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Northern Ireland Assembly

Tuesday 28 July 2020

The Assembly met at 10.30 am (Mr Principal Deputy Speaker [Mr Stalford] in the Chair).

Members observed two minutes' silence.

Assembly Business

Standing Order 20(1): Suspension

Mr Butler: I beg to move

That Standing Order 20(1) be suspended for 28 July 2020.

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

Question put and agreed to.

Resolved (with cross-community support):

That Standing Order 20(1) be suspended for 28 July 2020.

Ministerial Statements

Appointment of an Expert Panel to Examine Links between Persistent Educational Underachievement and Socio-economic Background

Mr Principal Deputy Speaker: The Speaker has received notice from the Minister of Education that he wishes to make a statement. Before I call the Minister, I remind Members that, in the light of social distancing being observed, 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. They can also do this by rising in their place, notifying the Business Office or the Speaker's Table. I remind Members to be concise in asking their questions to the Minister and the Minister to be concise in his answers. This is not an opportunity for debate and long introductions.

Mr Weir (The Minister of Education): I am glad that, given your ruling, there will be Members, not in the Chamber, who will be hanging on every word of the statement.

I would like to make a statement to the Assembly on the establishment of an expert panel to examine the links between persistent educational underachievement and socio-economic background.

I have been aware of and involved in the issue of educational underachievement, particularly the demographic of free-school-meal Protestant boys, since 2012 and have been passionate about addressing this persistent problem ever since. From birth, some children will face significantly greater obstacles, which need to be met and overcome, before they are in a position to realise their full potential. Currently, some manage to overcome these barriers and others do not.

As you are no doubt aware, there is a view in wider society that although valuable work has been done in this area, politically, the can is continually kicked down the road, and the issue is never given the time, effort or resources needed to make fundamental change.

There are also some who consider that, in the past, Government did not fully grasp the urgency of the issue. I believe that that is a misconception and that that misconception is deeply damaging to all in the education sector, not least to the work of the Department and to mine as Minister. Since taking office at the start of the year, I have been committed to getting an expert panel established and working as soon as possible. It is my considered opinion that the issue is simply too important either to ignore or to pay lip service to.

The New Decade, New Approach (NDNA) agreement includes a requirement that:

"The Executive will establish an expert group to examine and propose an action plan to address links between persistent educational underachievement and socio-

economic background, including the long-standing issues facing working-class, Protestant boys”.

That is not just a commitment in the New Decade, New Approach agreement but a priority action area for 2019-2020, and I am aware that we are now over halfway through 2020. Although some progress has been made in the Department on the issue, the necessary reprioritisation of work and staff to deal with the public health emergency surrounding COVID-19 has affected our ability to progress it as quickly as I would have liked. I am therefore delighted to make this announcement today.

Effectively, because of the COVID-19 emergency, we have lost four months in our goal to get the expert panel established and working. Without swift action, we will lose an opportunity to complete work on the project by the end of the 2020-21 school year and an opportunity to progress the implementation of the recommendations in this Northern Ireland Assembly term.

It is my clear belief that every child in Northern Ireland, regardless of their community background, deserves a real chance in life. They deserve a chance to realise their hopes and dreams for the future, and whether that career is as a plumber, doctor, journalist, florist, or even, if they are particularly unfortunate, a politician, they should be encouraged, nurtured and developed towards it.

A child will spend approximately 13% of their waking hours at school up to the age of 18, which means that 87% of their time will be spent out of school at home. Schools are largely responsible for children’s academic learning, but, alongside the vital support of the community, children learn some of their most important lessons at home — lessons that families teach best. What they learn at home provides an essential foundation for schools to build upon. The panel will no doubt consider the support mechanisms that can be put in place to help families that are struggling with life in general and whose children’s education is suffering as a consequence.

Educational underachievement and the impact of COVID-19 have, rightly, been consistently raised with me by MLAs and the Education Committee. They have also been highlighted consistently by wider society as we emerge from the health crisis. Now, more than ever, there is an overriding impetus to get the expert panel established and to allow it to commence its work with all haste.

It is worth remembering that, in 2005-06, only 26.4% of free school meal (FSME) school-leavers achieved the benchmark of five or more GCSEs, A* to C, including equivalents, including English and maths. By 2017-18, it was 48.6% of FSME school-leavers. That represents a 22.2% increase in 12 years. By contrast, the equivalent for non-FSME school-leavers was an increase from 58.5% to 78.1%, representing a 19.6% increase over the same period.

So, although progress has been positive, the gap in attainment between those with FSME and those without remained broadly consistent at around 33% each year, rising to around 35% in 2013-14 and falling to 29.5% in 2017-18. It is also widely accepted that Protestant boys with free school meals entitlement have consistently had one of the lowest percentage attainment levels of all pupils.

We also know that many Catholic boys and girls are struggling with attainment. In 2017-18, 1,586 pupils from that community background did not achieve five or more GCSEs, A* to C, including equivalents, including English and maths.

I am committed to doing all that I can to improve those results for everyone. This is not an area that should divide us in any sense but, rather, one that unites us, regardless of our political affiliation or constitutional preference.

There is a general recognition that the interruption to school-based learning caused by COVID-19 could disproportionately impact on the most disadvantaged pupils. For that reason, I have instigated a number of initiatives to help alleviate the impact of COVID-19 on children’s learning. There is a supported summer scheme in July and August in all primary schools that volunteered to deliver it; support for virtual learning over the next 12 months that all year 6 pupils going into year 7 will be able to access; and a new Engage programme that will help all pupils but particularly those from socially disadvantaged backgrounds, who would most benefit from additional support, to engage with learning following the COVID-19 lockdown period. That programme will broadly focus on supporting engagement with learning through the development of knowledge, understanding and skills in literacy and numeracy, which are at the core of our curriculum. With the agreement of the Northern Ireland Executive, the total budget made available for those three initiatives for the remainder of this financial year is £12 million.

We need to go further, strive harder, work faster and build a more certain future for all our children and young people. Despite the COVID-19 pandemic, I have remained committed to establishing the review panel and enabling it to start its work. Now I have set an ambitious timetable of nine months for the work. The panel that I am announcing today will commence work in September, and I have asked it to produce a final report by the end of May 2021. Consistent with my desire to see this crucial project established as soon as is practicable, I have appointed panel members who are:

"Considered to be experts in their field and have demonstrated an understanding of both educational underachievement and its links to socio-economic background."

I have also ensured that the panel is balanced in its practical experience and research. In going down the route of ministerial appointments, my intention is to ensure that we do not lose significantly more time going through a public appointment process. I have considered the potential members with a view to satisfying myself that each of them is suitably qualified in the field and that the community background of our society is clearly reflected, alongside an appropriate gender balance. I am content with the diversity and breadth of experience represented by the panel members, and I am confident they will do their utmost to produce a regional strategy that will turn around young lives.

Dr Noel Purdy will chair the panel. He is currently director of research and scholarship at Stranmillis University College, where he is also director of the Centre for Research in Educational Underachievement (CREU). Serving alongside Noel will be Mary Montgomery, who is the principal of Belfast Boys' Model School, which has one of the highest levels of attainment for Protestant FSM boys coming from an area of economic deprivation. She has established a culture of aspiration and success with the boys at her school. Kathleen O'Hare is the recently retired principal of Hazelwood Integrated College and was formerly principal of St Cecilia's College. She is very well aware of the concurrent issues of educational underachievement and socio-economic background. Joyce Logue is the principal of Long Tower Primary School in Londonderry, which predominantly serves a pupil population in areas of significant economic and social deprivation such as the Brandywell and the Bogside. The school, under her leadership, has established a track record in tackling underachievement particularly among

children from disadvantaged backgrounds. Jackie Redpath is the chief executive of the Greater Shankill Partnership. He has significant and long-standing experience addressing the issue of educational underachievement particularly among FSM Protestant boys in a community setting. Finally, Professor Feyisa Demie, who is an honorary professor at the school of education at Durham University and head of research for school self-evaluation at Lambeth Council in London. He has worked extensively in government Departments for over 25 years in the use of data and research to raise educational achievement.

In making the appointments, I have satisfied myself that each panel member has an established and verifiable track record on the issue of educational underachievement; recognisable knowledge and understanding of the challenges that socio-economic factors present when dealing with the issue; the ability to work with others in a professional, honest and open manner; transparent methodology; and the ability to listen to and take into account a wide range of views and opinions. Further, each panel member has the capacity to think strategically and creatively and has made a significant contribution to addressing educational underachievement in a local or regional context. They are also capable of developing and maintaining cooperative working relationships to establish successful results. Furthermore, those from academia are considered experts in their field through their research into educational underachievement. They have published significantly and widely on the issue. Those from the education and community sectors have a proven track record not only of addressing educational underachievement but of doing so in the specific context of the challenging socio-economic backgrounds of their pupils.

10.45 am

Given the wide range of issues that impact on educational underachievement, the expert panel will seek the views of schools, parents, children and young people, thereby giving voices to those stakeholders and highlighting the important role played by families, parents and communities. The expert panel will also invite submissions from all interested parties who have experience of the issues associated with educational underachievement linked to socio-economic disadvantage. That will include all education sectors, government Departments, local government, the voluntary and community sector, business representative organisations, the Northern Ireland Commissioner for Children

and Young People (NICCY) and the Equality Commission NI.

Educational underachievement is an area of policy that many have endeavoured over recent years to change, yet, despite numerous policy interventions and significant financial investment, it has remained stubbornly entrenched. That is due, at least in part, to its link with disadvantage, which, in turn, links to poverty, and that is a much wider societal issue than education alone. Addressing poverty should be everyone's priority. In doing so, we all stand to benefit. Whether public sector, private sector, third sector, communities, families or parents, we all have a role to play in addressing that critical issue.

This focused and time-bound review has the capacity to change thousands of children's lives for the better. We cannot and should not delay any further in expediting this incredibly important work. Put frankly, no child should suffer the burden of circumstance in determining his or her outcomes. When the expert panel's work has been completed and an action plan produced, it will include an estimate of costs for taking forward the recommendations, which will require funding. I will update Executive colleagues accordingly with the expectation that a bespoke budget will be considered and agreed by the Executive.

The panel has the potential to significantly improve the outcomes for thousands of children and young people in Northern Ireland. As the late President Ronald Reagan once said:

"There are no easy answers, but there are simple answers. We must have the courage to do what we know is morally right."

I hope Members will join me in supporting this important work as it unfolds.

Mr Principal Deputy Speaker: As this is a ministerial statement, there will be an hour for questions. Members will be allowed to ask one question only of the Minister. However, if the full hour has not been used up, I will use — I will keep him here — I will use discretion and try to allow Members to ask further questions if they wish.

Mr Humphrey: Thank you, Mr Principal Deputy Speaker. Like you, I come from a working-class Protestant background, so I commend the Minister for his announcement today. This issue has been a running sore in our community for some time and is one that my party has wanted to deal with effectively. I commend the Minister,

having spoken to him in January on his appointment, for this process. I also welcome the panel, some of whom I know. Mary Montgomery is the principal of the Boys' Model School. She is very committed to the community in North Belfast. Kathleen was an excellent leader and principal in Hazelwood Integrated College, and Jackie Redpath is an institution in these issues. I commend those three people in particular for their work.

Minister, the work will start in September, and, if I heard you correctly, you said that it would complete in May 2021. This is obviously hugely important work, and I commend the panel and wish them well with it. We have had reports before, so can you assure the House and, more importantly, the young people in the community that the proposals that will come from the panel will be implemented and will make a difference on the ground?

Mr Weir: It is important that we do not have another report that is simply left sitting on the shelf. No research goes wasted, and a number of studies have been done on educational underachievement. To be fair, previous Ministers have done a good lot of work on the matter.

One of the key advantages is that we are not starting from a blank page, not simply because of the depth of experience on the panel but because the panel, in the oral submissions and any meetings that take place, will particularly want to have a level of focus on the body of research that has been done on the subject and will want to draw from that.

The critical point in this is not simply to produce a report with nice-sounding aspirations but to produce an action plan and have practical measures. The focus will be on what needs to be done and how that can be implemented, which is why it is particularly important that, as part of that, the panel looks realistically at issues around cost. I have already indicated in my statement and have put down a marker for the future with the Executive that no change will come in a cost-free environment. While some of the changes may be things that can be done without the need for particular levels of expenditure, there will be a level of cost, so I anticipate and hope that, in line with the NDNA commitments, the Executive, once the report is produced, will give careful consideration and support to the financial support that we need to improve the situation regarding educational underachievement.

Ms Mullan: Minister, I welcome the fact that you and your Department have worked speedily to deliver on the commitments made in 'New Decade, New Approach' regarding tackling underachievement. I remind you of the other commitment in the document, which includes all children and young people, regardless of their background, as educational underachievement does not recognise any religious divide. Like the Member who spoke before me, I look forward to meeting the panel and wish them well in their work. I know some of them well, particularly Joyce Logue, principal of a school in my area, who is well aware of the issues facing children coming from disadvantage.

Minister, in the document, you focus on GCSE as an indicator for measuring attainment. Why, then, do the intervention programmes listed in the document seem to be targeted mostly at primary-school children and primary 7 pupils?

Mr Weir: I will bring further information once we have scoped out all of the details, for instance, on the principal engagement, which is the Engage programme. The Engage programme is likely to cover all ages throughout schools and have some role in all schools, whether primary, post-primary or whatever. Without prejudging any views that emerge on interventions, it is probably the case that the best interventions are done at an early stage in education and, indeed, potentially before the child even goes through the front door of a school.

On the measurements that I used, there is obviously very robust data on GCSE, and that has tended to be used as a benchmark, particularly that of five or more GCSEs at A* to C, including English and mathematics. To that extent, I suppose, it is a shorthand to have in a concrete way a measurement of the overall and overarching academic achievement that has been made. Also, that can be directly differentiated into free school meals and non-free school meals that can then be used as a marker, if you like, for what impact on those who have come from more socially deprived backgrounds can be put in place. The fact that, in one sense, it is the most usable statistic should not blind us to the fact there is a need for interventions across the full spectrum. That was to illustrate that, despite a lot of the good work that has gone on for many years, there is still considerable work to be done.

Mr Principal Deputy Speaker: I remind Members again that, if they are not on the list, they should please rise.

Mr McCrossan: I thank the Minister for his statement. Educational underachievement has been a huge issue here for a long number of years and one of great concern. The issue will clearly have been compounded by the huge interruption to education during COVID-19, and that will add to considerable concern for schools. There is concern, and the Southern Government and the Minister for Education there have taken action to make €370 million available to fund 1,000 teachers, 125 new additional educational psychologists, new buildings, enhanced cleaning regimes, hand-sanitising and personal protective equipment (PPE). Has the Minister considered a similar scheme for here or funding for schools here to ensure minimal disruption to schools, to ensure that we minimise the risk to our children and our staff and to ensure that schools will not have to close again if these actions are taken?

Mr Principal Deputy Speaker: Order. I think that that is tangential to the statement that the Minister gave, and, in saying "tangential" I am being quite kind. If the Minister wishes to respond to that —.

Mr Weir: I am just glad that the Member did not work West Tyrone into the question.

I am very aware of that, and that is why there have been some initial degrees or steps in terms of catch-up that I referred to in the statement, just to bring it back to that. That is why there has been, for instance, principal support for the Engage programme, which is particularly focused on learning recovery. That is why, as part of this Budget, which predated COVID, there has been additional support for mental health, for instance, that will go into schools.

The Member makes a valid point. The news that the devolved institutions will receive additional money is welcome, and I am sure that the Member will agree with me that that is an added bonus of being part of the United Kingdom. An additional £600 million has been allocated. Obviously, as part of that, there is a process that is ongoing, and, within that, the Finance Minister has started to seek Departments' views on where, they believe, there are additional pressures as a result of COVID. Undoubtedly, the restart of education will be one of those, and we will supply the Department of Finance with estimated figures. In that sense, our approach may be slightly different from that of the Republic of Ireland. However, it is undoubtedly the case, as with the Republic's announcement, that, if additional money is to be put in, it needs to be supplied centrally by the Executive. Certainly, if there is

anything in the ballpark of what has happened in other jurisdictions, that will need to be done. I am committed to arguing that case, albeit that there will be many competing demands, I suspect, on whatever budgets are available to the Executive.

Mr Butler: I thank the Minister for the statement. I think that he referred to the fact that this has been an issue for many years, but young people today are at a disadvantage that we were not faced with. Like the Member for North Belfast, I am from a socially disadvantaged background. I did not get my GCSEs and did not do well in the transfer test, but I was able to succeed. However, children today do not have that opportunity, because it is more competitive to get jobs in the Fire and Rescue Service or the Prison Service, where I spent time. That puts extra emphasis on this welcome piece of work. However, for a really transformative project, it is important that we recognise the correlation between social deprivation and mental health and well-being. Can the Minister tell us of any import that he has given or will give to the panel with regard to looking at that issue and that correlation?

Mr Weir: Broadly speaking, I think, terms of reference will be issued to the panel. There are no artificial boundaries. Obviously, this will feed into the wider review of education. There are certain aspects that will be more applicable to that side of it. It is a panel made up of considerable expertise, particularly of direct involvement with young people. It will be able to use those experiences. Let me put it this way: it is undoubtedly the case that there is a growing awareness of the impact of mental health issues on our young people and has been for a number of years. While at times that reveals a very difficult picture, it is an important picture to reveal. This week, for instance, I had the opportunity to meet via Zoom representatives of the Youth Forum, and it was noticeable that the issues that they raised, particularly during lockdown, while concern over how their education was impacted directly was important, were around boredom, stress, mental anxiety and the damage that was done by lockdown to social interaction with other young people. All of those issues are inextricably linked, and the panel will want to consider that seriously as it moves forward with whatever recommendations it ultimately issues.

11.00 am

Mr Lyttle: In my capacity as an MLA, I say that it is slightly disappointing that the matter has not been brought to the Education Committee,

which established an inquiry into educational underachievement and post-primary transfer in 2016 that, regrettably, was stopped by the collapse of the Executive in 2017. I recognise that this is an important New Decade, New Approach commitment, but the fundamental independent review of education is also an important New Decade, New Approach commitment. Why has the Minister not yet brought forward terms of reference for an independent review of education, and why do 50 children remain without a special school place for September 2020?

Mr Weir: It is perhaps a little disappointing that the Chair of the Education Committee has chosen to ask a question as an MLA and not in his capacity as Chair of the Committee. I would have thought that on such an important subject that that would be the case. I am more than happy to follow up on the details if there is a meeting of the Education Committee, but the first duty when making a policy statement is to make it directly to the Assembly and then to follow up the normal processes in connection with that.

With regard to the important issue of special educational needs (SEN) children, considerable work has gone on. I appreciate that it is outside the direct remit of the statement, so I speak with the indulgence of the Chair. We have moved from a situation in which there were nearly 300 unplaced children. That has now been got down to 50, but we must ensure that that is brought down to zero in terms of placements. There has been ongoing work, and, even in the last week, the number has nearly halved. I think that there will be further progress by the end of this week, and that is important.

This is part of the overall jigsaw of actions that can be taken. I hope to move fairly swiftly in September on the independent wider review. We are coming out of a focus purely on COVID into wider issues, be it in this Department or others. That has clearly delayed things. This is the first of many pieces of the jigsaw that will be put in place, and, because it was established on the basis of NDNA as an expert panel, that allowed a particular route of direct appointments that would not necessarily be available to the wider educational group on it. I take all these things seriously, and we are trying to move ahead with them in as constructive and timely a manner as is possible.

Mr Principal Deputy Speaker: Members, this is not Question Time to the Minister of Education. The Minister has made a ministerial statement, and the questions must relate to that statement. There are probably another 15

Members who want to ask questions, and it is a very limited time, so it is not fair that the Minister should be using his time to answer questions that do not relate directly to the statement that he has given to the House.

Mr Harvey: Given the COVID situation, what current support is available to pupils from socially disadvantaged backgrounds, particularly to enable educational catch-up?

Mr Weir: As I mentioned in relation to that, there is a range of ongoing support, some of which has been there for many years. For example, schools that have levels of social deprivation will get additional funding through extended schools. That remains in place, and there is flexibility in that spend, for example if they want to go beyond the support provided and provide additional support to their pupils for catch-up.

As I indicated, we have moved with some interventions this summer, and, consequently, 50 schools, on a voluntary basis, are doing summer learning schemes, to which we have been able to provide some funding. We felt that it was important that, where schemes were volunteering to do that, they were given support. That is one intervention. Principally, the Engage programme, which is due to start this autumn and run throughout the next academic year, will give support and will have a particular focus on areas with social deprivation, but there will be help across the board to schools so that their pupils can catch up.

Ms C Kelly: Minister, whatever one's religion or none, the reality is that children are being let down by an education system designed to brand them as failures at the age of 10 or 11. What assurances can you give us that all P6 and P7 children's education will be supported in September, not just those sitting a transfer test?

Mr Weir: That question perhaps veers a little beyond the subject matter. All children will be supported, and the curriculum will be the same for all of them. The Council for the Curriculum, Examinations and Assessment (CCEA) will look to see whether adjustments to the curriculum are required. In any class in any school, whether or not individuals are doing the transfer test or are in P7, they will all receive that support. The principal intervention is through the Department of Education, which is being supported by the Executive, with the Engage programme. There will be flexibility in that to provide such support, which will be applied to primary and post-primary schools, so that they

can work out where, they feel, it can be best used, whether for materials, finance or additional human resource, because I think that additional teachers will be required. That support will be available across the age spectrum and will apply throughout all communities. It will enable schools to have the flexibility to apply those resources where they see the biggest problems.

Remote learning and the level of disruption mean that it has not been as good as it would have been, had schools simply been able to carry on. None of us can say with absolute certainty what the impact has been on pupils; we will establish that only when we see a fuller return to schools in the autumn. However, it is important that that provision and support be given to all pupils. It is targeted through the Engage programme, and that support will be there for all schools.

Mr Middleton: I thank the Minister for his statement, which I welcome. It is very important, and people have been pushing for it for a long time.

The Minister indicated that the aim was for the report to be completed by May 2021. Is it the intention to implement any relevant recommendations by September 2021? Is the Minister confident that funding can be secured to implement those changes?

Mr Weir: The panel will produce an action plan and areas for implementation that will need to be supported by the Executive. Without in any way prejudging what is likely to emerge from the panel, I anticipate that the recommendations will cover a range of areas. I suspect that some actions could be brought about very quickly and others will be longer-term. Some changes may require funding, some may simply be done at an administrative level, and some recommendations may require legislative change. It will be a mixed bag. Implementation will ultimately depend on the support that the Executive as a whole can produce. Even with recommendations in May 2021, it is unlikely that we would see many of them in place by September 2021. However, it will give a clear direction of travel to this Executive and, indeed, to future Executives, which hopefully should honour the recommendations. It will at least allow implementation work to begin in this Assembly term, with further action in the following term.

Mr O'Dowd: I think that the Minister would be awarded an A* for creative writing for his speech, but I suspect his scores may fall for

maths, percentages and facts. I have a serious concern. The urban myth that Protestant working-class boys do worse in education than their Catholic working-class equivalents is in danger of being embellished by the statement. The reality is this: a greater number of Catholic working-class boys leave school without proper qualifications. Yes, a greater percentage of Protestant working-class boys leave school without proper qualifications, but, if the statement results in the wrong direction of support, we are in trouble.

Will the Minister, as has been the case in every other report on educational underachievement, allow the panel to examine the implications of academic selection for educational underachievement?

Mr Weir: It is good to see that the Member still rides the same hobby horse throughout. I am reminded of the words of Churchill that, after all the devastation of the First World War:

"the dreary steeples of Fermanagh and Tyrone"

emerged once again. He meant that nothing in this part of the world had changed. To be fair, it would not be an education statement without the Member asking something about academic selection.

The Member makes a right point. He reinforces what is in the statement. In his own words, he indicates that a higher percentage of working-class Protestant boys leave without qualifications than do boys on the other side of the community, but this should not be something on which we take a tit-for-tat attitude. Educational underachievement, as indicated in the statement, affects all of us. The issue of Protestant FSME boys is directly referenced in NDNA, and we will have to fulfil that. Actions will need to be looked at for the educational underachievement panel and for the wider review of education. Issues of transfer probably more neatly fit into that wider review.

Let us be honest about this. The obsession with transfer as the critical point for underachievement massively misses the point. It creates a distraction and focuses, largely speaking, on the wrong issue. Whereas we need that effort and support for all our children at all ages, if we have not made the right interventions at primary level or even before, we have largely missed the boat. That is why the focus needs to be on ensuring that we have all the measures that can be put in place to help tackle underachievement for all pupils, irrespective of their community background.

