

Northern Ireland Assembly
Monday 31 March 2008

Executive Committee Business
Commission for Victims and Survivors Bill
First Stage

Source: <http://www.niassembly.gov.uk/record/reports2007/080331.htm#3>

The deputy First Minister (Mr M McGuinness): I beg to introduce the Commission for Victims and Survivors Bill [NIA 12/07], which is a Bill to replace the post of the Commissioner for Victims and Survivors for Northern Ireland, which was established by the Victims and Survivors (Northern Ireland) Order 2006, with a commission for victims and survivors for Northern Ireland.

Bill passed First Stage and ordered to be printed.

Mr Speaker: The Bill will be put on the list of future business until a date for its Second Stage is determined.

1.30 pm

Commission for Victims and Survivors Bill

Accelerated Passage

The deputy First Minister (Mr M McGuinness): I beg to move

That the Commission for Victims and Survivors Bill proceed under the accelerated passage procedure, in accordance with Standing Order 40(4).

I am grateful for the opportunity to address Members on this motion. I reiterate my commitment and that of the First Minister to meeting the needs and addressing the concerns of victims and survivors. Since the re-establishment of devolution on 8 May 2007, we have made it clear that we are determined to address that key issue, and we have expended much effort on considering how best to meet the needs of victims and survivors. We are finalising a comprehensive strategy and have secured £36 million over the next three years to meet their varied needs. We are putting together a structure to ensure that the voices and needs of victims and survivors will be able to shape future policy and practice.

The new commission will be a vital foundation for that work, and its speedy establishment will be a significant step towards meeting the urgent needs of victims and survivors. The decision to appoint four commissioners was taken after careful consideration. In reaching that decision, the First Minister and I have taken a step that enables us to draw on a wide range of experience, expertise and commitment. Our decision was also based on our recognition of the substantial body of work that must be undertaken, and I am pleased to report that the new commissioners designate are already in the early stages of developing a work plan and establishing an office for the commission.

We are keen that the work should continue as quickly as possible. One implication of our decision is that the Assembly must amend the existing legislation, namely the Victims and Survivors Order 2006, to allow for the replacement of a sole commissioner by a commission. The functions of the commission will be the same as those envisaged for the victims' commissioner in the 2006 Order. The Bill makes provision for amendments to the 2006 Order to allow for the appointment of such number of individuals as may be considered appropriate.

The First Minister and I seek the Assembly's support for accelerated passage for the Bill to establish the commission, because early legislative provision is necessary to expedite meeting the needs of victims and survivors. We realise that general concerns may arise about the use of accelerated passage for legislation. However, in this case it is of the utmost importance that the commission be underpinned without delay by a legislative framework.

I thank the Committee for recognising the need to expedite the process and for its support for accelerated passage. To engage in the normal legislative timescale would unduly delay addressing the needs of victims and survivors. Their needs have been unaddressed for far too long. The First Minister and I have put much effort and consideration into ensuring that appropriate structures are established to address the needs of victims and survivors. We recognise the difficult issues that surround the definition of "victim". Victims and survivors should consider that issue. We will, therefore, request that the proposed victims' forum makes it a priority to examine the definition of "victim" and brings forward its proposals.

We must start the required work, and the Bill makes the minimum changes required to the 2006 Order to enable a number of people to be appointed to a commission. To facilitate the technical changes that will underpin the commission's work, the First Minister and I seek the support of the Assembly for the accelerated passage of the Bill.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister (Mr **Kennedy**): I thank the Minister for his statement. Standing Order 40(3) provides:

"Where, exceptionally, a Bill ... is thought to require accelerated passage ... the Member in charge of the Bill shall, before introduction of the Bill in the Assembly, explain to the appropriate Committee –

- (a) the reason or reasons for accelerated passage;
- (b) the consequences of accelerated passage not being granted; and, if appropriate,
- (c) any steps he/she has taken to minimise the future use of the accelerated passage procedure."

Therefore, I intend to place before the House the Committee for the Office of the First Minister and deputy First Minister's strictly factual position about the information that is relevant to the requirements of Standing Orders.

