not be leaving the EU on the same basis as Britain. There will be divergence on SPS checks, as the North will be aligned with the EU, not with Britain. Antrim and Newtownabbey Borough Council and Causeway Coast and Glens Borough Council raised issues about agri-food and labelling. Businesses will have to start printing labels bearing the identification marks of the North — another diversion from Britain — in order to ensure that goods that are sold here in the North continue to follow EU rules, not Britain's rules. Councils also know that agri-food products moving from the North to Britain for onward travel to the EU will, in some cases, need to be accompanied by additional supporting health documents. Agri-food products that are subject to border control posts and checks, which Minister Poots is building, will have to enter the North via designated points of entry, such as Warrenpoint, Larne and Belfast. Councils highlighted the impact of delays at ports. They are working up contingency plans because of the disruption to their supply chain. Therefore, the South of Ireland has become a more attractive alternative supply chain route.

Mid and East Antrim Borough Council is concerned about the free flow of medicines to pharmaceutical companies here, which are very reliant on just-in-time deliveries. Causeway Coast and Glens Borough Council is concerned about the transfer of waste shipments entering the EU —

Mr Deputy Speaker (Mr Beggs): I ask the Member to draw her remarks to a close.

Ms Anderson: — and is looking to the South of Ireland for alternative routes. Brexit is, without doubt, an unmitigated disaster, and all who advocated it should hang their heads in shame.

Ms Sheerin: Brexit is a strange phenomenon in that it has not even happened yet but, as it has been talked about so much, it already feels like a historical event. We have discussed the pros and cons in the Chamber to the point where any of us could predict what other Members are likely to say on the issue. For instance, I know that the Members across the Benches are

bored talking about it. They campaigned for it, but they do not want to defend it.

The engagement with the 11 councils was interesting in that the ideological positions, Brexiteering and showboating that we have become used to and been subjected to until this point were largely abandoned. We had councillors and chief executives forgetting about political point-scoring and, instead, giving us honest and frank accounts of the real, practical implications of Brexit for the people they serve and the issues that they need resolution to now. As well as that, every meeting was different. The specific interests of every region came to the fore, depending on the demographics and geography of the area and how close they were to the border. All of the things that are a factor in how much Brexit is going to impact you, and who exactly within your constituency is going to be impacted, became evident in these sessions.

What remained the same in all meetings — you could call them consistent themes — were the feelings of frustration, the need for information, the worry, the uncertainty, the various attempts to make preparations with one eye closed and the confusion about the consequences of all of this for us. The only consistent thing about Brexit has been its inconsistency. That was seen clearly even in the meetings with councils that are considered to be pro-Brexit. The Member across the Floor referred to the remarks of the chief executive of the Mid and East Antrim Borough Council. She told us that they had sent correspondence to Michael Gove and that they felt listened to by the British Government. However, almost in the same breath, she told us that one of their main priorities was maintaining the status quo at the port of Larne. Then she conceded that there is going to be border infrastructure here, which is not consistent with what the UK had committed to or what she wanted. It is obvious that, whilst they sent correspondence, that correspondence has been one-way.

It will not surprise Members that I want to focus on my constituency of Mid Ulster. With respect to funding, I must declare an interest: I have sat as a social partner on the Mid Ulster local action group (LAG) board for the distribution of rural development programme (RDP) funding since 2014. I know first-hand that the question of future funding, and the uncertainty about whether the current scheme would be able to conclude, is a massive worry for us. It is something that comes up every month at our meetings. This programme delivered £10 million to local groups in our district over six years, including community halls, play parks,

small rural businesses and GAA clubs. Those are facilities at the heart of their communities, providing employment and services to local people.

The presentation from Mid Ulster District Council addressed the concerns about the UK's so-called replacement, the shared prosperity fund, which is something on which we do not have the detail that we would like.

Mid Ulster is a border council area, and a no-deal scenario poses significant issues for the cross-border management of waste. That may not be very glamorous, but it has a real impact on people's daily lives.