Mr McNulty: I thank the Minister for his statement. I agree with him that we need to tackle educational underachievement in young people, no matter what their background. I welcome the appointment of an expert panel.

Does the Minister agree that the impact of COVID-19 in education will hit hardest the young people from disadvantaged backgrounds? You mentioned catch-up in relation to those young people. What specific measures will be adopted? What resources will be apportioned to ensure that no children or young people are left too far behind as an outcome of the pandemic?

Mr Weir: There are two aspects to this. There is an ambitious time frame, and the panel will report in May 2021. It will look at the medium- and long-term actions that can be taken. However, the Member is right in certain regards: we cannot wait until May 2021 before we make interventions. That is why we will come back when all the meat has been put on the bones of the Engage programme. The principal intervention, in terms of catch-up in the 2020-21 period, will be the Engage programme. That will enable some intervention throughout all schools, but there will be particular support and emphasis on schools that serve areas where, the indicators suggest, there are higher than average levels of social deprivation. That will be the greatest level of intervention.

It is undoubtedly the case, it seems to me, that there will have been some disruption and impact. We will not know the absolute scale of that until we see children back in classrooms and in front of desks. That will allow an assessment to take place. It also seems logical that it is more likely to make a disproportionate impact on those who come from socially deprived backgrounds. That is why there will be greater emphasis in the Engage programme on those coming from socially deprived areas. There will be the greatest support for schools that look after pupils from those backgrounds.

Mrs Barton: Minister, I welcome your statement on the formation of the panel. Representing the west of Northern Ireland, I note that, on your panel, there is a distinct lack of expertise from the west of the Province. Often, children in rural areas also have issues of underachievement.

Many of the issues in relation to underachievement in rural areas are very different from those in urban areas. Will the Minister consider making an additional appointment to his panel, perhaps someone

from a rural area or someone who was previously a principal of a rural school?

11.15 am

Mr Weir: I thank the Member for her question and comments. People are drawn to this on the basis of their individual background and expertise. As such, I want to ensure that we have a panel that is of an appropriate size, and I think that the six-member panel is appropriate. The panel members have wide experience from throughout Northern Ireland. Take, for instance, the chair, who is the director of the Centre for Research in Educational Underachievement, which will have involved working with pupils throughout Northern Ireland. If we are looking for something that covers all aspects, I think that we have a reasonable spread.

It is also the case that, from the point of the view of the west of the Province — I do not have the detailed biography of all six members — one is the principal of a primary school in Londonderry, which is very much in the west of the Province. I appreciate that it is not quite as far as the extreme ends of Fermanagh. Additionally, one of the other members was involved for many years with St Cecilia's College, which is also in the west of the Province and will be familiar to a number of Members here. There is, I think, a direct level of balance. Can we do something that covers every conceivable aspect? Ultimately, we would end up with a very large panel. The panel will be cognisant of urban and rural issues of underachievement, which is why it will also use this as an exercise to gather evidence from a wide range of sources.

I am sure that the Member may well want to make a submission that is based on her experience. She has many years of educational experience, particularly in rural backgrounds. I am sure that any contribution that she made would be invaluable. I do not know whether, if she were to resign as an MLA, we could arrange something. I suggest that we could do a deal: if she were to take a place on the panel for educational underachievement, we could appoint Lord Morrow in her place. We could probably come to some form of arrangement.

Mr G Kelly: I thank the Minister for his statement. Given that is clear from what the Minister and others say that young people from disadvantaged backgrounds are underachieving, does he agree that an approach based on objective need is required? He touched on this in an earlier answer.

Mr Weir: I agree that that is what we need to do. The terms of reference and, indeed, the NDNA talk about particular links between a socio-economic background of poverty and educational underachievement. There is an inextricable linkage. The panel, in addressing some of the issues, will be able to take things only so far. If we are to tackle the broader issues of social deprivation and poverty in communities, it will require a much wider response. Clearly, there are implications for the Department of Education, but it is wider challenge to the Executive as a whole, and we need to ensure that that is tackled. I do not disagree with the Member's remarks.

Ms Armstrong: Thank you, Minister. I am delighted to see the appointment of the panel, which was an important part of the New Decade, New Approach negotiation. The Minister mentioned the money that he will bid for to support its report. Why did he prioritise this panel as opposed to the panel for the independent review of education? Will he bid for money to support a report by that panel as well?

Mr Weir: We need to ensure that we do not conflate two or three different issues. There is the separate overall bid, which, in terms of the COVID situation, will be for the broader element of restarting schools. Mr McCrossan raised that in an earlier question. I indicated that financial implications will arise from the panel. We are talking about seeking commitments. Probably, it will be the middle of next year before those arise. We will not know what bids will need to be made for the actions that arise from this. With regard to the bid for the panel itself and, similarly, for the independent review panel, money was allocated in the budget in-year to finance both those panels, albeit that there was a realisation that, because of COVID, the time frame for the establishment of those panels was likely to be a little bit later. Consequently, that had a knock-on effect. As I indicated, I hope to move early in the autumn on the wider independent review panel.

I suppose that you were asking what the differences are. One difference is that the panel is referred to as an "expert group" in NDNA. That enabled us, by a particular route, which was then supported by DOF through Central Procurement Directorate, to move quicker to make direct appointments. The independent review panel is not referenced in that way. Therefore, its appointment process will probably be different and will take a little bit longer. That is why the panel was able to be established at a quicker pace. Both will be established very soon. I would hope to be able to come back to

the Chamber, probably in September, to make an announcement on the route for establishment of the independent review panel. Both panels are important.

To be fair, both panels would have been progressed at an earlier stage had it not been for the fact that all of us have had to direct all our attention, and, indeed, largely focused all the internal resources of Departments, to COVID. We are starting to emerge out of that and are able now to consider a range of other critical issues. Clearly, COVID, rightly, had our focus at the very start. It cannot simply cripple everything into the future. That is why we have to move on those issues.

Mr McHugh: Go raibh maith agat, a Phríomh-Leas-Cheann Comhairle, agus gabhaim buíochas leis an Aire fosta. I thank *[Inaudible]* and to the Minister as well for his statement. Like others —.

Mr Principal Deputy Speaker: Mr McHugh, I am sorry to interrupt you. Can you move closer to the microphone so that Hansard can pick up your comments? Thank you.

Mr McHugh: Fadhb ar bith. Like others, I come from a social-security class, Catholic background in west Tyrone. We never realised that we had nothing until, as someone said before, we had something. Many of the people who lived in my community were of the same background. Whilst we would have rung all the bells with regard to socio-economic deprivation, our spirit did not match that in the slightest. Having attended grammar school in Omagh, I then, in later years, had the opportunity to deal with people who had gone through the education system and were branded as failures in every respect. I am only too well aware of many of the difficulties and problems that they faced. In later years, I also dealt with adult numeracy and literacy. Whilst the Minister has described it as a "hobby horse", I know from all the feedback that I got as a member of the Western Education and Library Board —.

Mr Principal Deputy Speaker: Mr McHugh, I try to be indulgent with Members, but we are getting into speech territory here.

Mr McHugh: I will be as quick as possible.

Mr Principal Deputy Speaker: Just get to the question.

Mr McHugh: Even Protestant schools would tell me that, rather than being a hobby horse, the transfer test was the elephant in the room. I

would hope that when the report comes back, the Minister says to himself that the answer is easy: it is about having the courage to actually grasp that easy answer. In fact, if it happens to reflect, too, that the transfer test has contributed, in many respects, to disadvantage for many of those people —.

Mr Principal Deputy Speaker: OK. Sorry —.

Mr McHugh: There has been a disadvantage of spirit as a result of the transfer test.

Mr Principal Deputy Speaker: I am sorry. The Member will have to resume his seat.

Mr Weir: I was not quite sure whether you were going to ask Mr McHugh to move away from the microphone because you could still hear him. *[Laughter.]* I take on board the Member's point. I should say that, when I talk about a hobby horse, it is a point on which I clash with the Member for Upper Bann. Quite often, we have exchanged opinions on the broader issue of post-primary transfer. I certainly take on board what the Member has said.

His own experience, as he has indicated, shows part of the complexity of the problem, which is that people can come from more or less exactly the same background, be born in the same street and go to the same school, but, sometimes, react differently to the system. Some may overcome difficulties, but others be held back by them. It is about trying to reach those people. I am making the general point that, clearly, the wider issue of post-primary transfer will be, principally, for the wider independent review.

One concern of mine is that I and others have, at times, been interviewed after a particular report has come out about issues such as deprivation and education, and there is a tendency for the media to have a nice, half-hour debate and get a few phone-ins on the issue of transfer because they know that there are very strong opinions in the community. My concern in relation to that is that, in many ways, it misses an opportunity. Any education expert will tell you that the principal intervention, the critical intervention, that will change young people's lives has to be early intervention. It is a fact that we are seeing many children who, when they first walk through the primary-school gates, are already behind many of their peers. It is about how we tackle that, particularly by having early intervention.

To take an example that, despite our differences, I and the former Minister would

agree on, we have seen the success of the nurture programme, which is targeted at young children in primary schools. My point in relation to that, without prejudging the outcome of any panel, is that the best interventions are those that are made at the earliest stages in children's education. That is why I am conscious that we should not get sidetracked. It would be very easy, across the Chamber or in a TV studio, to have a lengthy debate on the issue of post-primary transfer. To some extent that would also have the negative impact that some of the most critical issues tend to get ignored.

Mrs D Kelly: I commend the Minister on his choice of the expert panel, but it strikes me that he already knows a lot of the answers and findings that it is going to publish. He, quite rightly and more than once, pointed out the link between underachievement and poverty and socio-economic background. Therefore, as regards the terms of reference for the expert panel, the cooperation and collaboration of other Departments — this will run across Health and Justice because of young offenders and looked-after children in particular — and the boarder links with the anti-poverty strategy, what comfort can he give the House about flexibility and cooperation across ministerial portfolios?

Mr Weir: Certainly, we can make the terms of reference available to Members. Broadly speaking, I think that there will be buy-in across Departments on this. Probably the principal role will be for the evidence that is submitted, and there is certainly no bar on that. The panel, to some extent, will have free reign to decide who it wants to hear from. I suspect everybody will submit evidence, but the panel will choose who it invites to its hearings. It is not really my role to interfere with that. I think that, across the board, there is a realisation that a level of cross-cutting is required to make an impact on educational achievement in the same way as education, itself, drives a range of other issues. What happens in education will have an impact on the justice system and health further down the line, and Education has a very strong relationship with the Economy Department. There are linkages, and I think that they have been recognised throughout the system. One area that I presume we will look at, as part of this, is where we might have a more joined-up approach between Departments.

Mr Beggs: I, too, welcome the Minister's statement and the appointment of the expert panel, because the importance of education in creating opportunities has to be recognised. Minister, in answer to a question that I asked in

February, you highlighted absenteeism as a major contributory factor to education issues, in particular, in Ballyloran ward, where 43% of post-primary school pupils had less than 85% attendance. In Antiville, that figure was 25%, and, in Craigy Hill, it was 27%. Can you assure me that the panel will have full access to all your departmental officials and the support and cooperation of other relevant Departments so that we can get to the bottom of the wide range of issues that contribute to educational under-attainment — weak community infrastructure and the need for long-term community support; limited numbers of educational welfare officers and their limited powers; and limited early years provision — and thereby address educational underachievement in communities?

11.30 am

Mr Weir: I thank the Member for his question. The Member raises a very useful wider point, which is one of the reasons why, for balance, those from a community background are included. It is not simply about what happens in the classroom and at home. It is about creating a wider culture of a desire for education and support for education. That is critical.

The panel will have complete access to anything within Education. Within my remit, there will be no closed doors, and, indeed, there will be support from the secretariat side, which will not require a large amount of people. I think that three members of departmental staff will be working directly on it to provide any administrative backup. If there are any questions that they want to ask, they will be free to look in any door in the Department. I cannot give the assurance for any government agencies beyond the Department of Education, but I cannot see any reason why there would be any obfuscation or blocking from any other government body, Department or agency to the work of the panel.

Miss Woods: I thank the Minister for his statement and for his engagement with the youth representatives from the Northern Ireland Youth Forum yesterday. The Minister will know that without enough food or the right food, children's educational underachievement will continue. Hunger and malnutrition affect a child's ability to concentrate, to take in and retain new information and make progress in their learning, and we know that that is happening across Northern Ireland. Will the terms of reference and scope of the panel include food insecurity, food poverty and the impact of austerity, as well as the continuation and expansion of free school meal payments to

ensure that children have at least one good meal per day?

Mr Weir: A wider piece will need to be done on that. From memory, I do not think that there is a direct reference to food in the terms of reference, but the wider context around socio-economic status and poverty is well made. The panel is completely free to make its own recommendations. As the Member will know, there has been support from the Executive for the continuation of payments over the summer. The Education Authority's Youth Service Eat Well, Live Well programme is critical and has directly supported some of the most vulnerable children.

Obviously, free school meals will continue. A wider issue has to be looked at on a cross-departmental basis. We provided a quick, one-off fix, if you like, for summer 2020. The lead Department, which is the Department for Communities, has the principal responsibility for vulnerable families. One of the areas that will need to be looked at on a cross-departmental basis is what level of support we can give, particularly to families, as we move ahead to summer 2021 and beyond. We produced short-term fixes for COVID. We need to look now at longer-term fixes. Although my Department does not have principal responsibility for that, we will be very happy to cooperate and work with the relevant Department on that.

Mr Carroll: I thank the Minister for his statement. The truth is that working-class pupils have been failed for far too long: Protestants, Catholics and neither. What correlation does the Minister believe exists between poverty, deprivation and educational underachievement? What measures does he support to tackle that? How does the Minister believe that those underachievers will be safe when returning to school if he does not believe that they should be wearing a mask in school in the middle of a health pandemic?

Mr Weir: I commend the Member. At least, he did not suggest the elimination of the Kulak class as one of the potential solutions to underachievement. There is undoubtedly a link between socio-economic issues, which is highlighted front and centre in the terms of reference and in NDNA. That is one of the areas that will be tackled.

On the specifics of what the exact arrangements for the return to school will be, none of this is particularly new. In any guidance that was issued, particularly around health issues, the position of the Chief Medical Officer,

the Department of Health and the Public Health Agency was taken into account. That was directly reflected. Indeed, the advice on what children need to do and do not need to do and what preparations they need to make follow absolutely consistently the position of the Public Health Agency and, indeed, are supported by the Public Health Agency.

I am not a doctor, and I suspect that the honourable Member is not one either, so I would I tend to bow —.

Mr Carroll: [*Inaudible*] why not in school?

Mr Weir: What? Sorry?

Mr Carroll: If people have to wear masks on a bus, why not in schools?

Mr Principal Deputy Speaker: Order.

Mr Weir: Well, with the greatest —.

Mr Principal Deputy Speaker: Order. The Minister should resume his seat.

Mr Weir: Sorry.

Mr Principal Deputy Speaker: All Members will be treated equally and are allowed to ask one question. They are not permitted to ask further questions from a sedentary position. Some time remains. If Members have other questions, we may get to them.

Mr Weir: I appreciate that it goes a bit beyond the statement, but, from a sedentary position, the Member raised the difference between a classroom and a bus. It is noticeable, for example, that, in the arrangements for public transport that have been put in place by the Executive, in line with, again, the health considerations, anybody under the age of 13 is exempt from wearing a mask. It is also the case that school transport is not included in the requirement to wear a mask. Neither I nor the Member have a direct public health background, particularly not to the same expertise of the Public Health Agency. The guidance is, in part, driven by the fact the vulnerability of children, particularly younger children, is much lower than adults. There is also an expectation that it is not realistic to expect young children, particularly primary-school children, to sit with a mask on all day. That it is not particularly controllable. Any advice that we have given has been entirely compatible with the advice of the Public Health Agency, and we have worked alongside it. If the

Public Health Agency of the Department of Health said, "There is emerging evidence, and we insist that a particular measure is taken", there would be no problem from our point of view in taking that measure. What we cannot do is to go off and make judgements on health issues through solo runs. We will be guided by the science and the medicine. That is why there is a distinction in that.

As I said, we have worked closely with the Public Health Agency to develop and put out the guidance that has been issued to date. The safety of our pupils and staff is paramount.

Mr Principal Deputy Speaker: We have roughly 11 and a half minutes remaining of the hour. If Members would like to ask further questions, they should please rise in their place. OK. I think that I have most of those.

Mr Lyttle: The Minister's statement refers to "greater obstacles" and barriers that some children must overcome to achieve their potential. I daresay that not having a school place four weeks prior to the start of term is a fairly significant obstacle and barrier. Will the Minister tell us how the expert panel will look particularly into the systemic failings for pupils with special educational needs?

Mr Weir: This is about taking a wider strategic view rather than simply reacting to the issues of the day. It is important that a report has been done in the Education Authority on the systemic failures. Some of the implementation of the measures in that report was, in many ways, delayed by COVID, but it is being acted on. Indeed, the Member will know, because it has been said, that there will be an oversight committee in which the permanent secretary of the Department will work directly with the Education Authority.

While the operational responsibility for placements lies with the Education Authority, we have been working with it. From a starting position of roughly a month ago, when there were nearly 300 unplaced children, those numbers have been brought down to 50. That is 50 too many, but we continue to work on that, and I hope that those figures will be better and, indeed, will have further improved by the end of this week.

Ms Mullan: Minister, given that only half the number of young people on free school meals went to university compared to those who are not entitled to free school meals, will you commit to prioritising that issue in the ongoing

review of the 14- to 19-year-old strategy, in partnership with the Minister for the Economy?

Mr Weir: Certainly, I think that we need to see where social deprivation is impacting on university places. There is a need to ensure that we have a 14- to 19-year-old strategy that is fit for purpose. With university places and the commitments that the Executive will be looking at about restarting the economy after COVID, one of the things that should worry us all is not just the general employment situation but, particularly, the impact on youth unemployment and, indeed, the job opportunities that are likely to be there for young people in the very near future. Consequently, that will be a driver in what support is given to universities and apprenticeships, and that has to be born in mind. We should not kid ourselves that this problem is unique to Northern Ireland. We can see distinctions in different jurisdictions. A key focus of the panel is to try to tackle that underachievement and improve things.

Mr McNulty: When will principals, teachers, classroom assistants, school staff, parents and pupils get clear guidance on the numbers that can attend school and the specifics of the restart programme?

Mr Weir: Clear guidance has already been given, and irrespective of how things move on from here, the vast bulk of that guidance will remain relevant in any circumstance. Arrangements for meals, hygiene and movement around schools will all apply. I have referred to the trajectory of travel. It is undoubtedly the case that we are on a trajectory to achieve a position in which we can have a full resumption, five days a week. That will be subject to the views of the Executive and will require their approval, and I hope to move on that fairly soon. It is important that we get movement on that before the resumption of the school term.

Mr Beggs: My grandfather was orphaned, aged nine, due to a flu pandemic. His kids grew up in poverty. At 15, he began work in the local bleach green, and he worked there until he was 70. He valued education. Minister, in appointing the panel, do you recognise the importance of education to address poverty, create opportunities for our people and improve our economy?

Mr Weir: Very much so. Education can be a great life changer and life enabler. It is the case that we need education structures that enable the progression for those opportunities to be realised. The Member referred to his

grandfather. My grandparents' generation, and even my parents' generation, despite their background, their ability and their intelligence, did not have the same opportunities as my generation. The Member and I are of a similar vintage, and the opportunities that were available for our generation were greater than those offered to preceding generations. Opportunities that are available now are probably greater than they were for our generation.

We have to make sure that that constant opportunity for improvement is there. Education can be a great life changer. There are many things that can intervene in people's lives but education is the one thing that can make a big difference to and change the direction of somebody's life. I am very cognisant of that.

Mr Humphrey: Thank you, Principal Deputy Speaker, for the opportunity to ask a further question. I am disappointed by some of the questioning from some of the parties. It indicates to me that there is either no understanding, a lack of understanding or they simply do not take the issue as being important. The issue is hugely important to the wider working-class and hard-to-reach communities, and we should remember that. As the Minister set out, educational attainment is a key issue that is hugely important for our young people.

Given that not every child wants to or has the ability to continue on to third-level education and university, we need to consider effective training that leads to meaningful employment. Will this piece of work lead to a joined-up strategy with the Department for the Economy and the local centres for training and employment to ensure that those young people get meaningful and long-lasting employment?

Mr Weir: I thank the Member for his comments and the remarks that he made. I cannot pre-judge the panel's recommendations. There has to be a cognisance that this has to be looked at in a wider spectrum than simply the statistics of academic achievement.

The Member makes a good point on the opportunities that are there, both in and outside universities. That is why it is critical — I think that I referred to it in an earlier point — that, as we see a recovery of the economy, there is a level of focus on the practical support being given to young people, particularly, for example, around issues around apprenticeships. There has got to be an investment in our young people. If we are being slightly cynical with regard to what I mentioned around career

pathways, often the best and most lucrative career pathways do not have a university or academic-based view. To some extent, there has got to be a level of cultural shift with regard to that.

With regard to trying to scope things, because it probably crosses the two Departments' positions, I will be very keen and will work with my colleague at Economy. That is particularly as we focus on 14 to 19 and as we focus in on issues such as digital skills and how we can ensure that young people, with regard to the careers advice they receive and their readiness for work, are taken into account, particularly in the preparation that they do through their schooling.

11.45 am

Mr Butler: Minister, you mentioned the work with the Children's Commissioner in the report, but there is no doubt that it will work only if we have the buy-in from parents and support at home that has been referenced here. There are good organisations, like Parenting NI, that are involved. Have you any thoughts on who would provide the voice of parents for this?

Mr Weir: There has been good work done, and I have tried to make things available. I did, for instance, a Zoom call as Parentkind NI had organised some representatives to speak to me, so I think that there will be a level of openness. There are established parent groups that need, probably, to have a level of direct input. However, what can be the best submission will not necessarily come from an organisation but could come from an individual. With regard to the approach that would be made, I would hope that the panel would be open to looking at any evidence that they receive from whatever source. However, it is critical that, as I mentioned, I think, in the statement, while a child is in school, on average, 13% of the time, the rest of the time is outside the school and most of that is in the home. Therefore, we are trying to get holistic solutions that involve the direct school education, home and the support of the wider community. It is critical that we get a symbiosis between those.

Ms Armstrong: It is timely that I come in at this time, Mr Principal Deputy Speaker. The Minister has mentioned that time out of school can be difficult, so can the Minister confirm if it was him or his office that sent an email to a teacher that confirmed that you plan to restart school full-time from September?

Mr Weir: What has been said is that I believe that we are on a trajectory to do that. I responded that my hope would be that there could be proposals put to the Executive that would enable that to happen. That would still be my aim with regard to that. In response to, I think, Mr McNulty's question, I indicated that this will be about some of the conditions that will apply. Also, where there is a cross-cutting issue, as there will be on the issue of school transport, I will speak to ministerial colleagues and will bring forward, potentially, proposals with regard to all of those aspects. That will be done in a manner that will be able to be actioned before the start of the new term. That is certainly my aim.

One of the levels of hesitancy that was there for all of us was in not knowing close to the term what the prevailing conditions would be, for instance, with regard to community transmission. I think that we have seen, because of the measures that have been taken across all Departments, that Northern Ireland, while we can never be complacent, is in a very good place. We have now gone quite a number of days without deaths from COVID-19. That enables us to move forward, but, in doing so, I will speak to the Executive as a whole and get their approval but will also speak to individual Ministers and seek that direct medical advice to enable that to happen. The full-time return of education has to be the aim for all of us, because that is in the best interests of everyone.

Mr Principal Deputy Speaker: Mr O'Dowd, that was a valiant effort at one hour and 25 seconds in *[Laughter.]* That concludes questions on the statement. I apologise to Miss Woods and Mr Carroll, but, unfortunately, this is not a meeting of the Ad Hoc Committee and it is set in stone that it is one hour and that is your lot.

If Members could take their ease for a few moments for a change at the top Table, the next item will be a statement from the Minister of Health. Thank you.

(The Temporary Speaker [Mr G Kelly] in the Chair)

COVID-19 and Service Rebuilding

Mr Swann (The Minister of Health): I wish to give Members an update on recent local developments in relation to COVID-19 and the rebuilding of services.

Members will be aware that, yesterday, for the fourteenth consecutive day, Northern Ireland recorded no COVID-related deaths by the Department of Health measure. Whilst that is hugely reassuring, we must never forget that the virus is still here and still presents a serious threat to public safety. As always, we must keep the families who have lost loved ones to the virus at the forefront of our thoughts.

I thank the people of Northern Ireland for continuing to adhere to social-distancing measures and current regulations. However, nobody can be complacent. We must continue to do our bit in helping to reduce the spread of COVID-19 by keeping our distance, washing our hands and not touching our faces. I once again emphasise this to all those listening: if you develop any of the symptoms, please do not leave your home and, instead, go to the Public Health Agency (PHA) website or ring 119 to book a free test.