My Committee became aware of the fact that the legislation that is before the House would be required when the First Minister made a statement to the House on 28 January 2008, in which he announced that four of the candidates on the list of those who were considered appropriate for the post of commissioner for victims and survivors had indicated their willingness to act in a joint capacity as commissioners designate in a new commission for victims and survivors. In the First Minister's statement, he advised that it would be necessary to introduce legislation to create the commission for victims and survivors. The Committee for the Office of the First Minister and deputy First Minister was not consulted in advance of the announcement that four commissioners would be appointed.

I became formally aware of the need to introduce legislation to establish a commission for victims and survivors on the morning of 28 January 2008, when the Deputy Chairperson of the Committee and I received a briefing from the First Minister and deputy First Minister on the planned ministerial statement. During that briefing, the Deputy Chairperson and I asked several questions on the decision to appoint four commissioners, the process leading up to that appointment and the implications of that decision. At the end of the briefing, the First Minister offered to attend the Committee to discuss the issues that were raised.

The First Minister and deputy First Minister attended the meeting of the Committee for the Office of the First Minister and deputy First Minister on 5 March 2008 in order to discuss victims' and survivors' issues, which included the draft Commission for Victims and Survivors Bill. On 4 March, Committee members received a letter from the First Minister and deputy First Minister, dated 3 March 2008, which advised that they intended to introduce a draft Bill to amend the Victims and Survivors (Northern Ireland) Order 2006 and that they would seek the Committee's support for the Bill's accelerated passage.

On 22 February, the First Minister and deputy First Minister indicated in a press release that they would seek the Committee's agreement for accelerated passage of the Commission for Victims and Survivors Bill. The letter that the Committee received on 4 March formally notified the Committee that accelerated passage was being sought. A copy of the draft Bill was also provided to Committee members on that date.

During the Committee meeting on 5 March, the First Minister and deputy First Minister provided information on future policy for victims and survivors, explained the reasons for seeking accelerated passage and sought the Committee's support for accelerated passage. Ministers also responded to questions from Committee members on provisions in the draft Bill and agreed to respond in writing to questions that they were unable to deal with during the meeting. After discussions with the First Minister, the deputy First Minister and the junior Ministers, the Committee debated the Ministers' request that the Committee support accelerated passage for the Commission for Victims and Survivors Bill. The Committee agreed on a majority vote to support accelerated passage for the Bill.

At its meeting on 12 March, the Committee noted correspondence from OFMDFM that provided written explanations on the matters that are contained in Standing Order 40. The letter also provided clarification that was requested by the Committee on the Bill's scope and on the purpose of several provisions that are contained in schedule 1 to the Bill.

I trust that my explanation of the Committee's consideration of the draft Commission for Victims and Survivors Bill will assist the House in its consideration of the motion for accelerated passage.

I now leave aside my responsibilities as the Chairperson of the Committee for the Office of the First Minister and deputy First Minister in order to speak as a representative of the Ulster Unionist Party. Although the deputy First Minister indicated in his statement that the victims' commission will be charged with redefining, as a matter of urgency, what constitutes a victim, it is gravely disappointing that those in the House who have so loudly protested their unhappiness with the Victims and Survivors (Northern Ireland) Order 2006 have failed to take the opportunity presented by the Bill to change the flawed definition of what constitutes a victim in the 2006 Order.

The Ulster Unionist Party is not the Bill's sponsor. However, although mindful of the technical and procedural difficulties that the Bill presents, we will seek to amend the flawed definition of what constitutes a victim. It is not only reasonable but morally right that a legislative definition of what constitutes a victim does not include those injured while undertaking criminal acts and/or those who were convicted of terrorist offences.

Mr Ford: On a point of order, Mr Speaker. I draw your attention to Standing Order 40, especially to 40(4), which states:

"In moving the motion the Member shall explain to the Assembly-

"(a) the reason or reasons for accelerated passage;"

Mr McGuinness certainly referred to the need to meet the needs of victims by instituting accelerated passage, although the timetable that we have just heard Mr Kennedy outline

suggests that, so far, there has been a lack of urgency on the part of the First Minister and the deputy First Minister.

Standing Order 40(4) also states that the Member shall explain to the Assembly:

“(b) the consequences of accelerated passage not being granted;”.

The deputy First Minister has told us that the interim commissioners are already engaging in work. That suggests that there is little by way of consequence should accelerated passage not be granted.

Standing Order 40(4) also requires the deputy First Minister to explain to the Assembly:

“(c) any steps he/she has taken to minimise the future use of the accelerated passage procedure.”