Another issue mentioned by Mid Ulster council was our fishing industry at Lough Neagh. That community has been hit very hard in 2020 and still has not been awarded the COVID-19 relief package promised by the AERA Minister in the summer of this year. Some 80% of the eels caught at Lough Neagh are exported to Holland and Germany, so the importance of the EU market does not need to be explained. Moreover, Lough Neagh eels have a protected geographical indication (PGI) status, which is an EU indicator that needs to be maintained in order to ensure the continued import of glass eels to complement the current stock.

Mid Ulster council also referred to the worries of migrant workers in the area who, at the minute, are unsure of their future. We see issues with the time frame of the EU settlement scheme. Insufficient notice has been given by the British Government of its closure in June.

Fermanagh and Omagh District Council area, which relies on the agriculture industry, focused on the worries experienced by the farming community. I talked at length about this before in the Chamber. I come from a farming family and understand farmers' worries about the single farm payment and whether that funding will be supported by the British Government.

I finish by saying that, while the opportunity to hear from local councils was welcome and the engagements were useful, an awful lot of it seems futile, in that our local interests and the things that we have expressed have not been listened to by the British Government.

Mr Deputy Speaker (Mr Beggs): The Member should bring her remarks to a close.

Ms Sheerin: All this is unnecessary and has been brought about by people who have shown that they do not care about the North of Ireland.

Mr O'Toole: We are days, and, in a sense, hours, away from the end of the Brexit transition period.

It is worth saying first of all, as I did earlier this week, that when we look at some of what we are facing into with the COVID-19 pandemic, it remains deeply unforgivable that the UK Government refused to extend the transition period in the midst of this unprecedented global health pandemic. I invite Members to take a step back and think about the transition period not being extended, in the midst of some of the scenes that we are seeing. It is really unforgivable and unconscionable. It should have happened. The Assembly voted to ask for an extension, but it was not granted.

There is a lot that I could say about Brexit, the Assembly and what has been inflicted on us. Brexit is a lot of the reason why I am here. Four and half years ago, before the Brexit referendum, when I was still a UK civil servant — it was a previous life; it feels like a long time ago — I was getting the District line tube home from my job. An old copy of the 'Metro' newspaper lay on the seat next to me. I picked it up, because it was quite strange looking. There was a wraparound advertisement on it. If you looked closely at the small print, you could read that that advertisement was paid for by the Democratic Unionist Party, despite the fact that no one on that tube train could vote for them, unless they lived in Northern Ireland but happened to be visiting London.

I say that not to score petty political points but to draw attention to the extraordinary situation that we face as a society and as an economy, where we have been placed in extraordinary danger and risk. I am afraid that that has happened — I do not mean to be too pointed as we approach the festive season — in large part because of the actions of one of the bigger political parties in the Chamber, which worked with the Leave campaign to deliver the result and, once it was delivered, to insist on the hardest possible interpretation of that result. That meant that the UK was bound to leave the ambit of the European single market and customs union and that, sadly, checks would have to happen somewhere, whatever your political or constitutional view about checks on the Irish land border, which, obviously, I am not in favour of. Even if I was indifferent to that, it would be logistically nearly impossible to enforce a customs and regulatory border on the island of Ireland.

We have been placed in this tragic and difficult situation by the actions of successive UK

Governments, for whom, I am ashamed to say, I worked at times. We are where we are now. We are hours away from the end of the transition period. We have some reassurance about the application of the protocol, a protocol that exists only because of the actions of the UK Government and those who enabled them over the past four years. We have some mitigations, which are welcome. I welcome the fact that we have some clarity on the movement of goods between Britain and Northern Ireland and that we have positive signs that we can make some of the protocol provisions work for our economy. I hope that everyone in the Assembly, from whatever constitutional perspective or whatever opinion on Brexit, seeks to make those arrangements work.

However we make the arrangements work, the sad truth is that Brexit will damage our economy. It will damage not only our economy in Northern Ireland but economies across all parts of these islands — the UK and Ireland. I say it as an Irish nationalist, but I do not want to see —

Mr Deputy Speaker (Mr Beggs): May I encourage the Member to mention the report that is being debated?