I know that a lot of Members and their constituents were taken by surprise at the weekend by the reintroduction of the 14-day quarantine period for people arriving from Spain. That decision was not taken lightly, and I fully understand that the announcement will have caused concern, particularly to those currently holidaying in Spain. As I have said previously, the international quarantine regulations and the countries that they cover are kept under continual review and are liable to change. As Members can appreciate, there is no ideal time to make such a decision. A phased introduction would not have made sense, and public health considerations must take priority. The decision was taken after consideration of the latest data. COVID-19 cases in Spain had increased in recent weeks, a trend that accelerated rapidly in the latter half of the past week.

I appreciate that people returning from Spain and its islands will now face an unexpected period of quarantining. The Executive and I met yesterday to consider what support or advice measures for employees, employers and the self-employed and other actions may be needed. The advice from the Chief Medical Officer and Chief Scientific Adviser is that a negative COVID-19 test immediately on return from Spain would not exclude infection, so a period of self-isolation would still be required. I reiterate that Saturday night's decision was not taken lightly. Experience has shown how COVID-19 can be spread by international travel, and the quarantining arrangements have been introduced to help keep people safe.

Testing in care homes has been an issue that we have dealt with and worked through. The Department has continued to actively monitor and assess the current and emerging science and evidence related to COVID-19 to further inform our approach to testing in care homes. As a COVID-19 test will confirm whether someone has COVID-19 only at the time the test takes place, the introduction of a regular programme of testing in care homes is necessary and will play a significant role in helping to minimise the risk of COVID-19 in care homes and ensure the continued safety of residents and staff. I am pleased to be able to announce a planned programme of regular COVID-19 testing for all residents and staff in "green homes", which do not have a confirmed outbreak of COVID-19. It will commence on Monday 3 August. It will involve the testing of all staff on a fortnightly basis and all residents on a monthly basis. The position on the frequency of testing for both staff and residents will continue to be kept under close review and will need to remain flexible, depending on emerging evidence and on the community transmission rates of the virus in Northern Ireland in the coming months.

The establishment of an effective contact tracing service has been a key priority for me over recent months as part of the wider Test, Trace, Protect strategy that you will all now be familiar with. We have in place an excellent cohort of professional contact tracers with a wide range of experience, including health professionals and staff from an environmental health background. Contact tracing will also help us to understand the transmission of COVID-19 in Northern Ireland and to reduce transmission in tandem with all our other measures. There is a strong international consensus that the work is a critical measure for bringing down the value of R and thereby preventing or minimising further waves whilst allowing restrictions to be lifted.

The recent cluster in the Limavady area was an early test for the service, and I have been reassured by how quickly the service was able to respond by making contact with all those concerned and offering appropriate advice. The workforce planning model is based on the ability to flex staff numbers up and down to deal with emergency situations as they occur, and that incident has highlighted the benefits of that approach.

The virus has the potential to make its presence felt in any district and at any time. Everyone should act on the basis that it might be in their street or on their road right now. That is why following the public health advice on

maintaining social distance and ensuring the highest standards of hand and respiratory hygiene remains vital. Whilst I absolutely recognise that the issue of face coverings divides opinion in wider society, I repeat the point that the medical and scientific advice is clear: wearing face coverings in retail settings will help to protect our fellow citizens.

I am pleased to say that Northern Ireland citizens will soon have access to a smartphone app that will further enhance our ability to break transmission chains and reduce the reproduction rate of the virus. The StopCOVID NI app is due to go live imminently, but the date that it will be released for download will be subject to the review process undertaken by the App Store and Google Play. The app was designed using the Information Commissioner's Office's (ICO) "privacy by design" principles and, therefore, uses only anonymised information in its operation. I appeal to all Members to encourage their constituents to download the app. If we can get significant numbers to download it, it will play an important part in augmenting the existing contact tracing processes in our efforts to stop the spread of COVID-19.

I am also pleased to say that the app will be interoperable with the one already in use in the Republic of Ireland. It is also highly likely to be compatible with apps introduced in future across the UK and Europe. It will be the first instance of such a solution worldwide and the first example of such apps operating in an interoperable manner.

12.00 noon

When I published 'Rebuilding Health and Social Care Services: Strategic Framework' on 9 June, I was clear that increasing activity would be a significant challenge. COVID-19 continues to be with us and will continue to impact on the extent to which and how we deliver health and social care services. I have been clear that we need to increase service activity as quickly as possible in the prevailing COVID-19 context.

As we try to increase capacity, patient and staff safety will remain at the very centre of everything that we do. Our Health and Social Care (HSC) staff have put in a tremendous effort and continue to do so as we now seek to rebuild our services. To the many citizens who may be waiting for a procedure or a diagnosis, I say this: we will, as a system, do all that we can to make sure that you get an appointment and treatment as soon as possible. There is, however, a need to prioritise services, given the

significant constraints that our health and social care services continue to face. Social distancing, the use of personal protective equipment (PPE), staff availability and the need to plan for future potential COVID-19 surges are just some of the issues that continue to weigh on our ability to diagnose and treat patients. It is in that context that our health and social care trusts published their first three-month rebuilding plans on 10 July, covering the three months until the end of September. My intention is that those plans will be followed by further successive three-month plans in due course. In addition to the trust plans, work is under way to develop regional approaches to service delivery across a range of areas. All of that work is clinically led and developed using co-production principles. The rebuilding management board continues to meet and will continue to oversee all of that activity, reporting directly to me.

Today I announce the way forward for two important services: day procedure centres and orthopaedic surgery. I believe that it is in the public interest to move forward with the implementation of the service changes as quickly as possible to address the adverse impact of the COVID-19 pandemic on elective care waiting times and to enable HSC to have in place dedicated treatment centres ahead of potential further waves of the pandemic. That will allow us to maintain robust infection control preventative measures at those dedicated sites to enable procedures to continue during any future outbreaks of COVID-19. While we cannot guarantee that that can be achieved in all circumstances, it should give us a high level of confidence in our ability to continue to deliver those services while other hospitals treat COVID-19 patients.

I turn to the details of those important service changes, which I have published in a policy statement for elective care day procedures and in a blueprint for orthopaedic care. Our waiting times for elective care are the worst in the United Kingdom. Even prior to the pandemic, waiting times for hospital surgery were totally unacceptable. The impact of COVID-19 on HSC has been profound and will undoubtedly be long-lasting. I recognise that addressing the backlog of patients on waiting lists will be challenging, given the reduced operational capacity across health and social care. The establishment of day procedure centres has been central to our plans to eradicate that scourge on our service. Day procedure centres are designed to provide a dedicated resource for less complex planned day surgery and procedures. Crucially, they operate separately from urgent and emergency hospital care, meaning that they will not compete for

operating rooms, staff and other resources, and that will lead to fewer cancellations of operations.

The 'Health and Wellbeing 2026 - Delivering Together' document provides the overall blueprint for transforming health and social care services in Northern Ireland so that they better meet the needs of our population. A key commitment in the associated action plan was to bring forward proposals to establish elective care centres to provide a dedicated resource for less complex planned surgery and other procedures. Evidence from elsewhere shows that such centres can reduce waiting times for planned care and provide a better experience for patients and staff.

Since 2017, my officials have been working with doctors, nurses, allied health professionals, service managers and other health professionals from across the health and social care sector to consider the evidence base, to establish two prototype centres and to develop proposals for a regional model for day procedure centres. I thank everyone from across the system whose combined efforts have helped to bring us to this point and who continue to work tirelessly to improve the quality and timeliness of the care that we provide.

Day procedure centres are equally important or even more important in the context of the ongoing pandemic. The COVID-19 pandemic has further demonstrated the vulnerability of having elective care and unscheduled care co-located on multiple sites. For infection control purposes, there are clear benefits in separating elective care from the more unpredictable unscheduled care. The environment in which elective care services are delivered has changed significantly in the past few months. Day procedures must now be taken forward in the context of the continued need for social distancing and personal protective equipment at volumes that were not required prior to the pandemic. Consideration must also be given to the latest emerging professional guidelines and the impact of testing and isolation.

Given the urgent need to begin rebuilding day case procedures to avoid further detriment to patient health and in recognition that that will need to be taken forward on an incremental and prioritised basis, I plan to initially concentrate delivery in one hub day procedure centre. The hub site is Lagan Valley Hospital in the South Eastern Trust, and it will interact with several hospital sites — the spokes — around Northern Ireland. Lagan Valley Hospital has a day procedure unit and has demonstrated its ability to successfully deliver a range of day case and

endoscopy procedures. As one of the locations on which the varicose veins prototype was delivered, it proved popular with staff and patients in terms of accessibility and patient experience. Furthermore, throughout all of the engagement with the clinicians involved in developing proposals for day procedure centres, Lagan Valley Hospital was consistently recognised as a suitable site for a day procedure centre due to its accessibility for patients and staff.

Drive-time statistics show that almost 73% of the population are within a one-hour drive from Lagan Valley Hospital. In relation to the emergency department (ED) at Lagan Valley Hospital, the layout of the site means that there are different entrances for patients using the ED and those using the day procedure centre. Importantly, the two services can, therefore, be managed separately without impacting on each other. For the vast majority of patients, attendance at a day procedure centre will be a rare occurrence. The additional travel will be an isolated event and will not form part of a long-term passage of care that requires multiple visits. Service users are experiencing unacceptably long delays in accessing day case elective care procedures, so the clear trade-off for the additional travel will be shorter waiting times for treatment. Lagan Valley Hospital sits within the South Eastern Trust and will take forward the establishment and management of the regional day procedure centre model in the first instance. I will keep that arrangement under review as the model develops.

I will also establish a clinically led regional network to oversee the development of the day procedure centre hub and spoke model based in Lagan Valley Hospital in the first instance. The regional network will be tasked with driving forward a whole-system, integrated approach to the delivery of day procedure centres to achieve benefits for patients through reduced waiting times and improved quality and outcomes. I expect that the development or reconfiguration of Lagan Valley as a regional day procedure centre will be carried out in a phased way to minimise the impact on existing service users.

Before I set out my plans for orthopaedics, I want to take a moment to express my condolences to the family of Kyle McDonald. Kyle was a consultant spinal surgeon in the Belfast Trust and, tragically, passed away suddenly on Sunday. He was a dedicated and successful surgeon and a credit to his family and profession. My thoughts are very much with his wife, his children and the entire family, his

patients and his colleagues in the health service. I know that I speak for the entire House in extending our deepest sympathies.

With regard to orthopaedics, as with day procedures, unfortunately, waiting times for orthopaedic surgery are among the worst in the UK, with patients waiting an appalling four or five years for operations such as hip replacements. There is also considerable variation in practice regionally, which means that patients in some trust areas are subject to much longer waiting lists than others. In a country the size of Northern Ireland, such a postcode lottery is indefensible. A new approach is needed to ensure that patients can access high-quality services when they need them.

During the COVID-19 pandemic, most elective orthopaedic procedures have been deemed to be non-essential and have, therefore, been halted to ensure the availability of resources and patient safety for those affected by COVID-19. While those measures will have had an immediate positive effect on COVID-19 patients at that time, they also mean that, unfortunately, other patients in the healthcare system have become deprioritised. In particular, it will have a significant impact on the patients who were already waiting the longest. It is now critical to focus efforts on the regional rebuilding of the service. The reintroduction of elective orthopaedic services provides an unparalleled opportunity for positive change.

It is important to understand that COVID-19 has drastically changed the landscape of the health and social care service and rebuilding will, therefore, require careful consideration of that landscape to ensure that services can be re-established as safely as possible. For that reason, I plan to focus elective orthopaedics initially on two hub sites. The hub sites that I propose are Musgrave Park Hospital and Altnagelvin Area Hospital, both of which are well placed to increase regional orthopaedic services immediately, utilising COVID-light facilities. Both sites provide good geographical coverage for the population of Northern Ireland with regard to accessibility for patients and staff. They each have well established orthopaedic units that could be easily ring-fenced and protected from unforeseen and predictable increases in pressures on the health service as a whole. That will be particularly important in this phase of rebuilding. Focusing on those sites initially will allow patients of lowest risk and highest priority to undergo orthopaedic surgery.

It is important to note that this is not a plan to centralise services or remove existing services from where they are currently being delivered; on the contrary, I plan to utilise existing services in the best way possible at a regional level, to increase activity and to ensure that resources are used most effectively. My ultimate aim is to work towards introducing a region-wide network of orthopaedic practice based on an alliance of the existing orthopaedic units to produce a standardised and equitable practice of orthopaedic medicine for all patients in the region, removing geographical variations in waiting times and practice. To oversee the development of the model, I will establish a clinically led regional network that will be tasked with the regional planning and commissioning of the service across Northern Ireland. My key aim is to move towards a system where patients have the opportunity to move around the region as they wish to avail of the quickest and highest-quality service that can be provided, delivering benefits for patients on equality of access to the same level of care, reduce waiting times and improve quality and outcomes.

12.15 pm

For governance, the Belfast Trust will host the regional network, providing governance and oversight of the administrative management of the service on behalf of the region. I will keep that arrangement under review as the model develops.

I believe that it is in the public interest to move forward with these changes as quickly as possible in order to address the adverse impact of the COVID-19 pandemic on elective care waiting times and to enable the HSC to have in place dedicated treatment centres ahead of potential further waves of the pandemic. That will allow us to maintain robust infection-control preventative measures at the dedicated sites to enable procedures to continue during any future outbreaks of COVID-19. While we cannot guarantee that this can be achieved under all circumstances, it should, however, give us a high level of confidence in our ability to continue to deliver those services while other hospitals are treating COVID-19 patients, should that occur.

The need to get the new centres up and running as quickly as we can means that the public consultation and engagement with trades unions and professional bodies on the service changes will take place during the implementation planning stage, which starts today. This engagement will be led by the HSC trusts, which have lead responsibility for

implementing the changes. I hope that all stakeholders will understand that because of the untenable position facing elective care services, in the wake of the first wave of COVID-19, my Department is taking this approach because we believe that the public interest is best served by it.

Having published today my Department's plans for rebuilding day case elective procedures and orthopaedic care, I wish to bring to the attention of the House that I am finalising a further service rebuilding plan for cancer services. My aim is to ensure that we provide as much capacity as we can to deliver oncology and radiotherapy services while preparing for a potential second wave of COVID-19. The need to maintain high levels of infection control means that it will be important to further develop the new ways of working for cancer services that emerged during the first wave of the pandemic and to provide additional investment to embed them.

Similarly, I am considering a plan to reshape the delivery of urgent and emergency care, along with a plan for preparing the HSC for potential further surges of COVID-19. I am sure that all of us in the Chamber can agree that it is vital that we ensure that the available capacity in the system for urgency and urgent care is fully utilised in anticipation of a further wave of COVID-19 and to prepare for the annual winter pressures.

I am grateful to those stakeholders who responded to my Department's invitation to comment on the recent temporary changes that I made to the health and social care framework document and the establishment of the management board. Having considered the responses, my Department will, during August, launch a full 12-week public consultation on the changes.

It should be noted that the management board, in the short period since it was established, has proved its worth by progressing three-monthly rebuilding plans for each HSC trust area, as well as the policy statement and blueprint for rebuilding elective day case procedures and orthopaedic care that I launched today, with further regional plans at an advanced stage. While I acknowledge the concern of some stakeholders, I stress again that the decision to move forward quickly with these temporary changes was taken to address the grave situation that health and social care is facing and the need, therefore, to move swiftly to begin the rebuilding of services.

As I have stated to the House previously, it is important to emphasise that it will not be possible to return to business as usual. The rebuilding of services will not happen overnight. It will require an agile and adaptable response to ensure that we can respond to further potential COVID-19 surges.

In conclusion, I am conscious that I have taken some time to provide this update and have covered a wide range of areas. However, I hope that it has been useful and has, hopefully, covered a number of points that Members intend to raise.

Mr Gildernew (The Chairperson of the Committee for Health): I will remove my mask, as I did yesterday, to assist those who may have hearing difficulties in making out what I am saying.

I thank the Minister for his statement. I note that there is a lot in the statement, and I have no doubt that the Health Committee will want to look at and scrutinise all of it in more detail.

I congratulate the Minister on bringing forward the app, which, I believe he said, is the first one that is interoperable across the entire country. That is a welcome step and is of huge importance as we work to maintain control over the spread of the virus in the future.

The Minister has announced some considerable changes here today, many of which look a lot like health transformation. He mentioned 'Delivering Together'. That document, he will know, refers to "co-design" and "co-production". I am concerned that these changes have been announced with no engagement or co-production with service users and staff. What level of engagement did he feel was necessary?

I know that the Minister recognises that all types of carers have been hugely impacted by the initial withdrawal of services. Indeed, the difficulties in reopening some of the day centres and respite services are placing additional and ongoing pressures on carers. Will he consider a one-off cash payment for carers to help with changes to their circumstances and additional carer needs?

Mr Swann: I thank the Committee Chairperson for his support. He rightly indicates the extent and the depth of what is being proposed here today. He acknowledges the building blocks of 'Delivering Together' and all the previous work that has been done. When I announced that there would be a transformation board, I was asked, "Is this going to be another piece of

paper that sits on a shelf?" We have seen enough of those in Health over time. This work is about bringing together the building blocks that have been put there by previous Ministers in 'Transforming Your Care' and 'Power to People', and all the work that has already been done.

As regards the co-production piece for both those initiatives, as I said in some of my commentary in the statement, which I had to shorten because I could still have been speaking about a lot of the detail on these issues, it has been done in consultation with clinicians and the development of the hub-and-spoke model has been led by clinicians. I am due to meet the transformation advisory board (TAB) later today about the timing of the announcement. This morning, we wrote to the unions to advise them of that. The engagement to get to this stage has been very much clinician-led for both models, using the buildings blocks that are already there. We will now have serious engagement with our trade union colleagues, with the professions and with stakeholders to move the programmes forward. As I made clear in the statement, we need to do this now. We need to make the changes. When you look at the numbers of people on orthopaedic waiting lists and elective care waiting lists, you see that we need to move now. Those lists got longer during the COVID shutdown.

In regard to the specific ask for carers, I know that there is an ongoing conversation between Carers NI, Families Involved Northern Ireland (FINI) and officials in my Department about what additional packages and support measures can be looked at. A one-off payment has been part of those discussions. I cannot give the Member a commitment at this point in time, but I know that that is part of their discussions. Two weeks ago, an all-party motion raised those concerns. The feeling of helplessness that many carers feel was brought to the Chamber. I committed to ensuring that there was engagement. That engagement has commenced. It is about making sure that we get carers the provisions and the support mechanisms that they need.

As trusts start to move on their three-monthly phased rebuilding plans, they are looking at re-establishing day care provision as appropriate, depending on space and staff to ensure that social distancing is in place. That piece of work continues to support the carers in our community at this time.

Mr Easton: I thank the Minister for his comprehensive statement. What measures are

being put in place for those who have to quarantine for 14 days after travelling and have to face the consequences of their employer maybe not being too happy? The app for contact tracing is great, so can the Minister tell us how many people are involved in contact tracing? Is there scope to have more people involved in it? Also, for those who have to isolate from —.

The Temporary Speaker (Mr G Kelly): Excuse me. We are dealing with one question to the Minister, so he has a choice of which one to answer.

Mr Easton: I will leave it there.

Mr Swann: I thank the Member for his questions. I will answer both. In regard to the support measures, which I talked about when answering the question for urgent oral answer yesterday, the Executive met yesterday afternoon to see what reassurances or support we could give to people who are returning from Spain. The Minister of Finance, Conor Murphy, confirmed this morning, I think to the Executive, that anybody who had been furloughed can furlough again, so engagement is going on there, and the Minister for the Economy is engaging with the major employer representatives.

We have 92 full-time staff working on contact tracing in a shift pattern. As I said, one of the differences between us and other regions is that we have not just call centre staff working on it. The staff are professionals, so there are nurses and consultant public health professionals on call so that any advice and guidance that we can give when we are working through that test, trace and protect system is appropriate and specific, and it can be personal medical advice in order to make sure that people are getting the support that they need.

When we saw the recent outbreak in the Limavady area, we were able to scale up very quickly and bring in additional contact tracers to make sure that we got all those contacts covered as quickly as possible. As indicated, we were able to get to a fourth-level contact from the initial point of infection. It is a system that, when we had to step it up very quickly, reacted well, and that initial Limavady incident was a good test of whether everything that we had put in place actually worked.

The Temporary Speaker (Mr G Kelly): Just before I call on the next Member, in fairness to all Members, I should say that we have an hour for questions. There may be time at the end to

have some supplementary questions, so I ask Members to allow for those coming in after them.

Mr McGrath: I thank the Minister for his statement and for his commitment to rebuilding health services, especially in the south-eastern area. I know that there has been an announcement of dozens of additional beds for the Ulster Hospital, and now there is today's announcement about all the additional services for the Lagan Valley. I am going to go for the hat-trick to see whether we can get some commitment for the Downe Hospital, which is the furthest away from other services. Does the Minister agree that facilities such as the Downe Hospital are ideally placed to deliver services in the future? There is a willing staff, excellent facilities and the capacity to deliver. All that we need is the Department and the trust to give us those services.

Mr Swann: I thank the Member for his question. Funnily enough, I have a page all about the Downe because I do not think that there is a statement that I have made or a question that has been asked where the Minister — sorry; I am maybe pre-empting stuff — the Member has not raised it. As we look to expand the hub-and-spoke model in a number of procedures, whether they are in orthopaedics or elective day care centres, I will say that, at this minute in time, we will struggle to have capacity in our current footprint, because, with social distancing, we are looking at wards that had 20 beds now holding 12 beds. It is about looking at capacity and at how we can utilise our entire footprint, and the Downe is one of those facilities. The Member did not ask a question that I thought he would, but I am sure that he is fully aware that Monday 19 October 2020 is the planned opening date for the emergency department in the Downe Hospital.

Mr Chambers: Minister, it is important that the House recognises the achievements that your team at every level of health and social care has delivered in extremely challenging circumstances. It is also important to place on record the appreciation not only of the House but of the people of Northern Ireland for the leadership that you have shown in your six months in office. Mountains have been moved from the standing start that saw our valued nursing staff standing on picket lines.

It would be easy for you now to stand back and catch your breath, but you are moving forward through this statement with a compassionate and urgent approach to attend to members of society who are currently experiencing pain,

particularly in the field of orthopaedic procedures, by not delaying movement with pre-action public consultation but, rather, getting things up and running urgently in the interests of public health. Will the current postcode lottery be removed, and will your plans offer those in pain some hope that their issues will be resolved in a timely and structured fashion?

12.30 pm

Mr Swann: I thank the Member for his question, and I really thank him for his kind words. They are appreciated, and, as I have said many times in here, it is not about what I have done; it is about what the departmental officials have done, what our carers have done, what our nurses have done, what our cleaners have done and what everybody across the health and social care service has done, from community pharmacy to GPs. Everybody acting as a team over the past six months has brought Northern Ireland to the place where we are.

The Member highlights the crucial point and the underlying point on the development of the two models, where we look not to a centralised service but to a regional service so that we can remove the postcode lotteries for people on waiting lists where even the side of the village that you live on can determine a six-month differential on a waiting list. In a place the size of Northern Ireland, that should not be, so, with the development of both the models, my intention is that we remove the postcode lottery that so long has dogged many people waiting on waiting lists where, because of where they live, they have to wait longer. The models should address that, and it is my intention that they do.

Ms Armstrong: I thank the Minister and again pay tribute to him. I do this all the time, Robin. I pay tribute to him and to all of his staff and the staff of the trusts, who have performed amazingly throughout the pandemic. I am delighted to hear about the day care and the respite care coming forward. We all agreed with that.

I agree with the Chair of the Health Committee, Colm Gildernew. I thank him about his mask. I hate those masks with a passion, as I have said plenty of times, but we need to wear them to keep ourselves, our families and others safe. The UK Government have recognised the Action on Hearing Loss recognition of clear masks. Can the Minister confirm, when he is rebuilding our health system or building it back better, whether a proportion of those clear

masks is coming to Northern Ireland? Can he give us any update on those?

Mr Swann: I have been aware of those since health professionals started to wear masks on a full-time basis. We had interactions with Royal National Institute of Blind People (RNIB) on how we communicate with people with disabilities, should that be hearing loss, sight loss or speech difficulties. I do not have the detail on the specific delivery of see-through masks or clear masks with me today, but I will get that for the Member because I know that she has campaigned for that and has raised it with my Department and with me on a number of occasions. I will get her the specifics on that.