The deputy First Minister — to whom I listened carefully — made no reference whatsoever to steps taken to minimise the use of such procedure in future. Therefore, I submit that he has failed to comply with Standing Order 40(4).

Mr Speaker: I understand what the Member has said. It is up to the deputy First Minister to decide how he explains himself. I am sure that he will deal with those points during his winding-up speech.

Mr Ford: With respect, Mr Speaker, Standing Order 40(4) states specifically:

“In moving the motion the Member shall explain to the Assembly”.

At this end of the Chamber, we did not hear Standing Order 40(4)(c) covered at all, nor did we hear Standing Order 40(4)(a) and (b) covered adequately.

Mr Speaker: I am sure that the deputy First Minister will correct himself during his winding-up speech.

Mr Ford: Therefore, he did not cover Standing Order 40(4)(c) when speaking to the motion?

Mr Speaker: I call Mr Stephen Moutray.

Mr Moutray: I support the motion. My colleagues and I believe that the Commission for Victims and Survivors Bill should be granted accelerated passage under Standing Order 40(4).

The appointment of the four-person victims' commission in January 2008 to deal with the issues that affect victims was an important, positive and proactive development. It demonstrated to the people of the Province that the House is committed to providing support and help for the innocent victims who have gone unheard and unsupported for so long.

Unfortunately, the previous Administration neglected innocent victims' needs. Although the failed Belfast Agreement delivered for terrorist prisoners, it did not address the needs of victims of violence. Rather, it pandered to the perpetrators and ignored the victims. Those unionists who advocated that deal should hang their heads in shame.

The motion for accelerated passage will set the wheels in motion to eradicate the current legal difficulties that prohibit the four-strong victims' commission's getting down to business. The commissioners will be protected, because the body will be given the proper legal status that it requires.

The Democratic Unionist Party has championed, and always will, the cause of innocent victims, who were, for many years, sidelined and ignored under the Belfast Agreement.

1.45 pm

Since 2003, this party has made progress on that front by calling for the introduction of a victims' commissioner. In 2005, that call was met with the appointment of the Interim Victims' Commissioner, Mrs Bertha McDougall, who carried out sterling work and created a good base upon which to build.

Some Members: Hear, hear.

Mr Moutray: In the early part of this year, we spearheaded the appointment of the four-person team. The Minister of Finance, the Rt Hon Peter Robinson, has ensured that victims will have the largest-ever budget of £36 million. That is real progress.

The needs of innocent victims can never, ever be forgotten. As Northern Ireland seeks to move beyond the decades of terrorism and violence, providing for the needs of victims is vital. Such a motion will assist us in ensuring that that is the case. The ultimate aim of the DUP is to ensure that the voices and views of innocent victims are adhered to.

Along with my colleagues, I pledge that we will not let the case of victims be forgotten. Our duty is to ensure that they are provided for and safeguarded. I refer to true victims — not those who went out with the intent to murder and were apprehended in the act of doing so. I am clear in my mind what the definition of a victim is.

It goes without saying that innocent victims have suffered great personal loss over the years. The motion tabled today ensures that the four-person body can get down to work and deliver on the real issues that affect the victims in this Province. It will ensure that the commissioners can deal with the prevalent issues surrounding the victims and give factual, consolidated answers. Such a commission will allow victims and survivors to receive that to which they are entitled.

Throughout my constituency of Upper Bann, many have suffered at the hands of terrorist violence. Many innocent victims have struggled to make ends meet and to raise families in the most difficult of circumstances. Such an acceleration procedure will enable the four newly appointed commissioners to get down to business quickly and to deliver on the real issues affecting those who suffered over the decades of conflict, terror and strife.

Many of the victims who are getting on in years need assistance with simple matters, such as running a home. Those people are not looking for handouts — they need assistance to lead as normal a life as possible. They want the same quality of life as those who were less affected by the Troubles.

We fail to realise the impact that the Troubles have had on the social life of many of the victims. There are victims groups throughout this Province, and they do sterling work. I look forward to the commission working with those groups to deliver on matters of importance. It will enable greater flexibility in accessing and meeting the needs of individual victims and their families. It will enable them to provide support and help for all victims and survivors, bearing in mind that those are some of the most vulnerable people in the Province, who have suffered great personal loss.

