



# Official Report (Hansard)

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# Contents

<b>Assembly Business</b> .....	1
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## **Executive Committee Business**

Private Tenancies (Coronavirus Modifications) Bill: Consideration Stage .....	2
Domestic Abuse and Family Proceedings Bill: Second Stage .....	15
Private Tenancies (Coronavirus Modifications) Bill: Final Stage.....	57

# Assembly Members

Aiken, Steve (South Antrim)	Kearney, Declan (South Antrim)
Allen, Andy (East Belfast)	Kelly, Ms Catherine (West Tyrone)
Allister, Jim (North Antrim)	Kelly, Mrs Dolores (Upper Bann)
Anderson, Ms Martina (Foyle)	Kelly, Gerry (North Belfast)
Archibald, Dr Caoimhe (East Londonderry)	Kimmins, Ms Liz (Newry and Armagh)
Armstrong, Ms Kellie (Strangford)	Long, Mrs Naomi (East Belfast)
Bailey, Ms Clare (South Belfast)	Lunn, Trevor (Lagan Valley)
Barton, Mrs Rosemary (Fermanagh and South Tyrone)	Lynch, Seán (Fermanagh and South Tyrone)
Beattie, Doug (Upper Bann)	Lyons, Gordon (East Antrim)
Beggs, Roy (East Antrim)	Lyttle, Chris (East Belfast)
Blair, John (South Antrim)	McAleer, Declan (West Tyrone)
Boylan, Cathal (Newry and Armagh)	McCann, Fra (West Belfast)
Bradley, Maurice (East Londonderry)	McCrossan, Daniel (West Tyrone)
Bradley, Ms Paula (North Belfast)	McGlone, Patsy (Mid Ulster)
Bradley, Ms Sinéad (South Down)	McGrath, Colin (South Down)
Bradshaw, Ms Paula (South Belfast)	McGuigan, Philip (North Antrim)
Buchanan, Keith (Mid Ulster)	McHugh, Maolíosa (West Tyrone)
Buchanan, Thomas (West Tyrone)	McIlveen, Miss Michelle (Strangford)
Buckley, Jonathan (Upper Bann)	McLaughlin, Ms Sinead (Foyle)
Bunting, Ms Joanne (East Belfast)	McNulty, Justin (Newry and Armagh)
Butler, Robbie (Lagan Valley)	Mallon, Ms Nichola (North Belfast)
Cameron, Mrs Pam (South Antrim)	Maskey, Alex (Speaker)
Carroll, Gerry (West Belfast)	Middleton, Gary (Foyle)
Catney, Pat (Lagan Valley)	Muir, Andrew (North Down)
Chambers, Alan (North Down)	Mullan, Ms Karen (Foyle)
Clarke, Trevor (South Antrim)	Murphy, Conor (Newry and Armagh)
Dallat, John (East Londonderry)	Nesbitt, Mike (Strangford)
Dickson, Stewart (East Antrim)	Newton, Robin (East Belfast)
Dillon, Ms Linda (Mid Ulster)	Ní Chuilín, Ms Carál (North Belfast)
Dodds, Mrs Diane (Upper Bann)	O'Dowd, John (Upper Bann)
Dolan, Ms Jemma (Fermanagh and South Tyrone)	O'Neill, Mrs Michelle (Mid Ulster)
Dunne, Gordon (North Down)	O'Toole, Matthew (South Belfast)
Durkan, Mark (Foyle)	Poots, Edwin (Lagan Valley)
Easton, Alex (North Down)	Robinson, George (East Londonderry)
Ennis, Ms Sinéad (South Down)	Rogan, Ms Emma (South Down)
Flynn, Ms Órlaithí (West Belfast)	Sheehan, Pat (West Belfast)
Foster, Mrs Arlene (Fermanagh and South Tyrone)	Sheerin, Ms Emma (Mid Ulster)
Frew, Paul (North Antrim)	Stalford, Christopher (South Belfast)
Gildernew, Colm (Fermanagh and South Tyrone)	Stewart, John (East Antrim)
Givan, Paul (Lagan Valley)	Storey, Mervyn (North Antrim)
Hargey, Ms Deirdre (South Belfast)	Sugden, Ms Claire (East Londonderry)
Harvey, Harry (Strangford)	Swann, Robin (North Antrim)
Hilditch, David (East Antrim)	Weir, Peter (Strangford)
Humphrey, William (North Belfast)	Wells, Jim (South Down)
Irwin, William (Newry and Armagh)	Woods, Miss Rachel (North Down)

# Northern Ireland Assembly

Tuesday 28 April 2020

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

*Members observed two minutes' silence.*

## Assembly Business

**Mr Principal Deputy Speaker:** I wish to advise Members that we will suspend the sitting at 10:50 am to make preparations to observe a minute's silence in the Chamber in honour of those front-line workers who have lost their life in their efforts to save others during this pandemic.

Before we commence business, I also wish to advise Members that the Speaker has asked me to record that he has written to extend condolences to our former colleagues, Sir Jeffrey Donaldson and Oliver McMullan, who have both experienced close family bereavements this week. The Speaker has also given me leave to say a few words about the passing of Mr Charlie Poots.

Charlie Poots was born in 1929 and reared in the aftermath of the Great Depression and the Second World War. Although a farmer, he did not come from the landed interest and had to work very hard for everything that he ever owned. He stood for the old Northern Ireland Parliament in 1969 and was elected to Stormont in 1973 and 1975. Charlie faithfully served the people of Lisburn for 24 years on Lisburn council and rose to the office of deputy mayor.

Speaking as a DUP Assembly Member, I can say truthfully that but for the vision of people such as Charlie Poots and Ian Paisley, I would not be here. I wish to take this opportunity to extend my deepest sympathy to Angela and Joy, and to the Minister of Agriculture, Environment and Rural Affairs, Mr Edwin Poots, on the passing of his father.

**Mr Poots:** Thank you for the opportunity to reply briefly. First, I extend my sympathies to my friend and colleague Jeffrey Donaldson on the loss of his father and to Oliver McMullan, whose daughter has passed away. It is hugely tragic when a young person loses their life. I know that all our sympathies are with Oliver at

this time in going through the trauma that his family are going through.

I thank God for my mother and father and for the start that they gave me in life. It was not always easy and we did not always have lots of money or anything like that, but I had a really good start in life because I had good parents. As you indicated, he did not come from a big-house unionist background. He was a conviction politician, although he was a farmer first.

You can be thankful that you have me to deal with, Mr Principal Deputy Speaker, and not him, because he could be a little more fiery than me. I know that, on at least one occasion, he used unparliamentary language. On another occasion, Michael Heseltine was not the first to grab a mace. That was done by Professor Kennedy Lindsay, who leapt onto the Table that used to be in the centre of this room, and a mass brawl broke out between the Members. I know that dad was front, middle and centre of that, on that occasion. Dr Paisley always related a particular story about how he lost a button in the fray, and he got my sister to sew the button on. He had found it on the floor. Then my mother wondered why there was an odd button on his coat, so it was somebody else's button that had been found, and Dr Paisley always took great heart in telling that story.

One thing that I have often thought as I pass through the Lobby and see the death plates that are up there in memory of murdered colleagues is that dad could have been one of those, because, in 1976, the INLA attempted to murder him as he left Allam's market. The bullet hit the door of the car — the front, driver's door — and he narrowly avoided being murdered. I have to say that, as a young lad of 11, at that stage, I was quite bitter about that for many years. I watched my dad as he mixed and mingled with many people from the Roman Catholic community, which I had a personal bitterness about, as I was blaming an entire community for the foolish actions of a small number of individuals, and how he dealt with

that in such a gracious way. He worked very closely with people and held no bitterness, and that enabled me to overcome the bitterness that was in my heart that should not have been there in the first place. I will say this: bitterness burns up the individuals who are bitter, but it does not do any harm to the people whom they are bitter about. There is a lesson to be learned there for all of us.

Dad lived a long life. Although his health was not so good in his latter years, he had a good life. He had a prosperous life, one that was successful in so many areas. I thank God for him, and I thank you for your acknowledgement of him this morning, Mr Principal Deputy Speaker.

## Executive Committee Business

### Private Tenancies (Coronavirus Modifications) Bill: Consideration Stage

**Mr Principal Deputy Speaker:** I call the Minister for Communities, Ms Deirdre Hargey, to move the Bill.

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

**Mr Principal Deputy Speaker:** Members will have a copy of the Marshalled List of amendments, detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list.

There is a single group of amendments, amendment Nos 1 to 14, which deal with support for tenants and Assembly oversight, and we will debate the amendments in turn. The group includes amendments on an extension of the notice to quit period, retrospectivity, draft affirmative procedure and rent waiver.

Once the group debate is completed, the other amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

#### **Clause 1 (Notice to quit: private tenancies)**

**Mr Principal Deputy Speaker:** We now come to the single group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 14.

Members should note that amendment Nos 8 and 12 are consequential to amendment No 1. Therefore, if amendment No 1 is not made, I will not call amendment Nos 8 and 12. Amendment Nos 4, 5 and 6 are consequential to amendment No 3. Therefore, if amendment No 3 is not made, I will not call amendment Nos 4, 5 or 6. Amendment Nos 10 and 11 are consequential to amendment No 9. Therefore, if amendment No 9 is not made, I will not call amendment Nos 10 and 11.

**Mr Carroll:** I beg to move amendment No 1: In page 1, line 5, leave out from “12” to “weeks” on line 6 and insert “1 year”.

*The following amendments stood on the Marshallled List:*

No 2: In page 1, line 9, leave out from “with” to “Assent” on line 10 and insert “21 April 2020”.— *[Mr Carroll.]*

No 3: In page 1, line 11, leave out “with 30 September 2020” and insert

“1 year after the date of Royal Assent”.— *[Mr Carroll.]*

No 4: In page 1, line 12, leave out from “date” to “date” on line 13 and insert

“length of time specified in subsection (2)(b) to another specified length of time”.— *[Mr Carroll.]*

No 5: In page 1, line 15, leave out “date” and insert “length of time”.— *[Mr Carroll.]*

No 6: In page 1, line 16, leave out “date” and insert “length of time”.— *[Mr Carroll.]*

No 7: In page 1, line 18, leave out from “with” to “Assent” on line 19 and insert “21 April 2020”.— *[Mr Carroll.]*

No 8: In clause 2, page 2, line 4, leave out “12 weeks” and insert “1 year”.— *[Mr Carroll.]*

No 9: In clause 2, page 2, line 5, after “to” insert “a further”.— *[Mr Carroll.]*

No 10: In clause 2, page 2, line 6, after “than” insert “a further”.— *[Mr Carroll.]*

No 11: In clause 2, page 2, line 10, after “than” insert “a further”.— *[Mr Carroll.]*

No 12: In clause 2, page 2, line 12, leave out “12 weeks” and insert “1 year”.— *[Mr Carroll.]*

No 13: In clause 2, page 2, line 22, leave out “are subject to negative resolution” and insert

“may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly”.— *[Mr Carroll.]*

No 14: New Clause

After clause 2 insert —

“Rent waiver

2A. A private tenant may request from their landlord a waiver in rent if they have been financially impacted as a result of coronavirus, as defined in the Coronavirus Act 2020 (s.1), during the emergency period.”.— *[Mr Carroll.]*

**Mr Carroll:** I am glad to have the opportunity today to strengthen this necessary legislation to protect renters during the pandemic. Indeed, that is the aim of each of my amendments.

No one in this Chamber will be, or should be, uninformed about the crisis that renters are facing, particularly those who are low-paid workers, who have lost their job as a result of coronavirus, or who are students who have had to leave their student rental to isolate in family homes and are now being forced to continue to pay for a tenancy for many months, despite no longer living there. Unfortunately, we have heard disgraceful stories of healthcare workers being evicted with 24 hours' notice by their landlords for fear that they might carry the virus. Whilst most people are out clapping for and praising our NHS workers, some are shockingly trying to capitalise on this crisis. Distressingly, we have also heard stories in which a Belfast estate agent, confident that it cannot obtain rent from its student renters, has sought to recoup the money from the renters' guarantors. This is shocking behaviour, Mr Principal Deputy Speaker. While landlords can obviously avail themselves of mortgage and rates relief, some have seen the current crisis as an opportunity to extract more from their renters, and we should all condemn such shameful behaviour.

I want to stress, Mr Principal Deputy Speaker, that even if all the amendments that I move here today are accepted, the legislation will not go far enough, in my view, to protect those renters that I have mentioned. It would be a good start, for sure, but there needs to be urgent, strong legislation to ensure that those who no longer have a need for a property can end their tenancy contract early, and also that those who have been financially affected by the crisis are given a waiver of their rent. It would be better, moreover, if the Chamber would waive rents completely for this period. It is not so outlandish at this time; indeed, measures such as this have been taken elsewhere to protect the vulnerable. Another possible workaround could be to cap rents at housing benefit levels and extend housing benefits to those who have been affected by the crisis, so as to pay their rent. I would appreciate it if the

Minister could clarify whether Stormont has the ability to cap rents and whether she herself is in favour of that measure.

Moving on to the particulars of the amendments that I am moving today, I want to be clear that, without a rent waiver or rent cap in place, my aim is to limit the number of evictions during this period as far as possible. While we are asking people to stay at home to prevent the spread of this virus, we should do whatever we can to ensure that they have a home to stay in, for their own safety and the safety of their community and our health workers, and to prevent hospitals from breaching their capacity. Not only would a person evicted during this period lose their ability to isolate, but their means to find a new home would obviously be seriously restricted by social-distancing protocols and by the probability that they will have found themselves in financial hardship because of this crisis.

It is highly unlikely that we will have fully lifted the social-distancing protocols, the advice to stay at home or the advice that all non-essential staff should stay at home within the next 12 weeks. Indeed, it would be profoundly dangerous, based on the World Health Organization's advice, to do so. We have heard that a vaccine for COVID-19 may not be available until next year, and we know that it is very likely that we will have a second wave of this virus. Therefore, while the three-month extension in the Bill is certainly welcome, it unfortunately does not go far enough.

The Irish Government, the British Government and other Governments around the world, along with Chief Medical Officers and the World Health Organization, estimate that COVID-19 and the measures necessary to prevent its spread will probably be with us into 2021. We must ensure not only that we are adhering to that advice, but that we have protections for renters for as long as those COVID-19 measures are in place. That is why amendment No 1 seeks to extend the eviction notice period to one year. Amendment Nos 1, 3, 4, 5, 6 and 7 allow for that change to apply thematically throughout the legislation. This Bill, without that amendment of the applicable period, would allow landlords the possibility to begin evictions in July, or shortly after.

The next aim of my amendments is to allow renters who receive an eviction notice during the time between this Bill's introduction and when it is given Royal Assent to avail themselves of the extended notice period.

That is a simple enough measure. It would allow as many renters as possible to avail themselves of the new protections and allow us to implement them as early as possible. Unless there are robust guidelines in place that cover renters for the period just before the legislation is finally implemented, renters are left exposed. Legally speaking, their landlord could begin eviction proceedings, which would be to the detriment of vulnerable renters, students and people in low-paid jobs. For that reason, amendment No 2 seeks to extend the notice period retrospectively back to the date on which the Bill was published. Amendment Nos 8 to 12 allow for that amendment to apply thematically throughout the legislation.

#### 10.45 am

The final amendment, amendment No 13, aims to inject greater democracy into the legislative process. If accepted, it will mean that new legislation relating to exceptions to the extended notice period would have to be voted on in the House. The Bill currently does not stipulate that.

It is imperative that MLAs be allowed to scrutinise properly and improve the measures in the Bill by way of a positive vote in the Chamber, in order to ensure that the necessary oversight and accountability is possible. At a time when states have been imbued with far-reaching powers, we must ensure that democracy is not encroached on at any stage in the Assembly, especially when COVID-19 measures are being implemented. Indeed, we should strive to guarantee as much oversight and accountability as is possible during these unprecedented times. Throughout this crisis, my party has always called for maximum democracy and scrutiny.

If new guidelines are to be implemented in legislation, Mr Principal Deputy Speaker, surely Members should have the opportunity to debate, discuss and, if necessary, amend them. The measures will affect a lot of my constituents and the constituents of many others in the House, so surely we should settle for nothing less than maximum scrutiny at this time.

I will end my comments there and commend amendment Nos 1 to 13 to the House. For your reference, Mr Principal Deputy Speaker, I will not be moving amendment No 14.

**Mr Principal Deputy Speaker:** I thank the Member. I had said that we would suspend the sitting at around 10.50 am to allow parties to



make arrangements to observe the minute's silence for front-line workers. It is now 10.47 am, so, by leave of the Assembly, I think that we should suspend now, until 11.05 am. That will give people time to put their arrangements in place.

*The debate stood suspended.*

*The sitting was suspended at 10.47 am.*

*On resuming —*

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

In page 1, line 5, leave out from "12" to "weeks" on line 6 and insert "1 year".— *[Mr Carroll.]*

*The following amendments stood on the Marshallled List:*

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No 6: In page 1, line 16, leave out "date" and insert "length of time".— *[Mr Carroll.]*

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No 10: In clause 2, page 2, line 6, after "than" insert "a further".— *[Mr Carroll.]*

No 11: In clause 2, page 2, line 10, after "than" insert "a further".— *[Mr Carroll.]*

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No 14: New Clause

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2A. A private tenant may request from their landlord a waiver in rent if they have been financially impacted as a result of coronavirus, as defined in the Coronavirus Act 2020 (s.1), during the emergency period.".— *[Mr Carroll.]*

**Ms P Bradley:** Today I speak as a member of the Democratic Unionist Party and not as Chair of the Committee for Communities. The Committee has not had time to scrutinise these amendments, so I cannot give a Committee response on them. In saying that, Mr Carroll brought up the point about scrutiny and lack of scrutiny. As a Committee, we were in agreement that we would very much like to have more scrutiny on this, and I certainly would like to have had more scrutiny on your amendments. Sadly, that was not possible, but I know that the times that we are living in have made all of these things not possible. We have had to rush through legislation, and I think that the crux of that is that the legislation has to be proportional. I believe that the legislation as it stands is proportional to where we are at the moment, and, in the Bill, there are two clauses that will allow for the Bill to be altered.

I had a small debate with some other Members about amendment No 13. The Bill allows for this to be brought back to the Committee for it to extend it or whatever the case might be. You said that you would prefer it to be the Assembly as well as the Committee that look at this. In normal times, I would be saying that I wholeheartedly agree with that. My only concern is that we could be in the middle of summer recess by then, not that I think that summer recess will be like any other summer recess that we have had before. My only concern is that we would have to wait a further length of time to give notice or whatever else for the Assembly to reconvene.

I thank the Member for highlighting some of the issues that we spoke about when we the Committee was briefed by officials. I know that there are a lot of people who are going through some really bad financial uncertainty at this time, and there are many people who have lost their jobs. I would like to think that a safety net is in place to help those people when it comes to housing benefit, and the Member did bring up a very good point around housing benefit and the rates cap. Not all private rentals are of the same level as housing benefit, so maybe the Minister could address that.

I have been lobbied and have been contacted by various people in my constituency. Quite a lot of them are from the group who have been furloughed at 80% of their pay, and they have contacted their landlords to ask for a 20% reduction in their rent. Landlords have said no to that, which I think is scandalous. I think that it is absolutely dreadful that landlords have not responded to these people who, through no fault of their own, have been put on furlough and on reduced wages. I think that we need to encourage landlords to do that, and we need to be saying that, as part of this, landlords have a responsibility to people who want to pay their rent, albeit at a reduced rate.

I also feel for that age group. We know that, in today's times, a lot of children, including mine, do not leave home until much later, so they are living with their parents. However, we have a cohort of those between approximately the ages of 25 to 35 years who have left home and are in private rentals because, although they are saving, they cannot afford the 20% deposit to buy a house. It worries me that they have lost their jobs. They will have savings that they have worked really hard to build up for a deposit and that is seen as savings when they apply for housing benefit.

In all the legislation that has been passed here in recent weeks, there are swings and roundabouts. There are people who will benefit, but there are others who will fall through the cracks, and it will be much more difficult for them.

I am also a little bit concerned about extending the period, given that the so-called mortgage holiday is set at three months and if it does not continue. There are many good landlords. Many of them help their tenants and are actively speaking to them and have good relationships. I know that there are many bad landlords as well, and that people are living in some really horrendous conditions in some private rentals. I worry about those landlords who have to pay buy-to-rent mortgages. When those mortgages

have to be paid again because the mortgage holiday is over, if we were to run this any longer, we could end up with repossession by the banks in respect of those buy-to-rent mortgages.

**Mr Buckley:** I thank the Member for giving way. She raises a very important point. Would she agree that it is important that the Bill allows for the flexibility for this House to react as and when the situation develops? You mentioned potential changes to mortgage interest rates etc. It is important that the House maintains control and the ability to act as this situations unfolds.

**Ms P Bradley:** I thank the Member for his intervention and I absolutely agree. I think that it is important that the Bill allows us to react, to extend this and to make those decisions going forward.

I will make another point, which a Member raised and on which I have been lobbied, about student rents. I know that that does not fall wholly under the Department for Communities. Many students will have left their rental properties and are now living back with their parents, but there are others who are living in their student accommodation. It is their main place of residence and they have no choice, whether they are overseas students or students who do not have a home to go back to. We need to protect them so that they cannot face eviction, and that needs to be done in collaboration with the Department for the Economy, because I know that it does not lie fully at the door of Minister Hargey.

I agree with the Member's sentiment. I get it absolutely and I know that he is trying his very best to look out for the most vulnerable people in our community, but I would like to think that when we come to near the end of the 12-week period, this will be brought back to the Committee, where we can look at it again and, if it needs to be extended beyond that, we will take that proportionate approach.

**Ms Ennis:** Mr Principal Deputy Speaker, let us just call a spade a spade. What we have in these amendments is unnecessary time-wasting. We have all become depressingly familiar with "Publicity before People's" self-aggrandising brand of politics, but to use the passage of this Bill, which is designed to protect those in the private rented sector during the biggest health emergency in a generation, for their own propaganda purposes, is reprehensible.

Proposing amendments that are legislatively redundant, are highly susceptible to successful legal challenge or are outside the legislative competence of the Assembly tells me, quite frankly, that Mr Carroll has not done his homework. We spent considerable time in the Chamber last week arguing the need for the Bill to pass, and to pass quickly — that must happen so that the protections within it become effective now, when they are needed. To not support the Bill, or worse, to cynically delay it in an attempt to gain some perceived political advantage, will put lives in danger. That cannot, and will not, be tolerated, and it begs the question why Mr Carroll would bring such ill-thought out amendments to the Chamber in the first place, and whether he has considered the potential consequences of selfishly prolonging the progress of the Bill.

The Minister's focus and our focus here is on protecting people, not grandstanding. The real action and a genuine attempt to protect people in the private rented sector have been taken by this Minister. The Bill is necessary, and it provides those in the private rented sector with some protections during the crisis. The Bill will ensure that, in circumstances where someone in the private rented sector is struggling to pay rent through no fault of their own, they will have the certainty of a roof over their head and their landlord cannot move to evict them at this time. Introducing amendments that would make it harder for us to protect those people is, quite frankly, baffling, and for that reason, we will not support the amendments. We will support the Bill as proposed by the Minister.

**Mr Durkan:** I have approached today's debate like I approach every debate: with an open mind and a determination to secure what is best for people. I spoke at length last week on the aspects of the legislation that we in the SDLP might, in normal circumstances, use as a vehicle to deliver, with, primarily, a specific focus on students and the hardship that the current situation is causing them. I lamented that the legislation could not have been done sooner and that there was no provision to apply it retrospectively, but I also, following conversation with representatives of some of our most respected, responsible and reasonable groups working in the housing sector accepted the need for speed and their concerns that even well-intentioned, apparently helpful amendments may have unintended consequences and even jeopardise a Bill that, although not perfect, is certainly a very welcome piece of legislation to protect people in the private rented sector.

While we as a party have therefore resisted tabling amendments, that is not to say that we would or will view unfavourably any amendments that are tabled. I certainly understand and appreciate the intention behind Mr Carroll's amendments to afford what, on the face of it, appear to be ensuring more protection for tenants and to do so for longer by extending the period of protection against the issuing of notices to quit from 12 weeks to one year. Last week, I emphasised the importance of flexibility so that there is a mechanism whereby the period can be extended if necessary and for as long as is necessary. The Minister was, at that stage, able to give the assurance that that will be the case.

It is imperative that we as an Assembly do everything that we can to keep a roof over people's heads and food on their table during this crisis and beyond. I invite the Minister to reaffirm that position and to outline what risk there would be in changing the period to a year and with the same flexibilities in place to reduce or end that period of protection when necessary. That will be crucial in determining how we vote this morning.

If we can already do what Mr Carroll's amendments are asking us to do, what is the point of those amendments? I know that Mr Carroll said that he will not now move amendment No 14. I am glad to hear that because that is one that we would certainly vote against, and, in my view, it is superfluous. The other amendments deal with the extension of the period. It is vital that people know that we are doing all that we can to protect them, and I do not think that this is the place for political point-scoring from any side. I do not think that anyone should be attacked or demeaned for bringing amendments to a piece of legislation.

**Mr Butler:** Like the honourable Member across the Benches from up in the north of Northern Ireland, we believe that Mr Carroll tabled the amendments not for political purposes but because he has a heart for putting a roof over people's heads. However, that is not to say that we will support the amendments.

The Bill was drafted by the Department, and, whilst not perfect, under the circumstances, we feel that it is proportionate. It is essential that, as a Government, we strike a balance and ensure that we provide the best possible support for all our citizens across the country.

**11.15 am**

It is also worth remembering that there are good and bad landlords, as the honourable Member said. Likewise, there are good and challenging tenants. However, across the board, the majority of landlords and tenants are good and enjoy good relationships. I am aware of landlords who are working to support their tenants where they can during the pandemic, and I am engaged in dialogue in more complex examples.

The Government have announced a number of support packages that should help to support those who have been affected by the pandemic. As has been highlighted, there is the job retention scheme, discretionary housing payments and other avenues of support that I encourage tenants to explore should they experience financial hardship.

The Department's Make the Call service is a useful resource that can assist with navigating the social security system and eligibility criteria. We call upon landlords to work with tenants, where they can, to support and assist each other during this difficult period. Where a tenant is struggling, it is absolutely essential that they engage with their landlord to try to find a workable solution. That is already happening, and it is imperative that dialogue continues.

We feel that the amendments go beyond proportionality. There is no doubt that we should do all that we can to protect and support private tenants. However, that cannot be achieved through the alteration of the notice to quit period alone, and financial support packages are crucial. Research indicates that the majority of private sector landlords are not large companies, but individual landlords with one or two properties. Therefore, as I previously mentioned, it is imperative that the Bill is proportionate. The burden cannot simply be passed over to the landlord alone, there is a collective responsibility. Amendment Nos 1, 8 and 12 would alter the notice to quit period from 12 weeks to one year, which we would not support.