Mr Middleton: I thank the Minister for his statement. In late 2018, the Department announced two prototype day procedure centres: one in Lagan Valley and another in Omagh, giving a good geographical spread. Minister, in your statement today, you refer to one day procedure centre hub in Lagan Valley. Minister, can you outline specifically what that will mean for day procedures in the Western Trust, and will there be a reduction in services in Omagh?

Mr Swann: I thank the Member for his point. I could not expand on that in the time that I had for my statement, but it will be contained in the further updates. For elective day-care procedures, Lagan Valley will be the hub for the spokes, so the provision that we already have in Omagh and the primary care complex centre at Lagan Valley Hospital for varicose veins will continue. The cataract team will continue at the Mid-Ulster Hospital, the Downe Hospital and the South Tyrone Hospital, so we have proven that those elective day-care centres work, and it is about keeping them there, utilising them and developing the model and the learnings that we got from them and expanding them.

Mr Sheehan: Gabhaim buíochas leis an Aire as ucht a ráitis. I thank the Minister for his statement. The foundation stone of any changes to our health and social care system must be co-production and co-design. Anyone who has a stake in our health service must have a voice in it. I acknowledge that the Minister has said that the rebuilding plans are based on co-production principles, yet we hear from many stakeholders, including trade unions and patient advocates, that they are being marginalised and excluded from the process and are being consulted only after decisions have been made. Can the Minister explain that anomaly? Also, can he explain why he did not

mention a review of urgent and emergency care in his statement?

Mr Swann: I thank the Member for his points; they are well made with regard to the engagement process that we have had and the speed with which we have had to move. As I said, we are meeting TAB this afternoon, and I have further engagement with the health unions on Thursday with regard to this. We have had weekly meetings with the health unions with regard to other points. With regard to the details here, they have mostly been developed through co-production and have been clinician-led, both in orthopaedics and elective day care. This is wide-ranging work, but we need to move on with it, with the buy-in of as many people as possible. The engagement on how the blueprint and the policy look on the ground starts now, to make sure that we have buy-in. We cannot afford to have people spending longer on waiting lists while we go out to a 12-week consultation. It is about taking the action now and moving forward with the change.

The Member said that I did not mention emergency and urgent care in my statement: I did. I said, if I can find it, that:

"I am considering a plan to reshape the delivery of urgent and emergency care, along with a plan for preparing the HSC for potential further surges".

That work is already ongoing. I know that it was a lengthy statement; maybe the Member just missed that part of it. That work is ongoing. We are in a place where we can bring the two models forward today, so I thought that it was important that, before the House rises, I give Members as much detail and as much opportunity to question as possible on where we are. The work on urgent and emergency care is ongoing.

Mr Harvey: Thank you, Minister, for your statement and for your great work to date. Have you the necessary funding and available kits to carry out tests in the care homes for as long as the need exists?

Mr Swann: That is a good point that the Member raises. Look at the frequency with which we now undertake testing in care homes: residents once a month and staff members every fortnight. It is a considerable testing programme, because we have access to the national testing programme. It is the mobile units that are supplied as part of that national testing programme that will be mostly utilised for testing in the homes that are green — the

COVID-free homes that we have at this minute in time.

Just as an update, out of our entire care home sector, we are managing and supporting only 15 homes at this minute in time that have either a confirmed or a suspected outbreak of COVID. We have closed out outbreaks in 167 care homes to date. The work that we are doing with care home providers, staff, residents and families is proving efficient. That is where the testing programme will become beneficial in making sure that we maintain those green homes in the situation where they currently are, so that we can even expand visiting access, which is something that, we are conscious, has been sadly missed by many care home residents and their families.

Ms Flynn: I thank the Minister for the statement. As the Minister said, obviously, the decision regarding Spain was made at the weekend, and it was the right decision. Recently, at the Health Committee, we heard that the Chief Scientific Adviser (CSA) was the person responsible for looking at and assessing the data. What is the data based on? Is it a local rate for the North, a combined rate for the island or a rate across Britain and the North? Finally, can the Minister confirm whether there are other areas that are currently being considered as a potential risk?

Mr Swann: There is nowhere that we are looking at, as far as I am aware at this minute in time, where we see the incidence and prevalence that we saw across Spain. That is not to say that something may not move as quickly as we saw in Spain. As I said yesterday, when we saw the change in positive cases — going from 4,400 up to around 9,800 in the space of a week, I think — we had to move. The advice and guidance we got in regard to Spain was from the Joint Biological Centre, which is all four Chief Medical Officers (CMOs) and CSAs working across the United Kingdom. The decision to remove Spain was taken by all four Health Ministers at the same time: the SNP in Scotland, the Labour Party in Wales and us in Northern Ireland. It was a joint decision. Any differential could have left a back door somewhere that could have been opened or accessed, so we made that decision on a UK-wide basis.

Mr McNulty: I begin by offering my condolences to the family, friends, colleagues, patients and community of Kyle McDonald, an esteemed orthopaedic surgeon and consultant and a past pupil of my old school, the Abbey in Newry. Kyle's sudden passing will have sent

shock waves through all the people who knew him. My sympathies are with them all. I measc na naomh go raibh sé. Today also marks a year since the passing of another Abbey student, Brian Conlon, and my thoughts are with Julie and Brian's family, colleagues and community.

Minister, you mentioned the reopening plan and the plan to reshape the delivery of urgent and emergency care, but you have not referred to the Daisy Hill emergency department. I note and applaud the exceptional work of the trust and all the staff of Daisy Hill and Craigavon Area Hospital in dealing with the pandemic and the work of the pathfinder group in ensuring that there is a plan to restart Daisy Hill emergency department. They have included that in the first reopening and rebuilding plan, and that is scheduled to happen before the end of September. I know that nurses, doctors and other hospital staff have been displaced in the pandemic, and I know that there will not be a return to business as usual, but can you give a firm date for when Daisy Hill emergency department will reopen and give the people of Newry and Mourne, south Armagh and south Down some comfort?

Mr Swann: I thank the Member for his initial comments in regard to Kyle's family.

The Southern Trust is working to reopen emergency medicine in Daisy Hill Hospital by the end of September, and, as the Member has rightly profiled, the Daisy Hill pathfinder group is working in partnership with the trust to develop new models of care in line with other emergency departments in Northern Ireland to ensure that services are safe. As with all of the restart programme, the new models of care will require considerable engagement with the community to ensure their success. That work goes on in regard to the rebuilding projects that each trust is bringing forward on the three-month staged process. The engagement has been there, and emergency medicine will reopen in Daisy Hill Hospital by the end of September.

Mr Butler: I thank the Minister for his lengthy statement and for his service. He rightly pointed out the good work not just of his Department but of those who have served on the front line. It is good, as an MLA from Lagan Valley, to note that the Lagan Valley Hospital has been recognised today for its capacity, its reputation for excellence and its central location to provide the hub for the elective procedures, moving forward. Will the Minister join me in thanking the staff of the critical care unit, who changed their unit into a COVID response ward and, at great cost to themselves, performed heroically? I put

on the record my thanks to them and to those like them throughout the health service in Northern Ireland who have stepped up to the plate at this challenging time.

Mr Swann: I thank the Member for his comments, and I add to the Member's my personal thanks to those he mentioned. As I said, we are where we are today in Northern Ireland in respect of COVID and the response to COVID because of the dedication of so many health professionals at all levels across our service who really stepped up to the mark and really delivered and really proved the benefits of a National Health Service and what it actually means to the people of Northern Ireland. To every individual who stepped up I say "Thank you", and it is a personal "Thank you" as the Minister of Health that I give to each of them for the dedication and commitment they gave, while always remembering the sacrifice that their families made as well in allowing their loved ones to go out to work, which was always in difficult, trying and challenging times.

12.45 pm

Mr O'Dowd: We are approaching 31 July, and the Minister will be acutely aware that the advice to members of the public who are shielding will now change, and they will be able to go out and about more. One reason that people have been advocating the wearing of face masks in shops and other places is to help to protect those who are shielding. What advice about the future is being given to those who are coming out of shielding, particularly their concerns that they may have to shield again?

Mr Swann: I thank the Member. For those who have been shielding over the past four to five months, 31 July will be a joyous day for some but a challenging day for many. That challenge will be seen when people come out their front door and enter a society that looks different from the time when they started to shield. A letter providing guidance went out from the Chief Medical Officer that there should still be social distancing, good hand hygiene and respiratory awareness. The greatest guidance is not for people who have been shielding but for those who have not been shielding. I make a request not only on my behalf as Health Minister but on behalf of family members, friends and everybody who has been shielding — the 98,000 to whom we sent letters: please respect them, please give them space, and please allow them to re-enter society at their speed, giving them space in retail shops, on public transport and on footpaths to allow them

to come back into the general population, because it will be challenging.

The Patient and Client Council undertook some work and engaged with all those who are shielding, whose biggest concern was stepping outside the front door again. There are also mental health implications for people who have had the assurance of staying inside their homes. Our guidance has been very clear: 31 July is a pause to shielding. That language was used deliberately because we have to be aware that we may have to ask a section of that 98,000 to go back to shielding should there be a second spike or an outbreak of COVID-19 in certain areas. The advice may revert to advising and guiding people to stay in their homes for another period of time.

Mr Blair: I begin by associating myself with the thanks given by my colleague Kellie Armstrong to the Minister's departmental staff and healthcare providers everywhere. We truly are grateful. The Minister is to be commended for the way in which he shared his thanks with those front-line staff.

We are all mindful of the autonomy of GP practices, and the Minister will be aware of the struggles that the public face in trying to get GP appointments. Is it likely that face-to-face appointments will resume, bearing in mind the difficulties faced by those, particularly many of our elderly population, who cannot easily access online or telephone services?

Mr Swann: I thank the Member for his initial comments. He will be aware that GP practices are independent operators. We have been able to give them guidance and support, but, at the end of the day, the provision of services, and how GPs deliver that, remains within the management of each practice. We have always been assured that, if people need a face-to-face consultation, they should be able to get one. Changes have been made to telemedicine and telephone consultations, and those should be utilised where possible. However, if someone needs to go in through the door and see a GP, that facility should always be available. It is not always about the initial reason that somebody goes to see a GP. It is often at the point when patients are about to go out the door, with their hand on the handle, that they say, "By the way, I meant to ask you about —". That is when the real reason for the GP appointment comes to light. Face-to-face consultations are always important. There will be changes in practice with telemedicine, telephone consultations, ordering repeat prescriptions and things like that. Good practices have come about in our

GP services, but face-to-face interaction should always be available if necessary.

Mrs D Kelly: Minister, like others, I thank you, and the staff throughout the health and social care system, for their hard work throughout the pandemic. I will ask about cancer services. I spoke yesterday to a young mother, who had a routine smear test last December, and has been told, within the last two weeks, that she has cancer. No date has yet been set for her surgery. You talked about restarting. What are the time lags between the routine diagnostic test, informing a person of the diagnosis and surgery? What measures, or confidence, can you give to people like this young mother, who faces such dreadful news?

Mr Swann: If the Member writes to my office with specific details of that case, I will have it looked into. As I said earlier, in the statement, the re-engagement of our cancer services is a priority. They must be re-established as soon as possible. The time lags between diagnosis and treatment should not, to my knowledge, be as lengthy as the Member indicates. I will look into that case. We always red-flagged urgent procedures, even throughout the pandemic. We made provision for them. We could not identify them all, but we identified the majority of the urgent referrals. If the Member contacts my private office, I will follow it up.

Dr Aiken: I thank the Minister, his Department and the healthcare professionals for all their hard work. Will the Minister outline how he has managed to deliver the globally unique, functioning, pan-border StopCOVID NI app? Will he also thank the software industry for its hard work in delivering the app? It is indeed, Members of the Assembly, a unique thing that we are seeing across these countries.

Mr Swann: I thank the Member for raising that specific point. It was mentioned by the Chair of the Committee.

With regard to the contact tracing app, we started with a foot in both camps. We watched what the Republic of Ireland was doing, and we were also conscious of what NHSX was doing. The chief digital information officer, Dan West, and his team in my Department worked on it. He presented the app to the Health Committee and the Executive Committee last week. I thank him and his team for doing an astonishing piece of work. That very small, dedicated team has delivered the app that we will launch shortly, once we get it into the Apple Store, to go through that provision. Not only has the team developed it but it made sure that the concerns

that many Members raised about data security and data sharing were at the centre of what it was doing. That small team, led by Dan West, should be commended as much as any other health professional or member of my Department.

The key point, an interesting and integral feature of our app, is interoperability, which gives us the ability to access information from either side of the border, so that we do not see an anomaly. That was the concern at the start: people would have to have two or three apps to travel throughout this island. It is also reassuring that the platform that NHSX is now progressing on will allow east-west interoperability as well. We will have an app that works across all these islands and internationally. I understand that it has progressed to the extent that it will interact with some of the main European apps, from Germany and other countries, because we use the same platforms.

Mr McCrossan: I thank the Minister for his statement and for providing updates to the House during the pandemic, particularly on the important issues that continue to be raised.

On elective care, specifically orthopaedic surgery, the Department received an additional £90 million earlier this year and the Executive will receive a total of £600 million of new money from Westminster to tackle the COVID-19 pandemic. What total additional funding will be allocated to elective care to ensure that surgery and appointments take place? Also, will the Minister update the House on what work has been done, aside from the important task of tackling COVID-19, to ensure that waiting times are reduced from the four- or five-year period that people have been told about?

Mr Swann: One of the points and, I hope, one of the outworkings of the orthopaedic and elective day-care surgeries will be a reduction in those waiting times. They were bad in January, and they got worse over the period that we were closed down because of the pandemic. This regional approach should start to tackle and reduce the current waiting lists to get them back to a place that is manageable and respectable. We need to get on top of four- or five-year waiting times and bring them down. That was already a challenge for my Department, and £50 million was promised under New Decade, New Approach to address waiting times. We got £10 million in our last bid. At that point, we were looking at using the independent sector and enhancing the provision that we had. Some of those avenues have closed down, so, although we may be

tackling the current waiting times, it will not be to the extent that we previously hoped.

All these proposals have been worked up and costed, and bids will go to the Department of Finance and the Finance Minister in relation to the announcement of the new COVID support monies that have come forward. However, the important point on waiting times — I ask Members to support us on this — is encouraging people to look across Northern Ireland for a place to which they can go to get their procedure, operation or diagnosis. Let us break the regional perception that it must always be in your local hospital. I would rather that people were now able to look at accessing medicine in days, weeks, and months, and in miles, rather than years.

Miss Woods: I thank the Minister for his statement today, and I thank all the hardworking health staff for their ongoing work in our NHS. The Minister will be aware of the impact of coronavirus on maternity services and antenatal care. According to the latest information on the maternity website, the South Eastern Trust says that all educational classes are cancelled, and there is no information in the Minister's statement or online on when they will resume. Parenting classes are extremely important in supporting the parenting journey and are part of a wide range of services that are essential for women preparing to give birth. Can the Minister provide an indicative date for when he expects the resumption of the normal service provision of antenatal care and maternity services?

Mr Swann: I thank the Member for her point. I will come straight out and say that I do not have the answer with me today, but I will get it for her because I realise the importance of the issue. She will know that it was one of the services that was stepped down. I think that there was an attempt to put the service online so that prospective mothers could access it and have that guidance, but there is nothing like the personal attention of a midwife when preparing for the birth of a child. I do not have a specific date for the Member, but I will get details to her on how the service is being worked up across all trusts, not just the one that she mentioned.

Mr Carroll: It is welcome news that there have been no deaths in the last two weeks. However, as the Minister indicated, the virus is still with us and still very dangerous. What is his and his officials' assessment of the safety of all pupils returning to school without wearing masks, particularly teenagers and older pupils? I understand that the position of the Minister, if

not the Executive, is that people should wear masks in shopping centres. It appears that the Education Minister might be going on a solo run that could put pupils at risk. What is his assessment of masks for pupils and staff in schools?

Mr Swann: I thank the Member for his point. On interaction with the Education Minister, I am having a meeting with him, the Chief Scientific Officer and the Chief Scientific Adviser this afternoon on the next building plan and the opening up of the Education Authority and schools. I am sure that that issue will be discussed.

The Temporary Speaker (Mr G Kelly): We have heard from all Members on the list. We have some considerable time left: more than 20 minutes. If there are any other questions, Members should indicate.

Mr Carroll: I did not think that I would be called so quickly, but I am glad to be called. I would like to ask the Minister about strike pay for healthcare workers. The Health Committee is being led to believe that, sometimes, the issue is with the Finance Minister; sometimes, it is with the Health Minister. What is the Health Minister's assessment of where it is? Does he still believe that healthcare workers should be given the strike pay that they lost out on earlier this year?

1.00 pm

Mr Swann: I thank the Member for his question. It reflects back to a question that he asked me prior to COVID, just after the strike. He asked me whether I would like to see the strike pay reimbursed. At that time, I indicated to him that there may be legal ramifications. Although the Minister of Finance has supplied us with the money, my Department is actually looking at the repercussive nature of the reimbursement of strike pay. It would be the first time that strike pay has ever been reimbursed, so it would set a precedent not just in Northern Ireland but across the United Kingdom. It would hit the Department of Health, because of that repercussive nature, if we were to do that as policy lead. Say, the Member had raised Education. If, for example, teachers went on strike, and the Minister of Education decided to reimburse strike pay to teachers, the bill would come to my Department because it had set the precedent. Therefore, where we are at this minute in time is that I have a paper with the Executive. It was last tabled on 9 July. If the Executive take the collective decision to take the unique step to reimburse strike pay, we can

proceed with that. It would take a while to be able to work that. We have the money, but what I need is the reassurance that any future reimbursement of strike pay by another Department, either in this jurisdiction or across the UK, does not come back to impact Northern Ireland's Health budget, which is currently my understanding. Therefore, at this minute in time, we are not proceeding because I need that reassurance from the Executive that, should that ever happen in the future, the Department of Health and my budget would not suffer as a result of that decision.

Miss Woods: The Minister will be aware that many people are having ongoing issues with accessing physical appointments with their GPs. I have written to him and the South Eastern Trust on that issue. Some of my constituents have been offered telephone appointments, which have not resulted in any diagnoses or referrals, and some have been told that they should probably go private. At what stage will the resumption of GP services, with all the necessary PPE and safety measures, if there is an indicative date for the next stage of the recovery programme, be announced?

Mr Swann: I refer the Member to my earlier answer to John Blair on GP interactions and the services that they provide. GPs are independent providers. We have supplied them with PPE. Anybody who needs a face-to-face appointment should get one. We have moved, in certain cases, to telephone or online triage services. As regards advising people to go private, the Member might want to give me the specific details of that. She says that she has written to me. I am not sure where it is in the system, but we will certainly look at that. I encourage GPs, and patients as well, that, if patients need a face-to-face consultation, it should be open to them.

Mr Gildernew: The Minister referred in his statement to the travel regulations. It is widely accepted that there is a great degree of confusion about travel regulations. I welcome the fact that the Minister has sought closer cooperation with his counterpart in the South in order to try to streamline some of those issues. It is important to say that the issue is South/North as well as North/South, and if we are going to truly maximise the benefits of having a single epidemiology unit, that work will be crucial. Can the Minister update the House on the memorandum of understanding or any other work that is being done to ensure that we can deliver, as far as possible, the aims of the independent SAGE 'A Better Way To Go'?

document; that we work together to reach a COVID rate that is as close to zero as possible in as short a time frame as possible?

Mr Swann: I thank the Member for his question. It is actually one of the very few for which I had a prepared answer. The memorandum of understanding between the Health Departments in Ireland and Northern Ireland was signed on 7 April, signalling the willingness of both jurisdictions to promote cooperation and collaboration in response to the COVID-19 pandemic. Both jurisdictions are committed to working in partnership to predict the likely impact of COVID-19 and to enable evidence-based decisions on how best to respond across the island of Ireland. We have been working closely with our Irish colleagues since the start of the COVID-19 crisis, and we shall build on that relationship to continue to share information and learning. There are regular meetings between the CMOs of both jurisdictions and their teams to discuss areas of mutual information.

As regards the Member's specific question, I think that I said to him yesterday — I went slightly off course from the Member's question — there will be a North/South Ministerial Council meeting this Friday, which will discuss the memorandum of understanding and should there be any further relationship-building that we can do, considering a new Government are in place. I had a good relationship with Simon Harris, the previous Health Minister, and I have had a number of engagements with Stephen Donnelly. We are very proactively engaging because we both have the same challenges as to how we tackle COVID-19 and how we rebuild our services as well.

There is good work going on in regard to travel. We have had some challenges with the travel locator forms with regard to the sharing of information. I am now led to believe that the matter of how that information can be shared is with the Irish Attorney General and the Dáil. We have made progress with that. I think that it is not so much a matter of not wanting to but of not being able to make progress at this time. Hopefully, at Friday's discussion, we will be able to get a solution to that problem and we can move on. We have had good working relationships with the Health Minister, the Chief Medical Officer, the PHA and HSE, and I think that is something we can build on.

Mr McCrossan: Again, Minister, I want to put on record my thanks to you for your leadership on the huge challenges that have been thrown at you since you were appointed as Health Minister. I ask you to reinforce your message

on hand sanitisation. Hand washing is very important, and it is important that that message does not get lost or fade.

In relation to mental health services, Minister, you will realise that, throughout the pandemic, a huge number of people have been very badly impacted. People are fearful and anxious, and all that feeds into their mental ill health. What extra funding will there be, if any, from the £600 million from Westminster COVID-19 moneys that might support mental health services that are so badly in need of it at present?

Mr Swann: I thank the Member for his question. Again, the point is well made because of the stresses and strain that we have seen COVID-19 put on not only those who are shielding but the people working on the front line and their families.

In the last monitoring round, a bid of £1.5 million was made and accepted for the 'Mental Health Action Plan' work, which we kept going, and we published it last month. That 'Mental Health Action Plan' was adopted and includes COVID-specific work as well. Since then, we have been able to appoint our mental health champion, Professor Siobhan O'Neill, who is doing a fantastic job already in interacting with stakeholders and all Departments.

One of the bids for the additional moneys will be an application for the further development of multidisciplinary teams that are working across a number of areas in Northern Ireland and through which we are able to bring different professionals, including psychologists and psychiatrists, into GP practices. That model had worked well, but we did not have the funding to expand it to other areas, so additional money will be sought to expand it. However, it is also dependent on having the professionals to fill the posts. It is not just about the money, although the money is always welcome; it is about making sure that we have the right people in the right place at the right time.

Ms Flynn: To follow on from Mr McCrossan's question, I do not mean to sound critical of the Minister — that is not my intention — but he will know that, after the monitoring round that included that £1.5 million, and although there is a bid for £7 million for the multidisciplinary teams, I said publicly that that was not enough, given the challenges that we face with mental health.

At the Health Committee last week, the issue of trauma and the psychological impact of COVID-19 was discussed and the fact that we still have not seen what will come next. The Minister

referred to the 'Mental Health Action Plan', and there is a section in it on the COVID-19 response. I know that the report stated that that is a fluid piece of work that will change. Is there anything concrete on actions under the COVID-19 mental health response?

Mr Swann: I do not have the detail with me because of the scope of the statement that we are covering today, but I will get the detail of that. The Executive Committee on mental health, well-being and suicide prevention meets again tomorrow. So, as we come out of the Executive's response to COVID, those additional strands of work are being put back in place. There are a number of presentations to it in regard to work that is coming forward. That even includes members from the voluntary and community sector. The Elephant in the Room youth mental health initiative is presenting to the Committee tomorrow afternoon as well.

It is about how we get all those pieces to work together and deliver the support that we need as we come out of COVID and see more people presenting with challenges. I know that it is something that the Member continues to raise and has a passionate interest in, and I commend her for that. Never worry about the "but" that comes in your statement. Keep bringing it and keep asking it. It is only by raising those concerns and questions in this Chamber that I can keep it firmly on the platform not just in my Department but in the Executive.

Mr McGrath: Will the Minister commit to meeting the British Dental Association (BDA) and its Chief Dental Officer to address the serious impact on dental practices at the moment as a result of the regulations? They have made many representations to the Committee and to Members, and there is a threat to the viability of practices going forward. I know that he has extended the urgent dental care centres to the end of August, but I do not want to get to another cliff edge at the end of August with those problems. Will he undertake an assessment and meet those individuals to try and resolve any problems going forward?

Mr Swann: I met the BDA and the acting Chief Dental Officer two or three weeks ago. At that stage, I had quite a good engagement with them. So, some of the fallout and comments that I have seen recently were not my takeaway from that meeting. I understand the pressures that our dental profession is under. The acting Chief Dental Officer is due to meet them and engage with them in regard to a number of funding packages — I am not even sure

whether the BDA is aware — around additional money that is there in support for other industries and service providers that have fallen through the gaps, I think, is how the Finance Minister has described it.