Mr O'Toole: I will, certainly, Mr Deputy Speaker. The report mentions that many councils drew attention to the profound difficulties created by Brexit. Since you have asked me to mention what the councils said, I will come back to some of the issues that were listed in previous contributions: waste management, migration, fisheries and disruption to cross-border trade. An innumerable list of difficulties has been created, unfortunately, by this pointless —

Mr Deputy Speaker (Mr Beggs): May I ask the Member to draw his remarks to a close?

Mr O'Toole: — damaging project, which has done absolutely nothing for people here, in Britain or in any part of Europe. A grotesque tragedy has been inflicted on people here, and those who are responsible for inflicting it should — with respect to the festive season — hang their heads in shame. I am afraid that they will not.

Dr Archibald: I thank the Chair, the Committee and the staff of the Executive Office Committee for this useful report. Our councils are at the fore of working with communities and businesses in local areas, and it is really important to hear from them about the impact of Brexit as we come to the end of the transition

period. Many of the themes highlighted in the report will be familiar to us all: loss of funding, the lack of readiness of businesses, the physical infrastructure that is necessary and the impact of the ongoing lack of clarity on future trading arrangements.

The Joint Committee agreement last week on aspects of the protocol is to be welcomed. Of course, like the rest of the negotiation, it has taken a long time to get to a stage at which there is any clarity. What has now been agreed to is what the British Government signed up to in the withdrawal agreement last year, so getting to the point of clarity only now is difficult to justify. Detail is needed on what has been agreed.

It is also clear that, while the grace periods for qualifying goods and SPS checks offer some short-term relief, there is now a need to use the time to ensure that what comes afterwards is workable, as much as is possible, for businesses. That will require real and meaningful engagement by the British Government with businesses here and with the Executive to reach a definition of qualifying traders and goods. It will be important that the so-called long-term regime referenced in the Command Paper recognises our highly integrated supply chains, particularly in the agri-food sector.

The Committee report highlights the concerns of councils about both those issues. Schemes will be put in place, including the trader support scheme. The operation of that scheme will be important to ensure that businesses can cope once the grace periods end.

The British Government and the Department for the Economy need to ensure good communication with businesses to ensure that, once arrangements are agreed, they can be operationalised by businesses. There is much to do in that regard given the very poor levels of preparedness among businesses currently, which is, in part, as the Chair of the Executive Office Committee said, due to the lack of bandwidth that businesses have this year due to COVID.

10.15 pm

There are those in the Chamber who do not agree with the protocol, and, as Kellie Armstrong and Matthew O'Toole referenced, it is an imperfect, least-worst option to mitigate the worst impacts, but it is the reality, and it needs to be made to work. I am sure that the majority of us recognise that it will work best in

the context of a comprehensive free trade agreement between Britain and the EU, so it is vital that it comes to a speedy and positive conclusion in a very short while. It is quite ridiculous that, 16 days out from having a new trading reality, businesses and communities here do not yet know what it will be.

Brexit has been impacting on us for the last four years. Businesses have lost out on or put off investment opportunities. Researchers here have faced a chill effect. Citizens from other EU states who lived and worked here and were part of our communities have made the decision to leave due to uncertainty. However, the true impact will only be felt after January, which is why it is vital that all efforts are put in now to achieve an agreement on a free trade arrangement in the next couple of weeks.

The loss of EU funding is also highlighted in the report. Lots of concerns have been raised with me, with the Economy Committee and, I am sure, with all Members about the impact of the loss of funding and the lack of clarity on the shared prosperity fund. Even with what was published on the shared prosperity fund in the spending review a couple of weeks ago, there is still a lot to be desired in terms of what will be available and how it will be administered, and I agree with the sentiments in the report that there needs to be close cooperation with councils and other organisations here on the shared prosperity fund. However, it remains deeply concerning — it should be concerning for everyone in the Chamber — that the British Government have sought to retain the financial powers clauses in the Internal Market Bill and give themselves the power to allocate funding over the head of the Assembly and the Executive.

Issues impacting on cross-border businesses and workers have also been highlighted in the report, and, recently, there has been significant criticism by groups here of the lack of engagement by the British Government on the frontier worker permit scheme. That permit scheme has now opened, and we really need to see further engagement and information disseminated about it.