Amendment Nos 2 and 7 deal with the date on which the Bill has an effect. The Bill, as drafted, would take effect the day after Royal Assent. With Mr Carroll's amendment, the Bill would take effect from 21 April 2020. However, as we understand from the Minister, that would be problematic. Therefore, further clarity from the Minister would be required.

Amendment No 3 would change the ending with date of the Bill from 30 September 2020 to one year after the Royal Assent date. However, subsection 3 of the Bill provides for the

Department to amend by regulation, as required, the ending with date. That is sufficient, we believe, should it be required. Therefore, we do not support amendments Nos 4, 5 and 6 as they are mutually exclusive with amendment No 3.

Amendments No 9, 10 and 11 deal with the power to alter the notice period. Under the Bill, the Department can, by regulation, alter the notice to quit period from 12 weeks to six months, or any other specific periods that are less than six months. We feel that that is reasonable and proportionate and, therefore, we do not support the amendment.

Amendment No 13 deals with regulations under subsection 1. As drafted, they would be subject to negative resolution. However, we would be prepared to support the amendment and that would require a draft of any proposed regulation to be led before, and approved by, the resolution of the Assembly, allowing for democratic scrutiny and accountability.

Like Mr Durkan, we are glad to see that amendment No 14 was taken off.

**Ms Armstrong:** I join with others in commenting on the fact that when you table amendments, it is not done for political purposes, but with the best will. I believe that People Before Profit have tried to do that today.

I disagreed with Mr Carroll when he said that he does not want people to be evicted or to lose their homes. One way that people will lose their homes is if their landlord is bankrupted. One of the issues that we have seen with the coronavirus pandemic is the fact that, as people who are running businesses, landlords are also under pressure. While some of them have a mortgage holiday period, I would expect those landlords to pass that on to their tenants. As it stands, I cannot accept most of the amendments. To ask a landlord to give someone a year's notice — perhaps that tenant has not paid their rent and will not pay that rent for a year — will effectively put that landlord out of business, meaning that other tenants could lose their home.

The landlord/tenant relationship is not dealt with in any of the amendments or in the Bill. What we are finding now are landlords who are putting pressure on tenants. That is not something for which we can legislate. The Bill contains a notice period that may be extended, and the period of the Bill can be extended to cover people during the emergency. Perhaps, after the terrible pandemic is over, the Committee could have a further discussion with

the Minister in order to consider the improvements that we could make to private tenancies in the long term. For now, let us get over this piece.

I cannot support the extensions that Mr Carroll seeks. I do not think that they are reasonable or in keeping with the emergency situation that we are dealing with in the Bill. However, I can support amendment No 13. I believe in the openness, transparency and democracy of this place. I believe that there is time. The Minister knows that if someone were to be served 12 weeks' notice as soon as the Bill gets Royal Assent, the notice period would end in the last week of July or the first week of August. Therefore, there is time to bring amendments to the House to extend that period, if we remain in lockdown due to the pandemic at the end of June. I cannot support any of the other amendments. I do not think that they serve a purpose.

There is an issue with regard to students. Students have asked many of us about the issues that they have faced, which are less about being evicted and more about contract law. There must be a way in which we can work on contract law with DWP and the other devolved nations to consider students and the contracts that they undertake, so that, if there is a pandemic or crisis in the future, there will be a break clause to enable people to break their contracts earlier and not be faced with the financial penalties of trying to pay rent for places that they are not living in. That is a different matter.

I believe that amendment No 13 should be brought back to the Assembly and that we should have the right to consider it. If we are not going to complete a Committee Stage, the House should be allowed its democratic process.

**Mr O'Dowd:** Mr Carroll is being political. That is not an insult: he is a politician in a political chamber, among other politicians. Why would he not be political? If he is not being political, we are in the wrong room. We are in the wrong building. It is all politics. Let us not be naïve or shy away from the fact that people in this room conduct politics. I am proud of it, as, I am sure, all of you are. Let us do politics. Let us create politics. Let us make politics work.

The difficulty with Mr Carroll's amendments — everybody who has spoken so far has admitted it — is that many of them are unworkable and unnecessary. Other terms have been used. They are not proportionate or reasonable, other than, perhaps, amendment No 13, which is one

that is floating around as an idea for some people. I will return to it in a moment.

I enter any debate on legislation by asking whether it is necessary; whether it carries out the function for which it is required; and, of course, whether it can be improved. The legislation that is before us is necessary and carries out the function that is required. In his opening remarks, Mr Carroll referred to reports of health workers being evicted within 24 hours by unscrupulous landlords. I, too, have heard those reports. I do not think that that has happened in the North. I think that those reports refer to Britain. Let us be very clear: as I said in my previous contribution to the debate on the Bill a few weeks ago, it is against the law as it currently stands to evict a tenant with 24 hours' notice, a week's notice, three weeks' notice, or whatever it may be. No landlord can put a tenant out on the street without following proper court procedures. Mr Carroll's amendments will not resolve that issue. If an unscrupulous landlord pressurises and puts a tenant out on the street, it does not matter if there is a 12-week notice period or one-year notice period: that landlord is unscrupulous and is acting outside the law.

As advocates for citizens, we must ensure that they know their rights and send out a very clear message from the Chamber that no landlord can evict a tenant without following proper court procedures. The Bill's current provisions will offer tenants further protections. However, like any law or piece of legislation, it is useless unless it is enacted and enforced. Let each and every one of us ensure that the law will be enforced in the future.

The issue of students, understandably, arises during this debate because students have found themselves in very difficult positions, as have many landlords who are renting to students. The Minister told us in the last debate that she does not have the authority, or delegated authority, to deal with the students' issue. It is civil law; it comes from Westminster. So why raise the expectations of students, many of whom have emailed us, that somehow Mr Carroll's amendments are going to resolve that issue, because they are not. As well as being advocates for our constituents, let us be honest with them. The Minister cannot deal with that issue because she does not have the legal authority, neither does the Assembly and neither does Mr Carroll. If, by some miracle, his amendments passed, it would not become law because it would be ruled as being out of order. So let us be honest with our constituents on that matter.

With regard to amendment No 13, I fully adhere to the scrutiny of legislation, Ministers and the Executive. There is no question that there should be anything other than detailed scrutiny, but this legislation can be scrutinised by the Committee. The Committee has to deal with these matters, and during these difficult and very worrying times, there is a role and we will do things in a different way. This legislation is being done in a very different way, but the Committee's role is paramount and scrutiny of the Minister will be maintained. There is an issue of what will happen during the summer recess if there is a requirement to do something and the Assembly is not sitting — the Assembly may be sitting during the summer; we do not know. What happens during that period if the Minister cannot act in the way that is needed; we are left in limbo. There is a solution to amendment No 13. Members talked about it not being proportionate or reasonable; amendment No 13 is not necessary. It is not necessary because there is Assembly scrutiny of the Minister and her powers.

The most damning line from Mr Carroll is that he said that even if all of his amendments passed, the legislation would not be good enough. It begs the question: why did he not bring forward amendments that would have made the legislation good enough? He had an opportunity to do so. He has tabled 14 amendments and is moving 13. So, it comes back to my original point: Mr Carroll is being political, which is his right. The question that he has failed to answer is whether he is being legislatively competent. I do not think that he has passed that test.

We will be voting against the amendments, as tabled, because we believe that, in the circumstances, the Minister's legislation offers the protections required to those that it can offer protection to.

**Miss Woods:** I support the Bill. I will set out some views on the amendments, while supporting amendment No 13. I wish to thank the Minister for introducing the Bill, and for the countless other measures that she and her Department have announced recently. They have been extremely active and willing to move on many issues, and it must be noted that the Bill is another measure that has been introduced to try to protect people in light of the pandemic.

Northern Ireland is highly dependent on the private rented sector to meet housing need in the absence of a robust social housing new-build strategy. This is a wider issue but it must be recognised that the potential loss of a

section of the private rented sector leaves the market open for large-scale investment by absentee landlords more interested in profit than people. We do not wish for this to happen and the best of a bad situation must be reached.

A number of people are not protected by the legislation. That must be noted from the outset, as Members have done today and last week. For students, including those who are on fixed-term tenancies and those people who are guarantors for students, not being released from the tenancies early, negotiations with landlords are recommended and anything that is agreed needs to be in writing. Unpaid rent can constitute a break in the agreement and non-payment could open up legal proceedings. I hope that the Minister can engage with the Minister for the Economy and others to try to address issues for student tenants who are facing this, and I welcome the financial support payments that the Department has put in place so far.

#### 11.30 am

The Bill does not change the process for eviction, nor can it be described as a ban on evictions. It is important to reiterate that and to make it clear to as many people as possible. It simply changes the length of a notice to quit to 12 weeks, with two circumstances that mean that the notice cannot last longer than 12 weeks. It does not prevent tenants from being evicted through the emergency period. However, it is unlikely that any evictions will take place until the guidance to the court changes, due to the current guidance from the Lord Chief Justice, which is welcome. However, it does not protect tenants from eviction. The Bill does not protect those who commit serious antisocial behaviour during this period, but, without being too prescriptive, who decides what serious antisocial behaviour is? Nor does it mention licensees and the risk that they will face homelessness. I wish the Minister to address that later.

The Bill does not apply retrospectively, and that is something that Mr Carroll's amendments, on my reading of them, try to address. I wonder, however, while this does not take away from the stress of an awful situation that people may find themselves in, whether we know how many people could be affected if the date was changed to the 21 April. Legally, can that be done? That is crucial to this. We do not want to see tenants, landlords or, indeed, the Department being dragged through a legal battle. I hope that the Minister, landlords and tenants will take that on board.

The amendments would provide much-needed long-term security and peace of mind for those experiencing financial difficulties. In submitting them, Mr Carroll makes his good intentions clear. However, they raise a number of issues. Extending the notice period to one year means, in effect, that a tenant could accrue significant arrears by not paying rent for months and months and a landlord would not be able to seek a court order for eviction until the year was up. Given that many private landlords in Northern Ireland own only one property or a small number of properties and pay mortgages through rental income, the potential loss of income could mean a serious level of repossession and landlords losing their property. As I said earlier, since the private rented sector is crucial to housing in Northern Ireland, that is problematic.

Legally, interfering with a landlord's right to evict could raise the prospect of a judicial review on the basis that the state cannot determine how an individual's property is to be used. As the amendments could allow a private tenant to live in a property without paying rent for a considerable period, could the amendments be subject to legal challenge? The original intention of extending notice periods as soon as possible would therefore become difficult to enact. We need further clarity on that. Given the impracticalities of the proposed extensions to the notice period and the emergency period, it would be difficult to support the amendments in their current form.

Assembly oversight is worth discussing further; it is an interesting point to raise. Amendment No 13 would change the procedure through which the Department can amend the notice and emergency periods. Instead of that being done through regulations, the proposal is that changes to the notice or emergency periods:

*"may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly".*

We would welcome that. By opening up the possibility of greater scrutiny by the whole House, amendment No 13 appears to provide Assembly oversight of when and how the notice period can be changed through regulations. That is definitely something that we will support. The more chances we are given to perform a scrutiny role, the better.

I have questions on the practicalities of the Bill in general that I would like to raise. First, on communication, how will the contents and provisions of the Bill be explained to landlords and tenants, and how will they be

disseminated? Clear, concise direction needs to be issued on what the legislation means and what it does not mean. There are a number of key statements, and guidance needs to be issued on the Bill, especially that it is not a payment break for those renting. Moreover, how can landlords be protected from losing their properties at the end of the exemption period? What more could lenders do?

Secondly, what happens if tenants decide not to pay rent and do not enter into negotiations with the landlord? Landlords may be very worried about that, as it will be used as an excuse by some to stop paying rent. Issues such as debt and arrears could have unintended consequences. How will the Department define the exemptions and the level of proof, should they agree to extend the period? I urge anyone in such a situation to utilise the service available for mediation and housing advice, notably the ongoing work of Housing Rights.

We wish that the Bill would go further into many other avenues in order to address the fundamental need to protect those renting long term, but we understand the legal and practical difficulties of implementing them. Therefore, we urge the Minister and her Department to keep the issue under constant review and to bring forward such measures if required. The Bill cannot be seen as a simple solution to a complex problem, but we must ensure that relevant changes are made as soon as possible. We will therefore support the Bill in order to ensure the best mitigation that can be made through an expedited process now, alongside amendment No 13.

**Ms Hargey (The Minister for Communities):** I thank Members for their contributions and the proposer for the amendments. I will also group the amendments according to their four effects, but I know that one has been taken out.

In general, I ask Members to reject the amendments, although I am sure that the Member who tabled them did so in a good spirit. They would have either no effect or would risk reducing the protections for tenants. That is the key thrust for me. This is not your normal private tenancies Bill. Obviously, I would bring a more comprehensive Bill; that is the first thing to say. I would want it to have the full scrutiny of the House and the Committee. However, as has been said over the past few weeks when I have been here bringing through emergency legislation or regulation changes, we are not in normal times. We are in a crisis; we are in a public health emergency; we are in a global pandemic. As Minister for Communities, I am trying to respond to that global health emergency as quickly as possible. At times,

that means that I cannot bring things through by the proper processes, but that does not mean that we cannot have oversight. Obviously, that is important. It must be at the forefront of our minds that we ensure that we do not delay the protections being brought in. That is the big concern for me. Any undue delay will mean that people are not protected and we extend that situation for another few weeks. That would be unacceptable for anyone, as you will know from engaging with people who are being impacted. It is also important, as agreed last week, that the legislation moves as quickly as possible. Any changes will mean a delay in the legislation, and that will mean a delay in the protections. I understand 100% that people want oversight and accountability. In the normal run of things, that is what would happen, and I would have no problem with that. I do weekly tie-ins with the Chair of the Committee. I know that the Committee is keen to scrutinise, but any delay will mean that tenants will be unprotected for a period. That is the concern for me.

There is a proposal to change the 12-week period for notice to quit to one year. Believe me, I have tried to push that as much as I can to give as much protection as I can, but that amendment would distort the balance that the Bill strikes between rights. That is the fundamental issue. It would mean that the Bill was outside legislative competence, and it would likely be challenged; we know that. I am informed that that challenge would likely be successful. Therefore, while there may have been good intent behind that amendment, it would mean that, if the Bill were passed, it would do nothing and protect no one. It would fall to that legal challenge, and, therefore, there would be no protections for tenants.

The extension to 12 weeks is proportionate. It is a proportionate response to the current crisis. This is not normal private tenancy legislation, and the amendments were tabled in response to the public health emergency that we face. The other issues will be debated in the proper manner of primary legislation, but we are not in that space. We are responding to a public health emergency, an emergency such as we have never seen in our lifetime. The 12-week period is tied to the shielding period and the public health advice that people need to shield for 12 weeks if they receive a letter. As of last week, people were still receiving those shielding letters from their GP. That measure is to protect the most vulnerable and enable buy-to-let landlords to have the three-month mortgage holiday. Therefore I consider the interference with landlords' property rights lawful, justified and proportionate. An

appropriate balance has been struck to address the public health emergency in this period.

The amendment to request the Bill to take effect from 21 April would give a retrospective aspect to the legislation. That was considered during the policy-making process, and I touched on that last week. As I set out last week, taking account of legal advice received, I do not believe that it is possible to do so without making the legislation vulnerable to legal challenge. I would love to retrospectively have the legislation put back, but my reason for not moving on this is that you would get into legal challenge and debate. Again, that would delay the legislation. The point of the legislation is to bring protections in now, not to bring them in in two weeks. Any legal wrangling, argument or disagreement will delay the Bill's implementation. Therefore, you are actually working against what, you say, you are trying to do. That is the concern around trying to get into the debate around retrospective planning.

On the regulations extending the relevant period beyond 12 weeks — to look at draft affirmative procedure — that amendment would make things more complex if I needed to extend the notice-to-quit period. In all cases, the regulations are scrutinised by the Committee, but the main reason to reject the amendment is a practical one. A scenario in which the Assembly was not sitting, whether that was as a result of the coronavirus — we do not know how this will unfold over the coming weeks and months — or, possibly, because of the summer recess, is the reason that we have gone through accelerated passage and tried to hear the Bill over two days rather than over an extended period. We are trying to move it as quickly as possible to offer those protections. If medical advice comes out after the 12-week period saying that there is a second spike, there may be a new wave and we still need people to shield, I need to respond to that as quickly as possible. In my current legislation, that means that you do not have the full and proper scrutiny, but surely people can understand my reasons and intent for asking for that to be done. I do not want to be in a scenario where I cannot table the regulations because there is a summer recess and the Assembly is not sitting.

I give a commitment that the regulations will have the proper scrutiny of the Committee. I give a commitment that I will engage early in that scrutiny to allow the members of the Committee to take the time to look at that if there is a need to do that. Again, this is all predicated on public health advice and medical advice. That will be assessed as we move through this in the coming weeks. I ask for that



amendment to be rejected for those reasons to allow me to take that forward.

I know that the last amendment was withdrawn, but my Department issued guidance to tenants and landlords a few weeks ago. That guidance will be taken into account by the court service. We have had engagement with the court service and the Lord Chief Justice. I am bringing the protections in to try to protect the most vulnerable at this time as a response to the coronavirus. This is not trying to change the whole Private Tenancies Bill; that will be at another stage, and we will have the proper consideration. This is about bringing in protections here and now so that no one will be left homeless during this public health pandemic. Any delay on this of a week or two could push it back. It would have to be redrafted and go to the Departmental Solicitor's Office (DSO) and the Attorney General. It would have to go back to the Executive and to the Committee and then a result brought back to the Chamber. That is the concern for me. That is the only overriding fact for me. I want to get the protections in as soon as possible, so I ask Members to reject the amendments.

The last thing that I want to add relates to housing benefit, because it was raised. Obviously, there is a housing cost element to housing benefit and universal credit. People are entitled to the local housing allowance. That was set at the bottom end of private rents. In the past few years, that rate has been frozen. The local housing allowance freeze was lifted, and it has been increased for everyone. Due to the coronavirus outbreak, people who have become unemployed can now apply for discretionary housing payments to have their full rent covered for the 13 weeks. That protection extends to housing benefit for universal credit claimants.

**11.45 am**

**Mr Carroll:** I will do my best to sum up and reply as much as I can, but there is obviously a lot in that. Thanks for Members' comments and contributions.

Paula Bradley raised concerns, generally speaking, about the need to have more scrutiny. She said that legislation had to be proportional. Generally speaking, I respond to that by saying that there is not enough legislation in place across the board that supports renters. If we are to be proportional, we need a lot more legislation in place to support renters. She said that she would not support any of the amendments, if I am correct in summing her position up. Sinéad Ennis from

Sinn Féin said that the amendments were an attempt to cynically delay the Bill. I put it to her that the real question is why she and her party do not support amendments that strengthen the rights of tenants. Mr Durkan made a number of comments and he obviously defended the right to propose amendments. Perish the thought of Members trying to make amendments in a political Chamber. He defended the right to do so, and I thank him for that. Mr Butler raised concerns about all the amendments but indicated that he supported amendment No 13. He made some other points, obviously, as well. Kellie Armstrong, similarly, said that she could not accept most of the amendments. She raised concerns about the financial situation of some landlords and said that she could not support the amendments apart from amendment No 13. She also suggested the necessity for or, certainly, the consideration of a breakaway clause for renters at some point in the future. Mr O'Dowd said quite a lot: "unworkable", "not proportionate" and "not legislatively competent". I suggest that he speaks to the Bill Office, who said that the amendments were legislatively competent, workable and proportionate.

**Mr O'Dowd:** Will the Member give way?

**Mr Carroll:** No, I will not.

I am disappointed that the response from some in the Chamber to my amendments, which sought to strengthen the Bill in the interests of renters, was to attack. I thank those in the Chamber who took seriously the intention of the amendments. To be clear, Mr Principal Deputy Speaker, the amendments were drawn up in conjunction with renters and housing activists. They are, in my view and theirs, necessary to protect people during the crisis. It is very telling that it was met with defensiveness, deflection and attack in some quarters. Obviously, Mr O'Dowd mentioned politics and the right to be political, but there is a difference between politics and sheer political point scoring.

Rachel Woods mentioned concerns about renters, students and the need for security for tenants. She said that she would support amendment No 13, which, in my view, Mr Principal Deputy Speaker, is essential. Generally speaking, it seems to be accepted that we have learned the lessons of the renewable heat incentive (RHI) for democracy, scrutiny and accountability. If that is the case, I implore and encourage Members to support amendment No 13, if for no other reason than that.

I am concerned there was reference to and quite a number of comments about a summer

break. I take the point, but surely we should not consider a summer break before having legislation that is strong enough and doing whatever we need to do to make sure that it is in place to protect renters and people generally in this situation.

Generally speaking, we obviously are in an emergency situation, and emergency measures are needed. If they are subject to legal challenge by landlords, there is an onus on the House and on Ministers to challenge landlords in the courts, if necessary, and to stand up for and support tenants and people who are in rental accommodation.

In closing, the Minister mentioned a number of points about a balance of rights. I challenge that again. We need to stand up for renters at this time, and not enough is being done on that. We have seen measures in place for landlords and nowhere near enough measures in place for renters. We should not be afraid of challenging landlords even if that means in the courts.

The Minister also mentioned the 12-week period in line with the guidance in the shielding letters and the announcements made by the NHS. Obviously, as she will be aware, most medical officials and most organisations, such as the World Health Organization, have stated that the crisis is likely to go beyond 12 weeks.

A vaccine, as I said earlier, will not be available for the next year or so.

I commend the amendments to the House. I will leave my comments there.

**Mr Principal Deputy Speaker:** Thank you very much. I hope that the House will be kind with me. Since taking up this office, I have not been through a list of 14 amendments for vote. It has probably been three years since the House considered a substantive piece of legislation. If we are all nice to each other, we might get through to the other side of it.

***Clause 1 (Notice to quit: private tenancies)***

*Amendment No 1 negatived.*

*Amendment No 2 negatived.*

*Amendment No 3 negatived.*

**Mr Principal Deputy Speaker:** I will not call amendment Nos 4, 5 or 6, as they are consequential to amendment No 3, which was not made.

*Amendment No 7 negatived.*

***Clause 2 (Power to alter notice period)***

**Mr Principal Deputy Speaker:** I will not call amendment No 8, as it is consequential to amendment No 1, which has not been made.

*Amendment No 9 negatived.*

**Mr Principal Deputy Speaker:** I will not call amendment Nos 10 or 11, as they are consequential to amendment No 9, which has not been made. I will not call amendment No 12, as it is consequential to amendment No 1, which has not been made. *Amendment No 13 proposed:*

In clause 2, page 2, line 22, leave out "are subject to negative resolution" and insert

"may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly".— *[Mr Carroll.]*

**Mr Principal Deputy Speaker:** Before I put the Question, I remind Members that, if possible, given the current climate, it would be preferable to avoid a Division of the House. However, before the Assembly divides, I want to 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 must not enter the Lobbies.

It is important that, during any Division, social distancing in the Chamber continues to be observed. In order to facilitate that, I ask Members to do 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, and any Member who has voted may then wish to leave the Chamber until the Division has concluded.

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.

*Question put, That the amendment be made.*

*The Assembly divided:*

*Ayes 30; Noes 53.*

## **AYES**

*Dr Aiken, Mr Allen, Mr Allister, Ms Armstrong, Mrs Barton, Mr Beattie, Mr Beggs, Mr Blair, Ms S Bradley, Ms Bradshaw, Mr Butler, Mr Carroll, Mr Catney, Mr Chambers, Mr Dallat, Mr Dickson, Mr Durkan, Mrs D Kelly, Mr Lyttle, Mr McCrossan, Mr McGlone, Mr McGrath, Ms McLaughlin, Mr McNulty, Mr Muir, Mr Nesbitt, Mr O'Toole, Mr Stewart, Ms Sugden, Mr Swann.*

*Tellers for the Ayes: Mr Butler and Mr Carroll*

## **NOES**

*Ms Anderson, Dr Archibald, Mr Boylan, Mr M Bradley, Ms P Bradley, Mr K Buchanan, Mr T Buchanan, Mr Buckley, Ms Bunting, Mrs Cameron, Mr Clarke, Ms Dillon, Mrs Dodds, Ms Dolan, Mr Dunne, Mr Easton, Ms Ennis, Ms Flynn, Mrs Foster, Mr Frew, Mr Gildernew, Mr Givan, Ms Hargey, Mr Harvey, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kearney, Ms C Kelly, Mr G Kelly, Ms Kimmins, Mr Lynch, Mr Lyons, Mr McAleer, Mr McCann, Mr McGuigan, Mr McHugh, Miss McIlveen, Mr Middleton, Ms Mullan, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Mr Robinson, Ms Rogan, Mr Sheehan, Ms Sheerin, Mr Storey, Mr Weir, Mr Wells.*

*Tellers for the Noes: Mr Buckley and Ms Ennis*

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

*Ms Armstrong voted for Mr Blair, Ms Bradshaw, Mr Dickson, Mr Lyttle and Mr Muir.*

*Mr K Buchanan voted for Mr M Bradley, Ms P Bradley, Mr T Buchanan, Mr Buckley [Teller, Noes], Ms Bunting, Mr Clarke, Mrs Dodds, Mr Dunne, Mr Easton, Mrs Foster, Mr Frew, Mr Givan, Mr Harvey, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Lyons, Miss McIlveen, Mr Newton, Mr Poots, Mr Robinson, Mr Storey and Mr Weir.*

*Mr Butler [Teller, Ayes] voted for Mr Stewart and Mr Swann.*

*Mr Durkan voted for Ms S Bradley, Mr Catney, Mr Dallat, Mrs D Kelly, Mr McCrossan, Mr McGlone, Mr McGrath, 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 [Teller, Noes], 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 and Ms Sheerin.*

*Question accordingly negatived.*

**Mr Principal Deputy Speaker:** I ask Members to give us a few moments while we change the top Table.

*Clause 1 ordered to stand part of the Bill.*

*Clause 2 ordered to stand part of the Bill.*

## **New Clause**

*Amendment No 14 not moved.*

*Clause 3 ordered to stand part of the Bill.*

*Clauses 4 to 6 ordered to stand part of the Bill.*

*Long title agreed to.*

**Mr Principal Deputy Speaker:** That concludes the Consideration Stage of the Private Tenancies (Coronavirus Modifications) Bill. The Bill stands referred to the Speaker.

## **Domestic Abuse and Family Proceedings Bill: Second Stage**

**Mrs Long (The Minister of Justice):** I beg to move

*That the Second Stage of the Domestic Abuse and Family Proceedings Bill [NIA Bill 03/17-22] be agreed.*

Since becoming Justice Minister, I have made progressing domestic abuse legislation a key priority for my Department. The urgency of addressing the issue has become even more apparent during the current COVID-19 crisis. As we advise people to stay home, stay safe, save lives, we are also mindful that, for many in our community, home is not a safe place or a haven from harm. Instead, it is the very place where they are most vulnerable to abuse and to their abuser. Combined with physical distancing, which so often ends in social isolation, those already at risk have found themselves frequently without their most basic support networks or the temporary respite from abuse

that being able to leave their home, even for a short time, might bring, compounding their vulnerability and the risk of harm. To that end, across the Executive, we are working with statutory and voluntary sector partners to consider how best we can support those most affected, not only during this crisis but beyond it.