I have written to the Minister for the Economy to see whether there is some sort of support mechanism that she could bring forward to the private side of our dental profession. Where we can support and fund the national health side, there is also that private side of many BDA businesses that need additional support. That engagement has commenced. The BDA wrote to the First Minister and the deputy First Minister and the Executive as a whole last week, and that is the step that I took in response to that letter.

Mr Sheehan: In my haste to get two questions in the first time around, I probably did not frame my question around urgent and emergency care too well. What I was asking is: does the Minister have a date when that review will be published? That was the last question. This question relates to plans for care homes in the event of a second surge. In your statement today, you outlined plans for extra testing in care homes, but are there other plans in place to deal with a second surge?

Mr Swann: I thank the Member for his clarity. I was not sure about his question because I had mentioned that in the statement. I hope to be in the position to publish that in August if not September. I know that we are in recess, and I do not want Members thinking that I am doing it because we are in recess, and it is a good time to do it. When it is there and it is in the final position, I will do it, but I will make sure that we are engaged with the Health Committee as well to make sure that members have interaction and some input and knowledge of what is being done. So, hopefully, in August, or September at the latest, that urgent emergency care piece will be published.

In regard to care homes and the supports that we are getting, we have been looking at best practice across all jurisdictions in the support of care homes. The Chief Nursing Officer is leading an urgent review into the provisions that were put in place not just here in Northern Ireland but in other jurisdictions and even worldwide practice as well to see what additional measures can be put in and at what point you can still have visitors etc.

It is about all those challenges, and all those steps bring about different challenges for residents and families. It is about making sure

that care homes are provided for. We will be in a better place than we were with the initial outbreak because of what we know about COVID, how it works and how it interacts with care homes. We have established a good working relationship with the care home sector in how we work together to make sure that we protect and support the residents of those homes.

1.15 pm

The Temporary Speaker (Mr G Kelly): We have just over six minutes left. With the indulgence of the Minister, I know that Colm Gildernew has indicated that he would like to ask another question. Is there anyone else?

Mr Gildernew: I thank the Minister again for taking a range of questions on all the issues. My question is linked to the question that Pat asked about care homes. Across the islands, there has been a sense that we could do better for care homes in a potential second wave or in future pandemics. Is a specific look being taken at discharge policy into hospitals and out of hospitals into care homes that may be of benefit during a potential second surge? I know that work is being done in England on that. Is specific work going on here on discharge policies during a second surge?

Mr Swann: The number of admissions and discharges from hospital settings into care homes and the testing policy are part of the work that the Chief Nursing Officer is leading on. We had a testing policy in place, which meant that testing was carried out 48 hours before discharge from hospital into a care home. If there is a second surge, that will be there from the very beginning. That policy has been established, and we ask people who are transferring from hospitals to care homes to go into isolation for 14 or 7 days, as appropriate. Those steps and measures are all being looked at in the rapid review that the Chief Nursing Officer is bringing forward. We are cognisant of that and are doing the work on it. It will be part of that review.

Miss Woods: It is great to get to ask so many questions. I thank the Minister for answering them.

I welcome the roll-out of the COVID-19 app, the announcement of which has been done in conjunction with the ICO. I previously raised questions with the Minister about the legal advice that was given about the roll-out of the app and data protection. Will the Minister confirm that the collection and storage of data

in the app will be based on a decentralised model, whereby data is only held locally on your phone?

Mr Swann: It is fortunate, because I had a prepared answer for that question, unlike most of the questions that were asked in the rest of the hour.

The data will be stored on your phone, and information will be shared only when you enter and fire the key. The information will be shared with a secure server in the Business Services Organisation that has been specifically developed and will be managed for that. The interoperability with the system in the Republic of Ireland is also done by secure measures to make sure that they talk and act together. We have undertaken wide engagement.

I reassure the Member that the draft data protection impact assessment for the proximity app, while it is being finalised to take account of comments from the Information Commissioner's Office, will be available and will be published to give users and those who know what that means the ability to have a look at it before we go live. That gives that reassurance. One of the things that I, as the Minister, and we, as an Assembly and an Executive, want is for as many people as possible to use that app. It will start to open up many other avenues as we ease restrictions.

The Temporary Speaker (Mr G Kelly): I call John Blair for a very quick question.

Mr Blair: Thank you for your patience, Temporary Speaker. I also thank the Minister for his perseverance. In his statement, which we are grateful for, the Minister touched on the resumption of cancer services. It has been reported that cancer diagnoses are down by somewhere around two thirds, and Cancer Research UK says that as many as 200,000 people across the UK are not being screened for cancers such as bowel, breast or cervical cancer. Can we have any more information on what is being done to prevent the non-detection of a high number of early cancers?

Mr Swann: I thank the Member for his point. It is valid and ties in with the point that was made by Dolores Kelly. In relation to screening, the strategic framework for rebuilding HSC services was launched in June with the direct aim of rebuilding health and social care services in prevailing COVID-19 conditions. It outlines a phased restoration of screening programmes as quickly and as safely as possible. The PHA is leading on the restoration of screening and has

produced a recovery plan for each of the paused programmes to ensure that they are reintroduced safely and that the benefits of screening are greater than the clinical risks associated with COVID-19. Given the ongoing pandemic and the continued need for enhanced infection control measures, screening throughput is likely to be slower, and it will therefore take some time to catch up on postponed appointments and to restore services to pre-COVID levels of activity. I assure the Member that that work is ongoing to make sure that we catch up on what has been missed.

The Temporary Speaker (Mr G Kelly): That concludes questions on the statement from the Minister with some second questions to deal with. I thank the Minister for his indulgence.

I ask Members to take their ease while we get ready for the next item.

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

Executive Committee Business

Executive Committee (Functions) Bill: Final Stage

Mr Deputy Speaker (Mr Beggs): The Speaker has received a letter from the Secretary of State signifying that he is content to grant consent for the Bill to enter its Final Stage.

Mr Lyons (Junior Minister, The Executive Office): I beg to move

That the Executive Committee (Functions) Bill [NIA Bill 08/17-22] do now pass.

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

Mr Lyons: The Executive Committee (Functions) Bill will provide greater clarity for Ministers on the circumstances in which they must refer matters to the Executive Committee for agreement; in particular, it provides an exemption from referral to the Executive Committee for certain decisions taken by the relevant Minister under the Planning Act (Northern Ireland) 2011. The Bill is not concerned with the detail of the planning process but, instead, seeks to clarify who is responsible for making decisions.

Section 20 of the Northern Ireland Act 1998 states:

"The Executive Committee will provide a forum for the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers".

Additionally, the Executive Committee has

"the function of discussing and agreeing upon ... significant or controversial matters that are clearly outside the scope"

of the Programme for Government. Those functions are also reflected in the obligation placed on Ministers to bring certain matters to the Executive Committee under paragraph 2.4 of the ministerial code. It is important to note that the Bill would not change the obligations on Ministers to refer to the Executive Committee or the role of the Executive Committee in considering cross-cutting matters. However, it would address the implications of the Buick judgement, and it is informed by the legal advice of the Departmental Solicitor's Office (DSO) and the Attorney General, which, as Members will be aware, related to the decision of the Department for Infrastructure to approve a planning application for a waste disposal incinerator in Mallusk in 2017.

The Bill addresses the implications of the judgements in the following ways. First, the Bill fully protects and maintains the requirement of section 20 of the Northern Ireland Act that any matter that is "significant or controversial" must continue to be brought to the Executive. It further clarifies that that requirement is also on Ministers even if there is no Programme for Government in place. That means that the absence of a Programme for Government, for whatever reason, cannot be used as a reason for not referring a matter to the Executive Committee for a decision. That is the purpose of clause 1(2), and it not only protects but enhances the St Andrews Agreement.

In relation to the implications of the wider definition of "cross-cutting", this had been interpreted as applying only to matters that cut across the statutory responsibilities of two or more Ministers and did not encompass those in which they simply had an interest, although the matter might, as in this case, be supportive of other Ministers' aims or objectives. The judgement means that the range of matters that would require referral to the Executive could be widened substantially, with the inherent difficulty of measuring the extent and nature of the interest that another Minister might have in the matter. It could also undermine the

executive authority of individual Ministers in their areas of responsibility. Specifically, it means that planning decisions that were considered the sole responsibility of the relevant Minister and were not referred to the Executive Committee for agreement would henceforth need to be, to remove the risk of legal challenge on the cross-cutting principle. That would make the Executive Committee the de facto planning authority rather than the Minister for Infrastructure, in whom the statutory power is actually vested. The Bill addresses that implication by providing that a Minister does not need to refer to the Executive Committee a matter where the effect on another Minister's statutory functions is only incidental; for example, a statutory requirement for one Minister to consult another would not be considered to affect the exercise of statutory responsibilities more than incidentally. That reflects the practical application of the cross-cutting requirement by the Executive since St Andrews but prior to the Buick case.

Finally, to place the responsibility for planning decisions beyond doubt, the Bill provides an exemption from referral to the Executive of certain decisions made by the Department or Minister for Infrastructure under the Planning Act (Northern Ireland) 2011 or regulations or orders made under the Act. Therefore, the Bill would bring into statute the implications of the Buick judgement in respect of the Programme for Government while providing much-needed clarification to Ministers on the extent of their obligations to the Executive Committee. That will preserve an appropriate degree of ministerial authority while placing reasonable limits on the extent to which ministerial decisions, including essential planning decisions, could be challenged on the grounds that they are cross-cutting. I commend the Bill to the House.

1.30 pm

Mr Stalford: I do not intend to detain the House for long, because the arguments around the Bill are well rehearsed and were discussed at length yesterday in the Chamber.

I think that everyone can recognise that the advances that were made at St Andrews represented an enormous improvement on how this part of the United Kingdom is governed. It was an important principle that the Government should function collectively and in a spirit of cooperation, and the changes that were made as a consequence of the efforts of the Democratic Unionist Party at St Andrews facilitated that positive change to how this part of our country is governed. This proposal is

completely consistent with St Andrews, and it is important that that is noted.

We have had arguments thrashed out between differing interpretations. The Government act on legal advice given to them by, among others, the Attorney General and the Departmental Solicitor's Office. That is why they are there. That is one of the reasons why the office of the Attorney General exists and one of the reasons why the Departmental Solicitor's Office exists. In recent days, Members have questioned the advice that has been given by both those organs of the state. It is their right, in a democracy, to do that, but, if we question the validity of that advice, we are effectively saying that we should abolish those offices. What is the point of their existence, if we simply decide that we prefer the advice of someone else outside of —

Mr Wells: Will the Member give way?

Mr Stalford: No — we prefer the advice of someone else —

Mr Wells: Will the Member give way?

Mr Stalford: No.

Mr Wells: Petrified.

Mr Stalford: I am not petrified of you, Mr Wells.

Mr Deputy Speaker (Mr Beggs): Order.

Mr Stalford: You believe that if you want to.

The consistent position of those who have opposed accelerated passage of the Bill —

Miss Woods: Will the Member give way?

Mr Stalford: Speaking of which, I will give way to Miss Woods.

Miss Woods: I thank the Member for giving way. Will the Member agree with me that not all Members have had sight of the legal advice that he refers to?

Mr Stalford: Absolutely, and that is standard custom and practice in government. Even those who have served as Ministers will be able to attest to the fact that the legal advice that they are given is not publishable. I will accept criticism of the accelerated passage procedure from Miss Woods. I will accept it from Mr Carroll, from Mr Allister or from Ms Bailey, because they are the only four Members who

have maintained a consistent position on the issue. They were opposed to accelerated passage from the very start, and I accept and acknowledge their right to be.

I give way to Mr Wells now.

Mr Wells: Will Mr Stalford accept that the very same legal advisers gave advice to the Department of Enterprise, Trade and Investment on the renewable heat incentive (RHI) scheme and that the advice was found to be very wanting indeed?

Mr Stalford: If Mr Wells wishes to take to his feet in the Chamber and consistently denigrate the professionalism and the standards of the Departmental Solicitor's Office, that is his right. I am merely pointing out that the DSO and the Attorney General exist as organs of this state to advise Members.

The provisions that the junior Minister outlined actually strengthen the concept of collective responsibility, because they provide clarity around the areas that are defined as significant, controversial or cross-cutting. That is important, because this is an issue that, as Members will be aware, has been argued out in the courts on numerous occasions. If provisions are being put in place that provide clarity and mean that we do not have a situation where, as has had to happen in the past, Ministers in the same Executive end up on opposing sides in a court case, that should be welcomed. It encourages the smoother and more effective operation of our Government, it encourages Ministers to work together and it encourages people to act in a collaborative fashion. That was the vision of St Andrews: a collective Government.

It is also important to note that, under the provisions, Ministers will not be able — Members know this — to go off on so-called solo runs, as happened in the past. Under these provisions, for any decision that is deemed to be significant, controversial or cross-cutting, if a Minister unilaterally assumes the power to themselves to take such a decision, that decision is not valid. It has no standing, because of the provisions that have been outlined by the junior Minister.

Mr Wells: Will the Member give way?

Mr Stalford: Yes.

Mr Wells: Let us envisage a situation, Mr Stalford, in which we have a pro-choice Minister of Health who exercises his authority in a way that is repugnant to many Members of the

House. How do we bring his or her activities to the Executive? For it to be significant or controversial, the matter has to be clearly outside the ambit of the Programme for Government. Should it be cross-cutting, under the old law, it is very clear that it has to be brought to the Executive. However, under the new law, unless it affects significantly any other Department, it cannot be brought before the Executive. Now, abortion is a controversial issue, but it is difficult to see how it affects anything significantly in the work of the Department of Agriculture, the Department for Infrastructure or the Department for the Economy. Therefore, it fails those two tests. How do you bring something that many Members of the Assembly and in the Executive find utterly repugnant to the Executive under your legislation?

Mr Stalford: Because it also falls under the remit of the Department of Justice.

It is important that any decision —

Mr Wells: Will the Member give way?

Mr Stalford: No. I have been very generous. The Member accused me of being terrified to give way to him. I think that I have given way three times; certainly twice. I was generous with him yesterday as well.

Any decisions taken by a Minister outside the scope of the provisions will not be valid and will not have force, and that is clear to anyone who reads them.

The arguments have been well rehearsed; indeed, to some of those who protested yesterday that there had not been enough scrutiny, I say that, for a three-clause Bill, one of which is the title, the Assembly has exercised a very decisive level of scrutiny of this legislation. The arguments have been thrashed out. It is important that we move forward together.

Mr Sheehan: I agree with the Member who spoke previously that all the arguments have been rehearsed and ventilated in the Chamber in a number of debates. I will not detain the House long, but I will reiterate where we came from and how we have arrived at this point.

The Buick judgement, which no one expected, has made the potential of people bringing the Executive or Ministers to court an ever-present danger in its context. That needs to be changed. There is no point in having Ministers end up in court over practically every decision

made. As has been pointed out, the Bill is short, but it recalibrates the legislation back to what, everyone believed, it was prior to the Buick judgement. The safeguards are there. If a decision is significant, controversial or genuinely cross-cutting, it is for the Executive to deal with. That seems to be absolutely clear.

Mr Wells: Will the Member give way?

Mr Sheehan: The advice from the Departmental Solicitor's Office and the Attorney General is crystal clear.

I will give way.

Mr Wells: Let us move to consider another situation. One of your Ministers is responsible for infrastructure. He decides to implement Irish language road signs throughout Northern Ireland. Clearly, that is entirely within the ambit of the functions of his or her Department. Unless there is a policy forbidding it in the Programme for Government, how does that policy go onto the Executive table? What is to stop his Minister simply proceeding to introduce Irish language signs throughout Northern Ireland?

Mr Stalford: Will the Member take an intervention?

Mr Sheehan: Yes. I will.

Mr Stalford: That would arrive at the Executive because it touches on two Departments: Infrastructure and Communities.

Mr Sheehan: Go raibh maith agat. Thanks for both interventions. Mr Wells's intentions are to spook the horses. They are simply that. The question was answered clearly, so I do not have to answer it.

We needed accelerated passage for the Bill. That has been an issue, and I accept that some Members here are opposed to accelerated passage as a general principle. I also accept that accelerated passage does not allow for the depth of scrutiny that would normally be the case. We are, however, in a crisis situation. We are in the middle of a pandemic that has, of course, affected the health of our citizens, but a consequence of that has been the damage done to the economy. We need to get the economy going, and one way in which we can do that is that through major infrastructure projects. They are sitting in the Infrastructure Minister's in tray, which is probably overflowing at the minute. We need to get those projects going, get people back to work and get the

construction industry back to work. For that reason, I support the Bill.

Mr McGrath: I continue to support the Bill. It is a sensible one that will allow, amongst other things, the Minister for Infrastructure to make decisions. They will not be small decisions. They will be about regional applications that will deliver jobs, boost the economy and get the North's economy moving again. We have coronavirus, and we have Brexit. The two combined have had a major impact on the economy, and, when the economy is in a bad way, our communities are in a bad way. Fewer jobs means less money in our communities, and that has ramifications that go beyond mere planning applications.

The Bill will also help the Executive to work better and help stop paralysis. Time and time again, doorstep after doorstep, election after election, the people told us, "Get up there and do your work". "Do your job" is what we were told. How many years have gone by in which people struggle to think of decisions that have been taken here that have truly and positively impacted on their lives?

There will be significant and controversial decisions — I have mentioned Brexit — and such decisions may create division. Different approaches will be difficult to unite, but the procedures are there to call in such matters and to help the Executive search for consensus and compromise to ensure that delivery takes place. To me and my party, the Bill is about action. It is about getting things done. It is about delivering for people and delivering for communities. Some may not like to cede a little power. Some may not like to devolve a little bit of decision-making. Some may whiff a few stray votes in the air, and that may be a little more what is happening here than having any problems with the Bill. I want to see action. I want to see activity. I want to see autonomy, where appropriate. I want to see this place delivering for people and truly serving people's needs by helping them and through us doing our job. I am happy to support the Bill and look forward to seeing it pass today.

Mr Beattie: It is a short Bill but a far-reaching one. We should not really look at how few pages or how few clauses it has but at the effect that it will have. I thought yesterday's was a good debate. It was an important debate, and people got their points across well. I will not rehearse any of the arguments from yesterday, because the outcome was clear and I accept what the outcome was.

1.45 pm

However, during yesterday's debate, I had to bite my lip somewhat when I was accused of being insulting, when my moral integrity was questioned, when MLAs made the assertion that 11 minutes of scrutiny at a Committee was good enough and when MLAs questioned the whole planning part of the Bill but absolutely ignored my amendments. How dare I change my mind. How dare I, as an MLA, say, "Actually, I got it wrong, and I've changed my mind". How dare I question a Bill that is a carve-up between two parties. How dare I.

When I take part in debates on important matters like this, I genuinely try to hold the hand of friendship out to everybody here and listen to the points that they are trying to make. I genuinely try. Let me make it clear, however: do not confuse friendship with weakness. This Bill is bad legislation, and there are people in the Assembly who know that it is bad legislation and are still going to vote for it. Shame on them. It has not been scrutinised to the level that it should have been. MLAs have not had the opportunity to question all the experts about it. We do not know the effects of the legislation in the medium to long term. No idea.

It will create a combative Executive. When pretty petty decisions are made outside the Executive, it will allow other Ministers to participate in a pile on. That is dysfunctional government. It will allow Ministers to step outside of collective government to get themselves away from any controversial decisions that are being made.

The Bill is a U-turn by the DUP on the core argument that it made to its electorate for its being able to share office with Sinn Féin. At St Andrew's, the DUP said that it had fixed the Belfast Agreement, and stopping Ministers from going on solo runs was one of the core tenets for it saying that it had done so. Yet, here it is, doing a U-turn and backtracking on that very principle.

Section 2.4 of ministerial code of conduct is nearly a direct extraction from the St Andrew's Agreement — nearly a direct extraction — and yet section 2.4, which was designed to keep the bar low for cross-cutting measures, is going to be overturned. I am in no doubt whatsoever that, after the summer recess, we will have the ministerial code before the Assembly, and section 2.4 will have been changed.

The junior Minister's assertion that every Minister is stuck in a quandary because of the Buick judgement, which means that they have

to bring all decisions before the Executive, is just not true. We have had an Executive for six months, and Ministers have not brought all the issues before the Executive. In fact, the Health Minister reduced the ban on gay and bisexual men giving blood from one year to three months. He did not bring that before the Executive, and not a single Minister raised an issue with it. That could be viewed as being controversial, as it was controversial enough for previous DUP Ministers to take it to court.

It is a fallacy to say that, for the past six months, we have been running contrary to the Buick judgement. That raises the prime question that has never been answered: why are we rushing this through? What is behind the rushing through of this legislation? Somebody needs to answer and say, "This is why we had to do it", because if we were able to operate for six months with Ministers making decisions outside the Executive, why do we now have to rush it through?

Mr Wells: Will the Member give way?

Mr Beattie: I certainly will.

Mr Wells: That question was asked [*Inaudible*] in the Chamber yesterday, but it is the one question that —

Mr Deputy Speaker (Mr Beggs): Order. I ask the Member to speak in front of the microphone so that everyone can hear.

Mr Wells: That question was asked by so many Members yesterday. It is the one question that was evaded on every occasion by the proponents of the Bill. What would be wrong with parking the Final Stage of the Bill until October to allow a cool-headed reflection of its implications? I am perfectly happy for Mr Lyons, Mr Stalford or anyone else to stand up and answer these questions. Why the rush? Why did it have to be handled this way? If they do not answer those questions, I am afraid that many of us have deep suspicions around what is going on.

There is silence.

Mr Beattie: I thank the Member for his intervention. It is a really important point, and I hope that the junior Minister can address it in the winding-up speech. It is incredibly important. I believe that this is a dangerous carve-up between the DUP and Sinn Féin, aided and abetted by some of the other parties, without looking into it in any depth. They are doing this because they want to distance

themselves from some controversial issues that are about to come before the Executive.

Mr Stalford: Will the Member give way?

Mr Beattie: No, I will not. Sit down and take your medicine.

I think that controversial issues are coming before the Executive, and they will try to distance themselves from them. For example, the armed forces commissioner, the Irish language commissioner and abortion legislation. Just watch and see people dive for cover when they start coming out, as they try to hide and distance themselves. There is not a chance that I will support this legislation, not a chance that my party will support this legislation, but there is every chance, in the future, that I will point out the folly of this legislation.

Mr Muir: My party will vote for the Bill today. The Bill gives the Minister for Infrastructure the power to make planning decisions, as was always the intention.

Mr Stalford: I am grateful to the Member for giving way. No matter how intemperate or ranting Mr Beattie chooses to be, the fact of the matter is that, when he says "aided and abetted by some parties", he needs to look at the result of the Division yesterday. I think it was 73 Members to 10. When Mr Beattie talks about aided and abetted by other parties, I suggest that he does some basic mathematics.

Mr Muir: I find Mr Beattie's argument — that it is a DUP/Sinn Féin carve-up to give power to other Ministers, including those from the three smaller parties — rather strange. That is something new and revealing, perhaps. The Bill allows Ministers to take decisions that are not cross-cutting, that are within their sole statutory authority and are not significant or controversial, without the need to bring them to the Executive Committee first. Without the legislation, Executive Committee would become the de facto planning authority for Northern Ireland. The Minister for Infrastructure only deals with regionally significant and called-in planning applications. Therefore, if all significant decisions have to come before the Executive Committee, it would follow that all the Minister's planning decisions would fall into that category. The Executive Committee being responsible for all regionally significant planning decisions would only make the current delays in the system worse.

Yesterday, Mr Wells stated that there is not a huge stack of applications waiting to be processed. To clarify, on 15 June, the Minister for Infrastructure confirmed with me that there were 38 applications still to be determined, with the top two stuck in the system for 698 weeks and 695 weeks.

Mr Wells: Will the Member give way?

Mr Muir: Yes.

Mr Wells: The Member is making a valid point that there are 38 applications in the system. How many of those would be determined before October? Given that we are in the COVID-19 crisis and in the middle of the holiday period, if we decided to halt the consideration of the Bill to allow for cool heads to sit down and think through its implications, would any of the 38 applications be affected if we had the temerity to sit down and have a long hard look at what we are about to do?

Mr Muir: I thank the Member for his intervention. It will be for the Infrastructure Minister to clarify what decisions can be made over the weeks and months ahead. After three years of no Government in Northern Ireland, and in the middle of an economic crisis, we can ill afford to wait even further. The people of Northern Ireland, as the other Member outlined, have been saying to us "Get back to work. Get decisions made." The message from today is to delay and think about it. We have done enough thinking about things here. We need to start taking decisions, The facts in relation to delays in planning applications and those needing to be determined speak for themselves.

