

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Dé Céadaoin, 31 Bealtaine 2017

Wednesday, 31 May 2017

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Bobby Aylward,	Deputy Alan Kelly,
Deputy Peter Burke,	Deputy Marc MacSharry,
Deputy Shane Cassells,	Deputy Mary Lou McDonald,
Deputy Catherine Connolly,	Deputy Josepha Madigan,
Senator David Cullinane,	Deputy Catherine Murphy.
Deputy Alan Farrell,	

DEPUTY SEAN FLEMING IN THE CHAIR.

PAC

The committee met in private session until 9.55 a.m.

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

2015 Annual Report of the Comptroller and Auditor General and Appropriation Accounts

Vote 20 - Garda Síochána - Internal Audit Report on Garda College, Templemore (Resumed)

Mr. Niall Kelly (*Head of Internal Audit, An Garda Síochána*) called and examined.

Chairman: We are now in public session. We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness at the committee. We will continue looking at the 2015 appropriation accounts, Vote 20, for An Garda Síochána, dealing specifically with the interim internal audit report on financial procedures in the Garda College. We met on this matter on 4 May 2017 and the issues discussed are of such concern that the committee has decided that further engagement is required. We will be keeping today's meeting to the matter of the interim audit report, and expect to meet with the Commissioner and others in respect of the same topic on 14 June. We will deal with the rest of the Vote on 13 July, when the Commissioner will be before the committee again. While the report refers to matters that have their history in events that span at least a couple of decades, the primary focus of today's meeting will be on what happened since 2015. I ask members and witnesses to co-operate in maintaining this focus.

We are joined today by the following witnesses from An Garda Síochána: Mr. Niall Kelly, head of internal audit and author of the interim audit report; Mr. John Barrett, executive director, human resources and people development; Mr. Michael Culhane, executive director, finance and services; Mr. Ken Ruane, head of legal services; Mr. Joseph Nugent, chief administrative officer; and Mr. Michael Howard, former head of the Garda audit committee. From the Department of Justice and Equality, we are joined by Ms Anne Barry, principal officer, policing division; and Mr. Paul McDonnell from the policing division.

I remind members, witnesses and those in the Public Gallery that all mobile phones must be turned off completely or put into flight mode as they interfere with the recording equipment. I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the provisions of Standing Order 186 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such policy. Members are also reminded of

the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

Before I call Mr. Niall Kelly to make his opening statement, I wish to point out that we have asked for only one statement from the head of internal audit and other people will also be questioned. I apologise but there is a change to the schedule for today. We had originally scheduled the meeting to commence this morning and to resume at 5 p.m. following a break in the afternoon. Due to commitments in the House, we have had to reschedule that. We will meet from now and my plan is that in two hours, we will take a short break for ten minutes, and continue until approximately 2 p.m. We will then break until 5 p.m., when we will return for an evening session, as originally intended. We may have indicated we were bringing that forward but, due to other commitments in the House, we are proceeding with the original plan. I hope people will appreciate that.

Deputy David Cullinane: On a procedural note, we have just got notice that there may be votes in the Dáil on the Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016, the deliberations on which started at 10 a.m. By virtue of those of us here being from different parties, are we all paired so it will not disrupt this morning's session? If there are periodic votes, it will seriously disrupt matters.

Chairman: To clarify, there are no pairing arrangements in existence in the new politics of Dáil Éireann. From a practical point of view, a member can only pair with somebody who is voting in the opposite direction, and most of us, if we are not following the discussion-----

Deputy Alan Kelly: Do not know which way we are voting.

Chairman: -----until the vote is called. We do not know what votes will be called, and our spokespersons will be the ones leading the debate. Some of us might be going to abstain, some might be going to vote for an amendment and some to vote against. There are no arrangements in place for pairing through the Committee of Public Accounts or notified to the Whips.

Deputy Marc MacSharry: It might be prudent for one from each of the party groupings to text their Whip and seek permission for us to continue in the interests of continuity here. I will do that on our behalf and-----

Deputy Alan Kelly: I will do it on our behalf.

Deputy David Cullinane: I intend to stay here. It is just that-----

Chairman: Is the Deputy in a position to notify his party's Whip if there is a vote?

Deputy David Cullinane: Yes.

Chairman: It would be awful to break up the meeting on two or three occasions. If there are three or four, one from the Government side can notify the Whip that we are going to be here. I am conscious of the fact that other members, who may be voting in another direction, may also be here. I think we can send messages in respect of an informal arrangement. It would be dreadful if we had to break up the meeting on several occasions. We will try to work with that. As chairperson, I will remain here in any event.

At this stage, I call Mr. Niall Kelly to make his opening comments.

Mr. Niall Kelly: I thank the committee for the opportunity to speak again today in regard to the internal audit report on the Garda College. I do not intend going into the detail of the report, which speaks for itself, but rather to advance some of the discussion points from our previous meeting. The report contains 19 recommendations, which were fully accepted by the Garda executive committee when I presented it with a draft of the report on 6 September 2016. The findings and recommendations in the report are robust and stand up to scrutiny. I would like to add that the Garda internal audit section, GIAS, has recently undergone an external review by a firm of accountants which concluded that the section is fully in compliance with the international professional practice framework of the Global Institute of Internal Auditors. This is the internationally recognised best practice standard for internal audit.

I started work in An Garda Síochána as head of internal audit ten years ago in June 2007. At that time and for the next two years approximately, I reported to Deputy Commissioner Fitzgerald, who is mentioned in the report in the context of the Garda Boat Club issue. From 2009 until his retirement in 2014, I reported to Deputy Commissioner Rice. It was Deputy Commissioner Rice who stated in a note to the Commissioner on 18 September 2009, “I strongly believe that any surplus money does not belong to the State but rather is owned by the members of An Garda Síochána from whom they were collected and I equally hold that any money cannot be used except for the welfare and development of the facilities for members at [An Garda Síochána]”. Deputy Commissioner Rice did not seek my advice in regarding this issue prior to sending his note to the Commissioner in 2009. Had he done so, I would have pointed out that this was contrary to section C5.19 of the Public Financial Procedures – the blue book - which, under the heading “Exchequer Extra Receipts”, states, “These are receipts that the Department of Finance directs must be credited directly to the Exchequer and cannot be retained by Departments for their own use”. The position of deputy commissioner was occupied by Kieran Kenny from mid-2014 to the end of 2015, when Dónall Ó Cualáin took over.

In regard to interference, non-co-operation and withholding information from internal audit, there are three periods of time that should be considered: first, the period from 2008 to 2011; second, the period from July 2015 to March 2016; and third, the period from September 2016 to March 2017. I will deal with the period 2008 to 2011. In this period, it is apparent that some people did not want the newly-appointed and very independent internal auditor from looking too critically at the Garda College. These people included my direct superiors during the period in question. When I did make inquiries and attempted to get information, this information was withheld from me, as apparent from the strings of emails between the chief administrative officer, the executive director of finance, the chief superintendent and the administrator at the Garda College on 15 April 2010.

I will now deal with the period from July 2015 to March 2016. On 27 July 2015, all managers from chief superintendent, head of section or principal officer grade upwards attended a briefing session in Templemore on the modernisation and renewal programme. At a break in this session, Mr. Ken Ruane, head of legal affairs, asked me how the discussion about the Garda College at the audit committee meeting of the previous week, on 15 July, had gone. I told Mr. Ruane that no discussion took place at the audit committee meeting. He informed me that there were serious issues in the Garda College that I should be aware of and that Mr. John Barrett had prepared a document for Mr. Cyril Dunne, the then chief administrative officer, to brief the audit committee. Later that day, the meeting between the Commissioner, Mr. John Barrett, the two deputy commissioners and the executive director of finance took place - this was the meeting discussed at the previous Committee of Public Accounts. It should be noted that I was not invited to attend this meeting or informed of the outcome. The following day, at a break

in another meeting in Westmanstown, County Dublin, I raised the issue with Superintendent John Keegan of the office of the deputy commissioner for governance and strategy. I spoke again with Superintendent Keegan at more length the following day - 29 July - at Garda headquarters. I have a contemporaneous note of these conversations, written in my own hand on 4 August 2015. I wrote, "Superintendent Keegan was of the view that these issues were similar to concerns that were expressed several years previously and which had been audited by GIAS and the executive director of finance and had been resolved". The Garda College issues were raised at the audit committee meeting of 30 September 2015 by Mr. Cyril Dunne. However, this discussion took place under the heading "any other business" at the end of a long agenda, with no documents circulated either before or at the meeting. The chief administrative officer, CAO, had not sought to put the issue on the agenda of the meeting, even though he had a detailed report from Mr. Barrett since July of that year.

A working group was set up in the summer of 2015 to consider the issues in the college. I was told by Cyril Dunne, CAO, John Keegan, superintendent, and Kieran Kenny, deputy commissioner, on numerous occasions that internal audit should not be involved in the working group. This was because internal audit may be required to audit at a later stage. I had no difficulty with this. I was also informed that legal issues were being advanced with regard to the land and employee status at the college and until these legal issues were resolved, it would be unwise to commence an audit. I now know that I was misled with regard to the legal issues as the head of legal affairs, Mr. Ruane, was advising from July 2015 onwards that internal audit should be requested to commence an audit immediately.

The former chief administrative officer, Mr. Dunne, indicated to the Garda internal audit section, GIAS, as part of the consultative process that he wanted to check the issues presented to him by Mr. Barrett and gather more information. In response to this point, I state as following on page 15 of the report:

While GIAS acknowledge the contribution of the former CAO in progressing the issues we conclude that GIAS should have been informed immediately and that the report of the Executive Director HR&PD should have been put on the Agenda of the Audit Committee meeting in July 2015. GIAS with the backing of the Audit Committee were better placed to do the investigative and information gathering process that was taken on by the former CAO in July 2015.

From September 2016 to March 2017, when a draft reports was concluded, I consulted widely with persons that could possibly be identified in the report to ensure that fair procedures were observed. That was the reason for the gap at that time. As a result of this process some changes were made to the body of the report but these did not affect the audit opinion and main findings and recommendations contained in the executive summary to the report.

Two of the responses were from the executive director of finance and services, Mr. Culhane, dated 13 October 2016 and 20 February 2017. I understand he also wrote to the chair of the audit committee, Mr. Howard. I find these two letters totally unacceptable because Mr. Culhane questions my motives and my professional integrity and competence. I can only view these letters as an attempt to undermine the report or to try to get me to change my audit opinion, findings and recommendations.

The audit report is entitled "Interim Audit Report". This is because it is envisaged that further audit work would be required. The report gives a wide panoramic view of the financial controls in the Garda College from 2009 to 2016. It should be noted that I plan a series of audits

on aspects of the Garda College over the next two years or so. I can assure this committee that I will persist in reviewing these issues until they are all satisfactorily resolved. Since the last meeting with the Committee of Public Accounts, we have commenced two specific audits on EU-funded projects and programmes concerning the college going back to 1998 and on current controls of cash in the college restaurant, shop, vending machines and bar, as well as current banking arrangements. I hope to have these two audit reports completed by the Committee of Public Accounts meeting on 13 July.

In conclusion, I wish to make points on two issues at the heart of the findings from the report and its surrounding discussions, namely, governance and culture. The report and issues around it identify failures of governance as exemplified by the correspondence between the then Commissioner Fachtina Murphy and the then CAO, John Leamy, on 25 April and 8 May 2008, when six action points were agreed and instruction given to implement these points by the Commissioner, that is, the Accounting Officer. I do not need to tell this committee but for the record it should be noted that in the public service, the role of Accounting Officer comprises all the responsibilities of the board of directors in the private sector. That the instructions of the Accounting Officer were not followed but another investigative process initiated between Deputy Commissioner Rice and the chief superintendent in the Garda College is a failure of governance.

Having concluded this audit and gone through all the discussions and analysis of the issues over the last two years, I am convinced that there was and may still be in some parts of An Garda Síochána a culture of not admitting to problems and, when these problems persist, trying to keep them in-house and away from transparent public scrutiny. This is apparent from the reluctance by senior management to get internal audit involved in the period from 2008 to 2011 and the period from July 2015 to March 2016.

There is also evident a culture that thinks An Garda Síochána is different from other public sector bodies and that the normal processes of financial procedures and transparent democratic accountability do not apply, as in Deputy Commissioner Rice's letter of 18 September 2009, for example.

I again thank the committee for its time and its assistance to me as internal auditor of the Garda Vote.

Chairman: Before calling the speakers, I note they have indicated in the following sequence: Deputies Connolly; MacSharry; Cullinane; Kelly; Catherine Murphy; McDonald and Madigan. The first speaker will have 20 minutes, the second speaker 15 minutes and every other speaker has ten minutes. I will be keeping tightly to that timescale in order that everybody has an opportunity to get in. There will be further opportunities during the course of the day.

There was one point I wanted to take up directly before we proceed on the opening statement and it concerns Mr. Kelly and Mr. Culhane. Mr. Kelly says in his opening statement, referring to a letter of 20 February 2017, that he finds this letter unacceptable because Mr. Culhane questions his motives, professional integrity and competence. I would like to ask Mr. Culhane about that letter. I am sure that he is familiar with it. We will get it up on the screen. This is the letter dated 20 February 2017. There is such a volume of documentation here today that it is going to be difficult to get it up on the screen but I will read the particular passage. It is Mr. Culhane I want to ask here because Mr. Kelly has specifically referred to that letter as totally unacceptable. I want to deal with that if possible.

Does Mr. Culhane have the letter to hand? There are two points I want to take up in it. I am reading from the end of page two. This is a letter addressed from Mr. Culhane to Mr. Kelly on the draft interim audit report just before it was finalised. In the fourth paragraph, at the end of the second page, Mr. Culhane writes to Mr. Kelly that at a meeting in the college he, Mr. Kelly, stated to Superintendent McCabe, the college administrator, that he, Mr. Kelly, believed that the college had offshore bank accounts. Did Mr. Culhane say that?

Mr. Michael Culhane: Yes.

Chairman: Is he satisfied that Mr. Kelly said that?

Mr. Michael Culhane: I was at a meeting with Superintendent McCabe and he reported that to me. I am satisfied that Superintendent McCabe was telling me the truth.

Chairman: Will Mr. Kelly give details of the offshore bank accounts to which he referred in his meeting with Superintendent McCabe?

Mr. Niall Kelly: The first thing I would say about those comments is that they are hearsay. Mr. Culhane was not at any meetings in the college that I attended. The second thing I would say is that I spent a lot of time in the college last summer. From roughly mid-June to mid-August, I was up and down to the college and I stayed over in the college. During that time, I talked to a lot of people. This is a normal process of doing an audit - one talks to a lot of people. I would not be doing my job properly if I had not broached the possibility, given the number of bank accounts that were presented and that evolved from the audit, that some of them could have been offshore. At the end of the day, I did not find any offshore bank accounts but I had to broach that possibility and I had to discuss that with management in the college.

Chairman: Mr. Kelly is stating he has no evidence of any offshore bank accounts held by the college.

Mr. Niall Kelly: At this stage, no, but I examined that possibility as part of the audit.

Chairman: Mr. Kelly found no evidence.

Mr. Niall Kelly: No.

Chairman: Mr. Kelly is quoted as saying he believed the college had offshore accounts.

Mr. Niall Kelly: I do not think I-----

Chairman: Mr. Kelly inquired about the matter.

Mr. Niall Kelly: I inquired; I do not think I ever said I believed.

Chairman: I am raising this in the interest of the force because it has been widely reported in the media that there were offshore accounts. As far as I can attest, this letter appears to be from where the reference came. If Mr. Kelly is satisfied there are no offshore accounts, I would like him to confirm that because before the witnesses' arrival today, many people were of the view, as a result of this issue being raised in correspondence, that there may have been offshore accounts. Mr. Kelly is confirming that, to his knowledge, there are no offshore accounts.

Mr. Niall Kelly: At the moment, I have no knowledge that there are any offshore bank accounts.

Chairman: Is Mr. Culhane satisfied that there are no offshore bank accounts?

Mr. Michael Culhane: Yes, absolutely.

Chairman: I want to put that on record because people were rightly concerned about that issue. There are no offshore accounts and I would like to place that on record as others will ask questions about it during the course of the meeting. Does Mr. Culhane accept the interim audit report?

Mr. Michael Culhane: Yes, of course.

Chairman: It is accepted by the Garda. In the second last paragraph of his letter to Mr. Kelly, Mr. Culhane states: “You have effectively set yourself up as “judge, jury and executioner” by your refusal to amend your report to reflect the additional correcting information given to you.” Is that a fair comment? Would Mr. Culhane say that today? Does he still believe that?

Mr. Michael Culhane: I suppose that is a comment that I made in terms of looking at the historical development of the college and how it evolved over time. In terms of looking at the college now, with the current corporate governance focus, one would say that what happened in the college is not acceptable. The college was set up with those arrangements. That developed over time so I am just trying to draw on the point that if one looks at the historical development of the college from today’s corporate governance eyes, it certainly is not acceptable. However, to give people a reasonable chance to defend their reputations, one has to reflect that they were operating under a regime which, by today’s corporate governance practices, is not acceptable.

Chairman: We will come back to Mr. Culhane in the course of the meeting. When he received the draft of the report in September he objected to many of the recommendations being included in the report. We received the responses he gave in which he objected to many of the recommendations being included. At that point, he said that legal advice would be required before the recommendations should be included in the report. I think that is the gist of some of Mr. Culhane’s objections.

Mr. Michael Culhane: No, I did not object to the recommendations. I was aware of a lot of the issues that Mr. Kelly had identified. Before the recommendations could be implemented, a lot of legal advice would be required. Some of the recommendations included in the report still have not been implemented because the legal position still has not been resolved.

Chairman: I did not ask about the implementation of the recommendations. The opening statement refers to the fact that legal issues remain to be resolved. Mr. Culhane seemed concerned about even including some of those recommendations in the report itself.

Mr. Michael Culhane: Certainly, if I gave that impression, I did not intend it to be that. I accept Mr. Kelly is an independent individual so he will reach his own conclusions. He does not need my imprimatur to include or exclude whatever he wishes in his reports. That has been my experience of Mr. Kelly since he joined the organisation in, I think, 2007.

Chairman: I am reading the document, Interim Audit Report - Financial Procedures in the Garda College Templemore, from September. We have a copy of this report in relation to the draft recommendations. In relation to recommendation No. 8, Mr. Culhane wrote: “Until the legal position is resolved, it is not possible to implement this.” Mr. Culhane has no problem with the recommendation being in the report but there might be difficulties implementing it.

Mr. Michael Culhane: Absolutely, I am happy that it is included in the report because if one goes back to my own reports in terms of some of the documentation I provided to the committee yesterday, I clearly stated that a lot of these issues were complex and there will be quite a significant number of issues to be resolved before they can be implemented. As I said, even today some of the recommendations have not been implemented because legal advice is still outstanding.

Chairman: I wanted to clear up the issue of the offshore accounts in particular. While it is a small point, it is one that people latch on to. There are no offshore accounts and I do not want that matter to be hanging over the rest of the meeting. Deputy Catherine Connolly has 20 minutes.

Deputy Catherine Connolly: The witnesses are all welcome back to the committee. I had intended to start with Mr. Kelly but I will first ask Mr. Culhane some questions. Does he accept the recommendations of the interim report?

Mr. Michael Culhane: I do, yes.

Deputy Catherine Connolly: Mr. Culhane believes this is a legacy issue and the college was operating under different governance standards at the point that these issues-----

Mr. Michael Culhane: The audit report took place at a certain time but the matters which it was investigating commenced back maybe in the 1960s.

Deputy Catherine Connolly: I understand that. Mr. Culhane is saying that it is not fair because looking back, people were operating under a different system at that time.

Mr. Michael Culhane: It is not so much operating under a different system but that in terms of the logic by which they were established, if one was starting now, one would not set up those types of structures.

Deputy Catherine Connolly: The witnesses must forgive members if we are incorrect on certain matters but there is so much documentation. Looking through all the documentation, at all stages, Mr. Culhane has maintained that the Department of Justice and Equality was aware of the situation in the Garda college in relation to the money being used from the restaurant and going into the company and so on. He maintains the Department was aware that profit was being made. He made that point repeatedly.

Mr. Michael Culhane: I have made the point certainly in terms of the statement which was given to the college, which was that there should be a profit element in there so that funds could be accumulated in order to invest for facilities for the students.

Deputy Catherine Connolly: Does Mr. Culhane agree with the statement made by Commissioner Rice - I think it was him but I get the titles mixed up - that this money belonged to the Garda College and should not go back to the Government?

Mr. Michael Culhane: No. It is also important to point out that I only got a copy of that minute in May 2017. I was not aware of that minute at all.

Deputy Catherine Connolly: How long has Mr. Culhane been in his current position?

Mr. Michael Culhane: I have been in my position since 2000.

Deputy Catherine Connolly: He will be aware of the 2006 report, the 2008 report and the-----

Mr. Michael Culhane: I only got a copy of the 2006 report in 2011.

Deputy Catherine Connolly: Mr. Culhane was not aware of it before that.

Mr. Michael Culhane: No.

Deputy Catherine Connolly: What about the 2008 report?

Mr. Michael Culhane: That is the report I undertook. It was undertaken by my staff.

Deputy Catherine Connolly: That was done for Mr. McGee.

Mr. Michael Culhane: Yes, the McGee report.

Deputy Catherine Connolly: When I read this, I have questions I would love to ask but I will come back to them in a moment. We should take the recommendations of the interim audit report and ask Mr. Culhane questions about the implementation of same and whether we have learned and whether we are going forward. That is what we tried to do on the previous occasion. Then we received correspondence from Mr. Barrett and Mr. Kelly and an extraordinary opening statement. Forgive me, but I will come back on track.

I believe people are swimming to save themselves at this point and I will take back that statement if I am proved wrong. I have seen correspondence from Mr. Culhane to the Commissioner in which he suggested that Mr. Barrett be charged under the Official Secrets Act. Did I misread that?

Mr. Michael Culhane: I did not say he should be charged. I said he may be in breach of it.

Deputy Catherine Connolly: Mr. Culhane said it should be looked at.

Mr. Michael Culhane: It was a matter for the Commissioner to determine.

Deputy Catherine Connolly: Why would Mr. Culhane make such a-----

Mr. Michael Culhane: When one is dealing with issues in An Garda Síochána, one should be able to have sufficient confidence with one's colleagues to be able to report these issues and to deal with them openly within the organisation. I do not believe it is necessary to prepare an independent report and then send it to oneself by registered mail. If there are issues in An Garda Síochána to be dealt with, they should be dealt with openly.

Not to go off on a tangent or anything like that, we had a tax audit in, I think, 2010, which resulted in An Garda Síochána having to pay penalties and charges of €12.7 million. I dealt with that issue. That was never a subject of a section 41 disclosure. It was dealt with in the normal course of events in terms of the management of the organisation. There are so many issues that come along on a daily basis or on a regular basis that one deals with them as best one can at the time.

Deputy Catherine Connolly: I am a layperson looking at it. We have had all these reports that have not been acted upon. Is that not right? I do not know what happened to the 2006 report. The 2008 report made very strong recommendations.

Mr. Michael Culhane: Yes.

Deputy Catherine Connolly: Mr. Culhane's colleague, Mr. Kelly, has said some were acted upon, some were reversed and some were not acted upon at all. Can Mr. Culhane stand over that?

Mr. Michael Culhane: I cannot stand over that because-----

Deputy Catherine Connolly: Did Mr. Culhane say "can" or "cannot"?

Mr. Michael Culhane: I cannot. I can only give advice.

Deputy Catherine Connolly: Can Mr. Culhane stand over that? Does he accept the 2008 report was not implemented?

Mr. Michael Culhane: I do, yes.

Deputy Catherine Connolly: Mr. Kelly says clearly that parts of it that were implemented were reversed.

Mr. Michael Culhane: I accept his evaluation of that.

Deputy Catherine Connolly: Mr. Culhane accepts that. Okay. Does he have confidence in his colleague, Mr. Barrett?

Mr. Michael Culhane: I accept his professionalism, yes.

Deputy Catherine Connolly: At the same time Mr. Culhane would like him to be examined under the Official Secrets Act.

Mr. Michael Culhane: I had concerns in terms of the manner in which he was treating confidential documents.

Deputy Catherine Connolly: Does Mr. Culhane still have concern?

Mr. Michael Culhane: Given the passage of time and on reflection, no, I do not.

Deputy Catherine Connolly: Does he regret doing that?

Mr. Michael Culhane: I suppose with the benefit of hindsight, it probably was not wise to make that statement.

Deputy Catherine Connolly: Okay.

Chairman: Mr. Barrett might-----

Deputy Catherine Connolly: Mr. Barrett, that is the question for you; go right ahead.

Mr. John Barrett: Tá rud éigin a rá agam. I have asked three times, myself personally, four times through my solicitor to have the document - which has just been referred to and was released to this committee yesterday - given to me. Some 85% of the document that was eventually released under freedom of information - consider how this might play - was redacted in protection of the very issues the finance director has not discussed. That reflects the situation in its reality. This correspondence will be made available to the committee; it is important that it has it. I discovered the existence of that letter almost a year to the day after it had been written.

The interesting inversion of trust that was presented to the committee appals me. We requested, legitimately, a letter written about me that I had no knowledge of, which alleges a potential criminal offence. Rights of natural justice, constitutional procedure - none of that existed. I discovered it yesterday as being included in the pack to this committee.

Chairman: To which letter is Mr. Barrett referring?

Mr. John Barrett: The letter of 25 October 2015 from Michael Culhane.

Deputy Alan Kelly: I wish to clarify that Mr. Barrett was not aware of this. It was not provided to him under the request he made and yet it was provided to this committee yesterday.

Mr. John Barrett: Correct. Yes.

Deputy David Cullinane: It is dated 24 October - the Commissioner thing. Is that the letter?

Deputy Alan Kelly: It is frankly incredible.

Mr. John Barrett: The correspondence from Felix McTiernan, the managing partner of Noble Law Solicitors, will be happily made available to the committee. On the efforts we made to have this dealt with, I wrote directly, myself, to the Commissioner when I became aware this letter existed. I asked for a copy-----

Deputy Alan Kelly: How many times did Mr. Barrett write to the Commissioner?

Mr. John Barrett: I wrote to the Commissioner three times to the best of my knowledge. I have the correspondence here and I can show it to the committee in its totality. It is extraordinary.

Deputy David Cullinane: That correspondence-----

Chairman: Sorry. Deputy Connolly has the floor. The members will all get their opportunity.

Mr. John Barrett: My apologies.

Deputy Catherine Connolly: No apologies needed. At this point what is emerging is so difficult.

Perhaps Mr. Barrett can talk to us. When did he come into this organisation?

Mr. John Barrett: On 3 October 2014.

Deputy Catherine Connolly: I ask Mr. Barrett to take us through his knowledge of the interim audit report of the Garda College at Templemore which is before us.

Mr. John Barrett: I joined the organisation. It is a large complex organisation. The Templemore training facility was part of human resources and people development. I became interested in the budgeting of it and I began to ask questions about financial arrangements in the Garda College, because our actual overtime budgets were running ahead of that allowed for. The questions I asked were not answered to my satisfaction. In my youth I did a BComm and for a while I tried to teach management accounting, so I have a very vague and distant knowledge of it. I have used it throughout my career by virtue of necessity. However, the questions

were not satisfactorily answered. I began to learn of the restaurant situation wherein within the Garda organisation what I assumed was a State entity was in fact an entity operating privately and independent of my line ownership in the organisation. From that became the issues concerning the shop, concerning the golf club, concerning the farm-----

Deputy Catherine Connolly: All of those issues-----

Mr. John Barrett: All of this manifested itself on foot of questions I asked.

Deputy Catherine Connolly: They have been clearly outlined in the interim reports and the progress report.

Mr. John Barrett: Yes.

Deputy Catherine Connolly: What was Mr. Barrett's role in that regard? What did he do or what happened?

Mr. John Barrett: I think the document I submitted deals with the chronology in some fine detail. This became clear to me in June 2015. There is a series of meetings there, including one on 30 June with Mr. Culhane and Mr. McGee. From there, a steering group was established by the then chief administration officer, Cyril Dunne. It had its first meeting in the college on 2 July that year. There was a-----

Deputy Catherine Connolly: He has since retired.

Mr. John Barrett: He has; he is now working elsewhere.

Deputy Catherine Connolly: He was to have been here today, but he will be here another day.

Mr. John Barrett: I understand that is the case.

That first meeting took place on 2 July in the college. I took one action from that. I took an action to synthesise the 2010 and 2008 reports. That is done in a document I prepared at Cyril Dunne's request so that he could then take it to the audit committee, which was scheduled to meet on 15 July.

Deputy Catherine Connolly: Did it go to the audit committee?

Mr. John Barrett: My understanding is that it did not, but Mr. Howard was-----

(Interruptions).

Deputy Catherine Connolly: Sorry, we will just let Mr. Barrett finish.

Mr. John Barrett: I understand it did not.

Deputy Catherine Connolly: I ask Mr. Barrett to continue.

Mr. John Barrett: The meeting in the college on 2 July in effect was the kick-off of this review or discussion as to what we were dealing with and to try to scope out where it was at. Mr. Culhane was at the meeting as were Superintendent Nolan, Chief Superintendent Anne Marie McMahon, Cyril Dunne and myself. Mr. Ken Ruane was not at that meeting, but the suggestion

was that he would be joining that steering group. At that point, even though it was pretty clear that the complexity demanded internal audit, the view was taken by Cyril Dunne that we should not at that point engage with Niall Kelly.

There was a series of discussions. There is a very comprehensive chronology of those discussions through the month of July in my engagement with Mr. Ruane, largely because I went to him for advice.

Deputy Catherine Connolly: Mr. Barrett subsequently made a note of all of this.

Mr. John Barrett: Yes, I did.

Deputy Catherine Connolly: There is a chronology of all the events, as Mr. Barrett saw them.

Mr. John Barrett: My engagement-----

Deputy Catherine Connolly: I have read it; I have seen it.

Mr. John Barrett: My engagement is in my report.

Deputy Catherine Connolly: Mr. Barrett was attempting to bring accountability and raise issues.

Mr. John Barrett: I begin by making what I consider to be inquiries concerning arrangements, which are outside the line command. I am the line manager for the Garda College, but there is a range of activities going on, if one likes, outside the scope of my control and they are significant. In the early stages of this I had some very good help from Barry McGee. He was the author of the 2008 report. It was very quickly visible that despite the reports of 2008 and 2010 - this was now 2015 - the issues remained extant; they were there. I have to say I had never envisaged that arrangements so repugnant to the blue book were, in effect, allowed to continue and, as I said in my report, in plain view.

Deputy Catherine Connolly: Mr. Barrett made his views known.

Mr. John Barrett: I did.

Deputy Catherine Connolly: Did he receive assistance?

Mr. John Barrett: My report was written with absolute good grace. At the point at which Cyril Dunne asked me to prepare the document, I saw absolutely no difficulty because his intention as stated to me was to bring it to the audit committee on the 15th. For me that looked entirely appropriate and like good governance, so I had no concerns until I learned later in the month, at the meeting on the 27th in the college, involving the Commissioner, the acting deputies and Cyril Dunne that the report had not been delivered to Mr. Howard and his committee. If the Deputy reads my cover note on my report, it very clearly states that the purpose of my writing that report was that it would be so delivered to Mr. Howard and his committee.

Deputy Catherine Connolly: What did Mr. Barrett think about that?

Mr. John Barrett: I was shocked when I discovered on the 27th that it had not gone there. I am not trying to pretend that I have the answer to world hunger regarding accounting but I had spent a period of my life doing due diligence for multinational companies out of Silicon Valley. I know this stuff.

Deputy Catherine Connolly: Would Mr. Barrett have expected that it would go to the audit committee and be taken seriously?

Mr. John Barrett: Yes, of course. There was a level of detail in it. I challenge any of those the Deputy might seek advice from to compare and contrast the report that I put together over a weekend with what it is that Niall Kelly discovered in his report some 16 months later. The principal issues are very largely called out in my report of 6 July 2015.

Deputy Catherine Connolly: Okay. Mr. Kelly wanted to come in and I interrupted.

Mr. Niall Kelly: I was just going to say that the points Deputy Connolly was making were included in my opening statement.

Deputy Catherine Connolly: What?

Mr. Niall Kelly: I will not waste time but some of the points Deputy Connolly was making were already addressed in my opening statement.

Deputy Catherine Connolly: I was trying not to make points, I was just trying to ask questions. Mr. Kelly should feel free to clarify the position.

Mr. Niall Kelly: I would just concur with Mr. Barrett that, in effect, his analysis in July 2015 was completely verified by the audit report that was completed.

Deputy Catherine Connolly: Issues were raised that had been raised previously. Mr. Kelly felt they were now being taken seriously. They were supposed to go to the audit committee but they did not go to the audit committee. Was that to Mr. Howard?

Mr. Michael Howard: That is correct, yes.

Deputy Catherine Connolly: Where does Mr. Howard come into this? Why did the report not go to the audit committee?

