

**Northern Ireland Assembly**  
**Monday 12 May 2008**

**Executive Committee Business**

**Commission for Victims and Survivors Bill**  
**Further Consideration Stage**

**Source:** <http://www.niassembly.gov.uk/record/reports2007/080512.htm#2>

**Mr Deputy Speaker:** I remind Members that, under Standing Order 35(2), the Further Consideration Stage of a Bill is restricted to debating any further amendments tabled to the Bill.

Two amendments have been tabled. Members will have received a copy of the Marshalled List of Amendments, which provides details of the amendments. Amendment No 1 deals with arrangements for directing employees of the commission, and amendment No 2 deals with the appointment of a member as a chief commissioner. The amendments will be debated together.

I remind Members who intend to speak that they should address both the amendments. After the debate, I will put the Question on amendment No 1 and then ask that amendment No 2 be moved formally. The Question on amendment No 2 will be put without further debate.

Members are aware that certain matters relating to the appointment of the commissioners designate are before the High Court and are therefore sub judice. I encourage Members to bear in mind Standing Order 68. If that is clear, we shall proceed.

**Schedule 1 (The Schedule to the Victims and Survivors (Northern Ireland) Order 2006, as substituted)**

**Mr Ford:** I beg to move amendment No 1: In page 4, line 2, at end insert

“6A. All employees of the Commission shall be subject to the direction of the Chief Commissioner, or if there is no Chief Commissioner, of a member nominated by the Commission.”

The following amendment stood on the Marshalled List:

No 2: In page 5, line 21, at end insert

“(6A) As from 1 August 2012 sub-paragraph (6) shall have effect with the substitution for head (b) of—

‘(b) shall designate a member as Chief Commissioner;’” — [Mr Ford.]

Members at this end of the Chamber are simply attempting to address some of the deficiencies that we perceive to be in the Bill as it stands after amendments were made to it at Consideration Stage.

The two amendments are tabled for different reasons. Amendment No 1 was not selected at Consideration Stage because of the technical order in which the amendments were presented, so we are presenting it again. Amendment No 2 is necessary to improve on, and tidy up, the pantechon amendment No 8 tabled last week by the junior Minister Mr Donaldson.

During Consideration Stage, we made it clear that greater coherence and central direction is required in the workings of the victims' commission than that currently provided by the effective appointment of four commissioners. Each commissioner will have a veto over key aspects of the

commission's work, which sends out the wrong message: that there is a divisive and apartheid system rather than a single, united and coherent one. A key aspect in obtaining greater coherence and central direction is ensuring that the commission's staff work as a whole instead of being divided and relating to one commissioner or to one group of victims. That is the approach that seemed to be suggested from the Sinn Féin Benches, particularly by Mr Molloy, in the debate last week, and we fundamentally oppose it.

We want to ensure that the commission operates as a whole, recognises the common interests of all victims and seeks to meet their needs. Victims' groups should not be carved up among the commissioners and perhaps treated in different ways. An example of the approach that we advocate can be seen in the work of Bertha McDougall when she was the Interim Victims' Commissioner. Undoubtedly, Mrs McDougall's appointment by Mr Hain was tainted — in fact, it was illegal. However, that did not affect her ability to relate to victims and victims' groups across society and from all backgrounds. Her background did not prevent her from relating to people from different sections of society. That is an example of how the commission can work as a whole.

My party has said on record that any of the four commissioners designate could do the job, which is an opinion that has not changed. The Alliance Party remains opposed to a commission of four, but the House has stated its opinion on that issue. However, a commission of four must be a single commission that happens to have four members, instead of four individuals who are expected to work in different directions, relate to the public differently, take a different approach and say different things in public interviews, which are all inherent dangers in the current structures. Most damaging would be the suggestion that staff members should have responsibility for dealing with one particular sector or group of victims. That must be avoided, which is why there is simple direction set out in amendment No 1:

"6A. All employees of the Commission shall be subject to the direction of the Chief Commissioner, or if there is no Chief Commissioner, of a member nominated by the Commission."