Whilst the current crisis has raised awareness of the plight of those who are victims of domestic abuse, it is imperative that our response is not temporary or fleeting, because domestic abuse is neither. The legislation is part of a strategic, long-term approach to tackle domestic abuse and violence in our community, and to protect victims. I, therefore, want to thank the Justice Committee for its cooperation in taking forward Second Reading and the Committee Stage, even though we are working in a most unusual environment. I hope that how importantly the Executive and Assembly view this issue will offer some reassurance to those suffering at the hands of an abuser. It also gives me the opportunity today to encourage people who are suffering abuse, who are vulnerable and who need help at this time to reach out, to call or email the helplines, to reach out to a friend or neighbour, or to call the police. Help is available. While you may be social distancing, you are definitely not alone.

It is right that, as I introduce the Bill, I focus first on the victims of domestic abuse: people of every class and creed, of every age, race, gender, gender identity or sexual orientation, from every workplace and community, our neighbours, our friends and even our families. They are people from right across Northern Ireland who wake every morning feeling anxious, isolated, controlled, trapped, degraded, humiliated or ashamed, always on their guard waiting for the next attack, whether that be physical or psychological, fearful in their home and, sometimes, fearful for their life. Their abuser may be a partner or former partner, a close family member, the person who sits across from them at the dinner table, a person with whom they have shared their life, their home and their vulnerability, someone they should be able to trust, but, tragically, cannot.

Since I took up post in January, a number of survivors of domestic abuse have bravely shared their experience with me and urged me to act to ensure that psychologically, financially and emotionally harmful behaviour is criminalised. I want to thank each of those who have done so, because they highlighted to me more effectively than any statistic what a diverse group of people is affected by domestic abuse.

Those of us of a certain vintage will have been conditioned by the stereotypical imagery surrounding domestic abuse: a female victim and a physically bigger, stronger and violent male perpetrator. While abuse against female victims still makes up the majority of domestic abuse reported, it is important that we recognise that anyone can be a victim and that the abuse itself can take many forms, including psychological, which may be a precursor to violence or an end in itself. Domestic abuse can be inflicted on anyone and by anyone, regardless of gender, gender identity, sexual orientation, class, education, race, colour, age, nationality or disability. At present, almost a third of crimes involving domestic abuse are perpetrated against men. We know that it does not have to leave a physical mark or scar for it to be abuse and cause harm to the victim.

In 2016, the then Justice Minister, David Ford, launched a public consultation that sought views on whether a specific offence should be created to capture patterns of coercive and controlling behaviour in intimate relationships. Respondents felt that creating a specific offence would send a clear message that domestic abuse, in all its forms, was a crime and would not be tolerated in our society. Consultees stated that any new offence should reflect the unique and specific nature of domestic abuse and recognise its repetitive nature. It is that repetitiveness that is key.

Respondents were also of the view that an offence would provide the police with the opportunity to intervene early and perhaps stop the escalation of domestic abuse. I echo that view. The police are currently attending incidents where coercive and controlling behaviour is present, but they are limited in what they can do as that behaviour on its own is not currently an offence. Consultation also highlighted that the offence should cover former partners, given that abuse and coercive control often continues and even escalates after separation. Sadly, experience has shown us that the risk of domestic homicide also increases at that point.

### 12.30 pm

The views of consultees regarding the seriousness and impact of psychological abuse were clear. I want to share with you just a few of the quotes from those who responded to the consultation, which I think drive that point home. One respondent said:

*"Slap me, punch me, kick me, but do not put me through one more hour of mental torture".*

Another said:

*"If I had a choice between being physically or mentally tortured, I would choose the beating".*

Yet another said:

*"If coercive control was a law, I would have gone to the police much earlier".*

These quotes speak for themselves in demonstrating exactly why a new domestic abuse offence is needed. The Bill, if passed by the House, would create an offence that recognises the experience of these victims and survivors and many more like them across Northern Ireland. It would capture the repetitive nature of abusive behaviour and its cumulative effect. While the Bill is not a panacea, it is not just a positive step in the right direction but perhaps a leap forward in the fight against domestic abuse in Northern Ireland. Before turning to the detail of the Bill, it may be helpful to briefly set out for Members what the Bill does not do and the rationale for the choices that have been made at this time. The Bill does not provide for a definition of domestic abuse, a domestic abuse commissioner, domestic abuse protection notices (DAPNs) or domestic abuse protection orders (DAPOs). I consider a definition in the legislation unnecessary in a local context, something that has already been discussed with our statutory and voluntary sector partners. The Bill sets out in quite some detail what abusive behaviour is. There would be nothing further to be gained, either legislatively or operationally, from a separate definition.

I remain to be convinced of the need for a domestic abuse commissioner. Given the very close and constructive working relationships with our key statutory and voluntary sector partners and the fact that a single police service covers the entire jurisdiction, it is unclear to me what additionality a commissioner would bring. Further, and while not a reason in and of itself, commissioners generally cost in the region of £1 million, money that would, in my view, be better invested in other services such as our new advocacy support service or behavioural change programmes to address abusive behaviour. However, I am listening carefully to representations in that regard.

By contrast, I see considerable merit in introducing domestic abuse protection notices

and orders, but I intend to do so through a future legislative vehicle. Their introduction requires significant work that would benefit from being informed by the practical experience of colleagues in England and Wales in their operation and utility. The opportunity to introduce DAPNs and DAPOs exists in the miscellaneous provisions Bill. I intend to take the miscellaneous provisions Bill forward next year, thus avoiding any delay in the enactment of this Bill, which we are all keen to see in place as soon as possible.

Turning to the detail of the Bill, those of you who have read it — I am sure that you have all read it — will know that it has 28 clauses and is divided into three parts. Part 1 includes the creation of a new domestic abuse offence, child aggravators associated with that offence, a general aggravation of domestic abuse associated with any other offence, and a number of associated changes to criminal procedures, evidence and sentencing in domestic abuse-related cases. Both the child and general aggravator would enable sentencing to be increased up to the maximum that would otherwise be available. As mentioned, the new offence will make it illegal for an individual to engage in a course of abusive behaviour — that is on at least two occasions — against an intimate partner, former partner or close family member. This could be a parent, grandparent, son, daughter, grandchild, partner, former partner, someone who you are in an intimate personal relationship with, a close family member or sibling. The offence will be subject to two conditions, first, that a reasonable person would consider that the course of behaviour would be likely to cause the person to suffer harm and, secondly, that the accused either intended to cause harm or was reckless as to the likelihood of doing so. As a result, the offence can be committed even if harm is not inflicted, reflecting the resilience of the victim or that, for many, abusive behaviour has effectively become normalised. It will be sufficient that a reasonable person would consider the behaviour likely to result in harm.

I am also clear that the devastating impact of familial domestic abuse on victims should not be underestimated and should be captured by this new offence. For example, an adult child abusing their parent would be captured as would a member of the LGBTQ community being subject to abuse in the familial home. However, I am not seeking to criminalise normal parental behaviour, such as a removal of a child's privileges as part of their discipline. Furthermore, I do not wish to legislate where legislation is already in place, as is the case with child protection. For those reasons, the

offence or an aggravated offence would not apply in the context of someone having parental responsibility for a young person. It is worth noting, however, that the provisions may apply where two teenagers are involved in an abusive relationship.

The overarching purpose of the new offence is to capture and criminalise patterns of non-physical behaviour — that is coercive or controlling behaviour that amounts to psychological, emotional or financial abuse. The Bill clearly sets out what amounts to abusive behaviour. Abusive behaviour by an offender includes behaviour that is physically or sexually violent, threatening or has a range of impacts on an individual. This includes making the victim feel subordinate, isolated, controlled or where their freedom of movement or action is restricted. Importantly, the description of abusive behaviour is not exhaustive and includes both direct behaviour towards the victim as well as their child or another person.

The effects of the abusive behaviour set out in the Bill are deliberately broad, recognising that each person's experience will be different. The type of behaviour may appear routine, but its aggregate effect causes the build-up of constant anxiety and fear. As the advertising campaign run by the police says, the victim is made to feel like they are walking on eggshells. The behaviour may be such that the abuser makes them feel frightened, humiliated or degraded or is behaviour that isolates them from family or friends, or involves the monitoring of their phone, their email or their social media use. The abuser might also use mind games to make the victim question their own sanity, gaslighting the victim to question whether the abuse is actually real.

In some cases, behaviour will be tailored to cause the victim as much upset as possible, but it may not be immediately obvious to others outside that relationship or even other family members. For example, a perpetrator humming a particular tune might seem trivial or even go unnoticed by other family members, friends or front-line services and the police, but it could have a specific meaning for the victim that causes them fear when considered alongside a series of other ongoing and persistent behaviours. Indeed, some perpetrators may use the fact that the behaviour appears trivial to make that victim question their own sanity and judgement. The offence created by this Bill is purposely broad to capture those types of nuanced behaviours.

As I have already mentioned, there needs to be a pattern of behaviour, and a reasonable

person would need to consider that the course of behaviour would be likely to cause harm to the person who suffers it. There would also be a defence, where a person can show that their course of action was reasonable. Evidence of this would need to be shown.

We also know that witnessing domestic abuse is devastating for children and can have a long-lasting impact on their well-being. For this reason, the Bill includes two child aggravators, where the offence is aggravated by virtue of the involvement of a young person. This will apply to the domestic abuse offence where the victim is under 18. It would also apply where a child sees, hears or is present during an incident of abuse, where they are used to abuse another person or where abusive behaviour is directed at them, enabling the sentencing to be increased up to the maximum available. I consider these provisions essential in recognising the damaging effect that domestic abuse can have on children. I also want to see domestic abuse recognised in other offences, in terms of the potential for increased sentencing where that is considered appropriate by the judiciary. For example, if someone damages their partner's car or property to cause them harm and fear, the offence of criminal damage could potentially have an increased sentence associated with it. The Bill gives effect to that through the inclusion of a statutory general aggravator.

Shamefully, some abusers also seek to use the criminal justice system itself to further victimise their partner, ex-partner or family member. For that reason, the Bill includes safeguards to prevent an abuser using the criminal justice process to further exert control and influence over a victim.

These provisions should help to minimise the trauma for the victim, while ensuring that the proper administration of justice is achieved. For example, the accused will be prevented from electing for trial by jury at the Crown Court in summary proceedings in relation to the domestic abuse offence. That builds on our existing provisions.

Those subject to a domestic abuse offence, or an aggravated offence, will automatically be eligible for consideration of special measures when giving evidence, which could include the use of live links or screens.

The provisions will also prohibit the cross-examination of an individual in a criminal court by the accused, where that relates to the domestic abuse offence, or an offence aggravated by domestic abuse. That provision

currently applies to sexual and trafficking offences.

Together, I believe that the provisions will help victims to give the best evidence that they can in court, and also reduce the number of victims disengaging from the criminal justice system.

Members may also be aware that the Istanbul Convention requires that the domestic abuse offence be created locally, and for extra-territorial jurisdiction to be extended to that. It would apply if the accused is habitually resident in Northern Ireland or is a UK national. The offence would, for example, cover incidents that take place when a couple or family members go on holiday outside the UK, therefore ensuring that the totality of the abusive behaviour can be brought before the courts. It would be for the police and the Public Prosecution Service to consider the evidence necessary for such a case to be brought forward.

It is also essential that we set a penalty that corresponds with the seriousness of the offence. Given the range of behaviours that domestic abuse often involves, and the serious and long-lasting harm it can have, the maximum penalty in the Magistrates' Courts will be 12 months' imprisonment, and 14 years in the Crown Court. It may also include a fine.

Naturally, the maximum sentence will be reserved for the most serious cases. It could relate to an offence that is entirely one of psychological abuse, which may have occurred over a significant time period. However, it is more likely to relate to coercive behaviour that includes both psychological and physical abuse.

Moving on, Part 2 of the Bill will make new statutory provision to protect victims of domestic abuse from being cross-examined by perpetrators, in person, in family proceedings. Just as perpetrators may seek to use the criminal justice system to further abuse and control their victim, the family justice system can be similarly exploited. Indeed, the family courts may be the first time that many victims have engaged with the justice system. In contrast with criminal proceedings, where there is already specific statutory provision to protect victims of sexual and other offences from being cross-examined by an unrepresented defendant in person, there is no corresponding provision for family proceedings.

The Gillen review of family justice highlighted that difference and recommended the introduction of legislation to make the same protection available to victims giving evidence

in family proceedings. Therefore, last summer the Department consulted on options for legislation, and consultees strongly supported the introduction of legislation.

The Bill provides for an automatic prohibition of cross-examination in person in certain circumstances and, in cases where that automatic prohibition does not apply, the court would have a discretionary power to prohibit cross-examination in person. The court will also have the power to appoint a legal representative, paid for by the Department, to carry out cross-examination on behalf of a person prohibited from doing so in person. These provisions will ensure that victims are supported to give their best evidence in the family courts, and that the courts continue to operate fairly to both parties.

#### 12.45 pm

Finally, Part 3 makes provision for the commencement of the Bill and gives my Department powers to make such transitional, transitory or savings provisions as it considers appropriate when bringing these provisions into operation. It also provides the Bill's short title.

Like many of you, I am impatient for change and want to see the timely passage of the Bill through the Assembly. I am, therefore, asking each of you for your support in keeping the Bill focused on its provisions, which are to deal with this new domestic abuse offence. I believe that any material policy amendments that you may wish to make can be better addressed through a future legislative vehicle. That is important to ensure that the offence can be brought forward without any further delay at this point, and I ask for the assistance of Members of this place, particularly members of the Justice Committee.

Much hard work has gone into bringing us to this point, so, in closing, I pay tribute to everyone who has helped us to reach this stage. There has been extensive engagement with our statutory and voluntary sector partners, with a multi-agency task and finish group established to consider the draft legislation. Importantly, as part of our deliberations, we also considered offences in other jurisdictions relating to controlling and coercive behaviour, including what is often perceived as the Scottish gold standard. Our offence locally is not only similar but goes further in that it includes abusive behaviour in an intimate partner relationship and familial abuse, reflecting our Government's strategy position.

Discussions with our partners have been ongoing on the Bill and on a wide range of other

policy areas. That has involved a range of voluntary sector partners, including the Women's Aid Federation, the Men's Advisory Project, Action on Elder Abuse, NSPCC, Nexus and the Rainbow Project, as well as representatives from the police, the Probation Board and the Public Prosecution Service. The Bill could not have been delivered without their input and assistance.

This is a significant piece of legislation that will help thousands of people across Northern Ireland who are experiencing domestic abuse. Abusers can wield power over their victims because it is not currently an offence to do so. Now is our chance to rectify that situation by criminalising psychological and emotionally harmful behaviour and sending out a clear message to perpetrators that their behaviour will not be tolerated and will be punished. I commend the Bill to the House.

**Mr Principal Deputy Speaker:** Thank you, Minister. The Second Stage of the Bill has been moved. In accordance with convention, the Business Committee has not allocated a time limit for the debate. I call the Chair of the Justice Committee, Mr Paul Givan.

**Mr Givan (The Chairperson of the Committee for Justice):** Thank you, Mr Principal Deputy Speaker. Before I speak about the Bill, this is the first opportunity that I have had in the House to pay my respects to my colleague and good friend Edwin Poots. We share a constituency, I have known the family for many years and I knew Charlie throughout that time. A lot of glowing tributes have been paid to him. I had one experience with him when out canvassing in a rural area. Charlie was in the car while I was at a door trying to engage with somebody. The horn — you would know about this if you knew Charlie — started blasting, and he shouted, "If you haven't got his vote by now, you're never going to get it. Move on!" *[Laughter.]* I had had literally only 60 seconds with the constituent. As I got back to the vehicle, I opened the door. I had one leg in, and off he went, so I was hanging out of the door while moving onto the next house. Patience was not necessarily one of Charlie's best qualities, but he was a big character and one who I owe a great deal to, particularly in Lagan Valley, as he was somebody who paved the way for the next generation of Democratic Unionists in that constituency. I just want to put on record my appreciation to him and my best wishes to Edwin, Angela, Joy and the wider family circle. Charlie's legacy lives on in his son, and it lives on in his grandchildren, who are actively engaged in politics and missionary

work across the world, which was something that Charlie held dear.

Moving on, I will speak on behalf of the Committee for Justice on the Domestic Abuse and Family Proceedings Bill. The Committee welcomes the Bill. It has been a long time coming, which the Minister acknowledged. Upon the restoration of the Assembly in January, one of the first things that I did, with the Deputy Chairperson of the Committee, Linda Dillon, was to encourage the Minister to bring this legislation through the Assembly. That was rather than continuing to use the domestic abuse Bill, which is going through Westminster, as the most appropriate legislative vehicle.

I note that Westminster is dealing with this issue today. I think that it is worth marking that both Parliaments are handling this issue at this time. While it may take slightly longer to have the legislation in place, that is far outweighed by the advantage of being able to scrutinise the provisions in depth and to make sure that the statutory and voluntary organisations and, most importantly, those who have suffered domestic abuse have a voice in shaping the legislation and in ensuring that it meets the specific needs in Northern Ireland. Therefore, I thank the Minister for giving the Assembly and the Committee for Justice the opportunity to do what we are primarily here to do: to pass legislation that meets the requirements of Northern Ireland and is as good as we can make it.

Home is where most people feel secure; it is a haven where you can relax with your loved ones. If you cannot feel safe in your home, where can you feel safe? Yet for many people — women, men, young and old — home becomes the worst place to be. It is a prison, a living nightmare, and the crime is committed by someone that supposedly loves them and that they should be able to trust. Police Service statistics show that, in the 12 months from 1 January 2019 to 31 December 2019, there were 31,705 domestic abuse incidents recorded in Northern Ireland, including 18,033 domestic abuse crimes. That is the highest of any 12-month period recorded since 2004-05. The number of crimes increased by 14.8% on the previous 12 months. Domestic abuse crimes made up 16.9% of all police recorded crime. Those figures only reflect the incidents reported. What about all the incidences of domestic violence and abuse that are never reported?

I know that I have quoted big numbers and sometimes you lose the scale of the problem in



statistics. Behind every single one of those figures are lives being destroyed, families being torn apart and the knock-on impact for the children who witness that abuse. That is a huge issue that needs to be dealt with and dealt with in the legislation. It can happen to anybody — young, old, men, women, heterosexual, LGBTQ, middle class, working class, in urban settings and in rural settings — and while still predominantly a crime suffered by women, the most recent figures show that almost one-third of domestic abuse crimes are against men.

In the current exceptional circumstances relating to COVID-19 and the need for social distancing and self-isolation, there are also genuine concerns that the incidences of domestic abuse will substantially increase and that victims will find it even more difficult to access the support and assistance that they so desperately need. Only this morning, figures released by the Police Service show that in the first three weeks of April, since the lockdown began, 1,919 calls have been received. That is an increase, on average, of 200 for a three-week period. Therefore, although crime has been falling in other areas — whether it is road traffic collisions — when it comes to domestic abuse, those crimes are increasing. Again, that reflects only those crimes that are being reported.

**Mrs Cameron:** I thank the Member for giving way. He rightly raised the point about the potential rise in domestic abuse, I have had contact with Women's Aid and with Hourglass — formerly Action on Elder Abuse Northern Ireland — and we have to recognise that elder abuse is domestic violence. I do not like the differentiation between the descriptions. Does the Member agree that it is right and proper that organisations such as Women's Aid and Hourglass are properly funded, given that they are expecting a downfall of up to 50% in their charitable funding and an increase of up to 50% in the need for their services and that, because of the pandemic, many victims are trapped in their homes and, until the restrictions start are lifted, may not even be able to access the help that they so desperately need?

**Mr Givan:** The Member makes her point very well. I know that the point has been raised and that the Minister is also aware of it and is engaging with the different voluntary organisations that provide that support. Women's Aid is one such organisation that does great work. It is important that they get the support that they need, given the increased prevalence of that type of abuse and crime that is now taking place. I know that, in Great Britain, there has also been an increase. That

increase has also manifested in increased murder rates. Often, it starts with domestic abuse and leads ultimately, tragically, to murder. Figures now show that that has happened in other jurisdictions. We need to be alert to that issue. I will come back to it when I make further remarks in my capacity as an individual Member.

It is important to recognise that domestic abuse is not limited only to physical abuse, horrific as that might be, and is usually not focused on one single incident but rather occurs over a period of time and includes a range of behaviours. Psychological abuse in the form of coercive and controlling behaviour can be just as pernicious as physical violence. Indeed, victims say that the impact of psychological abuse can be much greater and longer lasting. There is usually a slow transition, with victims realising only afterwards that the abnormal has become normalised to the extent that they do not recognise it as abusive behaviour. The controlling behaviour leads to lack of self-worth, loss of identity and dependency on the perpetrator, which is exploited with impunity.

The need for robust legislation to provide the necessary tools for statutory justice agencies to tackle domestic violence and abuse, take into account patterns of such behaviour over time and bring the perpetrators to justice is abundantly clear. At its meeting on 2 April, the Committee for Justice received an oral briefing on the Bill by departmental officials and discussed a range of issues. I thank the Department for providing that briefing. I appreciate that we are trying to limit our business due to the COVID-19 response. However, it is important that we continue to deal with pressing issues, of which that is one example.

The Minister outlined that the Bill provides for a new domestic abuse offence that focuses on non-physical abusive behaviour, which includes coercive control. Northern Ireland is currently the only part of the United Kingdom that is without legislation that criminalises such behaviour. Given the part that it plays in domestic abuse, without the inclusion of psychological, emotional and control issues along with physical damage, the police and legal system cannot support victims adequately and protect them from further abuse. The new offence is, therefore, to be welcomed. However, the Committee will wish to ensure that the new offence enhances existing legislation and, together with the conditions and description of abusive behaviour, is framed appropriately, addresses any gaps in current provision fully and is workable.

The Committee explored a number of issues with officials, including any potential difficulties with clause 12, which provides for a defence where a person can show that the course of behaviour was reasonable and, if a perpetrator uses court as a weapon against the victim — for example, by going back to court regularly or over a long period when they receive legal-aid funding and the victim does not — whether such behaviour can be considered in the context of abusive behaviour. The sort of crimes that would fall under clause 13 and whether a perpetrator could be charged and/or convicted of both were also discussed.

Domestic abuse can also have a devastating impact on the children who are involved. Experience shows that such behaviour can be replicated across generations if the cycle is not broken.

**Mr Principal Deputy Speaker:** I am sorry to interrupt the Member. The Business Committee has agreed to meet at 1.00 pm. I, therefore, propose, by leave of the Assembly, to suspend the sitting until 2.00 pm. When we return, the Chairperson of the Committee for Justice will be able to conclude his remarks. Thank you, Members.

*The debate stood suspended.*

*The sitting was suspended at 1.00 pm.*

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

**2.00 pm**

**Mr Deputy Speaker (Mr Beggs):** I invite the Chairperson of the Committee to complete his contribution.

**Mr Givan:** I will pick up from where I left off. Domestic abuse can have a devastating impact on the children involved, and experience shows that such behaviour can be replicated across generations if the cycle is not broken. The inclusion of aggravators in relation to a child in the Bill is, therefore, a welcome measure.

I turn to the provisions aimed at reducing the potential for a perpetrator to use the criminal justice system or the family court system to further abuse the victim. Victims frequently cite examples of abusers using the legal system and the court processes to continue the abuse, even after they have left the relationship and are trying to build a new life for themselves. It is essential to ensure that victims of domestic

abuse are not revictimised by contact with the criminal justice process and that victims have their needs taken into account at appropriate points in the process. The provisions that prohibit a person charged with domestic abuse from trial by jury, ensure special measures for the protection of witnesses in domestic abuse criminal proceedings and prevent the cross-examination of witnesses by persons accused of domestic abuse in criminal proceedings and in family proceedings will assist and support victims to give their best evidence. I note that Lord Justice Gillen, in his review of family justice, recommended such a measure for family proceedings.

Members also raised issues with officials that are currently not covered in the Bill, including domestic violence protection orders that could be applied for by the police and not just the victim; provision for special leave and time off work where domestic abuse is taking place; the granting of secure tenancies; and legislative provision to enable the Police Service to notify schools of domestic abuse incidents so that teachers are aware of the trauma that a child may have suffered the night before. I am sure that the Committee will wish to explore all of those issues and others at Committee Stage, which we have agreed to give priority to, assuming that it passes Second Stage today.

While I appreciate the Minister's wish for the Bill to pass through its stages as quickly as possible and am happy to assure her that the Committee will not take any more time than it requires, we will want to undertake robust and detailed scrutiny, take evidence from key stakeholders and, most importantly, hear the views of victims of domestic abuse to ensure that the legislative provisions are as effective as possible. Normally, a Committee could take up to six months to carry out its scrutiny work, but I intend to bring forward proposals to the Committee for a much shorter time frame. It has been talked about that this could become law and pass the relevant stages in spring of next year: I hope that it will be by the end of this year, if not before, and I will bring forward proposals in due course to facilitate that.

In preparation for the scrutiny of the legislation, the Committee has considered a research paper prepared by the Assembly's Research and Information Service on different approaches taken to criminalise coercive control in the United Kingdom and the Republic of Ireland. It has commissioned a further research paper on other domestic abuse-related legislative developments.

The provisions in the Bill closely mirror the Scottish legislation, which has been described by Professor Evan Stark — an internationally renowned expert on coercive control who briefed the previous Justice Committee in June 2016 on domestic abuse — as the new "gold standard" for criminalising coercive control and domestic abuse. Our aim must be to achieve at least the same, if not better, with this Bill. While the legislation will not solve all of the issues relating to domestic abuse and any effective response will require adequately resourced support to facilitate a victim's exit from a relationship and maintain their safety together with preventative measures, such as education programmes, it will improve the position.

The Department has advised the Committee that the Attorney General has informally expressed some reservations on competence-related areas in two aspects of the Bill: whether the new offence being drafted is sufficiently foreseeable and whether the criminalisation of behaviour occurring outside the United Kingdom forms part of the law of a country other than Northern Ireland. We will want to keep a watching brief on that area to ensure that the position is resolved satisfactorily before the Bill completes its passage through the Assembly. At this stage, as Chairman of the Committee, I want to indicate that the Committee and I support the principles behind the Bill.

I wish to make some comments in my capacity as a Member for Lagan Valley. Domestic abuse is an area on which all of us will have received representation or, indeed, may have had experience of. We may have family members who have endured domestic abuse in its various manifestations. I have heard at first hand from constituents who have suffered abuse of the most appalling nature. One example included physical and psychological abuse that children witnessed. It involved custody battles and court processes being used. It involved attempts to drive the victim to bankruptcy over land and property. That has had a hugely detrimental impact. The individual concerned has been able to get on with their life as best they can, but they will never have a normal life, as a result of the abuse that they have received.