Mr. Michael Howard: Obviously, I cannot answer why it did not go to the audit committee but I would very much-----

Deputy Catherine Connolly: Could Mr. Howard confirm that it did not?

Mr. Michael Howard: The audit committee has taken a very serious view of that. There are a couple of general points that I would like to get across. Before I say anything else, in case I do not get an opportunity to say this, the audit committee has formally commended Niall Kelly on his work in relation to this. I think that I should say that. In approaching this, I cannot ignore the fact there has been some controversy and debate. I want to make it clear that Mr. Kelly was performing a task assigned to him by his employer. There is no question that he ever had any motivation other than to do that task impartially and objectively. Given the scale of the issue as it subsequently emerged, I devoted an enormous amount of time to this, way out of what one would normally devote as chair of an audit committee, to reviewing the work of the internal auditor. Niall Kelly was always completely open with me. I am satisfied and my committee is satisfied that the conclusions in his interim report are very firmly grounded on fact. I think I should say that before I say anything else.

I would, if I may, briefly skip through the narrative as it emerged from the point of view of the audit committee. In case anyone is a little unclear of the role of the audit committee, I am a

retired civil servant. There are five people on the audit committee, a deputy commissioner who sits there permanently and four outside members, one of whom has to be chair. In addressing the members I want to say that the committee addressed this as an issue on which we had consensus. There were no divided opinions. I should start by saying that the matter was raised first with the audit committee on 30 September but it was raised verbally as an AOB item.

Deputy Catherine Connolly: Was that 30 September 2015?

Mr. Michael Howard: Yes, 2015. Again, I want to be very careful because I am going to stick entirely to the facts as they were revealed to me. The normal business of audit is conducted in arrears, so in the routine, Niall Kelly would complete audit reports, they would be brought to the committee, they would be reviewed, we would approve them, we might question them and we would go on. Our role is to advise the Commissioner on matters of finance, audit, risk, governance and so forth. Obviously we address other things at meetings. There was a very busy agenda that day and at the end of the meeting this was raised verbally as an AOB item. There was no briefing given to us. I have reflected on how I will phrase this: neither I nor any of the other outside members of the committee took from that briefing any sense of the importance of this issue as it subsequently emerged. Ultimately, this issue was so serious that the Accounting Officer had to amend the statement of internal financial control. I do not believe that has happened before on the Garda Vote so, objectively speaking, this was a very serious issue. It was raised, we discussed it a bit and we were asked if we would include it in the 2016 programme of work, which was done - that was Mr. Kelly's report in its time - but no indication was given to us that this was different. I will again confine it to what was my impression and I will put this in these terms: I worked in the Civil Service for 35 years. I do not believe that I was a naïve or uninformed listener to that briefing.

Deputy Catherine Connolly: I will be stuck for time and there are serious questions to be asked.

Mr. Michael Howard: I am sorry.

Deputy Catherine Connolly: No, I thank him for outlining the background. He was not aware of the importance of it and it was raised under AOB at that time. When did the audit committee become aware of the very serious issues that were in question?

Mr. Michael Howard: I became aware of that in May of the following year. Niall Kelly at that stage had commenced his work and he, as was quite appropriate, would often come and speak to me about issues.

Deputy Catherine Connolly: Did Mr. Howard become aware of it in May 2016?

Mr. Michael Howard: At the end of May 2016.

Deputy Catherine Connolly: Was that the first time Mr. Howard became aware of this?

Mr. Michael Howard: I want to be very clear so that there is no misunderstanding. It was mentioned as an AOB item in September, mentioned literally as a one-liner at the next meeting in December as something to keep an eye on; I mentioned it as one of a list of nine items that we were keeping an eye on, so we did know the issue existed but we had no notion as to what was entailed in it.

Deputy Catherine Connolly: Had Mr. Howard spoken to Mr. Barrett or Mr. Kelly?

Mr. Michael Howard: No. I met Mr. Barrett at Mr. Kelly's suggestion because he spoke to me as he should about his concerns – his work had begun. At my request John Barrett saw me and spent a considerable period of time outlining to me-----

Deputy Catherine Connolly: When was that?

Mr. Michael Howard: I believe that was 2 June.

Deputy Catherine Connolly: In 2016?

Mr. Michael Howard: Yes, 2016. That was one year later. Again, I will synthesise this as best I can. Up to that point in time - I know there is a danger that we read history backwards, partly due to what Niall Kelly has said to me and very much elaborated by John Barrett – I had previously thought this was an issue that pertained primarily to the ownership of land. If I could put in grossly over simple terms, that it was a static issue. The land was not going anywhere. In my own work I have seen this, where one can have issues about the ownership of land, so it was important but I was not aware that it was serious. What changed for me when John Barrett briefed me was that I realised this was a dynamic issue. This was continuing because the whole time the figures – off the top of my head it was about €77 per trainee garda per week, so if one has 400 or 500 gardaí, one could have €30,000 odd a week.

Deputy Catherine Connolly: As an audit committee the members were not aware of it. The CAO raised the issue under any other business. In December, it was raised under any other business again.

Mr. Michael Howard: Yes, as I mentioned.

Deputy Catherine Connolly: It was not put off. Finally, in May the committee began to take it seriously, or it was brought to its attention.

Mr. Michael Howard: Yes.

Deputy Catherine Connolly: Prior to that there was a report in 2006, 2008 and 2010, in particular the 2008 report, highlighting the very serious issues. Was that never brought to Mr. Howard's attention?

Mr. Michael Howard: It was never brought to the attention of the predecessor committee. I should say by the way, as an aside, this is an issue that the audit committee takes very seriously and we have addressed this formally to the Commissioner and to Garda management.

Deputy Catherine Connolly: Okay. I will finish with Mr. Kelly. I want him to start at the beginning with his interim report. Each progress report said there was "no confidence", that he could not stand over it, and provide "no assurance". There were four points, one was positive while three out of four were negative. Today, is he anyway reassured by the steering committee that is in place or by the steps that have been put in place?

Mr. Niall Kelly: I have not concluded a review audit and until I do that I cannot give an opinion.

Deputy Catherine Connolly: I refer to the steps that have been taken.

Mr. Niall Kelly: There are steps being advanced at the moment but I do not know how far they are addressing the issues. I cannot really give another opinion until I do another report, a

review audit, and review those issues.

Chairman: We do not have much time. We get the point. The steering committee is dealing with it for now and Mr. Kelly will review it and until then he cannot comment.

Mr. Niall Kelly: Yes, I will review it and give my opinion.

Deputy Catherine Connolly: My question was if Mr. Kelly had confidence in the steps that have been taken to date. Is he still standing by what he said, that he cannot stand over it and that he can give no assurance?

Mr. Niall Kelly: Until I conclude a review audit I cannot change my current opinion.

Deputy Catherine Connolly: I thank Mr. Kelly.

Deputy Marc MacSharry: As head of legal affairs, would Mr. Ruane's understanding be that one's responsibility to the law is superseded by one's responsibility to one's superior or line manager?

Mr. Kenneth Ruane: I wish to preface any remarks I make before the committee by saying that I am instructed by the Commissioner for the purposes of today's meeting that she is not waiving privilege but is maintaining legal privilege over all advices that I have furnished. That said, I am free to discuss any documentation furnished to the committee or any matters as to fact or legal assistance. The Deputy has asked my opinion as opposed to any legal advice that I have given-----

Deputy Marc MacSharry: No, Mr. Ruane is the head of legal affairs for a State body and I am asking, in that context, is his responsibility primarily to the law or is that responsibility superseded by responsibility to his line manager.

Mr. Kenneth Ruane: No, my view of this is very clear: responsibility to the law is absolute.

Deputy Marc MacSharry: That is fine. Mr. Ruane just pointed out that he has taken direction from his line manager in terms of his activities here today, is that the case?

Mr. Kenneth Ruane: When I was notified that I was being called as a witness, I thought it only correct that I would seek advices from my client as to whether privilege was being maintained because, in respect of my professional obligations, the only person who can waive privilege on legal advices I have given is the client. I will try to be as helpful as possible.

Deputy Marc MacSharry: Did any of the other five witnesses receive any contact from line managers in respect of their testimony here today? Yes or no will do.

Mr. Niall Kelly: No.

Deputy Alan Kelly: Is everyone saying no? Every single person? All right.

Mr. Kenneth Ruane: To be absolutely clear, my view is that the law is there to be complied with. That is my view.

Deputy Marc MacSharry: How does Mr Culhane explain that more than €2.3 million in private bank accounts, credit union accounts, other accounts and equities was not returned to the Exchequer?

Mr. Michael Culhane: I do not have executive responsibility for the college.

Deputy Marc MacSharry: If Mr. Culhane is financial director of the organisation, is it fair to say the buck stops with him?

Mr. Michael Culhane: No.

Deputy Marc MacSharry: Who does the buck stop with?

Mr. Michael Culhane: The Accounting Officer.

Deputy Marc MacSharry: What is Mr. Culhane's role if, on one hand, €2.3 million can be in various accounts in Templemore and, on the other, there is an accounting manager?

Mr. Michael Culhane: My role in that case is to advise the Commissioner. The funds of €2.3 million were accumulated over time, I presume by the college restaurant the Deputy refers to. That was part of the mechanism that was established at the time. The €2.3 million should never have been allowed to grow to that extent and I did not discover it until we compiled the report in 2008.

Deputy Marc MacSharry: Mr. Culhane was aware of that in 2008. From the documentation that was provided only this morning, which was disruptive as we were trying to prepare for a meeting to take place minutes later, he says that he advised that matters be brought to the attention of the Minister in 2008. Is that right?

Mr. Michael Culhane: In 2008 I advised that the matter in terms of the action plan should be reported to the internal audit of the Comptroller and Auditor General and to the Secretary General.

Deputy Marc MacSharry: Did the report not mention the Minister as well?

Mr. Michael Culhane: No. I said it should go to the Secretary General.

Deputy Marc MacSharry: When that did not happen, was Mr. Culhane not concerned or did he just decide - because they did not do that - to forget about it?

Mr. Michael Culhane: I did have a concern. The action plan I laid out was pretty clear. I was reporting to the chief administrative officer and he took on board my recommendations and communicated them to the Commissioner.

Deputy Marc MacSharry: As the longest-serving member of the senior management team - and, arguably, the most experienced - and given his years of service and the fact that his obligations are to the law rather than to a line manager or practice, when Mr. Culhane saw that these matters were not being dealt with, was he not of the view that he needed to go further and contact the Comptroller and Auditor General to say he had concerns?

Mr. Michael Culhane: I reported the matter to the chief accounting officer and he, in turn, took ownership of it and communicated with the Commissioner. It is clear from the Commissioner's correspondence at the time that he accepted the recommendations and instructed that they be implemented.

Deputy Marc MacSharry: I am not trying to be adversarial but time is short and I do have to cut in sometimes if I have already got the answer I am looking for. I mean no disrespect. Does Mr. Culhane see An Garda Síochána, from a financial perspective, as a series of pigeon-

holes? Is it the case that once a matter is out of his pigeonhole, it is in another person's and he does not have to worry about it?

Mr. Michael Culhane: No, I would not go as far as that.

Deputy Marc MacSharry: How would Mr. Culhane reconcile the fact that someone highlights these matters as not being addressed with the fact that they would appear, at least from where we sit, as embezzlement, as one colleague described it, or, at the least, very poor management? Some people might even call what happened theft. In his opening statement, Niall Kelly indicated that, under the rules and the law, money must go back to the State and that it did not do so in this instance. Mr. Culhane was aware of it, albeit that he put it into Cyril Dunne's pigeonhole and it out of his own remit. How can Mr. Culhane reconcile seeking a criminal investigation into a colleague for highlighting that these matters had not been dealt with, albeit that he had passed them to the pigeonhole next door? Given the criteria he applied to suggesting that Mr. Barrett should be investigated - with potential criminal charges involved - is it not Mr. Culhane, who, at least by virtue of his title as finance director, should at this point be investigated with a view to possible criminal issues?

Mr. Michael Culhane: There is a reporting structure within An Garda Síochána.

Deputy Marc MacSharry: That does not supersede the law as we have heard from Mr. Ruane.

Mr. Michael Culhane: I agree 100% that it does not supersede the law.

Deputy Marc MacSharry: Was Mr. Culhane party to the culture mentioned by Mr. Kelly to "circle the wagons", I think was the term he used? Did he say "We will circle the wagons and bury that until we know how much we can contain before we let anything out, and if anyone such as John Barrett or anybody else puts up their hand, by God, we will criminally investigate them or put whatever barriers we can in their way to ensure we do not look bad"? Did that supersede the law?

Mr. Michael Culhane: No. There is no excuse whatsoever for superseding the law. The law applies to everybody and I fully-----

Deputy Marc MacSharry: As a result of that, would Mr. Culhane withdraw the content of the letter, dated 24 October 2015, in which he threw a colleague whose professionalism he acknowledged a minute ago under the bus? Mr. Culhane wanted him criminally investigated because he was concerned that he was out to damage the Garda rather than uphold the law. Is that culture evident and is Mr. Culhane party to it?

Mr. Michael Culhane: I am not party to that culture.

Deputy Marc MacSharry: I am bound to say from the evidence, including the documentation and Mr. Culhane's answers, that he is not just a part of it but he promotes it.

Mr. Michael Culhane: No, the Deputy can see the minute from Deputy Commissioner Rice which was quoted in Mr. Kelly's opening statement. I was trying to work in that type of environment and was meeting the same type of opposition. I was operating within a difficult environment in terms of what I could achieve or do within that period. Despite the fact that-----

Deputy Marc MacSharry: Are environment and culture the same thing? When Mr. Culhane began in 2000, did he have to embrace this culture whereby Kieran Kenny, Cyril Dunne

and John Keegan said “This is not to go to internal audit”? Was it the culture for them to let him know when the law could be adhered to and that, in the meantime, Mr. Culhane was to do as they said? Was that the environment or culture that he came into, that he is describing?

Mr. Michael Culhane: I certainly would not subscribe to that culture.

Deputy Marc MacSharry: Was Mr. Culhane forced, because of the environment that existed, to subscribe to that culture?

Mr. Michael Culhane: I do not believe I was, no.

Deputy Marc MacSharry: Is Mr Kelly wrong in what he said in the final two paragraphs of his statement, namely, that there was a culture of “This will go away. Let’s sit on it and suppress it.”? To us, as members of the committee listening to Mr. Culhane’s answers, that appears to be the case. It is a question of containment and suppression. The default position is “There is nothing to see here”, until, in the event that a colleague is criminally investigated and found guilty for trying to uphold the law, a decision is made to come clean. Mr. Culhane calls it the environment. I call it the culture. The environment was twisted and corrupt and subversion was the order of the day.

Chairman: The Deputy should hold back on using the word “corruption”.

Deputy Marc MacSharry: This is an opinion.

Chairman: It is not an opinion of the committee, it is a personal view.

Deputy Marc MacSharry: I am putting the question. Does Mr. Culhane feel those words do not adequately capture what is coming out in evidence here today?

Mr. Michael Culhane: The 2008 report - the McGee report - was done under my direction. Barry McGee reports to me. I apologise for the documentation only arriving to the committee yesterday.

Deputy Marc MacSharry: It was this morning.

Mr. Michael Culhane: This morning, sorry. With regard to the minute of the 7 January 2008, I was writing to the assistant commissioner in charge of strategy who had responsibility for the college. I wrote to him to inform him that Barry McGee would be carrying out this audit and that he should make all records available to Mr. McGee. The assistant commissioner confirmed to me that all records would be made available. Barry McGee carried out the report and it was submitted to me. In the documentation the committee received this morning, in the last paragraph of the minute dated 25 May 2008, I gave advice that the Secretary General of the Department of Justice and Equality and the Comptroller and Auditor General should be informed about the matters. There is an action plan I set out, which is attached to that minute. The last paragraph is headed as the disclosure to the Comptroller and Auditor General and to the Secretary General of the Department of Justice and Equality, and I also mentioned informing the internal auditor.

Deputy Marc MacSharry: We have all that in Mr. Culhane’s letter. I am sorry for cutting across him again and for being so tough on him, but these are very important matters that deal with large amounts of taxpayers’ money.

Having done that and having asked for the report in 2008, how in God’s name can Mr. Cul-

hane reconcile looking for, effectively, a criminal investigation into a colleague who was trying to see these matters through to a conclusion after which, when it was stuck in Cyril Dunne's pigeonhole, very little, if anything, happened?

Mr. Michael Culhane: With regard to Mr. Barrett's statement, at various meetings I spoke with him about the college and the matters that were - as it was said in the report - outside the general ledger, which is off the books as it were. I also directed Barry McGee to email Mr. Barrett a copy of the 2008 report. I was being open with him as much as possible on the issues surrounding the college finance.

With regard to the implementation of the recommendations of the McGee report, we encountered difficulties with Deputy Commissioner Rice. I continued to work away on that in the interim. When Mr. Barrett came on with executive responsibility for the college, I gave him a copy of the McGee report in the expectation that he would start to implement those recommendations since he had the line responsibility for the college.

Deputy Marc MacSharry: What is Mr. Barrett's assessment of that last contribution?

Mr. John Barrett: I think it is fanciful, quite frankly. The circumstances under which co-operation was not forthcoming is a reality. This was an uphill push. I could not understand why. The fact that the matter has remained in existence in the period since 2008 speaks for itself. That is clear from the Deputy's questioning. If these matters were of the scale and urgency that they clearly are to this committee then, as a consequence, they should have been dealt with much more expeditiously.

Mr. Niall Kelly: On this point, I find it incredible that, given the first paragraph of the McGee report, the internal audit was not informed at the time in 2008. It did not happen. Why was the finance directorate conducting audits? There was an internal audit function in 2008. I was head of it. Why was that work not being done by internal audit? I pose these two questions.

Chairman: Can Mr. Culhane advise the committee on whether someone else could inquire into a matter other than internal audit?

Mr. Michael Culhane: We said we carried out a review. Barry McGee referred to the report as a shadow audit but it was a review of the structures within the Garda College. It did not get into the fine detail that the internal audit did. For example, with the transfer of €100,000 to the boat club, we never discovered that information because we did not delve into that level of detail. It was looking at the broad level of structures inside the college and the operation of the restaurant, the shop and the Garda College Sportsfield Company. We looked at the issues around the golf club also. It was not a detailed audit. It was a review that I instructed Barry McGee to undertake.

Chairman: I ask Mr. Kelly to respond to that.

Mr. Niall Kelly: I do not have the McGee report in front of me but the first paragraph points out that there are serious risks and serious breaches of financial procedures. Even if it was a review, I believe this should have gone immediately to internal audit and we should have been allowed to do a full audit to go in to the depth required at that stage in 2008, rather than waiting several years. Mr. Ruane has just handed me the McGee report: "Our examination and review have uncovered discrepancies in compliance to public financial procedures and exposes the organisation to substantial risk in terms of the internal control environment and governance environment as applied to Templemore college." Given this sentence in the report, I believe that

internal audit should have been informed immediately at that stage.

Deputy David Cullinane: We have a very brief time so I hope the witnesses will be distinct in their responses. I wish to ask all the witnesses a question that requires only a “Yes” or “No” answer. Do all the witnesses understand the role and function of the Office of the Comptroller and Auditor General, the role and function of the Committee of Public Accounts and the role and function of internal audit? Is everyone here aware of those functions and responsibilities?

Mr. Niall Kelly: Absolutely.

Deputy David Cullinane: I must say that I found Mr. Kelly’s opening statement today to be very serious and alarming. It was almost explosive in its content. I am sure that Mr. Kelly would have been aware of that when he wrote his opening statement. He makes very serious allegations and I want to examine the allegations made in that statement. In his opening statement Mr. Kelly made reference to interference, non-co-operation and the withholding of information from internal audit. Who exactly was not co-operating, interfering or withholding information from internal audit?

Mr. Niall Kelly: I think I set it out fairly-----

Deputy David Cullinane: Say it again please for this committee. Who exactly? If Mr. Kelly does not want to give their names, he can give their title and role.

Mr. Niall Kelly: I break it down into three periods. I mention a string of emails from 2008 to 2011, and I believe I have this document here. They were the chief administrative officer, the executive director of finance, the chief superintendent in the college and the administrator in the college - who are two separate people. I have already mentioned that as part of the documentation I included information on a string of emails from 15 April 2010.

Deputy David Cullinane: For the record of the committee, is Mr. Kelly saying that the chief administrative officer, who I would assume was the previous officer, Cyril Dunne-----

Mr. Niall Kelly: The one before that.

Deputy David Cullinane: Before that, and the executive director of finance, was that Mr. Culhane?

Mr. Niall Kelly: Yes.

Deputy David Cullinane: -----and the chief superintendent and the administrator were all part of the non-co-operation, interference and withholding of information? Is that his view? Is that who he is talking about?

Mr. Niall Kelly: Yes, that is who I am talking about.

Deputy David Cullinane: Is Mr. Kelly is talking about Mr. Culhane also?

Mr. Niall Kelly: Yes.

Deputy David Cullinane: Does Mr. Culhane believe he was part of the interference, non-co-operation or withholding of information from internal audit?

Mr. Michael Culhane: The Barry McGee report was in interim document that left a lot of questions unanswered. I return to my minute from 2008 in which I recommended to the chief

administrative officer that internal audit would be brought into this matter.

Deputy David Cullinane: In his opinion, was Mr. Culhane part of the interference, non-co-operation or withholding of information from internal audit?

Mr. Michael Culhane: To be clear, I report to the-----

Deputy David Cullinane: Can Mr. Culhane answer the question please?

Mr. Michael Culhane: -----requests go in through the lines so the answers should be coming out. If Mr. Kelly is looking for additional information, it should be coming from the chief administrative officer.

Deputy David Cullinane: We are dealing with very serious issues here. We have the head on internal audit alleging - it is his opinion and he is doing a body of work - that individuals were part of interfering with, not co-operating with and withholding information from an internal audit. By virtue of that, they were also withholding information from the Committee of Public Accounts, from the Comptroller and Auditor General and from the purview of other agencies. These are very serious allegations and one of the people mentioned is Mr. Culhane. I will ask Mr. Culhane a straight question. Does he accept that or not?

Mr. Michael Culhane: I do not accept it.

Deputy David Cullinane: I will refer to a couple of letters Mr. Culhane did write. We dealt earlier with a letter dated 24 October 2015, relating to Mr. Barrett and addressed to the Commissioner and other individuals. Does Mr. Culhane have a copy of the letter?

Mr. Michael Culhane: Yes.

Deputy David Cullinane: Mr. Culhane wrote that he had a number of concerns about Mr. Barrett, who had stated that the matter was not going away and that he would not let it go away. It stated that Mr. Barrett had said the Commissioner should make a section 41 disclosure and that the matter should be reported to the Comptroller and Auditor General. Mr. Culhane wrote that John Barrett had stated that if the activities at the college were not fraudulent they were, at best, irregular. Which of these issues did Mr. Culhane find objectionable?

Mr. Michael Culhane: It comes back to context.

Deputy David Cullinane: Mr. Culhane keeps saying that but I am not looking for context. Mr. Culhane said Mr. Barrett had stated that the matter was not going away and that he would not let it go away. The letter stated that Mr. Barrett had said the Commissioner should make a section 41 disclosure and that the matter should be reported to the Comptroller and Auditor General. Mr. Barrett had also stated that if the activities at the college were not fraudulent they were at best irregular. Which of these issues did Mr. Culhane find objectionable? Did he find all of them objectionable?

Mr. Michael Culhane: There were issues relating to the college and I could not object to those because I did a report on the same subject myself, a copy of which I gave to John Barrett. Mr. Barrett made his views known but I recorded them as facts.

Deputy David Cullinane: No, you go further than that. You said you found Mr. Barrett's statements disturbing and alarming.

Mr. Michael Culhane: Yes.

Deputy David Cullinane: Which statements were disturbing and which were alarming to you?

Mr. Michael Culhane: I was trying to summarise the position on the previous six points. If there are issues in the organisation they should be thrashed out among the management team and dealt with.

Deputy David Cullinane: To which issues was Mr. Culhane referring when he called them disturbing and alarming? I mentioned the six issues earlier and I asked which of them he found objectionable. Mr. Culhane answered that he found none objectionable, even though it is clear from the letter that he did find them objectionable. Mr. Culhane went on to say the statements made by Mr. Barrett were disturbing and alarming and now he is saying it is because Mr. Barrett wanted to use the information he had in a way he felt was appropriate. Was that a concern for Mr. Culhane?

Mr. Michael Culhane: I find it unusual that a senior officer in the Garda Síochána would have found it necessary to post something to himself by registered post. The issues should be dealt with within the organisation, though not in a secretive fashion. The organisation is big enough to take on these things and deal with them.

Deputy David Cullinane: Mr. Culhane misses my point. What he has just said goes right to the heart of why we are here in relation to the period from 2006 to 2016. He said the issue should be dealt with within the organisation. In other words, he is saying, “Circle the wagons”. He is confirming everything that Mr. Kelly and Mr. Barrett said and his mindset was to deal internally with all the evidence which had been presented to this committee. His mindset was to keep all this evidence in-house, away from the purview of the Committee of Public Accounts and the Comptroller and Auditor General. It was not the responsibility of any individual to keep it internal. The people in question had statutory responsibilities to give this information to other organisations.

I asked all witnesses if they were aware of the role and the function of the Comptroller and Auditor General, the Committee of Public Accounts and internal audit. Mr. Culhane said he was aware of these functions and roles so he will understand that it was not a case of keeping these in-house or internal, but of making sure people got the information. Was Mr. Culhane part of withholding information from any of the organisations to which I refer?

Mr. Michael Culhane: No. I stated in my minute of May 2008 that all those organisations should be informed about developments in the college.

Deputy David Cullinane: Really? Mr. Culhane said, in the same letter of 24 October, “in taking this unusual action to report this matter to you [the Commissioner] I am concerned that you should be aware of the very serious statements made by Mr. Barrett and the implied threat of some unauthorised action on his part which will damage An Garda Síochána”. Mr. Culhane goes on to say Mr. Barrett, “is attempting to undermine my professional reputation”. What did Mr. Culhane mean by “the implied threat of some unauthorised action”?

Mr. Michael Culhane: I had no idea what he was going to do with the information which had been collected. It was a general statement.

Deputy David Cullinane: Mr. Culhane cannot just say he made a “general statement”. He

wrote a letter to the Commissioner and talked about Mr. Barrett in very disparaging terms, about his manner and the way he went about his business. He said his reputation was undermined and there was an implied threat of unauthorised action. He needs to be able to substantiate that today. What did Mr. Culhane mean by “the implied threat of some unauthorised action”? Mr. Culhane was being specific so what was he referring to? Please answer the question.

Mr. Michael Culhane: I was concerned that there might be some leakage to the press but issues such as these should have been dealt with as part of the formal process to send information to the internal auditor or Comptroller and Auditor General.

Deputy David Cullinane: Mr. Culhane did not trust Mr. Barrett and felt he might go to the press.

Mr. Michael Culhane: It was a concern, though I did not say I did not trust him.

Deputy David Cullinane: If Mr. Culhane had a concern that the implied threat of some unauthorised action meant going to the press it would suggest issues around trust.

Mr. Michael Culhane: There was a possibility of him doing that.

Deputy David Cullinane: Did Mr. Barrett go to the press?

Mr. John Barrett: No.

Deputy David Cullinane: Did you have any intention of going to the press?

Mr. John Barrett: No, I had not.

Deputy David Cullinane: There is a pattern in this and it goes to the heart of whether or not Mr. Culhane did his job. I am trying to figure this out and I am not stating that he did not do his job, merely that we have to examine the issues. In another letter to Mr. Niall Kelly, head of internal audit, of 13 October 2016, Mr. Culhane said Mr. Kelly’s report was misleading. Does Mr. Culhane still believe his report was misleading?

Mr. Michael Culhane: The report is not misleading in terms of the substance of the issues but the historical context was omitted. The historical context explains why we are in the position we are in today.

Deputy David Cullinane: The report deals with the historical context. It deals with the incomplete report of 2016, the 2008 report, the 2010 report and correspondence between Commissioners and other people. It references Mr. Howard so it does deal with the historical issues. What does Mr. Culhane mean, then, when he says the report was misleading? He goes on to say Mr. Kelly made defamatory comments and threatened legal proceedings against him. We have a situation in which the head of the finance directorate is threatening legal action against the head of internal audit, saying he found his work to be “unprofessional, misleading and mischievous”. Mr. Culhane said the contents of the draft report were unprofessional, misleading and mischievous. Please explain how the report was unprofessional, misleading and mischievous.

Mr. Michael Culhane: I felt there was inadequate reference to the historical structures and context in which the issues arose. For example, the investments arose because of the profit-----

Deputy David Cullinane: I am putting direct questions to Mr. Culhane on each of the three words you used. Mr. Culhane used those words, not me. He accused Mr. Kelly of being unpro-

fessional. Does he now wish to withdraw the statement in his letter that he was unprofessional?

Mr. Michael Culhane: Sorry, do I withdraw-----

Deputy David Cullinane: Does Mr. Culhane wish to withdraw today the claim made in his letter that Mr. Kelly's report was unprofessional?

Mr. Michael Culhane: It was professional in so far as his findings were correct.

Deputy David Cullinane: Mr. Culhane said that Mr. Kelly's report was unprofessional. He also said it was misleading. Does he still hold the view that Mr. Kelly's report was misleading?

Mr. Michael Culhane: Again, I must return to the position that the historical context in which all of these issues arose was not adequately detailed in-----

Deputy David Cullinane: The historical context response does not cut it. I am sick of hearing that from Mr. Culhane in response to every question. I have already explained to him the historic context was dealt with in Mr. Kelly's report. There are two sets of correspondence, one in relation to Mr. Barrett, in which Mr. Culhane attempts to undermine his work, and another in relation to Mr. Kelly, in which he attempts to undermine his work. Mr. Culhane states in writing that the report was unprofessional, misleading and mischievous. Mr. Culhane has a duty and a responsibility to inform this committee today why he believed that Mr. Kelly's report was unprofessional, misleading and mischievous.

Mr. Michael Culhane: Yes.

Deputy David Cullinane: Mr. Culhane has not done that. Perhaps he would now explain how the report was unprofessional, misleading and mischievous.

Mr. Michael Culhane: There are a lot of working parts in the report and in the operation of An Garda Síochána. It was a summary of views that I held in terms of the contents of the report. I accept I have repeated this several times previously but there was a history in regard to the college which was not adequately explained.

Deputy David Cullinane: My final question is to Mr. Kelly and Mr. Barrett. Does Mr. Kelly believe that the letter in which Mr. Culhane said that his report was unprofessional, misleading and mischievous, and, further, asked him to amend his report, was a direct interference in his work and an attempt to get him to either water down or lessen the content of his report?

Mr. Niall Kelly: Yes.

Deputy David Cullinane: Did Mr. Barrett have a similar experience?

Mr. John Barrett: With respect to the letter written in October 2015, I never saw the letter until yesterday.

Deputy David Cullinane: Now that Mr. Barrett has seen it, would he have seen it as an attempt to undermine his work?

Mr. John Barrett: Absolutely. It is a very deliberate corralling of my obligation to deal with and illuminate these matters which had long since been left to continue.

Deputy David Cullinane: Does Mr. Culhane not consider it a serious matter that the head of internal audit and the head of human resources take the same view as me that he was seeking

to undermine their work? We talked earlier about the circling of the wagons and, as mentioned by Mr. Culhane, the need to keep matters in-house. Does Mr. Culhane not see that he is part of the problem and that in terms of what he put in writing the view of two senior people in civilian roles in An Garda Síochána is that he was trying to interfere in their work?

Chairman: The Deputy's time has expired.

Deputy Alan Kelly: Mr. Culhane should answer the question.

Mr. Michael Culhane: I do not see myself as being part of the problem. If anything, I see myself as being part of the solution, given the actions that I have taken on the issues identified in the 2008 report. I have no desire to undermine the professionalism of these two gentlemen. Mr. Niall Kelly is an independent auditor and he produces his reports without need for reference to me. I do not see that I have been interfering in his independence.

Deputy David Cullinane: Mr. Culhane attempted to have Mr. Kelly alter his report. He threatened him with legal action. He said that if Mr. Kelly did not amend his report he would seek legal advice and would take legal action yet he is now telling me that he did not try to interfere with the work of internal audit. It is incredible for him to say that. How can he threaten legal action against the head of internal audit, almost unprecedented, and then say that was not an attempt to interfere with his work? Mr. Culhane cannot say that.

Chairman: Does Mr. Culhane stand over the sentence, "...in omitting these facts, the report is unprofessional, misleading and mischievous...." today, 31 May 2017? Would he say that today?

Mr. Michael Culhane: On reflection, it was probably an unwise use of those words.

Chairman: Would Mr. Culhane like to withdraw that statement, which is in writing before this committee?

Mr. Michael Culhane: Yes, I would like to withdraw it.

Chairman: That is helpful. Mr. Culhane said earlier that he accepts the report.