It was always the intention that decisions would fall under the powers of the relevant planning Minister. It is my opinion that the legislation takes us back to the position that all parties had accepted before the Court of Appeal's judgement in the Buick case. As the judgement states:

"No previous Environment Minister or Infrastructure Minister had ever referred an individual planning application to the Executive Committee for agreement prior to its determination."

In addition, the legislation will go some way to allowing Ministers to make decisions that are neither significant nor controversial — decisions that are their sole statutory responsibility and which are not cross-cutting — without having to refer them to the Executive Committee. Legal opinions are just that: opinions. I have heard

one opinion that the cross-cutting element will be largely unaltered as a result of the legislation, with the Infrastructure Minister again able to determine regionally significant applications. Essentially, pre-Buick, post-St Andrews. I have read other opinions on social media that are contrary to that opinion, but, ultimately, the decision to be made is whether this legislation is the best response to the Court of Appeal's Buick ruling.

I feel that it strikes the right balance between necessary collective decision-making and granting Ministers the power to make judgements. I know, from reading the Buick judgement, that failure to act would lead not only to unnecessary ministerial inertia but successful legal challenges that Northern Ireland can ill afford. We cannot afford to ignore Buick. We have to act.

However, I have raised the issue of the wording of the ministerial code, as it will need to be updated to reflect the provisions of the legislation. The ministerial code is a very necessary piece of the statute book, designed to hold Ministers to account for their actions. It is important that it be updated in line with the legislation, if passed today, so that it continues to be an active document that reflects the law of the land rather than being a set of alternative rules that add unnecessarily to legal uncertainty. However, I seek clarity from the Ministers in their response on whether planning decisions can be made before the code is updated.

How Ministers and the Executive act, individually and collectively, is the most important factor in whether these institutions can survive and regain the trust of the people of Northern Ireland. We need Ministers who will apply planning policy objectively when making their judgements. In the Executive, we need Ministers who work together collaboratively to deal with the significant and controversial issues that need to be tackled. That is what I believe today's legislation allows for. Ultimately, however, it will be up to Ministers to make it work.

Mr O'Toole: As many Members, particularly the Member for Upper Bann, have said, the length of the Bill is in inverse proportion to its importance. It is, first of all, worth saying, as all other Members have, that we need a legal remedy to the precedent created by the Buick judgement. That judgement created enormous uncertainty in our planning process, leading to stasis in our planning system, which added to a broader policy and decision-making stasis in our politics and public sector.

We need our planning process to work effectively in order to make decisions that will be vital to our economic recovery. That point was well and emphatically made by Members from multiple parties. In short, the Infrastructure Minister needs to be able to make decisions, and the Bill achieves that. Andrew Muir outlined the volume of decisions before the planning Minister.

However, that is not to say that the Bill, or the process surrounding it, has been ideal. Since re-forming the Assembly, we have been asked, more than once, to compress our scrutiny and to grant accelerated passage to legislation that, in normal times, would and should receive more attention, including multiple Budget Bills. Agreeing to accelerated passage for the Bill was far from ideal, and I say that in full recognition that I was not here to speak against it when it was first debated. Like Mr Beattie, I am happy to acknowledge where I should have spoken up earlier about a process not being ideal. I am happy to take anyone's criticisms today about not speaking up. I do not think that it is ideal that a Bill like this receives compressed scrutiny.

2.00 pm

It is, however, welcome that, once passed, the legislation will enable planning decisions to be made promptly after years of uncertainty. For that reason, I and my party are supporting it, but, as I said yesterday, in doing so, I am keen to ensure that we have clarity from the Executive Office on one particular area of concern: the issue of Brexit and in particular the implementation of the Ireland protocol.

Proposed new subsections (8) and (9) have been the subject of particular controversy and appear to give much more sweeping power to individual Ministers to make decisions without reference to the Executive Committee. The Bill retains the provision that "significant or controversial matters" must be brought before the Executive. We do not yet have sight of the updated ministerial code that has been mentioned frequently. That document, as others have said, will need to provide real clarity on how the provisions in the updated Bill interact with the responsibilities of Ministers.

As I said yesterday, if any issue qualifies as fundamental, cross-cutting, significant and controversial, it is Brexit and the implementation of the protocol. The junior Minister helpfully confirmed to me yesterday that the Executive and their Brexit committee remain core to dealing with Brexit-related matters. Though I have been disappointed with and critical about

the level of scrutiny the Assembly has been able to give to the subject of Brexit and specifically the implementation of the protocol — indeed, I was very frustrated — I was glad and grateful for that from the junior Minister. The 'New Decade, New Approach' document references the importance of Brexit by setting up a Brexit subcommittee. Indeed, that is now a straightforward Executive committee, with representation from all parties.

As we give our support today to the intentions the Bill, with my careful caveats about the frustration with accelerated passage and the acknowledgement that there are legitimate criticisms of the Bill and, indeed, while acknowledging much of what Mr Beattie and others have said, I would be grateful if one of the junior Ministers could today confirm again that nothing in the Bill undermines the decision-making power of the Executive as a whole in relation to Brexit or the implementation of the protocol, and nor does it give individual Ministers the right to take decisions about protocol implementation that are significant, controversial or cross-cutting. With that request, I will draw my remarks to a close.

Dr Aiken: As I look around the Assembly, I am reminded, if we look back in history, of when RHI was being debated in the Assembly. Even though there are reduced numbers here due to COVID, the number of Members who have been able to take part in this debate on what is, quite frankly, bad legislation is particularly disappointing. I do not wish to make this into a moment where we harangue each other on particular issues, but there are some significant issues here. The first question, and we have not had the answer, is: why this legislation and, more particularly, why now?

Mr Lyons, thank you very much indeed for your very fulsome description and your briefing when we were talking about the amendments yesterday. You talked extensively about the legal opinion from the Departmental Solicitor's Office to the Executive and the views of the last Attorney General. We fully accept — it is a pity that Mr Stalford is not here — the fact that privileged information to the Executive is, indeed, privileged and should not be subject to further discussion. We do, indeed, welcome the offer that you made yesterday that the solicitors will be available to brief us in more detail. It is just a pity that, in the 11 minutes that the Committee for the Executive Office took to decide on the Bill, there was not the opportunity to get some more guidance and advice, particularly on the legal aspects.

We know that, because of the unique situation in Northern Ireland, our party is in a mandatory coalition. We also know that many of the reforms that were mentioned in and were supposed to be part of New Decade, New Approach have not yet been brought to the fore or actioned. Here we are in a situation where we are looking at a piece of bad legislation, with the impact that that will have. It will have an impact not just this year but next year and in the years to come. As some of the learned Members who have been here much longer than I said, we will be dealing with the implications of this not just in the short term but in the medium and much longer term. Many MLAs need to reflect on that.

Mr Lyons referred yesterday — this is quite important — to three key issues about the checks, balances and controls, and that is one of the main reasons why this is bad legislation. He mentioned the three Ministers rule and how that will be referred to in the ministerial code. However, we have been informed that there is going to be an update to the ministerial code. We are being invited to look at this legislation before we know what the changes to the ministerial code are going to be. Indeed, where New Decade, New Approach is concerned — like many others in the Chamber, I sat through hours and hours of turgid discussion behind the scenes in Stormont House and beyond — we still have not seen the updated ministerial code. Being asked to take this legislation through on the basis of something that we have not seen smacks again of the RHI inquiry and some of the issues to do with that.

Mr O'Toole: Will the Member give way?

Dr Aiken: Certainly.

Mr O'Toole: I was not involved in those turgid discussions, but he is right about New Decade, New Approach and, indeed, the ministerial code. Given that everybody in the House wants to see Brexit, including the implementation of the protocol, dealt with in a way that protects the Northern Ireland economy in the fairest way, does he agree that it is particularly important that we get clarity that because the implementation of the protocol and Brexit are such cross-cutting, fundamental and inherently controversial issues — that is why they were included in New Decade, New Approach — they will not be subject to ministerial solo runs?

Dr Aiken: I thank the Member from South Belfast. He must have been reading my notes, because those are, indeed, the very words that I was going to discuss now. Not only do we not

have any view of what the updated ministerial code will be like, we need to understand clearly the definitions of the words "significant", "controversial" and "cross-cutting". We talk about improving clarity for Ministers, but when are we going to see this information so that we are able to assess whether it is appropriate to test whether this law is good law? We have not seen that. If we look back at some of the things that happened in the past and at some of the reasons why the Assembly did not sit for three years, we can see that that lack of scrutiny has been very clear.

I ask the First Minister and the deputy First Minister these questions: how does the Bill help to restore trust in the Northern Ireland Assembly? Does it restore openness and transparency? Does it address the democratic deficit? They should ask themselves very clearly whether any of those questions have been answered.

There was a note in one of the newspapers asking whether MLAs are "incurious" and "inept". I am quite insulted by that, because I am not incurious. I might be inept in some things, and I do not think that people in the Assembly would consider that to be the case. However, there is a real issue here. We have a precedent of legislation coming through the Assembly that has brought this place into disrepute, and, Members, we are doing that again.

How does the Bill respond to the challenges of our unique legislative system? This was introduced to sort out a planning issue in a series of planning issues. My honourable friend from South Down has said this on many occasions: what is the rush? Indeed, my honourable friend Mr Muir said that some planning applications have been in the system for more than 650 weeks. One of the great things about being a submariner is that I am quite good at mental maths, and that shows that these planning applications have been in the system since long before the Assembly was shut down for three years and long before Buick. There is something more fundamentally wrong with our planning system than was going on with Buick, and I am not sure that this legislation in any way is going to address those fundamental issues.

Mr Wells: Will the Member give way?

Dr Aiken: Certainly.

Mr Wells: The junior Minister Mr Lyons is obviously quite shy when it comes to me,

because he has been offered many opportunities to come to his feet to explain the rush, and he has sat quietly, as has Mr Kearney, and we have —.

Mr Deputy Speaker (Mr Beggs): Could I again ask the Member to use the microphone?

Mr Wells: Mr Lyons must be very reticent to speak when I am on my feet, because he has been given many opportunities through yesterday's debate and today's to explain the reason for the rush, the reason why less than 24 hours was given for amendments and why we are heading at breakneck speed down a road that may prove disastrous. He has not on any occasion been prepared to intervene when I have been speaking, so I am offering him the opportunity, since you have raised the question, to explain why we are doing this.

Dr Aiken: Thank you very much for that intervention.

Mr Lyons: Will the Member give way?

Dr Aiken: I shall indeed.

Some Members: Hear, hear.

Mr Lyons: I am very grateful to the Member for giving way, although I will point out that I did give way multiple times yesterday to the Member. I have no problem in doing that, and I may even seek to make an intervention when he is speaking later on.

The Members want to know why it is that we are taking forward this legislation in the way that we are today. One issue has already been touched on, and that is the issue of planning. Regardless of the fact that some applications have been in for a long time, it is still important that we get the process right. The second issue that we want to make sure that we address is that the significant and controversial issues are not currently allowed to be used. The Member should be aware of that. Why? It is because we have no Programme for Government in place. So, without this Bill today, Ministers will be free to do things in their own Department that are significant or controversial, and it is important that we do something about that.

The third reason why we need to bring this Bill in is to make sure that there is clarity. I think that some are of the opinion that the judgement might mean that we will have to bring all these decisions to the Executive but they are saying, "Don't worry about it. We will just let that go. Just because it was the practice and custom

previously, we do not need to bring it in now". That would be wrong because, as Mr Stalford has already said, if a Minister has to take something to the Executive, he cannot make that decision by himself. It becomes an invalid decision, and there is no legal certainty around that. Those are three reasons why we are bringing this Bill in.

Dr Aiken: I thank the Minister very much indeed for doing that, but his intervention continues to raise fundamental questions about why this is bad legislation and a bad law. I am sure that the junior Ministers, when they are briefing the Assembly at the end of this debate, will talk fairly clearly about the definitions that we require for significant, controversial and cross-cutting. Maybe we will also get an update on the proposed new ministerial code because, indeed, junior Ministers, we are being invited to agree this legislation before we even know what the proposed changes in the ministerial code are.

I will conclude fairly shortly. We do have a choice. We, as Members of the Assembly, can meekly accept bad legislation, which the Ulster Unionist Party will not be doing. Do we really seriously say that we will allow the so-called smartest lawyers in the room to set the agenda? This is all that I have heard. I have heard everybody say that we need to agree with this because the best legal minds, from the government lawyers to the Attorney General, tell us that it is the right thing to do. We do not have to go back very far in the Assembly to see the last time that we had lots of advice and guidance from departmental solicitors and where that led us to. That should be the touchstone that we look to as we go through.

Finally, how does the Bill actually give us clarity? I have not heard anything from any Ministers or from any of the more eloquent people from the Back Benches. *[Interruption.]* Christopher is very eloquent, and I quite enjoy his interventions.

Mr Stalford: Elegant?

Dr Aiken: No, eloquent. You are never getting "elegant".

The real issue, ladies and gentlemen, Members of the Assembly, is that this is bad legislation. In the future, when this comes back, which it will, and creates enormous problems, we will have to ask ourselves, with our conscience, whether we had the ability to stop this bad legislation at this stage. Or are we going to go through another whole rigmarole that is going to create

all sorts of impediments to the future good governance of Northern Ireland? It will probably not even make sure that we get the York Street interchange built on time. We need to have good legislation. We need to have good scrutiny. We may not have made the amendments yesterday, but the Ministers still have an opportunity to delay this process so that we can look at the Bill properly.

2.15 pm

Mr Wells: Mr Deputy Speaker, if you hear a hissing sound during my speech, it is me burning many bridges between me and my erstwhile party. I am fully aware of the consequences of what I am about to say, but it has to be said. I simply cannot stand by and watch the House take a decision that will have — could have enormous implications for the governance of Northern Ireland without at least standing up and warning of the consequences. It is often said that opposing the Executive is like jeering at a passing steamroller — that is probably about as much impact as I will have — but I want to be able to look the people of South Down in the face, maybe in 18 months' time, when this radically unravels, and say that, at least, I had the courage to stand up and say that we should not have done it.

Before I go into my speech, I say that I am glad that Mr Stalford is back. He answered a question that I raised about a rogue Sinn Féin Minister on a solo run wanting to inflict Irish-language road signs on the people of Northern Ireland. He stood up and said, "Oh, but that is cross-cutting, because it also impinges on the role of the Department for Communities".

Mr Sheehan: On a point of order, Mr Deputy Speaker. Yesterday, we heard intemperate and inflammatory language from the Member who was speaking there. I see that, today, he is back at the same old lark, talking about "rogues" and so on. Is there any chance he could be asked to restrain his intemperate language, please?

Mr Deputy Speaker (Mr Beggs): I am sorry, I have not heard any intemperate language thus far today. I can assure the Member that, if I do, I will intervene.

Mr Wells: I use "rogue" in the sense of someone who is totally out of control, rather than someone of doubtful moral background.

The point I am trying to make is that we have seen this, of course. Mr Conor Murphy introduced legislation to impose Irish-language

road signs on the people of Northern Ireland. The reason that he got absolutely nowhere with that Bill was that it was pointed out to him that, under the existing legislation, it would get absolutely nowhere.

Now, I will give way to Mr Stalford on this point. He said, "Ah, but that affects the work of the Department for Communities". Now, if a Sinn Féin Minister or, indeed, an SDLP Minister for Infrastructure decided to have Irish-language road signs between Newcastle and Kilkeel, it would be difficult to argue that that is a genuinely cross-cutting measure that will have an impact on the Department for Communities. It will not really matter, because a court will decide that it has no real impact on the work of the Department for Communities.

Mr Stalford: The Member will also be aware that it has section 75 implications and equality implications. If people object to such provision, as, I am sure, they would — he mentioned the town of Kilkeel, where, I am absolutely sure, they would — they have recourse to the law. Ministers have to act within the statute. Ministers are creatures of statute. They also have to act within the law, and the parameters of the law are clear around the specific issue that the Member has raised. This is becoming a pattern with the Member: setting up theoretical examples that are designed to frighten people. It is becoming boring.

Mr Wells: Gosh, Mr Deputy Speaker. I have been described as many things in my life, but never "boring". I say to the Member that the people of South Down already have experience of this, because the district council has imposed Irish-language signs throughout the district and all attempts to invoke section 75 have failed miserably. The council has full authority to impose those on communities that do not want them, so I wish the Member well in trying to stop Irish-language road signs within similar restraints.

The Member says that I am throwing up, in a rather boring fashion — I will really have to up my ante, if I am being boring — false alarms about situations where people will feel worried and concerned, but my 22 years' experience in the Assembly has shown that such situations do arise. There will be maverick — I will use "maverick" rather than "rogue" — Ministers on the nationalist side who will attempt —

Mr Muir: Will the Member give way?

Mr Wells: I certainly will.

Mr Muir: Will the Member accept the Equality Commission's finding in relation to Paul Givan's decision to cut Líofo funding? That was another way in which the legal system found in relation to decisions made by other Ministers.

Mr Deputy Speaker (Mr Beggs): Order, Members. I remind everyone that this is not a debate about the Irish language. I draw everyone back to the Bill that we are considering today.

Mr Wells: My point is that a court could well decide that a Sinn Féin or SDLP Minister or even an Alliance Minister who wished to impose Irish-language road signs on the people of Northern Ireland would have the power to do that under the Bill, because it is not cross-cutting. Unless there was a clause in the Programme for Government expressly forbidding that, the Minister would be well within his powers to proceed with that policy, which would be anathema to a large proportion of the people of Northern Ireland. They do not want Irish-language road signs.

The Bill purports to update the legislation to reflect the Buick case. Everybody here knows the significance of the Buick case, but, over the last 24 hours, I have received many hundreds of emails from individuals, from people who are even concerned about giving the Minister for Infrastructure the power to unilaterally make a decision on controversial planning applications. I am sure that other Members have also received emails, for instance from the group opposed to the Dalradian gold mine application in west Tyrone or the application for a similar development in Armagh.

Mr O'Toole: I am grateful to the Member for giving way. Several Members have issues with proposed subsections (8) and (9), and several Members have had issues with accelerated passage. I can understand those. He now seems to be drawing a broader issue with the Infrastructure Minister having the ability to make such decisions. Does he have a fundamental problem with the idea that the Infrastructure Minister should have, post-Buick, a clearer ability to make planning decisions?

Mr Wells: I am saying that the Bill has caught many people in Northern Ireland unawares, and many people would like to have had an input to a proper consultation on it through the Committee. I presume that Mr McGrath's Committee would have been the appropriate Committee to deal with this. They have been denied that opportunity. The Bill has gone from the printer's to ratification and, presumably,

Royal Assent in less than a month. There have been 11 minutes of consultation about it in the relevant Committee. Members were given less than 24 hours to submit amendments. I sat in the Chair, Mr Deputy Speaker, and had to read out to Members that, if they wished to table amendments, they had to be in by 9.30 the following morning. That is highly irregular.

I thank Mr Lyons for the fact that, at last, he has explained the need for the rush, but can he tell me of one decision that would definitely have to be made between now and the first week of October? Mr — the gentleman from North Down, I have forgotten his name. I am awfully sorry. The new Member for North Down — somebody remind me.

A Member: Mr Muir.

Mr Wells: Mr Muir listed 38 planning applications that were sitting in the system, but what he did not say and what nobody said is that, on planning application A, we want to make a decision in August, and, on planning application B, we will definitely need to make a decision in September. I suspect that the reality is that, when we come back in October, there will still be 38 planning applications sitting there, because that, unfortunately, is the way that things work in the system at the moment. I will give Mr Lyons the opportunity to name me the applications that are so urgent that they have to be processed over the next 8 weeks.

Mr Lyons: I am happy to take up the offer of an intervention. The Member has not addressed my other two points yet; I hope that he will. Surely, the Member believes that it is right that we have the proper processes in place and that we have the legal certainty that the decisions that we make are made in the right way?

Mr Wells: Yes, if that is what he is doing, but he has not convinced me that he is. I gave him the opportunity to say that application A and application B will have to be processed between now and the first week of October. If he is saying that there is no prospect of that happening, what would be wrong — he has not answered this point — in allowing the Assembly, the community groups that have been caught unaware, the general public and the legal profession an opportunity to have a few weeks — I mean "a few weeks" — to sit down and to consider the Bill more carefully? Nothing could be lost. However, what if he is wrong and Mr Stalford is wrong? The implications for the governance of Northern Ireland are immense, because it could lead to judicial review and a legal situation where

Ministers can prove that, under the legislation, they have a right to proceed in whatever way they jolly well like. When things are being done and Ministers are out of control, it will be difficult for them to meet members of our community and say that they sat in the Chamber and allowed themselves to be whipped to vote for something that they did not approve of.

Having been a member of the DUP for 46 years, I am aware of the internal workings of the party. I know that there was no consultation on the Bill in the largest political party in the Chamber until yesterday morning. There was no discussion on it until one prominent member of the party pleaded with the Chief Whip to have a meeting. That was denied. It was only when several members of the party pleaded for a meeting that a meeting was held yesterday morning at 10.30. Please feel free to contradict me, if that is not true. At that meeting, a lot of concern was expressed, as a lot of concern has been expressed to me by Members from across the board. In the absence of someone much more capable, in the form of Mr Allister, unfortunately, they have had to turn to an obscure Back-Bencher. "Obscure Back-Bencher": is that unparliamentary, Mr Deputy Speaker?

Mr Deputy Speaker (Mr Beggs): I want to draw the Member back to the Bill rather than the internal workings of a political party.

Mr Wells: Mr Deputy Speaker, I think that most Members are fascinated to hear about the internal affairs of the DUP, but they have turned, I am afraid, to an obscure Back-Bencher marooned in the desert, who, unfortunately, is today ensuring that he will remain in that desert for a long time.

There was an intense discussion. Assurances were given by those involved that, legally, the Bill was an enhancement rather than a weakening of the St Andrews Agreement. On the basis of that verbal assurance, people have allowed themselves to be whipped to go into the Lobby to vote for something with which they are extremely unhappy but are scared to say so, apart from saying it to me. There are many people out there this afternoon whose names are on a piece of paper held by the Chief Whip, who will stand in that Lobby and shout out those names, when many of those people are very unhappy with being asked to vote for the Bill.

Mr Deputy Speaker, may I suggest that I have unlimited time because this is legislation?

Mr Deputy Speaker (Mr Beggs): The Member is right: there are no time limits. However, I gave the Member some direction to move on from the internal workings of a political party and to refer to the Bill.

Mr Wells: Mr Deputy Speaker, Members are still assuring me that they are hanging on my every word, so it cannot be that boring. However, I will not wander any further into the internal machinations of any political party in the Chamber, but I note that none of the Members to my left has stood up to contradict anything that I have said.

Following yesterday's debate, there has been a huge adverse reaction from the community on what happened. Many people have put pen to paper, either on social media or in newspapers, to indicate that they are deeply concerned. Most significantly, one of those is Mr Richard Bullick. There was concern yesterday that we quoted Mr Bullick so often. Frankly, I have enormous respect for the judgement of Mr Richard Bullick. The fact that he has now gone public on three occasions to express his concerns about what we are doing holds a lot of water as far as I am concerned. No one in the Chamber has really answered his concerns. Many of the younger Members — there are people who were not born when I first sat in the Chamber; not you, Mr Deputy Speaker, I assure you — will not be aware of the significance of Mr Bullick; in fact, people have asked me, "Who is Mr Bullick?". I can assure you, from my experience of St Andrews, even though I was not there, that Mr Bullick played an absolutely crucial role in the negotiations at St Andrews to establish the protections that have served the Assembly so well; indeed, it is noticeable that what was agreed at St Andrews has saved our community from some really strange proposals, many of which still sit in a store in the Executive Office. We know that, under the St Andrews Agreement, they have absolutely no prospect of seeing the light of day. That has given us protection for 13 or 14 years. When the author — the person who was so instrumental in the drafting of that document — says that he is still extremely concerned, despite the eloquent defence by Mr Lyons yesterday at the end of the debate. Mr Kearney was remarkably quiet, but Mr Lyons has been given the job of defending this document. Having listened carefully, as many did, to Mr Lyons, I feel that there is still an element of concern. The issue is so important to me and the people of Northern Ireland, that, even if I harbour a 10% doubt as to the effectiveness of the legislation, I think that we need to have another look at it.

2.30 pm

I plead with Mr Lyons, who exercises a powerful position in the Executive Office, not to go over the cliff this afternoon or to go beyond the point of no return but to accept, as Mr Stalford said yesterday, that there is conflicting legal advice. That is the only thing that we agreed on yesterday; there is that conflicting advice. If there is that element of doubt that all the MLAs I have spoken to have, what would be wrong in allowing this item to be rolled over to the first sitting day of the new session?