That is the only way to ensure a coherent and single approach. It is unfortunate that, due to the technicalities of the ordering process, amendment No 1 was not selected last week. However, it merits thorough discussion and inclusion at this stage of the Bill's progress.

Amendment No 2 follows up some of the points that were made last week by Mr Donaldson — who, unfortunately, is not in the Chamber — when he tabled amendment No 8. Amendment No 2 seeks to ensure that the common direction that I have referred to applies across the commission through the existence of a chief commissioner. For the benefit of Members who did not hear the debate last week, the appointment of a chief commissioner would not create a hierarchy of victims — it does not, it is not intended to and it would not. Amendment No 2 takes account of the points that Mr Donaldson made when he spoke of the possibility of a chief commissioner and a group of part-time commissioners, which would be sensible. It makes the simple statement that, for the commission to function properly, there must be a chief commissioner for future commissions appointed after 1 August 2012.

The current process largely follows on from the flawed way in which the First Minister and deputy first Minister at first failed to appoint a commissioner and then announced the appointment of four commissioners when there was no legal basis for doing so. If that problem is resolved at this stage, it would be a clear statement that there is no reason why the requirement for a chief commissioner should not be put into place for a second and subsequent commissions following this commission's four-year term.

I am not entirely convinced of the bona fides of the two parties that are leading this Executive in this matter. That is why it is essential that the legislation contains a specific requirement — not a vague aspiration, as expressed by Mr Donaldson last week — for a chief commissioner for

second and subsequent commissions. There must be serious forward movement in bringing together a single, coherent view in the commission. If, at this stage, there is a danger that the four commissioners could proceed in different ways, it is important that that danger be avoided and that such problems should not exist in any future commission.

The difficulty is that during Consideration Stage, amendment No 8 was a pantechnicon that covered every possibility and made it difficult to debate the internal details of the amendment. The Alliance Party and the SDLP believe that amendment No 1 today, which amends a small part of the provisions of amendment No 8 as it was put last week, would create a more workable Bill. I doubt whether any amendment, however modest, will be passed, and I suspect that by the end of today we may well be congratulating Ms Ní Chuilín for the way in which she has enforced her Whip on DUP Members as well as on those of her own party. However, Members on these Benches believe that there are issues that need to be tested.

**Mr Spratt:** It is with a feeling of déjà vu that I oppose the amendments tabled by SDLP and Alliance Members. I feel a bit like Bill Murray in the film 'Groundhog Day'— I have been through all his before. However, it is the democratic right of Members to table amendments. The arguments put forward last week in relation to the provision of a chief commissioner still stand. The DUP will be opposing both amendments because we believe that the commission for victims and survivors as it stands provides the necessary flexibility to deal with the issue of having a chief commissioner in the future. That flexibility should exist, and the amendment tabled at Consideration Stage by the Office of the First Minister and deputy First Minister (OFMDFM) provided for that.

I reiterate my desire to see an effective commission, and believe that a mechanism already exists by which a chief commissioner can be appointed in the future.

The commissioner for victims and survivors as it stands is an effective model by which the needs of victims can be met. If it were not so, the DUP would not be supporting its formation. We have a duty to the victims of our country to deliver where they have previously been ignored. I urge Members to unite behind the Bill, to recognise its potential for good and to give it the support it deserves. I oppose the amendments.

**Mr Molloy:** Go raibh maith agat, a LeasCheann Comhairle. I oppose amendment Nos 1 and 2. We have reached an important stage of the Bill, through accelerated passage, and its provisions now need to be put into place. Today's amendments do not add anything to the Bill because they are an attempt to pre-empt what might happen in the future. That is not necessary. I have not found in Mr Ford's explanation, or in anyone else's, any real reason why a chief commissioner is necessary; why someone should direct the other commissioners, and why there must be someone to tell employees of the commission what to do in particular circumstances.