Mr. Michael Culhane: I did.

Chairman: It would be inconsistent for him to say that he accepts the report and leave that statement stand.

Mr. Michael Culhane: Correct.

Chairman: So, that statement is withdrawn.

Mr. Michael Culhane: Yes.

Chairman: The next speaker is Deputy Alan Kelly.

Deputy Alan Kelly: I do not know where to start.

Chairman: The Deputy has ten minutes.

Deputy Alan Kelly: I could do with ten hours. I think Mr. Culhane is having a *volte-face* moment given what he has just withdrawn. I find that incredible. For me, Mr. Culhane's evidence to this committee is probably the most incredible evidence I have heard as a member of

the Committee of Public Accounts, and not in a good way. I have been following the issues in regard to the Garda Training College for a long time. These can be divided into two categories, namely, issues of process not dealt with for decades and financial transactions. There are so many issues in regard to process that we cannot get near the majority of the transactions in the limited time available to us.

It is regrettable that Mr. Cyril Dunne is otherwise engaged and could not be here today. He is a key component in regard to this issue. I would suggest that when Mr. Dunne does come before the committee a number of the witnesses here today should also be in attendance in the context of the evidence we will hear. Following on from what I have heard today and at a previous meeting which I chaired, I believe that a number of people here today and a number of those in attendance at the previous meeting are running for cover based on the evidence that we have been given. There are a number of other people who are doing the State some service in terms of the evidence they are giving. That is without prejudice to our findings. That is my summation of the evidence that has been given to this committee.

Chairman: Today.

Deputy Alan Kelly: To date. The following question is to each of the witnesses with the exception of Mr. Howard, purely because he is not a member of management. I do not propose to get into the intricacies of who is being referred to. I would like the witnesses to respond in the following order, Mr. Nugent, Mr. Barrett, Mr. Kelly, Mr. Culhane and Mr. Ruane. Do the witnesses have full confidence in every member of the senior management team in An Garda Síochána?

Mr. Joseph Nugent: Yes.

Mr. John Barrett: I have some reservations.

Deputy Alan Kelly: Mr. Barrett does not have full confidence in senior management?

Mr. John Barrett: I am very concerned about what I learned this morning, truthfully. It is quite shocking. The Deputy is probably asking me the question at a bad time.

Deputy Alan Kelly: I will take it that Mr. Barrett does not have full confidence in senior management. Would Mr. Kelly like to respond?

Mr. Niall Kelly: I would concur with Mr. Barrett.

Deputy Alan Kelly: Mr. Kelly does not have full confidence either?

Mr. Niall Kelly: There are some questions around it.

Deputy Alan Kelly: In terms of senior management, I am speaking about the commissioners at senior level, and the Garda Commissioner. Does Mr. Culhane have full confidence in senior management?

Mr. Michael Culhane: Yes.

Deputy Alan Kelly: Mr. Ruane?

Mr. Kenneth Ruane: Yes, Deputy.

Deputy Alan Kelly: Mr. Kelly's opening statement is the most explosive I have ever heard

at the Committee of Public Accounts. Since the previous meeting on 4 May, has there been any attempt to influence the content of that opening statement?

Mr. Niall Kelly: No.

Deputy Alan Kelly: Given what Mr. Kelly said today, does he feel that his position in An Garda Síochána over a number of years has been undermined and does he feel that he was misled?

Mr. Niall Kelly: I do.

Deputy Alan Kelly: We might get into the detail of that later. I want now to ask Mr. Barrett a few questions. The Garda Commissioner previously stated at this committee that once these issues were brought to her attention on 27 July she did everything in her power to address them. She established a group. There was also the meeting which Mr. Barrett said lasted for over two hours but the Garda Commissioner said lasted for five minutes. Mr. Barrett stands over his statement that it was a two hour meeting, I presume?

Mr. John Barrett: Absolutely.

Deputy Alan Kelly: In regard to the meeting that took place on 2 July, who attended?

Mr. John Barrett: Mr. Cyril Dunne, Ms Anne-Marie McMahon, chief superintendent of the Garda College, Mr. Seamus Nolan, superintendent of the Garda College, Mr. Michael Culhane and myself, with Mr. Dunne in the Chair.

Deputy Alan Kelly: What was the purpose of the meeting?

Mr. John Barrett: It was essentially the first meeting of the steering group established to examine the issues which I had begun to explore in the second two weeks of June.

Deputy Alan Kelly: This is a critical moment in this committee's hearings. The Commissioner told us that upon hearing of the issues in Templemore she set up a committee and acted promptly. Is Mr. Barrett saying that the first meeting of the committee which was established was not actually after the meeting of 27 July, but that it had already been set up preceding the meeting and met for the first time on 2 July?

Mr. John Barrett: That is correct. It was at that meeting that I took the action to put together the report. It is dealt with in my cover note to Mr. Cyril Dunne dated 6 July. I will read this for clarity:

I am pleased that you intend to advise the Audit Committee / Chair and that you intend to include the Director of Finance, the Head of Legal Affairs and the Director of Training on the Steering Committee. For me, the devil is in the detail and I recommend that we adopt a prudent and transparent approach to our work and that you as Chair of the Steering Committee take the necessary time to brief all the key stakeholders whose support we will need to rely upon.

Deputy Alan Kelly: That is very clear. Does Mr. Culhane have a differing view to Mr. Barrett?

Mr. Michael Culhane: No.

Deputy Alan Kelly: That is very clear. I thank Mr. Culhane for being prompt. This is very

important. We now have a situation where the Commissioner said she acted promptly after being informed on 27 July, but we have Mr. Barrett giving conflicting evidence stating that there was a meeting of the steering group on 2 July. This group met for the first time not after 27 July, but on 2 July. Mr. Culhane agrees with Mr. Barrett's statement. Two members sitting across from me, the head of HR and people development and the head of finance, are saying that there was a steering group set up, which met on 2 July, and which was the steering group to deal with the issues in the Garda Training College in Templemore. I ask Mr. Barrett and Mr. Culhane if there is anything inaccurate in what I have just said. I will take that silence as a "no".

Mr. Kenneth Ruane: Just for assistance, I just want to confirm that Mr. Barrett met with me on 30 June and on that date he informed me that he had informed the chief administrative officer about the relevant matters and that the chief administrative officer had informed the Commissioner. Mr. Barrett told me that on 30 June and it is documented.

Deputy Alan Kelly: That is very helpful. We have now gotten through the evidence of the two witnesses, and effectively they are saying that there was a meeting on 2 July. Let us be honest about it, there are certainly issues in respect of how the evidence given here previously relates to the witnesses' evidence. To be fair to the two witnesses, they agree that there was a 2 July meeting of a steering group set up to deal with the issues in Templemore. Despite this, the Garda Commissioner said she acted promptly when she was told, and set up the steering committee that met after 27 July. For the record, there is a direct contradiction in evidence. Furthermore, Mr. Ruane is now telling us that on 30 June he was given information by Mr. Barrett. Will Mr. Ruane repeat what he said?

Mr. Kenneth Ruane: On 30 June I met with Mr. Barrett at 4.35 p.m. and he informed me that he had informed the chief administrative officer and that the chief administrative officer had informed the Commissioner.

Chairman: This information was about the issues in Templemore.

Mr. Kenneth Ruane: Yes.

Deputy Alan Kelly: Effectively Mr. Ruane is saying that Mr. Barrett-----

Mr. Kenneth Ruane: It was certainly about the issues that Mr. Barrett was raising.

Deputy Alan Kelly: Mr. Barrett had told Mr. Cyril Dunne, I take it, who had told the Commissioner. This was on 30 June.

Mr. Kenneth Ruane: It was 30 June 2015.

Deputy Alan Kelly: At what time?

Mr. Kenneth Ruane: It was 4.35 p.m.

Deputy Alan Kelly: That is very detailed. Does Mr. Barrett believe that the Commissioner of An Garda Síochána was aware of the issues in Templemore on 2 July or preceding that date?

Mr. John Barrett: That is what Cyril Dunne told me and I have no reason not to believe him.

Deputy Alan Kelly: You believe the Commissioner knew about the issues in Templemore.

Mr. John Barrett: I do not know to what degree, but I was advised that she was aware.

Deputy Alan Kelly: As Mr. Barrett is aware she gave evidence previously-----

Mr. John Barrett: I understand that.

Deputy Alan Kelly: Mr. Barrett was sitting here when she gave evidence that she was first told in the letter from Mr. Ruane and then at the disputed meeting of 27 July. Is that not correct?

Mr. John Barrett: That is correct and I believe that matter can be clarified by Cyril Dunne in his direct evidence to the committee.

Deputy Alan Kelly: Absolutely. That is why he is needed here with the other witnesses. For the record, we have a complete contradiction in evidence between that given on 4 May and that given today. Evidence has been given that there was a 2 July meeting at which this steering group was set up. We also have a letter from 30 June which says that the Commissioner had been informed. Obviously, we will have to tease these things out but that is a direct contradiction in evidence. Mr. Ruane has read out a letter dated 30 June. If that does not raise serious concerns for each and every one of us, and indeed the Oireachtas, nothing else will. I know we have a job to do. I accept what Mr. Ruane is saying in respect of privilege and I know his role. I will only ask him about facts and his opinion, rather than legal advice. Is that okay?

Mr. Kenneth Ruane: There is another issue I might be able to assist with. I can also confirm on 6 July 2015 Mr. Barrett informed me that he had attended a meeting in the Garda Training College on Thursday 2 July at 10.30 a.m.

Deputy Alan Kelly: What was that meeting in respect of?

Mr. Kenneth Ruane: I met with Mr. Barrett on 6 July and he confirmed that there had been a meeting in the college on 2 July. I am just confirming the meeting of 2 July.

Deputy Alan Kelly: There is a confirmation. There is the letter of 30 June and there is confirmation of the meeting of 2 July. I thank Mr. Ruane. When he became aware of these issues after Mr. Barrett informed him, what did Mr. Ruane feel he had to do? In fairness to Deputy MacSharry, he has asked this question. Obviously the law is above any reporting structure.

Mr. Kenneth Ruane: There is certain documentation before the committee which references the fact that I felt a section 41 report was necessary. In so far as there is documentation before the committee in terms of section 41 obligations, I can certainly confirm that.

Deputy Alan Kelly: In other words, Mr. Ruane felt obliged to inform the Commissioner - though I am not asking what advice he gave - of her responsibilities, particularly under the Garda Síochána Act 2005, I presume.

Mr. Kenneth Ruane: Yes, in fact I note that in the documentation supplied there is a minute from the then private secretary to the Commissioner which was sent back to the deputy commissioner on foot of my advice. It refers to the advice with reference to a section 41 report. I can confirm that.

Deputy Alan Kelly: Mr. Ruane thought the issues were so serious and worrying that he felt it absolutely necessary to advise the Commissioner of her responsibilities under the Act and that it was necessary for her to act.

Mr. Kenneth Ruane: If I can distinguish what advice I gave as opposed to what view I took-----

Deputy Alan Kelly: Of course.

Mr. Kenneth Ruane: -----when Mr. Barrett approached me there was certainly documentation. Mr. Barrett had a copy of the McGee report. Subsequent to that, Mr. Barrett had informed me that internal audit had never carried out any process on foot of that. There were a number of discussions where Mr. Barrett effectively confided the extent of what he had discovered in me. In terms of distinguishing what advice I gave as opposed to how I felt at the time, I certainly felt it was a significant and serious issue. If I can put it that way.

Deputy Alan Kelly: I thank Mr. Ruane for that. I know he is trying to distinguish between advice and what he felt. I will read out section 41(1) of the Garda Síochána Act 2005: “The Garda Commissioner shall keep the Minister and the Secretary General of the Department of Justice, Equality and Law Reform fully informed”, and the Act then lists off everything including issues of accountability and issues in respect of significant developments relating to public confidence in An Garda Síochána. Section 41(1)(d) mentions “any other matters that, in the Commissioner’s opinion, should be brought to the Minister’s attention”. It was under that section that Mr. Ruane felt necessary, given his concerns and worries, to write to the Commissioner.

Mr. Kenneth Ruane: Yes. Again, it is confirmed in a note in the documents. I would add that I had been part of the process that was conducted by Mr. Justice Fennelly at the time. I took what I could from that in terms of how both I and the organisation might learn from his examination.

Deputy Alan Kelly: I respect that. Fennelly’s interim report happened in the middle of this process. Mr. Justice Fennelly particularly addressed the way in which evidence should be documented and preserved.

Mr. Kenneth Ruane: There is certainly a very helpful examination of the context and a very helpful examination of section 41.

Deputy Alan Kelly: This was all live and happening at the same time. I have one other question for Mr. Ruane before I move on. Distinct from his legal advice, does he feel that the issues that were being revealed and confided to him, as he stated, by Mr. Barrett were of such serious consequence to An Garda Síochána that, if not acted upon immediately, they would be to the detriment of the Garda College and the force?

Mr. Kenneth Ruane: Again, I am going to maintain a distinction, without referring to any advice I have given-----

Deputy Alan Kelly: I want Mr. Ruane’s opinion.

Mr. Kenneth Ruane: Deputy Kelly is asking me how I felt at the time.

Deputy Alan Kelly: Yes.

Mr. Kenneth Ruane: The answer is yes.

Deputy Alan Kelly: That is very clear. I thank Mr. Ruane.

Chairman: The Deputy will get a second chance.

Deputy Alan Kelly: I will go three or four times.

Mr. Kenneth Ruane: I apologise. I am trying to be as helpful as I can.

Deputy Alan Kelly: I understand. Mr. Ruane has been very helpful. I am stuck for time but will come in again with many other questions. Very briefly, will Mr. Barrett talk us through his meeting with Mr. Dunne? Was it in September 2015?

Mr. John Barrett: That is a significant period from 2 July to the period in September. By September, I had serious reservations as to whether genuine progress was being made on these matters. I reflected on it in the context of the Fennelly report.

The committee members have my documents before them. The section that deals in particular with this has the heading “A Critical Inflection Point”. It pertains to the meeting in the college on the 27th and the scale of the issues arising. Ultimately, I begin to deal with what Fennelly deals with by way of effective communication. We heard Mr. Howard a little earlier describe the meeting in respect of any other business and what was, in effect, non-effective communication.

I took some considerable time over writing this note. A period has elapsed since 2 July when I originally prepared a report to go to Mr. Howard through Mr. Dunne. We are reaching now into the third week of September and I have concerns that the thing is not being treated in the multi-million off-balance-sheet, as Mr. Michael Culhane described it, activity that is continuing. It is an active, ongoing enterprise within an organisation for which I have line responsibility. In setting it out very clearly, I too go through the specific issues that Fennelly raises in respect of what a section 41 is intended to do and how this applies absolutely to the matters of gravity that I dealt with in my report of 6 July. I was very deliberately putting it on the record.

Deputy Alan Kelly: Does Mr. Barrett feel that Mr. Dunne reacted?

Mr. John Barrett: I think that question could be better put to Mr. Dunne.

Deputy Alan Kelly: Of course, but I want Mr. Barrett’s opinion.

Mr. John Barrett: My opinion is that we were at that point in a situation where the history of which I had become aware was repeating itself. As in the 2008 report, nothing was done and it continued. I felt there was a danger, quite frankly, that my report of July 2015 was going to go the way of its predecessors.

Deputy Alan Kelly: I have a very quick question for Mr. Howard as I do not want him to be left out. On what date did he meet Mr. Barrett in respect of these issues?

Mr. Michael Howard: I think it was 2 June 2016.

Mr. John Barrett: Yes.

Deputy Alan Kelly: Did Mr. Howard commit to meeting Mr. Barrett again and talking to him about these issues afterwards?

Mr. Michael Howard: I probably did indicate to him that I intended to go back, although in the event I did not.

Deputy Alan Kelly: Why did Mr. Howard not do that?

Mr. Michael Howard: I should say, by the way, in order that there is no misunderstanding, that Mr. Barrett gave a very full and comprehensive brief which I took away and reflected upon.

Deputy Alan Kelly: I accept that.

Mr. Michael Howard: My normal point of contact is with Mr. Niall Kelly as the head of internal audit. While I do not want to add fuel to this fire, I was becoming aware that there were differences of opinion and conflicts within the organisation.

Deputy Alan Kelly: Of course. We know that now.

Mr. Michael Howard: I was extremely mindful that my position was as the independent reviewer of Mr. Kelly's work. I was worried that I might create the mistaken impression that I was too close to management. If I may put it this way, while I want to emphasise that I mean no implied criticism of anyone, everyone on the page from this line down, except for Mr. Kelly, is part of the domain that is audited. That was my only reason.

Deputy Alan Kelly: That is understood. That is why Mr. Howard did not come back to Mr. Barrett despite committing to do so.

Mr. Michael Howard: Yes, and with hindsight I probably should have explained that to him.

Deputy Alan Kelly: Okay. I have a very simple last question. Mr. Howard met Mr. Barrett. Will he remind us of the date?

Mr. Michael Howard: It was 2 June.

Deputy Alan Kelly: Okay. It was 2 June, 2016. Did Mr. Howard subsequently meet the Commissioner to discuss these issues?

Mr. Michael Howard: Yes.

Deputy Alan Kelly: On what date?

Mr. Michael Howard: I believe it was 16 June.

Deputy Alan Kelly: Why?

Mr. Michael Howard: It was because I was so concerned.

Deputy Alan Kelly: What happened at the meeting?

Mr. Michael Howard: The meeting with the Commissioner, in brief terms, probably took the form of a lecture by me on the contents of the blue book, the manual on public financial procedures. I took the information I had got from Mr. Barrett and other information from Mr. Niall Kelly and I put it through what I would call the blue book filter.

Deputy Alan Kelly: How did she react?

Mr. Michael Howard: Again----

Chairman: Will Mr. Howard explain the blue book to those who do not know what he is on about?

Mr. Michael Howard: For those who are not familiar with it, it is the manual on public financial procedures which was published by the Minister for Finance previously and is currently published by the Minister for Public Expenditure and Reform. It is basically the rules of the

road as to how to handle public money.

Deputy Alan Kelly: To return to my question, how did the Commissioner react to the whole discussion? Did Mr. Howard refer to what Mr. Barrett had told him in the previous meeting? Mr. Howard found out about the issues in Templemore through Mr. Kelly, who informed him first, and then subsequently he met Mr. Barrett. Did Mr. Howard not challenge the Commissioner, who is after all the Accounting Officer, as to why in the name of God he was not told about these issues before? Did he not feel he was being misled in not having been told about them? Did Mr. Howard make those points to the Commissioner or did he not? How could the chairman of the audit committee of An Garda Síochána fail to make those points?

Mr. Michael Howard: I am going to preface my reply by saying that everyone else seems to have taken far better notes at the time than I did.

Deputy Alan Kelly: That is another point.

Mr. Michael Howard: I am sorry. I am not avoiding the question.

Deputy Alan Kelly: As chairman of the audit committee, Mr. Howard was legally committed to taking detailed contemporaneous notes.

Mr. Michael Howard: Hang on. I do not want to give a mistaken impression. When I spoke to the Commissioner first, I presented the conferrings. Yes, I did refer to Mr. Kelly and to Mr. Barrett, obviously. I did voice my reservations, not just at the delay in respect of this. I did discuss with her the manner in which this had been presented and my disappointment that it had passed. I also expressed my serious concerns about the fact it seemed to have been in the organisation since 2008 and nothing had been done about it. I emphasised to the Commissioner the absolute urgency of tackling it now. That was the basic message that I wished to give to the Commissioner. I believe, and the committee may question the Commissioner on this, that I brought with me and left some passages from the public financial procedures about the responsibilities of the Accounting Officer.

Deputy Alan Kelly: Fair enough. I ask Mr. Howard to answer my last question because the Chair is going to throw me off now, as it were. Mr. Howard was not informed of these issues until Mr. Kelly did so on what date?

Mr. Michael Howard: It was the end of May.

Deputy Alan Kelly: The end of May, and then Mr. Barrett met Mr. Howard subsequently. How long had Mr. Howard been chair of the audit committee at that stage?

Mr. Michael Howard: I took over in the spring of 2014.

Deputy Alan Kelly: He had been there for a couple of years. Did he not feel that his position was undermined by the fact he had not been informed of the scale of these issues by people who are sitting here, some for longer than others? There were others in senior management of An Garda Síochána who knew about these issues but Mr. Howard was never informed. Does he feel he should have been informed? To be fair, as he is only acting in a voluntary capacity, he may not feel personally undermined. Does he feel, however, that his position was undermined?

Mr. Michael Howard: If I can address this first, emphatically, the audit committee should have been told this. When I read what is in the 2008 McGee report, I cannot account for how it was not disclosed to the audit committee back then. If we look at the principal documents here,

Niall Kelly's internal audit report, John Barrett's summary and the McGee report, they are all basically hitting the same spot. The issues are self-evident.

Deputy Alan Kelly: It is just my question about feeling undermined that is left.

Mr. Michael Howard: Did I feel undermined? I do not want to give an off the shoulder. I did feel very let down. I felt very surprised. It was outside of my experience in the Civil Service. I could not account for it. I did not want to take it in a personal way.

Deputy Alan Kelly: No, I mean Mr. Howard's office. Did Mr. Howard feel that the office was undermined?

Mr. Michael Howard: Yes, definitely. There is no question about it. If one looks at the way in which the audit committee institutionally was treated from 2008, and if one takes that as a start time when I felt that the audit committee then should have been informed. That it was----

Deputy Alan Kelly: So the position was undermined.

Mr. Michael Howard: Yes.

Chairman: I call Deputy Catherine Murphy.

Deputy Catherine Murphy: I will refer to the documents that Mr. Barrett received yesterday. I understand he has more documents that we have seen. Is that correct?

Mr. John Barrett: Deputy, in relation to the letter written by the director of finance, I have sought to have a copy of that from the Commissioner on six occasions.

Deputy Catherine Murphy: Right.

Mr. John Barrett: I got a copy under freedom of information, which is an extremely strange way for such things to be dealt with but it was the only option, with about 85% of it redacted.

Deputy Catherine Murphy: Yes.

Mr. John Barrett: I became aware of this yesterday and, needless to say, I am not happy.

Deputy Catherine Murphy: Right. Is Mr. Barrett seeing more information than we have?

Mr. John Barrett: Quite frankly, I have a stick on which, I understand, the committee received documents. I have not seen what Mr. Culhane has sent down to the committee last night or this morning so I am clearly not with the full set of documents.

Deputy Catherine Murphy: Maybe if we could have a copy of what Mr. Barrett has. At this point we can use the afternoon to take a look and make a comparison. That might be a useful way to proceed.

Mr. John Barrett: Anything I can do to be of assistance.

Deputy Catherine Murphy: Like everyone else has asked, where does one start? I look at all of these checks and balances such as the independent audit committees and internal audit. A structure was put in place to carry out checks and balances and, clearly, that structure did not work. Throughout Mr. Barrett's report that he wrote on 12 October 2016 one repeatedly sees the phrase "lessons to be learned". Heavily, it falls back on the culture and why it happened despite all of the checks and balances. Does Mr. Barrett believe that this could happen again?

Mr. John Barrett: Well, first of all, I must stress I am a relative newcomer to the public sector and so the experience I will draw upon, by way of comparison, is external to the public sector. For 30 years, working largely in American multinationals, this could never happen. The internal audit organisation would normally be one which would be given absolute co-operation and there would be no suggestion that reports of the order done in 2006, 2008 and 2010 would be denied to internal audit. That could not happen, in my experience, but it happened here. I began my particular efforts to address these issues in the knowledge that Niall Kelly was not aware of that history. If anything, it sharpened my antennae to the prospect that perhaps there is not a great anxiety to deal with these matters, hence my letter of 20 September.

Deputy Catherine Murphy: I want to clear up a number of these things first. I was struck by the idea that Mr. Barrett kept contemporaneous notes, that he referenced some of his meetings with Mr. Ruane, and that the internal auditor sent himself registered material. It is Mr. Barrett and Mr. Kelly who were doing this, is it not?

Mr. John Barrett: Well, first of all I must stress, I am a relative newcomer to the public sector and so the experience I will draw upon, by way of comparison, is external to the public sector. For 30 years, largely working in American multinationals, this could never happen. The internal audit organisation would normally be one which would be given absolute co-operation and there would be no suggestion that reports of the order done in 2006

Mr. John Barrett: I did that.

Deputy Catherine Murphy: That strikes me as a self-protection mechanism. Am I correct?

Mr. John Barrett: Let us look at what we have recently read in our newspapers concerning whether records were destroyed or whether telecommunications equipment survived. I was very conscious of the fact that what I was dealing with here was well known and understood for a number of years. The curiosity in my mind was, why was this not dealt with expeditiously-----

Deputy Catherine Murphy: Yes.

Mr. John Barrett: Relating to material sums of money in the public Vote in the period 2004 to 2014, it is €12.4 million of taxpayers' money commingled with any cash receipts from any and all of the other activities, and they are very difficult to quantify but Mr. Kelly is going to address himself to that.

Deputy Catherine Murphy: Yes.

Mr. John Barrett: So, significant money.

Deputy Catherine Murphy: Yes. I refer Mr. Barrett to his report of October 2016. I have written the number 3 on the page as the pages were not numbered. The report states: "I was twice warned that the reference to the books of account for the restaurant, having 'gone missing' was a very dangerous reference and that I should be 'very careful'." Mr. Barrett wrote inverted commas around the words "very careful". Did those books of account re-emerge? Can Mr. Barrett talk to us about the matter?

Mr. John Barrett: In the meeting that took place on 27 July, my understanding of going to the meeting, was we were talking about, if one likes, the aftermath of the briefing that had been done, or was intended to be done, by Cyril with the audit committee on 15 July. This was

12 days later. I discovered at the meeting there was no such briefing and Mr. Howard has confirmed that. I discovered that the substance of the meeting was, essentially, on foot of the letter written by Mr. Ruane to the Commissioner attaching the 2008 report concerning the Garda college, the so-called McGee report, and we were discussing the advices as given by Mr. Ruane to the Commissioner, which were very clear and very explicit, as I remember them. That was the purpose of the discussion getting together on the 27th. At that meeting I put my hand up and I said that the basis on which Ken has advised is the ongoing work that I am doing. It was at that point that Cyril told me that he had not given the report to Mr. Howard. The meeting then took the character of what do we do about these advices that Mr. Ruane has written.

Deputy Catherine Murphy: I will move on to discussing a couple of other things because we will probably come back to some of this matter later on today.

I want to ask Mr. Kelly some questions. The restaurant is central to all of this. Was it part of the internal audit?

Mr. Niall Kelly: Yes

Deputy Catherine Murphy: It was part of the internal audit. Depreciation was mentioned on page 5 of Mr. Barrett's report which reads:

I noted with some concern the inclusion of a charge for depreciation but I was given to understand that all capital equipment and fixtures and fittings which would normally attract such a charge were essentially provided by the OPW or the Garda College.

That is just one of a number of things about the restaurant. Money was transferred in when fewer people visited the restaurant due to an embargo. The money was transferred back in, if I remember correctly, from a credit union account. I think there were a number of significant transfers there. Were they things that were picked up in internal audit?

Mr. Niall Kelly: Yes. They are in the report

Deputy Catherine Murphy: Would that have been separate to the interim report?

Mr. Niall Kelly: Some of that is within the interim report, yes, about the restaurant. I go into, in one section, cross-subsidisation and equipment being bought by the State but actually going into the shop or the kitchens in the restaurant, which are being operated as a kind of a private enterprise rather than a State-controlled canteen or shop.

Deputy Catherine Murphy: That whole area in its own right and in terms of the relationship of the employees, which is well documented here, whether or not they are public servants, merits scrutiny.

Recommendation No. 5 refers to the oversight of Templemore. A lot of this was put in the hands of people who did not have training or were inexperienced. The diagnosis or solution is that a number of courses will be designed by the Institute of Public Administration. I address the following question to both Mr. Kelly and Mr. Barrett. Is that diagnosis correct? I mean inexperienced people opening up bank accounts and moving money around. It seems to me to be quite structured rather than inexperienced. What is Mr. Kelly's view on that?

Mr. Niall Kelly: I think one of the reasons they were opening all the bank accounts was instead of having a proper accounting system. The way they were managing it was that every time they dreamt up something new, they opened another bank account and that would com-

partmentalise all the expenditure and receipts in relation to that issue rather than putting in a proper accounting system.

Deputy Catherine Murphy: Did Mr. Kelly not notice that in internal audit?

Mr. Niall Kelly: Yes, I did.

Deputy Catherine Murphy: What action did he take?

Mr. Niall Kelly: I wrote my interim report.

Deputy Catherine Murphy: Yes, but in producing it as an interim report was a follow-up required from Mr. Kelly?

Mr. Niall Kelly: Yes.

Deputy Catherine Murphy: What follow-up was there?

Mr. Niall Kelly: Yes. In my opening statement I said that we have two jobs going on at the moment - two audits currently - one of which touches on what Deputy Murphy is talking about, the cash management within the restaurant, shop and vending machines, and the bar in the college. That is a current piece of work that we are doing at the moment.

Deputy Catherine Murphy: That must have been evident. Mr. Kelly has been there since 2007. That must have been evident in the internal audits. Did Mr. Kelly conduct an internal audit every year into every component or would it have been more occasional?

Mr. Niall Kelly: No. I would not be able to do that. We have an audit plan based on a risk assessment of the whole organisation and we have limited resources so there is no way we can look at everything every year. First of all, the McGee report was not forwarded to me. If that had been forwarded to me, then I would have worked on it earlier.

Deputy Catherine Murphy: Could I just stop Mr. Kelly there for a moment? The restaurant is where all of the activity was happening. Would that not have grabbed Mr. Kelly's attention?

Mr. Niall Kelly: My knowledge up to 2015, when some of this started to come out, was that the restaurant was a private operation, that it was a private firm, and nothing to do with the State. That was my information up to that point. That was the assumption I was making. I had not seen the bank accounts. I was unaware of the McGee report.

Deputy Catherine Murphy: I am sorry but could I just stop Mr. Kelly there? The money was voted as part of the justice Vote. It would then have transferred to the college. The money was to be used for recruits. Not all of the money was being used. It was being siphoned off and it was going off into the Sportsfield account. If one was doing a basic balance sheet and looking at what was spent and what was taken in, surely that would have shown there was an amount of money going somewhere else?

Mr. Niall Kelly: Even in the period one has to remember that the college was effectively dormant from 2011 to 2014. I perceived it as low risk. I was not aware of the background to these situations and I perceived it as low risk. Maybe I was wrong but that was the perception. Therefore I did not instigate audits in that area.

Deputy Catherine Murphy: I will go back and make a point to Mr. Barrett about the di-

agnosis of the problem being inexperienced people. That is how it all happened. The solution was to improve skill sets.

Mr. John Barrett: I think that is part of the solution but ignorance of the law is no defence and I do not have doubt in my mind that the rules in relation to what is good management and good business were known clearly. Let us be clear about it: we are talking about opening 50 accounts in a situation where it is understood that ministerial approval is required for the opening of an account.

Deputy Catherine Murphy: So it is not a case of an inexperienced person.

Mr. John Barrett: Perhaps Mr. Howard can deal with this. In our discussion of 2 June, one of the things that stuck with me was, as the former Secretary General of the Department of Defence, Mr. Howard pointed out, the entire Defence Forces operated on either six or eight accounts.

Mr. Michael Howard: I will not go to the stake for the figure, but the number of bank accounts in one location was staggering. That is the only way to put it. It was different, out of all proportion in terms of orders of magnitude.

Deputy Catherine Murphy: There is nobody in this room that will not concur with that but what is staggering is that we have laws in relation to money laundering and it is very difficult to open a bank account, even a personal bank account. It is difficult to comprehend that there were so many bank accounts. I cannot understand how that was missed in the normal course of events and why it needed to take three reports to find some of that. I find that very difficult to accept given all the checks and balances we have. I have heard this since-----

Chairman: Deputy Murphy must finish now. She will get another opportunity.

Deputy Catherine Murphy: I just want to ask this question. Mr. Barrett quoted something which I heard from someone I know personally, who is a former senior person in the Garda from a long time ago. He used the same language so it jumped out at me. He spoke about what goes on when nobody is looking. Essentially, there is a culture and Mr. Barrett goes into it in some detail. I share his concerns. Nobody was changed. Despite the change in, for example, the senior ranks, the same behaviour or set of circumstances continued. Various Commissioners had sight of the three reports, two of which were seen by previous Commissioners. Does Mr. Barrett have any advice on the cultural issue? He focused on it very heavily. There are checks and balances but they do not seem to have mattered. What is Mr. Barrett's advice?

Mr. John Barrett: I think that is a huge question that the organisation needs to address, but under the clear guidance of what a 21st century police service needs to look like going forward. There is no doubt about it; it is not a series of happenstance or accidents that the reports of 2006, 2008 or 2010 essentially got nowhere. I refuse to believe that. I do not think that is a tenable argument.

Chairman: Deputy McDonald is the next speaker. We indicated that we would break for ten minutes around noon.