Recently, in my Lurgan office, I met a number of victims. Their cry is that there is no support or assistance for those who have suffered at the hands of terrorists. That will no longer be the case.

I support the motion, knowing that such a procedure will put the wheels in motion for supporting and assisting the individuals who for so long have suffered alone.

Ms J McCann: Go raibh maith agat, a Cheann Comhairle. I support the motion. The legislation is being introduced to establish a commission for victims and survivors. A panel of commissioners will bring a mix of experience, expertise and skills. It will be more representative and reflective of the experiences of all victims and survivors in the important stages of shaping and delivering the services that they need.

It must be realised that the issue of victims and survivors of the conflict is a very sensitive and emotional one. We must always remember that we are talking about people who lost their lives, and, in particular, about their families and those who were injured. The survivors must live with the trauma of bereavement and injury every day of the week, and we must be very sensitive to that. Our priority should be to ensure that all relatives are treated with respect and dignity and that every effort is made to support them. The needs of all victims and survivors must be met as a matter of urgency.

The decades of political conflict have marked the lives of everyone in the North of Ireland. That legacy is evidenced today in the various experiences that were, and are, endured by victims and survivors: the bereaved, the injured, ex-political prisoners, former combatants — both state and non-state — and their wider family circles and communities. Irrespective of religious or political affiliation, any legislation that is introduced must recognise, acknowledge and support the ongoing efforts to ensure that an inclusive and meaningful process is established to deal with the legacy of the conflict. That process must be anchored around truth and justice for all and must address the varying needs and demands of all victims and survivors. Support for such a process — particularly through the delivery of programmes at local and community level — represents an important building block in developing a society that sustainably embodies due regard for the need to promote equality and good relations among everybody.

The ongoing grief and trauma experienced by survivors and victims of the conflict must be recognised and resourced on an equal and equitable basis. That is particularly important when addressing the legacy of the conflict through community initiatives, the provision of counselling and emotional support, and the delivery of training and development opportunities.

Therefore, when we undertake any initiatives to support victims and survivors, we should take our lead from victims and their families and endeavour to make a positive contribution to help them to come to terms with their circumstances. Any approach must be victim-centred. By building a society that is based on the foundations of equality and human rights, and by keeping the victims and survivors of the conflict at the centre of our initiatives, the long-term development of good relations and reconciliation can be achieved in the interests of all. If we are to move towards such a society, all victims and survivors and their families must be treated with dignity and respect, and there must never be a hierarchy of victims. Go raibh maith agat.

Mr Durkan: Several Members have mentioned the background to the proposals for a victims' commission, and the motion, which proposes to grant the legislation accelerated passage, would give standing to that commission.

The issue of victims and survivors is crucial. Promises were made to victims and survivors in the Good Friday Agreement back in 1998, but those promises have not been fulfilled. We should, as a matter of urgency, strive to reach a position whereby we can look victims in the eye and honestly tell them that we are meeting those promises, and we must ensure that we do so credibly and sensitively. For too long, those of us in the party-political system have engaged in the practice of patronising victims on the one hand while ghettoising them on the other. Perhaps there was a collective failure on the part of the political class to meet the promises in the agreement — perhaps the Governments were neglectful in their handling of some issues, or perhaps those involved in the political process failed to make good on the commitments that were made to victims and survivors. It is because of that failure that many victims and survivors simply do not have confidence that the Government, or the political process in general, will address their concerns and affirm their rights.

It was because the SDLP was conscious of that lack of confidence that, quite a number of years ago, in the assorted talks that took place during the various political breakdowns and attempts to resume the institutions, it strongly advocated the creation of a forum for victims and survivors.

I recall that the Alliance Party also strongly championed that proposal. During the all-party discussions at Hillsborough in early 2003, we made a strong case for the establishment of a forum for victims and survivors, and indicated the remit that it might have to advance issues that had been delayed. However, when a joint declaration was published by the British and Irish Governments in spring 2003, the only reference to such a forum was that it would be considered. We questioned why the commitment was not stronger and why the possible role and remit of a forum was not mentioned in that joint declaration. The two Governments told the SDLP that there was only a glancing reference to a forum for victims and survivors because the Ulster Unionist Party and Sinn Féin did not agree with it. That was the reason that we were given for the issue not progressing.