We are employing people who are very capable of doing the job. We also want to involve as much as possible the families of victims and survivors when determining how to move this matter forward. It is very important that, at this stage, the process is victim-led rather than resulting from a diktat or from legislation that leaves the victims out. The legislation must allow some flexibility and give the commission the legislative footing that it needs to deal with the issues faced by victims and their families. That is the main issue.

I ask Members to oppose amendment Nos 1 and 2 and to let the commission get on with its work. I hope that a flexible approach can be adopted and that victims and survivors and their families can play a role in designing the future strategy for victims. Go raibh maith agat.

12.15 pm

**Mr Kennedy:** On behalf of my party, I support the amendments. I do so in the full expectation that — yet again — OFMDFM will pay no heed whatsoever to the views expressed in the House. One

assumed that the Department would have taken care to listen to the House and to respond positively to at least a few of the many proposed amendments to the Bill. However, sadly, we witnessed the glib and arrogant dismissal of every single amendment that Members brought forward.

It is helpful to reflect briefly on some of the very reasonable amendments that have been dismissed thus far. The number of commissioners will not be capped at four. There is to be no chief commissioner; nor will there be prohibition on commissioners or staff members who have conflict-related criminal convictions. Each of the amendments sought to improve the working of the commission, and each was dismissed by OFMDFM.

Of course, last week, we witnessed the spectacle of members of junior Minister Donaldson's party — and I am sorry that he is not here today — taking some time to lecture the House on the need to avoid the terminology of conflict-related convictions. Mr Spratt, who is present today, said that that matter refers:

“only to people who have been convicted of crimes that are related to the Troubles, and not to paedophiles” — [*Official Report, Vol 30, No 3, p163, col 1*].

The junior Minister then went on to support Mr Spratt's contention. Yet, that pressing need to prevent paedophiles from being employed by the commission seems to have been entirely absent from the junior Minister's mind when the legislation was drafted. It seems that it took a four-week delay in the introduction of accelerated passage before the need to address the issue of criminal convictions entered the junior Minister's mind.

**Mr Deputy Speaker:** Order. The Member must address the two amendments that are before the House today.

**Mr Spratt:** The Member mentioned my contribution to last week's debate. Does it not mean that everyone with any criminal conviction —

[Interruption.]

**Mr Deputy Speaker:** Order. Now that the debate is back on the rails, let us keep it there.

**Mr Spratt:** I simply wanted clarification, Mr Deputy Speaker.

**Mr Kennedy:** We should be at least partly grateful for the fact that junior Minister Donaldson and his colleagues have a unique interpretation of the meaning of accelerated passage.

Given what has happened in previous debates, most of us expect OFMDFM to dismiss automatically the two current amendments, not following consideration of their merits, but simply because the present incumbents of OFMDFM appear to dislike scrutiny. The word “flexibility” was used often last week by the two major parties, the DUP/Sinn Féin coalition — the Axis — when talking about the Bill. Amendment No 1 provides flexibility, and provides OFMDFM with the flexibility to appoint a chief commissioner, if required.

Indeed, during last week's debate on the Bill, junior Minister Donaldson said of one of OFMDFM's amendments:

“we have made provision for the future appointment of a chief commissioner.” — [*Official Report, Vol 30, No 3, p125, col 1*].

That being so, amendment No 1 merely ensures that, regardless of whether a chief commissioner is in place, the commission will function effectively with one of the commissioners fulfilling the functions of a chief commissioner where employees are concerned. In the absence of such a

provision, employees of the commission could — and would — be left in limbo. What is worse is that it is not difficult to envisage circumstances in which the potential and temptation would exist for employees to appear to be subject to the direction of particular commissioners, rather than to the commission as a corporate body.

Therefore, in addition to respecting the principle of flexibility, amendment No 1 also ensures, as much as is possible within the constraints of the Bill, that the commission functions as a corporate body rather than as a mere clearing house for four separate commissioners, which remains a considerable concern.