It is an issue that we as, as Members, will, I know, take seriously and that we need to address. The Bill gives us an opportunity to do that. There are some aspects of the Bill that we will want to look at in more detail, including what it means to be "personally connected". In Scotland, it relates only to partners or former partners, regardless of whether they live

together. In England, family members are included, whilst partners not living together are excluded. The Northern Ireland Bill covers all those categories. We will want to look, as a party, at what it means. We need to get the definition right. We want to look at the scope of abusive behaviour. It is important, when considering abusive behaviour, that the Bill have teeth and effect when it comes to prosecution. We need to ensure that the legislation that prosecution is based on will provide the circumstances in which a successful prosecution can be made and that there is no ambiguity or the scope is so wide that the successful conviction of perpetrators is difficult. The scope of abusive behaviour is something that we will want to look at.

Another aspect that I want to flag up at this stage is the defence on grounds of "reasonableness" in clause 12. What does that mean? Define what it is to be "reasonable" for a defence to be provided. We will want to look at that in more detail.

Getting convictions for coercive control is something that we have not been able to do. The Minister highlighted that. Where the law has been in existence in England and Wales, for example, in the calendar year of 2017, there were 468 prosecutions and eight cautions for coercive or controlling behaviour. Two hundred and thirty-five offenders were convicted, and 223 were sentenced for the offence. For those sentenced to prison, the average sentence was 17 months. That demonstrates that there is a clear need and that there can be prosecutions for this type of offence. It already happens in other jurisdictions. We have not been able to do that, because, when the Assembly was brought down, this was one of the casualties. Legislation was going through the Assembly, but there were those who decided that it was better to bring the institution down than to keep it going. As a result, there are people who would have been convicted and imprisoned for this type of offence, had this place still been going. We can never allow a situation to return where victims pay the price of this institution not being up and running.

When we consider the impact of COVID-19, the regulations that are in place and the restrictions that are being placed on people, we note an increased number of calls to the police about domestic abuse. We have clearly communicated a message that we are to stay at home, save lives and protect the NHS, but, for victims of domestic abuse, staying at home means to be abused and not to have the opportunity to escape that abuse, because there is a fear that, when they, out of necessity,

cannot be in that environment, they somehow jeopardise the wider public good. It is important that the message starts to get out that the lockdown, in those terms, has consequences. The core objective is to save lives from COVID-19 and ensure that the NHS is not overwhelmed. When these draconian measures were introduced, they were modelled against a fatality rate of 15,000, at one point, then 3,000 and then 1,500. I understand the need for the draconian measures that were taken at the time, but they must be proportionate to achieving the core objective. The price that is being paid — not just on so many facets of public life — has a real impact when it comes to the victims of domestic abuse. When the Executive and the Minister of Health carry out their next review of the continuation of the current regulations, I am sure that they will be cognisant of the wider ramifications that they have on so many other aspects of life. I will contain my remarks to the impact that they have on those who suffer domestic abuse. The home has become a prison for many people, and they see no hope of getting out of it for as long as we continue with a message of lockdown and no conversation about what it looks like to get out of this.

We need to start giving people hope, because, in the absence of hope, there is increased concern about people's mental health. I have received representation from people about their concerns about their mental health because of the abuse that they have to sustain in the home. I am concerned about how that could subsequently manifest itself. Battles are taking place about access to children, and there are custody issues, where one parent believes that another parent is not looking after their child properly. That creates further tension in relationships. We need to make sure that our proposals are measured and proportionate.

There is some resumption of "normal business" in some areas — public and private. Courts are starting to take on work that they had stopped to focus on complying with regulations; the health service is starting to carry out other business that it had stopped to focus on COVID-19; and parks and cemeteries are reopening. Steps are being taken that indicate that some efforts are being made, but there is a concern that there is an inconsistency when it comes to the "Stay at home" message and those who suffer domestic abuse. It is vital that we get a consistent approach to the measures that are taken as we seek to move into what the "new normal" will look like. The new normal cannot be victims of domestic abuse being locked in their home and having to endure further abuse from the perpetrator. That cannot be tolerable, and we need to take cognisance of

that as we move forward with the measures that are being taken.

People do not see the justification for off-licences being permitted to stay open, for example, and the increased sales of alcohol, which are higher than they are in normal circumstances. Off-licences are open, but the message on other aspects is, "Stay at home". I understand why that is vital, but a price is being paid by people who are forced to stay at home when they suffer domestic abuse. Logic and rationality need to be applied. We are sitting in the Chamber: we are socially distanced, complying with public health advice and able to carry out some normal business. There are buildings much bigger than this. There are churches much bigger than this that are not allowed to open even for solitary individuals to go in to pray. Questions are being asked about the consistency of the approach that is being taken. If we do not have a consistent approach, we will start to lose the people, because they will not see it as being proportionate and having a rational basis and justification for its application.

I make that point in the spirit in which it is meant. We need to be very much aware of the price that is being paid in our efforts to protect lives in the pandemic that we are having to deal with.

## 2.15 pm

I look forward, if I can put it that way, to getting into the detail, but I know that it will be very difficult. When members hear that evidence at the Committee, it will challenge us. That will create its own pressures for members, but we are ultimately responsible for having to remain very clear-eyed and focused on producing effective legislation that is robust and can meet its ultimate objective of protecting people, reducing the incidences and, where there are prosecutions, that it is grounded in effective legislation that we secure those prosecutions. It cannot be so broad and so wide to be symbolic in nature that it loses the actual impact that it needs when the court processes are engaged.

**Ms Dillon:** I do not propose to repeat everything that has been said. I am sure that a lot of what we will say here today will be or could potentially be repetitive because, thankfully, most parties in the Chamber are on the same page in relation to the Bill. We are very supportive of the Bill and are grateful to the Minister for bringing it forward. We are grateful to the previous Justice Minister for the work that

was done on it also. That can only be a positive.

I agree with much of what Paul said in his opening remarks, particularly around the content of the Bill. I probably agree with him also in relation to the fact that those victims of domestic violence find themselves in a prison at this time with the perpetrators, and that is not acceptable. So, maybe when we move forward, those are the kind of things that need to be our priority. When we come out of this, is it those sections of people, is it those who suffer from mental ill health, is it young people who are in very difficult home situations who need to be looked at first? That is not something that we have to discuss in this Chamber right now. Those decisions will be taken by our Executive, but we could make those proposals to our Ministers and Executive. There is nothing to prevent us from doing so.

I thank the Minister for bringing this forward. I am glad that we are in the situation now where we can move forward with it. Even in the very difficult circumstances that we are in, the Committee has given a strong commitment and the Chair has outlined that we will move forward in as timely a manner as is possible, but we need to get this legislation right. It is not good enough to come out at the end of this and say, "We are all wonderful. We passed this Bill. We did what we said we would do" if it is not effective and it is not going to meet the needs of the victims. For that reason, we need to listen to the organisations that represent them, whether it be Women's Aid, the Men's Advisory Project or any other organisation, and very particularly and specifically, as has been outlined, the victims themselves, because lived experience in any of these issues has to be what guides us in what we deliver. The lived experience will tell us what will meet the needs of those victims. This legislation, at least, is only one part of that.

I am hopeful that the Minister will work very closely with all her Executive colleagues in relation to addressing domestic abuse because this is not just about bringing forward legislation and creating the circumstances in which people can be imprisoned for carrying out this kind of abuse. It is about, first of all, trying to prevent it. It is about education. It is about educating ourselves, first of all, it is about educating those around us and educating our young people as to what a healthy relationship looks like and what an unhealthy relationship looks like.

As has been outlined, very often, for young people who grow up in homes with families who have unhealthy relationships, that is their normal. We talk about the new normal in

relation to coronavirus, but that is the normal for many of those young people. Those unhealthy relationships, whether it is physical or psychological torture or sexual abuse, it is their normal, and it is very difficult to break that cycle. We need, as an Executive and as a Government, to find a way to break that cycle. I do not want to be at the point where we have to enforce the legislation, where we have to put people in prison. I want to be at the point where we stop abuse from happening in the first place. Therefore, for me, there needs to be a big focus on that, and this legislation gives us an opportunity to have those conversations. We can no longer have Ministers working in silos on these issues. We talk about Ministers needing to work together on mental health — this is the same. We need to have a proper, good and robust strategy on domestic abuse.

The Minister said earlier that maximum sentences would most likely be applied in cases where there is this type of coercive control in conjunction with physical violence, and I understand why that might be the case. However, I do not necessarily accept it, because we have seen many examples where a hand has never been lifted during the entire relationship — it has been coercive control the whole way through it — and, very often, those are the cases that end up in murder. People ask, "How did that happen?", and they never raised their hand and there was never any physical violence, but that is because they had the control. The minute that they lost that control is when they went to the other extreme. They never did the in-between. Therefore, we need to make sure that those who are the perpetrators of very serious coercive control do actually receive the maximum sentences, even if they have never carried out any acts of physical violence because it is equally as bad. Some of what has been said about what victims have said will tell you that, for some, it is worse. We need to look at all those issues.

As a Committee, we will look at the detail of the Bill. Again, some of the issues have been raised here. I understand what the Minister said about the orders and notices and not wanting to delay this Bill, but, again, we want to get it right. I want to make sure that when we come out the other side of this, we have a Bill that will genuinely and effectively meet the needs of victims. I have some concern that the notices and orders do not feature in the Bill. I know that the Minister said that she will include them in the miscellaneous Bill, and I do not doubt her intention. However, I am concerned that, with everything that is going on with coronavirus, and we do not know when that will end, and then we will have Brexit, we could end up in a

position where the miscellaneous Bill does not get introduced in this mandate. However, I accept that it is very much the Minister's intention that it will, but what the reality will be, I do not know.

Therefore, the notices and orders, for me, are extremely important. One of the issues that I have met repeatedly when dealing with victims of domestic abuse, and other types of issues as well, is around non-molestation orders. In cases of domestic abuse in particular, the non-molestation orders are not working. They are not effective. First, because many of the people who need them most cannot afford to get them. Furthermore, where they do succeed in putting a non-molestation order in place, the perpetrators can bring them back to court very quickly after it has been put in place, which means greater cost, and, very often, the orders are removed very quickly. They have been very ineffective to date in many of the cases that I have been dealing with for constituents and with people who I know. My main concern is that the notices and orders could possibly be a way to give victims the space that they need to get things in order, meaning that they could leave their home or stay in it in a safe way. For me, this is not about punishment. It is about protecting life. It is about protecting victims. It is about protecting families. Therefore, when you send the perpetrator of this type of abuse to prison, although there is a punishment element — the perpetrator will feel that it is very much a punishment — for me, it is about protecting the victim. It is about ensuring that the perpetrator can no longer carry out those kinds of activities against that victim. That protective element needs to be recognised, first and foremost. That is why, for me, the public orders and notices are very important, Minister. Obviously, as a Committee, we have an opportunity to bring forward amendments, and as individuals. I would prefer not to. I would prefer us to have a good Bill that we can all support and not to have to make amendments to that.

I welcome the fact that the Minister has included the protection that families, children and victims cannot be cross-examined by a perpetrator. That is very welcome. As a party, we responded to the consultation to say that we would support that.

In the round, this is a good Bill. We will, I imagine, support most of what is in it, but we will have to scrutinise it. Paul is right: we will need to look at it to see whether it is all doable and will give the best outcomes. As a Committee, we will ensure that we scrutinise the Bill in a timely manner. We gave that commitment to the Minister, and she has

welcomed that we will do that. In taking evidence, we are faced with difficult circumstances, but we will meet those challenges and make sure that we get evidence. As I outlined, we need to meet the needs of the victims and ensure that what we come out with at the other end is something that will let them say, "I have faith now that, if I go to the police or the authorities, I will get the outcome that I need to protect me and my family and to ensure that the perpetrator is held to account."

We support the Bill.

**Mrs D Kelly:** On behalf of the SDLP, I welcome the Bill. Like Paul Givan, I regret the length of time that it has taken. There was much ambition in the 2015 Justice miscellaneous Bill that some of the provisions contained in this legislation would have been in statute long before now. It is right that, over the last number of months, we listened to the key stakeholders, because we were much tempted to piggyback on the Westminster legislation in the absence of a devolved Assembly. It is right and proper that this legislature takes account of the stakeholders and the people of this jurisdiction and puts in place legislation that responds to their concerns. Minister, I welcome your speedy response in making this one of the key priorities of your time in office.

There are a couple of points that I want to pick up on, but first I would like some clarity. I understood that the protection orders and notices were already in statute as a result of the 2015 legislation, but that the guidance on that had not been effected because of the suspension of the Assembly. That was one of the responses that I received from the PSNI in the last couple of years when I asked why it had not been enacted. One of the things that prompted me to ask about the protection notices and orders was the number of children who had to flee their homes, along with the mother, while the perpetrator was often able to stay in the family home. There was little by way of refuge for the family. In 2014, something like 11,000 or 14,000 children had to flee alongside a parent.

Minister, I am conscious that legislation is one thing, but we need to put some money behind it. Non-legislative arrangements need to be supported, whether it is Women's Aid, refuges or Barnardo's. Those are key organisations that play a vital role in protecting women and in helping to achieve better outcomes for the children who are impacted by domestic abuse and violence. I am grateful to Barnardo's for its policy briefing paper. One of the points that it

raises is that children learn what they see and live with. There are issues about how we can break the cycle of violence if we do not put in proper care and counselling and commit to improving outcomes for children who have witnessed domestic violence. Like other Members who spoke on this, I am conscious of the rise, during the lockdown, in the number of domestic abuse incidents that have been reported to the police. It is probably vastly under-reported. I heard from some district policing areas that some of the reports that have come through are from older children who are in the family home as a consequence of lockdown and have seen the abuse.

A great deal of work has been done over the last few years by many organisations and individuals to highlight the scar of domestic abuse and violence in society. In the past, it has been very much a taboo subject. Work has been done, and there is a lot more to do.

### 2.30 pm

I welcome the cross-jurisdictional nature of the legislation, Minister, at clause 10. If abusers think that they can carry on abuse somewhere outside of Northern Ireland and that they will not be chased, I welcome clause 10, which gives them no hiding place. That is essential.

Others have made reference to a register of domestic abuse offenders. I wonder what your thoughts are on that, because the sex offenders register has, I think, proven itself to be a critical tool in moderating in some way, and certainly in keeping tabs on, some of the worst sexual offenders.

As Members have referred to, the legislation is much more widespread in terms of the relationship definition, if you like, to which domestic abuse can apply, and I welcome that.

I welcome the Minister's reference to the Gillen report and her having taken on board some of the recommendations of that very comprehensive report.

Minister, there were one or two other points that I wanted to make around investment in Women's Aid and the refuge and whether you can share with the Assembly any commitments in the forthcoming budget for additional moneys to support women and children who have been abused. I have felt for a long time that, while a lot of lip service is paid and lots of tears are shed at the plight of some, when it comes to resourcing, specialists in that field, very often, are left to scratch around annually for charitable donations and the crumbs off the Executive's

table. So the Minister certainly would have my and my party's support as regards any forthcoming budget statement, because we want to see money included to help implement the legislation and to resource people affected by domestic violence and abuse.

**Mr Beattie:** I thank the Justice Minister for driving this Bill forward. Certainly, her words painted a very vivid picture of domestic abuse and domestic violence, but I guess none of us really knows just how bad it is unless we have been intimately involved with it.

I want to make some general points, briefly, about the here and now, the Bill itself and what will happen in the future. I remember reading a tweet, not so long ago, which I found mildly amusing. It said:

*"Open the pubs before we all become alcoholics."*

There is a point behind that, which is that off-licence sales of alcohol have increased threefold since we went into lockdown. So there is a real problem in the here and now, because alcohol feeds domestic abuse in that environment. It is something that we have to look at, because domestic abuse has increased since we went into lockdown, and 90% of children in a violent home know that violence is taking place; 75% of those children have seen the violence taking place and 27% have been the subject of that violence; they have had violence perpetrated against them. That is the here and now that I am talking about.

Justice cannot just sit in a holding pattern as this goes on, while we all wait for this Bill to come in. We have to do something. The Justice Minister alluded to speaking to statutory agencies about what we are doing about the increase in domestic violence now, and I would be keen to hear a little bit more detail about what that actually means. What is actually happening? What is the Justice Minister doing right now as part of this COVID-19 crisis?

There are some general points that I would like to mention, bearing in mind that we are going to scrutinise this. I absolutely agree with Paul and Linda that there is time to really get into the weeds as regards this, and we will do so in the coming months to drive this forward. I really hope we can do that and have it put into legislation by the end of the year.

There is a discussion to be had about a commissioner, whether it is a commissioner for domestic violence or a commissioner for the victims of crime. I have mentioned this before,

and I do not apologise for mentioning it again, but we need a commissioner for victims of crime in general. If we look at it, we can see that we have a Children's Commissioner, and children are subject to domestic violence so there is a link there. We have a Commissioner for Older People, and older people are subject to domestic violence as well. We are going to have a mental health champion thanks to our Health Minister, Robin Swann, and a long campaign fought by my colleague Mike Nesbitt. Of course, the police deal with the homicides that come out of domestic violence. So, there is a place for a commissioner, whether it is a domestic violence commissioner or a commissioner for the victims of crime; I would rather go for the latter.

I am really pleased that people have talked about domestic violence against males, because all too often that is forgotten. Paul Givan brought out the stat that one in three domestic violence crimes are perpetrated against men. In a previous life, I had dealings with men who had been subjected to domestic violence. It is insidious and strips them of their dignity. While we all know that the vast majority of people who fall foul of domestic violence are female — and we do not belittle that — we have to always ensure that males are not forgotten. Much of the abuse against males is due to their older children physically, verbally and financially abusing them, which is something that we must look at. We must promote the men's advisory project; somewhere that they can go to get help, get advice and get one-on-one counselling. Again, that is not promoted as much as it should be, and we should be doing more in the Assembly to try to promote that.

Moving on briefly to my very last point — I did say that I would be brief — how do we resource this once it has all been put in place? Who are the people dealing with these issues? For the most part, the police deal with it first. I have seen how the police deal with it, and it affects individual police officers. Where we must scrutinise our police force — and we do; they are one of the most scrutinised police forces in the United Kingdom — we must be careful to not undermine them, because if we undermine the police force, we lose their credibility. If they lose their credibility among victims, there will be a trust issue, which we do not want.

The other issue that we must be really mindful of is that we have cut our police force to the bone; we are asking them to do more and more, and when this Bill is passed there will be more work for our police officers to do, yet we are cutting their funding. So, we must look at the resource issue. Dolores mentioned other

agencies that need resources — of course, it is all about money — but the police cannot be forgotten. We need to make sure that we can resource our police force, not just in numbers but in skills and in training so that they can take this on. Once we put this into statute and it is out there, the process does not end; we have to make sure that we can apply it and do so properly so that we can help the victims of domestic violence. If we do not, it will just be a piece of legislation that is sitting getting dusty in a corner somewhere. So, we must make sure that we resource our police force correctly.

**Mrs D Kelly:** Will the Member give way?

**Mr Beattie:** Absolutely.

**Mrs D Kelly:** I agree wholeheartedly with the Member's call for proper resourcing of the police, but does he not share my alarm that the current Budget proposal gives the police only a 3% inflationary uplift, which will only allow them to stand still and will not bring the number of officers up to the level that they need and that Patten stipulated?

**Mr Beattie:** The Member is absolutely right. I did not want to get too sidetracked from what we are talking about in regard to the Bill, but the Member is absolutely right; if we do not look at that resource, we are going to fail in what we are trying to achieve here. To see that our police force has been cut more than any other police force in the United Kingdom is difficult to watch and has an effect on morale.

As the Ulster Unionist Party's justice spokesperson, I can stand here and wholeheartedly say that we will vigorously support the domestic violence Bill. We will support the Justice Minister in all that she is trying to do in achieving that and, at the same time, we will, along with the Chair and the deputy Chair of the Justice Committee, make sure that the Bill is scrutinised so that the end product meets what we want it to meet and that we have the resources in place to make sure that it works for victims.

**Mr Lyttle:** I welcome the opportunity to speak in support of the Domestic Abuse and Family Proceedings Bill, which was introduced by the Justice Minister, Naomi Long. I commend the Minister for delivering this important legislation in such a timely manner and in line with her commitment to deliver a safe and shared Northern Ireland for all.

The focus of the Northern Ireland Executive and the Assembly is, of course, on the emergency



response to COVID-19 but it is important that Ministers continue to progress important priorities such as tackling domestic violence, the impact of which, we know, is likely to increase during the social isolation that is vital to preventing the transmission of coronavirus and saving life. I thank the Justice Minister for her work and that of her Department to progress this important legislation during this challenging time.

I also wish to thank previous Justice Ministers for their work to initiate the legislation prior to the collapse of the DUP/Sinn Féin Executive in 2017. I pay tribute to the many organisations that are working to support victims and survivors of domestic abuse in Northern Ireland.

The domestic and sexual abuse helpline has reported a 13% increase in calls during the coronavirus social isolation, but the introduction of this legislation sends a clear message that perpetrators of domestic violence and coercive control will be brought to justice in Northern Ireland and that victims are not alone or forgotten. I support the Justice Minister's call for anyone who is suffering from domestic abuse to contact the 24/7 helpline to access support. As the Justice Minister has stated, we must change our perspective on domestic abuse. It can happen to anyone, it can be committed by anyone and it is unacceptable in whatever form it may take. It is not just about physical violence, and it is welcome to see the creation of a new offence that criminalises patterns of non-physical behaviour that are coercive and controlling and which amount to psychological, emotional or financial abuse.

As Alliance Party education spokesperson and chair of the all-party Assembly group on children and young people, I particularly welcome the legislation's response to the serious impact of domestic abuse on children. Seeing, hearing or being present during an incident of domestic abuse can profoundly affect the physical and mental health and well-being of a child for life. Everyone deserves to live in a safe and secure home and I welcome the provisions of the legislation, particularly clauses 8 and 9, to make that a more likely outcome for children and young people in Northern Ireland.

The NSPCC is clear: witnessing domestic violence is child abuse. I welcome that the Bill creates an aggravated offence, which will apply if a child sees, hears or is present during a single incident of domestic abuse. Women's Aid and Barnardo's have referred to children as the hidden or forgotten victims of domestic abuse and it is important, therefore, that the Bill —

**Ms Dillon:** Will the Member give way?

**Mr Lyttle:** Yes, I am happy to give way.

**Ms Dillon:** I just wanted to ask that the Minister look at Operation Encompass. The PSNI has told us that the reason it cannot contact a school after a domestic violence incident is that there is a legislative gap. If there a way in which the Bill can fill that gap, we should look at that. Operation Encompass has proven to be a very useful tool in that the police can contact a school before 8:00 am when a domestic incident has happened, and that leads to greater protection of children when they go into school, because the school knows the circumstances that the child has suffered on the previous evening.

**Mr Lyttle:** I thank the Member for her intervention. It is, of course, important that the legislation recognises the various ways in which children and young people can be victims of such abhorrent crime.

Children can be used by abusers to exert emotional, psychological or financial abuse against a partner or ex-partner. Children can be victims of emotional or physical abuse and are particularly vulnerable to serious harm at key stages of early childhood development.

## 2.45 pm

**Mr Durkan:** I thank the Member for giving way. My point relates specifically to his last remark about children being used by perpetrators of domestic abuse. Obviously, we all share the concern that lockdown means that a lot of children are locked in and are witnessing domestic violence and are stuck in the middle of domestic abuse. I go back to his point about children being used and the concept of parental alienation. I have no doubt that, in some instances, the lockdown is being used by perhaps a resident parent to reinforce and re-entrench, on the children, their negative views of the absent parent. Does the Member have any views on that or on whether parental alienation should be included in the definition of domestic abuse?

**Mr Lyttle:** I thank the Member for his intervention. Undoubtedly, reports suggest that contact arrangements with children are being disrupted or refused, despite guidance that such contact should proceed with social distancing measures in place. It is important that we respond to that challenge at this time and, indeed, that legislation rules out that type

of treatment of children and families in our community.

Young people entering into their first experience of a relationship can also experience abuse from a partner. Domestic abuse is, of course, not confined to the home.

Research identifies that such domestic abuse is an adverse childhood experience and a contributing factor to a wide range of issues, such as educational underachievement, exclusion, youth homelessness and engagement in risk-taking behaviour. Children and young people cannot be expected to understand or cope with such abuse, and it is, therefore, a duty on the Executive, the Assembly, agencies and society to protect them from it.

We must heed the concerns expressed by charities, such as Women's Aid and Barnardo's, that abusers may take advantage of the public health emergency and that many children in abusive homes are currently without the safe space of school, notwithstanding the distance pastoral care that dedicated teachers, youth workers and counsellors are providing. The Men's Advisory Project is also reporting an increase in calls from male victims of domestic abuse and has mentioned that many fathers are having contact with children disrupted or refused. It is important that we continue to advise of the Men's Advisory Project helpline that is available for support for male victims of domestic abuse in our community.

We must, therefore, ensure that home is always the safest place for everyone, including during this public health emergency. The legislation is an important action to help us achieve that aim.

**Mr Frew:** I support the Bill. It is a very good day for Northern Ireland that we are at the Bill's Second Stage. It would be remiss of the House not to mention some people who have been successful in the past to get it here. I mention, of course, my colleague Claire Sugden, who worked tirelessly as a Minister in order to get the Bill to the House and, through no fault of her own, was not able to proceed.

It became clear in Claire's time as a Minister that she was willing and very able to work in partnership with the Justice Committee, which I chaired, to produce legislation that would have been fit for purpose and would have protected lives and made lives better and safer. We had arranged, at that time, that the Justice Committee would work on a piece on stalking, whilst the Minister took forward the domestic violence piece. After that legislation was

passed, the stalking piece, with the Committee having done its investigatory work and reports, would have been handed over to the Department, and it would have progressed a stalking Bill. That all still needs to be done. And in that time — that vacuum — there have been more victims, there has been more misery and there have been more children witnessing violence in their own homes. It must be said in this House that it is a shame that we have not been able to progress that Bill and bring that legislation into action. What we should be doing now, actually, is reviewing the implementation of the legislation, how well it has done and what bits have not worked. We are behind, and that means that we have failed. We have failed the victims of domestic violence, and it is not good enough. It is not good enough. That is why we have to make sure that we are here to legislate and to do the job that we are meant to be doing. I am glad to see this day.

I know that civil servants do not usually like to be named, but it would be remiss of me not to name Veronica Holland, who has done tremendous work, through all the difficult years that I have just described, to assist the Minister and provide the Department with expertise in order to bring this Bill to the House today. Veronica is very proactive, amenable and approachable; she will work with you. There are times when I argue with Veronica, and she knows that too well. There are times when she has to enact policy that I do not agree with — indeed, am completely opposed to. But she will always treat you with fairness and respect, and I hope that I have always been able to treat the Civil Service and the Department of Justice with the same respect that I have received. So I thank the people I have mentioned, and of course Veronica's team, who have worked around her to produce and publish this Bill. Obviously, people do not work in silos, and one person could not have produced this piece of work on their own.