We are still only working towards a forum for victims and survivors to complement the important work that the commission for victims and survivors will undertake. However, as other Members have already stated, in seeking accelerated passage, Ministers and the Executive must provide assurances and explanations to the House. I am worried that there is an emerging pattern whereby issues that have been long delayed, either in a Department or in the Executive, are subject to a scrambled outcome by Ministers and a scrambled legislative process in the House. Scrambling such important issues in the House is not the stuff of accountable devolution.

Given that it took such a long time to make decisions, and for Ministers and Departments to present proposals, Members have the right to ask for more time to consider them. The SDLP member of the Committee for the Office of the First Minister and deputy First Minister felt that the Committee was being bounced, not just on the question of accelerated passage, but by having to take a decision on the day on which the Committee was told about the proposals. The Committee was not allowed to return to that issue at later meetings.

Mr B McCrea: Does the Member agree that the DUP and Sinn Féin have the voting power to force anything through by accelerated passage, but that that will not solve the problems that we face as a society? Does he further agree that it is right and proper to discuss such delicate and sensitive issues openly and with transparency, and that invoking accelerated passage takes away that inalienable right?

Mr Durkan: I do not go as far as advocating outright opposition to accelerated passage in this case because there is urgency in respect of this issue. Although I want Members to be afforded the right to properly consider all the issues involved, including those issues that they feel should be involved that may not be covered by the Bill, I am careful not to immediately adhere to partisan divisions on how to move forward.

As well as taking up some of the points that were made by other Members, and further to what he has said about a victims' and survivors' forum and the definition of a victim, I ask the deputy First Minister to reflect on whether the proposal is well thought out. After the long delay in addressing the concept of a victims' and survivors' forum because of uncertainty over its functions and the difficulties surrounding it, devolving to it the most divisive issue of all — the definition of a victim — is an abdication of responsibility by those who should be prepared to address those issues. It is a bit much to have party point-scoring in the Chamber on the definition of a victim and for the parties to serve notice that they will maintain the luxury of sniping at the various definitions — and then for the decision to be made that that difficult and divisive issue be the one thing that is devolved.

One would almost think that the proposal is calculated to abort the potential success and work of the victims and survivors forum.

2.00 pm

We are being told that the proposed legislation for the victims' and survivors' commission is primarily to ensure that there can be a commission rather than a single commissioner, as is provided for in the current legislation. The deputy First Minister told the House that there will be few other changes. If this legislation were not being dealt with by way of accelerated passage, Members would have wanted to take the opportunity to improve the legislation. Members would possibly have wanted to give more weight to the commission's remit.

Exchanges have already taken place today about the funding package for victims, to which Ministers have referred. However, the Bill gives no indication of there being any statutory role for the commission in relation to that funding package. Ministers have referred to the victims' strategy, but the Executive have presented no clear-cut statutory role, remit of oversight or intervention for the commission in relation to that strategy. That raises fundamental issues. If we are in the business of legislating for a coherent and competent victims' commission, some of us would have wanted those issues to have been addressed. If the Bill receives accelerated passage, it will be difficult to get a handle on those issues.

Given that the deputy First Minister has told the House that a number of other issues will be under consideration, I hope that he will be able to reassure Members that those will be considered without prejudice to the necessity to ensure that the commission can get up and running and be free from some of the legal question marks that are ricocheting around about its status.

Although the SDLP questions how the proposal for four victims' commissioners came about, now that that is the outcome, we believe we must enable the commission to do the best possible job. We also want the Assembly, as a legislative body, to do the best possible job. If it cannot do so because this Bill proceeds under accelerated passage, then I hope that the Minister can assure us that he and his colleagues will take steps to ensure that the Assembly will have other opportunities and means to do so on behalf of victims and survivors.

Mrs Long: I oppose the motion seeking accelerated passage for the legislation. I recognise that the subject is emotive and sensitive, particularly given that four individuals have been put in an impossible situation because the House was not given the opportunity to discuss the concept of a commission before their names were made known publicly. That has hampered much of the discussion about the pros and cons of the creation of a commission rather than a commissioner.

The responsibility and fault for that lies with OMFDFM, which put the cart before the horse. Although Members have referred to a commission, there is currently no commission. There are four commissioners designate, because that is the only legal vehicle by which they can take their posts. Therefore, we must be careful when discussing this issue.