Amendment No 2 reflects the concerns of many in the House that the present DUP/Sinn Féin impasse over the need for a chief commissioner will have to be resolved at some stage. Obviously, the four-week delay in accelerated passage was not enough time to allow that resolution. Hopefully, therefore, amendment No 2's provision allowing four years might assist the present OFMDFM incumbents to resolve their dilemmas.

During last week's debate, junior Minister Donaldson indicated on several occasions that the OFMDFM amendment, which has since been incorporated into the Bill, provides that, at any time:

"The First Minister and deputy First Minister acting jointly...may designate a member as chief commissioner."

It appears that only one party in the House, Sinn Féin, which is the party of junior Minister Kelly, is opposed to the concept of a chief commissioner. I assume that I am right in saying that every other party in the House supports that concept. That being so, why does junior Minister Kelly not accept this amendment? Let him tell the House, now that he has the opportunity, the reasons that he and his party are opposed to the appointment of a chief commissioner.

Mr Donaldson has already stated that the OFMDFM amendments to the Bill:

"represent a consensus in OFMDFM, and there is agreement on how those issues should be addressed." — [Official Report, Vol 30, No 3, p139, col 2].

Surely it is not too much to ask that the junior Ministers, over the next few weeks, can ensure the early appointment of a chief commissioner.

Amendment Nos 1 and 2 seek to improve the Bill, and as is the normal course of parliamentary procedure, I commend them both to the House. Indeed, more in hope than in expectation, I trust that they will be considered on their merits.

**Some Members:** Hear, hear.

**Mr Shannon:** It was only last week that we sat in the Chamber and discussed the details of the Commission for Victims and Survivors Bill, and here we are doing the same thing again. Some Members are, perhaps, changing and posturing as much as possible, but my party and I will not do that.

The DUP has changed neither its mind nor its position since last week. We have, then as now, the victims' best interests at heart. The Bill provides the framework for good and proper delivery of the help and support to victims and survivors that has been withheld for so long. Therefore, we will reject the amendments, allowing the Bill to stand as it is.

I was misquoted last week as saying that this was not the place to discuss this issue. I did not say that, and I checked the Hansard report to make sure. I said:

“Some Members wish to use this issue as a point-scoring exercise. I urge those Members to make their points elsewhere.” — [Official Report, Vol 30, No 3, p121, col 2].

I was not saying, as was suggested, that arguments should be made elsewhere; I was saying that those who were on a soapbox to make points should realise that the Victims and Survivors Bill was not the forum for getting one up on a political opponent.

During the many hours of debate on the matter, I have listened carefully to Members' contributions, and I remained unconvinced that many of the amendments would make a positive difference to the lives of those who I am seeking to help.

**Mr McNarry:** Mr Deputy Speaker, as you properly took the time to remind Mr Kennedy of the importance of sticking to the motion, could I perhaps ask that consistency be applied in the debate?

**Mr Shannon:** I will bear that in mind, but I had to clarify last week's misconception. If the amendments had added to the Bill's protections or enhanced it, the DUP would have supported them. Instead, we were subjected to a great deal of posturing and pointless arguing. Nothing would have induced me to believe that any real point was being made, other than the fact that some Members believe that the DUP is simply out to flex its muscles. Let us make it clear —

**Mr Deputy Speaker:** Order. I remind Members to keep to the subject under discussion.

**Mr Shannon:** I thought that I was keeping to the subject; that is, the debate on the Bill.

Some £36 million has been allocated to victims. That is more than double the budgetary allocation awarded to victims under previous devolved Governments. I, too, want to ensure that as much money as possible is directed to front-line services. Therefore, I want to prevent the future expense of further changes to the legislation to allow for part-time commissioners.

**Dr Farry:** The Member cites the importance of directing as much money as possible to front-line services. Surely that is an argument for having one commissioner rather than four or potentially more.

**Mr Shannon:** The matter has been debated well today, and we have made our point clear. There is no sensible need to restrict the number of commissioners, when common sense will show that there will never be as many as 10 full-time commissioners, as some Members have suggested.