I will gladly give way to Mr Lyons, Mr Stalford, Mr Dunne or Mr Harvey to tell me what could go wrong by doing that to allow us to forensically examine the comments of those opposed to the Bill, to see if they hold water. I believe they do, but maybe they do not. Would there be massive planning applications that have to go through by the first week of October?

I am waiting, Mr Stalford or Mr Lyons.

Mr Lyons: I appreciate the Member giving way. Perhaps I can issue a challenge to him to set out why he believes that what we have in front of us is in any way a move away from the St Andrews Agreement. We have talked about three main issues. The first is that an issue might be controversial, and that remains. Something might be significant, and that remains. In fact, those two are enhanced, because, after the Bill is passed, not only will they apply when a Programme for Government is in place, they will apply when one is not in place. That is important. In terms of the cross-cutting issue, we have moved to what was clearly the position back at St Andrews. It is not whether we cut across the interests of other Ministers — I do not know, by the way, how you measure that — but their responsibilities. That is important because "responsibilities" is the key word. It is found not only in the St Andrews Agreement and the ministerial code but in the words of the then Member for East Belfast, Mr Peter Robinson, when, during a debate in the House of Commons, he talked about issues "beyond a de minimis level" — more than incidental — that are:

"regarded as cutting across the responsibilities of two or more Ministers."

Can the Member explain how the Bill is a move away from St Andrews?

Mr Wells: The honourable Member for South Down, who probably just about has CSE woodwork, is not the person to comment on that. The point is that, when Mrs O'Loan from Tughans, Mr Jim Allister QC and Mr Richard

Bullick, who is the author of the protections that we are debating, have considered all he said yesterday and all the comments from other Members and are still alarmed, that doubt comes into my brain.

If this was the District Council Dog Fouling Bill or the Litter Picking Bill and we got it wrong, it would not be the end of the Earth. However, this is so fundamental to how we govern Northern Ireland that, if we allow it to go through, when many of us still have doubts, and it all unravels, we will never retrieve the situation. One thing is certain: the Members to my right will never agree to an amendment. It is like the definition of victims. We can never amend that definition. We are stuck with it, and it requires cross-community support to bring it back to something that people are comfortable with.

In a few minutes' time, if the honourable Member for East Antrim, the junior Minister, moves the Bill to a vote that, of course, he will win because of the Whip system — there are scars on the backs of all the Back-Benchers who have dared to oppose it — he will have a list of, I assume, 26 names that will be called out, and people will be dutifully registered as voting for something with which many of them feel uncomfortable. If he goes over that cliff and I am right and he is wrong, there will be a terrible consequence of what is about to happen.

Mr Lyons: Will the Member give way?

Mr Wells: Yes, certainly.

Mr Lyons: I appreciate the Member giving way again. Is the Member saying that, right now, he is comfortable being in a position where there is no Programme for Government and Ministers are free, until the Bill passes, not to have to bring controversial or significant issues to the Executive?

Mr Wells: I am suggesting that the present legislation has served the Assembly and the community well. He has not answered the question: will anything drastic happen between now and the first sitting of the Assembly in October? He has power to delay the Final Stage of the Bill for a very short period to enable Members to have a good, long, hard look at it. He has it within his power to do that today. I am pleading with him not because I am a dissident DUP Back-Bencher or because I have an axe to grind with the party or, indeed, any other party in the Chamber. I say, "Let us make certain that we have got this absolutely

right before we go beyond the point of no return". I am not asking him to concede the merits of the Bill. I am not asking him to accept any amendment to the Bill. I just ask him whether, given the extraordinary way in which it has been handled, the total lack of scrutiny that it has enjoyed, the widespread community concern about it and the issues that have been raised long after the Bill was dealt with and published by the Committee for the Office of the First Minister and deputy First Minister, he will consider a short — I mean "very short" — delay to enable cool heads to sit down and get this absolutely right. Those are my comments: I hope that they have not been dull.

Miss Woods: Earlier, Mr Stalford kindly gave way to me, and I was able to mention not having had sight of the legal advice from the DSO and the Attorney General, like the majority of Members. It is difficult for my party colleague and me to see the merits of this accelerated legislation, so I will take some time, despite having spoken on the Bill and the amendments yesterday, because this, for us, is important legislation.

I, along with others, have asked why the Executive are intent on pushing the legislation through at this time and asked whether consideration has been given to what this means for the powers of the Executive. Certainly, there is still no clarification of the timing issues and no reason given why we must have the legislation for the summer. The issue has been continually raised, and I will continue to ask, like Mr Wells and Mr Beattie, "What is the rush?".

We are told that the Bill is necessary to clarify the circumstances in which a Minister is required to refer a matter to the Executive Committee where that matter may be cross-cutting, significant or controversial. We are also told that it is about planning. Now, we are also told that it is about getting clarity, of which I see none here. Who decides what is cross-cutting, significant or controversial? Will that be set and clarified? Is there an appeal mechanism? What, in this case, is "more than incidental"? What is an "interest"? How does this relate, for example, to climate commitments and our environment? Would an impact on climate and the environment be considered a cross-cutting matter requiring a decision to be taken by the Executive rather than one Minister? Planning decisions that have significant climate impact would naturally cut across many departmental interests and across their statutory duties, such as the Agriculture, Environment and Rural Affairs Committee and Minister, and the Economy, Finance, Infrastructure and Health

Departments. One can make the argument that all planning decisions on our built environment can have climate impacts. Where does that lead to in the context of the Bill? What about the Aarhus convention?

On 6 July, we were told that a number of significant planning decisions are expected during the remainder of this year that could lead to significant investment and employment opportunities that are being deferred or lost because of the Bill not being enacted, but is there any information on what they are? Do they actually lead to employment opportunities, which is how this has been sold to us, and for whom? The Bill is being proposed as necessary to help government to function quicker and more efficiently. However, without an agreed Programme for Government, all potentially controversial decisions will still have to go to the Executive for approval. What if one of those controversial decisions is on a planning matter? Would it still be within the remit of the Minister for Infrastructure to take that decision on their own? That was famously and controversially invoked five years ago over the Belfast metropolitan area plan (BMAP), yet that planning policy is still waiting for Executive approval and is now out of date.

The process is here yet again. Accelerated passage has been sought for legislation that has had limited scrutiny and no consultation. That has been a recurring pattern over the past few months with regard to mostly coronavirus-related legislation. Now, we are told that, if it is not resolved quickly, that could have important consequences for the economy and, particularly, the pressing need to promote investment in our infrastructure. We are told that the Committee agreed the need for accelerated passage in part because of the current COVID-19 pandemic. If that is so and the Bill is that important for investment in our infrastructure, why was it not brought forward as soon as the Executive were reformed earlier this year? Why is it being brought forward now, during what is supposed to be recess, and we are here attempting to pass the Bill with no time for scrutiny?

On the surface, the Bill is about planning decisions. It has been stated that it stems from the Buick judgement on the incinerator. However, could the passage of the legislation open up unintended consequences? Has that been considered? As I said, when Mr Stalford was kind enough to give way to me, we have no information. I cannot make a judgement on that because I have not seen the legal advice.

Mr Wells: Will the Member give way?

Miss Woods: I will.

Mr Wells: As a former Minister, I accept what Mr Stalford has said: Ministers do not normally release the legal advice that they have been given. However, does the Member accept that not only have we not been given the legal advice but we have not seen the wording of the ministerial code or many of the definitions that are crucial to the Bill's implementation? We are being asked to vote for the Bill blind, and the important bits will come along afterwards. That could create chaos. Again, surely, that is an argument for a slight delay.

Miss Woods: I thank the Member for his intervention. I accept that we do not have the legal advice, as he already knows, and that the code is crucial. It seems to be a case of putting the cart before the horse. I am sure that the Member would agree.

Does it deepen the silo mentality and silo decision-making by Ministers and their Departments? Many Members commented at Second Stage on the need for quick decisions to be made on planning applications that are in the system and those currently on the Minister's desk. However, are quick decisions the best decisions, especially when it comes to the planning system and developments of the scale, size and impact that we are discussing?

Mr Carroll: Will the Member give way?

Miss Woods: I will.

Mr Carroll: I am sure that the Member shares the concerns that I and others have that the planning process often excludes people and ignores their voices.

Miss Woods: I thank the Member for his intervention. I absolutely share those concerns about the planning process. There are too many barriers for people, not enough consultation and not the right sort of consultation. Certainly, my party would push for equal rights of appeal in the planning process.

I will continue. The Bill is not actually about the planning process. We have a lot to do on that. Yes, we have experienced long waits for planning applications through the system. Mr Muir has outlined some specifics that are currently with the Minister for Infrastructure. Most Members will have experience of other issues with the Planning Service, of which there are many. However, the Bill will not change that. Mr Wells is correct. It is probably the first time that I have agreed with him in the

Chamber. What major planning applications will be made in the next few weeks that could not wait until after the summer recess? Are the Executive telling us that hugely important planning applications are waiting to be signed off by the current Minister for Infrastructure that cannot be done without the legislation?

Mr Stalford: I appreciate the Member's giving way. In yesterday's debate, Mr Wells referenced the Casement Park development. I am sure that the Member would agree that what happened in that case was not that a ministerial decision was made but that local residents, in conjunction with their Assembly Member, campaigned and used the planning system to prevent a bad application going ahead? Therefore, the suggestion that a Minister could simply impose such a decision is not valid.

Miss Woods: I thank the Member for his intervention. Mr Wells can reference whatever he wants, as we know, and has already done so. I do not have the specifics on Casement Park, even if it is part of the elusive list that is on the Minister's desk.

2.45 pm

Just to reiterate, if it was so important for all these long-standing applications to be progressed and for the legislation to be passed, why was it not one of the first pieces of legislation brought by the Executive in February? Why was it not in New Decade, New Approach? I see no reference to it there.

The role of the House is to scrutinise legislation and take decisions that need to be taken throughout these so-called unprecedented times. We have been denied our full scrutiny role through the use of accelerated passage. Now, some legislation needed to be enacted quickly over the past few months. However, I do not see the urgency of this Bill being needed in the same way as the Private Tenancies (Coronavirus Modifications) Act was needed to ensure that people were not evicted during the COVID-19 pandemic and lockdown. That was an immediate and very real threat faced by many people here as we implemented the health protection regulations. This has, again, been presented as a technical Bill that is only about planning issues, but —.

Dr Aiken: I thank the Member for giving way. As the debate has gone on, one of the key things that we have seen is that it is about the planning process. The planning process needs to be —.

Mr Deputy Speaker (Mr Beggs): I ask the Member to address the Chair.

Dr Aiken: Sorry. My apologies. The planning process is the problem. It is not about giving ministerial authority for it; it is about the planning process. Why are we introducing bad legislation that will not even deal with the problem?

Miss Woods: I thank the Member for his intervention, and I agree that the planning process does need to be completely reformed. I look forward to any engagement on that and any input that I can make to that.

Again, the legislation has been posed as being about planning issues, but, in my opinion, it opens up a very big can of worms down the line that we might not be seeing now.

The Bill will change the Northern Ireland Act, yet we have little detail on what the consequences of it might be, apart from it being painted as a great opportunity for future employment, which is highly questionable and raises more than a red flag. Is that it? What else does it do? Through the Bill, if the Executive have reduced cross-cutting to mean only when there is a significant impact on another Department's statutory responsibility, what does that mean for previous legal obligations to work together, such as on the Children's Services Co-operation Act? What impact at all, outside planning, has been looked at and adequately tested legally? Have unforeseen circumstances been correctly thought out?

As I stated yesterday when speaking on the amendments, we should be encouraging better collective and collaborative working, not giving Departments cover to plough ahead with working in silos. 'New Decade, New Approach' stated:

"parties are committed to working together ... This will reflect new ways of working that ensure the Executive is transparently and collectively accountable to the Assembly and to citizens."

However, for me, that is not what this legislation is an example of. This is bad government, and bad policy will flow from it. We have had no time to consider the full implications that this might have. It is supposedly to prevent the Executive from becoming de facto a decision-making body for planning applications, so why was the entire Bill not limited to planning. This is bigger than it has been made out to be, and

we need time to properly consider it. There is still no justification for accelerated passage.

The Green Party does not support the Bill. There are too many questions and far too few answers.

Mr Carroll: I am not going to repeat the many concerns that I have raised repeatedly about the Bill. However, at Final Stage, it has to be stated that it is very concerning that not only is the Bill being proposed but it was debated at breakneck speed and is likely to be passed. The junior Minister stated, or certainly indicated, that controversial planning decisions will still be heard at the Executive Committee, and, much like my colleague Miss Rachel Woods, I do not believe that this question has been answered: who determines what is controversial and therefore properly discussed by the Executive?

Since yesterday, I and many other Members, I assume, received a lot of emails from groups and individuals — some have been referred to already — who have concerns about this Bill. It is notable for two reasons. First, so many people are raising serious concerns with their MLAs about the environment, and the skipping over of an element of the scrutiny process has also raised concerns about the Bill. Secondly, that so many people have contacted me before the Final Stage of a Bill is no accident. To me, that indicates that the public —

Mr Wells: Will the Member give way?

Mr Carroll: I will.

Mr Wells: Does the Member accept that, in many of those emails, the Aarhus convention was cited, and yet, in none of their contributions has Mr Lyons or Mr Stalford actually sought to deal with that issue? Are we in contravention of the Aarhus convention by doing what we are about to do? I would be very interested to hear whether Mr Kearney or Mr Lyons will answer that fundamental point at the end of this debate.

Mr Carroll: I thank the Member for his intervention. They did. I do not claim to be an expert on the convention, to be frank, but it was raised with me, and the question needs to be asked: are we in breach of that convention if we pass the Bill? Many people raised that concern, and it needs to be directly answered by the junior Minister.

I refer back to my point before the intervention. The fact that so many people contacted MLAs the day before the Final Stage of the Bill, indicates to me that most of the public did not

understand the content or the ramifications of the Bill. Even some MLAs have stated honestly that they did not understand the full ramifications of the Bill, and fair play to them for being honest. There are serious concerns, and the fact that people are raising so many the day before Final Stage should be a warning sign to MLAs.

We heard from Pat Sheehan about the economy needing to get going. In abstract, that sounds correct, and, in abstract, there is no problem with it, but you cannot rip out an important aspect of accountability when decisions are made by Ministers. We have to emphasise the fact that there are fundamental problems with planning, and some have been referred to already.

The main problem with planning is that people are excluded from the process time and time again. Objections are often ignored or not addressed properly, and the Bill does nothing to deal with those issues. Residents are often ignored. Casement Park residents for one. Environmental campaigners are often ignored and dismissed as well, and the Bill compounds that problem and does nothing to address it.

What I am hearing from some in this debate is make building decisions, build things, and if there are concerns, so be it, or, best case scenario, we will deal with them after. That is not good enough for making decisions around planning or anything else. Somebody once said, "Never waste a good crisis". It seems that Stormont has not wasted the opportunity to use a health pandemic to remove an important aspect of scrutiny when it comes to big decisions. For those reasons, I oppose the Bill.

Mr Deputy Speaker (Mr Beggs): I call on the junior Minister, Declan Kearney, to conclude the Final Stage of the Bill.

Mr Kearney (Junior Minister, The Executive Office): I acknowledge and thank the Assembly for its willingness to consider the Bill by accelerated passage. It is certainly not the preference of the joint heads of government to progress legislation in this way. However, due to the urgency of the need for decisions on planning applications in particular, it has been necessary to bring the Bill forward in a much faster time than would be ideal or desirable. Even in that short timescale, a number of important issues have been debated, and Members have been given the opportunity to voice both concern and support.

This final debate will bring to a close the Assembly's consideration of the Bill, which

remains unamended following yesterday's proceedings. In so doing, it will help to enable the appropriate decision-making by the Minister for Infrastructure on planning applications that, as others have pointed out, will aid our economic recovery from the midst of the health emergency caused by —.

Dr Aiken: Will the junior Minister give way?

Mr Kearney: If you just let me finish my sentence. It will aid our economic recovery from the midst of the health emergency caused by COVID-19.

Dr Aiken: I thank the junior Minister for giving way. He has alluded to planning decisions that are in the process of coming through. Many Members have asked for guidance from either him or the other junior Minister on what some of those planning decisions may be. Will he give us some information on that, which may help us to make up our minds around the debate?

Mr Kearney: I thank the Member for that intervention. I will take it at face value that it was a genuine question, and I was intending to revisit those issues as I respond to his intervention and those of other Members who have spoken during the debate.

I thank all Members who have taken the opportunity to speak. Gabhaim buíochas leis na Comhaltaí ar fad a ghlac páirt sa díospóireacht seo. I am grateful to you all, regardless of what position you took in relation to the issue, for your contribution. A Leas-Cheann Comhairle, déanfaidh mé léargas ar an méid a dúirt Comhaltaí. I will take this opportunity to briefly address a number of comments that were made by Members during the debate.

Christopher Stalford commenced the debate and stated that the legislation that has been brought before the House is consistent with the St Andrews Agreement. He affirmed the legal opinion that has been received. I agree with you that Members are entitled to challenge and critique; that is the challenge function of the Assembly. I also agree that the legislation provides clarity and has the potential — I believe that it will be seized as potential — to increase collaboration in our five-party, power-sharing Executive. I would go further. The legislation will be enabling in that respect, and if all five parties who have seats at the Executive table — most of them are represented in the Chamber today — take that opportunity in a positive, constructive way, the legislation can assist in that process. Mr Stalford also observed that all the relevant arguments have

been made and that, in his view, scrutiny has been achieved.

Pat Sheehan spoke next. He began by highlighting the consequential legal hazards that were created as a result of the Buick ruling. In his view, the Bill recalibrates the legislation, and I agree with him in that respect. However, as many other Members on both sides of the debate said today, particularly Mr Beattie, there are limitations to accelerated passage. He noted the limitations of that. In the circumstances that we face, it is a necessary position to adopt.

Mr Wells: Will the honourable Member give way?

Mr Kearney: Yes. Go ahead.

Mr Wells: Does the honourable Member accept the points made by Mr Carroll that, for hundreds of community groups —.

Mr Deputy Speaker (Mr Beggs): Order, I ask the Member again to ensure that he stands beside a microphone.

Mr Wells: Sorry, Mr Deputy Speaker. I keep making the same fundamental error. Does the honourable Member accept the information given by Mr Carroll that, for hundreds of community groups throughout Northern Ireland, the first that they were aware of the legislation was when they turned on their TVs yesterday and heard the debate on it? They have been caught totally unawares and have had no opportunity whatsoever to have an input into this vital piece of legislation. How can he defend his premise that there has been adequate consultation?

Mr Kearney: I thank the Member for his intervention. The point that I made was that Mr Stalford had opined that we had subjected the legislation to substantive scrutiny, notwithstanding the fact that we are operating with a system of accelerated passage. I remind the Member that we are all representatives. We are all constituency MLAs and all have a duty, not only to be accountable to our constituents but to inform them. Given the fact that the legislation has been in the making for weeks, we have all, individually, collectively and as parties, had ample opportunity to apprise our constituents of the pending legislation.

Colin McGrath spoke next. He began by reminding us of the multifaceted nature of the emergency and the need for us to reboot our economy by finding stimulus measures,

particularly large-scale capital infrastructure projects, which we hope will have the desired effect of creating much-needed and new employment as we move through the torrid times that we have been living through. He believes, as I indicated earlier, that the legislation will help the Executive to work better, but he emphasised the importance of action and of the Executive being seen to deliver for the benefit of wider society. On that basis, he indicated his willingness to support the Bill.

Doug Beattie spoke next. I want to affirm his opening remarks. He noted the quality of yesterday's debate, to which he made a very substantial contribution. He expressed offence at some of the comments that were made yesterday, which he felt were personalised. He suggested that the Bill was a carve-up between the two largest parties in our Assembly.

I know that Mr Beattie will accept my response in the fraternal matter in which it is intended, but I remind him that our power-sharing Executive and Government are made up of five parties of which his party is one. All Ministers supported the Bill as it proceeded through the Executive and all Ministers had sight of the advice that was provided to the Executive on how to deal with the issues that are required to be remedied.

3.00 pm

He did however say that —.

Mr Stalford: I appreciate the junior Minister giving way. Will he return to the comments that he has just made? In the debate yesterday, it was implied, if not stated directly, that one Minister in the Executive was not in agreement with the Bill. Is the junior Minister stating now that there was unanimity in the Executive about the Bill coming before the House?

Mr Kearney: Certainly, I can. With respect to the confidentiality of Executive business — I would not betray any such confidences — I have no record of any discord or rancour within the Executive relating to discussions on these matters.

Dr Aiken: Will the junior Minister give way?

Mr Kearney: Yes.

Dr Aiken: This is important. We have already had discussions about the internal workings of the Northern Ireland Executive. We have already had discussions about privileged

Executive information — legal information — that we do not have sight of. Are we in a situation whereby two parties are trying to use the situation to demonstrate that they will use the internal information of the Executive, which is supposed to be confidential, for this debate, when the conventions are that they must not do that? For clarity and the record: it is a mandatory coalition. It is not a normal democratic situation. The Ulster Unionist Party has a seat in the Northern Ireland Executive because of the Belfast Agreement. That is why we are there. That is why.

Mr Kearney: I thank the Member for his intervention, and, on that point, we will depart. I am pleased to be a member of our power-sharing Government. My party is pleased to be sharing power with other parties. Clearly, the leader of the Ulster Unionist Party has some qualification, reservation or doubt about the issue of power-sharing and the logic for our having power-sharing and doing politics on a consociational basis. I hope that it does not telegraph an intention on behalf of his party in maintaining the collegiality of our power-sharing Government.

To return to Mr Beattie's comments, he said that, in his view, it is bad legislation. He expressed a concern that, if the Bill is passed, it will create a situation where the Executive and their business may become more combative. On that point, I seek to reassure him that with the commitment of all the Ministers and all five parties with seats at the Executive table, I believe that power-sharing works.

Making our power-sharing Government work is not so much about whether we pass the legislation or not — although I believe that it will have an enabling function — but about the will and the spirit that Executive members bring to the Executive table to try to map out a better future for our society. It is on that basis, on many occasions over recent months, that the Minister from the Ulster Unionist Party has stated that he appreciates the level of collegiality, support and assistance — from all other Executive Ministers, within and outside Executive meetings — that has been provided to him in his important work in leading the fightback against COVID-19.

Mr Beattie: I thank the Member for giving way, especially because he has given way quite a few times already.

I take at face value his belief that the legislation will keep that collegiate Executive, and I accept that in good faith. Our Executive have been doing a good job, but they have been

underpinned by a ministerial code that is quite expansive. The cross-cutting issue is quite expansive in there. The junior Minister must agree that, when the Bill is passed, paragraph 2.4 will have to be changed to be less expansive, and its being less expansive, may lead to more conflict in the Executive. That is the point that I was trying to make.

Mr Kearney: I thank the Member for his intervention and I thank him for taking what I have said at face value. I can reassure him and his party that it is my resolve and intent, and that of my party, to seek to continue to work in a collegiate way with other members of the Executive, including his party colleague, the Minister of Health.

I intended to address the ministerial code later in my remarks. Yes, there are matters pertaining to the ministerial code and, yes, the ministerial code will be required to be amended. The ministerial code cannot be amended until the legislation completes its passage. An example of how we will address the ministerial code and the required amendment, consequential to the passage of the legislation, relates, for example, to functions. We will need to amend the functions in the Executive to ensure that that is reflected in the statutory functions.

Mr Wells: Will the Member give way?

Mr Kearney: Just let me finish, please.

It is, in the context of this discussion and with regard to a Minister's adherence to the ministerial code, for Ministers to make their assessment of what is deemed controversial and significant. The First Minister and deputy First Minister will determine whether an issue is significant and they will retain, in the context of the legislation, the capacity and the prerogative to call matters in.

Mr Wells: Will the Member give way?

Mr Kearney: Yes, briefly, please.

Mr Wells: The honourable Member for South Antrim, the junior Minister, should not be concerned about there being numerous interventions because this is such a crucial issue.

He made a couple of points. First, he said that the First Minister and deputy First Minister could make the decision but, of course, they would have to agree jointly to make the decision to call a matter in. They could not

disagree on the issue. So, in other words, if one party decides that it is not appropriate to bring it in, it will not happen.

Secondly, he made a point that I found somewhat surprising. He said that it is essential that the legislation is passed — I presume that he means today — in order for there to be discussion on the ministerial code. What would be wrong in delaying the final implementation of this legislation to allow the revised ministerial code to be published, and also for the definitions, which are so important to this legislation, to be out for public consultation? Neither he nor Mr Lyons has answered that fact, and nobody has produced the mythical planning applications that have to be dealt with between now and October. Will he answer why it is inappropriate to have a short delay to allow more scrutiny of the legislation?