I have touched on only a small number of issues highlighted in the report, but it is a very useful overview of the issues. The Executive Office Committee has done an important piece of work in compiling this report and giving us the opportunity to discuss it in the Chamber this evening at this really important time, just a fortnight away from the end of the transition period. There are some things that need to be

taken for action from the report. For example, the communication between the Executive —

Mr Deputy Speaker (Mr Beggs): I ask the Member to draw her remarks to a close.

Dr Archibald: — and councils is one area. We all need to recognise — I suppose that we all do recognise it — that the lack of overall clarity has impacted on the extent of communication, but, going forward, we really need to see a joined-up and collaborative approach.

Mr Deputy Speaker (Mr Beggs): I call junior Minister Gordon Lyons to respond to the debate. You have up to 15 minutes, should you wish to use them.

Mr Lyons (Junior Minister, The Executive Office): Thank you very much, Mr Deputy Speaker. I recognise the lateness of the hour and also recognise that that is a time limit rather than a target, and I will try my best to make sure that I do not go anywhere near it.

It is fitting that, at the end of the year, we finish off in this place with a debate on Brexit, though I do not think that we have heard any change of position. I do not think that anything has been said that has not been said before on these issues. Scripture tells us that there is nothing new under the sun, and we have certainly been reminded of that tonight.

However, I would like to thank the Executive Office Committee for its work on this report and, more generally, its work on EU exit matters. When Minister Kearney and I have come before the Committee, there have always been lots of very incisive questions. This is an issue that concerns many, and I thank the Committee for the work that it has done. I also thank councils right across Northern Ireland for the work that they have been involved in. I am well aware, as other Members will be, of the incredibly difficult time that it has been over the last nine or 10 months as a result of COVID and the pressures that that has put on councils. I thank them for their work, for everything that they continue to do and for giving their time to respond to the Committee report.

Councils raised a number of issues in their submissions. During the previous debate in the Chamber, which was on the Bill, I was able to take some time to read them. A great variety of issues was raised, and there are answers to some of those. Issues were raised around travel, tourism, EU nationals and frontier workers and the protocol, some of which we have had clarity on for quite some time and

some of which we are now getting a bit more clarity on. However, I completely understand that more is needed.

The motion calls on us to note the evidence and calls on the First Minister and deputy First Minister to push the Government so that clarity can be provided for councils and for all of us. We in the Executive Office have constantly been calling for that. We have some of that clarity, as I said, but, of course, there is more to do. There remain a significant number of areas where definitive guidance is not yet available, but we are committed to engaging with councils to ensure that they are able to continue to provide services to the households and businesses in their area.

Let me take this opportunity to thank councils for the role that they have played in operational readiness planning. They play a vital role in delivering key services that cut across all Northern Ireland Executive Departments. For that reason, they have been integrated into our operational readiness planning structures and working closely with our Departments. Again, I recognise the impact that the pandemic has had on their ability to prepare.

Mr O'Toole: I am grateful to the Minister for giving way. He mentioned the impact of the pandemic. Earlier this year, when we moved a motion calling for an extension to the transition period, the DUP did not support it. Does he now think that, in light of what has happened since and the extreme difficulties that we face, including tonight, the transition period should have been extended after all?

Mr Lyons: I have already answered that question at the Committee, and I am happy to answer it again. No, I do not think that it should have been extended. The constant kicking of the can down the road would have caused more uncertainty for businesses and councils. I know that he does not share that view, but he asked me for my party view, and I think that that explains it for him.

Councils raised issues in relation to cross-border workers. Although the responsibility for frontier workers and EU settled status lies with the UK Government, the Executive have kept a watching brief on these issues. The Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 will come into operation on 1 January, and they provide that EU nationals who, by 31 December of this year, are working or self-employed in the United Kingdom but living elsewhere will be able to continue to work here in the UK for as long as they remain a frontier worker.

Mr Stalford: I am grateful to the Minister for giving way. Earlier, the phrase that people "should hang their heads in shame" was used. As far back as 2017, the stated position of the UK Government was that any EU citizen residing in the UK would have the absolute freedom to remain in the UK. That statement was made by Theresa May in 2017. Does the Minister agree with me that what is shameful is frightening people who have come here, made their home here and are making a very positive and valuable contribution to society here?