Deputy Mary Lou McDonald: Do the witnesses wish to take a break before I commence my questions?

Chairman: Yes. I mean literally ten minutes. Deputy McDonald will ask questions in ten

minutes.

Deputy Bobby Aylward: What is the order?

Chairman: The order of speakers that are left is as follows: Deputy McDonald, Deputy Madigan, Deputy Cassells, Deputy Aylward and Deputy Burke. The people who have already spoken have indicated they want to come back a second time in the following sequence: Deputy Cullinane, Deputy Kelly, Deputy Connolly and Deputy Catherine Murphy.

Sitting suspended at 12.07 p.m. and resumed at 12.25 p.m.

Chairman: The committee is now back in public session. The next speaker is Deputy McDonald. Members have ten minutes each to pose questions.

Deputy Mary Lou McDonald: I welcome all the witnesses to today's meeting. How long has Mr. Howard held his position on the audit committee, of which he is the chairman?

Mr. Michael Howard: I am the former chair of the committee. I finished in that role on 30 April 2017. I held the position of chair for the three years prior to 30 April

Deputy Mary Lou McDonald: Can the witness give me the relevant dates? When did he commence his duties?

Mr. Michael Howard: I commenced that role in mid-April 2014.

Deputy Mary Lou McDonald: The witness commenced in April 2014. When did he stand down?

Mr. Michael Howard: I stood down on 30 April of this year.

Deputy Mary Lou McDonald: 2017?

Mr. Michael Howard: That is correct.

Deputy Mary Lou McDonald: Can the witness remind the committee of the date of his meeting with Mr. Barrett?

Mr. Michael Howard: It was 2 June 2016.

Deputy Mary Lou McDonald: Was he very alarmed by what Mr. Barrett told him?

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: Mr. Barrett, on a previous occasion on which he appeared before this committee, said that he met the witness and then did not hear another word from him. The witness has given evidence today that that was because the witness considered as an entity-----

Mr. Michael Howard: As I said earlier, I wish I had explained that to Mr. Barrett. I did not know it was going to become an issue. I probably should have explained it to him. My only issue in that regard was that, as this story unfolded, I became very aware that, as auditor, one has to stand back and maintain a distance from the domain one is auditing. I was becoming aware of various frictions and difficulties that might arise in relation to Mr. Kelly's interim audit report. I was conscious of the need to maintain a distance because of my role as independent reviewer and quality assurer of the work carried out by Mr. Kelly.

Deputy Mary Lou McDonald: That is fair enough. How would Mr. Howard describe his personal relationship with the Commissioner?

Mr. Michael Howard: I have known the Commissioner since she was an assistant commissioner. For nine years, I was Secretary General of the Department of Defence, which carries out much work in tandem with the Garda. It has responsibility for peace-time emergency planning, security details and operates Garda aircraft. I knew the Commissioner because of my time in that role.

Deputy Mary Lou McDonald: The witness knows the Commissioner well. Would he describe their relationship as close?

Mr. Michael Howard: I have a friendly relationship with her.

Deputy Mary Lou McDonald: Did the witness raise this issue in the course of his meeting with Mr. Barrett?

Mr. Michael Howard: I may have, yes.

Deputy Mary Lou McDonald: I think he did because the committee has a memo to file from Friday 22 July 2016. I am referring to the work of Mr. Barrett. The memo to file highlights Mr. Howard's deep respect for the Commissioner and his close personal relationship with her. It also reflects his instinct, as a lifelong civil servant, to avoid matters which could give rise to embarrassment and controversy and being fearful of the impact of the matters outlined to him by Mr. Barrett. Is that a fair account of the situation?

Mr. Michael Howard: It is for others to judge my personality.

Deputy Mary Lou McDonald: This is not about the witness's personality, it is about his discharge of a public function.

Mr. Michael Howard: If the Deputy wants me to answer in the context of discharge of a public function, I can say that I am impartial and without sentiment in the performance of any public function I hold.

Deputy Mary Lou McDonald: I am trying to ascertain if Mr. Howard shares the recollection. Mr. Barrett took the trouble to commit these matters to paper. I want to check that he is not wildly-----

Mr. Michael Howard: I will not dispute Mr. Barrett's recollection. However, I have an obligation to add something.

Deputy Mary Lou McDonald: If the witness could do so briefly.

Mr. Michael Howard: One of the things that I did after Mr. Barrett spoke to me was to personally contact the deputy head of the Office of the Comptroller and Auditor General to inform him of the serious issue that was emerging.

Deputy Mary Lou McDonald: We will come to that in a moment. I thank the witness for that new information. Did the witness have a meeting with the Commissioner in the aftermath of his meeting with Mr. Barrett?

Mr. Michael Howard: I did.

Deputy Mary Lou McDonald: Did he raise with the Commissioner the issues that Mr. Barrett had raised with him?

Mr. Michael Howard: In short, yes. I raised the issues in terms of being my concerns, grounded in what Mr. Barrett had explained to me and the emerging work of Mr. Kelly.

Deputy Mary Lou McDonald: The witness met with Mr. Barrett and was deeply concerned.

Mr. Michael Howard: That is correct.

Deputy Mary Lou McDonald: Mr. Howard then met with the Commissioner and Mr. Barrett did not hear from you again.

Mr. Michael Howard: That is correct.

Deputy Mary Lou McDonald: This was because Mr. Howard felt a need to keep some distance from somebody. Did this mean Mr. Barrett?

Mr. Michael Howard: It meant from everybody concerned. I do not want to give a mistaken impression. Mr. Kelly is my contact and my reason to go back to Mr. Barrett would be for further clarification on something. In the event, that did not happen.

Deputy Mary Lou McDonald: Did Mr. Howard not tell him he would come back to him?

Mr. Michael Howard: I may have done so and I may have expected to.

Deputy Mary Lou McDonald: Mr. Howard is a lifelong civil servant. He strikes me as a thoughtful and competent person. He was deeply shocked, had a conversation with Mr. Barrett and gave him a standard commitment to get back to him. He then met with the Commissioner and raised the issues with her and Mr. Barrett did not hear from him again.

Mr. Michael Howard: That is correct.

Deputy Mary Lou McDonald: That is very interesting. I would have expected Mr. Howard to get back to Mr. Barrett. Did Mr. Barrett expect Mr. Howard to get back in touch with him?

Mr. John Barrett: Mr. Howard asked that I make myself available for a meeting initially, and then for a series of meetings he might require. I assured him I would give him my full cooperation.

Deputy Mary Lou McDonald: Thank you for the clarification. There was more than a general commitment to get back. Mr. Howard then met the Commissioner and Mr. Barrett did not hear from him again.

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: The reason for this is that Mr. Howard thought, after the fact, that he needed to keep some distance.

Mr. Michael Howard: Yes. There is a danger of reading the history of this backwards, starting from where we are.

Deputy Mary Lou McDonald: I am not going back to the past. I am reading from a memo

from July 2016.

Mr. Michael Howard: As long as Mr. Kelly was keeping me as informed as I needed to be, I felt the work had moved on.

Deputy Mary Lou McDonald: I see from the same memo that it was Mr. Kelly who informed Mr. Barrett that Mr. Howard had met with the Commissioner.

Mr. Niall Kelly: I have no recollection but if that is Mr. Barrett's recollection-----

Deputy Mary Lou McDonald: How would Mr. Kelly have known that Mr. Howard had met with the Commissioner? Do not dance on the head of a pin. Just tell me how he knew it, with a straight answer.

Mr. Niall Kelly: I was in conversation with Mr. Howard.

Deputy Mary Lou McDonald: Mr. Howard would have told Mr. Kelly that he met with the Commissioner. I suspected that much. Mr. Howard met with Mr. Barrett, was deeply shocked and asked him to make himself available for any subsequent meetings. He met the Commissioner and, I presume, told her how shocked he was. He informed Mr. Kelly that he had met with the Commissioner but he does not go back to Mr. Barrett. It is very convoluted.

Mr. Michael Howard: That is how it transpired. Having discharged the responsibility of warning the Commissioner-----

Deputy Mary Lou McDonald: Warning the Commissioner of what? That Mr. Barrett had sussed things out?

Mr. Michael Howard: Dear Lord, I can assure the Deputy that was not the case.

Deputy Mary Lou McDonald: What was Mr. Howard warning her of?

Mr. Michael Howard: I was warning her that, as the Accounting Officer, she was exposed. My perception of the issue from September 2015 until the end of May 2016 or the beginning of June 2016 was that it was a static issue. My grave concern was that upon becoming aware, and I will invite Mr. Kelly to correct me if I have got this wrong-----

Deputy Mary Lou McDonald: No, you will not. I am leading the line of questioning.

Mr. Michael Howard: Sorry, I did not mean any disrespect. Mr. Kelly had not seen the McGee report. I realised from conversations with Mr. Kelly and Mr. Barrett that there was a running system in the Garda College that was handling large amounts of cash-----

Deputy Mary Lou McDonald: We heard of that earlier. Mr. Kelly took a very different view of this meeting with the Commissioner from that portrayed by Mr. Howard. Mr. Barrett's memo of 22 July 2016 states, "I have been informed by Mr. Niall Kelly, however, that Mr. Howard had a meeting with the Commissioner in the immediate aftermath of his meeting with me." What was the immediate aftermath?

Mr. Michael Howard: I believe I met the Commissioner on 16 June.

Deputy Mary Lou McDonald: It goes on, "Mr. Kelly, who has also had sight of the historic files on the Garda College issues, alerted me to this as historically there is evidence to suggest previous efforts were made to prevent these matters moving towards the purview of the

C&AG by at least one former Garda Commissioner.” Can Mr. Kelly help us out here? Does he wish to comment? Is this an accurate reflection of the conversation he had with Mr. Barrett? Mr. Kelly had notified him that Mr. Howard had met with the Commissioner.

Mr. Niall Kelly: What date is this? Was it July 2016?

Deputy Mary Lou McDonald: Yes.

Mr. Niall Kelly: At that stage I was aware of the McGee report and was actively auditing in the college. I knew that reports had not gone to the Comptroller and Auditor General or to where they should have gone. It is an accurate reflection.

Deputy Mary Lou McDonald: Mr. Kelly was concerned and let Mr. Barrett know of the meeting with the Commissioner. Is that because he had a genuine concern that it might be part of another ruse to stymie information? The memo states that previous efforts were made to prevent these matters moving towards the purview of the Comptroller and Auditor General by at least one former Garda Commissioner. Was he concerned this would also be the case here?

Mr. Niall Kelly: Given the history of these events, I had to consider all possibilities.

Deputy Mary Lou McDonald: Mr. Kelly did not immediately presume the bona fides of the Commissioner and that the matters would be dealt with properly.

Mr. Niall Kelly: Commissioners have busy agendas and may or may not see the seriousness of issues. However, I could see that this was very serious.

Deputy Mary Lou McDonald: Did Mr. Kelly imagine that the serving Commissioner might also prevent these matters moving towards the purview of the Comptroller and Auditor General?

Mr. Niall Kelly: I do not have that concern.

Deputy Mary Lou McDonald: I am asking if Mr. Kelly had that concern when he spoke to Mr. Barrett.

Mr. Niall Kelly: As an auditor, I have to have an open mind.

Deputy Mary Lou McDonald: Who is the one former Garda Commissioner who Mr. Kelly believed prevented these matters moving towards the purview of the Comptroller and Auditor General?

Mr. Niall Kelly: I am not sure if I was referring to one in particular or to a number of them. These are not my words.

Mr. John Barrett: These are my words. Mr. Kelly drew to my attention a letter dated 4 March 2011, in the aftermath of the 2010 or the 2008 report. It is addressed to the chief information officer and signed by the then Commissioner. There was an understanding at the apex of the organisation at that time that there were issues in the Garda College. This is what Mr. Kelly referenced to me. He subsequently gave me the document and I have it here.

Deputy Mary Lou McDonald: That is the evidence Mr. Kelly cited of a former Garda Commissioner preventing these matters moving towards the purview of the Comptroller and Auditor General. Do we have that document?

Mr. John Barrett: I have it here.

Deputy Mary Lou McDonald: Do we have it?

Chairman: What date is on the letter?

Mr. John Barrett: It is from John Leamy to the then Commissioner, dated 3 March 2011.

Mr. Niall Kelly: I think it is in the pack given at the last meeting.

Mr. John Barrett: That is evidence of the fact that there was an awareness of these issues on that date at the apex of the organisation.

Deputy Alan Kelly: For clarity, what was the date?

Mr. John Barrett: It was 3 March 2011.

Deputy Mary Lou McDonald: Might we just check that we have that? We will revert on the matter, but I thank Mr. Barrett.

Mr. Culhane has said repeatedly that, in 2008, he advised that the Comptroller and Auditor General and Secretary General of the Department be apprised of the events in the Garda College. Is that correct?

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: Under what provision was Mr. Culhane suggesting that that happen? Was it in accordance with the Garda Síochána Act?

Mr. Michael Culhane: It would have been in accordance with the Act in terms of the property issue, and also-----

Deputy Mary Lou McDonald: I did not ask about the material. I meant mechanically. Was it a section 41 disclosure?

Mr. Michael Culhane: No. The issues that we had discovered in the college were of such a magnitude that, as part of the normal course of events, those people should have been informed.

Deputy Mary Lou McDonald: Was Mr. Culhane aware of the provisions of the Garda Síochána Act in 2008?

Mr. Michael Culhane: I certainly was familiar with the Act, but I must confess that I was not aware of section 41.

Deputy Mary Lou McDonald: Mr. Culhane was not giving this advice on informing particular actors, particularly the Secretary General, under section 41.

Mr. Michael Culhane: No.

Deputy Mary Lou McDonald: It was more of a general-----

Mr. Michael Culhane: It was a general one. I had not encountered section 41 before.

Deputy Mary Lou McDonald: What I find curious about Mr. Culhane's October 2015 letter is its tone. The letter was to the Commissioner, Ms O'Sullivan, the deputy commissioner

for operations and the deputy commissioner for SCM. What is “SCM”?

Mr. Michael Culhane: Strategy and change management.

Deputy Mary Lou McDonald: Who were these people? Who were in these jobs?

Mr. Michael Culhane: Does the Deputy mean their names?

Deputy Mary Lou McDonald: Yes, please.

Mr. Michael Culhane: What date was the letter?

Deputy Mary Lou McDonald: October 2015.

Mr. Michael Culhane: I think that it might have been Mr. John Twomey and Mr. Dónall Ó Cualáin.

Deputy Mary Lou McDonald: And the chief administration officer, who was-----

Mr. Michael Culhane: Mr. Cyril Dunne.

Deputy Mary Lou McDonald: At the time. Mr. Culhane did not just write to the Commissioner. This letter went broader.

Mr. Michael Culhane: I was writing to the executive.

Deputy Mary Lou McDonald: It has been referred to as a letter to the Commissioner.

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: It did not just go to the Commissioner. Reading this, one would never have imagined that, as far back as 2008, which was seven years prior, Mr. Culhane had recognised the need for the Department and others, not least the Comptroller and Auditor General, to be informed of the matters that had been uncovered at Templemore. In fact, this letter reads as being hostile to Mr. Ruane or any form of disclosure. Of course, that seems to be what bothered Mr. Culhane about Mr. Barrett. I cannot reconcile how, in 2008, Mr. Culhane recommended disclosure but, in 2015, his position had changed. Does Mr. Culhane have an explanation for that?

Chairman: I thank the Deputy for her question, but we are over time. She will get another opportunity.

Mr. Michael Culhane: I do not believe that the positions are irreconcilable. The issue in respect of the-----

Deputy Mary Lou McDonald: Mr. Culhane, they are. Will Mr. Ruane briefly tell us when the Office of the Attorney General was informed and became involved in any of the matters pertinent to Templemore?

Mr. Kenneth Ruane: It was in September 2015 that I sought advices. Since that date, the Chief State Solicitor’s office and the Attorney General’s office have given considerable assistance in trying to resolve two aspects of the matters contained within the-----

Deputy Mary Lou McDonald: What specifically did Mr. Ruane refer to the Attorney General’s office?

Mr. Kenneth Ruane: Certain issues. I need to be careful and speak in general terms. When documents are submitted seeking advice, they are covered by legal professional privilege. In terms of the audit report, however, it is clear that there are outstanding issues relating to lands at the college that are currently occupied by the Templemore Golf Club and the legal status of staff working within the Garda College restaurant.

Deputy Mary Lou McDonald: The Commissioner would have been aware that advices were being sought from the Attorney General's office.

Mr. Kenneth Ruane: I can put it this way: at meetings in August and September, I would have specifically requested the chief administrative officer to keep the Commissioner informed of what was arising from that.

Deputy Mary Lou McDonald: As far as Mr. Ruane was concerned.

My final question is to Mr. McCarthy. Mr. Howard states that he informed Mr. McCarthy's office on the back of his meeting with Mr. Barrett, specifically the deputy head of the Comptroller and Auditor General's office. Is that the-----

Mr. Michael Howard: Mr. Andy Harkness.

Mr. Seamus McCarthy: He is the secretary and director of audit and has line responsibility for the audit of An Garda Síochána.

Deputy Mary Lou McDonald: Mr. McCarthy was aware of that.

Mr. Seamus McCarthy: We had already been informed on 31 May by internal audit. That was brought to my attention. Then Mr. Harkness mentioned to me that Mr. Howard had also-----

Deputy Mary Lou McDonald: Been in touch.

Mr. Seamus McCarthy: -----raised the matter with him.

Deputy Mary Lou McDonald: I thank Mr. McCarthy. That is all for now.

Chairman: I want to give Mr. Culhane an opportunity. He was asked about the inconsistency of his two approaches by Deputy McDonald. Mr. Culhane said that they were reconcilable but Deputy McDonald said that they were not. I wish to give Mr. Culhane an opportunity to explain his answer from his perspective.

Mr. Michael Culhane: In terms of the issues that were identified in the college - for example, the resolution of the legal issues surrounding the status of the employees and the land issue - and has already been alluded to, none of them could be resolved without the input of the Department of Justice and Equality, the Chief State Solicitor's office and the Attorney General's office. They will always be high-ticket items in terms of being public events. One of the recommendations was that the land would be transferred to the OPW. That would have been picked up in the OPW's accounts and an explanation for where the land had come from would then have had to have been provided to the Comptroller and Auditor General. It was always going to be the case that the resolution of these matters would be in the public domain. As such, I did not seek to hide it or minimise the importance of these events.

Deputy Mary Lou McDonald: That is not how Mr. Culhane's letter reads. I do not know

how it could be read in any other way but as being hostile to the notion of a section 41 disclosure to the Minister. That is how it reads.

Mr. Michael Culhane: I accept the Deputy's opinion.

Deputy Mary Lou McDonald: It is in Mr. Culhane's hand. They are Mr. Culhane's words.

Mr. Michael Culhane: Yes.

Mr. Kenneth Ruane: To provide full disclosure to the committee regarding what is being discussed at the moment, at a meeting on 6 August 2015 I indicated that certain issues may have needed to be referred for external advice to the Attorney General's office. It is documented. It was a factual issue as opposed to a legal one. It is my obligation to bring it to the committee's attention. Mr. Culhane was concerned that I was seeking external advice, or that I was even proposing to seek external advice, outside of my own remit on certain matters, but-----

Deputy Mary Lou McDonald: I am sorry, Chairman,-----

Deputy Alan Kelly: This is important.

Deputy Mary Lou McDonald: -----but will Mr. Ruane clarify what he means by that? Mr. Culhane was concerned that he was seeking advice from the-----

Mr. Kenneth Ruane: At a meeting on 6 August. When considering certain issues, I am always aware that I am an internal adviser. That is one part of it in terms of transparency and accountability. However, the Chief State Solicitor's office and the Attorney General's office have a wealth of knowledge and expertise that we always rely on for certain matters. I am bound to disclose that, at that meeting when I referenced that I would possibly seek an external view, certainly-----

Chairman: On what exactly?

Mr. Kenneth Ruane: On the two issues - the lands and possibly the-----

Deputy Mary Lou McDonald: Golf club.

Mr. Kenneth Ruane: Certainly the lands.

Chairman: We just want this to be in Mr. Ruane's words. He needs to say it.

Mr. Kenneth Ruane: I am sorry, Chairman. Certainly the lands and, at a later stage, the legal status of the employees.

Deputy Alan Kelly: Just on a matter of clarification-----

Chairman: The legal status of the employees.

Mr. Kenneth Ruane: In the restaurant.

Chairman: I just wanted-----

Deputy Mary Lou McDonald: I am sorry, Deputy Kelly, but is Mr. Ruane telling us that Mr. Culhane was hostile to the notion of the former seeking outside advice on these matters?

Mr. Kenneth Ruane: I believe from the word that I noted at the time that he said he was

“shocked”, but I will let Mr. Culhane speak. It is only fair to-----

Deputy Mary Lou McDonald: Was Mr. Culhane hostile to Mr. Ruane seeking such outside advice from the Attorney General’s office?

Mr. Michael Culhane: No. I would be quite shocked at that interpretation. I have to go back to my minute in 2008 where I recommended that legal advice be sought in terms of resolving the issues. I am not surprised that Mr. Ruane had to seek legal advice because the issues around the land-----

Deputy Mary Lou McDonald: Why then was Mr. Culhane shocked?

Mr. Michael Culhane: Me?

Mr. Kenneth Ruane: I do not want to put words into Mr. Culhane’s mouth but I had the impression that, when I suggested that, he felt that I was in some way calling into question his own professional integrity or the way that matters had been dealt with up to that point. That was my opinion.

Deputy Alan Kelly: I do not want to cut across the Deputy, but for clarity, is that letter that Mr. Ruane sent, looking for the advice, the letter that was sent to the Attorney General and copied to the Department of Justice and Equality, where they now claim it was the first time they became aware of this?

Mr. Kenneth Ruane: That is correct. To clarify it was 31 August 2015, but I emailed it to Mr. Eugene Banks on 1 September 2015 for information.

Deputy David Cullinane: It should be noted at this point that Mr. Barrett, Mr. Kelly and Mr. Ruane have all said here today that they felt their professionalism was called into question by Mr. Culhane - all three.

Chairman: We will note that but we have to consider all the evidence before we draw any conclusions.

Deputy David Cullinane: I am saying that should be noted.

Chairman: We are not drawing a conclusion here today.

Deputy David Cullinane: I am saying that, as a fact, that is what they have said and that should be noted.

Chairman: The committee is not drawing a conclusion on that issue.

Mr. Michael Culhane: I have already stated that I have confidence in their professional abilities. I do not know how many times I have to say this but I do have confidence in their professional abilities. They are all appropriately qualified individuals.

Mr. Kenneth Ruane: It is only fair to add that, after that initial meeting, there were no further reservations or any issues raised by Mr. Culhane about seeking external advice. That is only fair to add.

Deputy Shane Cassells: Listening to the evidence here this morning and what has been said to my colleagues, what is most striking, from this last exchange in particular, is the divergence of views, especially in that last exchange between Mr. Ruane and Mr. Culhane. Some-

times the early exchanges were bordering on hostility towards each other, with people needing to make freedom of information, FOI, requests to get information. This is all from people who are supposed to be on the same side, which is the side of the people, in order to give proper evidence and ensure ultimately the correct expenditure of public money in order that people can be satisfied their hard-earned money is spent appropriately and accounted for. If we as committee members are surprised, one can imagine that people looking in are aghast at that last exchange and what has transpired here this morning. This is from the civilian side of the force, not even the officers. Mr. Barrett said he had spent a lifetime ensuring the proper expenditure of money in multinationals and that it would not happen there, but it is unreal that it happens repeatedly in the public sector, with these issues being illuminated.

At the heart of this is the misappropriation of funds in the force that is responsible for justice in this State. As Mr. Culhane said, it was a culture that went back to the 1960s. It is fair to say that the swinging sixties seem to have been kept going to the present day. If Austin Powers had turned up in his time machine in Templemore, he would not have known that he was in a different decade given the testimony we have listened to.

Keeping to the report around which the Chairman has asked us to frame our remarks, recommendation No. 4 says that, "Garda Staff assigned to administrative roles in the College had no training or experience in administration ... no knowledge of Public Financial Procedures (the Blue Book) [as Mr. Howard said, the roadmap] and associated governance codes [for] Public Procurement ... Risk Management", and then it goes on to the Department of Public Expenditure and Reform and the Government Accounting Unit. Being fair, does Mr. Kelly believe this is a simple case of the people who were *in situ* not being skilled and not having the necessary competence rather than a wilful misappropriation of funds or maybe even corruption? Did they in fact believe that the surplus money was their money, as he pointed out at the beginning of his opening remarks, quoting Deputy Commissioner Rice at the time? Is it the result of the arrangements that were in place, which Mr. Kelly touches on, and the effect of these arrangements going back to the 1980s? In terms of capitation grants and at a time when things were going well and surpluses were being accumulated, as Mr. Kelly said, every time a scheme was dreamed up, there was another bank account and things were kept on an individual basis rather than a cumulative one. Does he believe it is fair to paint everyone with the same brush, that there was wilful misappropriation, or was it the case that there was incompetence?

Mr. Niall Kelly: On balance, I believe it was more incompetence than wilful neglect or wilful whatever.

Deputy Shane Cassells: That is an important point.

Mr. Niall Kelly: However, as Mr. Barrett said earlier, ignorance of the law is not an excuse, and a lot of this stuff is set down in law, and very old law at that. The basic legislation in this regard is 1866. It is not as if there is some sort of new governance code that has just come in in recent years. This is going back a long time and people should know about it. However, the fact is that when I went to audit the college, I found staff who were trained as gardaí, effectively with no or very little administrative training, who were running large-scale enterprises with a lot of money flowing through them, and with no real assistance. One could sympathise with them. They were put into these jobs, they did not have much training for them, and they muddled through as best they could, but that was not adequate.

Deputy Shane Cassells: That is a fair point in terms of Mr. Kelly saying they had no real assistance and he would sympathise with them. I asked whether it was wilful misappropriation

or incompetence because, going back to Mr. Culhane's letter to Mr. Kelly from February 2017, in point No. 1 on the second page of the letter, he says that on several occasions Mr. Kelly was reported to have stated in relation to college personnel that people would be led away in handcuffs. Who were those people if it was not a case of corruption or wilful misappropriation but of incompetence?

Mr. Niall Kelly: As I said earlier, those comments are not mine. They are Mr. Culhane's about me. They are hearsay. I may have used some of those words, but they are completely taken out of context.

Deputy Shane Cassells: In what context were they used? Mr. Kelly is not denying that he said that.

Mr. Niall Kelly: I am not denying that I may have said some of those words, but-----

Deputy Shane Cassells: The words in particular were "led away in handcuffs".

Mr. Niall Kelly: -----what I am saying is that they are completely taken out of context.

Deputy Shane Cassells: This is very important because Mr. Kelly has just said that he had sympathy for the people in the college-----

Mr. Niall Kelly: Yes.

Deputy Shane Cassells: -----and the large sums of money they were being expected to handle with no appropriate training whatsoever. Mr. Kelly has now admitted that he said that people would be led away in handcuffs but that it was taken out of context. It is an important point and has been picked up in the press, and I want to explore that.

Mr. Niall Kelly: Again, I have said this earlier, I spent a lot of time at the college last summer-----

Deputy Shane Cassells: I am going to touch on that.

Mr. Niall Kelly: -----until mid-August, or whatever. I spoke to a lot of people. I had a lot of conversations with people. I cannot remember every word I said in the college last year, but I could have said something like, "If it is found that people have been found to have been personally gaining from this, they should be led away in handcuffs." I could have phrased it as something like that. However, as I said, it is hearsay. I cannot recollect every conversation I have had.

Deputy Shane Cassells: Is that Mr. Culhane's interpretation of that remark?

Mr. Michael Culhane: I had a meeting with Superintendent McCabe and this was one of the things he said to me. He was very upset that, effectively, it was a reference to some of the staff in the college, and that is what I just reported.

Deputy Shane Cassells: Returning to Deputy MacSharry's earlier comments, we put it to Mr. Culhane about keeping it in-house and dealing with the problem. In Mr. Culhane's letter of October 2015 to the Commissioner and deputy commissioner, he used several adjectives in respect of Mr. Barrett in that letter. The journalists sitting in the Gallery can tell him the difference between a factual straight report and a colour piece. I suggest that Mr. Culhane's letter is a colour piece because he laced it with adjectives.

I will elaborate. The letter dated 24 October 2015 from Mr. Michael Culhane to the Commissioner, the deputy commissioner and CEO, refers to the meeting of 14 October. In referencing Mr. John Barrett, Mr. Culhane referred to his usual sweeping style. For anybody who practises journalism or deals with the importance of words, Mr. Culhane is creating a theme using words such as “his usual sweeping style”, “he did not believe him” and “he just stopped short of calling the deputy commissioner a liar”. Mr. Culhane talks about a “palpable shock of silence in the room”, “Mr. Barrett’s irrational behaviour” and a “lack of respect for an acting deputy commissioner”. He has framed that in a very particular way. He has laced it with adjectives.

Was there a silence in the room because these guys were making things uncomfortable and getting to the heart of the job they were supposed to be doing?

Mr. Michael Culhane: No, in terms of-----

Deputy Shane Cassells: Why would Mr. Culhane write to the Commissioner, given his factual role, lacing it in adjectives that were detrimental to a person, whose role was complementary to his role? He refers to a person’s lack of respect for an acting deputy commissioner. It is as if Mr. Culhane was defending the force rather than defending the integrity of the job that was supposed to be done.

Mr. Michael Culhane: There is a certain style in writing. People use words as-----

Deputy Shane Cassells: The point I am trying to make is that one does not use this type of language when giving an account of a meeting. There are some journalists in the Gallery who will explain that to Mr. Culhane. They have to write factual reports about what happens here today. If the editor tells them to write a colour piece they will use adjectives. Mr. Culhane is an executive director of finance and services yet he has laced his letter with adjectives that create a negative impression of a person sitting beside him. I want to get to the heart of why he would do that. Was it a character assassination?

Mr. Michael Culhane: No, I do not believe it was a character assassination.

Deputy Shane Cassells: It looks like one to me. Mr. Culhane refers to Mr. Barrett’s “usual sweeping style” and what one elicits from that is Mr. Culhane has a prejudice against this man from the get go, using words like “stopped short of calling him a liar” and “a palpable shock of silence in the room”. Why was there a palpable shock of silence in the room?

Mr. Michael Culhane: My recollection of that meeting is that Mr. Barrett was expressing his anger at not receiving the full copy of the inspector’s report.

Deputy Shane Cassells: He has told the committee that he has had to FOI stuff.

Mr. Michael Culhane: We just got a chapter each. He got a chapter, I got a chapter. Mr. Barrett was saying that as part of the senior management team he should have received the full copy. There was an exchange of views about that. The acting deputy commissioner at the time explained that on the instructions of the inspectorate, only relevant chapters were to be handed out.

Deputy Shane Cassells: What disturbs me Mr. Culhane is that there is a theme developing, both on the day of our previous meeting, the material in the newspapers in the interim period and what is happening this morning, that this will all be explained away under the catchall, abstract term “culture”. By putting a title on it and categorising it, nobody gets named individu-

ally and like so many other things here, nobody will be held accountable.

Does Mr. Culhane believe in accountability?

Mr. Michael Culhane: I do, yes.

Deputy Shane Cassells: Without rehashing the report, Mr. Kelly makes a point of referring to this culture at the root of the problem in his conclusions. He said earlier that as an extensive part of his audit, he spent three months at Templemore, talking to people - not just looking at the balance sheets - and getting the background behind the figures. Mr. Kelly said in his opening remarks that the culture may still exist. Given his strong beliefs, his statement that this culture might still exist, his background checks, can he tell me who is responsible for fuelling this culture? Fuelling a culture has to come from a central point. I do not want to hear about culture as an abstract idea, that is not the job of this committee. If at the end of all these hearings, we have a nice tidy package, that it was just the culture going back to the 1960s or the 1980s, we will have achieved nothing. Mr. Kelly will have done himself a disservice if this falls under "culture". Who was fuelling that culture? Who was keeping the information suppressed? Who was making sure that people such as Mr. Barrett were having to put in FOIs?

There is a fear here that by attacking the force, we are attacking every junior garda. We are not. We are trying to find out who is fuelling that culture because Mr. Kelly's report speaks for itself. What I believe people want to hear from this committee is the chain of command of how the off-balance sheet activity and "enterprise", as Mr. Barrett called it developed and existed. I would appreciate if Mr. Kelly could start to categorise the chain of command for us in that culture and to make it real and tangible for us today.

Mr. Niall Kelly: My worry is that this culture may still exist in An Garda Síochána.

Deputy Shane Cassells: When Mr. Kelly states that it may still exist in An Garda Síochána, will he elaborate on that?

Mr. Niall Kelly: There are two audits ongoing at present. I am not sure how I can answer that question.

Deputy Shane Cassells: It goes to the heart of the matter.

Mr. Niall Kelly: It does.