We are also in danger of straying into a much wider debate about victims' issues, which is not the meat of the subject today. We are being asked to discuss specifically whether accelerated passage should proceed. There may well be other opportunities for a wider debate on victims' issues. Perhaps on those occasions Mr Moutray will explain why, although he said that he is unhappy with the current definition of "victim", his own party, through OFMDFM, brought forward the long title for the Bill that did not allow any amendment to it to deal with that specific issue. Clearly, the First Minister is a member of Mr Moutray's party. Mr Moutray will have the opportunity to answer that question at another point.

Jennifer McCann referred to the need for a full range of experience, skills and expertise — and she will have to answer why, when this process was originally put in train, it was designed for an individual who would cover all of those bases. At no point have the First Minister and deputy First

Minister suggested that the process was in any way flawed. Serious questions are, therefore, being raised about what people have said.

I shall stick to the specific issue of accelerated passage. No one in the House wants unnecessary delay in the creation of arrangements to address the needs of victims and survivors. Both in and out of Committee, I and others in the Chamber have repeatedly called for OFMDFM to expedite the appointment of commissioners. We are all acutely aware of the political failure of the entire process thus far to prioritise sufficiently the needs of victims, and we want that matter to be addressed urgently. In contrast to the urgency that has been expressed in the Chamber today, after devolution, and despite having been told repeatedly that the appointment was imminent, there have been protracted and unjustifiable delays at the hands of the First Minister and the deputy First Minister. The re-advertisement of the post was followed by further inactivity by OFMDFM. Four commissioners designate were then appointed with a view to creating a commission. The need for further legislation to provide for that commission created further delay.

That was clearly the case and, when concerns about delay were raised, the Committee was told by OFMDFM that, although a resolution was urgent, it was more important that the decision be got right. Despite that, OFMDFM is now unwilling to allow the Committee and the House any time to go through the due process to reassure themselves — and the public — that the decision has indeed been got right. That is the point of the process in which Committee members engage — to scrutinise and to ensure that things are got right. However, accelerated passage denies Committees that process.

Accelerated passage was requested at the Committee's meeting on 5 March 2008. That meeting was held in closed session, so that discussion is not formally on record. That was a mistake; it would have been better had it been on record so that the issues that were aired would have been fully open to scrutiny before this debate. However, on making the appointments in the aftermath of Christmas, the Ministers said that they were aware of the need for legislative change. Therefore, they knowingly built that additional delay into their actions, and the pressure has been turned on this House to abandon its responsibilities and duties with regard to scrutiny, and to facilitate a process that has come about simply because OFMDFM has not, for more than nine months, fulfilled its obligations to expedite this matter.

It is possible for the Committee and the House to allow the passage of a Bill to proceed without undue delay. Accelerated passage is not, therefore, just an arrangement whereby agreement can be reached; it is more than that. It obliterates the Committee Stage of a Bill, and removes from the Committee proper scrutiny and the ability to take evidence from others who may wish to scrutinise a piece of legislation.

Standing Order 40 makes it clear that certain requirements should be met before accelerated passage is agreed. First, it is made clear that it should be exceptional for a Bill, other than a Budget Bill, to be in that position. Standing Order 40 requires that:

“the Member in charge of the Bill shall, before introduction of the Bill in the Assembly, explain to the appropriate Committee —

- (a) the reason or reasons for accelerated passage;
- (b) the consequences of accelerated passage not being granted; and, if appropriate,
- (c) any steps he/she has taken to minimise the future use of the accelerated passage procedure.”

With regard to exceptionality —

Lord Morrow: I thank the Member for giving way. However, as she articulates her case, she is in danger of giving the impression that a precedent has been set, and I would like her to address

that. Does she say that never, ever, is there an occasion on which to go for accelerated passage? Will she confirm that this is not a precedent, but that accelerated passage has, in fact, been used on many occasions, not only in this House but in other elected Houses?

Will she plainly tell the House what her true problems with the use of accelerated passage are?

Mrs Long: I thank the Member for his timely intervention, because I was about to outline the other occasions when the House has used accelerated passage and the particular circumstances pertaining to them.

The Member asked whether a precedent has been set. I believe that it has, because the deputy First Minister's opening statement did not outline all of the requirements — as requested by Standing Order 40 — as to why accelerated passage should proceed. He is being permitted to do that in his concluding remarks if he so chooses. Therefore, a precedent has been created today.