Mr Lyons: I want to make it very clear once more to people who have come and made their home here that they are welcome here. I agree with the Member that it is absolutely disgraceful that, when that position has been made clear for so long, there are still those in our society who want to imply that they are not welcome or that they will have to leave their home, which is here. I hope that we can give some reassurance to EU nationals living in Northern Ireland that they, of course, can continue to live here.

A number of councils expressed concern about their ability to move waste across the border for processing. DAERA, as the Department responsible for waste, has provided assurance that cross-border movements of waste will continue without interruption on 1 January 2021 and that businesses can continue to move waste under the present processes without any changes being required. Some issues were mentioned in relation to the uncertainty about specific transport requirements for the cross-border carriage of waste products.

Transport remains challenging, but it is hoped that some of the transport issues may be resolved if there is a transport agreement as part of a wide-ranging agreement on the future relationship. If, however, that does not transpire, alternative arrangements, including potential bilateral agreements, can be negotiated to secure our essential interests. There is a lot of work going on on operational readiness, and plans are being put in place to ensure the continuity of supply of critical goods, such as medicines, to our citizens. We are liaising with HMG to ensure that our needs are taken into account in the UK Government's wider contingency plans for the movement of critical goods from the EU to the UK.

Business preparedness is another issue that was raised, and we have been consistently engaging with businesses on the steps that they should now take. That guidance and

engagement can cover only the arrangements that are currently known, however. Of course, I recognise that the continued uncertainty around the future relationship is an issue. I think that we are united in the House about making sure that we get that free trade agreement. I hope that the will is there to do that.

We also have the Trader Support Service that is now in place, and it is important that that service be tried and tested before the end of the transition period in order to ensure its reliability and to satisfy business confidence. Again, that is something that we have been highlighting to the Government.

International trade will continue, and it is important to our economy. I understand that Invest NI and InterTradeIreland have met individual councils to provide guidance and support on a wide range of issues, including customs, goods, trade, tariffs and tax.

There are also issues around data adequacy arrangements. That is something else that we are raising with the Government. Of course, I hope that Members can see the common theme coming through of the issues that the councils raised with the Committee being issues that are raised with us elsewhere. We are seeking that clarity and assurance, and we will continue to do that. In all our engagements on the negotiations themselves, we have continually stressed that every effort should be made to reach a future relationship agreement with the EU that reflects the social, economic and environmental interests of our citizens and businesses.

I assure the Committee, the Assembly and local government that the Executive have highlighted and will continue to highlight the impact of not having the outstanding clarity that is needed for our authorities, businesses and citizens. The Executive will urge the UK Government to provide that clarity so that we can get the outcome that we all desire.

In closing, my party has often said that Brexit brings with it opportunities. I know that that is not a view that is shared in the Executive Office or in the Assembly more widely. As we get to the end of this year and the end of the transition period, however, and as we get, I hope, to the end of the nightmare that has been COVID, I hope that we can all agree that there is an opportunity for us to reflect a little bit on what has gone on over the past number of years. I hope that we can move beyond some of the division. I recognise that there is a huge amount of work still ahead of us. There is a lot of work to do on issues in the protocol to get the

answers and the clarity that we are still seeking. There is therefore lots of work that is outstanding, but I hope that we, regardless of our views on Brexit — we have all heard this evening the disagreements that exist across the Chamber — can commit ourselves to working together in the new year to get the best outcome for our people.

I got involved in politics so that Northern Ireland could be the best place that it could possibly be. I want us to work together to ensure that we maximise what we have in Northern Ireland, including our greatest resource, which is our people, so that we can all legislate here in a way that means that people can live in peace and have prosperity. As we move into next year and the one hundredth anniversary of Northern Ireland — I will be celebrating that, but I recognise that others will not be — I hope that we can look to what comes next so that we can build Northern Ireland into the place that we all want it to be.

10.30 pm

Mr Deputy Speaker, as we are heading towards Christmas and as this is the last debate of the year, I want to take a little bit of time to thank you and the other Deputy Speakers for the work that you have done.

Mr Stalford: You are welcome. *[Laughter.]*

Mr Lyons: I also thank Mr Stalford for his humility. Importantly, I also thank the staff in the Business Office, and all those who work in the Building, for enabling us to carry on our work in the way that we have. It is important that we are here representing our constituents, and that would not have been possible had it not been for the work of the staff. I thank them.