Deputy Shane Cassells: Look at what is happening here today. I am afraid the issue will be put under one big umbrella. There is a very clear divergence of views on the work that Mr. Kelly is doing but there is no good in saying that it was just the culture. Were successive Accounting Officers ignorant of what was happening? Would Mr. Kelly agree or disagree with that statement?

Mr. Niall Kelly: I think the Accounting Officers were well informed. We have a note here-----

Deputy Shane Cassells: Over a successive period?

Mr. Niall Kelly: Over a successive period. It was not coming to internal audit. The culture I am alluding to, as I say in my opening remarks, is one that tries to pretend there is no problem and then tries to fix it in-house. In the documents that have been provided today, there is sufficient evidence for this committee to be able to draw conclusions in terms of names of people.

Deputy Shane Cassells: I need Mr. Kelly to help us in that respect. There is a problem in what Mr. Kelly has just said. People were trying to ignore a problem, but having Mr. Kelly identify the problem, was there willful participation in trying to thwart Mr. Kelly's work or Mr. Barrett's work? That is where we are into dangerous realms.

Mr. Niall Kelly: Yes.

Deputy Shane Cassells: That is a whole different ball game. That is why I asked Mr. Kelly whether this was wilful misappropriation or just incompetency. Having discovered that, did others engage in a process to ensure that Kelly and Barrett do not get to the root of what is happening, and there is wilful participation to nullify Mr. Kelly? Is that a culture, or who are the people trying to willfully thwart his work?

Mr. Niall Kelly: As has come out in discussions this morning, the McGee report was not furnished to me.

Deputy Shane Cassells: Is the gentleman sitting beside Mr. Kelly trying to thwart his work?

Chairman: I ask Mr. Kelly not to comment on that. That is personal.

Deputy Shane Cassells: Chairman, it goes to the heart of the very matter. It is very clear there is a divergence of views. We are after having the head of legal services disagreeing with points that were made.

Deputy David Cullinane: I need to make this point.

Chairman: I am in the Chair.

Deputy David Cullinane: I understand that.

Chairman: We as committee members will listen but we will not draw conclusions.

Deputy David Cullinane: None of this is personal. I resent it being said. None of this is personal, it is in respect of the office that Mr. Culhane holds that questions are being put. Of course, one has to put questions to individuals, it does not make it personal. None of it is personal.

Chairman: It was directed at the person who was beside the office holder.

Deputy Shane Cassells: The point is very simple, Chairman. It is being packaged as an historical legacy issue. An audit will happen and that is fine. The point I am making is that it has been extrapolated here that Mr. Kelly and Mr. Barrett, having uncovered various issues were then being thwarted in their work, having got on a path that was uncomfortable for people. I was asking Mr. Kelly who was thwarting him, if it was the gentleman who is sitting beside him, was Mr. Culhane trying to thwart him and who else was trying to thwart him? I would like to hear that, because otherwise it gets put under an umbrella and we are not able to do a report on it.

Mr. Niall Kelly: I think there is sufficient evidence before this committee to say that the office of the director of finance or, in the past, the office of the deputy commissioner of strategy and change management did not forward information. The college itself did not forward information to internal audit.

Deputy Shane Cassells: I understand what the witness is saying because he will not use the words “thwart” or “agitate”. What Mr. Kelly is saying to me is that the fact that information was not forwarded to him is hindering him and not allowing him to do his job. If Mr. Kelly is saying to me that the executive director of finance and the deputy commissioner are not providing him with information required to do his work, what I am trying to get to here is the chain of command. How high does this go? Who is trying to stop Mr. Kelly from doing his job of uncovering what was obviously a misappropriation of funds? Where does this stop?

Mr. Niall Kelly: As we speak today, nobody is preventing me from-----

Deputy Shane Cassells: We are not talking about 1.10 p.m. here today. We are talking about up until this point. Mr. Barrett’s frustration here this morning is quite evident in trying to actually expose what has been happening. I ask Mr. Kelly, and I put the question to Mr. Barrett as well: have they, up until this point at 1.10 p.m. today, been thwarted in trying to expose what they have uncovered and in bringing a resolution to this?

Mr. Niall Kelly: Yes. Up to when I started this audit in April 2016.

Deputy Shane Cassells: Is that a wilful attempt to make sure that the public do not know the level of potential wrongdoing within the financial set-up? Was that a wilful attempt to make sure that the force and this magical culture was protected at all costs?

Mr. Niall Kelly: As I said the last day here-----

Deputy Shane Cassells: I keep probing this is because the witness is putting this in his conclusion. He is saying that this is the ultimate point here: the culture.

Mr. Niall Kelly: Yes.

Deputy Shane Cassells: He cannot just put that in his report, bookend it and think that is it. Who is doing it? Who is trying to stop Mr. Kelly? Is there a larger thing here within An Garda Síochána to make sure that this does not come to light?

Mr. Niall Kelly: I completely agree with the point the Deputy is teasing out. I have said that up to April 2016 there were attempts to stop information coming to me. I believe now that that has changed. I believe now that I am being provided with all the information that I require but yes, I agree with what the Deputy is saying. There is sufficient evidence for the committee members to make up their own minds on the points he is making.

Deputy Shane Cassells: It is very enlightening that the witness names, not only Mr. Culhane as somebody who is trying to thwart him, but the deputy commissioner as well. Where does that leave us with regard to the actual line of questioning for the return visit of the Commissioner? The questioning of what people knew?

Mr. Niall Kelly: I have absolutely no problem with the current deputy commissioner. I also have absolute confidence in the current Commissioner. Doors are being flung open, information is being provided. There are no hindrances to me at the moment but in the past there were.

Deputy Shane Cassells: What would be helpful would be that as Mr. Kelly’s work progresses, he and Mr. Barrett provide this committee with an extensive report, not only of where things have gone wrong, which is what Mr. Kelly is examining, but also an appendix of who has tried to thwart him in preventing that information coming to light.

Mr. Niall Kelly: Sufficient evidence has been provided to this committee to make those links.

Mr. Michael Culhane: Chairman, I am being accused of several things here now. It is clear in my minute of May 2008 that I tried to advance this as much as possible. I submitted my report to the chief administrative officer, who in turn submitted it to the Commissioner, who in turn agreed with the recommendations in my report. In parallel to that then, it was given to Deputy Commissioner Rice who was the deputy commissioner SCM at the time. It is clear from his minute that he did not agree with the report. He is quoted here about holding the moneys within the college. Chief Superintendent Nolan, who was the director of training at the time, did a report in 2010 where effectively he introduced easy recommendations but did not fundamentally alter the structure of the college. When chief administrative officer Leamy retired or resigned I was reporting to Deputy Commissioner Rice for approximately two years. I also encountered the same resistance, so I certainly want to put it on the record that I am not thwarting Mr. Kelly in his work. In terms of what I have done and tried to do to address these issues, I did the best I could. If the organisation decided that it did not want these reports or my report to get the visibility it got, it decided it, not me.

Chairman: Mr. Kelly said a moment ago that he had confidence in the assistant commissioner that he is dealing with and confidence in the Commissioner. That presumably leads us to believe that he is satisfied that there have been improvements.

Mr. Niall Kelly: Yes.

Chairman: Right.

Mr. Niall Kelly: Just to correct the Chairman: deputy commissioner. I report to Deputy Commissioner Ó Cualáin and I have absolute confidence in him and absolute confidence in the Commissioner.

Chairman: The last sentence in Mr. Kelly's opening statement here today was, "There is also evident a culture that thinks An Garda Síochána is different from other public sector bodies and that the normal processes of financial procedures and transparent democratic accountability do not apply, for example in Deputy Commissioner Rice's letter of the 18 September 2009." The witness is saying that there is evidence for this in An Garda Síochána and the only thing he is citing to this view today is a letter from eight years ago. Does the witness take my point? He has expressed confidence in the deputy commissioner and the Commissioner. I am trying to be exact here now. I could understand that sentence if it read that there was this culture. Mr. Kelly however is saying "is", as in today. Now he is saying that he has full confidence in the Commissioner. Which is it? Can he clarify that?

Mr. Niall Kelly: Can I change the word to "was" rather than "is"? For clarity.

Chairman: I want that noted because I consider the difference to be quite important. The final sentence says that there is an issue. Mr. Kelly is now saying that there was an issue.

Mr. Niall Kelly: I am happy to make that change.

Chairman: We are putting that in because we have to be fair to the people that Mr. Kelly has just praised.

Mr. Niall Kelly: Can I just say that if I find that culture in any of the audit work that I do I

will identify it.

Chairman: And also highlight it?

Mr. Niall Kelly: Yes.

Chairman: I just want to clarify that.

Deputy Marc MacSharry: A quick point of clarification from Mr. Culhane. He pointed out that he was accused of a number of things and that he wanted to put on record that he acted in 2008 and reported it. Am I correct in saying then that Deputy Commissioner Rice came back to Mr. Culhane and said that he disagreed with the report and that that was the end of the matter? Is it fair to say that Mr. Culhane has done nothing since then?

Mr. Michael Culhane: No, it is not. I also gave a copy of the report to Mr. Barrett when he joined the organisation in 2008.

Deputy Marc MacSharry: But later? What happened in the intervening six years?

Mr. Michael Culhane: I have a track record of implementing things in the intervening period. In 2009 I wrote to the Revenue Commissioners seeking charitable status for the sports field company. There are emails about the restaurant staff and redundancy in March 2009. There are emails to Chief Superintendent Nolan seeking an update on the training activities in the Garda College, again from March 2009. There is also an exchange of emails between myself, Mr. Leamy and Mr. McGee about the financial controls in the college from June 2009. There are emails from 2009 about potential tax issues in the college arising from various activities, and again in 2010, also regarding tax. Jumping ahead a bit, we met PricewaterhouseCoopers in 2016. There are more emails between myself and Superintendent Nolan about the report, and then in September further emails about the restaurant, the shop and the sports field company.

During that time as well then, when the recession came and the college closed down for a few years, this item, while not quite put on hold, did not perhaps have the same urgency that it should have had. I was dealing with many other issues at the time. This was not the only item on my agenda that required my time. I had a large number of items to attend to. So there was action in the intervening period as well.

Deputy Bobby Aylward: Having listened to the evidence given by the witnesses today and on the last day, it is unbelievable that it took until May last year when Mr. Kelly really got to the nuts and bolts of what happened to find out about the mismanagement that has gone on since as far back as the college's upgrade to a third level college in the 1980s. In that length of time cover ups, mismanagement and non-existent corporate governance were occurring in a college that we all had great faith in and through which we put our future gardaí. Here we are and it took until last year to come to the evidence we now hear around the litany of mismanagement. With report after report, the Walsh report, the Fennelly report and the McGee report, it has taken until now to find out what is wrong. It is totally unbelievable that this could be allowed to happen in a modern society and that the system was left in place for so long. We could go through it all day but I will not review what everyone has already said.

Let us go back to previous reports back in 2008 where the CEO noted that the director of finance be authorised to conduct a full and comprehensive audit of all financial activity in the college. The Garda Síochána Internal Audit Service, GIAS, was not informed of the proposed audit at that time. Recommendations put in place at the time included that 13 bank accounts be

closed; a new college administrator role was to be established at superintendent rank; and new processes were to be put in place and reviewed at weekly performance accountability framework meetings. Of the 12 specific recommendations from the director of finance's report, only two were implemented. Of the six points agreed in correspondence between the commissioner and the chief administrative officer, none was implemented. Why was this? Why did they not happen, after all the reports down the years?

In 2012 - and I have all the recommendations marked off here - compliance with public procurement requirements was implemented on the recommendations of the Garda inspectorate at the time and the development review group. On 16 July 2015 another report stated it was not happy with the system but the system was still not fixed. I ask Mr. Culhane to explain why not.

Mr. Michael Culhane: It might sound somewhat evasive but the college did not report to me. There is a structure where it is an assistant commissioner who reported to the deputy commissioner. They would have been charged with the responsibility of putting the necessary structures in place. I advised on what structures were required. If they had failed to put the correct structures in place they, rather than me, will have to account for themselves.

Deputy Bobby Aylward: Mr. Culhane is the executive director of financial services. That is a high position within the system.

Mr. Michael Culhane: Yes.

Deputy Bobby Aylward: Would it not be his responsibility to make sure? Is this passing the buck?

Mr. Michael Culhane: It is not passing the buck. I can only give advice. If people refuse to accept my advice then what can I do? I could not say to a deputy commissioner who is superior to me "I instruct you to do this". With regard to what I can do, I urge that the necessary controls be put in or amended in the organisation, and that they be pressed on that. I have written many reports repeating my recommendations. At times all I can do is to offer the advice and I hope they would see the benefit of it, accept it and implement it.

Deputy Bobby Aylward: Even though he may not be able to instruct a deputy commissioner, did Mr. Culhane realise the seriousness of the situation in Templemore? Did he realise how serious the mismanagement and mis-governance was there?

Mr. Michael Culhane: Again, I do not want to go back over what I said-----

Deputy Bobby Aylward: Did Mr. Culhane close a blind eye to it?

Mr. Michael Culhane: No, I did not close a blind eye to it, but the structures that were set up there were in place when I joined the organisation in 2000. They were not new. The Department of Justice and Equality had some input into the development of those structures also. Maybe, looking back on it now, one could say that the structures could have been different but they were in place when I joined the organisation.

Deputy Bobby Aylward: Reference was made to organisational culture. Mr. Kelly had said in his report - under chronology three - that on Wednesday, June 17 there was a staff meeting of the CAO. He said:

I raised my concerns about the management of the college given what I learned at my meeting there the previous Thursday ... [and that] the Commissioner and all attendees

[should be] very concerned about any poor performance around governance, finance and maladministration ... Michael Culhane pointed out that it was felt that these matters were best kept away from internal audit and would be very serious if they were to come into the view of the controller [sic] and auditor general.

Now, that is serious and it is here in writing in black and white; “Michael Culhane pointed out ...” . Can Mr. Culhane answer that?

Mr. Michael Culhane: I can indeed. There were four people at that meeting, Mr. Barrett, Mr. Dunne, myself and Mr. Liam Kidd who was the executive director of ICT. I have asked them to reflect upon whether I would have stated something like that. Both of them have confirmed that I did not make that statement. We certainly discussed the-----

Deputy Bobby Aylward: Is Mr. Culhane sure that Mr. Kelly has this statement wrong?

Mr. Michael Culhane: It was not Mr. Kelly.

Mr. John Barrett: It is my note.

Deputy Bobby Aylward: I am sorry, I mixed that up.

Mr. John Barrett: Corroboratory evidence can be delivered from other meetings where similar comments were made.

Deputy Bobby Aylward: Here we have two witnesses contradicting one another and we have it in black and white in front of us. We are investigating this and we have two witnesses, sitting side by side, contradicting one another. The taxpayer is probably looking at this. How do the witnesses stand over this?

Mr. Michael Culhane: I could write anything down on a piece of paper and say it was my record of a meeting. It must be proven to be true in order to be actually factual. As I said, I consulted with Mr. Dunne and Mr. Kidd and both of them have confirmed that I did not make that statement.

Deputy David Cullinane: Mr. Barrett has said he has information that it is true.

Mr. Michael Culhane: Mr. Barrett said that he has other information. That is his note of the meeting.

Deputy Bobby Aylward: Did Mr. Culhane mention the Comptroller and Auditor General?

Mr. Michael Culhane: No, I do not-----

Deputy Bobby Aylward: Did Mr. Culhane mention the Comptroller and Auditor General? Mr. Barrett said that “Michael Culhane pointed out that it was felt that these matters were best kept away from internal audit and would be very serious if they were to come into the view of the controller [sic] and auditor general.” Did Mr. Culhane say that?

Mr. Michael Culhane: No I did not.

Deputy Bobby Aylward: So Mr. Culhane did not say any of those two things?

Mr. Michael Culhane: Undoubtedly we discussed the reports-----

Chairman: A mobile phone is interfering with recording.

Mr. Michael Culhane: -----but it was connected with the report having left lots of unanswered questions. Before we would engage with directly with the Comptroller and Auditor General it would be necessary to continue to explore the reports and to establish some of the answers to the questions. As has already been stated there are complex legal issues in that regard. Even if we had informed the Comptroller and Auditor General in 2008 those legal issues would still have to be addressed. The plan of action was to try to resolve the issues and establish answers to the questions that were being raised.

Deputy Bobby Aylward: You say that. Is Mr. Culhane saying that Mr. Barrett has his facts wrong?

Mr. Michael Culhane: Again, I have to go back to my minute from 2008. I recommended that the Comptroller and Auditor General, the internal audit and the Secretary General be brought in at that time.

Deputy Bobby Aylward: I do not know. There is something wrong somewhere. There are question marks. I am no judge and jury but there are serious question marks over that statement and over what is being put down here.

Mr. Michael Culhane: I have absolutely nothing to hide. Why would I want to hide something from the Comptroller and Auditor General when, inevitably, as part of the resolution of these issues the Comptroller and Auditor General would be brought in? It does not make sense to me.

Deputy Bobby Aylward: We have two professional people sitting side by side giving two different versions of evidence. Can anyone round that square?

Mr. Michael Culhane: If Mr. Dunne was here he would be able to substantiate my statement.

Deputy Catherine Connolly: Are there minutes for any of this? I know that Mr. Barrett has taken a record but are there minutes for any of these important meetings that we are referring to all the time? Has the Commissioner or anyone taken minutes of all these meetings?

Chairman: What is the practice in that regard?

Mr. Michael Culhane: I am not 100% sure whether minutes were kept or not. People may have kept personal notes. That meeting was a branch meeting and under the CAO and it was my understanding that it was meant to be of a general informal nature where we would discuss various issues. I do not believe that minutes were kept.

Deputy Catherine Connolly: There were meetings of the audit committee where decisions were made and not just the meeting which is now under discussion. Were minutes taken for all of them? This is a simple question and maybe the witness could elicit from An Garda Síochána, or from somebody, if there are minutes of these very important meetings.

Chairman: At what level are the minutes taken? I know people need to be at meetings every day, but at what level do meetings require minutes to be taken? Does it have to be a formal meeting? When one goes in to a room, does one meeting have minutes taken and a different meeting does not? Mr. Nugent might give his views on what tends to be minuted and what is not as he is a chief administrative officer.

Mr. Joseph Nugent: The meetings I attend are minuted. I do not know what these par-

ticular meetings were, and there were a variety of different types of meetings. Meetings are minuted, yes.

Chairman: Most meetings between senior colleagues.

Mr. Joseph Nugent: Not all meetings but most meetings. The meetings of the type we are talking about.

Deputy Bobby Aylward: Are they on record?

Mr. Joseph Nugent: I do not know whether there are minutes of the meetings that are being talked of there.

Chairman: You are in that office now. Check your predecessor's files, which should be still in your office. You might come back us to help clarify these meetings, in particular if, for any meeting that has been referred to here today, there is a minute in the records. I know you were not there at the time but you are there now

Mr. Joseph Nugent: If there are minutes of any of those meetings, we will pass them on.

Chairman: That is an official request from the committee. For any meetings referred to here today in the evidence, I ask that you check if there is a record. You know the dates we are talking about. If there is such a record, it should be forwarded to the committee as quickly as possible.

Mr. Joseph Nugent: Yes. I will take-----

Deputy Bobby Aylward: To finish off what we were dealing with a minute ago, I want to ask all the witnesses whether there is a total breakdown of trust between the witnesses present in regard to all of the evidence that has been given so far and between the Garda authorities, the Commissioner and the assistant commissioners. Is there total mistrust within the whole organisation at the moment, both among the civilians who are here, all working for the good of the Garda, and among the gardaí and the Garda authority itself? Can each one of the witnesses answer that much, given what we are looking at in the evidence today? Is there a total breakdown of communications and trust in the procedures and in the way the whole thing is handled? Are they all at loggerheads with one another or is there any unity of purpose?

Mr. Michael Culhane: The Deputy said "total mistrust". The answer is no. Obviously, like any organisation, there are always differences of opinion. That is inevitable and it is probably a healthy issue that there should be differences of opinion and differences of emphasis-----

Deputy Bobby Aylward: This is a little more than healthy.

Mr. Michael Culhane: There will always be differences of opinion. In terms of whether I have total mistrust, which was the second part of the Deputy's question, no, I do not. I respect the professionalism of the individuals and of the directors, and Mr. Kelly, and of the commissioners.

Deputy Bobby Aylward: As the legal person, will Mr. Ruane answer me?

Mr. Kenneth Ruane: There are clearly a complex of accounts. On a personal basis, certainly in my own experience, I would not describe it being mistrust between people.

Deputy Bobby Aylward: Will Mr. Kelly comment?

Mr. Niall Kelly: I would say, no, there is not mistrust.

Deputy Bobby Aylward: There is not.

Mr. Niall Kelly: The Deputy said “total mistrust”. He asked, “Is there total mistrust?”

Deputy Bobby Aylward: Is there partial mistrust, if not total?

Mr. Niall Kelly: There can be at times but, in general, there is trust.

Deputy Catherine Murphy: Is it different now compared to a previous time?

Mr. Niall Kelly: Obviously, from the evidence presented to this committee, there was a different scenario a couple of years ago.

Deputy Bobby Aylward: I will ask Mr. Barrett that question. He is a straight talking man.

Mr. John Barrett: I will tell the Deputy how I see this. I think this is a very significant issue. I think, around this, I have a very substantial difference of opinion with the finance director. I think there is a very significant difference between outputs and outcomes. There may be memos and there may be meeting details, as Mr. Culhane outlined, but it changed nothing. The show went on. On my arrival in Templemore, I just could not believe what it was that sat in plain view and, despite all the memos and all of the history Mr. Culhane has referred to, that it continued in plain view, contrary to the blue book. While Mr. Kelly may be able to point to the fact that gardaí may not have had the training, the finance directorate cannot hide behind any such lack of knowledge. That is my concern.

This is not personal. Let us be clear. I want to respond to Deputy Cassells because I think it is a really good point. This is not some kind of Orwellian, four legs good, two legs bad - those who wear uniforms, those who do not. It is nothing to do with that. This is a fundamental issue about accountability around the public purse. We have an obligation to come before the committee and tell it the truth. The truth as I know it is written in the document that I shared with the committee. It is documented in real time. I have had contemporaneous discussions with Mr. Ruane throughout this and he has minuted those meetings. If the committee members want to take all of those details, and I would encourage them, they will see the sequence of events in its minutiae. However, the reality is I did not create this. I stumbled upon it. I did not get, “Let us resolve it”, as the first response. That is a reality. Those who I would have imagined were statutorily responsible for dealing with matters like this did not race to my aid. No more than that do I need to say.

Deputy Bobby Aylward: I commend Mr. Barrett on his straight talking and on what he has said. He is one of the people I trust. I am not saying I do not trust others but fair play to him. Every word he said, I accept it.

I want to move to recommendation No. 7. Was it Mr. Barrett who met Superintendent Pat McCabe? He was dismissive, and when Mr. Barrett met him first, he said, “You have been doing a bit of digging”.

Mr. John Barrett: Yes.

Deputy Bobby Aylward: It was like you were out in a field or at the creamery, having a bit of chat - “You are doing a bit of digging”. Then he said, “Bring it on”, and this kind of talk, knowing that Mr. Barrett was going to recognise that.

Mr. John Barrett: True. Let me put this in context, and, again, I am using Mr. Culhane's word "context". Superintendent Pat McCabe is a long-serving, respected officer in An Garda Síochána. I think Superintendent McCabe in many ways became the administrator of this on inheritance. This structure had been set up before Superintendent McCabe's term as administrator began and he continued it - there is no doubt about that.

Deputy Bobby Aylward: We can talk about structures that were there previously but someone had to say "Stop" sometime.

Mr. John Barrett: Exactly, and I will put my hand up-----

Deputy Bobby Aylward: They had to say, "I see wrong here and it should be rectified".

Mr. John Barrett: I think that is where my intervention became clearest. I said, "Explain this to me". None of it was accusatory. This is not about levelling accusation. This is seeking to understand where it all began. To discover that these very same issues were well understood and documented way back, for many years, but were still, for better or for worse, allowed to continue, that is the bit I find the most shocking about this whole thing. It had a life that continued in the dynamic, as Mr. Michael Howard described it, and that continued almost to the current date, until such time as Mr. Kelly-----

Deputy Bobby Aylward: I want to ask Mr. Kelly about finance and the two audits from 2016 in particular. Did he feel there was any mismanagement of funds? Was there anything untoward, given all the different bank accounts we are talking about, some 48 to 50 bank accounts, some of which were closed down and some of which were kept open? The number was supposed to go down to three and six were then kept open. That is all in Mr. Kelly's report, although there is too much to take in. I was trying to go through this last night and just could not take it all in as there is too much. Overall, as a general view, after all his auditing and all he did last year, can he say categorically there was no mismanagement of funds overall? There might have been dealing within banking, and moving of funds from one account to another - the golf money being paid into restaurant bank accounts, and all this kind of thing - but was there any misappropriation of funds?

Mr. Niall Kelly: I said the last day-----

Deputy Bobby Aylward: Or any personal gain?

Mr. Niall Kelly: I did not find evidence of personal gain. I said that on the record the last time. The Deputy mentioned mismanagement. There clearly was mismanagement. There probably was waste of public funds. I have not found money going into people's personal pockets - that has not been found anywhere - but, certainly, there was mismanagement and probably waste of public funds.

Deputy Bobby Aylward: I want to ask a few individual questions. With regard to the Garda boat club, €100,000 was transferred in four separate payments. Was that legal? Was it not breaking the law or the governance rules and regulations? Can they transfer €100,000 from Templemore up to the boat club in Dublin in four instalments?

Mr. Niall Kelly: It is certainly very irregular.

Mr. Joseph Nugent: On that, to confirm to the committee, we did provide the papers that we have in regard to the boat club. I want to make sure the committee is aware of that. I know

it was not one of the original sets of materials that were being sought but we did include it in the material sent on. I want to make sure the committee has received it.

Deputy Bobby Aylward: In regard to the Garda members who were acting as directors when these companies were set up, that was completely illegal, was it not? Under the law and the rules and regulations of the public service, they cannot serve as directors of any private company. Will the witnesses fill me in on that? Was that completed? There was no consent from a Minister or anyone else. They just set this up and they were members of the board, as directors, and they never made any declarations, as we all have to do under the regulations. Will the witnesses fill me in on that?

Mr. Niall Kelly: The general rule is that one needs to get the permission of the Minister in order to become a director of a company and that did not happen.

Deputy Bobby Aylward: Was it illegal?

Mr. Niall Kelly: It is illegal or highly irregular.

Deputy Bobby Aylward: Did they make any declarations when they were directors?

Mr. Niall Kelly: I did not find any and I made the recommendation in the report that they needed to retrospectively make those declarations.

Deputy Bobby Aylward: I would have no hesitation in saying that was illegal practice.

Mr. Niall Kelly: It is very close.

Deputy Alan Kelly: It is contrary to the law.

Mr. Niall Kelly: It is contrary to the law.

Deputy Bobby Aylward: That means it is illegal. I would like to make a further contribution later.

Chairman: I will go through one or two issues with Mr. Kelly and Mr. Culhane. We have referred several times to Mr. Culhane's letter to Mr. Kelly dated 20 February concerning the internal audit report. I draw attention to something else Mr. Culhane said a moment ago. The letter included various complaints to Mr. Kelly, one of which related to offshore bank accounts, which we have clarified do not exist. There may have been a reference to them but we are satisfied that there is no evidence that they exist.

Point 2 of the letter is as follows.

In front of junior staff in the Finance Section you stated on the phone that what was going on in the College was comparable to what had gone on in the charity, *Console*. Your indiscretions are a source of concern.

Did Mr. Kelly make a comparison with Console?

Mr. Niall Kelly: Again, these comments are made completely out of context. I have to take exception.

Chairman: Let us look at the context. Did Mr. Kelly make some comparison?

Mr. Niall Kelly: I cannot recollect. I spoke to a lot of people in the college. I cannot re-

member every word I said in the college. Obviously, somebody was taking notes or whatever. I do not know.

Chairman: Mr. Kelly does not recall making the comment but he is not sure.

Mr. Niall Kelly: I do not recall that comment.

Chairman: What was the basis for Mr. Culhane putting this statement in writing?

Mr. Michael Culhane: First of all, it did not happen in the Garda College.

Chairman: Pardon me.

Mr. Michael Culhane: It did not happen in the Garda College. It happened in the finance section in Garda Headquarters where Mr. Kelly was visiting-----

Chairman: In Dublin.

Mr. Michael Culhane: Yes.

Chairman: I ask Mr. Culhane to outline his understanding of that comment drawing a comparison with Console, even though it is based on second-hand information.

Mr. Michael Culhane: It was reported to me that Mr. Kelly was speaking on his mobile. Obviously, he was discussing some of the issues that he had discovered in the college, maybe in terms of personal gifts or entertainment, and it was reported to me that he stated that what was going on in the college was comparable to what happened in Console. At that time, the Console charity was in the newspapers.

Chairman: We dealt with that matter and witnesses appeared before the committee at the time. Could Mr. Kelly have made such a comparison?

Mr. Niall Kelly: I do not recollect. Does Mr. Culhane know who I was talking to on the phone?

Mr. Michael Culhane: I was not even in the room myself. It was reported to me.

Mr. Niall Kelly: How am I supposed to answer that?

Chairman: I am not finished. This letter will end up being more significant when we come to do our review of proceedings. As I stated, the letter was sent to Mr. Kelly on 20 February. Did he rebut it in writing?

Mr. Niall Kelly: I did not, no. I sent a letter back. I think I sent a letter back saying I was going ahead with the report. No, I did not actually. I just went ahead and published the report.

Chairman: Mr. Kelly has left those comments on the record for the last three months.

Mr. Niall Kelly: Yes.

Chairman: Mr. Culhane seems reasonably satisfied that the remark was made and Mr. Kelly is not sure it was made. The reason this remark is serious-----

Deputy Alan Kelly: It is hearsay.

Chairman: It is hearsay but I am teasing out the issue.

Mr. Niall Kelly: Excuse me, Chairman, I have to-----

Deputy David Cullinane: With respect, the Chairman is not being fair because Mr. Culhane has not told us who said it.

Chairman: I will not be accused of not being fair. I will tease out matters equally with everybody. Some people may not like my line of questioning but everybody's evidence will be----

Deputy David Cullinane: Regardless of the line of questioning, Mr. Culhane has not been able to give us an answer.

Chairman: I do not want the Deputy to like my line of questioning. I am the Chairman and I will proceed. Mr. Kelly is not sure if that remark was made.

Mr. Niall Kelly: I cannot say that that remark was made.

Chairman: The essence of the Console case was that there was personal gain in that organisation. Mr. Kelly stated a moment ago that there was no personal gain. This is why I am homing in on the Console issue. I do not know if Mr. Kelly made a comparison with Console but if he did, that can only have meant in the eyes of the public that there was personal gain by someone. He is now saying he has no evidence of personal gain, which I accept. Let us all hope that the evidence backs up that statement. If, however, Mr. Kelly is satisfied that there was no personal gain, any reference to, or comparison with, Console, if he made one, would have been utterly gratuitous. I do not know whether he made such a comparison.

Mr. Niall Kelly: I have no recollection of using those words. I want to make two points here and I would like a minute or two to do so. One is that those comments were taken completely out of context.

Chairman: Which comments?

Mr. Niall Kelly: Those comments that the Chairman-----

Chairman: The comments about Console? Mr. Kelly just said he never made those comments.

Mr. Niall Kelly: Exactly. What I am saying is that they were taken out of context of conversations that I cannot recollect. I think they were deliberately put in that letter to undermine my position.

Chairman: If Mr. Kelly cannot recollect making the comments, how can he say they are taken out of context? That is a logical question given what he has just said.

Mr. Niall Kelly: They are hearsay.

Chairman: That is fine. Maybe we will ask Mr. Culhane about these serious allegations because there was lots of personal gain in the Console case. If it is being suggested that what happened in Console happened in Templemore, Mr. Kelly is happy it did not happen and there was no gain. I ask Mr. Culhane if he can recall who gave him the information he put in his letter.

In the same letter, at point 5 on the final page, Mr. Culhane states: "You stated to Superintendent McCabe that there was evidence of fraud in the College and that you were looking for

evidence of wrong doing in the College.” I know Mr. Kelly will say that is hearsay but did he make any remark about fraud?

Mr. Niall Kelly: I think I did mention fraud and the reason why I would have mentioned fraud is that in terms of internal audit standards I am required in every audit I do to consider the possibility of fraud.

Chairman: Mr. Culhane said Mr. Kelly told Superintendent McCabe there was evidence of fraud, not that he looked for fraud. Mr. Kelly is quoted in the letter as saying there was evidence of fraud. I just want to know if this is authentic. I know it is hearsay as Mr. Culhane did not hear it himself. We cannot have these letters from a most senior Garda official hanging out there without being tested and I am testing both Mr. Kelly and Mr. Culhane as to the source of what is in this letter.

Mr. Niall Kelly: As a professional auditor, I would not have used the words “evidence of fraud” unless I had evidence of fraud.