It is important, now that we are here and it is a good day, and now that we have legislation for domestic violence, that this legislature does its job — that we scrutinise this piece of legislation, well meaning and well needed as it is, to make sure that it is the best possible piece of legislation. That is why the Justice Committee, like all Committees of this House, has to take the role of scrutiniser very importantly. I am also mindful that there are many in the House who do not sit on the Justice Committee but who will also want, and have, a massive say in that.

I thank the Minister for her speed in bringing this legislation to the House, despite all of the difficulties around the virus and everything else

that we are contending with. However, I repeat Linda's point about the completeness of this legislation. Minister, I am not sure if you were in the House at the time, but my colleague Dolores Kelly and I brought amendments to the Justice (No. 2) Bill in good faith. We did not move them, because we were given guarantees and assurances that they would be legislated for very quickly. They were around protection orders and coercive control. Through no fault of the Minister, they have not been enacted. There is that warning for us all: if we think we need to do something, then we really need to do it, and as quickly as possible.

There is no better piece of legislation to enact some of the things that we are talking about than a domestic violence Bill. In order to get completeness, therefore, Minister, please consider the voices in this Chamber when they talk about possible amendments, because the chances are that, if the Department does not word the amendments, the Assembly team will, whether it is through a Committee amendment or a private Member's amendment. That is healthy; it is a very healthy place to be in as a legislator. Whilst we want to pass this legislation as quickly as possible, anyone can stick in an amendment at Consideration Stage, so it does not really slow down the process as such, but surely it is always better that the Department do it than a Member.

I say that to the Minister and the Department.

Before I move on to the detail of the Bill, I must say that I also worry —.

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

**Mr Frew:** I will.

**Mr Givan:** He is right in saying that individual Members can bring forward their own amendments, and I have no doubt that some will. Previous experience of the Justice Committee, which the Member has chaired and which I chaired once before, informs me that Committees have successfully scrutinised individual Members' amendments. If individual Members are going to be bringing forward amendments, I, as Chair of the Committee, would encourage that that happen sooner rather than later. The Committee can then carry out scrutiny work and get advice on the amendments. Ultimately, it can agree on what become Committee amendments, if the Department is not prepared to take them on. In the past, the Justice Committee has been quite successful with the Committee amendments

that it has brought forward, with or without the support of the Department.

**Mr Frew:** I thank the Chair for his contribution. He makes a very valid and important point about scrutiny. It is always best if we can get to scrutinise draft amendments as early as possible. As the Chair said, there is an onus on Members to get their thinking caps on and move sooner rather than later, in order to give us all, including the House, a chance to scrutinise any amendments.

I will talk about the police. I am concerned when I hear the timelines for implementation from the Department. The Minister outlined them herself at the Committee. She said that it will take about a year for the legislation to be embedded in the police's psyche. When I speak to the police, however, they tell me that it should not take that long. In fact, they will be keeping an eye on proceedings as the Bill goes through the House. I would therefore like to think that a year is a very conservative guess and that things will be enacted much quicker.

I issue a warning, however, because we have had legislation passed in the House before that has not been effected and not had the rigorous and robust implementation that it should have had. I am talking about the child protection disclosure scheme. I am so annoyed and frustrated that we are still waiting for a relaunch of that scheme, which will do much to protect children. It is a number of years now since that legislation was brought in. As such, there are warnings there for us to ensure that, when the legislation is enacted, the spirit of the Bill is implemented robustly and that it will help and protect victims and society.

I know that a lot of people have grappled with the issue since we first started to debate coercive control. I am talking about elected Members and society, but the judiciary has also grappled with the problem of what coercive control looks like, how we can legislate for it and how we can enforce it. Those are all valid questions that people have been asking themselves over the past number of years. One of the tools that could be used, which the police are now using, is the body-worn camera, especially as coercive control is very much a cumulative offence, whereby instances of behaviour that might not have been deemed a crime before are counted up. It is the telltale signs. It is the body language, and the language itself: what is said and also what is not said. The body-worn camera could be a great tool for providing evidence that will help safeguard victims and convict perpetrators.

We want to make sure that the legislation is the best that it can be, but we also want it to work on the ground. We want to ensure that everybody has buy-in and knows how to use the legislation to its best effect. There is absolutely no way in which we could ever do justice to and pass a domestic violence Bill without tackling the very harsh issue of coercive control. What does it look like? What should it not look like? What is coercive control and what is not coercive control? Those are all things that we need to grapple with as we scrutinise the legislation.

I think that it was Linda who raised this point. There is absolutely no doubt that perpetrators do not necessarily have to lift a hand, or they have to lift a hand only once, for the threat to be embedded. There is also the threat of using family members, such as using a son or daughter against the victim. There is the threat of ensuring that the son or daughter witness the perpetrator beating the victim up or, worse, committing sexual crimes.

The fear that that strikes into a victim cannot be measured. It cannot be measured in bruises. It cannot be measured in the number of black eyes, sore arms, sore legs or even broken bones. It is much more than that. It is much more damaging than that, and it will make the victim subservient to the point where they are not even in control of their body, mind or soul. It rips the heart clean out of you to the point where you do not want even to breathe until the perpetrator tells you to. The House cannot abide that. We cannot allow it to take place in the homes and streets in the towns and villages that we call "home". It cannot happen. It has to stop. The Bill must go some way to stopping it.

### 3.00 pm

Will we eradicate this sickness, this evil, this sin? No. However, we will try our best to save as many victims as possible and to make sure that children do not grow up in that atmosphere with that threat hanging over them and hanging over a parent. It was, I think, Dolores Kelly who said that, sometimes, people do what they see. We want to break the endless cycle of violence, and we want to do that to the point where we, at least, have hope of eradicating it.

Our job over the next weeks and months is to scrutinise the legislation. There are clauses that I fully support, 100%. There are others that we need clarification on. I will go through them in numerical order. First, clause 3 sets out that it is not necessary for a victim to have actually been harmed or to consider themselves a victim.

Listen to what I just said about a victim not wanting even to breathe until they are told to breathe. Their whole mind has been hijacked. They believe what their perpetrator wants them to believe. I understand why there is a clause that says that victims do not have to consider themselves to be victims. In many cases, victims think that it is their fault. The victim thinks, "I have upset the perpetrator. I have done this. This is my fault. Why did I do that? I shouldn't have done that. Why did I go out today? Why did I make a noise in the kitchen? Why did I drop that glass? It's my fault". I understand why a safeguarding clause is needed, but I think that that clause is clause 16. It talks about what "a reasonable person" would think. Clause 3, however, states that it is not necessary for a victim actually to have been harmed. Surely, if a victim has been beaten up, threatened or had perks taken away from them and thinks that it is their fault because they smashed a glass, made a noise or went out for a walk, that is harm. Surely, that is the person being harmed. It is not physical harm; it is worse than that. It is psychological harm. Whilst I understand why you would have a clause to guard against that, it is important that we get it right, so that a perpetrator cannot use this very legislation against a victim. It is important that we seek clarification in Committee to ensure that it is watertight and cannot be used by the perpetrators. I give the Department warning of that; that is why the debate here is useful. I get that victims will not necessarily come forward. They will say that it was their fault and that no harm was caused, but I think that clause 16 covers that by referring to what "a reasonable person" would think about a person's actions and whether crimes have been committed. We have to look at that. Of course, we do not want to leave the legislation open to abuse in any shape or form. That is why we want it to be as tight as possible.

Clause 8 is about the aggravation of the offence where the victim is under the age of 18. Maybe it is just my simple mind, but I will need an explanation of what we mean by that. Surely, there is already legislation in place to protect children. I can understand why we have an aggravation where a child is being used for coercive control, but I will need some explanation of why we have aggravation of the offence where a victim is under the age of 18, given that we also have protections for parents that I 100% agree with. Clause 11 provides that the offence would not apply where a parent is responsible for a child under the age of 18, as child protection arrangements are already in place. Again, maybe it is just my simple mind, but I will need an explanation of what clause 8 means and is designed to do.

Mr Principal Deputy Speaker, I am going blind here because my machine has just dropped off and I did not put in the right password. I will try to wing the rest of my speech as best I can.

Clause 13 provides that, if a coercive control offence cannot be proved, an alternative conviction with a lower threshold, like harassment, can be made. Again, I can understand why the clause is here — so that there is a safety net of conviction, to put it that way — but I worry that, if harassment comes with lesser conviction rates and tariffs, it could be used by barristers as some lesser charge: "We will try to get you off the charge of domestic violence and get you on to a harassment charge". What would that mean for conviction rates? Given what we have read about what domestic violence and coercive control are, can someone explain to me how a person who does not meet the threshold for domestic violence convictions, with the cumulative effect at play, could ever meet the criteria for harassment? That is something that I have been toying with as I have read the legislation. I know that harassment is something completely different — I get that — but, surely, domestic violence is harassment and a lot, lot more.

**Mr Buckley:** I thank the Member for giving way. It might give him a chance to reopen his locked computer. Would he agree that the very issues that he raises are the types of loopholes that perpetrators would look for in circumstances like this? We all know that one of the primary aspects of coercive control and this type of behavioural instinct is psychological damage. We have heard stories of individuals for whom the psychological impact is so damaging that someone claiming to know more about the substance of such legislation than they do incapacitates them and leaves them in the home feeling hopeless and worthless.

**Mr Frew:** I thank the Member for his intervention. I got my computer back on. He is also absolutely right: it is such an insidious crime. Most perpetrators know what they are about; they are not stupid. They will use any tool at their disposal to intentionally inflict more pain on their victim. That may mean passage through a court process, whether a family proceeding on the custody of children or with regard to legislation that is designed to convict them. What is to stop a perpetrator who thinks that the police are gaining ground on them and building up a case against them adding to the mix by reporting things to the police against the victim? We have to ensure that this is robust and watertight enough to protect the victims

and not be used as a tool. Again, that is very hard. I have a lot of sympathy for the Bill writers and the Minister in that regard. Getting it right will not be easy, but this will happen because there are bad people out there, and these things could well take place where it is used as a weapon, just as children are used. What shame that you would use your child as a tool against your victim. It is insidious. These people are evil, and they need to be stopped. However, I worry about having that inserted. Clause 13 might be a safety net to ensure that people are convicted of something, but, if it allows a step change — a lowering of conviction and lesser sentencing — and barristers and the defence are geared up for that, it could become part of the line. I struggle to find what could be deemed as harassment but not domestic violence if it is in that setting and it is cumulative over a period of weeks and months.

I look forward to our time in Committee scrutinising this. I look forward to getting visits from the Department and the Minister on this and from all the witnesses, all the people who have fought hard to get the legislation in place. I include Men's Advisory Project, Women's Aid, Hourglass, Victim Support, Nexus and all who have contributed and have engaged with the Department for so many years on the issue. We are finally at Second Stage and going into Committee Stage, and I am glad to see this day. Many of us in the House have taken the subject up — this horrible crime — and have run with it and worked with it and tried to make life better for so many people in our society. They should be thankful at this point that we have a Bill going through that, hopefully, will soon be law and will allow the police to use the full force of the law to keep people as safe as possible. I commend the Bill, and I certainly support it. It is a good day, and I thank the Minister for bringing it forward.

**Ms Dolan:** I welcome the opportunity to speak on this much-needed and long-awaited Bill. It is imperative that the Bill protects victims residing in or near border communities as, very often, abuse can happen across both jurisdictions. To this end, I welcome clause 10, which relates to extraterritorial jurisdiction. Essentially, where domestic abuse and abusive behaviour occurs outside this jurisdiction but the accused is normally resident here, that behaviour can be encapsulated as part of the domestic abuse offence. That is important, as it covers incidents that may happen on holiday, which is sometimes where the worst and the first of the abuse can happen. Sinn Féin would like assurances that it will cover abuse that may happen to people living in border communities, where the abuse can often happen across both

jurisdictions, including, for example, on nights out or at the victim's place of work.

We also welcome the Bill's recognition of the specific impact of domestic abuse on children, which can lead to adverse childhood experiences and, consequently, have a lasting impact on a child, leading to greater problems down the line. The two aggravators in the Bill where the victim is a child in the context of an intimate relationship or family member or where a child sees, hears or is present in the context of the abusive behaviour are absolutely essential, and we welcome their inclusion. As Members have already alluded to, evidence shows that that can have a lasting, long-term impact on children's mental, emotional and physical well-being. It can have a detrimental impact on their mental health, child development, risk of harmful sexual behaviour, future cycles of abuse and potential for youth offending. We must also recognise, however, that children can experience the harmful impacts of domestic abuse even if they do not witness it by sight or by sound. Children can be aware and be affected by a parent's distress, fear or pain. Research shows that the impact of domestic abuse is felt throughout a household.

We note that, although this Bill and the provisions for the North in the Westminster Bill are largely similar, there are a few differences, including the inclusion of the generic aggravator provision in this Bill, which is welcomed. It would apply where there is any other offence — for example, criminal damage — that is aggravated by reason of involving domestic abuse and would make an enhanced sentence available to the court.

### 3.15 pm

Departmental officials have told us that we can expect a range of supplementary provisions to follow this Bill, in the form of a miscellaneous Bill later in the year, but it is important that some of these issues can be addressed in as timely a fashion as possible.

In December 2019, Sinn Féin colleagues in the South introduced legislation to the Dáil that provides for a statutory entitlement to 10 days' domestic violence paid leave. Domestic violence can affect employment, productivity and health and safety. Domestic violence often follows victims into their place of work. In the absence of workplace policies, colleagues and managers are not equipped to support victims and ensure that they are safe. This employment rights provision, therefore, would give victims the time that they need to seek support, and would also address unpredictable absenteeism

and reduced productivity for employers. Victims have a right to a pathway out of abuse without fear of losing their jobs. We as a party are exploring how a similar statutory entitlement could be introduced here in the North.

Additionally, the absence of a legal definition of and effective punishment for stalking has been noted by some stakeholders, including Women's Aid. However, we have been told by the Department to expect specific stalking legislation in the autumn. That is incredibly important because the issues of domestic abuse, coercive control and stalking are all interlinked and our stalking legislation is not fit for purpose. I support the Bill.

**Mr Buckley:** Again I stand in the House today as someone who speaks on behalf of those in my constituency who are innocent victims of domestic abuse and those who have witnessed it. God willing, it be on record that I speak on behalf of them, and for preventative action to stop that type of action happening in the future.

Being able to talk today on the Bill brings home very starkly to Members the reality of domestic abuse. I want to look at that, because, for many, the term "domestic abuse" can mean many things, but I think that it is important that we spell it out here today. Physical abuse is sometimes the most horrific abuse. Sexual abuse, emotional abuse, financial abuse and modern slavery in the home: that is what domestic abuse looks like. Members, it is happening day in, day out in Northern Ireland.

Throughout the period of COVID-19, many of our constituents, and indeed many Members, have come to the immediate realisation that, for many, the family home is a place of refuge, care and attention, where we can be with our loved ones, share company and fellowship, and help one another. We only have to look at pictures that have been going out over social media in relation to the crisis, where we have seen how the strength and the bond of a family unit is essential to get us through what is a very difficult time. However, for those who have suffered domestic abuse, or where there are developing signs in the family home towards domestic abuse, it is true, as has been mentioned today, that they have been caged in their homes, locked away with the very perpetrators of that abuse. I cannot help but think how horrific that must be for anybody, and in particular now, with all the restrictions that are in place, not even being able to leave your house, whether that is for a breath of fresh air or to gather your thoughts.

Those types of issues are real and live today. We know the consequences of domestic abuse but we now need, as has been demonstrated, to strengthen Northern Ireland's domestic abuse laws because, let us face it, it is a damning indictment on this place that we are only getting round to dealing with this issue now. We must address that, and address it head on.

In an earlier debate, Sinn Féin's John O'Dowd said that he made no excuse for being political in the Chamber and that that is what we are elected to do. I take umbrage at that, because this today can be seen as the result of what being political means. Sinn Féin has been political in its approach to COVID-19. That is clear for all to see. Despicably, it is true. In relation to the domestic abuse legislation, one of the very consequences of tearing this place down was that this piece of life-saving legislation was, shamelessly, left to sit on the shelf while people suffered in their home.

I welcome that today all parties broadly support the type of legislation that is coming forward and that, in particular — I welcome this — the legislation makes coercive control an offence for the first time in Northern Ireland, showing us how out of step we had become with the rest of jurisdictions, which had already legislated on this. It is important that we look at examples of coercive control, because, for many, those words do not mean anything. However, we can look at it as having money taken away or controlled, being isolated from friends and family, having access to food, drinks and day-to-day products restricted, having social media accounts monitored or controlled, being told what you should or should not wear, being threatened with violence if you do not act or behave in a certain way or loved ones or pets being threatened. How many of us today can hear that list and say that we have not seen what is on it in action in our communities? It is all too sad that that is the reality, and, for many, these coercive controls are happening day-to-day and most of society has turned a blind eye. It is important that we put that right here today, and I welcome that the Minister included coercive control in the Bill.

Ms Dillon mentioned this, but I also want to cover the compassionate approach that the legislation takes to cross-examination by perpetrators of these crimes. That is a compassionate approach from the Department because not only can one not imagine the extent of the distress of being in any court being cross-examined by a barrister or someone from the legal profession but the pain caused by being cross-examined by the very person who

committed or who is said to have committed said crimes is hard to imagine. I welcome that.

I will bring the Minister's attention to the potential for convictions and sentencing under clauses 13 and 14. I welcome the strengthening of that provision. I believe that, as a society, we must put out strong signals that we will not tolerate this in Northern Ireland. I take cognisance of what my friend Mr Frew said about the need for further examination in the days ahead. There are many elements that will require further scrutiny as the Bill heads towards Committee Stage and to Consideration Stage. Not least of those is the impact that the changes will have on courts and on police officers, which Mr Beattie mentioned, and the scope and cost of the training that is needed and that will be provided. That is important, and any legislation that the House puts in place must not be mere window dressing. It must have substance, it must stand for something and, in fact, it must do what it says on the tin, which is to legislate in a meaningful way to restrict this abuse. We have seen it in the past days, and my friend Mr Givan mentioned that during the period of COVID-19, the police received 2,000 domestic abuse calls in the first three weeks of April. That is scandalous. We can look at the period between July 2018 and June 2019 and see that 16,575 domestic abuse cases were recorded. We know that this is on the rise, whether that is because of COVID-19 or something else, but we must sufficiently equip the PSNI with the appropriate resources to deal with these very issues. I, therefore, look forward to working in a very proactive and constructive way with the Minister and, indeed, with the Committee to bring about a resolution to this legislation and to strengthen it in a way that is befitting to all Members.

A constituent approached me on that very issue not so long ago and talked about the coercive control that they were facing. They talked about how individuals have used the legal aid system to effectively bankrupt and to disrupt their day-to-day life as they have attempted to move on from the horrific abuse that they have suffered. Those are all elements for discussion and there is so much, when it comes to domestic abuse, that must be considered. I trust that the Committee will take on those points. I, as a Member who is not on the Committee for Justice, look forward to playing my part.

In closing, as has been said, there must be more than words. There has to be substance and detail and it must provide results for those who are suffering domestic abuse.

**Mr G Kelly:** Gabhaim buíochas leis an Aire as an reachtaíocht seo. I thank the Minister for bringing this important legislation to the Assembly. The essence of the debate is that there will be some repetition, and I apologise for that, but the legislation is vital and cross-party support can be seen for the general provisions of the Bill, particularly on the outlawing of coercive control. We have had many examples of what coercive control means, and there are many more as it is that type of concept.

I also hope that that can be reflected with an attitude of urgency to get the legislation in place. I welcome the comments that the Chairperson of the Committee for Justice made earlier when he indicated that the Committee for Justice will try to bring the Committee Stage forward as soon as possible, albeit with the proper scrutiny that is necessary for the different clauses.

It is unfortunate and very sad to say that domestic abuse and gender-based violence and abuse remain rife in our society. Again, figures given earlier showed that there were 31,000 incidents of domestic abuse in a one-year period in the North. Clearly, more needs to be done before and during this and after, hopefully, we can get the legislation through.

Reporting domestic abuse has increased but it is still an underreported crime. I welcome that the Justice Minister raised the fact that while the vast majority of this abuse is against women, there are other types of abuse, and we have evidence that those are vastly underreported as well.

The Bill is one part of the wider concerted action that is needed. Other steps need to follow. As a society and as an Assembly, as everyone has said so far, we cannot tolerate that abuse in any shape or form. Sinn Féin are fully supportive of the clauses of the Bill, which will outlaw all those forms of abuse that were listed earlier. I will not list them again because they have been stated a number of times.

The Bill comes in the context not only of the previous delay and the urgent need to put in place legislative protections for victims, but of the increasing evidence that the levels of domestic abuse are on the rise globally and here in Ireland, during the COVID-19 crisis. There has been a huge rise in calls and online requests for help to domestic abuse helplines. As some Members said, and I can say myself, we are getting calls into our offices on that basis and they have clearly risen.

Let me make one thing very clear about the context: the present situation does not cause victims of domestic violence. Abusers do. It is of great concern that many victims of domestic abuse may be suffering more while in lockdown or self-isolation. Women and children, as was said earlier, are more likely to be spending much more time with the perpetrators. Police and other agencies — I should have said at the start that I am also a member of the Policing Board, and I will mention that in a moment — are working with organisations such as Women's Aid and other named organisations to overcome the barriers to victims of domestic abuse seeking and receiving the help that they need.

Local political representatives, the Assembly and the Executive must also play our part. There is a real risk of existing domestic abuse refuges and emergency accommodation being overwhelmed. It is of paramount importance that the Minister of Justice and the Minister for Communities work together to ensure that additional emergency accommodation provision for victims of domestic abuse can be put in place where needed.

To that end, it is crucial that Ministers continue to work together to put in place all necessary protections for victims.

### 3.30 pm

I welcome the police's focus at a fairly early stage — a very early stage — on tackling the increase in domestic abuse cases during the COVID-19 crisis. At the Policing Board, we were told that they went out rapidly in pursuit of 70 of the most high-risk abusers, and arrested a considerable number of them. The last number that I got was 48. I presume that it has risen since then, and hopefully so. There has been a proactive focus from all quarters towards protecting abuse victims during this difficult time. That has been noted and welcomed by victims' support and advocacy groups, including Women's Aid.

The Bill's provisions will be a bit more complex than those of existing legislation. The outlawing of coercive control is a very positive and welcome move. However, it will require that adequate resources be set aside and training given to PSNI officers who will implement the legislation on the front line. I welcome that other Members have mentioned that we must prepare for that because it may take some time to bring it through. Legislation is only as valuable as how it is utilised. If police officers are not adequately trained to implement the legislation,



it will be a pointless exercise. While I am confident that they will be able to implement it, they must be supported in their efforts to do so.

I think that Paul Frew mentioned body-worn cameras. Indeed, before the COVID-19 crisis, there was an issue with the guidelines on the use of body-worn cameras when dealing with domestic violence cases, even though they are issued to every police officer. There was particular emphasis and instruction given that they should be worn in what appear to be cases of domestic violence. While it might not be an incident of domestic violence at the time, I think that the collective view is that the use of a camera would be helpful if there is a further incident.

It has been raised at previous stages, including at Committee for Justice evidence sessions, that implementation of the Bill will take 12 months after it is enacted in order to ensure, as we have been told, that law enforcement officers are trained properly. I will seek assurances that the training can be conducted in as timely a manner as possible whilst also taking care to ensure that it is of the highest possible standard. We have those balances, but, if we take the point that Paul Givan made earlier, what worries me is the period that it will take to bring that through. If there is no way to collapse that, and it is a year, that will be too long. Training will, then, need to be done. I imagine that it will be a bit later. I know that, as all those things have happened, the Minister has asked about resources. Some of those organisations, who are already experts on this stuff, need an input of resources and cannot wait until the end of that period for the help that is needed. It is more urgent even than the Bill, because we have to prepare for when we get to that point.

During that time, the Policing Board will work with the PSNI to assess whether that can be done more quickly while ensuring that it is done properly. Other members of the Policing Board are here besides me; Dolores and others. I am sure that we will pursue that collectively. We also need to ensure that work to combat domestic violence continues to get the highest priority in the interim and onwards into the future. It is not a new issue here. I am glad that it is under focus and that we have come to the point where we will, hopefully, bring in that legislation.

**Ms Armstrong:** I support absolutely the Domestic Abuse and Family Proceedings Bill. I thank the Minister for bringing it forward. In recent weeks, we have processed a number of pieces of legislation. The Bill is a piece of

legislation that goes beyond COVID-19. While it was already very much needed, as others have said, there has, unfortunately, been an increase in reports to the police of domestic abuse across Northern Ireland during the COVID-19 crisis. That is why the legislation is needed so quickly. People need to know that their abusers will be prosecuted and the conditions that need to be met in order to achieve a successful prosecution.

I sincerely hope that people who are currently in an abusive situation will take heart from the progress of this legislation. I ask that the media take the opportunity to convey to victims that they are not alone and that the House has their back. You do not need to live in pain, in silence or terror. The Minister has heard the calls from her partners — those who work in Women's Aid, the Men's Advisory Project and many more — who work day in, day out with people who have survived abuse. The Minister, the previous Minister and the Department have proposed legislation that is inclusive and will protect victims who reach out for help. I am encouraged that the Minister has acted swiftly since she took on the role of Justice Minister. We needed this to come forward — it has been long enough — and I am very grateful that she has prioritised it.

**Ms Dillon:** Will the Member give way?

**Ms Armstrong:** I will.

**Ms Dillon:** One of the things that has not been achieved yet is that the wider community and society accept that this is a community problem. This is not a problem within the home. With all of the work that has been done, that has not yet been achieved.

I was at a meeting where there was around 140 women and two speakers, in the morning session, spoke about violence against women — sexual and domestic violence. When they were asked what the five main problems within their community were for the PSNI, not one single person in that room, other than myself, said domestic violence. We need to get that message out and we can use this time while we are discussing the Bill to do that. If the Minister could take the lead, we will certainly give her every support. This is a community problem and it has community impact. It is not a problem within an individual's home and, as a community, we need to look out for those people and reach out to them, not wait for them to reach out to us.

**Ms Armstrong:** I agree and that is why I commend the previous Minister and the Department for the work that they did in having a very comprehensive consultation. Now, going forward, there is an opportunity to take that even further through the Committee.

Working with partners means that the voices of victims can be brought forward. I am not a victim of domestic abuse. I do not know what it feels like to sit at home and be afraid to be at home, where you are scared and worried and — as we all seen in the posters — walking on eggshells for fear that you or your children could be subjected to physical, sexual or mental abuse by someone that you love. Quite often, it is because of shame that people do not want to admit to, or tell others, exactly what is going on behind closed doors. As the Member has said, the community knows that something is going on but, quite often, it is not spoken about.