It is just left for me to wish everybody a Merry Christmas. I hope that everybody has a happy and prosperous 2021 and one that is not as socially distanced as 2020.

Mr Deputy Speaker (Mr Beggs): I also want to put on record my appreciation to all the staff who are still here at this late hour and who have worked so hard over the last period.

Mr Beattie (The Deputy Chairperson of the Committee for The Executive Office): I will wind it down as quickly as I can. As the last person to speak on the Floor before we break up for Christmas, I am not sure that people want to hear me speaking for too long. I am like the cool-down act. The stars have been in and said all the words, and the people are slowly

drifting out of the building while this guy gets up and tries to tell some jokes to keep people interested. I guess that that is just the way that it is going to be.

The most important thing is to thank everybody for their contributions to this really important debate that gave councils a voice in the Assembly that they do not always get. The most important thing is the hard work that is being done by our councils at this time in what are really difficult circumstances. I thank the Ministers as well for coming here, and certainly the junior Minister for his contribution to the debate. It is 22:30 hours, 10.30 pm, and not the 2.00 am that I had to do on the Domestic Abuse and Family Proceedings Bill. If I was allowed to talk for longer, I might just keep you here longer, but I am not.

It was interesting that, as soon as the Chair got up and started speaking, five words in he was bombarded by Christopher Stalford with, "The UK are net contributors", and Martina Anderson batting back with, "Yes, but what about the rebate?". That typified the point that we all have views on Brexit. We all had a position when this whole thing started, but we have moved on. Even look at this evidence that we took from the councils: they gave us that evidence not even knowing about the protocol that was coming in, and even that has moved on. There is no harm whatsoever in batting backwards and forwards and having a strong position on something.

Colin gave his brief, and he gave a very good summation as far as the Committee was concerned. In his personal contribution, he said that it was an absolute disaster — Brexit was a disaster. If his name was Donald Trump and it was a tweet, there might be a wee thing underneath it saying that it was a contested view and that some people do not think that it is a disaster. Some people genuinely do not, and we have to accept that. There are difficulties there, and you cannot not argue the difficulties.

Trevor Clarke talked about the actual engagement with the councils. It was incredibly important that we spoke to them and got their points of view. They were very open and candid, and some Members talked about that. They did mention funding issues, and there are funding issues. That came up time and again. Trevor focused on something that was not raised an awful lot, which is that some councils are working really hard to get the best out of it and to get opportunities. There will be opportunities. Even in the worst places in the world — I have been in a few of them — trust me, there are opportunities to be had. Some people here and some councils will be looking

for those opportunities, so Trevor was right to raise them.

Pat Sheehan talked about how important it was to talk to the councils. It was an important exercise, and he is absolutely right that the themes and issues were talked about over and over again. It was the same one. It could virtually have been the same council in front of us raising the same issues over and over again. He focused on the hard work of some councils that do not know what is going on. We have to take our hats off to that. If we are sitting here not knowing what is going on, you can imagine what it is like in the councils when they do not know what is going on, and the departments in councils that do not know what is going on. Pat was right to raise that. That is another theme.

He raised the issue of lack of preparation and information and how some issues are being kicked down the road. He also mentioned the time frame between the transition and the derogations coming into effect. He is right: there is a can being kicked down the road, but some of it is absolutely necessary, as our councils and businesses need that time to prepare. It is not ideal.

We then had the recurring blame, blame, funding, funding, funding, blame, blame, blame game again. It is not going to help us, but it is right to point out if we think that somebody has done something wrong. The services, the prosperity fund, and the lack of information are all things that Pat raised and which are happening time and time again and were mentioned time and time again.

Kellie Armstrong thanked the Committee for holding the event. You are welcome. She focused on the difficulties that lie ahead for councils, including councils' environmental health services. She talked about the common frameworks and the Northern Ireland fisheries. Interestingly, the councils did not really engage on the Northern Ireland frameworks; it was not something that they spoke up about. Christopher mentioned that when he talked about a role for the British-Irish Council on the common frameworks. It may not be a perfect idea, but it is worth exploring. They need to have the proper structures, but it is certainly something to be explored to help all these islands and the people in them. Christopher mentioned the poor communication, and, of course, it was poor.