Chairman: Did Mr. Kelly have any evidence of fraud?

Mr. Niall Kelly: No. If I can just add something, I am continuing to audit and there is a possibility that there could be issues in the future. I am not completely-----

Chairman: -----closing the door to fraud.

Mr. Niall Kelly: It is a possibility.

Chairman: Is Mr. Culhane in a position to contact the persons who gave him the information he included in his letter and check their recollection? This is third party information which he included in the letter because it was relayed to him. It is hearsay and putting hearsay in letters such as this poses a serious risk. Mr. Kelly indicated that most of the allegations Mr. Culhane has made about him on these matters are based on hearsay and information from unidentified persons. This creates a difficulty when somebody is challenging an internal audit report and we go through the letter and find that the bulk of the reasons for not being happy with the report are possibly based on hearsay. Mr. Culhane will understand that the committee has a difficulty when we receive letters, the content of which we cannot back up in terms of who said what, when or where. Mr. Kelly states he did not say some of these things or has no recollection of saying them. Does Mr. Culhane understand that these letters cause the committee difficulties?

Mr. Michael Culhane: I understand, yes.

Chairman: Mr. Culhane’s letter makes seven points relating to handcuffs, Console, bank accounts, evidence of fraud and other issues. He put these matters in a letter in response to the draft interim audit report. I want Mr. Culhane to produce evidence about how he came to write that letter. It is a serious letter and we need to see how he came to write it and what evidence or information he had to allow him to write it. If those elements of hearsay cannot be backed up it is a very serious issue. It adds to a view people have about trying to get the audit report accepted. I have an open mind but if it transpires that Mr. Culhane is able to back up the content of the letter, we will be back to Mr. Niall Kelly to verify it. I do not know where this letter stands but I want it verified.

Deputy Bobby Aylward: Is the suggestion that it be withdrawn altogether-----

Chairman: We will come-----

Deputy Bobby Aylward: -----because it is all short-hand information?

Chairman: It is hearsay. I have pointed out how dangerous it is to send letters that are substantially based on hearsay. The audit report is based on facts and evidence and the contrary letter - we are now fairly well satisfied - is based on hearsay. Mr. Culhane might be able to back it up. I am not saying he will not but we need to be able to get to the bottom of it. What is important about this letter, for the public, is this is not 2008, 2006, 2010 or 2015. It is only a couple of months since the report. This is not a legacy issue; it is a very current response to the report that is in front of us. We have a job to do at the Committee of Public Accounts in terms of items that might have happened in previous years. A module will be dealing with the current issue. This is very current and we need to get to the bottom of it. Will Mr. Howard comment?

Mr. Michael Howard: I feel I am under a duty at this point to inform the committee that, in my capacity as chair of the audit committee, I have written formally to the Commissioner about our concerns about responses to the draft audit committee that was submitted by Mr. Culhane.

Chairman: Will Mr. Howard elaborate? What does he mean by his concerns? We are formally requesting a copy of that letter from whoever is responsible, and the reply.

Deputy Alan Kelly: Who wrote it?

Chairman: Mr. Howard has the floor on this one.

Mr. Michael Howard: I was very concerned by letters that were written by Mr. Culhane to Mr. Kelly in the course of the audit. I was advised it is not for me, as chairman, to interfere with anybody's right to comment on the report while it was there. In March I wrote a brief email to Mr. Culhane simply saying to him that I considered the letters were an inappropriate intervention. They had been copied to me and there was a letter sent to me which made certain requests of me, which I felt were not appropriate for somebody who was the subject of the audit. When our process completed, I wrote to the Commissioner as my term was ending because I felt I was under a duty to protect the independence of the internal audit function. I should inform the committee I have written to the Commissioner and handed it on as an issue to Dr. Cyril Sullivan, who has replaced me as the chairman.

Chairman: From 1 May.

Mr. Michael Howard: Yes.

Chairman: Did Mr. Howard receive a response to that?

Mr. Michael Howard: I received an acknowledgement. To be fair, I wrote on 19 April-----

Chairman: Who would have a copy of that? Is Mr. Nugent able to source those letters and the Commissioner's response?

Mr. Joseph Nugent: I can and perhaps I can talk to the Chairman offline afterwards. Clearly it is an issue of concern. The matter is being addressed but there is a due process involved so perhaps we can discuss it.

Chairman: I have a difficulty as Chairman talking to somebody offline because it is unfair to the other members. Mr. Nugent might write to us expressing his concerns-----

Mr. Joseph Nugent: That is fine.

Chairman: -----rather than having an unminuted private conversation.

Deputy Alan Kelly: For clarification, what is the issue? Is it a legal issue?

Mr. Joseph Nugent: If I can-----

Chairman: I ask Mr. Nugent to give a considered response.

Mr. Joseph Nugent: We will respond within a day or so on that issue if that is acceptable.

Deputy Marc MacSharry: I am not clear. Are we talking about a copy of Mr. Nugent's letter to the Commissioner and it being a problem to provide?

Deputy Alan Kelly: Yes.

Mr. Joseph Nugent: No, we are not.

Deputy Marc MacSharry: What is Mr. Nugent referring to?

Mr. Joseph Nugent: What I am talking about is-----

Chairman: Is the response to Mr. Howard's letter.

Mr. Joseph Nugent: -----the response to Mr. Howard's letter. The matter is being addressed. I am not saying there is a problem providing the letter.

Chairman: I have harped on this letter a number of times in the course of the meeting. I thank Mr. Howard. I have expressed grave concerns about this type of a letter with so much hearsay in it. I am asking for evidence to back it up or it will have to be withdrawn. It is a serious issue if it has to be withdrawn after it has been put out there during this process. Mr. Howard has indicated he came to possibly a similar view as chairman of the internal audit committee and was very concerned about the contents. He wrote to Mr. Culhane about that letter. It would have been helpful if Mr. Howard had told us about it but we know now. Mr. Howard has written to Mr. Culhane expressing his views and has also written to the Commissioner and we are now awaiting a response. We need to see all that information presented to us as quickly as possible.

Mr. Michael Howard: To be clear so there is no misunderstanding, my attitude to the letters was that I was not going to go down to a line-by-line. I simply said I am not engaging with this, I do not think it is right.

Mr. John Barrett: May I make a point?

Chairman: Yes, in one second. Is it Mr. Nugent who will ensure we get this reply?

Mr. Joseph Nugent: I will reply to the committee on it.

Deputy Alan Kelly: Who will provide the letter that Mr. Howard said-----

Mr. Joseph Nugent: I need to confirm that I can.

Chairman: Yes. Mr. Nugent has to go back to his office.

Mr. Joseph Nugent: If I can I will. I am not trying to be awkward. There is a process issue I need to consider.

Chairman: That is fine. Mr. Nugent might have to talk to Mr. Ruane. I do not know how the systems work. We will have the reply in the next number of days.

Mr. Joseph Nugent: Yes.

Chairman: It will certainly be quickly.

Mr. Joseph Nugent: The committee will have it. We have committed to provide additional material to the committee by close of business on Friday. The committee will have it by close of business.

Chairman: Today is Wednesday. We will have it before the end of the week.

Mr. John Barrett: I want to draw to the Chairman's attention that this is part of a pattern. Apparently, I too have been, as I discovered, the recipient - or at least the subject - of correspondence which was not shared with me despite repeated efforts to get copies of the letter. It is a matter that falls into exactly the same pattern which I find absolutely unacceptable. I want to make that abundantly clear. There is a very serious review of the text I received on foot of the work of this committee which perhaps I otherwise would not have received. If a cause for action arises it will be taken. I want to make that clear.

Deputy David Cullinane: Can Mr. Howard confirm if the-----

Chairman: At this stage, I have to call Deputy Peter Burke. He has not been given-----

Deputy David Cullinane: Can Mr. Howard confirm he said he wrote to the Commissioner to express concern about correspondence-----

Chairman: We are going to get that.

Deputy David Cullinane: -----from Mr. Culhane? Does that include correspondence that relates both to Mr. Kelly and Mr. Barrett or to Mr. Kelly only?

Mr. Michael Howard: It was three letters written in response. Please understand I have now left the office so I am no longer the custodian of the records. Off the top of my head I would say it was purely about Mr. Kelly and the business of the audit committee which is under my remit.

Deputy David Cullinane: Was Mr. Howard aware of the letters concerning Mr. Barrett?

Mr. Michael Howard: I acknowledge the assistance I received from the secretariat because, having left, they allowed me yesterday to come into the reading room and I saw the letter the Deputy is referring to in connection with Mr. Barrett. It concerns the official secrets complaint. That was the first time I read it.

Deputy Josepha Madigan: I have a question.

Chairman: Deputy Peter Burke will lead in a moment.

Deputy Josepha Madigan: I am not asking to speak. Will the Chairman put me on the schedule because I missed my slot? I was attending the Dáil reform committee and I had to step out.

Chairman: Deputy Madigan will be next on the list after Deputy Peter Burke because she

did not get in first. I am sorry about that. The issue is very current and germane. They are not legacy issues; they are current, which is why I want to deal with them. We will break in about ten minutes at 2 o'clock after Deputy Peter Burke puts his questions. Deputy Madigan may put questions after Deputy Burke or she can be the first speaker when we resume at 5 o'clock.

Deputy Josepha Madigan: I only have a couple of questions.

Chairman: We will have Deputy Burke and Deputy Madigan and then we will break until 5 o'clock.

Deputy Peter Burke: I have a question about the correspondence that was received yesterday from Michael Culhane to the committee, which is dated 4 March 2011. The Deputy Commissioner, Mr. Michael Culhane and Mr. Niall Kelly are referenced in it and there is a report into the financial regulation at the Garda College. I presume Mr. Kelly has seen it as his name was on the top of it.

Mr. Niall Kelly: Did it only arrive yesterday?

Deputy Peter Burke: Mr. Kelly's name is on the top. It looks like it has been sent to him. It says "urgent" and there are three names on the top of it.

Mr. Niall Kelly: Yes.

Deputy Peter Burke: Did Mr. Kelly have sight of that letter?

Mr. Niall Kelly: Yes, I had sight of it.

Deputy Peter Burke: I want to evaluate Mr. Kelly's responsibility in both his roles, how he carried out his work and whether he always acted in a way I expect someone in his position to act. The financial review of the Garda College that was issued to the chief administrative officer contains a number of points I am concerned by. Mr. Culhane obviously signed off on it. Mr. Culhane stated in the memo, for want of a better word, that the bar had audited accounts and was a separate entity. Is that correct? It stated the bar had its own audited accounts, derived its income solely from its trading activity and was outside the remit of the Garda Vote.

Mr. Michael Culhane: Yes, I accept that.

Deputy Peter Burke: On the date Mr. Culhane wrote that letter, the last audited accounts for the bar were back in 2009. Six or seven years had elapsed where no accounts were presented. How could Mr. Culhane make a statement like that without checking to see where the latest audited accounts were?

Mr. Michael Culhane: That was the information I had at the time.

Deputy Peter Burke: Where did Mr. Culhane get the information from?

Mr. Michael Culhane: In terms of my knowledge of the college, I would have known the bar was in existence, it had its own books and was subject to an audit.

Deputy Peter Burke: The last audit on that occasion was clear that the cash could not be substantiated and that estimates, essentially, had to be made. Mr. Culhane was writing in a letter to the chief administrative officer, making points that were not correct. Is that good enough in his role?

Mr. Michael Culhane: It was based on the information I had at the time.

Deputy Peter Burke: One has to check information. I expect someone in Mr. Culhane's role to check the information. He wrote that an entity was audited when in fact it had not been audited in a number of years. That tells me much about the capacity and how he carries out his role.

Where did Mr. Culhane get the information that everything was okay? How did the chain of command break down from where the accounts were audited to his desk when he wrote that letter?

Mr. Michael Culhane: There is no chain of command in terms of, say, the bar. There is a different stream with a chief superintendent being in charge and reporting to an assistant commissioner or executive director. At the time when I wrote that, I was working off the information I had. I did not check-----

Deputy Peter Burke: The information was obviously wrong.

Mr. Michael Culhane: Based on the facts I heard at the previous audit committee meeting, the information was wrong.

Deputy Peter Burke: Mr. Culhane did not check correctly when he wrote that letter.

Mr. Michael Culhane: I have to confess, yes, I did not.

Deputy Peter Burke: That was a shortcoming on Mr. Culhane's behalf.

On taxation of the Garda college, Mr. Culhane was in the process of applying for charitable exemption from the Revenue Commissioners for activities in the Garda college. Was that application ever finalised? Did the college get charitable status from the Revenue Commissioners?

Mr. Michael Culhane: We were looking for charitable tax status for the Garda Sportsfield Limited company. We did get confirmation in terms of its status.

Deputy Peter Burke: I want to make it clear now. Mr. Culhane stated the Garda college was seeking confirmation from the Revenue Commissioners that it is entitled to charitable exemption whereby, in the event of surplus funds being generated, that these are not subject to tax and ultimately applied for charitable purposes in the furtherance of educational objectives. That is not clear.

Mr. Culhane said that for the exemption being sought, the proceeds of such investments - in other words if the Garda college is making investments - are not subject to tax and re-invested in the college. That seems incredible.

Mr. Michael Culhane: Again, I have to return to the history of the matter. The objective of the college and its funding model was that it should generate a profit. The proceeds of that then should be re-invested in the facilities for the students.

Deputy Peter Burke: Up to €1.5 million per annum is going into this restaurant account. It is then divvied out to various entities and structures, about which we are still not clear. Mr. Culhane wrote to the chief administrative officer looking for tax exemption status for these activities and surplus funds accrued, in some cases, from investment income.

Mr. Michael Culhane: It has to do with the status of the Sportsfield company. There was

an issue then around the land, as well.

Deputy Peter Burke: It is not stated in the letter that it was in respect of that company. While Mr. Culhane is checking the documentation, I will turn to Mr. Niall Kelly.

Has he any private sector experience in auditing?

Mr. Niall Kelly: Not in auditing. I do in accounting.

Deputy Peter Burke: If Mr. Kelly was doing accounts for a large entity, what is the first part of the process?

Mr. Niall Kelly: Is the Deputy talking about accounting?

Deputy Peter Burke: Accounting and auditing.

Mr. Niall Kelly: The first thing I do is gather information, risk-assess the area, draw up the terms of reference, decide how I will do it, do my testing and then I write my report.

Deputy Peter Burke: One of the first things anyone would do is write to the banks and solicitors to see the balance in accounts and what accounts are held. That is the first thing any competent accountant or auditor would do. Did Mr. Kelly do that?

Mr. Niall Kelly: In terms of what?

Deputy Peter Burke: In terms of auditing and doing the internal audit. Mr. Kelly was aware from this memo that there were 13 accounts which had been closed. The number of accounts and the way they were dealt with raised serious questions. As internal auditor, when Mr. Kelly saw €1.5 million being channelled into this organisation, the first thing I thought he would have said to himself was what accounts are here and maybe I should check this. Did Mr. Kelly do that?

Mr. Niall Kelly: I checked it with the management in the college.

Deputy Peter Burke: An auditor does not go around checking things with management. He has to have professional scepticism, checking and stress-testing what has happened. It looks to me that Mr. Kelly did not do that.

Mr. Niall Kelly: What I did was I tried to get a full list of the bank accounts in the college.

Deputy Peter Burke: Who did Mr. Kelly ask?

Mr. Niall Kelly: I reviewed the documentation on Garda HQ. I then wrote to the administrator in the college.

Deputy Peter Burke: Is this back in 2011?

Mr. Niall Kelly: No. This was not in 2011. This was in 2016.

Deputy Peter Burke: I want to go right back to 2011. When Mr. Kelly was in sight of that memo in 2011 which stated 13 accounts were being closed by the organisation, what steps did he take on foot of that?

Mr. Niall Kelly: I did not conduct an audit in this area in 2011.

Deputy Peter Burke: I need to understand the process that Mr. Kelly as an internal auditor went through when he saw all was not well in the college with several accounts being closed. What did he do to check these accounts were not as bad as it appeared to be in the memo?

Mr. Niall Kelly: Is that the 2011 document from Mr. Culhane?

Deputy Peter Burke: Yes.

Mr. Niall Kelly: As I said, there was a process in getting that document. It was forwarded then to me.

Deputy Peter Burke: Mr. Kelly's name is on the top of it. How could there be a process if his name is on the top of it?

Mr. Niall Kelly: If the Deputy scrolls up the document, he will see there is a note from the Commissioner to actually give it to me.

Deputy Peter Burke: It states Mr. Kelly was to finish his review.

Mr. Niall Kelly: Where does it say that? Does the Deputy see the handwritten note?

Deputy Peter Burke: It states that, subject to approval, the head of internal audit should now be directed to complete his audit in the financial controls of the Garda college. That would suggest there was something going on at that stage.

Mr. Niall Kelly: There was not. At that stage, I carried out an audit of the subhead of expenditure relating to training. I relied on the work of Mr. Culhane in terms of the report that he appended.

Deputy Peter Burke: One does not rely on the word of another in the context of audits; one tests and stress tests. It seems the witness did not do that. Does the witness concur?

Mr. Niall Kelly: In the last session I agreed that I should have followed up more.

Deputy Peter Burke: That is a shortcoming on Mr. Niall Kelly's behalf.

Mr. Niall Kelly: I accept that.

Deputy Peter Burke: The €1.5 million was flowing from the Vote account into these various operations. How many tax numbers were prevalent?

Mr. Niall Kelly: Tax numbers?

Deputy Peter Burke: Separate tax numbers. An Garda Síochána has its own tax number for its employees, for gardaí and civilians alike. How many tax numbers are operating where this €1.5 million of public money is concerned?

Mr. Niall Kelly: Is the Deputy talking about PRSI numbers?

Deputy Peter Burke: No, I am talking about employer registration numbers. How many accounts with the Revenue Commissioners were there? It is referenced in internal audits that employees should be transferred over, so there must be another tax number to allow that to happen. If the bar is running an operation, it must be subject to VAT. If the restaurant is running operations, there are tax implications in that regard. It is a very straightforward question. How many tax numbers relating to these entities are in operation?

Mr. Niall Kelly: I am not sure. I think there is only one.

Deputy Peter Burke: That is incredible. The witness was the internal auditor in respect of this operation. Some €1.5 million went into this account over the past four years and the witness cannot tell me how many tax numbers are operating. That is incredible. I cannot understand this. The existence of tax numbers suggests that there is turnover - and we know there was - so we have to be assured that public money was used in a transparent manner. We cannot see that this was done. There may be tax liabilities in these cases. That is another shortcoming.

Mr. Niall Kelly: I do not accept that.

Deputy Peter Burke: We are talking about €1.5 million, more or less, going into and leaving the Vote account. It has been said that this account was for trainee gardaí and that there were various capacity issues within the college. The witness is aware that private accountants audited various activities. This did not provide a clear audit report, which is another shortcoming. There was €1.5 million involved here. There is a memo from 2011 which is raising huge issues about accounts that were closed because they were found to be incorrect. The witness is raising issues already raised by Mr. Culhane on some of the processes in place. Should he check in terms of the employees? Taxpayers' money is going into this account. He is the internal auditor of An Garda Síochána and cannot wash his hands and say that this is a separate entity about which he does not want to know. He should be asking how these people are being employed, what the structure is, how they are being paid, how the tax is being returned, what bank accounts they have, what name are the bank accounts in and how much is in the bank accounts. This is how normal audit procedure works. The witness did not do any of it.

Mr. Niall Kelly: I produced a substantial report in 2016. In 2011, I was reassured by the work of the finance director and others that-----

Deputy Peter Burke: With respect to the witness and his position, I was a private sector auditor. If I had let this happen, I would have been let go long ago. I cannot go to my boss and say that the bank accounts are correct because the financial officer in the company told me so. The auditor has responsibility. If there is a limitation of scope in respect of any aspect of that work, then he or she is responsible. It seems that the witness did not discharge his responsibilities because these processes were not followed.

In terms of the audit committee meetings on 15 July 2015 and 30 September 2015, I cannot understand why this matter was not front and centre in view of everything going on in the background. It was not even mentioned at the meeting on 15 July 2015. Why is that? Was the witness at the meeting?

Mr. Niall Kelly: I cannot understand that either. I was at the meeting.

Deputy Peter Burke: What did the witness do at the meeting? Did he decide not to bring it up?

Mr. Niall Kelly: I was unaware of the issues.

Deputy Peter Burke: The witness was aware in 2011. A review was to be carried out in the summer of that year.

Mr. Niall Kelly: Let us go back to 15 July 2015. Mr. Ruane made me aware, as an aside at the meeting in Templemore, that a document had been prepared by Mr. Barrett on 27 July 2015.

This is in my opening response. The report provided by Mr. Barrett was not given to the audit committee at its meeting on 15 July 2015. How could I have known?

Deputy Peter Burke: The 2011 document asks serious questions about the activities here. The biggest criticism I have of Mr. Kelly's office is that if I read the content and detail of that document back in 2011, I would have been suspicious. Mr. Culhane is equally guilty because he was writing things that are not true in this document. He has not checked or had the details vouched. I am hugely concerned about the procedures within An Garda Síochána. It is very clear that the process was not followed by either the witness or Mr. Culhane.

Mr. Niall Kelly: As I said on the previous occasion, I took this right to the top of the organisation in 2011. I got a report from Mr. Culhane which provided assurance to me. It reduced the level of risk that was apparent. At the same time, the college operation effectively closed shop. From 2011 to 2014, the college did not have any apparent risk issues.

Deputy Peter Burke: According to that note, it did have risk issues. What the witness is saying to me is ridiculous. From my perspective, if I was auditing a company in the private sector and the group financial controller said to me that there were no issues and that the bank balances were okay, I would not just walk away. The witness was relying on Mr. Culhane. His job was to challenge people in An Garda Síochána and to make certain that processes were followed to ensure there was evidence to assure him that the organisation's practices were operating as desired. The Revenue Commissioners should also check this in terms of the number of tax numbers. The witness cannot tell me how many tax numbers are in operation in this entity, which is even more damning.

Mr. Joseph Nugent: Just to confirm, there are five tax numbers.

Deputy Peter Burke: Do we know what they are for?

Mr. Joseph Nugent: They are the main Garda Síochána tax number and the numbers for the Sportsfield company, the restaurant, the bar and the shop.

Deputy Peter Burke: Are all of those entities tax compliant?

Mr. Joseph Nugent: We are in discussions with the Revenue Commissioners at the moment.

Deputy Peter Burke: We are talking about An Garda Síochána here. We are talking about those who enforce the law. We know that culture has changed in terms of governance in this country and how much we have moved on. Can Mr. Nugent tell the committee if the entities in question are tax compliant? This is very important.

Mr. Joseph Nugent: I can tell the committee that some of the entities have been wound up. The bar has been closed.

Deputy Peter Burke: Have the tax numbers relating to them been closed off?

Mr. Joseph Nugent: The issues are the subject of current discussions between ourselves and the Revenue Commissioners.

Deputy Peter Burke: Have up-to-date tax returns been filed for the tax numbers that have been closed?

Mr. Joseph Nugent: I am conscious that we are in active discussion with the Revenue Commissioners on this issue.

Deputy Peter Burke: I am asking a very straight question. Have up-to-date tax returns been filed for each of the closed entities?

Mr. Joseph Nugent: I will revert on that issue.

Deputy Peter Burke: The witness does not know the answer. It is very serious.

Deputy Alan Kelly: This is the Committee of Public Accounts. It is not a case of Mr. Nugent being able to revert on any issue he wants. If he knows the answer to a question and fails to give it, it is a very serious matter. He can say he does not know the answer in his role or he can give us the answer, but to say that he can revert on a specific question like that is totally unacceptable in my view. He either knows or he does not. If he does not, he is in the role of head of administration, which would make it incredible.

Chairman: Will Mr. Nugent be able to check it out by 5 o'clock? We will have a couple of hours' break.

Mr. Joseph Nugent: Yes.

Deputy Catherine Murphy: We are talking about the college, itself-----

Mr. Joseph Nugent: The sports field-----

Deputy Catherine Murphy: -----the restaurant-----

Mr. Joseph Nugent: -----the bar, the restaurant and the shop.

Deputy Catherine Murphy: That is four.

Chairman: Mr. Nugent has the afternoon. He might have the information for us by 5 o'clock.

Deputy Catherine Murphy: Sorry, the bar and restaurant are separate.

Chairman: It is always possible a witness will be here without-----

Deputy Catherine Murphy: Are the bar and restaurant separate?

Mr. Joseph Nugent: Yes.

Chairman: I call Deputy Madigan, who will be the last speaker before lunch.

Deputy Josepha Madigan: It has been a very long morning; I will be very short.

Is Mr. Barrett aware of any other bank accounts that have not already been disclosed?

Mr. John Barrett: I believe there may be some that have not yet been fully audited by Mr. Kelly. I think he flagged it in his opening statement that there are a number of areas he is looking into as subsequence. There may well be accounts attached to those items.

Deputy Josepha Madigan: Is there a bank account in Cabra?

Mr. John Barrett: It has been suggested to me that there might be, yes.

Deputy Josepha Madigan: Does Mr. Barrett know which bank it is?

Mr. John Barrett: I think it is AIB.

Deputy Josepha Madigan: What is that bank account for?

Mr. John Barrett: I do not know is the short answer. I have given details to Mr. Kelly for further review and exploration. I am not trying to encroach in any way on his remit. This man was made known to me and I gave that information to Niall Kelly.

Deputy Josepha Madigan: Has Mr. Barrett ever heard of CPOL? I believe it is an organisation that pays policing agencies for training courses for gardaí.

Mr. John Barrett: Yes.

Deputy Josepha Madigan: Are the proceeds of CPOL going into this bank account?

Mr. John Barrett: I do not know that.

Deputy Josepha Madigan: Does Mr. Barrett know what those proceeds are being used for?

Mr. John Barrett: My understanding in relation to an account that may have made its way to Cabra is more related to EU funding.

Deputy Josepha Madigan: Does Mr. Barrett think the EU funding is going where it is supposed to go?

Mr. John Barrett: I do not know is the short answer. I am not trying to dodge the question. Believe you me, Deputy, this is not something that I am aware of, but my erstwhile colleague on my right is looking at it.

Mr. Niall Kelly: Could I just interject here. On page 6 of my opening statement I state that there are two audits currently being examined at the moment. One is an audit of EU-funded projects-programmes in relation to the college going back to 1998. That is currently being audited. I hope to have that audit completed by our original date for coming back here, 13 July. Other than that, I would like not to say any more on that because I am currently auditing that.

Deputy Josepha Madigan: I appreciate that. My understanding is that some of those proceeds are not being spent. They are being spent on non-core Garda issues, if one likes, and the moneys are not going where they should be going. We would like to get information on that soon. Obviously it is relevant to the Committee of Public Accounts. If there are other accounts, we should be made aware of those as soon as possible.

Chairman: We will suspend until 5 o'clock. If Mr. Nugent is able to obtain some information between now and then, it will be helpful.

Sitting suspended at 2.25 p.m. and resumed at 5 p.m.

Chairman: We shall resume the meeting in public session. The first speaker for this session is Deputy David Cullinane. We will have ten minute slots and people will have an opportunity to contribute another time. The ten minute slots will give everybody a chance to contribute in the next hour and people can ask a further line of questions after that.

I again thank the witnesses for being with us here today. I do not know how long it will take, but it is 5 o'clock now. In about two hours, if we are not near finished, I propose that we take a short ten minute to allow people to stretch their legs. We will not sit here for an unfair period, from that point of view. I shall hand over to Deputy Cullinane.

Deputy David Cullinane: I wish to mention two themes. I ask the Chairman to remind me when five minutes have elapsed so that I do not lose the opportunity to mention a second matter.

Chairman: Yes.

Deputy David Cullinane: I shall start with Mr. Barrett. He has presented to this committee a lot of notes, memos and records of his version of meetings that took place. Is that something that he always did, professionally?

Mr. John Barrett: Well, historically, yes. Less so because of the sheer volume of meetings. I find myself going from meeting to meeting. To be honest, when this issue first arose it was clear to me that this was something of substance. When it became clear it had an historical lineage that was not dealt with I took it particularly seriously and documented it as I went.

Deputy David Cullinane: Are they contemporaneous notes?

Mr. John Barrett: Yes. I have them sitting on a laptop. I can give the committee the hard drive, which will have them dated.

Deputy David Cullinane: So the letter dated 1 October 2015 is on the meeting with Assistant Commissioner Twomey, the Chief Administrative Officer, CAO, and potentially others. When was that written?

Mr. John Barrett: Is that the meeting of 27 July?

Deputy David Cullinane: Yes.

Mr. John Barrett: The handwritten notes of that were done within 24 hours of it.

Deputy David Cullinane: I refer to the memo that Mr. Barrett gave of that meeting, where he said that the meeting started at 5.27 p.m. and went on for about two and half hours.

Mr. John Barrett: Yes, that would have been done shortly thereafter. I could not give the Deputy the-----

Deputy David Cullinane: When exactly? How long after the meeting were the notes done?

Mr. John Barrett: What I did was, because of the nature of the meeting, and as I explained earlier, it arose out of ... that was a meeting that I did not realise I was going to until I was invited just before it began.

Deputy David Cullinane: I understand. We have ten minutes, Mr. Barrett. I would appreciate, given the time-----

Mr. John Barrett: I do not precisely know. If I can find it in my file I will give it to the Deputy.

Deputy David Cullinane: I want to know the date that the meeting took place and the date

that he inputted the information to draft a memo or report.

Mr. John Barrett: I will provide that date to the Deputy. It is in a laptop and I can date it from the hard drive.

Deputy David Cullinane: Perfect. Mr. Barrett had a meeting with Mr. Howard on Thursday, 2 June. Was that in 2015?

Mr. John Barrett: Yes.

Mr. Michael Howard: It was 2016.

Mr. John Barrett: Yes, 2016. My apologies.

Deputy David Cullinane: Mr. Barrett drafted a memo for it. On what date did the meeting take place?

Mr. John Barrett: There are two really important timelines around that. I wrote a note of it after Mr. Howard left my office, which was about 6.30 or 7 o'clock on 2 June. I put it into the format that it is in on 22nd or thereabouts of July. I think it is dated 22 July.

Deputy David Cullinane: How long after the meeting with Mr. Howard?

Mr. John Barrett: Seven weeks. That is particularly important because in that period of time, quite frankly, as Mr. Howard explained himself, I had expected that there would be a follow-up meeting, at a minimum a follow-up telephone conversation. My concern was that there was not and that there were very important items that at that point I had, in effect, unburdened myself of.

Deputy David Cullinane: If the note was done seven weeks after the meeting took place, and it was done with a frame of mind that Mr. Barrett was concerned that Mr. Howard had not got back to him, and the tone of the memo seems to suggest that Mr. Barrett was a bit concerned about whether Mr. Howard was going to follow up on this or not, would that have influenced Mr. Barrett in what he wrote?

Mr. John Barrett: To some degree. To be fair to Mr. Howard, and he has made the point quite articulately this morning, the gap has a legitimacy that I have accepted subsequently. When I did write it my concern was to ensure that there was a documented record clearly dealing with the meeting on 2 June and events that happened subsequently. So it captures both, Deputy.

Deputy David Cullinane: When one writes something seven weeks later in a concerned frame of mind-----

Mr. John Barrett: Yes.

Deputy David Cullinane: -----it can influence what one writes.

Mr. John Barrett: No question. I would agree with that.

Deputy David Cullinane: Mr. Barrett's note reads:

Mr. Howard advised me of his deep respect for the Garda Organisation and of his close personal relationship with the Commissioner. He clearly advised me of his instinct as a 'life

long civil servant' to avoid matters which could give rise to embarrassment and controversy.

Mr. John Barrett: Yes.

Deputy David Cullinane: What did Mr. Barrett mean by that?

Mr. John Barrett: I think Mr. Howard has an instinctive eye for what is the need for good governance and order. I would respect the man's experience - nine years as Secretary General of Defence. In fairness, he called this out to me.

Deputy David Cullinane: What did Mr. Howard mean by "give rise to embarrassment and controversy"?

Mr. John Barrett: The Deputy can ask the man himself. I took a note of this.

Deputy David Cullinane: Poor Mr. Howard knows. Mr. Barrett wrote it and I want to know what he meant.

Mr. John Barrett: I understood that this would be the last kind of thing that he would like to have to deal with but he was willing to if he had to.

Deputy David Cullinane: When Mr. Barrett wrote his note did he have the impression that Mr. Howard was reluctant to deal with the matter?

Mr. John Barrett: I would not say reluctant. I would say disappointed at having to.

Deputy David Cullinane: The phrase "his instinct as a 'life long civil servant' to avoid matters which could give rise to embarrassment" suggests to me an attitude of let us not rock the boat and not deal with the matter. Mr. Barrett went on to say that he would come back to him but he did not.

Mr. John Barrett: Yes.

Deputy David Cullinane: The note continued: "He subsequently had a meeting with the Commissioner ... Previous meetings with Commissioners actually resulted in information not going to the C&AG's office." All of that suggests that Mr. Barrett was a bit suspicious of Mr. Howard's motives.