Many of us have dealt with victims through our constituency offices; I certainly have. I will give a few examples without saying any names, of course. I do quite a lot of food bank vouchers and I have mums who come into the office. They are looking after their grandchildren because their daughter-in-law is not around, for whatever reason, and the son frequently comes into the house and takes all the money to feed his drug habit and leaves the children devastated. There is a bit of physical abuse but there is definitely coercive abuse where all the money is taken out of the house and there is nothing there for the children or the grandmother to eat.

What about the dads? I am sure that we have all came across them, and Mark Durkan spoke earlier about parental alienation. There are dads who come into the office and they are absolutely broken because they have been denied access to the children and the children are being used as a pawn to abuse them. The name-calling and the verbal and physical abuse that he receives any time that he goes to visit, the money that he provides to the house that is never declared, officially, and the pressure that he is put under. He is threatened regularly that if he does not behave and do what he is told that he will not get to see his children. There are times when he is completely denied access to those kids.

I am very glad that this Bill is, very clearly, an inclusive Bill. It talks about couples in an intimate personal relationship or who are personally connected. I am glad to see that, because in a changing society we have to recognise that there are people who are married, cohabiting or in a civil partnership.

There are heterosexual and same-sex couples and family relates to parents, siblings and wider family, such as grandparents, aunts, uncles, cousins, stepchildren and blended families. It is the whole kit and caboodle and the Bill is going to help all of those victims; it does not exclude anyone.

The legislation is, of course, subject to conditions, and I would love victims to understand that. The first condition is that a reasonable person would consider that the course of behaviour is likely to cause harm. It is about a reasonable person; it is not about saying to a victim, "You must write it down and have all your evidence in black and white". It is about a reasonable person saying, "That is not on. That is not right". Quite often, as Mr Frew said earlier, the abuser has the abused person believing that they are making it up and that the abuse does not exist.

The second condition is that the accused intended to cause harm or was reckless as to whether or not harm would be caused. That means that the person may not have punched the other person in the face, but the threat was enough to make the other person do what they wanted because of the threat of a punch to the face or because all the money was taken out of the house. The children, the mother or the father could be terrified that the children are going to get it next, so they take the abuse themselves, whether it be physical or verbal. The Bill talks about that, but does not define it completely, because, when somebody is being tortured, as I think is mentioned in the explanatory note, whistling a tune could be enough to send the shivers up a victim's back because they know that that means that the other person is not happy and that the victim is going to get it when they get home.

Psychological harm can be even longer-lasting than physical abuse, and I am glad that clause 2 brings that into consideration. Controlling a person in a way that is abusive is so demeaning to that person. We know from cases that come into our constituency offices that there are people living quietly in our community today who have been mentally tortured by their partners, whether that is to completely undermine them or to make them feel so small and so unworthy that they should not even be asking for help. The only reason they are doing it is because they want to make sure that their children have food tonight. That is a disgrace and that is why this Bill is so important.

In conclusion, I look forward to hearing what more the consultation will bring. This is the right way forward. There are those who know better

than I do. Women's Aid, the Men's Advisory Project, the church groups and community organisations will know much more and, of course, there are the voices of the victims. If we are to deal with this scourge in our community, we have to have legislation and we have to enable people to take their abuser to court.

The community must understand that domestic abuse is not a funny 1970s joke — "give the wife a slap" — but is horrendous, torturous abuse that is happening day in, day out in our society. I hope that the media lift this today and say that this House does have victims' backs. We do not want anyone in our society to be living in fear, especially not inside their own home.

**Miss Woods:** I rise today on behalf of the Green Party to finally welcome the introduction of the legislation in Northern Ireland. There has been a tireless campaign for many years for coercive control and controlling behaviour to become a crime, and I pay tribute, as others have done, to a number of groups and individuals that have been involved in getting this legislation to where it is today. The list is in no way exhaustive: Women's Aid; Nexus; the Men's Advisory Project; Victim Support; the Rainbow Project; the Children's Commissioner and those at NICCY; Claire Sugden for her work on this as previous Justice Minister; and, of course, my colleague and party leader Clare Bailey, as well as every individual advocate who has been out pounding the streets on this.

This Bill is needed for so many reasons but, crucially, for the protection of victims of domestic abuse. PSNI figures show that over 31,000 incidents were recorded in the last financial year, which was 51% higher than the level recorded in 2004-05, when records began. Some Members have stated that abusive incidents in Northern Ireland this year increased by 1.3% on the previous year. Domestic abuse crimes made up nearly 17% of all crimes recorded by police in 2019. That is not good enough and those are only the ones that were recorded. We need to do more about it, but not just from a criminal justice point of view. We also need to look at this through an education lens and a health and social care lens.

### 3.45 pm

The issue goes right back to how we help people to understand what constitutes a healthy relationship. We must ensure that future generations can avail of a compulsory relationship and sexuality education programme in our schools — let alone addressing the issue

of misogyny. If we want to give our children the best start in life, we must also look to the effects of domestic abuse on them and ensure that the home is a safe place for all children and young people, for now and in their future.

Domestic violence has a devastating impact on children and young people that can last into adulthood. A UNICEF report estimated that as many as 275 million children worldwide are exposed to violence in the home and are often the hidden victims of abuse. It is important that the legislation reflects that a child can be aware of domestic abuse in the home, even if they do not see or hear the moment in which it occurs. Children can pick up on a parent's distress or be impacted by a parent's compromised capacity for parenting in the context of fear. Children and young people have the right to be protected from all forms of violence. Adverse childhood experiences, as most Members will be aware, include domestic abuse, which can cause detriment to their physical and emotional health both in the short and long term.

Children affected by domestic abuse need specialist services to help them to deal with trauma and to give them the chance to lead healthy, happy lives. Therefore it is important that support services addressing domestic violence consider the needs of children and the trauma that they have suffered. We must also recognise the effects of abusive relationships from young people to adults, and that child-to-parent violence is recognised in a way that provides support but which does not criminalise vulnerable young people or their families. We must recognise, too, that help and support is required and that that help is there for those who need it.

I look forward to engaging with organisations such as the Samaritans, the NSPCC, the Northern Ireland Commissioner for Children and Young People (NICCY), Bernardo's, and Parenting NI, to name but a few, as part of this process, as their voices must be heard.

The need for this legislation in Northern Ireland is clearer now for many than it has ever been. It has been frequently reported that self-isolation can be dangerous for women or men who are trapped with their abuser, whose behaviour may be aggravated by the chaos and uncertainty unleashed by the pandemic. The restrictions imposed as part of the strategy to deal with the coronavirus have increased domestic tensions in households, resulting in higher incidences of domestic abuse and extreme violence, including homicide. As we know, isolation is a technique used by perpetrators of abuse, who often seek to exert

control by cutting their victims off from the rest of the world in order to increase dependency on the perpetrator and to reduce their options to raise the alarm or to escape.

The PSNI confirmed that they had received an increased number of calls relating to domestic abuse incidents. From 8 to 14 April, they received 721 calls on domestic abuse. That is an additional 136 on the previous week, and whilst these are operational and subject to change, it is just shocking to hear.

Just this morning, it was reported that almost 2,000 calls were made to the PSNI in the first three weeks of this month alone. The charity Refuge reported a 25% increase in the number of calls and online requests made to the national domestic violence helpline, with Nexus reporting a 40% increase in call volumes since the start of April and a doubling of the number of visits to the domestic and sexual abuse website. I know from speaking to the Men's Advisory Project that their call volumes have also increased and that their counsellors have had to increase their hours to accommodate them.

We must do all that we can to protect people from harm, now and in the future. I must use this time, as others have, to appeal to anyone who is experiencing domestic violence, or who is worried about someone who is at risk, to seek help. Please report to the police. Call the helpline for victims of domestic and sexual abuse; reach out to Women's Aid, your GP, your social worker, or a friend.

Men and women have the same rights to protection from domestic abuse and from domestic or sexual violence. It can be difficult for men to acknowledge that they are experiencing abuse, and the shame and stigma attached to this issue can be a huge barrier to accessing support. In 2015-16, 8.4% of men reported having experienced some form of partner violence or abuse since the age of 16. We need to consider that as part of the Bill, of course, as well as resourcing and funding those agencies to help to deal with domestic abuse in Northern Ireland aimed at men. I reiterate that there are support services, and I urge anyone who is experiencing domestic violence to reach out to the Men's Advisory Project, the Men's Advice Line, the Rainbow Project, to name a few, and also the 24-hour helpline for victims of domestic and sexual abuse.

I wish to turn to the specifics of the Bill. It has been closely modelled on the Scottish legislation and is very much focused on non-physical abuse, particularly on what is known

as "controlling and coercive behaviour". It contains three aggravators, two of which concern children. The other, more general offences, such as criminal damage, are all welcome.

That would mean that the enhanced sentence was available to the courts and would need to be used. The Bill also contains measures to reduce the potential for the perpetrator to use the criminal justice system to further abuse a victim, which, again, is a positive inclusion. I know of victims of domestic violence who have been dragged through the courts four years after they finally left their ex-partners. In effect, the courtroom and legal proceedings were being used as another method of abuse. Other Members touched upon that in their contributions.

There are gaps however and, as my colleagues and the Minister have done, I will raise a few points on those. Clause 12 deals with the intention and reasonableness defence. My main concern is around those who are in care or in caring relationships, and those who have disabilities with their physical health and mental health. The concern has also been raised by Eddie Lynch, the Commissioner for Older People, who has noted the phrasing in clause 12(2)(a) that the evidence:

*"is enough to raise an issue as to whether the course of behaviour is as described in subsection (1)".*

The phrase "enough to raise an issue" seems sufficiently loose as to conceivably allow for victim-blaming as a means of defence. It cannot be the case that the dominant person in a relationship needs only raise a query over the victim's behaviour in order to rationalise abuse, as such formulation may allow.

I support calls for the inclusion of a safeguard in the legislation to protect family members. However, as I raised in Committee, could person A, who is a carer and related to person B, be found to be acting abusively but be excused on the grounds of reasonableness? I do not think that it is specific enough to protect elderly or vulnerable people. We obviously need to make sure that it is, and I look forward to engaging with the Commissioner for Older People on that.

The outworkings of the domestic abuse legislation will necessitate additional training and resources to those involved, such as the PSNI, and the organisations dealing with domestic abuse to be intact, fully resourced and properly trained. The Bill will not completely

eradicate domestic abuse, as I have said, but, in order for it to work, the proper resources, funding and training must be provided to all relevant organisations in the community and voluntary sector, statutory agencies, health service, the PSNI and the judiciary. We need a serious commitment to reinvest in refuges and support services for anyone who finds themselves in a position in which they need such support — in the long term and the short term. I hope that the Minister can commit to that. That will require working with other Departments and the pooling of budgets, but it is much needed. We cannot have the continued cuts to the life-saving services that deal with an epidemic of silence and violence on our streets and in our homes. How will resources be allocated in relation to the roll-out of the legislation for all involved? Will Supporting People budgets continue to be cut? Will they stand still? Or, could they potentially increase?

**Mrs D Kelly:** I thank the Member for giving way. I have raised this question before at the Policing Board. Do you share my concern about how ethnic minorities and people from different cultures will know about this? How are we going to educate people to know that they are victims and that they have a right of redress?

**Miss Woods:** I thank the Member for her point. I completely agree. A big communication job is needed, by not just the Department but ourselves and the community sector, to get the message out to people about what we are discussing here today and what is going to be coming in.

The questions on resourcing and funding must be answered. We need legislation with teeth, alongside the properly funded and resourced services that are required to protect people, by the organisations with the correct experience to deal with it.

Westminster's Domestic Abuse Bill contains provisions to establish the office of a commissioner. The commissioner's role is to provide public leadership on domestic abuse issues and play a key role in overseeing and monitoring the provision of domestic abuse services in England and Wales. However, that does not feature in Northern Ireland's Bill. I have concerns about that not being included here. A commissioner would be not only an advocate for the sector but someone who could ensure that adequate levels of funding and training were in place to ensure implementation. The message here will be that introducing a new criminal offence does not completely solve the problem, but we must not take our eye off the ball. We need to make sure that the law works in practice. A commissioner would,

therefore, play a key role in supporting the sector, the PSNI and the judiciary in doing that. If there is any question about the cost of such a position, I say this: what is the cost of saving a victim's life?

A glaring absence in the legislation is on stalking, which Mr Frew raised. Stalking covers a wide spectrum of behaviour. Although a majority of stalkers are obsessive ex-partners, others can be brief acquaintances, or even strangers who have become fixated on their victim. The current harassment laws are not up to date, and we desperately need legislation to protect victims. The Minister previously stated that she would be bringing to the House, in the autumn, specific laws to deal with stalking, including stalking protection orders. I hope that that is still on track and ask the Minister for any information that she has on that, given that the consultation responses were published last year.

The proposal for protection notices and orders was also included in an action plan for the 2016 Stopping Domestic and Sexual Violence and Abuse in Northern Ireland seven-year strategy between the Department of Justice and the Department of Health, but that proposal has not made it into the Bill. So, was it the case that the provisions for the emergency barring orders were not contained in the Scottish Act to date and, therefore, have not been introduced here? I look forward to the discussion on that at the Committee.

Granting secure tenancies for those who are victims of domestic abuse and violence is not specifically addressed in this legislation nor is access to statutory provision for emergency housing, which is needed. Proper cross-departmental working is required to give the support that is needed for victims and their families.

New Zealand has been in the press recently for very, very good reason, but I will take you back to last summer. It was reported that New Zealand had one of the highest rates of domestic violence in the developed world, with police responding to a family violence incident every four minutes. In July 2019, New Zealand passed legislation granting victims of domestic violence 10 days' paid leave to allow them to leave their partners, find new homes and protect themselves and their children. That was down to a private Member's Bill by the Green Party MP Jan Logie through the Domestic Violence Victims' Protection Act. The only other country in the world to have such legislation at a national level is the Philippines, while Canada has legislation in some of its regions. It is no

magic bullet but a significant step in the right direction. It goes some way to recognise the links between the economic situation a victim may find themselves in, and I urge the Minister to engage with the Executive on that. Again, I look forward to discussing that in more detail at Committee Stage.

**Ms Dillon:** Will the Member give way?

**Miss Woods:** I will.

**Ms Dillon:** It would be helpful if the Minister could have some conversations with the Minister for Communities around the housing points system because, currently, you can get intimidation points if your intimidation is sectarian or religious or relates to your sexual orientation or disability, but you cannot get intimidation points if you are a victim of domestic violence. In some areas, that has led to the perpetrator being able to get intimidation points because they stated that they were being intimidated because they were an aggressor against their partner or somebody who lives in their household, and the victim cannot get points to be rehoused. So, ten days' leave, very often, is no good to them because they cannot get points to even get emergency accommodation. That needs to be addressed as a matter of urgency.

**Miss Woods:** I thank the Member for her contribution. I completely agree and hope that we will have the opportunity to discuss that during Committee Stage.

**Mr Frew:** I thank the Member for giving way. I will simply reinforce the points that the Member and Linda have made. One of the reasons why victims do not leave their home is because they contemplate the future being worse or unknown, so better the devil you know. If they could just be persuaded that the future will be better, and that comes with a home, that would go some way to helping victims to take that first step of raising the issue of domestic violence with the police, knowing that the journey that they are on will lead them to a better place, to a home and comfort and protection. That is why it is very important to link this up with the future and with housing points. You are quite right: people abuse the intimidation points system at the minute because they get their mate Jimmy Hard-knuckles to ring something through and vice versa, and two toerags end up getting homes when they do not need them. Who needs a house more than a victim of domestic violence who needs to leave their home and needs to be persuaded to leave their home.

**Miss Woods:** I thank the Member for his contribution. It brings back the importance of this being a whole community response and the importance of a wraparound service for someone who has found themselves to be a victim through no fault of their own. We need all those provisions there so that when they are able to take that step to say, "This has been going on. I need help", everybody can jump on board, whether it is housing, counselling, provision for children or something to do with school, whatever is needed, that we have all those powers at our disposal. The work of the community and voluntary sector so far in providing support for women and children especially has been absolutely fantastic through the refugees. Hats off to anybody who is doing that work.

#### 4.00 pm

I am going to finish by referring to an online blog by a lady called Karen Smith. It is called, 'Counting Dead Women'. Some Members may have heard of it and, for those who have not, I suggest that you give it a like or a follow on Twitter. She recently wrote that in the first three weeks of lockdown, 14 women and two children were killed in the United Kingdom in a domestic setting. This is double the normal rate, if there was actually something that could be called a "normal rate".

Bearing this in mind, I want to read an extract from a post written by her in the middle of April about the effects of lockdown and abuse on women. She said:

*"What we're seeing is a window into the levels of abuse that women live with all the time. Coronavirus may exacerbate triggers, though I might prefer to call them excuses, lockdown may restrict some women's access to support or escape and it may even curtail measures some men take to keep their own violence under control. But coronavirus doesn't make a killer out of a man who has never been controlling, abusive and/or violent to the woman he is in a relationship with. And we must surely extend our concerns to the women and children who will live through the coronavirus lockdown with an abuser and survive."*

There are issues to overcome with this Bill in the near future, and I look forward to doing that in Committee and hearing from the sector through much-needed evidence sessions. However, it is crucial that we get it right.

**Mr Allister:** The House will get no quibble from me about the need to address the pernicious and insidious issue of domestic abuse. However, the critical test of how we are addressing it comes in an inspection of the offence that the legislation will create, and there the House will get quibble from me about whether or not this offence, as drafted in the Bill, is efficiently sufficient to address this issue. In summary, I believe that, as drafted and running over five clauses, this offence is more convoluted than it needs to be.

I recognise that it is really a cut-and-paste from the Scottish legislation, but that is not a good enough answer in respect of why it is in the form it is in. If we take the time to look at the component parts of the offence, in clause 1 we discover, not surprisingly, that there has to be:

*"a course of behaviour that is abusive of another person",*

and that:

*"the course of behaviour to be likely to cause B to suffer physical or psychological harm".*

That is exactly what you would expect, and that either the person:

*"intends ... physical or psychological harm, or*

*(ii) is reckless as to whether",*

that harm occurs, or not.

Let us move to clause 2. The Minister said that there was no definition of abusive behaviour, however clause 2 is in fact the definition. The title of it is, "What amounts to abusive behaviour" — in other words, what defines. So, this is the definition. The behaviour referred to has to be either "violent" — fair enough, that is good — or "threatening" — good — or behaviour directed at the victim that:

*"has as its purpose ... one or more of the relevant effects" —*

— here we are heading down the road of convolution —

*" or*

*(ii) would be considered by a reasonable person to be likely to have one or more of the relevant effects".*

Remember, clause 1 required the perpetrator to either "intend" or to be "reckless" to causing the abuse. Now we are introducing a new dimension that, rather than having the purpose of one of the relevant effects, it is enough if it:

*"would be considered by a reasonable person to be likely to have one or more of the relevant effects."*

The relevant effects are listed: making the victim "dependent on, or subordinate to" the perpetrator, whatever that means; isolating the victim:

*"from friends, family, other sources of social interaction or support"*

and

*"controlling regulating or monitoring"*

the victim's day-to-day activities; depriving the victim, or restricting the victim's freedom of action; making the victim:

*"feel frightened, humiliated, degraded, punished or intimidated."*

You have to show that the purpose is one of those relevant effects, or that a reasonable person would think that the effect is likely to be one of those.

We come to the most remarkable clause in the Bill. Clause 3 is astounding, I believe. It says:

*"The domestic abuse offence can be committed whether or not"*

the perpetrator's behaviour actually causes the victim to suffer harm or psychological harm.

Think about that. A criminal offence, for which you can get 14 years in prison, can be committed whether or not the person against whom it is said to be committed actually suffers the physical or psychological harm that is the telltale sign of the abuse.

It goes on to say that the perpetrator's behaviour "can be abusive" of the victim, whether or not their:

*"behaviour actually has one or more of the relevant effects",*

set out in clause 2. So, whether or not you cause physical or psychological harm, or whether or not you cause one of the relevant effects — the subordination, the isolating, the

controlling, the depriving, making them feel frightened or humiliated — whether you achieve any of those, the perpetrator can be guilty of the offence nonetheless.

Let us take the first one:

*"The domestic abuse offence can be committed whether or not A's behaviour actually causes B to suffer harm of the sort referred to in section 1(2)."*

The sort referred to in section 1(2) is "physical or psychological". When it says that the domestic abuse offence can be committed "whether or not" behaviour actually causes, that is saying, whether or not objectively it actually causes. It is not saying, as I heard one Member infer, whether or not the victim thinks they have not suffered that. It does not say that the domestic abuse offence can be committed whether or not the victim acknowledges, accepts, or admits, that it has caused any of those effects. What it actually says is:

*"The domestic abuse offence can be committed whether or not A's behaviour actually causes B either physical or psychological harm, or to suffer"*  
one of the relevant effects.

That is an objective assessment. Did the victim suffer harm? If the answer to that is no, did the victim suffer any of the relevant effects, such as being deprived of freedom of action, being controlled or being dependent on? If the answer to that is no, then, nonetheless, you can have the commission of an offence.

I ask the question, where is the actus reus of this event? In criminal law, there are two components to an offence: the mens rea, the intention to do it or recklessness, and the actus reus, the actual doing of it. If clause 3 begins by telling you they have not actually succeeded in doing anything, how can there be an offence? Yet that is what this legislation says. So it is a crime with no victim, in a sense. It is not that the victim says they have not suffered; the law says, objectively, you find there has been no harm.

It is enough to get to that point if some reasonable person thinks that it could have had — even though it did not — that effect. If a reasonable person thinks that it could have had that effect, even though they are wrong, and it did not, it still is an offence. That is absurd.

It is clause 3, in my respectful opinion, that makes this offence something which will be very difficult, in many circumstances, to bring

home in a prosecution. That is why I said that this offence is far too convoluted. It is a convoluted muddle.

Let me contrast that with what is happening today in Westminster. At this very time, coincidentally, Westminster is discussing its domestic abuse Bill. I want to remind you of all the convolutions I took you through about how you create our offence. Compare it now to the definition in clause 1 of the domestic abuse Bill:

*"Behaviour is "abusive" if it consists of any of the following—  
(a) physical or sexual abuse;  
(b) violent or threatening behaviour;  
(c) controlling or coercive behaviour;  
(d) economic abuse ...;  
(e) psychological, emotional or other abuse;"*

That is it. That is clear, it is unambiguous, largely, and it is intelligible. Compare that with clauses 1, 2, 3 and 4 — particularly 1, 2 and 3 — of our legislation. That is why I said it is a muddle.

I say to the Justice Committee, when you come to look at this legislation, set down in front of you the definition of domestic abuse in the Westminster Bill and set down the multiple clauses in this Bill, which define it in this jurisdiction, and ask yourself this question, "Which is the better of the two?". Ask it in this context, and I say this somewhat from my professional experience: any criminal offence is most effective the simpler it is. The more convolutions you build into a criminal offence, the more refuge there is to avoid conviction. That is exactly the flaw of the Scottish Act and this Bill. It, in effect, builds an offence, which far from being crisp, intelligible, straightforward, and with very few escape routes, creates one of the various opposite description. That is why I think that these clauses, this definition of the offence, is not going to deliver the clear-cut conviction rate that we need for domestic abuse.

Let me just take a little further this idea of the reasonable man deciding that is enough if a reasonable person thinks it is likely to cause one of the impacts. Go, then, to clause 12 and you will see, "Defence on grounds of reasonableness".

Let us imagine that we have got to the situation in a trial where, because of clause 3, you have got past the direction stage, where a judge in any criminal case — at the halfway point, as it were; at the end of the prosecution case — has to consider whether there is enough evidence to go to the jury and the defence can apply for a



direction that there is not. Let us say that you have got past that stage on the basis of one of the particular circumstances here: because a reasonable person thinks that the abuse outlined was likely to have one of the likely effects, even though it had none of those effects, and the judge holds that there is enough on that basis to get to this point. Then, you read clause 12, which says:

*"(1) In proceedings in respect of a charge against a person ("A") of the domestic abuse offence, it is a defence for A to show that the course of behaviour was reasonable in the particular circumstances.*

*(2) That is shown if—  
(a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (1), and  
(b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (1)."*

Does that mean that the reasonable man might think that there is enough for the prosecution to continue but some other mythical reasonable man is meant to think that what was said and done was reasonable? That is the impossible conundrum of clause 12 because of clause 3 and what goes before it about the reasonable man.

4.15 pm

If you want to be effective and create a viable offence, cut out all the chaff. Get to the heart of the matter, as the Westminster Bill does, and specify precisely what domestic abuse is. Do not muddle it with what the reasonable man might or might not think. Do not muddle it to the point where, even though there is no complaint of abuse and no objective finding of harm, this reasonable man can nonetheless send you to jail for 14 years. How could that be? Yet, that is how those clauses are constructed. Simplify them, make them forthright and clear and take away the hiding holes. I spent a career in the criminal courts, and legislation that had hiding holes was a gift to defence lawyers. This will be a gift to defence lawyers.

**Mr Givan:** I appreciate the Member giving way. He has been making a lot of points that, I have no doubt, the Committee will want to consider. Rightly, he has made them at this stage, and I thank him for that. He is right that legislation needs to be effective and have teeth that deliver the prosecution. One such example of that not happening was when the Assembly

passed legislation on sectarianism in sport and sporting fixtures but did not define what that sectarianism was. It was symbolic legislation that has not resulted in any prosecution. Whilst the spirit of what is in the Bill at this Second Reading is meritorious, it requires scrutiny to make sure that it does what we want it to do. In that regard, the Member has been making a useful contribution.

**Mr Allister:** I trust that it has not fallen on deaf ears, but we will see. I think that I have made that point.

Let me go to clause 26 and a less major point but one that needs to be made. This is the circumstance where personal cross-examination is prohibited. That is fair enough. The person themselves is not allowed to cross-examine. They do not nominate a lawyer to do it for them, and you arrive at the situation where the court makes the judgement that a lawyer should cross-examine for them. We find that, under article 11G, which is being interposed into the other legislation:

*"The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by a qualified legal representative appointed by the court ...*

*(6) If the court decides that it is, the court must appoint a qualified legal representative ... to cross-examine the witness ...*

*(7) A qualified legal representative appointed by the court under paragraph (6) is not responsible to the party" —*

that is, the accused, let us say —

*"except in so far" —*

I am sorry: these are family proceedings, so it could be the respondent or the applicant —

*"except in so far as acting in the interests of the party by virtue of this Article."*

I would like to hear from the Minister what

*"is not responsible to the party"*

means. The way in which cross-examination works is that you take your instructions through your solicitor from your client. They tell you, "This is what my case is. This is the case I want to put". You are then responsible for the putting of that case. In that, there is client/solicitor privilege. How do you get your instructions if

you are not responsible? How do you handle those instructions in terms of solicitor/client privilege if you are not responsible? Why would you not be responsible to the person on whose behalf you act? If you are not responsible to him, who are you responsible to? In whose interests are you acting? There is no point in saying to a man or a woman, "We will give you legal representation, but the person who represents you will have no loyalty or duty to you". Whom they have it to I do not know. I would like to hear from the Minister what it means when it says that the representative that is appointed is "not responsible to the party". What on earth is that meant to mean? I will leave it there.