Since devolution in 2000, 11 Bills have been granted accelerated passage by the House. Five of those were Budget Bills, and the Committee for Finance and Personnel expressed the view that there had been sufficient consultation on the Budget and that failure to agree the Budget would have resulted in the Assembly not being able to draw down money from Westminster. That would qualify as a significant consequence of not accepting accelerated passage.

Five of the Bills were parity legislation, specific to issues of social security and welfare reform. If accelerated passage had not been granted, specific deadlines would not have been met. That would have resulted in loss of benefits to individuals in Northern Ireland. Again, that could be considered a significant consequence of failing to grant accelerated passage.

The Child Support, Pensions and Social Security Bill was also granted accelerated passage. The Committee for Social Development expressed reluctance on that occasion, but accepted that it was unavoidable because there was a need for parity not to be broken. Therefore, even though it was unavoidable, the Committee did not simply roll over and play dead on the granting of accelerated passage.

The only other piece of legislation given accelerated passage was a two-clause Bill, the Children (Emergency Protection Orders) Bill, which was introduced to comply with a High Court ruling in order that we would not be in breach of the law. Again, that is a significant reason and an exceptional circumstance to justify the use of accelerated passage.

I am not opposed to the use of accelerated passage per se. [Interruption.]

Mr Speaker: Order. The Member has the Floor.

Mrs Long: However, as is outlined in Standing Order 40 — and if Members are unhappy that Standing Orders make requirements clearly in black and white before our eyes, that is their problem and not mine — certain requirements must be met. That is not the case with this Bill.

When the Committee for the Office of the First Minister and deputy First Minister raised those issues with the First Minister, the deputy First Minister and the two junior Ministers, no reason was given during our meeting or in a subsequent letter to suggest that the circumstances were exceptional. The letter states:

“We fully appreciate that concerns may arise regarding the general use of accelerated passage for legislation but regard this as an exceptional case.”

I eagerly turned to the second page, only to find that it had moved to a different theme. The letter provided no reason why the case was exceptional. If delay and heel-dragging in the Office of the First Minister and deputy First Minister is being cited as exceptional, that is a weak argument. It

causes me particular concern that yet another Minister intends to use accelerated passage and, therefore, again preclude a Committee from filling its proper role.

The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson): Will the Member give way?

Mrs Long: No, I have given way already. The other issues —

Mr Donaldson: Does the Member not want a Minister to respond?

Mr Speaker: Order. The Member has the Floor.

Mrs Long: The Minister will have an opportunity to respond at the end of the debate, and I am happy for him to do so. OFMDFM has had adequate opportunity to answer the questions put to it by the Committee, but has failed to do so.

2.15 pm

Mr Donaldson: On a point of order, Mr Speaker. It was I as a junior Minister who attended that Committee meeting and gave exceptional reasons for accelerated passage being required. Is it in order for the Member to make an accusation that is untrue, impugn Ministers' integrity and then not give them the opportunity to respond?

Mr Speaker: That is not a point of order. As Speaker, I am not involved in the business of Committees or how Ministers address Committees.

We now move on to Mr Jim Shannon. [Laughter.]

I am sorry; Mrs Long, please continue your speech.

Mrs Long: Thank you, Mr Speaker. My speech almost became accelerated, which would please some Members and not others.

I do not believe that substantive reasons were given for accelerated passage. After a commissioner designate made some comments on television, I pressed the junior Minister — he may wish to respond to my points when I finish — on whether there were difficulties in commissioners engaging with the public, drawing up action plans, undertaking the required range of duties, and so forth. Initially, OFMDFM refuted that and stated publicly that there was no impediment to the commissioners meeting victims and undertaking other functions; at the Committee meeting, the Ministers agreed with this. I pressed further and asked what the commissioners would be unable to do in the context of the legislation not being expedited. The only example I was given verbally was that, in the absence of a legislative framework, they might not be able to issue grant funding.

Mr Donaldson: I recall that point being made, and it is a pity that the Committee meeting was not recorded. However, we gave exceptional reasons for the need for accelerated passage. In my opinion, the victims are an exceptional enough reason. However, there is a problem in that, legally, under the Data Protection Act 1998, the commissioners cannot collect information about victims in order to help them with individual issues. That was explained to the Committee, and it is a reason that accelerated passage is required, so that the commissioners can get on with the job that the people of Northern Ireland — and especially the victims — want them to do.