Mr. John Barrett: I was concerned.

Deputy David Cullinane: Mr. Barrett was concerned.

Mr. John Barrett: I have reconciled myself with the man himself so the Deputy can address his questions to both of us.

Deputy David Cullinane: I shall put it to Mr. Howard now. Mr. Barrett has said that he was advised by Mr. Howard. The note reads: "his instinct as a 'life long servant' to avoid matters which could give rise to embarrassment and controversy." Did Mr. Howard put it like that?

Mr. Michael Howard: Possibly neither of us would have put it like that if we had foreseen that it would be arising in this context. I mean, I was just being very candid with John at the time by saying that is what I am - I am a lifelong civil servant. I was-----

Deputy David Cullinane: Can Mr. Howard deal with the issue of "embarrassment and controversy"?

Mr. Michael Howard: Yes. Can I be very honest with the Deputy and cut to the end of it? I have found this an extremely demanding and difficult thing, personally, to do. I will put it as honestly as that. When I took on the chairing of the audit committee, and I say this in no critical way, it was suggested to me that it is just something where one comes along and one chairs four or six meetings a year. For the first part of it, it was busy and there was a lot of work done. Then this detonated. I was simply being very honest and saying, yes, this is very difficult, even today.

Deputy David Cullinane: What does Mr. Howard mean by difficult?

Mr. Michael Howard: I would find today a very stressful experience. I would find public speaking difficult. I find absolutely no pleasure in being embroiled in a controversy.

Deputy David Cullinane: That then would concern me somewhat because this is not about how somebody would feel at a given time.

Mr. Michael Howard: It was very-----

Deputy David Cullinane: Hold on, Mr. Howard.

Mr. Michael Howard: Okay.

Deputy David Cullinane: If one takes up a position as head of an internal audit committee-----

Mr. Michael Howard: Yes.

Deputy David Cullinane: -----one should know one has the responsibility, if wrongdoing happens, that one is going to have to confront it.

Mr. Michael Howard: Yes.

Deputy David Cullinane: If one is someone who would be uncomfortable when those situations arise, I would suggest that person should not be in that role because one has to have steel. One must be able to say that even though I might have a friendship or know these people I must do the right thing. What I am reading from Mr. Howard is that the situation made him uncomfortable.

Mr. Michael Howard: Now, can I be very clear? I was just being honest about how I feel-----

Deputy David Cullinane: Yes.

Mr. Michael Howard: -----but I ask to be judged on what I did. Bear in mind, and John did not know this, I had already spoken to the Comptroller and Auditor General before he had written the note. I accept the fact, and it would be better probably if I had spoken to him and told that, but I do have to-----

(Interruptions.)

Chairman: Mr. Howard, please continue uninterrupted.

Mr. Michael Howard: I do have to make it very clear to the committee that if I have a public duty to perform I will perform it. I was just being honest. On a personal level, some public duties are more pleasant than others.

Deputy David Cullinane: I shall make a final point on this theme before moving on my second one.

To be fair to us, the note from Mr. Barrett seems to suggest that Mr. Howard said he was around a long time as a lifelong civil servant, knew the Commissioner and has a close relationship with her, and that he did not want to do anything nor did he believe one should do anything that could cause embarrassment or difficulty for the organisation. All of that feeds into the pattern of “let us keep this internal and outside the purview of others”. I know that is not what has been said here. I am saying that it is difficult to take anything other than that from the note.

Mr. John Barrett: If I can just briefly bring everybody’s attention to page 641 at the end where I said: “I am committed to you. I will be completely forthright about matters in all areas.” I vested my trust, quite frankly, in Mr. Howard. I did so at the meeting on 2 June. I did expect that he would return to me but in the circumstances, when I sought advice on this, one of the things that emerged was “he is the statutory office holder, do not sweat it”. In fairness, as I learned subsequently, he acted his part completely with honour.

Deputy David Cullinane: When Mr. Barrett wrote that seven weeks later he did so because he was concerned whether Mr. Howard would follow through. I am not suggesting Mr. Howard did not follow through but when Mr. Barrett wrote that memo that was his frame of mind.

Mr. John Barrett: My frame of mind was based on the fact that I had anticipated that there would be a follow through on the idea that there would be subsequent meetings.

Mr. Kenneth Ruane: To go back to the start of the Deputy’s questions, at certain points during July, Mr. Barrett spoke to me in person and on the telephone. I can confirm that certainly on 29 July 2015 and 31 July he informed me of the meeting in the college and its duration and broadly what was discussed. I will make those notes available.

Deputy David Cullinane: I thank Mr. Ruane for that.

To return to Mr. Kelly, I spoke to him about his opening statement and his views, how he felt frustrated in his work. He used words such as “the interference and non co-operation and withholding information from internal audit” and gave examples of how that happened. He also broke it down into time periods. What was the first period?

Mr. Niall Kelly: It was 2008 to 2011.

Deputy David Cullinane: That was when Mr. Kelly felt that he was not getting co-operation.

Mr. Niall Kelly: Yes.

Deputy David Cullinane: Was Mr. Kelly aware of the extent of the irregularities and the problem then?

Mr. Niall Kelly: No, I was not.

Deputy David Cullinane: He was certainly very concerned that he was not able to do his job.

Mr. Niall Kelly: I was not getting information.

Deputy David Cullinane: How frustrated was he?

Mr. Niall Kelly: I discussed this at the last meeting. In my report to the Accounting Officer, the Commissioner, for 2010, I put in a paragraph about the college. I then deleted that paragraph on the basis of a report that came back to me from the Commissioner with a report from Mr. Culhane attached.

Deputy David Cullinane: That is what I am trying to get to because I am trying to reconcile Mr. Kelly's frustration and his sense of anger at not being able to do his job, "the interference and non co-operation and withholding information", with his decision on page 14 of the report. On 4 March 2011, the head of internal audit received a note from the chief administration officer marked "urgent" there was a note from the Commissioner and then Mr. Kelly removed a vital paragraph. The vital paragraph he removed was the one that referred to giving assurances on financial controls. Removing that paragraph was a dereliction of Mr. Kelly's duty. He felt when he wrote the paragraph that he could not have confidence in the financial controller yet he removed a paragraph, which gives us the impression that there is no problem and he had confidence in the assurances. Can he understand how difficult it is for me to reconcile that with his earlier testimony that he was frustrated and that information was being withheld?

Mr. Niall Kelly: My opening statement was written with the knowledge I have today. In 2010-11, I did not have that level of knowledge. I did not perceive that people would deliberately block me. When I brought it to the highest level in the organisation-----

Deputy David Cullinane: That is not what Mr. Kelly told us. With respect, he told us that from 2009 onwards he was seeking information. In 2010 he was seeking information. This is 2011, two years on. He was walking us through his frustration, the lack of co-operation and all of that and when it came to the crunch, possibly because of a handwritten note from the Commissioner he backed off. Did he back off?

Mr. Niall Kelly: Did I back off? I deleted that paragraph. At the last meeting I said that was a mistake-----

Deputy David Cullinane: It was more than a mistake.

Mr. Niall Kelly: It was a mistake. Did I back off? I did not intend to back off. I thought I had brought it to the highest level.

Deputy David Cullinane: On reflection now would Mr. Kelly say he backed off?

Mr. Niall Kelly: On reflection now I would not have done it now, today or this year, with the knowledge that I have of how the organisation works. I did not have that level of knowledge back in 2011.

Deputy David Cullinane: What about his knowledge of how the Comptroller and Auditor General's office works? Would he have been knowledgeable about that in that period?

Mr. Niall Kelly: I would, yes.

Deputy David Cullinane: In 2009, when Mr. Kelly first became aware of the existence of the 2008 report, did he inform the Comptroller and Auditor General?

Mr. Niall Kelly: I am trying to think back.

Deputy David Cullinane: While Mr. Kelly is thinking can the Comptroller and Auditor General tell me whether Mr. Kelly alerted his office in 2009 to any problems?

Mr. Seamus McCarthy: We have no record of any notification.

Mr. Niall Kelly: I did not alert the Comptroller and Auditor General's office.

Deputy David Cullinane: Did he alert it in 2010?

Mr. Niall Kelly: No, I did not.

Deputy David Cullinane: In 2011, when he removed that vital paragraph, which stated he could give no assurance the financial controls - the identical paragraph that causes all of us concern about the 2016 interim audit report - did he alert the Comptroller and Auditor General's office?

Mr. Niall Kelly: No because I was convinced at that stage that the issues were being resolved.

Deputy David Cullinane: That is not good enough because he had a responsibility. During that period would he have been engaging with the office of the Comptroller and Auditor General in the course of his work?

Mr. Niall Kelly: Yes.

Deputy David Cullinane: I asked Mr. McCarthy at the last meeting when we discussed these issues when he should have been first informed of all these issues and he said probably in 2006 but most definitely in 2008. Is that correct?

Mr. Seamus McCarthy: That is correct. That would still be my position.

Deputy David Cullinane: Would he have expected Mr. Kelly in 2009, 2010 or 2011 to have at least informed his office of his concerns?

Mr. Seamus McCarthy: I would have expected that significant matters of that nature in his knowledge would have been communicated to us at some level.

Deputy David Cullinane: Does that not make Mr. Kelly uncomfortable?

Mr. Niall Kelly: It does.

Deputy David Cullinane: Does that make him fit to continue, in his role as head of internal audit, to continue with this audit, given that there is more work to be done, is he the person best placed to do that?

Chairman: That is quite personal, Deputy.

Deputy David Cullinane: No, it is in his role. Does the Chairman want me to take out the Garda Act? I can take out the Act which refers to responsibilities. This refers to policies processes and procedures and someone's role, not their personality. It is whether, given the history, they are the best people to continue doing the internal audit. I am only asking him for his opinion. He can give whatever answer he wants. I am asking for his opinion.

Chairman: I want the Deputy to be careful. On the last day at another meeting another member asked a person if they thought they were fit-----

Deputy David Cullinane: I am asking Mr. Kelly his own opinion of himself, not a third party or anybody else.

Chairman: It might be for others to decide. Mr. Kelly should be careful with his answer.

Mr. Niall Kelly: I was not aware of the McGee report in 2011. I had not got that.

Deputy David Cullinane: Mr. Kelly had a summary of it.

Mr. Niall Kelly: I had a summary of it and I had assurances from the Accounting Officer and the financial director. I was not aware of it. I have said in this committee that was a mistake. I have learned from that mistake. I think I am in a better position than I was in 2011 to continue in my role and to absolutely push this.

Deputy David Cullinane: Does Mr. Kelly accept that the Comptroller and Auditor General is of the view that he should have informed him at some point between 2009 and 2011 and he did not?

Mr. Niall Kelly: In March 2011, I resolved it in my own brain. There were issues and I was not getting information. I brought it to the highest level. I got a response from the Commissioner, the deputy commissioner and the executive director of finance. At that stage I was of the opinion that these issues were being thoroughly followed up.

Deputy David Cullinane: Can Mr. Kelly at least acknowledge that he made a mistake and failed by not informing the Comptroller and Auditor General and by removing that paragraph? Can he concede that?

Mr. Niall Kelly: I have already conceded that at the last meeting.

Deputy David Cullinane: Is he conceding it again today? Does he also concede that not informing the Comptroller and Auditor General was a mistake?

Mr. Niall Kelly: In my own brain I had resolved the issue, therefore I did not think there was an issue at that stage to report to the Comptroller and Auditor General.

Deputy David Cullinane: Mr. Culhane had the 2008 report. Why did he not alert the Comptroller and Auditor General?

Mr. Michael Culhane: I report to the chief administrative officer. I recommended in my minute of 2008 that they should report to the Comptroller and Auditor General.

Deputy David Cullinane: Did it happen?

Mr. Michael Culhane: No, it did not happen.

Deputy David Cullinane: With all the reports Mr. Culhane had, did he at any point between 2008 and 2015 alert the Comptroller and Auditor General's office?

Mr. Michael Culhane: No.

Deputy David Cullinane: Mr. Culhane did not. Nobody did. Who in the organisation has responsibility for informing Mr. McCarthy? Does the buck stop with the Commissioner as the Accounting Officer?

Mr. Seamus McCarthy: Yes, the primary responsibility for informing me rests with the Accounting Officer.

Deputy David Cullinane: Is it Mr. McCarthy's view, as the Comptroller and Auditor Gen-

eral, that former Commissioners, who had been made aware of reports, failed in their duty to inform Mr. McCarthy's office of these matters? Is that his opinion?

Mr. Seamus McCarthy: Previous Accounting Officers did not inform my office of it. I do not want to engage in judgments. It is the nature-----

Deputy David Cullinane: Did they have a duty?

Mr. Seamus McCarthy: It is the nature of the kind of thing that should have been disclosed to me and it was not.

Deputy David Cullinane: With respect, I was not asking for Mr. McCarthy's judgment. I am asking if they had a duty to inform Mr. McCarthy's office.

Mr. Seamus McCarthy: I would consider so. In fairness to witnesses who are here today, the obligation is on the Accounting Officer. When we have an engagement with an official representing the Accounting Officer, they are doing so on behalf of the Accounting Officer. It is not a personal failure of individuals; it is a failure of a system of communicating with my office about the audit.

Deputy David Cullinane: I imagine that in terms of best practice Mr. McCarthy would expect that when internal audit is aware of these types of issues they would inform his office. Mr. McCarthy has already conceded that.

Mr. Seamus McCarthy: I would expect that if the system is working, issues of significance are considered by internal audit, they are investigated by internal audit, the audit committee has sight of them and that I would be aware of programmes of work they are undertaking on those matters.

Deputy David Cullinane: I thank Mr. McCarthy.

Chairman: I will call on Deputy Kelly but for the information for the public, will Mr. McCarthy explain the interaction between the Comptroller and Auditor General and the Garda Síochána? Who is the principal point of contact in Mr. McCarthy's office? I am sure it is not Mr. McCarthy and the Commissioner who sit down to go through the accounts.

Mr. Seamus McCarthy: No.

Chairman: Will Mr. McCarthy explain who is who? It might be internal audit but I am sure there are other people apart from internal audit.

Mr. Seamus McCarthy: On my side, the audit is led by a senior auditor who is the principal contact with An Garda Síochána. Within An Garda Síochána there is regular contact with the head of internal audit but also with an individual within Mr. Culhane's unit, the finance unit. It is the finance officer.

Chairman: Many organisations do not have internal audit problems to this extent. The internal audit function does not present the appropriation account to the Comptroller and Auditor General.

Mr. Seamus McCarthy: No, it does not.

Chairman: When Mr. McCarthy goes in to do an audit, it is not internal audit that presents that.

Mr. Seamus McCarthy: No, it is the finance unit.

Chairman: What level in the finance unit?

Mr. Seamus McCarthy: Depending on the scale of the organisation and the number of-----

Chairman: In the Garda Síochána.

Mr. Seamus McCarthy: In An Garda Síochána, it is generally the finance officer, but there are contacts with the executive director of finance as well-----

Chairman: Right, so is the finance-----

Mr. Seamus McCarthy: -----and representations from the executive director.

Chairman: The finance department is a principal line-----

Mr. Seamus McCarthy: The principal line.

Chairman: -----for auditing the appropriation accounts.

Mr. Seamus McCarthy: Yes.

Chairman: Of course, there is contact with the internal audit function but the principal line of contact is with the finance section of the organisation for which the Office of the Comptroller and Auditor General is carrying out the audit.

Mr. Seamus McCarthy: And with the audit committee.

Chairman: And with the audit committee.

Mr. Seamus McCarthy: The senior auditor attends by invitation one or two meetings in a year of the audit committee.

Chairman: To see how it is getting along.

Mr. Seamus McCarthy: Yes.

Deputy Alan Kelly: Most of us who were here the last time and today, have sat here for the guts of ten hours and gone through thousands of pages. We have seen multiple contradictions between Garda management, among themselves and with the Commissioner. We have seen evidence that two members of civilian senior management do not have full confidence in their colleagues. We see issues across the board over financial procedures to the point where we do not even know if the Garda Síochána is tax compliant. We are talking about the Garda College and Garda finances but it is symbolic of a whole range of issues in the Garda. It is GUBU territory as far as I am concerned. This is a crisis for our country. The evidence that has been given here today means we have a crisis in our country with the Garda and the justice system. There is no way, given the evidence we have heard over ten hours or so, that I, as a public representative, could have confidence in senior Garda management or how the Garda is run. There is absolutely no way; it is impossible.

I will restate some evidence from earlier and then I will do a quick fire round. I would appreciate if people could be quick because otherwise I will keep coming back in all night. Mr. Barrett gave evidence earlier which I will repeat because it is critically important. We have two issues here. We have the process, which is the issue we are really dealing with, and then we

have the issues on the finances. We are not even getting to the latter because there are so many questions about processes going back decades.

As a result of my concerns about how the Garda is run in the State, I need to zone in on up-to-date processes. I will sum up what Mr. Barrett said in his evidence and he may correct me if I am wrong. The Commissioner appeared before the committee and said the first time she was made aware of this was 27 July. We heard that from the Commissioner. The evidence she gave as a witness is she acted promptly. There had already been a committee set up to deal with the issues in Templemore on 2 July. It met on 2 July and both Mr. Barrett and Mr. Culhane were at it. I asked Mr. Culhane if he agreed with what Mr. Barrett said and he said he did. This is very important. We now have evidence, which is a complete contradiction of what the current Garda Commissioner said about when these issues were being investigated. To be fair, the Commissioner will appear before us in the coming weeks. She says it was 27 July and that she acted promptly. Two witnesses here have confirmed the committee had already been set up on 2 July. The committee met after that. I will ask questions about that.

The second issue was raised by Mr. Ruane. He has notes, as the legal representative, which state he was informed by Mr. Barrett that Mr. Cyril Dunne, the head of administration, had informed the Garda Commissioner about the issues in Templemore. Is that correct?

Mr. Kenneth Ruane: That is correct.

Deputy Alan Kelly: He said he took a note of that. I am sorry for asking a third time.

Mr. Kenneth Ruane: I have a handwritten note in a contemporaneous document of July 2015.

Deputy Alan Kelly: What time of the day was it?

Mr. Kenneth Ruane: It was at 4.35 p.m.

Deputy Alan Kelly: On 30 June.

Mr. Kenneth Ruane: On 30 June.

Deputy Alan Kelly: We now have a situation where the evidence given by the Garda Commissioner is she acted promptly on 27 July when she first found out. We have heard from two witnesses who were at a meeting on 2 July that this committee had already been established.

Mr. John Barrett: There is a letter from me to Cyril Dunne on 8 July. I will read the last sentence of paragraph 3:

I am very concerned about ensuring that all relevant matters are made known to all the relevant parties as soon as possible. I have left the briefing of the Commissioner in your capable hands and I was delighted you had briefed her in advance of our meeting of Thursday last.

Deputy Alan Kelly: We also have a letter on 8 July which restates more or less what was stated on 2 July.

Mr. Kenneth Ruane: My first indication from Mr. Barrett that a working group was being proposed was on 6 July 2015.

Deputy Alan Kelly: Mr. Ruane has his note from 30 June. He has the letter from 6 July.

Mr. Kenneth Ruane: I just have a note of-----

Deputy Alan Kelly: A note of the letter.

Mr. Kenneth Ruane: -----a conversation I had with Mr. Barrett.

Deputy Alan Kelly: Mr. Barrett read out the letter.

Mr. John Barrett: I have the letter of 8 July, received by the Comptroller and Auditor General's office on 9 July, which confirms the point made to me by Cyril Dunne that he was-----

Deputy Alan Kelly: To sum up, we have a note about evidence that indicates that the Garda Commissioner was made aware of these issues on 30 June.

Mr. Kenneth Ruane: Mr. Barrett had told me on-----

Deputy Alan Kelly: I know that, but this is Mr. Ruane's note.

Mr. Kenneth Ruane: That is my note, yes.

Deputy Alan Kelly: We have a note from Mr. Ruane on 6 July-----

Mr. Kenneth Ruane: Yes, 6 July, informing me that the then chief administrative officer was proposing to set up a working group and that Mr. Barrett had indicated to me that the chief administrative officer had asked him to prepare a report in advance of the scheduled meeting of the internal audit committee for 15 July-----

Deputy Alan Kelly: We have the group that met on 2 July, and the two witnesses have said that Mr. Culhane and Mr. Barrett were party to that, and we now find out about the letter on 8 July, which also has a reference to it. It is very clear that there are definitive contradictions between the evidence given by the Garda Commissioner and the evidence being given here relating to three witnesses, namely, the head of legal affairs, the head of finance and the head of human resources, HR. I will move on to a quick fire round of questions because that is critically important for everybody here to be made aware of again.

Chairman: Who chaired that group or who set it up?

Deputy Alan Kelly: Who called the meeting that took place on 2 July?

Mr. Kenneth Ruane: I was not at that particular meeting.

Deputy Alan Kelly: I know that. That question is to Mr. Barrett.

Mr. John Barrett: Cyril Dunne.

Deputy Alan Kelly: Effectively, Cyril Dunne set up the group.

Chairman: And chaired the meeting.

Deputy Alan Kelly: Who chaired the meeting?

Mr. John Barrett: He did.

Deputy Alan Kelly: To get on to my quick fire round of questions, with regard to the steering group, did Mr. Ruane take the minutes of the steering group meetings?

Mr. Kenneth Ruane: For 6 August and 29 September, yes.

Deputy Alan Kelly: Mr. Ruane took detailed minutes of the meeting on 6 August.

Mr. Kenneth Ruane: Yes. I am aware that two documents have been provided to the committee, minutes of the meetings of 6 August and 29 September. I was going to come to that earlier. I have a file note relating to 6 August, which is more detailed than the minutes the committee has. I had sent a draft of minutes to the then chief executive officer, CEO, Mr. Dunne. In terms of full disclosure to the committee today, I received an e-mail from Mr. Dunne asking me to consider the draft I had prepared as I had gone into an inappropriate level of detail. I did redraft the note, but I did it on the basis that I would keep the earlier draft on my file, and it is available for the committee.

Deputy Alan Kelly: I want to get into this in more detail because I think the witness knows where I am going on it. Mr. Ruane took minutes for the 6 August meeting. He sent a draft of them to the head of administration-----

Mr. Kenneth Ruane: Yes.

Deputy Alan Kelly: -----and the head of administration wrote back to him telling him to change them.

Mr. Kenneth Ruane: I will read out the note. It states:

Ken,

Thank you for the attached. Before I review, I ought to share my initial reaction which is that the draft goes to an inappropriate level of detail.

I was referred to sample minutes that are on the Department of Public Expenditure and Reform, DPER, website.

It continues: "Would you mind having a go at a draft in a similar style that could be reviewed?"

I have to declare that I did look at the DPER sample minutes and I amended the minutes, but I indicated to Mr. Dunne at the next meeting that I would be keeping the earlier note on file as my own file note.

Deputy Alan Kelly: This is incredible evidence.

Deputy Mary Lou McDonald: I am sorry to cut across Deputy Kelly, Chairman, but can we have that file note?

Mr. Kenneth Ruane: I have copies here, yes.

Chairman: We need to get that circulated.

Deputy Alan Kelly: I will give the witness a minute.

Mr. Kenneth Ruane: My apologies. Upon reviewing my file on Friday I had brought this to the attention of various people.

Deputy Alan Kelly: That is fine.

Chairman: If Mr. Ruane passes it on, we will get a copy of it.

Mr. Kenneth Ruane: I have copies.

Deputy Alan Kelly: We will give the witness a moment to get that.

Mr. John Barrett: Chairman, may we have a copy also? I have not made copies of this.

Deputy Alan Kelly: Yes. Mr. Ruane might give it to the secretariat. I am sorry for the delay in continuing.

Mr. Kenneth Ruane: My apologies.

Deputy Alan Kelly: That is fine. To sum up, we know now about the 30 June, 2 July, 6 July and 8 July issues. We also have a situation where Mr. Ruane took minutes of two meetings.

Mr. Kenneth Ruane: Yes.

Deputy Alan Kelly: With regard to the first meeting, 6 August, I have never heard of a chief administration officer telling the head of legal affairs that his minutes were too detailed. Frankly, that is incredible. Mr. Ruane was asked to change the minutes but he held onto his notes. What does Mr. Ruane believe is the reason he asked him to change the minutes?

Mr. Kenneth Ruane: The Deputy is asking me for my opinion and my opinion was that there were certain tensions at that first meeting, and maybe this was the first meeting where those issues that led to those tensions were being discussed. That is my own view, but, in fairness-----

Deputy Alan Kelly: In other words, the cat was out of the bag.

Mr. Kenneth Ruane: Inter-personal tensions were certainly discussed. There were discussions about different views persons had as to what should be done at that point in time but, in fairness, I am sure Mr. Dunne can-----

Deputy Alan Kelly: Of course.

Mr. Kenneth Ruane: I do not want to speculate as to-----

Deputy Alan Kelly: I know.

Mr. Kenneth Ruane: That is my own view.

Deputy Alan Kelly: Mr. Ruane believes there were tensions in the room. I have never seen this or read it, so-----

Mr. Kenneth Ruane: Again, my apologies to the committee-----

Deputy Alan Kelly: That is fine. We will get time to read it.

Mr. Kenneth Ruane: -----but it has the actual minutes from finance.

Deputy Alan Kelly: What is the difference between the minutes and this note?

Mr. Kenneth Ruane: Perhaps there is more detail in terms of certain issues that were controversial.

Deputy Alan Kelly: I will shortly be out of time. I want Mr. Ruane to give me the précis. What does he believe is the difference between the two of them?

Mr. Kenneth Ruane: There were certain issues that I alluded to earlier about concerns that were expressed by Mr. Culhane about me getting external advice. Mr. Dunne had alluded to tensions between certain persons regarding the approach that was being taken.

Deputy Alan Kelly: Who are those persons?

Mr. Kenneth Ruane: My own view was that he was alluding to Mr. Barrett and Mr. Culhane.

Deputy Alan Kelly: I thank Mr. Ruane. Subsequent to a meeting with Mr. Barrett, did Mr. Howard meet with deputy Commissioner Ó Cualáin?

Mr. Michael Howard: At some point, yes, and I am being totally honest with the Deputy now.

Deputy Alan Kelly: Mr. Ó Cualáin did not have a great memory when he was here. He could not remember whether it was a five minute or a two hour meeting.

Mr. Michael Howard: I have met with deputy Commissioner Ó Cualáin. The next step, I am fairly sure, was that I met the Commissioner.

Deputy Alan Kelly: Mr. Howard met Mr. Barrett, then Mr. Ó Cualáin and then the Commissioner.

Mr. Michael Howard: No. I think I met the Commissioner first.

Deputy Alan Kelly: Mr. Howard then met deputy Commissioner Ó Cualáin.

Mr. Michael Howard: I do not want to accidentally mislead the Deputy on the basis of other things.

Deputy Alan Kelly: I know. Anyway, Mr. Howard met deputy Commissioner Ó Cualáin at some point.

Mr. Michael Howard: Yes. I have a feeling that it was later.

Deputy Alan Kelly: That is fine. What did deputy Commissioner Ó Cualáin say to Mr. Howard?

Mr. Michael Howard: I am sorry; I am just reflecting for a moment.

Deputy Mary Lou McDonald: Chairman, to assist Deputy Kelly, this is astonishing. Mr. Howard has come in here today to assist us on these matters. I find it very hard to believe that he has no recollection of them or that he has not taken the trouble to sequence matters so that he can present them in a coherent way. I am sorry, Deputy Kelly.

Deputy Alan Kelly: That is fine.

Chairman: I want to point out, in fairness, that Mr. Howard is no longer chairman of the audit committee. He had no access whatsoever to the records to refresh his memory before coming here today. In fact, he came in here yesterday to look through the documents submitted to us so he could help refresh his memory, but he is no longer on the committee and he has not

had an opportunity-----

Deputy Mary Lou McDonald: I am sorry, Chairman, but when it is on the substantive matter of who he met and in what sequence, on matters like this I would have expected Mr. Howard to confer with his diary or whatever records he keeps. It seems to me to be obfuscation. It is delaying our inquiries.

Deputy Alan Kelly: Mr. Howard met with the assistant commissioner on-----

Mr. Michael Howard: I met with assistant commissioner. Assistant Commissioner Ó Cualáin is the Garda representative on the audit committee.

Deputy Alan Kelly: Of course, I know that.

Mr. Michael Howard: So I would have occasion to speak to him on the phone and to meet him.

Deputy Alan Kelly: What did he tell Mr. Howard? Did he tell Mr. Howard that there was nothing to see here and that Mr. Howard had nothing to worry about or did he tell Mr. Howard that this was explosive, had been going on for a decade and the internal auditor had not been told? Alternatively, did he tell Mr. Howard none of the above and did the two just talk about sports?

Mr. Michael Howard: No, I assure the Deputy that I took it far more seriously than that. My best recollection of my next conversation with Assistant Commissioner Ó Cualáin would be that I was urging upon him the urgency of dealing with this situation, my own surprise that the matter had been presented as it was and that the audit committee had been dealt with as it was and that I was very unhappy about that.

Deputy Alan Kelly: Was Assistant Commissioner Ó Cualáin happy with the situation?

Mr. Michael Howard: No. He would have assured me that he was genuinely very sorry. I should explain in terms of the sequence of who served, the chief administrative officer left in December. Assistant Commissioner Ó Cualáin took up office towards the end of 2015 so he would not have been involved in the initial briefing of the committee. The Deputy asked me what I said to him. I would have urged upon him the need to deal with this urgently and the view that I had taken it very seriously. Mr. Kelly and I had talked about notifying the Comptroller and Auditor General. To be fair to Mr. Kelly, I offered to make the first call-----

Deputy Alan Kelly: I am more interested in what Assistant Commissioner Ó Cualáin said to Mr. Howard. Did he express a view that this was incredible stuff, it had been going for years, he was very concerned about it and believed An Garda Síochána had real issues here and that it would come out? He was an assistant commissioner of An Garda Síochána and is sitting on the external audit committee, which has not been told about all of this stuff, which has been going on for a decade and more. Surely it must have been an extraordinary conversation which no human being would forget.

Mr. Michael Howard: Does the Deputy mean from my point of view?

Deputy Alan Kelly: From the assistant commissioner's point of view. He has been in here. We will find out about his memory again.

Mr. Michael Howard: I can assure the Deputy that in any of the conversations I had in the

aftermath of what I would call my moment of discovery, the traffic was generally going from me to the Commissioner and then the assistant commissioner. I was only being honest when I said to the Deputy on the spur about the audit. I do not know if anything particularly turns on it. Certainly I know that my message was quite consistent.

Deputy Alan Kelly: What was the assistant commissioner's message?

Mr. Michael Howard: My message?

Deputy Alan Kelly: The assistant commissioner's message.

Mr. Michael Howard: He seemed surprised and disappointed and he was apologetic to me personally about the way-----

Deputy Alan Kelly: Did he tell Mr. Howard when he first became aware of these issues?

Mr. Michael Howard: I would have asked when did he know. I would have taken the impression - he will give his own evidence - that it was never his intention that either I or the committee would be deceived or have anything withheld from us.

Deputy Alan Kelly: This is my point. He was on the audit committee. What date did the audit committee find out?

Mr. Michael Howard: Again, I want to be clear about it. The first mention of it as any other business was 30 September 2015. The first time we got-----

Deputy Alan Kelly: We will take that date. He is sitting on the audit committee.

Mr. Michael Howard: Not at that date.

Deputy Alan Kelly: He was sitting on it afterwards. Did Mr. Howard not ask him or did he not proffer, seeing as he was sitting on it, whether or not he was aware of these issues for a number of years?

Mr. Michael Howard: He certainly would not have given me the impression that he was aware of them. In fact, I got the impression from him-----

Deputy Alan Kelly: I will leave it there for time reasons. I do not think I am happy with the answers but I must move on.

Chairman: Deputy Kelly is on his last question. We will get another opportunity.

Deputy Alan Kelly: I have so many more questions but I will get back in. I have a few quick fire questions for Mr. Nugent. What happened between 4 May and now? Will he outline to the committee what has happened as regards the gathering of evidence and the requests that came in? Was there a meeting or any conversations regarding preparing for this committee? When Mr. Nugent was gathering evidence or looking for information, did he write and speak to every witness here to gather up that information? The reason I am asking this is because Mr. Nugent is the conduit.

Mr. Joseph Nugent: Did I personally know? People in my office would have sought information and materials that are there. We would have continued a process of looking beyond even the individuals who are here to get that material. In respect of preparing for the meeting today, I suggested a meeting on Monday of the people here - not for the purposes of discussing

what their evidence would be but for the purposes of ensuring that they had access to all of the materials that were needed for the meeting today. There were individuals who were concerned about meeting so we did not have the meeting and the meeting did not proceed.

Deputy Alan Kelly: What were the concerns?

Mr. Joseph Nugent: There were concerns that it would be perceived that there was an attempt to influence the evidence.