**Ms Sugden:** First, I pay tribute to victims of domestic abuse. I offer my sincere condolences to the families and friends of loved ones whose lives have been taken by someone whom, they thought, they could trust and whom they loved. One is too many, but it happens too often. My thoughts are also with those suffering domestic abuse, and I hope that our work today gives them strength to seek help and support.

In May 2016, in Stormont Castle, the First Minister and the late deputy First Minister designates asked me what I wanted to accept the role of Minister of Justice. I did not have red lines, famously, but I simply said that I wanted to tackle domestic abuse. At that point, tackling domestic abuse became my overarching priority as Minister, as an MLA and as a human being.

It is my biggest regret that I could not present this legislation to the House — not because of my ego, I assure you, but because nearly three years have passed since I was due to present the Bill. In those three awful years, women and men have died because of domestic abuse. On average, the police have received around 30,000 reports of domestic abuse incidents across Northern Ireland every year. There were nearly 100,000 if not more reported incidents while the Assembly played politics outside. The number of incidents that have not been reported really does not bear thinking about. How many incidents of sustained, psychological torment have victims endured, when they maybe did not even realise that they were being abused, because we did not legislate three years ago? This is a great day for this legislation for victims. It is not my intention to pour cold water on what we are now achieving, but, for the sake of lost lives and for the sake of victims who continue to suffer domestic abuse, I must point out our failure to them. It is shameful. I can speak only for myself, but I am deeply sorry to victims and their families who have experienced or continue to experience

domestic abuse. Sadly, the House allowed domestic abuse to thrive by doing nothing, and that should never happen again.

It was my priority, and I am really pleased that it is Minister Long's priority. This is the important law that we will pass in this mandate. Domestic abuse did not become an issue when I took office. It has long been the hidden shame of our society. To be honest, it is not really hidden. We all know about it. I have no doubt that, if I asked you to think about a person — not a constituent — who, you know or you suspect, is suffering from domestic abuse, you could. Crudely, some continue to even joke about domestic abuse or to dismiss continued insults, a black eye, broken bones, death: "It is just a domestic. It went a wee bit too far this time". Many still blame the victim or prioritise the issues that led the perpetrator to abuse: "He had mental health issues. He's been through a lot. She drove him to it". No. She was murdered. He did it, and that is s wrong. I have no doubt that there are reasons, circumstances and environments that lead people to commit crimes. I will discuss that, but our focus, in the first instance, should be on victims and the life that has been lost and damaged by domestic abuse. Historically, for the first time, this legislation does that. Domestic abuse does not discriminate: women, men, teenagers, the elderly, black, white, gay, straight, disabled, politicians, doctors, farmers, the unemployed are victims. Women, men, teenagers, the elderly, black, white, gay, straight, disabled, politicians, doctors, farmers, the unemployed are perpetrators. It is universal, and maybe that is why we have accepted it for so long. I did not; Minister Long has not; and the House should not. I do not expect Members to reject the Bill. When we took the idea of the legislation to the Committee in autumn 2016, it was supported unanimously. The current Committee supports the legislation. That is a clear message of our intent, a message to victims that we are finally listening, a message that domestic abuse in all forms is a crime and will not be tolerated in society.

At this point, I pay tribute to activists, including the Women's Aid Federation NI, Victim Support, Men's Advisory Project, Rape Crisis NI, Action on Elder Abuse, Nexus and many others who have long pursued the need to recognise domestic abuse as an offence. They taught me much and guided my opinion. They continue to work in our communities to improve the lives of those suffering domestic abuse. Mrs Cameron raised an important point about the need to provide funding for the community and voluntary sector, particularly if we are seeing an increase of cases during the COVID-19 crisis. It is really great that, finally, we have the

legislation, but it is those groups, as well as the criminal justice partners, that will ensure its implementation. We need to resource them to do so.

The Minister made comments about a domestic abuse commissioner in Northern Ireland and was keen to consider ideas around that. I advocate a domestic abuse commissioner. I appreciate the Minister's concern. However, given the nature of the offence, in that it is behavioural, it will be difficult to implement. Most crimes are a one-off event. They happen, it is clear what constitutes that offence and a process follows to prove and convict. Behavioural offences are more difficult. It is usually more than two occurrences, and then you add the word "reasonable", which gives rise to its own interpretation.

Will the public fully understand? Will the investigating officer feel equipped to gather the evidence that could lead to a case being presented to the PPS, and then a court case and a possible conviction? In my experience as a constituency MLA, there are regular difficulties in relation to investigating harassment, for example, because it is a behavioural offence.

**4.30 pm**

Mr Allister asked me earlier today whether I was happy with this legislation. Of course I am; I am delighted. To be fair, however, he did remind me of the difficulty in implementing such legislation in other regions of the UK. At the time, I thought that I knew what he was talking about, but then I listened to his contribution and now I am not sure. I think that what he has done is to raise the point that this legislation needs to be fit for purpose. It is one thing being symbolic, and from the outset I think that that is all that we could have hoped for, but we are at a stage now where it has to be much more than that. It needs to be able to be implemented.

It is modelled on Scotland. Mr Allister, you are the first person I have heard criticise the Scottish model, and I am interested in that, because it seems to be lauded as the model that we should have followed. It is good that we have the opportunity to tailor it to the specific needs of Northern Ireland, and I commend the Minister for taking it forward here, rather than at Westminster. I fully support her in doing so. Where we are now, we do have the benefit of drawing on the strengths and weaknesses of other jurisdictions. We need to consider Mr Allister's contribution. We need to stop domestic abuse and save lives by making sure that this is right and that it is fit for purpose. I understand the necessity, particularly after three years, of

getting this onto the statute book, but it must be right. Any law is only as good as its implementation. If we cannot do that, all of this will have been in vain.

I still think that there will be issues with understanding this offence. I am not necessarily criticising the law, although I am beginning to rethink it. We need to be very mindful of its successful implementation. I ask the Minister: is there any such thing as putting in a communications clause around this Bill? I think the biggest piece will be to educate people about what this is. I have no doubt that there are people who behave in a particular way and would not even consider that, under this law, they might be committing an offence. If we are to implement this and do what we intend in protecting future victims and the victims that exist, we need to ensure that people understand what this law is.

I maintain that, in Government, we need a strategic approach to governance. Outcomes-based accountability needs to find its place again. I find it disappointing that the Government do not seem to use that phrase too often. I will take it for granted for now that the intent is there and that we will see more of it when we emerge from this crisis. I agree with Ms Dillon that to truly tackle societal issues, including domestic abuse, we need a joined-up approach. We need to address social deprivation and access to high-quality education for all. We need sex education. What is a healthy relationship? My time as Justice Minister taught me that kids of all backgrounds and all ages do not understand what that is, and that is going to lead to many problems down the line, including domestic abuse and sexual violence.

Children and young people need opportunities to aspire to a better life, and we badly need to address mental health and trauma. We are a post-conflict society, but you would not know it from the services that we offer. A generation is traumatised. Intergenerational trauma means that the pain of our past will continue unless we address it. The consequences, which include domestic abuse, will continue unless we address it. I have said many times before in the Chamber that I do not believe that anyone is born bad. I think that they are a product of their circumstances, and that includes domestic abuse. It is not an excuse. It is a reason that we need to address, because the best thing that we can do for victims is to not create them.

I want to come back slightly to the issue of trauma, because I feel strongly about addressing it. To that end, I hope to develop a

private Member's Bill that ensures that all future policy development in Northern Ireland takes a trauma-informed approach, similar to the Rural Needs Act (Northern Ireland) 2016 or the Children's Services Co-operation Act (Northern Ireland) 2015.

I am talking about trauma because domestic abuse is a trauma. When I was Minister, I was keen to address domestic abuse because of the scourge that it is, but I also recognised that addressing domestic abuse breaks the cycle. Trauma perpetuates the cycle.

I will give you an example. It is a very simple anecdote that I used to use to describe trauma when chatting with people. If a child sees his father hitting his mother in the home, that child will be traumatised. That trauma may manifest as a mental health or addiction issue, which in itself may lead that young adult or adult to commit domestic violence of his own or to have some other issue in his adult life. If that is the case, we are perpetuating a cycle that will never end. We need to break that cycle. Mr Frew referred to that as well.

I will speak briefly about elements of the Bill. Part 1, which we focused on a lot during our time in office, contains the domestic abuse offence that specifically defines coercive control as such. Ms Armstrong noted that earlier. The PSNI had a great campaign called "Walking on Eggshells", which gave a good pictorial representation of what it feels like to be under coercive control. I recognise the fact that we need to create legislation that captures that and that can enable convictions. However, that is the piece of work that needs to be done when we are trying to communicate to the public what coercive control is about. We need to describe to them what it is. I reiterate the point that many people will not recognise either their own behaviour or what is happening to them as being a form of coercive control or that we are legislating for something that may end up leading to a conviction for their loved one.

The offence of aggravation of a child is really important. I probably say that because of the point that I made about trauma and the impact that it will have on a child. It sends a clear message that domestic abuse, particularly in a familial setting, is very serious and has a wider societal impact than just what it is doing to that family unit. We do not exist in isolation in most cases. We are usually part of a family unit, so it is important that a lot of the legislation that we take forward in the House recognise the family element in all of this.

The new Part of the Bill, which I am not familiar with, concerns family proceedings. I ask the Minister whether that is included to address somewhat the concerns around parental alienation. Prior to restoration, I met Department of Justice officials to discuss parental alienation, and we felt that it could be specified in the Bill. It was felt at the time that the legislation covered parental alienation and could be interpreted in such a way but that perhaps a way in which to strengthen the legislation, particularly for the criminal justice agencies, would be to add it to the guidance so that, whenever the agencies are reading and interpreting the legislation for a criminal justice process, it would specifically mention parental alienation.

Tackling domestic abuse is an issue that I am very passionate about. It baffles me that we have not addressed it up until now. We have not resourced the issue up until now. The fact that there are 30,000-plus incidents of domestic abuse in Northern Ireland every year, and that figure includes only those that we find are being reported, demonstrates that we need to tackle the issue. If those were figures from any other project, it would be obvious into where we needed to put our resources. I appreciate the Minister taking forward the Bill. It is, sadly, three years too late for many people, but, moving forward, it is the right thing to do. I will support the legislation.

**Mrs Long:** I will say first that progressing this legislation is a priority for me in this mandate. It is hugely important that we make good progress with it. I therefore thank all Members for their constructive and positive engagement today on the issue of domestic abuse, because it is important not only to me and the Department but to all of us in the House who represent constituents who have often been through such experiences. As the Bill moves through its legislative stages in the Assembly, I hope that we can continue in the same spirit to ensure that this important legislation reaches the statute book as soon as possible and starts delivering for those people across Northern Ireland who are being abused in their own home.

Victims and survivors bravely shared their personal accounts with me, explaining how their lives were broken by psychological and emotional abuse. They are the driving force behind the Bill, and they are my motivation. Many of you will feel the same as you have engaged with countless constituents who were experiencing systematic psychological and emotional abuse at the hands of someone

whom they ought to have been able to trust. Now is our chance to help those affected.

The overarching purpose of the Bill is to criminalise patterns of psychological and emotional abuse of an intimate partner, former partner or close family member. There was general consensus throughout the debate that this is the right thing to do. I am heartened by this, but not surprised. It is hard to see how anyone could consider that this type of behaviour did not warrant criminalisation. The new offence is needed to close the gap in the law and ensure that protection is not limited to physically violent behaviour, as it is at present. It will provide the police with the opportunity to intervene early and, potentially, stop the escalation of domestic abuse. Police currently attend incidents where that coercive and controlling behaviour is present, but their options are limited because, as things stand, that behaviour on its own is not an offence. We know that psychological or emotional abuse is repetitive and that the aggregate effect causes the build-up of constant anxiety and fear. The offence reflects this. The behaviour is often tailored to cause the victim maximum harm. The offence is purposely broad to capture such nuanced behaviours. It could also capture physical violence, sexual violence and threatening behaviour, if that is present. Members recognised, quite rightly, that the Bill contains more than just a new offence. It also includes safeguards to prevent an abuser using criminal justice processes to further exert control and influence over their victim. Those provisions should help to minimise the victim's trauma while ensuring that the proper administration of justice is achieved. The two child aggravators associated with the offence are included in the Bill in recognition of the damage that domestic abuse does to children. The statutory general aggravator also means that domestic abuse can be recognised alongside any other offence.

I consider that the maximum penalty, which I set out earlier, reflects the very serious and long-lasting impact that domestic abuse can have on victims. Clearly, however, the maximum penalty will not be given in every single case. The family justice provisions will mean that perpetrators are also prevented from using the family justice system to continue the abuse of their victim. They will also ensure that victims giving evidence at family proceedings have the same protection as victims who give evidence in criminal proceedings from being cross-examined by their abuser in person.

I turn now to some of the issues raised by Members during the debate. First, I will reflect

on the remarks of Paul Givan, who is the Committee Chair. He recognised the depth of harm and the multi-generational damage that can lie behind each of the statistics that we talk about today. I recognise how important the Committee's cooperation will be in moving this offence from the debate here in the Chamber to becoming a reality in statute. I am committed to working with Paul, Linda and the Committee to assist them as they scrutinise the Bill.

I want to address a number of the queries that Paul raised today, though, come Committee Stage, there will be a lot of time to do so in more detail. First, clause 12 provides for a defence of reasonableness, if, for example, someone restricts another person's access to household finances because that person suffers from an addiction or illness or on safety grounds. Proof of the reasonableness of that action will need to be provided. It is not a "get out of jail free" card.

Clause 13 sets out the alternative offences provision. There are cases where the offence may have been committed and the evidence is such that that can be proven, but a personal connection cannot be proven. In those cases, the alternative offences of harassment and putting people in fear of violence under articles 4(1) and 6(1) of the Protection from Harassment (Northern Ireland) Order 1997 can be used. Stalking will be added to that list in due course. People can be charged with both offences at the outset or it can be a fallback position. That is a matter for the PPS to make a judgement on at the time.

On using the court process to victimise, the Bill contains important provisions that balance the right of individuals to access the justice system, including the right to defend themselves.

It is important that we protect that, whilst addressing the issue of someone abusing the system to further intimidate their victim.

#### 4.45 pm

The Chair mentioned the Attorney General and his query about extraterritorial jurisdiction. The Attorney General was, in general, supportive of the Bill. He expressed informally one reservation with respect to competence: whether the criminalisation of behaviour occurring outside the UK forms part of the law of a country other than Northern Ireland. Both the Office of the Legislative Counsel and the Departmental Solicitor's Office are of the view that the Bill is within the legislative competence of the Assembly. This does not prevent the Bill

progressing or being enacted. Discussions on the Attorney General's reservation are ongoing, and I am confident that that query can be resolved.

I want to thank the Chair for his commitment that the Committee will work with the sector to expedite consideration and scrutiny. It is hugely important that that scrutiny takes place — that is why I opted to bring the Bill through the Assembly rather than simply piggyback on Westminster legislation — but it is also important that a balance is struck given all that people have said about the urgency of getting this Bill through. The need for scrutiny must be balanced against the need to get an offence in statute so that we can start to move on and see prosecutions flow from this legislation.

With respect to COVID-19, Linda Dillon asked if we could ensure that seeking help or fleeing domestic violence or abuse is regarded as an essential journey. We have taken account of that. Those who provide counselling and support for victims of domestic abuse, domestic violence and sexual violence were also designated as essential workers. So, we recognised at the outset of the lockdown that there would be the need for people either to flee abuse or assist others who are suffering from abuse, and that was taken account of in the regulations.

I agree that cross-departmental working is vital. Better sex and relationship education, better mental health support, better access to safe accommodation and many other elements need to be taken forward if we are to see a rounded response to domestic abuse. I have been working with other Executive colleagues. For example, it is the Department of Health that generally provides organisations with the core funding to actually support domestic abuse victims, but we work together in the operation of that. I hope that, through the seven-year strategy that the Executive already have in place, we will continue to be able to do that. It is worth noting that, in the middle of the COVID-19 crisis, the First Minister, the deputy First Minister, Minister Hargey and I met to discuss temporary accommodation for those who are suffering from domestic violence. We want not just a piecemeal approach for this particular crisis situation but to look at the longer-term issues, and I will come on to that later.

Sentencing will obviously be a matter for the judiciary, but I want to clarify one thing. I said that the longest sentences are likely to be for either lengthy periods of psychological abuse or where violence has also occurred. I want to put on record that that is not to say that violence

must occur for the longest sentence to be triggered.

Ms Dillon also raised the issue of domestic homicide. Devastatingly, particularly for the families involved, there have already been four domestic homicides since the COVID-19 lockdown began. Across the Executive and with our partners, we have been working on a multi-agency basis to ensure a joined-up response for those who are vulnerable and require specific protections at this time. That multi-agency group is working to ensure connectivity on addressing those concerns. On the domestic homicide reviews, a selection process is under way to select three independent chairs. The COVID-19 outbreak has made it impossible for us to complete the selection process at this point, and a small number of candidates remain to be interviewed. We are looking to compete that process via video technology. Preparations for the introduction of homicide reviews are at a very advanced stage. Once the chairs have been selected, training will commence. The model will be refined using historical cases. Guidance and a tender for classroom-based training have been prepared and will be circulated when businesses are able to open and fully function again. I hope that domestic homicide reviews will be introduced around the end of the year, with a review of the process in one to two years' time.

Finally, Linda Dillon raised the issue of non-molestation orders and the use of them to abuse and maintain unwanted contact with victims. While a non-molestation order is granted in a civil court and is a civil order, a breach of it is a criminal offence, and breach of the order may be subject to a fine of £5,000 or to a term of six months' imprisonment or both. Any change resulting in any strengthening of those provisions would be something that the Finance Minister would have to take forward. Unfortunately, the landscape around family law is quite complex, with the Department of Health and the Department of Finance leading on policy and the Department of Justice leading on legislation, so I think that it would require a review first and foremost in the Department of Finance.

With respect, however, to family proceedings, one of the concerns is about the cost. I think that it is something that we need to address, because I think that there can be a misunderstanding. The making and enforcement of non-molestation orders is an important mechanism by which people can be shielded from dangerous abuse. Assistance is available from a legal aid fund for anyone who needs to apply for a non-molestation order. The

Legal Services Agency waives the applicable means test in respect of those applications, however victims may have to pay for legal representation, and I think that that is often where we see people incurring significant costs as they hire legal representation to defend their case if they are not able to represent themselves and do not want to do so.

I think that it was Linda Dillon who raised the issue of domestic abuse policies and particularly Operation Encompass. The Department, in conjunction with colleagues in Education, Health and police, is considering how notification could be made to schools of domestic abuse incidents and what legislative change would be needed. It could ensure that teachers are aware of incidents that may impact on a pupil in advance. Work in the area is likely to be piloted first, and the discussions on that pilot are ongoing. Given this, I think that any legislative changes should be made following the pilot and through a future legislative vehicle, potentially the miscellaneous provisions Bill, if a pilot can be established in that time frame, rather than holding up this particular Bill.

Both Paul Givan and Linda Dillon raised the issue of whether the offence was too broad and, therefore, ineffective. There are a number of specific conditions attached to the Bill. There must be abusive behaviour on two or more occasions. A reasonable person would have to consider that it would cause harm. A person must intend to cause harm or be reckless as to that. Our approach is to ensure that the provisions are operationally effective. For this reason, there has been and continues to be close engagement with our statutory and voluntary sector partners to ensure that we capture the full breadth of domestic abuse offences.

Dolores Kelly asked whether I could give any reassurance on funding in the Budget. I think that, if I were to do so, the Finance Minister would arrive in the Chamber to tell me that I am above my pay grade, so I will not do that. However, I want to provide some reassurance, because I know that Pam Cameron also raised the issue, particularly the voluntary sector in the current crisis. Funding and family policy are led by Health and Finance, but we do commission some services. For example, we have extended our advertising around domestic abuse, and we are aware that that has led to increased use of the helplines. We have also been promoting within the Police Service the silent solution for those who are at imminent risk of danger. People who cannot speak on the phone because their abuser is present can dial 999 and then press 55, and people will know that

they are in immediate danger and respond as a matter of urgency.

On the additional funds, in many of the cases, the new offence will already be being supported by our voluntary sector partners. These may not be offences, but they do impact on people's lives, so people are already suffering from this abuse. It is not a new abuse; it is simply a new offence. The offence will build on cases that could otherwise be in the system, involving physical abuse or violence, and we will monitor the number of new victims coming forward when the offence is in place. We think that we could see an increase overall in offences of around 3%, and we will want to monitor the impact of that on a range of organisations, including statutory and non-statutory partners.

Mrs Kelly also raised the current status of domestic abuse protection orders and domestic abuse protection notices. To be clear, a number of Members have conflated domestic violence protection notices orders with domestic abuse orders and notices. Just to be clear, domestic violence protection orders and notices already have primary legislation in place. They provide victims with immediate protection for up to 28 days following an incident of domestic violence and give them time to consider what they want to do next. The formal introduction of domestic violence protection notices and orders requires Assembly approval in relation to legal aid and also court rule changes. My officials are liaising with the police and court colleagues on a number of outstanding issues in that regard. Subject to the resolution of those, I hope that they can be introduced in the second half of 2020, subject to the necessary legislation passing through the Assembly and the training for police officers being programmed and delivered.

With respect to the domestic abuse protection notices and orders, which I think Mrs Kelly referred to and are in the Bill in Westminster, that will involve quite considerable policy development — probably six to nine months — ahead of drafting legislation. I know that some Members said that an amendment is a quick and simple thing to do. That is true if it is just words on a page, but if you are going to develop the policy, the training and the whole toolkit that is required to implement it effectively, it will take six to nine months. Given, particularly, the high praise that you had for the team in the Department of Justice, if they believe that it could take six to nine months ahead of drafting, I think that it would be wise for Members to take that advice seriously when it comes to whether they want to proceed ahead of that.

Importantly, the new notices and orders are intended for domestic abuse cases, to replace and build on current protections, such as non-molestation orders, occupation orders and restraining orders. In the absence of the new notices and orders, the other protections are therefore still available. As I said during my opening remarks, there would be merit in operating the orders and notices in England and Wales on a pilot basis to see how effective they are and to take any learning from that as we draft our own response.

Mrs Kelly also referred to an offenders' register and issues of disclosure. What is being proposed are notification requirements to inform the police, rather than a register that individuals could search. I have not taken a final decision on that issue, but we must remember that notification requirements are there to protect people from an individual who poses a public risk to others, regardless of whether they are in a relationship with them, for wider public safety. While a domestic abuse offender can pose a significant risk in the context of a relationship, it is often not to the wider public. Furthermore, notification requirements are similar to those already in place for people who are subject to a violent offender prevention order, and this is a specific provision for domestic violence offences, helping to capture habitual perpetrators.

Importantly, our domestic violence and abuse disclosure scheme already enables an individual to ask the police whether their partner, or the partner of someone that they are concerned about, poses a risk. In addition, under this, the police can proactively advise an individual that their partner poses a risk, as has occurred in a number of cases. That disclosure scheme, as you know, was introduced in March 2018. Since its introduction, it has dealt with 614 applications under the right to ask and the power to tell, and 87 people have received a disclosure. Members can see, therefore, that there is considerably more interest in having such a disclosure than there are people who currently have access to it.

Finally, Mrs Kelly and a number of others raised the issue of COVID-19's effect on domestic violence issues. I will put in context the figures that others said. Often, at this time, people in their home are not able to reach out and seek help. We need to reinforce the message, as many have done today, that there is a need for people to know that they are not alone simply because they are socially-isolating at home. Calls to the 24-hour domestic and sexual abuse helpline have increased by around 52% since

the start of the lockdown period, with a 70% increase in the week before last. That is a very stark figure, given, as Paul Givan said earlier, that behind every one of those statistics is an individual in fear of their lives.

#### 5.00 pm

Mark Durkan and others raised the issue of parental alienation. We believe that the Bill will allow that to be addressed because it covers the use of a child as part of the commission of an offence of abuse.

Doug Beattie mentioned a victims' commissioner, and I know that Doug is passionate about having a victims' commissioner. As I said in my opening remarks, I am open to considering whether a domestic abuse commissioner is required. However, a lot of oversight, guidance and direction are in place, and a commissioner could, essentially, lead to a duplication of effort and a drain on limited resources. Therefore, we need to be careful about what a domestic abuse commissioner's role would be. In other jurisdictions, one of their key roles is to ensure consistency of service provision. Locally, that is not such an issue, given our size and structure and the extent of engagement with statutory and voluntary sector partners. Many of the key organisations are, in fact, unitary bodies. We also have the interministerial group to provide oversight and direction, and we need, at this stage, to think about what additionality a commissioner would bring in the context of such abuse.

Doug also helpfully raised the diversity of victims and perpetrators. I spoke earlier about those of us of a certain vintage who have a particular mental image of domestic abuse. Often, if we do not name people — men who suffer domestic abuse and people from the LGBTQ community who suffer domestic abuse — they do not see themselves in the messaging that we put out because they, too, have been conditioned by the images that have largely accompanied the talk of domestic abuse and public discourse. Worse than that, we have, through public discourse, in many ways allowed the myth that those who are subjected to domestic abuse are in some way weak, frail, feeble or not able to defend themselves from that abuse. In fact, very capable people, very assertive people, very intelligent and educated people, men who have had a career in what are hard and difficult industries and in a macho culture can still be subject to domestic abuse, controlling and coercive behaviour and violence. We should never make assumptions



about the victim or the perpetrator in domestic abuse.

**Mr Durkan:** I thank the Minister for giving way. I commend her for introducing the Bill, and it was remiss of me earlier not to commend the work that Ms Sugden did as Minister and has done since on this hugely important issue.

The Minister spoke about the messaging that we put out. While that is good and has undoubtedly assisted with increasing the number of reports of domestic abuse that are made, does the Minister acknowledge the role of the mainstream media, if you like, including soap operas such as 'Coronation Street', in not merely entertaining but educating people? There are people sitting at home who may have been the victim of abuse for 20 or 30 years and not realised it until they saw it happen to someone on their screen.

**Mrs Long:** That is a good point. Often, when the adverts come on, people see them as a tea break and do not necessarily pay attention to what is being shown, even though the quality and reach of it can be quite important. However, they will often follow a storyline. You are right: when they watch the progressive change in an on-screen character whom they have formed a bond with and see that person become increasingly debilitated by the abuse that goes on and see the subtlety of it, it can drive it home that the relationship that they are in is broken and damaged. There is a massive opportunity, and I know that some people have been reflecting on some of the current storylines in, for example, 'EastEnders' that tackle domestic abuse and violence. Those are —.