Amendment No 1 was not, and is not, necessary, nor is there any need for the compulsory addition of a chief commissioner at this stage. Therefore, the DUP also rejects amendment No 2. It is clear that some people have an axe to grind and are determined to do so.

**Mr Ford:** The Member told us why he rejects both amendments, but will he explain why, five weeks ago, members of his party told not only us but the media that they agreed with the substance of the amendments?

**Mr Shannon:** I cannot speak for the party, but I can say that the Member misquotes us. Our stance on the matter last week was clear, and our stance today is clear. Members of the Alliance Party should consult Hansard to find out what was said. Some people clearly have an axe to grind, and they are determined to do so, regardless of the issue.

I have no point to prove and no axe to grind. It is simply my duty as an elected representative, and as a concerned individual, to secure the best deal possible, as soon as possible. That is also my party's duty. That is what we have done, and will continue to do, for the people of the Province. I reject the amendments.

**Ms J McCann:** Go raibh maith agat, a LeasCheann Comhairle. I, too, oppose the amendments. Neither amendment adds anything to the Bill, which is about implementing legislation that will put a victims' commission in place, so that the issue of victims and survivors of the conflict can become the central focus. Nothing that I have heard in today's debate or in previous weeks' debates has changed my mind.

The commission will ensure that the structure needed to address victims' various needs is established. We must focus on the needs of victims and survivors, and allow the commission to get on with its all-important work, rather than raising barriers to prevent it from doing so.

Nothing will happen with the £36 million of funding and if we continue to stall the Bill by tabling amendments to it. The funding will not be released directly to victims and survivors. Therefore, it is very important for Members — *[Interruption.]*

**Mr Deputy Speaker:** Order. One matter on which we can all agree is the fact that Members should address their remarks through the Chair.

**Mr McNarry:** On a point of order, Mr Deputy Speaker. Will the Member take this opportunity to qualify her remarks and to introduce her opinion on democracy in debates?

**Mr Deputy Speaker:** That is not a point of order.

**Mr Ford:** The Member talks about delay. Will she remind the House who twice failed to move the Bill's Consideration Stage? As I recall, it was no one from the SDLP, the Ulster Unionist Party or the Alliance Party. If there has been any delay, it appears to have come entirely from her party and from her colleagues opposite.

12.30 pm

**Ms J McCann:** I have listened intently to the debate and the Alliance Party's amendments — among others — are stalling the Bill.

Groups and organisations that, for years, have dealt with victims' needs have accumulated a wealth of skills and expertise. The Assembly must release funding to allow those groups to continue and to develop community-based initiatives, which, throughout the years, have helped many victims and survivors.

Such progress is being stalled by the amendments. I urge Members to adopt a united stand, demonstrate strong leadership and direction, and support the commission's important work for the future. Stalling the Bill is not in the interests of victims and survivors. Go raibh maith agat.

**Dr Farry:** The Member for West Belfast Ms McCann mentioned stalling. Nothing of the sort is happening in the Chamber — we are debating legislation in accordance with Standing Orders. Although it may be news to Sinn Féin, that is how a proper legislative body operates.

A Bill is subject to a First Stage and a Second Stage; then a Consideration Stage and a Further Consideration Stage are opportunities for Members to table amendments. Once those have been considered, the Bill reaches its Final Stage. No additional business days have been scheduled by the Alliance Party, the SDLP or the Ulster Unionist Party to frustrate the passage of this Bill.

**Mrs D Kelly:** Will the Member acknowledge that, at this time last year, OFMDFM informed the House that a decision on the appointment of a commissioner would be taken before the summer recess in 2007?

**Dr Farry:** Absolutely. The Alliance Party has tabled the two amendments because of the crisis of confidence and the cynicism in Northern Ireland about the legislation and the proposed

commission. It is important to establish safeguards to ensure that the process represents properly the interests of victims.

Had the First Minister and deputy First Minister last year outlined to the Chamber the benefits of a commission — compared with the appointment of a single commissioner — and, subsequently, proceeded with the consultation necessary to develop public policy in Northern Ireland, the credibility of the proposals would have been enhanced. However, the proposal for a commission was, clearly, an afterthought. It was a political fix to bypass the inability to agree on the appointment of a single commissioner, as outlined in the legislation.