Mrs Long: It is a shame that the junior Minister did not include that impediment in the three-page letter that was sent to the Committee in response to its specific question. That point was not included in the press statement about impediments not existing. I also think that it is a pity that

the Committee meeting was not recorded. However, the meeting took place behind closed doors at the request of the Department and the Ministers, not the Committee.

The Committee was told that there could be an issue.

Mr B McCrea: Will the Member give way?

Mrs Long: No, I will not give way; I want to finish my speech.

The Committee was told that there could be an issue. The only impediment that was brought to its attention, either verbally or in writing, was that of the distribution of funding. Given that, at present, no framework is in place for the commissioners to issue grant funding — after all, they have only been appointed — and there is no formal application process, I cannot see that the normal passage of the Bill would impede the commissioners, because a framework would be in place in time for them to undertake that role. The ability to fund was the only impediment mentioned, and the letter that was sent to the Committee by OFMDFM did not refer to it. The Committee asked serious questions, which were reiterated in writing, and I fail to see why this issue did not form part of OFMDFM's written response.

My colleague Stephen Farry wrote to the First Minister and deputy First Minister asking what impact the decision to appoint multiple commissioners on 28 January 2008 would have on the delivery of the new strategy for victims and survivors and on the creation of a victims and survivors' forum.

They said that, in their assessment, it would have no impact. In the evidence presented in writing — if there is dispute about the verbal communication — there is no indication of any impediment to the commissioners undertaking their role. If there were an impediment, I would not oppose accelerated passage for the Bill.

I also ask the Department to outline what steps will be taken to minimise the use of accelerated passage in the future. During this debate, some Members have suggested that to resist accelerated passage is merely a whim of the Alliance Party, the SDLP or the Ulster Unionist Party; that it is simply frustration. It is not; opposition to accelerated passage exists for a reason. Committees play an important role in the drafting of legislation, and they should be fully consulted in doing so. Despite the fact that it is stated in Standing Orders, I cannot understand why measures to avoid future use of accelerated passage were not outlined to the Committee or the House. That substantive point has not been addressed by the Ministers — neither in their letters nor in the deputy First Minister's statement this morning.

It has been asserted on a number of occasions that the Bill is a technical piece of legislation in which one word will simply be replaced with another. I dispute that; it is a piece of enabling legislation that creates a commission of four equal commissioners on four equal full-time salaries. As those who have read the Bill will know, it also creates the legislative framework for any number of commissioners to be appointed; there is no cap on that. At a time when many small organisations that provide direct services to victims and survivors are going to the wall because of lack of funds, that should be of concern to the House.

This is a significant departure from what was originally envisaged — the post of one commissioner to act as a strong, unified, advocate voice for the entire sector. No doubt, those issues will be addressed at Second Stage.

It is important to assess whether we have addressed the requirements of Standing Order 40. The Committee received the Bill 24 hours before it was requested to agree to accelerated passage, and, given the answers that members had received, it was not reasonable for us to do so on that day.

I asked that a decision be deferred for one week to allow OFMDFM to respond fully to the Committee's questions, to address fully the issues in Standing Order 40 and to report back to the Assembly. I had not originally ruled out the option of accelerated passage, as I have put on record during that Committee discussion. However, it was clear to those of us who are not members of the DUP or Sinn Féin that other Committee members came simply to do the will of OFMDFM, regardless of the issues raised. The Committee simply rolled over, and we had no opportunity to explore the issues further before making a decision.

This is a rather shameful saga for the Assembly, from beginning to end. I do not wish to interfere with the actions undertaken in good faith by the commissioners designate, and I do not wish to delay the process further. However, the House has a role, and the Executive must acknowledge that fact, once and for all. They must also accept that that role exists not only to enable Members to express their opinions but for the Committee to allow others to be canvassed, so that we have some idea of the views of the general public. The single point of agreement is that this is an important issue that has been badly handled by the Department.

Some Members: Hear, hear.

Mr Speaker: Order. As Question Time for the First Minister and deputy First Minister commences at 2.30 pm, I suggest that the Assembly takes its ease until that time. This debate will continue at 4.00 pm with Mr Shannon.

The debate stood suspended.

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

2.30 pm