After Christopher Stalford, came Martina. They are like a double act. Martina Anderson fought Brexit all over again, focusing on the funding gaps for farmers, fisheries and divergence from

some EU rules: we will be following EU rules not British rules. It felt like an EU wet dream at some stages. It is a fair point to put across because some people are looking at this and saying, "Actually, you lot made a real mistake, and I am going to take advantage of that mistake". That is the world that we live in, and I do not have a problem with that. At the end of the day, we are going to have to make it work.

Emma Sheerin said that some of the councils talked about the realities, even some that were pro-Brexit. She talked about the reality of what they have to face. It is absolutely right. My council area was pro-Brexit, but it is having to deal with issues that it could not have foreseen all those years ago when we were going through the referendum. There is consistency of confusion, and we have to remember that. Emma focused on her constituency of Mid Ulster and funding for community facilities and the cross-border management of waste. All the realities that we have to deal with.

Matthew O'Toole talked about the extension to the Brexit transition period. It did not happen, we did not get it. We might say that we should have got it, but we did not. We are where we are, and we have to move forward. Yes, there will be damage to the all-island economy, but we have to mitigate that damage.

Caoimhe Archibald talked about the delays in the protocol. All that time waiting for the protocol and it was sitting there, and we pretty much got what we thought we were going to get with just a few caveats. As far as I am concerned, as an Ulster Unionist, I did not want Brexit, but we have Brexit. I did not want to leave the EU, but we are leaving the EU. I do not want the Northern Ireland protocol. I did not want any borders. I did not want borders North/South, and I did not want borders east-west. I wanted to talk to my friends down in the Irish Republic with no change whatsoever, and I will do, and I will talk to my friends in England, Scotland and Wales with no change whatsoever, but within the psyche, I suppose, that we are looking at a border down the Irish Sea.

People need to understand those fears, because those are the same fears that some people had two years ago that there would be a hard border between North and South. That was a genuine fear, and we addressed that. We cannot now just bat away other people's fears about a border east and west.

Mr O'Toole: I am grateful to the Member for giving way. It is worth putting that on the record and, in a sense, agreeing with what he said. It

is really important that, in the context of the protocol, we acknowledge the real fears that people have. Clearly we will have —.

Mr Deputy Speaker (Mr Beggs): I remind the Member that we are running out of time.

Mr O'Toole: We will have difficulties, but the key thing is that we work together to make that protocol work and to do better going forward, as the Minister said himself.

Mr Beattie: Thank you, Mr Deputy Speaker. In my naivety, I gave way to the Member, and I should not have done. Thank you, Mr Deputy Speaker, for your time.

Mr Deputy Speaker (Mr Beggs): Your time is up.

Mr Beattie: It was a really good debate, and I thank you all very much for that. Thank you, Mr Deputy Speaker.

Question put and agreed to.

Resolved:

That this Assembly notes the evidence from local councils to the Committee for the Executive Office in its Report on the evidence received from local councils on the impact of the United Kingdom's exit from the European Union (NIA 58/17-22); and calls on the First Minister and deputy First Minister to urge the UK Government to provide clarity on the implementation of the Protocol on Ireland/Northern Ireland to allow local councils to prepare for the post-transition period.

Mr Deputy Speaker (Mr Beggs): I advise Members that, in light of the lateness of the hour, Ms Paula Bradshaw has agreed not to speak on her Adjournment debate tonight on post-primary education provision in South Belfast. The Whips have agreed that the topic can be rescheduled at a future date, and the Minister of Education is content to postpone his response.

Mr Stalford: On a point of order, Mr Deputy Speaker. This will be the second time, and it should go on the record that Ms Bradshaw has been very reasonable with the House, but, as a constituency colleague and as it is an issue that affects my constituency, I am very keen that this matter is taken as an Adjournment debate at the most early and convenient opportunity.

Mr Deputy Speaker (Mr Beggs): As you well know, that is not a point of order, but you have put it on the record.

Adjourned at 10.42 pm.

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