However, for better or for worse — and for worse, in my opinion — the House decided to take that route, and, consequently, today we must try to improve that flawed legislation. Amendments must establish safeguards to ensure that a single, co-ordinated strategy for victims is applied consistently across all sections of the community in Northern Ireland.

There is fear that the proposed commission will lead to a Balkanisation of victims' needs. As the Alliance Party, the SDLP and the UUP have on many occasions stressed, that is not a reflection on any of the individuals. It is a broader issue, concerning structures that will last beyond the tenure of the incumbents who will be appointed as commissioners in subsequent weeks. We must seize the opportunity to get this right.

In all commissions, staff are responsible to a single individual. That is the logical method of operation. It is not about hierarchy; rather, it concerns ensuring consistency in public body administration. In particular, I do not need to remind Members of the crucial importance of such a system when public funds are at stake. Although the matter could be incorporated into Standing Orders, there is, frankly, no community confidence that that will happen. Therefore, it is imperative that the legislation ensures that it happens.

The same circumstances apply to the appointment of a chief commissioner. The current draft of the legislation, as amended last week, provides for the possibility of the appointment of a chief commissioner. The public's perception of the present situation is that, although four parties support the idea of a chief commissioner, that was vetoed by Sinn Féin, and a compromise was cobbled together by OFMDFM.

**Mr Molloy:** Will the Member accept that that is also democracy? Will he repeat his stated opinion that any one of the four commissioners is capable of doing the job? Will he explain why the four commissioners need a schoolmaster to look after them?

**Dr Farry:** I am hardly a schoolmaster. I accept that the Office of the First Minister and deputy First Minister is entitled to put such compromises before the House, although some might call them fudges. The Member's party, however, seems to have difficulty in accepting the right of Members of other parties to table amendments in order to fix flawed compromises and fudges. Notwithstanding the integrity of the four individuals who have, unfortunately, been brought into the equation because the cart has been put before the horse, it is important that proper accountable structures be established to deal with staff matters, not least when public funds are being used. That should be clear to all Members.

The importance of the proper use of public funds is the subject of regular discussion in the House. Four parties have publicly stated their support for a chief commissioner. One party used its veto, and the resulting fudge has been carried through into the legislation. A Sinn Féin veto has been written into the legislation. The appointment of a chief commissioner is no closer than it was before the OFMDFM amendment was made. All that we have done is cover up the cracks by suggesting that there might be a chief commissioner, but that that would require the agreement of the First Minister and the deputy First Minister. If Sinn Féin is opposed to the appointment of a chief commissioner, it will veto such an appointment today or some time in future.



It is critical that the Assembly now agrees amendment No 2 in order to ensure that a chief commissioner shall be appointed and that the issue is not fudged. It is important that the legislation be coherent. It is already a botched job; it is already flawed. Let us not make it worse. This is our last opportunity to make some final corrections and to ensure that there is some consistency and credibility. There must be a single coherent approach to dealing with victims across Northern Ireland. We must avoid the Balkanisation of the crucial issue of dealing with victims.

**The junior Minister (Mr G Kelly):** Go raibh maith agat, a LeasCheann Comhairle. I do not intend to address every contribution to the debate. However, a couple of words have been thrown about, such as “apartheid”, which was used by David Ford, and another in-word, “Balkanisation”, which seems to come up during every debate in the House. Let us be clear: this is about an integrated approach; it is about four co-equal commissioners doing the job together in an integrated fashion. The Alliance Party Members go on about integration all the time, but that is what OFMDFM’s approach is all about. I find the use of the word “apartheid” offensive; the use of the word “Balkanisation” is complete nonsense. Mr Ford has misunderstood entirely OFMDFM’s intentions on this matter.