**Mr Durkan:** They are always behind.

**Mrs Long:** Always following our lead, of course. I think it is hugely important that we do that.

Doug Beattie and others also raised support for the police. Yes, statutory bodies such as the police, the Public Prosecution Service, the Probation Board and others will have to meet those additional costs from their budgets. I would welcome the support of those of you who believe that their budgets should be bigger in making that case. It is expected that additional the investigative and prosecutorial work with the introduction and operation of the offence will be balanced by a reduction in other areas, as these offences will replace some equally complicated offences to prosecute at this time. A number of cases that could be taken forward,

such as criminal damage, grievous bodily harm or assault charges, could form part of a new domestic abuse offence and therefore will not necessarily lead to a huge increase in workload. However, it will require an increase in training. That preparedness is something that Gerry Kelly and others have raised this afternoon and that I will address shortly.

Chris Lyttle also welcomed the Bill. That is important, given his role as the Chair of the Committee for Education, because there are huge educational issues here. A child's educational attainment, their mental health and their long-term social development can all be affected by living in an environment where there is a prevalence of domestic abuse or violence. I also believe that we need better relationship and sexuality education in our schools to better prepare those young people who, unfortunately, cannot look to their parents as a template for what a healthy relationship looks like. We need to offer people advice and guidance on what that might be. We should bear in mind that many young people will carry the burden of knowing that abuse is going on at home and will be fearful of building relationships outside the home for fear of exposing their family to ridicule or gossip. They will be fearful, when they go to school, that they leave their mother, perhaps, alone with the abuser, or they are afraid that, when they come home, that their father will be upset because the mother has been with him all day and has been subjecting him to abuse. How those children react in the classroom is often one of the first indicators that there are problems at home, so it is also important that we educate not just children but the educators about recognising the signs of domestic violence and abuse.

With respect to Paul Frew, I thank him for his warm remarks about the officials, in particular Veronica Holland and her team. I am hugely indebted to them for the work that they have done on the Bill. It is true to say that we would not be standing here had they not continued diligently over the last three years to work hard and to make sure that it could proceed. I also thank former Minister Claire Sugden and David Ford, who started the ball rolling, gave impetus and helped shape the offence. It is hugely important that we recognise that this did not come about overnight but is something that we have been working on for some time.

Paul asked why the new offence with respect to stalking is not captured in the Bill and looked for reassurance that we would do that later in the year. The Bill is focused solely on tackling domestic abuse. It was much further advanced as an offence, and therefore, had we decided to

wait until the stalking offence was developed, that would have delayed the introduction of this Bill and left people unprotected in the interim. I want this to remain focused on domestic abuse, and I recognise that stalking is not always in a domestic situation, though that often is the case. It is my intention to bring forward stalking legislation in the autumn. We are progressing with that well, including looking to introduce stalking protection orders, and we will work hard to ensure that those who engage in stalking activity will be better managed than through the current harassment legislation.

Paul Frew also raised the issue of timing and our estimate of how long this would take to operationalise. Training will be critical to the success of the offence. A lot of our statutory and voluntary sector organisations will need to train their front-line staff and to raise awareness of the offence in their organisations. There will also need to be work done with the judiciary. The police and others are already reviewing how they will do that and will create a training implementation team in the police to ensure the effective and timely operationalisation of the legislation. It will include representatives from the police learning and development team, domestic abuse specialists and victim-orientated services. Training will also be provided for the Public Prosecution Service so that they too can appropriately deal with cases. Following Royal Assent, a minimum of a six to nine months is needed for that to happen, as well as the awareness raising that others have spoken of this afternoon. Elsewhere, it took nine to twelve months, but we believe that six to nine months, whilst ambitious, is possible. However, I stress that that also requires us, if we are to move this forward, to make every effort to move it forward quickly through the Assembly too. That is the best way of ensuring that people are protected from the earliest point.

Paul also raised the issue of amendments. I think that I have dealt with that already. I just want to deal with some of the questions about clauses, which I may also deal with elsewhere. Clause 3 actually allows for harm not to have been caused. It is intended to protect victims. Harm does not have to have been caused for the new offence to apply. No evidence of harm is needed. We are criminalising a course of behaviour, not the outcome. For example, if someone drives and recklessly endangers life, and a person ends up with a permanent disability, as opposed to dying, as a result, the maximum sentence for both offences will be the same: it is the course of action in which the driver engaged that determines the sentence, not the outcome. It will be the same with this

offence in that, should people set out to behave in a certain manner, that manner of behaviour is being criminalised.

The issue was raised as to why clause 8 applies to young people. It applies in those cases where a young person is in an abusive relationship with another person. That person may be another young person or someone who is in their early twenties. It could be a 17-year-old who is in a relationship with someone who is in their twenties. They could be living together or apart, but that person could be subject to coercive control. It is important that those protections are in place. It does not cover a parent, but it could cover those who also reside in the family home. That is the purpose of clause 8.

I think that I have already addressed clause 13 with my answer to Paul Givan's queries. Essentially, clause 13 deals with the inability to prove the relationship, not the inability to prove the offence.

Finally, it was asked whether the scope is too wide: what is and is not controlling behaviour? It is important that awareness of what is and is not controlling or coercive behaviour is raised, so we are also preparing guidance on the operation of domestic abuse offence and aggravators, as well as domestic abuse more generally. That will be available publicly. That guidance will assist front-line organisations, while providing information to those who support victims or are interested in the subject area. It will set out what domestic abuse and abusive behaviour looks like. Comprehensive guidance will be essential in assisting the police to carry out effective domestic abuse investigations. We are working with colleagues in the police and public protection service, as well as partners, to ensure that that guidance is as accurate and thorough as possible.

With respect to Jemma Dolan's comments, she is, of course, correct to highlight the issue of cross-border living and why it is so important that we have extraterritorial jurisdiction on those offences, particularly, though not exclusively, for spanning the border. The offence will apply where abusive behaviour takes place in Northern Ireland, regardless of the nationality of the individual. It will also apply if someone is a Northern Ireland resident and all or part of the abusive behaviour takes place elsewhere. If the perpetrator is a resident of Newry, their partner lives in Dundalk, and the pattern of abuse takes place in Dundalk, the offence could still apply under that provision. If someone lives and works in Dundalk but their partner lives in Newry, and the pattern of abuse takes place in

Newry, that behaviour would constitute an offence in Northern Ireland as it took place here. The most appropriate jurisdiction for progression of the charges is likely to depend on the individual circumstances of the case, but it is important that we do not prevent those issues being prosecuted because of such barriers.

It is also correct that there are a number of other changes that are required to our legislation. I have already mentioned my intention to bring forward legislation on stalking. We are also looking at the issue of non-fatal strangulation. I am pressing forward with both of those as a matter of urgency.

I think that I have mainly covered Jonathan Buckley's comments, as I have Gerry Kelly's comments. I think that he made the point about the crucial balance between wanting to see this operationalised quickly and wanting to see it done effectively. The last thing that we want is to have an offence on the books that the police are not ready to investigate and the courts are not ready to prosecute. We must ensure that the two go hand in hand.

Kellie Armstrong raised the issue of the taboo that surrounds domestic violence — for example, victim shaming, that it is a weakness or a flaw and they are to blame for the behaviour — and the importance of recognising the diversity and complexity of family life and responding to that. I believe that the Bill does that but it also offers an opportunity for culture change around what we see as our responsibility as a community. Linda Dillon is correct that, for too long, people treated domestic abuse as though it was a private matter. It is not; it is a criminal offence.

### 5.15 pm

With regard to Rachel Woods' contributions on how we are going to raise awareness of domestic abuse and healthy relationships amongst young people, a programme of work will be needed to raise awareness of that new offence. Any work taken forward in the area will need to be available across a range of groups, particularly young people. There is also a responsibility on my partners in Government to ensure that there is increased awareness around what are healthy and, conversely, unhealthy relationships. The cross-departmental Stopping Domestic and Sexual Violence and Abuse in Northern Ireland: A Seven Year Strategy involves promoting increased knowledge and understanding of violence and abuse, promoting healthy relationships and early intervention for those at

risk. My Department also funded Spanner in the Works theatre company to deliver performances of the play 'Mind Games' and 18 follow-up workshops to schools across Northern Ireland to educate young people early about abuse and controlling and coercive behaviour in relationships.

I think that I have dealt with the increase in cases and the impact that that may have on the police. We are also aware of the need for safe housing for people. Members will be aware that this not a matter for me, but for the Communities Minister. However, as I have said, I am working closely with Deirdre Hargey to ensure that people can access safe accommodation. A consultation was previously undertaken on a review of social housing allocations and, in particular, how housing points allocation would ensure that victims of domestic abuse could be better supported, and that could form part of those regulations coming forward. Minister Hargey is considering the way forward on the proposals contained in that review, and I have written to her seeking an update. I met with her and the First Minister and deputy First Minister to discuss provision, but let us bear in mind that it is not always appropriate that the victim should have to leave their home.

So, what is being done to support victims who prefer to remain in their own home rather than go to refuges? The Northern Ireland Housing Executive operates a sanctuary scheme for its high-risk tenants. The sanctuary scheme is a non-statutory, victim-centred initiative, which aims to enable households at risk of domestic violence or abuse to remain safely in their own homes by installing a sanctuary in the home once the perpetrator has left. That sanctuary comprises enhanced security measures and, where applicable, a sanctuary room. That is designed to reduce repeat incidents of domestic violence, minimise disruption of having to move or become homeless and to enable families to remain in familiar areas close to support networks, friends and family. It also helps children to remain in their schools and maintain their friendships and support networks.

The Department for Communities, through the Housing Executive, has two actions in the five-year Stopping Domestic and Sexual Violence and Abuse in Northern Ireland Strategy. These are: to devise an action plan that will address the recommendations of the research project that considered the extension of the sanctuary scheme to provide victims with the choice to remain in their own home or seek re-housing for all tenants; and to work with the Housing Executive and the Northern Ireland Federation

of Housing Associations to consider an extension of the sanctuary scheme to housing associations as well. These actions will provide more security of tenure when it is appropriate for a victim and where they choose to remain in their home.

Rachel Woods also referred to leave for domestic abuse. It has been tackled in other jurisdictions. A private Member's Bill was introduced last year in the Dáil but it did not actually make it through before the Parliament was dissolved. That legislation would have given 10 days' domestic violence paid leave. There may be merit in exploring that locally, but, rather than delaying the Bill, we should ensure that the domestic offence is legislated for as soon as possible. Importantly, my Department and the Department of Health published guidance in November 2018 for employers on developing a workplace policy on domestic and sexual violence and abuse. It was developed in partnership with key stakeholders to provide advice on how employers across the public, private and voluntary sectors can develop increased awareness and more effective responses to domestic violence and abuse for all staff.

The issue of the defence provision and whether that would allow people to harm vulnerable people was raised by Rachel Woods and Dolores Kelly. Where the behaviour causes harm to an individual, it would, of course, be open for charges to be brought for assault or grievous bodily harm. The defence provision is not a charter to harm vulnerable people and would not cover deliberately harmful behaviour. It will apply only where an individual action could be considered reasonable, for example, to ensure the safety of someone and prevent them coming to harm. The police and the court would have to be satisfied that that is the case; otherwise that behaviour would be deemed to be abusive. Similar defence provisions are in place in other jurisdictions.

I will move on to Jim Allister. There is a slight irony in being lectured about how a reasonable person would behave by Mr Allister. However, I will, nevertheless, try to address his questions as best I can.

The local offence is very different from the constructed offence in England and Wales. The 2020 Westminster Bill does not deal with their offence: it is provided for in the Serious Crime Act 2015 and is limited to controlling and coercive behaviour. All that is in the England and Wales definition is covered by our Bill, and I think that our offence is more robust than that in England and Wales. For example, in

Scotland, initial prosecutions have been higher than those in England and Wales under the offence in the 2015 Act. That is the outworking of the system.

As I said — it also applies to Mr Allister's query — the new offence criminalises patterns of psychologically or emotionally abusive behaviour; it does not necessarily criminalise the harm caused. It is possible for a person who is psychologically robust or someone who has, within their own psyche, normalised that behaviour not to be damaged or harmed by behaviour that a reasonable person would deem to be unreasonable. It is the course of action that is being criminalised, rather than someone simply being punished simply for the harm caused.

**Mr Allister:** Will the Minister give way?

**Mrs Long:** I will.

**Mr Allister:** It was not unreasonable to ask the Minister about this. The offence has at its heart stopping abusive behaviour and defines abusive behaviour as violence and threatening or coercive behaviour — I paraphrase — but is she seriously saying to the House that, in the absence of those, behaviour that has none of those anticipated consequences can still be found to be criminal? I will put it to her like this: does she seriously expect any jury ever to convict anyone if they are told, "This is about domestic abuse against Mrs Brown. Mrs Brown suffered no harm and suffered none of the matters that make up abuse, but you should convict anyhow"? Does she seriously think that she will ever get a conviction based on that?

**Mrs Long:** If there were no evidence that abuse had occurred, no evidence that harm had been done and no evidence that the perpetrator had engaged in a series of abusive behaviours, there would be no expectation of that person being found guilty. That is how the justice system works. However, if someone has engaged in a course of action that a reasonable person would deem to be abusive and coercive behaviour, even if harm has not been caused to the individual who was subject to that, whether because of their resilience or because they have normalised that behaviour in their mind, it would still be possible to prosecute. It has been done successfully in Scotland. It is not the case that this will not be able to be pursued, nor would I want to create an offence that could not be pursued in court.

Part of the difficulty with the stretch that the Member makes is that he has engaged this

afternoon in an argument that, while it has at its core important questions, he took to *reductio ad absurdum*. He suggested that, in a case where there was no intent and no harm, the person involved would get the maximum sentence of 14 years. I have considerably more faith in defence barristers and the judiciary than Mr Allister has, because it is clear that, if serious harm has not been done, it is unlikely that that person would be subject to the maximum penalty. If a serious and prolonged course of action designed to intimidate and threaten has not happened and there is no evidence that it has happened, how could that person then be subjected to the maximum penalty? The difficulty with this is that, while, at the core of the question, there is a nugget of something, stretching the reality to suggest that people will end up in jail for 14 years for doing nothing, essentially, or that someone against whom there is no coherent and cohesive evidence will be able to be prosecuted is simply false logic.

I want to move on to address the issues raised by Claire Sugden. The Department is preparing guidance on the domestic abuse offence and on the aggravator, as well as on domestic abuse more generally. That guidance will be made publicly available. We are also working to raise awareness through a media campaign to allow people to better understand the domestic abuse situation and to better respond to it. It is important that we raise awareness, and today has been one opportunity of many that we will have to do so.

I am encouraged by the support shown by Members. We are all impatient for change and want to see the timely passage of the Bill through the Assembly. I ask again for your support in keeping the Bill focused on the current provisions, to deal with the new domestic abuse offence and to look at material policy amendments being dealt with through a future legislative vehicle. While I understand that the delay of three years since the last time that that promise was made has caused some to be nervous, I think that, next year, we will be able to proceed with a miscellaneous provisions Bill. We have already forwarded a number of sections to the Office of the Legislative Counsel and to drafting. We are working to develop it as we speak. I am confident that there will be opportunities to do it again in this mandate.

In drawing my remarks to a close, I thank everyone who contributed today. It was a useful and constructive discussion. I commend the Bill to the House for its approval, and I wish the Committee well in its scrutiny of the Bill, should it pass. It goes without saying that, as part of the process, my officials and I will do all in our

power to ensure that the Committee can undertake that scrutiny as diligently and as effectively as possible.

*Question put and agreed to.*

*Resolved:*

*That the Second Stage of the Domestic Abuse and Family Proceedings Bill [NIA Bill 03/17-22] be agreed.*

**Mr Deputy Speaker (Mr Beggs):** The Second Stage of the Bill has been agreed. It stands referred to the Committee for Justice.

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

## **Private Tenancies (Coronavirus Modifications) Bill: Final Stage**

**Mr Principal Deputy Speaker:** I call the Minister for Communities to move the Final Stage.

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

*That the Private Tenancies (Coronavirus Modifications) Bill [NIA Bill 04/17-22] do now pass.*

**Mr Principal Deputy Speaker:** Thank you.

The Business Committee has agreed that there should be no time limit on this debate. I call the Minister to open the debate on the Bill.

**5.30 pm**

**Ms Hargey (The Minister for Communities):** Thanks very much, Mr Principal Deputy Speaker, and, again, thanks to Members. I welcome the opportunity to speak about my Bill, which responds to the coronavirus outbreak

and the public health emergency that has followed.

Due to the crisis caused by the pandemic, it has been necessary for me to take steps to introduce measures to help prevent and reduce significant numbers of households coming under threat of being homeless at a time of crisis and when housing, health and other public services are under extreme pressure, and where there is a significant risk to individuals, their health and their well-being as a result. The Bill is necessary during this unprecedented public health emergency to ensure that private renters are provided with protections during this difficult crisis. Any delay would be a delay on those protections. That is the critical point. The public health advice is clear: stay at home, protect our key workers and save lives. I also consider the Bill necessary to prevent the spread of coronavirus and to provide private renters with additional support as we battle COVID-19.

The fear around challenging landlords, or others, in court, as a result of this response, has been touched on. I do not fear any landlord or developer; I never have. In fact, as a community activist and as a political activist, I have fought landlords, all the way to the High Court, about the rights of communities, and I will continue to do that. I do not fear any of them. My concern is around the timescale and the response. If you start to get into an argument around rights, you leave people open to having no protection. It would be irresponsible of me, or anyone in the Chamber, to do that, because it would mean that people would be unprotected for a longer period. That would be a bigger disgrace.

The response to the public health emergency will endeavour to reduce the movement of people between households in the private rented sector. That will allow the shielding of vulnerable people, self-isolation and social distancing in line with public health advice.

Private renters continue to be a group who are facing significant concerns and anxieties during this period, particularly due to the loss of employment for many. These are extraordinary times in which a number of people will temporarily struggle to pay their rent through no fault of their own. In the meantime, they need certainty in their homes, and they need to be assured that they are safe and that their landlords cannot move to evict them. The Bill will ensure that no renter in private accommodation will be forced out of their home during this difficult time.

Landlords will be required to give tenants 12 weeks' notice to quit before seeking a court order to begin proceedings to evict. That will reduce the possibility of tenants in the private rented sector becoming homeless and mean that no tenant is evicted because of an inability to pay rent during this period of economic disruption. My Department will publish guidance in relation to the legislative change that will assist tenants and landlords in better understanding the new rights and obligations that will come into effect under the new law.

Numerous stakeholders, such as officials from other Departments, Legal Services and, importantly, those at the grassroots, such as the housing rights sector, have worked closely with the Department in the development of the Bill, and I take this opportunity to thank them for their contributions. I extend my thanks to them for the speediness with which they responded to this emerging situation. I join those across government and the health service to urge everyone to stay at home and stay safe. I thank Committee members and the Chair for their support in helping to get the legislation through so quickly. I also thank Assembly officials, my departmental officials and my legal team who have worked to help achieve that. David and Eilish, who have worked on it, are in the Chamber this evening.

I hope that all parties can give the Bill their full support, and I hope that they understand the reasons why I have brought the Bill and why I do not want a delay in it: now is the time for action, not delay. I commend the Bill to the House.

**Ms P Bradley (The Chairperson of the Committee for Communities):** I rise to give the Committee's perspective. Despite the haste with which this Bill has progressed through the House, it will bring some comfort to those people in the private rented sector who fear eviction as a result of the loss of income due to COVID-19. The Bill is proportionate, broadly equating to the three-month mortgage holiday for mortgage holders, which includes buy-to-let landlords.

Fundamentally, extending the notice-to-quit period from four to 12 weeks allows all parties, but particularly tenants and landlords, the time required to come to arrangements in respect of rent payments. In that regard, the Bill does not give carte blanche to tenants not to pay their rent. Importantly, it will also allow people to continue to adhere to public health advice on social distancing, self-isolation and shielding without the added anxiety of an eviction notice hanging over their heads.

Indeed, since the Committee was last briefed on the Bill, the Department has subsequently issued guidance to landlords and tenants on the Department's expectations that landlords and tenants will come to reasonable agreements on the level of rent that tenants are able to pay. That is in the context of the Committee's recognition that tenants will be able to avail themselves of financial support, such as the furlough scheme, discretionary support and universal credit.

In effect, the 12-week period gives tenants and landlords time to reach agreement without recourse to evictions. Of course, none of us knows what the situation will be like after the initial 12-week period has finished, so the flexibility to extend this period is important. As I mentioned last week, 18% of the population live in accommodation in the private rented sector in 134,000 properties.

The Committee, like all Members of this House, recognises the potential for tenants in rent arrears to be evicted and rendered homeless. That would simply shift the problem from one part of our system to another. The question of how we emerge from this crisis, even in the midst of managing it, is gaining more traction. It is, therefore, welcome that the Department is engaging with the courts service and landlords so that there is no default to landlords seeking court orders to evict tenants as the crisis subsides and thus increase the number of homeless here in Northern Ireland.

The Committee welcomed the Bill and agreed to the accelerated passage procedure, reflecting the urgency with which it needed to be enacted. The Committee recognises this legislation as another element in our approach to supporting those people who are most in need, and we therefore lend the Bill our support.

**Mr Durkan:** I support the Bill. Members and the Minister will be relieved to hear that I will not rehearse all the points that I and others made last week and some again this morning and some again this afternoon. One thing that I really want to do is place on record again our thanks to the Minister and also to the Department, the Housing Executive and those working in the housing and homelessness sector, whether it be on the phone lines or on the ground. They have performed brilliantly throughout this crisis, and I am sure that they will continue to do so.

I will touch also on the importance of continuing the work with landlords. They are a critical part

of the housing jigsaw. Another thing that I might elaborate a wee bit on, which the Minister might not be as happy about, is that a week has passed since we raised the issue about support for students. I am not going to apologise for raising that again. We know that the Department for the Economy is responsible for students, but Minister Hargey has informed us of her involvement in cross-departmental efforts to sort out a safety net for students, especially those still paying rent for properties that they can no longer inhabit. As a consequence of the economic situation and the lockdown, those students are unable to find employment and have returned to and placed an additional financial burden on already struggling households, all of which is bound to have a huge impact on a student or any person's mental health as well.

We see how well the Minister's Department was able to work with Education to find a solution for, and ensure support for, children and families dependent on free school meals. We need to see similar collaboration to support students. I accept that this Bill was not the vehicle to bring in that support, but there are people in real hardship: they really need help. Therefore, I will ask the Minister for an update on that at the earliest possible opportunity. On this Bill, we have no problem supporting it and welcome it very much.

**Mr Buckley:** I echo the comments of Mr Durkan and I do not intend to go over the ground that I was on last week. We have well rehearsed the merits of this Bill, albeit within very difficult circumstances. The Bill is a direct response to COVID-19 and the need to have some sort of remit and responsibility placed upon those in private accommodation, landlords etc. It is broadly in line with the provisions that are already in place for those within Housing Executive properties. Again, it allows the Minister flexibility during this moving situation to broadly reflect the three-month mortgage holiday for landlords. *[Interruption.]* Is that an intervention, maybe? *[Laughter.]* I will gladly give way.

Given the situation we find ourselves in, the flexibility and the timely nature of the Bill are fair. I hope the Minister will indulge me, and indeed you, Mr Principal Deputy Speaker, if I ask another question of the Minister because perhaps this will be the only opportunity when she will be able to address it in the House. I pay tribute to the House authorities and, indeed, you, Mr Principal Deputy Speaker, and how you have conducted the business within this place during the period of COVID-19. Stormont has,

indeed, led on that, and Westminster is now meeting as well — that has been important.

My point still stands, and I am sure other Members will agree, councils are a key linchpin in the response required to COVID-19 and the Minister has responsibility for them. Many of the chief executives are actually hiding behind the Local Government Act (Northern Ireland) 2014 and the need for public admittance to public galleries. Can the Minister respond on this issue and maybe provide detail at a later date? Again, the detail that we see here with the private tenancies, there is indeed a nature within local councils that they must react in a way that is suitable to the response that we need. I know that the Minister will maybe take this up later.

By and large, as we move forward, I welcome the Minister's commitment to legislation to protect those in private rented accommodation. In many regards, they are among the most vulnerable in society, and we have watched as the Minister has put in place different provisions to provide help for those in vulnerable positions. Equally, we must go above and beyond what is there at present. I know your Department is actively looking at the supermarket priority list at the moment, but we are in the midst of this epidemic and I hope that the Minister will seek some clarity on that to get that scheme implemented. I appreciate the indulgence to go beyond where we are. I thank the Minister for listening.

**Mr Principal Deputy Speaker:** The Member veered very far from the content of the Bill, but given that he prefaced his bad behaviour with nice remarks about me, he will learn that flattery will get him everywhere. *[Laughter.]* I call the Minister to make a winding-up speech on the debate.

**Ms Hargey:** Thank you. I am not going to talk for too long. Again, I take the opportunity to thank the Committee, and its Chair, for the speed in which it approached the Bill; the Speaker's Office for allowing this to be done in two days; all of the Members who have contributed to the debate and who want to get this legislation through as soon as possible; the staff within the Department; and the activists in the community for the community response, which has been amazing throughout this pandemic: they have worked together and collaborated. What it has really shown is that things that could not be moved before, could be moved during the pandemic and, if they can be done during the pandemic, they can certainly be done after it. Hopefully, there will be a lot of

lessons learned as a result of this in the time ahead.

#### 5.45 pm

The issue of students is not within my remit. That said, it has come up as an issue. As an elected representative for the South Belfast constituency, which includes the Holylands, I know that we are cheek by jowl with a local university and there are a lot of students. I have been in contact with the Department for the Economy, which has responsibility for the student hardship fund, and it is looking at additional resources and what else can be done.

I have acted on anything within my remit. I have seen what we can do about the guidance on additional financial support. I have declared an emergency to ensure that groups such as students can avail themselves of that support. I have moved on those issues but, if it is not within my competency or remit, I cannot go into another Department and tell it what to do. I encourage Members to engage in a collaborative way with other Ministers, as I will do. I am sure that those Ministers will take steps to deal with the issue and, again, I ask Members to take it up and engage in a constructive way with the Minister for the Economy.

I want to thank people. I will provide an update on the issue of councils and supermarket priorities. We hope to have movement on that issue in the next week.

I commend the Bill to the House.

*Question put and agreed to.*

*Resolved:*

*That the Private Tenancies (Coronavirus Modifications) Bill [NIA Bill 04/17-22] do now pass.*

**Mr Principal Deputy Speaker:** Before I move to the adjournment, I am not sure whether Members have received notification, but there will be a meeting of the Ad Hoc Committee on the Response to COVID-19 on Thursday. The Ministers of Health and Agriculture have requested to address the Committee.

*Adjourned at 5.47 pm.*



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**[885]**