Mr Kearney: I thank the Member for that intervention. At no stage did I imply that I was concerned or frustrated about the number of interventions at all, I simply suggested that it might be helpful to be brief in order that I could finish making my remarks in response to Mr Beattie. However, he is absolutely right: there is a requirement for us to use every opportunity in the process of the legislation's passage to subject issues to the appropriate scrutiny and debate. This is an opportunity for additional scrutiny, and I absolutely agree with him on that point.

Returning to Doug Beattie, he and Steve Aiken raised the issue of timing and the fact that we are using accelerated passage, and, to that extent, this point refers back to one of the elements of the last intervention. I think that we have to set all of this into the context of the last period of months. Our power-sharing Executive was re-established in the second week of January, and we are now at the end of July. Within a matter of weeks, the new Executive, the new power-sharing Government, were engulfed with the scale of managing COVID-19. The consequence of that was that 'New Decade, New Approach' and all the provisions in that document, to which every party in the Chamber made a contribution, has effectively been placed on ice. We have not yet had the space to design a Programme for Government. That also has been effectively placed on ice. The existential catastrophe of COVID-19 has effectively absorbed the focus and the attention on a whole-of-government basis. I say that with respect to the fact that every Member elected to the Assembly, on the basis that they are constituency representatives, has also been absorbed with the scale of demand arising from COVID-19.

It has only been in recent weeks that, with the imminence of the transition period for Brexit coming to a conclusion — I refer back to a point made by Mr O'Toole — the Executive have managed to start to address the scale and complexity of issues relating to withdrawal from Europe; five months before the transition period concludes.

The Minister for Infrastructure brought this matter to the Executive a couple of months ago as an issue that she believed required attention for remedy. She made the point that it was essential that legal clarity was obtained and the Executive discussed that matter, and, in turn, the Executive commissioned the legal opinion that was required in order to try to position ourselves to have the clarity and the ability to address planning issues with the Minister for Infrastructure. As Mr Muir pointed out, there were 38 applications in her in tray, some of them obviously being of greater imminence and significance.

As I have said already and said previously, using accelerated passage is not the ideal way of doing government, but it is the mechanism that exists to assist government in trying to navigate and manoeuvre circumstances created as a result of unintended consequences, and, for that reason, accelerated passage was commended, with a view to ensuring that the legislative basis existed, and specifically to avoid a situation where planning issues would drift into next year.

That takes me to Mr Muir's contribution, during which he pointed out that almost 40 applications are sitting parked with the Department for Infrastructure at this point, along with so many other elements of government that we have not had the capacity or the ability to address as a result of everything that has impacted us over the last four to five months. Mr Muir pointed out that we cannot afford to wait any longer on this matter. He made the point, echoing what was said by earlier contributors, that this legislation goes back to pre-Buick and post-St Andrews Agreement. I agree with him that it strikes the correct balance between the role of Ministers and the collective and collegiate basis of how the Executive should do their business. I have already touched on this matter, but he raised the issue of the ministerial code, and I can assure him that, yes, it will be updated. However, on his question as to whether planning issues can proceed prior to the amendment of the ministerial code, the answer to that is no. The ministerial code must be adjusted in order for the planning issues to proceed.

When we factor in time frames and timescales to how we are trying to do our business here, there is a process that we are following *[Interruption.]* There is a process that we are following, which is an attempt to try to get things expedited but mindful of the point that there are a number of steps that need to be taken. The danger in not proceeding with accelerated passage is that the can is kicked up the road until later in the year and we are left with the prospect, in 2021, of only then having the ability to deal —.

Mr Wells: Will the Member give way?

Mr Kearney: When I have finished my sentence, Mr Wells, if you do not mind.

Mr Wells: It is a very long sentence.

Mr Kearney: I am sorry?

Mr Deputy Speaker (Mr Beggs): Order.

Mr Kearney: If you keep interrupting me, Mr Wells, I will forget what sentence I am trying to articulate. Please.

We will end up with a situation, in 2021, where we have not advanced any of the planning issues that we hope to address.

3.15 pm

Mr Wells: Will the Member give way?

Mr Kearney: Yes.

Mr Wells: The honourable Member has let the cat out of the bag. The Member has said that planning applications cannot be considered until the new ministerial code has been adopted. Therefore, there is no rush. Obviously, it will take significant time to devise, publish and consult on that, so there is no reason why we cannot have a delay in the passage of the Bill to enable adequate consultation and public debate on it and analysis of the various legal opinions. At the end of the day, pushing it through today will not facilitate any planning application because it has to run in tandem with the new ministerial code. Why can he not allow the issue to be discussed again in the first week of October?

Mr Kearney: I thank the Member, once again, for his intervention, but he misses the point. The legislation must be passed and adopted in order for us then to make the necessary adjustments to the ministerial code. On the

basis of making the adjustments to the ministerial code, when we have concluded that process, we are in a position to start to address a number of the planning issues coming through from the Department for Infrastructure.

Mr Muir: Will the Minister give way?

Mr Kearney: Yes.

Mr Muir: This place came back at the beginning of January this year. If the Bill is passed, the ministerial code will have to be updated, and that will then have to be passed. Some Members talk about delaying things and the passage of the legislation until October. Does the Minister agree that it would be a damning indictment of this place if, for the whole year of 2020, the likelihood was that not one regionally significant planning application would be passed?

Mr Kearney: I thank the Member for his intervention. He makes an entirely valid point, which is the point that I have been trying to make. I have attempted to respect the issues raised by Members in relation to timing and accelerated passage. Some have asked, "Why the rush?". The Member makes the point that, when the amendments are made to the ministerial code, they will be put to the Assembly for scrutiny and potential amendment, which further adds to the process that we are involved in to get us to the stage at which we are, in fact, on a fit-for-purpose basis, in a position to deal with a number of the planning issues that remain extant.

Matthew O'Toole expressed caveats about accelerated passage. I have already indicated that I agree that it is not the best and ideal way of doing business. He also raised a question about the Irish protocol and whether it, in turn, also carried cross-cutting implications. He asked whether the legislation would impinge on the collective decision-making process relative to the Irish protocol. I think that the Member has raised that point before and perhaps he has received a response to it. The Executive deal with Brexit in a collective format. All the issues relating to withdrawal are brought to the attention of all Ministers in the Executive. We deal with them on the basis that it is an issue that requires the collective focus of all Ministers. Notwithstanding differences in the Executive in relation to withdrawal or otherwise, Brexit or otherwise, the reality is that we are where we are. We have the Irish protocol that needs to be implemented. It has cross-cutting ramifications, and the Executive are focused on dealing with those discussions collectively.

Steve Aiken began by expressing his concern that the legislation is bad and has long-term consequences, in his view, on the basis that, if bad legislation is passed, there can be unforeseen circumstances with negative results. He expressed doubts about what changes to the ministerial code would entail. I have attempted to address that issue with regard to remarks made by other Members. I make the point again: we are not in a position to amend the ministerial code, which will require amendment, until we have changed the law. As I said a short while ago, however, our Assembly will have the ability to approve the amendments.

Mr Beattie: I thank the Minister for giving way. I guess that the ministerial code is becoming quite an important part of this. If you look at section 28A(3) of the Northern Ireland Act 1998, you will see that there is nothing in there that states that you have to wait for legislative change before you can amend the ministerial code. You can change the ministerial code now. You can put a draft before the Assembly to allow Members to see what it will look like. Doing that would add to the Bill. Can you see the concerns? The more we dig into this, the more that it smacks of there being more scrutiny required, if we are pulling out things like that.

Mr Kearney: Yes, I accept that the Member has his own specific concerns about the legislation. He has made that clear. You made fulsome contributions yesterday. You tabled your amendments. Regrettably, from your point of view, those amendments were not agreed, because they did not secure the majority required. You did not persuade Members that the amendments would be of benefit to the quality or the substance of the Bill.

Mr Wells: Will the Minister give way?

Mr Kearney: Yes, Mr Wells.

Mr Wells: I am sorry to be awkward, junior Minister, but we have homed in on an absolutely vital issue here. You have said and Mr Lyons has said that you cannot amend the ministerial code without passing the Bill. There is no legal advice and no law that says that you cannot amend the ministerial code, regardless of what you do with the Bill. What is also important to note, however, is that, if you amend the ministerial code, that has to be approved by the House. That will, obviously, not be done until the autumn. There may well be amendments. There will be several stages to that. The main rationale therefore for you

rushing the Bill through now, which is to get planning applications, falls in its place, because you cannot do so without an amended ministerial code. That cannot be done until the autumn, so why can you not allow the Bill to be scrutinised further and bring it back at the stage that you are dealing with the ministerial code?

Mr Kearney: I thank the Member for his intervention. Again, he misses my point. We are attempting to create a situation in which we are in a position come the autumn and early winter to address the extant planning issues that have been congesting the Department for Infrastructure. Amendments to the ministerial code need to be brought to the Assembly for agreement. They must reflect the law, Mr Wells; otherwise, they will have no standing. You, in fact, are attempting to take the cart and put it before the horse.

Mr Wells: Will the Minister give way?

Mr Kearney: No, Mr Wells. I want to continue with my response to Mr Aiken.

Mr Wells's intervention was on the very point on which I left off. The examples that will require to be addressed in the context of changes to the ministerial code relate, for example, to those statutory functions and specifically to the provision of the exemption of certain planning decisions from the cross-cutting issues affecting the Executive. Mr Aiken, echoing what Doug Beattie said, was emphatic about seeking further delay to the legislation. Like Mr Wells, he suggested that there was no valid basis for not allowing further delay.

Dr Aiken: Will the Minister give way?

Mr Kearney: Yes.

Dr Aiken: The crux of the discussion so far has been about the ministerial code. If you have gone to the bother of rushing through this Bill via accelerated passage, there must be a draft ministerial code out there that you are expecting to come through. Can the Minister therefore publish that draft ministerial code so that all MLAs can have a look at it and decide where this needs to go? From what we have heard today, that is something that we at least need to see from the Executive.

Mr Kearney: I thank Mr Aiken for his intervention. I have instanced two of the examples that will require amendment and will be subject to discussion and will need to be brought to the Assembly for its assent. In the event that Members feel that there is a

requirement for a more expansive amendment to the ministerial code, the opportunity will exist through scrutiny and debate in the Chamber for that to be done.

Jim Wells then spoke and conflated his concerns about the legislation with the potential for a Sinn Féin, SDLP or Alliance Minister to erect Irish-language signage without community support. Once again, he raised the haste of the Bill's passage. I absolutely respect his democratic right to do so.

Mr Wells: Will the Minister give way?

Mr Kearney: Excuse me, Mr Wells. You have an awful habit of trying to make an intervention when I am halfway through a sentence.

I was trying to say that he once more raised his concern. As he has done throughout this debate and as he did yesterday, about the haste of the Bill's passage and expressed misgivings about the manner in which that is happening.

Mr Wells: The Minister is articulate, but he uses long sentences, so it can be difficult at times to ascertain when he is about to finish a sentence. It is not my intention to disrupt his flow of thought, as it were.

He raised the point that I alluded to about a Minister wanting to inflict Irish-language road signs on a community without its support. That has happened already in South Down with the district council. Mr Stalford said that a solo run could not be done on that because it was also an issue for the Department for Communities. He did not answer adequately how exactly that was significant to the Department for Communities or any other Department or how in court it would stand up as being significant and how we could stop a Minister doing that. The Minister now has a good opportunity to explain how my concerns and those of many unionists in South Down can be assuaged and why that could not happen because of this legislation. I just do not see it, and nor do many other legal experts.

Mr Stalford: Before the Minister resumes, may I respond?

Mr Kearney: Yes.

Mr Stalford: The Member referred to road signs and then to the experience of his constituents. He knows that he is comparing apples with oranges. He is referring to the corporate marketing used by the council. That is a council decision. They are not the

directional road signs. The sign that points people to Kilkeel is not in two languages. The Member knows that, and he is conflating one with the other.

Mr Wells: That does not answer my point.

Mr Stalford: It does.

Mr Kearney: I thank both Members for their interventions. Go díreach chun seo a rá mar Ghaeilgeoir agus mar Ghael leat, ionas go bhfuilimid ar an aon leathanach amháin. Ní ghlacaimse ar chor ar bith gur cheart go gcuirfí suas comharthaí sráide ná comharthaí bóithre in áit ar bith nuair nach bhfuil an pobail áitiúil toilteanach glacadh leis na comharthaí sin. Go díreach chun sin a rá leat. I will briefly translate: as a Gaeilgeoir, for not one moment would I countenance the notion of erecting Irish-language signs or bilingual signage in locations where they would be against the will of the local community, so it is entirely fallacious for you to conflate your concerns about the Bill with the issue of Irish-language signage. It betrays more about the approach that you have brought to the debate than about any serious thought or consideration to ensuring that we have good legislation. In fact, you are not too bad yourself, Mr Wells, at making long-winded statements and filibustering. You made a fair good fist of filibustering your way through yesterday and, by the appearance of things, today.

The context of the legislation has been set out. You will also know, due to your concerns and criticisms about the use of accelerated passage, that the scheduling of the Bill is a function of the Assembly of which you are a Member. Characteristic of your approach to the debate was your suggestion that some members of the DUP preferred to speak to you instead of their party officers. People will make of that statement what they will, but it is absolutely immaterial to this discussion. You repeated the view that the Bill should be parked because you are persuaded by the legal opinion of some. Of some.

Of course, as has been said throughout today, yesterday and previously, everyone is entitled to their opinion, including lawyers. You have posed many questions, but, notably, you have not answered the question relating to the logic of the legislation in the absence of a Programme for Government, which, I explained earlier, was part of the context that led us to the invidious situation where we were absent the legislation that was required to ensure that we could, in fact, proceed with the planning issues that remain extant.

Rachel Woods spoke and, as she has done before, reiterated her concerns about accelerated passage; she did so in a very succinct and clear way. I agree that climate issues are, and can be, of a cross-cutting nature. The sentiment of that is reflected in New Decade, New Approach. For the first time, we are seeing a whole-of-government focus on the climate crisis that affects our society and our global village. She asked "why now?" for this legislation and not at an earlier stage. With the indulgence of Rachel Woods, I hope that she accepts that I have tried to address that. She raised the issue of the ministerial codes and amending it subsequent to the legislation being passed. As I explained for a number of Members, it is not possible to make amendments to the ministerial code unless and until the amendments are consistent with the nature of the law that they are designed to reflect.

Miss Woods: I thank the Minister for giving way. The junior Minister stated earlier that all parties in the Chamber had input to the 'New Decade, New Approach' document, which is incorrect. Not all parties were part of that.

To get back to the matter at hand and the comments made by Mr Beattie, Mr Wells and Mr Aiken, what is the basis or advice to the Executive stating that this legislation must be enacted before the ministerial code is amended? Given that no application can actually progress without this, what happens if the ministerial code is not changed in the way that is needed for further scrutiny of the House, given that a change in the code can be subject to amendment?

Mr Kearney: I thank the Member for the intervention and she is right, but, again, I made the point that the issue of amendment to the ministerial code will be required to be subject to scrutiny by the Assembly, and that provides Members with an opportunity to assess whether those amendments are, in fact, robust and effective or require further alteration.

Dr Aiken: Will the junior Minister give way?

Mr Kearney: Yes.

Dr Aiken: Can the two junior Ministers assure the Assembly that, when this revision of the ministerial code comes forward, there will not be any form of accelerated passage on the discussions?

Mr Kearney: I thank the Member for his intervention. I am sure that his own Minister, in

our power-sharing Government and under the advice of his party leader, will ensure that those remarks are passed on to the Executive to be heard collectively.

Rachel Woods suggested that the legislation is not about planning and she criticised the planning process. I agree with her. I am on record as saying, in the Chamber and outside, that every aspect of our governmental process, including planning, which is so essential, needs to be further democratised and subject to greater levels of transparency and scrutiny. The point is to overlook the fact that the scrutiny process to which the Minister for Infrastructure will be subject, on any issues that he or she brings forward at any time in the future, including addressing the extant issues in their inbox.

I point the Member again to the context of recent months; that is not camouflage, that is reality. Everybody here has lived it, and it has put a cart and horse through our normal approach to good government and how we make decisions.

Mr Wells: Will the Minister give way?

Mr Kearney: No, I will not, Mr Wells.

Miss Woods is right to emphasise the need for better and more collaborative working. Even though her party is not a member of the Executive, it has a challenge function to perform in these institutions to ensure that that better, collaborative working is continuously maximised and achieved, and, to that extent, I draw a correlation to Mr Beattie's position, because, while we disagree, I absolutely affirm and agree with his right, whether as an individual MLA or on behalf of his party, to provide the challenge function in this debate. However, I agree —.

Mr Wells: Will the Minister give way?

Mr Kearney: No, Mr Wells, I will not give way. I am trying to bring the debate to a conclusion. You have had a fair crack of the whip several times.

I disagree with the Member that this is going to incentivise —.

Mr Wells: On a point of order.

Mr Kearney: That this is going to —.

Mr Wells: On a point of order.

Mr Kearney: That this is going to incentivise silo working in the Executive.

Mr Deputy Speaker (Mr Beggs): Point of order, Mr Wells.

Mr Wells: On a point of order, Mr Deputy Speaker. Throughout the debate, the Minister has failed to produce the advice that he has received that states that this legislation must be passed before the ministerial code can be amended. Will he produce that advice? It is an absolutely crucial aspect of the debate.

Mr Deputy Speaker (Mr Beggs): The Member ought to know that that was not a point of order.

Mr Kearney: I understand the Member's concerns about silo working. That is something that the Executive, on a collaborative basis, need to ensure does not happen. I believe that the legislation, if it is embraced in the correct spirit, will go some way to ensuring that we do not revert to silo working.

Gerry Carroll was the last Member to speak in the debate. He pointed out multiple concerns that had been raised with him over the past 24 hours about the imminence of final decision-making in relation to the legislation. He said that he does not believe that the Bill remedies the lack of transparency in our planning process. I have already made the point that we always need to do better in respect of scrutiny and transparency in planning issues — and much more. He suggested that the pandemic was being used to camouflage some sort of sleight of hand. I disagree with the Member on that. I do not see where he is coming from. We will agree to disagree politically, but, on this particular point, I just do not understand his logic. However, he does raise —.

Mr Carroll: Will the Member give way?

Mr Kearney: Yes.

Mr Carroll: I appreciate that we disagree on that point, but I would like to ask the Minister whether he has any concerns that health decisions could be taken down the line that are not considered significant or controversial, but which could be, and that such decisions may not be discussed at the Executive Committee and that his party would not have the chance to disagree with those decisions, vote against them or challenge them. I am not privy to the inner workings of the Executive, but it is a concern that has been flagged with me.

Mr Kearney: I thank the Member for his intervention. I am content that the clarity that will be introduced on cross-cutting issues will provide the reassurance that I hope that the Member will be content with.

He also asked a question about the Aarhus convention, which requires consultation on a range of environmental matters. This Bill reaffirms the position of decision-making on planning pre-Buick.

I want to conclude by commending all Members for their contribution to the debate. I hope that my fellow Minister and I have done our best to allay concerns, provide additional information and persuade Members that this is the correct position to take. I appreciate the fraternal manner in which the debate has taken place. Mar gheall air sin, molaim-se an Bille don Tionól.

Mr Wells: On a point of order, Mr Deputy Speaker. I believe that, unlike my last intervention, this actually is a point of order. Can you explain the ramifications of what is about to happen? Is it possible for the Bill to be put on hold and a final decision delayed until October? Are we putting ourselves on a trajectory that means that, if we go to a vote now, there is no way back and this Bill will become law? To put it another way, is it possible for the two junior Ministers to adopt a procedure that would enable us to come back to this in eight weeks' time?

Mr Deputy Speaker (Mr Beggs): The Member should be aware that, at the start of the debate, the motion was moved. Given that it was moved, we now face a decision, and Members have to take their decision accordingly. I am not aware of a procedure to stop a vote once a motion has been moved.

Question put.

Some Members: Aye.

Some Members: No.

Mr Deputy Speaker (Mr Beggs): Clear the Lobbies. The Question will be put again in three minutes. I remind Members that they should continue to uphold social-distancing measures and that those who have proxy voting arrangements in place should not come to the Chamber.

Before I put the Question again, I remind Members that it would be preferable if we could avoid a Division.

Question put a second time.

Some Members: Aye.

Some Members: No.

3.45 pm

Mr Deputy Speaker (Mr Beggs): 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. It is important that, during a Division, social distancing in the Chamber continues to be observed. In order to facilitate that, I ask the following: any Members in the Chamber who are not due to vote in person should consider leaving the Chamber until the Division has concluded. Those Members who wish to vote in the Lobbies on the opposite side of the Chamber to which they are sitting should leave the Chamber via the nearest door and enter the relevant Lobby via the Rotunda. Those remaining Members who are sitting closest to the Lobby doors should enter the Lobbies first. Any Member who has voted may then wish to leave the Chamber until the Division has concluded. Any Member who needs to vote in both Lobbies should not leave the Chamber.

I remind Members of the need to be patient at all times, to follow the instructions of the Lobby Clerks and to respect the need for social distancing.

The Assembly divided:

Ayes 58; Noes 13.

AYES

Ms Anderson, Dr Archibald, Ms Armstrong, Mr Blair, Mr Boylan, Ms S Bradley, Mr K Buchanan, Mrs Cameron, Mr Catney, Mr Dickson, Ms Dillon, Mrs Dodds, Ms Dolan, Mr Dunne, Mr Durkan, Ms Ennis, Ms Flynn, Mrs Foster, Mr Gildernew, Mr Givan, Ms Hargey, Mr Harvey, Ms Hunter, Mr Irwin, Mr Kearney, Ms C Kelly, Mrs D Kelly, Mr G Kelly, Ms Kimmins, Mrs Long, Mr Lynch, Mr Lyons, Mr Lyttle, Mr McAleer, Mr McCann, Mr McCrossan, Mr McGlone, Mr McGrath, Mr McGuigan, Mr McHugh, Ms McLaughlin, Mr McNulty, Ms Mallon, Mr Middleton, Mr Muir, Ms Mullan, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr O'Toole, Mr Poots, Mr Robinson, Ms Rogan, Mr Sheehan, Ms Sheerin, Mr Stalford, Mr Weir.

Tellers for the Ayes: Mr Harvey and Mr Sheehan

NOES

Dr Aiken, Mr Allen, Mr Allister, Ms Bailey, Mrs Barton, Mr Beattie, Mr Butler, Mr Carroll, Mr Chambers, Mr Nesbitt, Mr Stewart, Mr Wells, Miss Woods.

Tellers for the Noes: Mr Carroll and Mr Wells.

The following Members voted in both Lobbies and are therefore not counted in the result: Ms P Bradley, Mr T Buchanan, Mr Buckley, Ms Bunting, Mr Clarke, Mr Easton, Mr Frew, Mr Hilditch, Mr Humphrey, Miss McIlveen, Mr Storey

The following Members' votes were cast by their notified proxy in this Division:

Ms Armstrong voted for, Mr Blair, Mr Dickson, Mrs Long, Mr Lyttle and Mr Muir.

Mr Beattie voted for Mr Allister.

Mr K Buchanan voted for Mrs Cameron, Mrs Dodds, Mr Dunne, Mrs Foster, Mr Givan, Mr Harvey [Teller, Ayes], Mr Irwin, Mr Lyons, Mr Poots, Mr Robinson, Mr Stafford and Mr Weir.

Mr Butler voted for Mr Nesbitt.

Mr McGrath voted for Ms S Bradley, Mr Catney, Mr Durkan, Ms Hunter, Mrs D Kelly, Ms Mallon, Mr McCrossan, Mr McGlone, Ms McLaughlin, Mr McNulty and Mr O'Toole.

Mr O'Dowd voted for Ms Anderson, Dr Archibald, Mr Boylan, Ms Dillon, Ms Dolan, Ms Ennis, Ms Flynn, Mr Gildernew, Ms Hargey, Mr Kearney, Ms C Kelly, 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 [Teller, Ayes], and Ms Sheerin.

Miss Woods voted for Ms Bailey.

Question accordingly agreed to.

Resolved:

That the Executive Committee (Functions) Bill [NIA Bill 08/17-22] do now pass.

Mr Deputy Speaker (Mr Beggs): Before I put the Question on the Adjournment, I remind Members that it is anticipated that the next plenary sitting of the Assembly will be on Monday 7 September. The Business

Committee will meet on Wednesday 2 September, after which the Order Paper will be issued. During recess, meetings of the Ad Hoc Committee on the COVID-19 Response may be scheduled. Should that occur, Members will be notified in advance in the usual way.

Adjourned at 4.07 pm.

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