Having said that, A LeasCheann Comhairle, I appreciate that all Members wish to ensure that the commission will be effective, and I share that view. However, today’s amendments will not do anything to enhance the work or the functions of a commission for victims and survivors. The two amendments that were made were an attempt to deal with some of the issues that were raised. We were accused of not listening, but we listened very carefully. Danny Kennedy said that we ignored the debates — far from it; the amendments that we tabled showed that we listened to Members and took on many of their concerns.

During the Bill’s Consideration Stage, my colleague junior Minister Donaldson emphasised that OFMDFM wanted to maintain a flexible approach to the structure of the commission.

The foundation of our approach to working with victims and survivors has been to place those most affected by conflict at the heart of defining needs, recommending strategies and structures, and advocating across Government and across society as a whole.

The commission that is described in this legislation is one part of that evolving structure. It is charged to convene a victims’ and survivors’ forum, which will be representative of victims and survivors and will inform the work of the commission. We wish to fully involve the victims and survivors of conflict in driving forward the process, and we must retain the ability to respond to their proposals and recommendations.

We have made provision to review the commission’s working practices to ensure their adequacy and effectiveness. Therefore, we reasonably seek to retain the flexibility to respond to need, to ensure the effectiveness of the commission and to be informed by the views of victims and survivors themselves. We have taken that flexible approach because we would never presume that we know what is best for victims and survivors, nor would we prescribe the structures to meet their needs. The changing and evolving nature of the needs of victims and survivors means that the legislation must allow us to have the flexibility to respond to those needs. That is why we tabled our amendments. We have made the right arrangements to allow us to develop our future work with victims and survivors.

Amendment No 2 will create a situation in which we will be required to appoint a chief commissioner in four years’ time regardless of the circumstances. I noticed some paranoia in the UUP, SDLP and Alliance Party’s attempts to impose that provision four years ahead. Those parties clearly believe that they will never hold the Office of the First Minister and deputy First Minister, and that is why they are trying to tie down the current office-holders.

**Mr McNarry:** Rubbish.

**The junior Minister (Mr G Kelly):** That is what they are talking about. They have no faith in OFMDFM because they will never hold those positions.

No one would wish to be tied to such a decision. It would not be sensible —

**Mr Elliott:** I thank the junior Minister for giving way. Will he state for the record whether he classifies himself as a victim of the Troubles of the last 40 years?

**The junior Minister (Mr G Kelly):** That is not relevant to this debate.

It would not be sensible to enshrine in legislation in 2008 a commitment to take a certain course of action in four years' time. That makes no sense whatsoever. We want to see how the current arrangements work, and, as I said, we have already made provision to be flexible in our approach to the evolving structures for victims and survivors and to their changing needs over time.

**Mr McNarry:** Your nose is growing longer, Gerry.

**The junior Minister (Mr G Kelly):** There are a few Pinocchios in the Member's party — I can tell him that. At least he did not slag me about my chin. [Laughter.]

Amendment No 1 deals with reporting arrangements within the commission. It would be unwise to dictate in legislation the way in which reporting arrangements for commission staff will work. That is, rightly, an internal administrative matter, A LeasCheann Comhairle.

I ask Members to reject the amendments for the reasons that I have given. Go raibh maith agat.

**Mrs D Kelly:** My arms do not seem to be long enough to pick up my notes. [Laughter.]

It is clear that there are still diverging views on why these amendments are before the House today. Some Members argue about whether it is proper democracy. The answer is yes. That is what the Chamber is for. It is for progressing legislation — not that Members have often had the chance to do so, because there has not been much leadership in that regard. However, when we have had the opportunity to debate legislation, my party has proposed amendments in order to improve it.

Much play has been made of the necessity of moving this legislation forward. We agree with that — it was not the SDLP, the Ulster Unionist Party or the Alliance Party that failed to agree on a decision before the summer recess of 2007, at the beginning of the new debating season in September, or shortly before Christmas.

**Mr Molloy:** Will the Member explain, therefore, why her party did not propose legislation to establish a victims' commission when it held the post of deputy First Minister?

12.45 pm

**Mrs D Kelly:** It is my understanding that it was the SDLP, alongside the Ulster Unionists, that instigated the strategy for victims and survivors, and first recognised — [Interruption.]

**Mr Deputy Speaker:** I must repeat the one rule on which we are all agreed: remarks must be made through the Chair.

**Mr Molloy:** Will the Member tell the House who was appointed on that occasion?

**Mrs D Kelly:** That has nothing to do with this debate. I am happy to answer Mr Molloy's questions, in so far as the budget and the fund was set up for victims and survivors, in opposition

to his party's views. The political instability over the past 10 years is certainly not something in which the SDLP had a hand.

It is a matter of regret and bad practice that the Office of the First Minister and deputy First Minister has not realised the necessity to bring all staff under the direction of a chief commissioner. It is vital to the interests of commission staff and the commissioners that there be strategic decision-making and planning to deliver a consistent high-quality service to victims.

A number of Members seem to think that one could employ all those people without giving them any clarity, responsibility or direction. That is not good employment practice by any stretch of the imagination, and it is something that amendment No 1 seeks to rectify.

My colleagues and I are pleased to support amendment Nos 1 and 2 in seeking to inject some coherence and cohesion into the commission, which has been born out of division and indecision. Amendment No 2 has been tabled in a spirit of optimism, moving on from the fiasco that has characterised the process thus far.

We propose, from 2012, a framework that is more consistent with the other commissions to which the junior Minister has compared the victims' commission. In response to junior Minister Kelly, one of the reasons that we want to get this right is so that, when we take over, the legislation is right.

There was originally to be the appointment of a single commissioner, so, whatever our misgivings, we are where we are. Having radically altered the commission's structure, we urge OFMDFM to accept logical and necessary changes and commit himself to the designation of a chief commissioner — if not for the current commission, for the next one.

Both Sinn Féin and the DUP failed to listen to our previous arguments, and we seem to be in the same situation today. It is interesting to note that, yet again, when debating the Commission for Victims and Survivors Bill, some DUP Members remain absent from the Chamber. It is a matter of public record that those Members made much public comment in support of the appointment of a chief commissioner. The media-services department of the House can provide those who challenge my comments with the evidence necessary to convince them of my argument.

There was much talk of Balkanisation and of a hierarchy of victims' commissioners. Clearly, as Mr Farry said, there is cynicism across the community as a result of Sinn Féin's and the DUP's inability to make a coherent decision. Amendment No 8 served to kick their stated positions into the long grass over the next four years: on one hand, Sinn Féin is continually opposed to the appointment of a chief commissioner, and, on the other, the DUP is clearly at some loss as to whether to support it or not. Much of the Back-Bench view, and the view of certain senior DUP party members, is that there should be a chief commissioner. That is the best way forward. Over the years we have heard the cry — particularly from Sinn Féin and the DUP — for their mandate and their views to be respected. That is all that we are asking for today.

I have spoken to victims' groups, and they champion the idea of a chief commissioner. It is strange that one party will not accede to a logical request from the victims' groups. I support the amendment.

*Question put, That amendment No 1 be made.*

*The Assembly divided: Ayes 25; Noes 52.*

AYES

Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Burnside, Mr Cobain, Mr Cree, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mrs D Kelly, Mr Kennedy, Ms Lo, Mr A

Maginness, Mr McCarthy, Mr McClarty, Mr B McCrea, Mr McGlone, Mr McNarry, Mr O'Loan, Mr P Ramsey, Mr Savage, Mr B Wilson.

Tellers for the Ayes: Mr A Maginness and Mr McCarthy.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Rev Dr Ian Paisley, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr S Wilson.

Tellers for the Noes: Mr Boylan and Mr Brady.

Question accordingly negatived.

Amendment No 2 negatived.

Schedule 1 agreed to.

1.00 pm

**Mr Deputy Speaker:** That concludes the Further Consideration Stage of the Commission for Victims and Survivors Bill. The Bill stands referred to the Speaker.