Deputy Alan Kelly: Truthfully and honestly, which the Committee of Public Accounts is all about, has all evidence and documentation of which Mr. Nugent is aware that is necessary for us to do our job been provided to the committee?

Mr. Joseph Nugent: We continue to search for documents.

Deputy Alan Kelly: I did not ask Mr. Nugent about the search. Has everything of which he is aware been provided to the committee?

Mr. Joseph Nugent: Yes, anything of which I am aware.

Deputy Alan Kelly: Is there anything else of which Mr. Nugent is aware, bar the letter the Commissioner has claimed legal privilege on, because in respect of a number of questions earlier, Mr. Nugent said he would have to refer back? That concerns me deeply because as regards this constitutional committee, it is not a question of choice. If there is evidence there, unless there is some legal issue, which we referred to earlier, Mr. Nugent is obliged to give it. I am going to be very clear on this. Is there any document in any shape or form of which Mr. Nugent as the conduit bringing it to the committee is aware that is relevant and is not in the possession of this committee? I ask Mr. Nugent to think before he answers.

Mr. Joseph Nugent: I am aware that the committee has sought access to a series of documents and they are being pulled together for the purposes of being returned by Friday. That material is being pulled together as we speak.

Deputy Alan Kelly: All the documentation that we require is being provided by Friday; there will be nothing missing.

Mr. Joseph Nugent: I cannot say that. I would say that anything of which we are aware will be provided by Friday.

Deputy Alan Kelly: To be fair to Mr. Nugent, I only mean documentation of which An Garda Síochána is aware. I do not mean the stuff it has not discovered.

Mr. Joseph Nugent: We have heard discussions today where the volume of material that is there is extraordinary so-----

Deputy Alan Kelly: This is my last question because the Chairman is going to throw me out. Did Mr. Nugent have discussions or meetings between 4 May and now with any of the people here in respect of possible legal consequences of the documentation they were providing or evidence they were giving?

Mr. Joseph Nugent: No.

Deputy Alan Kelly: None whatsoever? Mr. Nugent did not meet any of the people here?

Mr. Joseph Nugent: No, I am happy for the Deputy to ask the individuals here.

Deputy Alan Kelly: So Mr. Nugent was not concerned about any consequences of evidence or documentation provided or-----

Mr. Joseph Nugent: The question of legal privilege is clearly one that we discussed earlier and-----

Deputy Alan Kelly: I am exempting that question even though I do not agree that the Garda Commissioner should claim privilege on it.

Mr. Joseph Nugent: That is one area where there was-----

Deputy Alan Kelly: So there was nothing of concern. Do any other witnesses want to comment on that?

Mr. John Barrett: I received an invitation to the meeting. The meeting was cancelled. I had no conversation with Mr. Nugent.

Deputy Alan Kelly: What was the purpose of the meeting?

Mr. John Barrett: Mr. Nugent has just explained. A meeting was originally set up. I think Mr. Ruane gave some advice that it might not be a prudential thing to do in light of our experience on the first occasion.

Chairman: We will now hear from Deputy Connolly. Could Mr. Howard or Mr. Kelly tell me who can send us a copy of the minutes of the audit committee? I think we have seen the September ones. It relates to the December and March minutes - the relevant period.

Mr. Michael Howard: The secretary of the audit committee should have those.

Chairman: Who is that?

Mr. Joseph Nugent: I will arrange for them to be sent.

Chairman: Just so we know who was there because we have mentioned people, some of whom only came on in 2016. We just want to have a feel for it.

Mr. Joseph Nugent: Could the Chairman indicate what period he is looking for in terms of audit committee meeting minutes?

Chairman: We have September 2015.

Mr. Joseph Nugent: So it is from September? That is fine.

Chairman: It is from then until now, which is not a long period. Could Mr. Howard tell me approximately how many meetings of the audit committee were held in 2016?

Mr. Michael Howard: Approximately five.

Chairman: Approximately, so there was a meeting only every couple of months.

Mr. Michael Howard: Yes. The Act states one should meet a minimum of four times a year. I think it has averaged five or six.

Chairman: To get our sequence right, Mr. Kelly states on page 10 of the internal auditors' report that the deputy commissioner for strategy and change management requested on 29 March 2016 that an audit be conducted on the Garda College to examine various matters. That is when Mr. Kelly was requested to conduct it. I take it that was the result of an audit committee meeting. Who are we talking about there?

Mr. Niall Kelly: Deputy Commissioner Ó Cualáin.

Chairman: Would that have been his first audit committee meeting?

Mr. Michael Howard: No.

Mr. Niall Kelly: It may have been his second, I think.

Chairman: He came onto the audit committee only after-----

Mr. Michael Howard: It was 2015.

Chairman: It was only his second, and he was a conduit through which Mr. Kelly was asked to prepare the audit. This committee is to be sent a record of the minutes. There were only half a dozen minutes.

Is there an internal audit charter that is operated?

Mr. Michael Howard: There is an audit committee charter and there is a charter for the internal audit section.

Chairman: Is Mr. Howard happy, as chairman, that he followed the internal audit committee charter fairly?

Mr. Michael Howard: Yes.

Chairman: Is Mr. Kelly, as the internal auditor, happy that he followed the charter for the internal audit?

Mr. Niall Kelly: I am.

Chairman: For what period? Was it for all the periods?

Mr. Niall Kelly: For all periods, yes.

Chairman: Mr. Kelly said earlier, however, that he might have done things differently years ago, in 2011, if he had the information he has now.

Mr. Niall Kelly: What I said is that I made a mistake in 2011. It does not mean I did not apply what was in the charter. It was an error of judgment. I received assurances from the very top of the organisation and I accepted them. Maybe I should not have.

Chairman: That is fine.

I would like the minutes if it is not too difficult to send them to us. I would also like a copy of the charter for the committee and for the internal audit. Who is going to arrange to send that?

Mr. Joseph Nugent: I will.

Chairman: I am sure they are standard documents in public bodies, by and large.

Deputy Marc MacSharry: Could the Chairman give us the running order?

Chairman: It is Deputy Catherine Connolly, Deputy Catherine Murphy, Deputy Alan Farrell, Deputy Marc MacSharry, Deputy Peter Burke, Deputy Mary Lou McDonald and Deputy David Cullinane. I call Deputy Connolly.

Deputy Catherine Connolly: I thank the witnesses for coming before us. It is a very good process. Mr. Barrett stated what occurred would not happen in private practice. I do not agree with him on that.

Mr. John Barrett: Let me clarify.

Deputy Catherine Connolly: I will give Mr. Barrett an opportunity later. If we hauled in some of the banks or some of the private companies, God knows what would emerge. They are not subject to our scrutiny; I wish they were. In that context, I welcome this scrutiny. I do not welcome what I am hearing but I welcome the scrutiny. If it were applied to the private sector, I have no doubt the result would be equally as bad.

I am sorry I interrupted Mr. Barrett.

Mr. John Barrett: I have worked for six multinational organisations. I would never have seen this in any of those six. I have not worked for Enron or any of the banks. I just want to make the point that what I describe is from my experience of the multinational industry.

Deputy Catherine Connolly: I accept that. Mr. Barrett has not worked in the banks.

Mr. John Barrett: No.

Deputy Catherine Connolly: We have just seen Bank of Ireland this week.

Mr. John Barrett: Okay. My experience is my own.

Deputy Catherine Connolly: I accept that.

Let me start again with the internal audit report and the 19 recommendations. This is really where we should be at. Owing to what has emerged today and the last day, we are not getting there. Who is on the oversight committee? Mr. Nugent-----

Mr. Joseph Nugent: I chair the steering group-----

Deputy Catherine Connolly: The steering group that is overseeing-----

Mr. Joseph Nugent: -----that is overseeing the implementation of the recommendations.

Deputy Catherine Connolly: Just to clarify, who else sits on that with Mr. Nugent? Mr. Barrett?

Mr. Joseph Nugent: Mr. Barrett, Mr. Ruane and Mr. Culhane. There are other representatives - Mr. McDonnell from the Department.

Deputy Catherine Connolly: Mr. McDonnell has got a relatively easy time today. He sits on that committee.

Mr. Paul McDonnell: I do, indeed.

Deputy Catherine Connolly: Of the 19 recommendations, how many have been implemented?

Mr. Paul McDonnell: I think it is 11. They all have had something done with them. Mr. Nugent keeps a progress report, which he gives to us every time we meet.

Deputy Catherine Connolly: Is there an administrator in charge of the college who is new? Is that right?

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: Has he or she the full complement of staff?

Mr. Joseph Nugent: Not yet, no.

Deputy Catherine Connolly: Why not?

Mr. Joseph Nugent: Difficulties in getting staff into the organisation. We have an issue generally in managing to get the numbers of staff recruited into the organisation.

Deputy Catherine Connolly: How many are still required?

Mr. Joseph Nugent: We are talking about a complete overhaul of the area, taking responsibility for facilities, which would not have been managed to date. For example, there are the facilities of the swimming pool and the oversight group. From memory, I believe there would be an extra dozen people, or perhaps something of that order.

Deputy Catherine Connolly: From going through the recommendations, I understood there was to be an administrator and three additional staff.

Mr. Joseph Nugent: We have an administrator and one additional staff member, directly in the college-----

Deputy Catherine Connolly: With regard to that recommendation, there are two staff missing still.

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: In respect of the company, the advice was to wind it up. I do not know from when, but it was definitely from 2008. Has the company been wound up? If not, what date is set for it?

Mr. Joseph Nugent: It has not been wound up. It will not be wound up until issues associated with the land ownership are resolved.

Deputy Catherine Connolly: I have seen that.

Mr. Joseph Nugent: I cannot give the Deputy a date at the moment.

Deputy Catherine Connolly: What progress has been made in resolving that?

Mr. Joseph Nugent: I have had a meeting with the directors, who are happy that the company will be wound up at the first opportunity.

Deputy Catherine Connolly: The directors are serving members of the Garda.

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: All of them?

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: I would expect that they would be happy. I would not expect that there would be any difficulty. It is not a reassurance to say they are happy.

Mr. Joseph Nugent: I hear that. My point is that the only reason the company has not been wound up to date is that it is related to the issues associated with-----

Deputy Catherine Connolly: Can Mr. Nugent tell me in a nutshell what the problem is?

Mr. Joseph Nugent: Sportsfield Company Limited is the company that owns land.

Deputy Catherine Connolly: Yes.

Mr. Joseph Nugent: So the transfer of the land to the State is complex in particular areas.

Deputy Catherine Connolly: Why?

Mr. Joseph Nugent: Particularly around the golf course. There are disputes around-----

Deputy Catherine Connolly: There is no dispute about the land from the company point of view, going back to the Office of Public Works. In principle, there is no problem with that.

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: The problem exists only because of the lease or licence to the golf course. Is that not right?

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: It is simply a licence. Why can it not be revoked?

Mr. Joseph Nugent: We have been discussing the issue with the Office of Public Works. We had a meeting as late as yesterday to progress that issue.

Deputy Catherine Connolly: What timespan is set for sorting that out?

Mr. Joseph Nugent: Again, we will do it at the first opportunity. I am not trying to delay; I am saying I cannot give the Deputy a date today.

Deputy Catherine Connolly: Am I wrong in saying that, back in 2008, the McGee report recommended that the company be wound up?

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: Was it even before that? Did the 2006-----

Mr. Joseph Nugent: I do not believe it was but-----

Deputy Catherine Connolly: From 2008 until 2017, it has not happened.

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: It is an unacceptable delay. Is that not right?

Mr. Joseph Nugent: It is unacceptable. That is correct.

Deputy Catherine Connolly: And there is no timeline yet on sorting that out. The only issue there is with regard to the golf club.

Mr. Joseph Nugent: I think the primary issue is in respect of the golf club.

Deputy Catherine Connolly: What other issues are there?

Mr. Ken Ruane: Perhaps I can assist. Another major difficulty is section 29(3) of the Garda Síochána Act, which states the Commissioner's power to enter a contract does not include the power to enter into a contract relating to land or an interest in land.

Deputy Catherine Connolly: Yes.

Mr. Ken Ruane: To follow on from what Mr. Nugent said, in my view we now have engaged with all of the relevant stakeholders that require to be engaged with. From a corporate governance point of view, and certainly in my view, it has been wrong for quite a time-----

Deputy Catherine Connolly: The director should not have been part of a company. Is that not right, in plain English? There is no permission to be a director of a company as a serving member of the Garda.

Mr. Ken Ruane: The company was set up prior to the 2005 Act and that has created the difficulty. We are certainly working very quickly to deal with that. It is certainly a priority from my point of view.

Deputy Catherine Connolly: In relation to ethical declarations, has the obligation been met in relation to the directors?

Mr. Joseph Nugent: I have spoken to the directors about their obligations.

Deputy Catherine Connolly: Has it been done?

Mr. Joseph Nugent: I do not know.

Deputy Catherine Connolly: Why not? Why does Mr. Nugent not know?

Mr. Joseph Nugent: Primarily, it is a matter for the directors.

Deputy Catherine Connolly: Have they agreed that they are going to do that?

Mr. Joseph Nugent: I have advised them that they must do it.

Deputy Catherine Connolly: When was that advice given?

Mr. Joseph Nugent: I met them within the last two months. I will check the date in a moment.

Deputy Catherine Connolly: Mr. Nugent met them in the past two months.

Mr. Joseph Nugent: Yes.

Deputy Catherine Connolly: They have obligations in relation to declarations. They have not been met. For Mr. Nugent to tell us that he has talked to the directors within the past two months does not suffice. Mr. Howard said he was uncomfortable. I can tell the witnesses that I am uncomfortable. I do not like this but I will not speak for anybody else. This is our role. I really wish we were discussing community policing and lots of other things, and I have said this already. We do try. It is unacceptable, two months after the meeting, that Mr. Nugent does not know. I would have expected the obligation to have been met.

Mr. Joseph Nugent: I have advised them of their obligations to address and deal with those issues.

Deputy Catherine Connolly: It has been said - and it would appear to be the case on the basis of various letters from Mr. Culhane- that the Department of Justice and Equality was aware of the set up in Tipperary regarding the restaurant. Perhaps collusion is the wrong word but the Department was actively aware of how public money was going into the restaurant and that there was a “co-mingling” of funds. The Department was actively aware of that.

Ms Anne Barry: The Department’s representatives have already given evidence on a number of occasions on this issue. We have done a trawl of our records and have not found any evidence that we were involved in the arrangements and so on. Management did supply us with two documents, one dating back to 1989 which would suggest that we would have had some involvement in investment accounts and another document relating to 2008. Our view is that since the Secretary General of the Department was the Accounting Officer, the Department would have been aware of the arrangements that were put in place back in the 1990s. Of course, we were involved in the Walsh committee which led to the establishment of the college as an institute of education. We were involved in a number of project groups around the implementation of the Walsh report. Our assumption is that we were involved in the development of the arrangements but we do not have any records ourselves.

Deputy Catherine Connolly: There are no records but is Mr. Culhane correct in saying that the Department of Justice and Equality was part of this set up?

Ms Anne Barry: Our assumption is that he is correct, yes, that we would have been-----

Deputy Catherine Connolly: The Department has no reason to doubt what he is saying on that issue-----

Ms Anne Barry: No. The arrangements would have been developed over time and we would not necessarily have been aware of how they were developed-----

Deputy Catherine Connolly: In relation to the bank accounts, what are they now reduced to?

Mr. Joseph Nugent: I believe it is two, at this point. There is one for the shop and one for the restaurant.

Deputy Catherine Connolly: We can take it that there are only two bank accounts now. Is that correct?

Mr. Joseph Nugent: Yes.

Deputy Catherine Connolly: The number of accounts has been reduced from 48 or 50 down to two.

Mr. Joseph Nugent: That is correct.

Deputy Catherine Connolly: Is that definite?

Deputy Alan Farrell: It was said earlier that it was the “firm belief” of Mr. Barrett that there were more accounts.

Mr. Joseph Nugent: I am talking about the accounts of which I am aware. I know that there were questions earlier about a particular audit with which Mr. Kelly is dealing but I do not have the detail associated with that. I am saying that the accounts of which I am aware - based on the list of accounts that has been provided - have been reduced down and the intention is, at the earliest opportunity, once we can address the issues associated with staff, that the remaining accounts will be resolved.

Deputy Catherine Connolly: How many accounts are there?

Mr. Joseph Nugent: Two.

Deputy Catherine Connolly: We can rely on-----

Mr. Joseph Nugent: What I am saying is that I am aware of two. Clearly Mr. Niall Kelly is investigating an issue and at this moment in time I do not have the detail associated with that. I assume that if other accounts are identified in that context, they will be brought to our attention.

Deputy Catherine Connolly: What other recommendations am I forgetting?

Mr. Joseph Nugent: The Deputy asked at the start how many recommendations were implemented.

Deputy Catherine Connolly: I have gone through some of them myself.

Mr. Joseph Nugent: Yes. There are 19 recommendations-----

Deputy Catherine Connolly: Tell me which ones I have forgotten-----

Mr. Joseph Nugent: The regularisation of the staff position in the restaurant. That issue has progressed. There is a recognition that the staff should be considered as State employees. A process of engagement with the staff to bring them on to State payroll has commenced. That is probably the primary recommendation that is outstanding.

Deputy Catherine Connolly: Have all of the others that I have not mentioned been implemented?

Mr. Joseph Nugent: No. As I said, five recommendations have been implemented in full, five are partially completed and substantive progress has been made on the remaining nine. One of the latter group of recommendations relates, for example, to the golf club. There are issues related to land that must be addressed and dealt with. Sportsfield, as a company, has to be wound down, as we already mentioned.

Deputy Catherine Connolly: Have the rent arrears been paid?

Mr. Joseph Nugent: The rent has not been paid but there is agreement to pay it. It is just a process issue.

Deputy Catherine Connolly: What is a process issue?

Mr. Joseph Nugent: We just have to work out the arrangements between ourselves and the OPW around that.

Deputy Catherine Connolly: Is there a woman on the steering committee that is overseeing all of this? Is there a female on the committee or is it all male?

Mr. Joseph Nugent: Ms Gail Malone who was with me earlier is on the committee.

Deputy Catherine Connolly: Is she a member of the committee?

Mr. Joseph Nugent: She works-----

Deputy Catherine Connolly: Is she serving on the committee?

Mr. Joseph Nugent: Ms Delaney, who is the interim administrator in the college, is on the committee.

Deputy Catherine Connolly: How often is that committee meeting?

Mr. Joseph Nugent: We meet roughly every three weeks.

Deputy Catherine Connolly: Are there minutes of those meetings?

Mr. Joseph Nugent: Yes and we have made them available to the Committee of Public Accounts.

Deputy Catherine Connolly: Mr. Barrett has been very diligent and has taken copious amounts of notes. I am sure he is delighted that he did so, given what has transpired. Were there no official minutes in relation to any of these meetings?

Mr. John Barrett: Official minutes?

Deputy Catherine Connolly: Yes. Mr. Barrett met the Garda Commissioner. We will be meeting the Commissioner again. She talked about a two minute meeting, while Mr. Barrett talked about a two hour meeting.

Mr. John Barrett: Two hours and 17 minutes. I was concerned because I was invited to that meeting at the tail end of the chiefs' meeting that happened in the college that day. It was not in my diary as a formal meeting. It lasted well into the evening as we discussed the advices that Mr. Ken Ruane had furnished to the Commissioner. That was the basis on which the meeting was called. Appended to those advices was the 2008 report written by Mr. McGee. The discussion was a detailed one around that. I went through, from a process perspective, the report that I had written for Mr. Cyril Dunne of the 6th. It is a very simple seven by three, 21 item agenda and we discussed that. My certainty around the impact and importance of that meeting was based on the fact that there was a view taken at the meeting that this section 41 was not required but frankly, that is not at all how I felt about it.

Deputy Catherine Connolly: From Mr. Barrett's point of view, this was a very serious meeting-----

Mr. John Barrett: Yes.

Deputy Catherine Connolly: -----that has been described by the Commissioner as a two minute meeting.

Mr. John Barrett: A five minute meeting. I saw it - and I described it in my note - as an inflection point. I did so because in the room there was a very real discussion. I had provided Mr. Dunne with the report, dated 6 July, which deals with 21 items. It had the quantum in there of the amount of money. In the very first box I make the point quite clearly, based on some certain experience, that I felt, as a consequence of these matters, that the accounts of An Garda Síochána were compromised. That is how I would have viewed it if I was looking at a due diligence exercise in the private sector and I do not think the Comptroller and Auditor General would disagree with me.

Deputy Catherine Connolly: There were no minutes taken. Nobody took minutes at that meeting. Is that right?

Mr. John Barrett: No, nobody took minutes. When I walked out the door after that meeting, I was concerned to ensure that I wrote a note when I got home that evening of what had transpired. Hence, I do not lightly say that the meeting ended on the 37th minute because as I walked out the door, I checked my watch. I think I had a discussion a couple of days later with Mr. Kenneth Ruane so that I had briefed somebody of the seriousness. It was an inflection point, no doubt.

Deputy Catherine Connolly: My next question is for Mr. Kelly and Mr. Culhane, both of whom have said that on reflection, they would have done things differently. What would have happened if they had done things differently, if they had alerted the Comptroller and Auditor General or told somebody else? What would have happened? What stopped them from doing that?

Mr. Niall Kelly: As I have said a number of times-----

Deputy Catherine Connolly: I would ask Mr. Kelly not to repeat what he said earlier, as this is my last question to him.

Mr. Niall Kelly: Okay.

Deputy Catherine Connolly: In terms of the Comptroller and Auditor General, what would have happened to Mr. Kelly, as an employee? What was stopping him?

Mr. Niall Kelly: What was stopping me?

Deputy Catherine Connolly: If anything. If there was nothing stopping him-----

Mr. Niall Kelly: I trusted what was coming to me in March 2011, when I actually got a response from the Commissioner and from Mr. Culhane. I trusted that it was accurate and that the issues were being addressed. In hindsight, maybe I gave too much trust to that information. Probably, what would have happened is that these issues would have been advanced a couple of years before. Eventually they did come out in the report I wrote in 2016.

Deputy Catherine Connolly: Does Mr. Culhane still believe in the line management, which is what came across from him? He said that he reported up the line to the CAO.

Mr. Michael Culhane: Yes, indeed. I keep repeating this but I did actually say at that time

Deputy Catherine Connolly: -----that it should go to the Comptroller and Auditor General.

Mr. Michael Culhane: Precisely.

Deputy Catherine Connolly: Yes, but when it did not go the Comptroller and Auditor General, Mr. Culhane made it clear that he felt that it was up to the CAO to do that.

Mr. Michael Culhane: Yes.

Deputy Catherine Connolly: Does Mr. Barrett have anything else to say?

Mr. John Barrett: I obviously find it fundamentally difficult to see the separation of responsibility from a pigeon hole perspective, as Deputy MacSharry described it. These matters are material. This is the public purse. This is not about €100,000. We are talking about something between €12.4 and maybe €18 million of taxpayers' money, which operated off-balance sheet, outside the line. I can only bring to this what would be expected of me in a private sector context. In fact, it is a lot tighter in the context of the blue book, so simply to say "I blew a bugle and then I went and did my daily chores", I know that would not wash elsewhere.

Deputy Catherine Connolly: I thank Mr. Barrett.

Mr. Joseph Nugent: I apologise as I believe I may have misled the committee accidentally in relation to the number of bank accounts. I had excluded the CEPOL account so including the CEPOL account there would be three accounts. Apologies. I was thinking-----

Deputy Alan Kelly: In order to clarify, how many bank accounts are there?

Mr. Joseph Nugent: Three.

Deputy Alan Kelly: How many are tax compliant? I am sorry, how many tax numbers does Mr. Nugent have?

Mr. Joseph Nugent: I explained earlier that it is five and I have the details of those here. The Revenue Commissioners are the people who will determine whether they are tax compliant or not.

Deputy Alan Kelly: I will rephrase my question: on how many of the tax numbers that the Garda has assigned to it is Mr. Nugent in discussions with Revenue at the moment?

Mr. Joseph Nugent: If the Deputy will bear with me while I try to get certainty, we are talking to them about four accounts.

Deputy Alan Kelly: Four of the five.

Mr. Joseph Nugent: That is correct.

Deputy Alan Kelly: For the record of the Dáil, there are five tax numbers for An Garda Síochána and currently it is in discussions with the Revenue Commissioners about four of them. Frankly, that is extraordinary.

Deputy Peter Burke: In terms of those five accounts, Mr. Nugent should be able to answer this question. How many of the accounts have their returns up to date, be they VAT returns, P30s or P35s?

Mr. Joseph Nugent: I need to be certain on this because I had limited time to go through all the detail of what was there.

Deputy Peter Burke: But that should be a very easy thing to find out.

Mr. Joseph Nugent: I understand that. Returns were made in respect of each of those tax numbers.

Deputy Peter Burke: Are they all up to date?

Mr. Joseph Nugent: Could the Deputy be clear about what that means? I wish to be very clear.

Deputy Peter Burke: That means that the due date for each return on those tax numbers has been met in full.

Mr. Joseph Nugent: Yes, that is my understanding.

Deputy Peter Burke: Is there any liability on them?

Mr. Joseph Nugent: That is the subject of discussion with the Revenue Commissioners at the moment.

Deputy Peter Burke: We should know. If Mr. Nugent is telling me the returns are done then the amount has to be quantified because one has to put a quantity on the return. It should not be about a discussion with Revenue, it is a black and white figure. If the returns are done and Mr. Nugent has said they are compliant we should know immediately.

Mr. Joseph Nugent: To be very clear, I said that returns were made. I am saying that Revenue will determine whether they are compliant or not.

Deputy Peter Burke: No, they do not. It is self-assessment.

Mr. Joseph Nugent: What I am saying is that, ultimately, the determinant of whether they are compliant will be the Revenue Commissioners. My point is that we are in discussions with Revenue to confirm that that is the case.

Deputy Peter Burke: Does Mr. Kelly have anything to add on that point? Is he aware whether the returns are up to date for the five tax numbers, and if there is any outstanding liability on them?

Mr. Niall Kelly: That question should be addressed to Mr. Culhane.

Deputy Peter Burke: Could anyone answer?

Mr. Niall Kelly: He would have the responsibility. I audit the accounts but the management of them would be in the finance directorate.

Deputy Peter Burke: When Mr. Kelly did the interim audit that should have been a central issue. Mr. Kelly should be aware of it if there was exposure to Revenue in relation to accounts that were held. That is my opinion. Does Mr. Culhane know?

Mr. Michael Culhane: No, I do not know. Those tax numbers are being managed from the college so the college, as I have said before – I am not trying to be evasive – had a separate reporting line. I was not involved in the management of those tax numbers or filing returns on behalf of those tax numbers.

Deputy Peter Burke: I accept that but we do need an answer to the question in terms of

our correspondence. The witnesses have been very clear with the committee that the returns have been filed. If a return is filed, the quantity – the amount – is on the return and it is very clear whether it was discharged or not. That is black and white stuff. It does not wash to say the issue is being discussed with Revenue. It is not a discussion point. If one makes a return, one makes an assessment and one quantifies the amount that is due. It is black and white whether that has been discharged or not.

Chairman: Will the witnesses come back to us with clarification in relation to the status of these issues? VAT, PAYE and PRSI should be very simple and straightforward and it should be possible to get an instant answer on that. Perhaps there is an annual income tax return or something else required.

Deputy Marc MacSharry: I know we are directing the question to Mr. Nugent but surely Mr. Culhane has responsibility for tax compliance.

Mr. Michael Culhane: Not on behalf of the entities in the college.

Deputy Marc MacSharry: No, but overall.

Mr. Michael Culhane: Overall, in terms of the Garda Vote, yes.

Deputy Marc MacSharry: Okay.

Chairman: Who is responsible then for the tax compliance in relation to the activities in the college that have not been included in the Vote up to now?

Mr. Michael Culhane: The college management, in terms of the director of training, and that person reports to the assistant commissioner.

Chairman: For our own knowledge, who is the assistant commissioner that reports to the Commissioner?

Mr. Michael Culhane: It is currently Mr. Barrett. He has responsibility for the college.

Mr. John Barrett: That is nonsense.

Chairman: Who is the assistant commissioner?

Mr. John Barrett: I have an equivalent level to an assistant commissioner.

Chairman: Right.

Mr. John Barrett: I find fanciful the suggestion, for example, that the finance function, who since this committee was established are having migrated to it responsibility for all of the moneys that were in these various buckets in the 48 or 50 bank accounts and to suggest therefore that the tax compliance would remain residual in the college.

Chairman: Who does Mr. Barrett think is responsible?

Mr. John Barrett: The finance director. It is germane to the function.

Mr. Kenneth Ruane: Could I respond to that?

Chairman: We want to get to the bottom of this. We are not allowing the witnesses to kick this around the house.

Mr. Kenneth Ruane: It is a very easy question to answer.

Deputy Bobby Aylward: It should all be under the Garda Vote instead of being in the college.

Chairman: It is not, but it will be when we are finished.

Deputy Bobby Aylward: Now you are hitting at the nub of the problem, Chairman, that this is what is going on instead of it all being under the Garda Vote.

Chairman: In fairness to Deputy Murphy, it is her turn to ask questions. In the interests of the good standing of An Garda Síochána, the public has a simple question through us, in relation to the activities in Templemore, namely, who is the person responsible for ensuring tax compliance in relation to the activities in Templemore College? Do we have a name?

Mr. Michael Culhane: There was somebody, in terms of over time-----

Chairman: I am talking about now. I am talking about 2017. Who is responsible today for ensuring the tax affairs in relation to the Garda college in Templemore are up to date today, not last year, not next year, today? I am seeing blank faces. The witnesses should give me an answer.

Mr. Joseph Nugent: The nub of the problem is something you have addressed yourself, Chairman, it is that there are entities that were not operating as if they were Garda entities. Sportsfield, for example, and the restaurant were separate tax entities. You have addressed-----

Chairman: Let us take it one by one. Who is responsible for the completion of the tax affairs for the Sportsfield element?

Mr. Joseph Nugent: The directors of the company.

Chairman: The directors of the company.

Mr. Joseph Nugent: Yes.

Chairman: So is it none of the people here.

Deputy Bobby Aylward: They should be here.

Mr. Joseph Nugent: The whole point is that-----

Chairman: Does Mr. Nugent know who the directors are? What rank are those directors in the Garda Síochána?

Mr. Joseph Nugent: The most senior director is an assistant commissioner.

Chairman: An assistant commissioner is responsible for the tax affairs of the Sportsfield company.

Mr. Joseph Nugent: Absolutely.

Chairman: It is extraordinary that the Garda Síochána is here today in front of the Committee of Public Accounts and cannot answer that question. The internal audit report has been worked on for some time. I am looking at the internal audit report. The witnesses have all had draft reports since September 2016. It is eight or nine months later and they still cannot answer

that question. We want the information on the Sportsfield within 24 hours. What does the second tax number relate to?

Mr. Joseph Nugent: The restaurant.

Chairman: We want to know the name of the most senior garda responsible for the tax affairs for the restaurant. I do not say the person is right or wrong. We need to know who is responsible.

Deputy Peter Burke: The restaurant is not a company structure. Is it correct that the restaurant is not a company?

Mr. Joseph Nugent: This is at the heart of the issues associated with the college.

Deputy Peter Burke: Am I correct in saying that it is not a company?

Mr. Joseph Nugent: It has its own tax number but it is not a company.

Deputy Peter Burke: If it is not a company there is no board of directors, so who is responsible?

Mr. Joseph Nugent: We will come back and answer that question. I cannot tell the committee now.

Chairman: There is Sportsfield, the bar and restaurant. Where else?

Mr. Joseph Nugent: The bar and the shop.

Chairman: How about the renting of the farm?

Mr. Joseph Nugent: That was dealt with through Sportsfield.

Deputy David Cullinane: What about the laundry account?

Mr. Joseph Nugent: Again, that related to the general operation.

Chairman: Which account did it go through?

Mr. Joseph Nugent: The superintendent of administration in the college was previously responsible for the operation of those particular accounts.

Chairman: Are they all under the Sportsfield company?

Mr. Joseph Nugent: They are not under the Sportsfield company, no.

Chairman: Who is responsible for the tax? Mr. Nugent said the directors were responsible for the Sportsfield company.

Mr. Joseph Nugent: The superintendent of administration in the college was responsible. The administrator who has been put into the college is dealing with those issues so that is the person responsible.

Chairman: In relation to the farm?

Mr. Joseph Nugent: In relation to all of the tax issues associated with those entities, if I can call them that.

Deputy Peter Burke: Who signed the returns for the bar and restaurant?

Mr. Joseph Nugent: The restaurant manager has been addressing and dealing with that.

Deputy Peter Burke: Does she have the password for ROS?

Mr. Joseph Nugent: She makes the returns. That is correct.

Deputy Peter Burke: To whom is she accountable?

Mr. Joseph Nugent: She was reporting to the superintendent of administration in the college. She is now reporting to the administrator of the college, the new administrator in the college.

Deputy Peter Burke: To whom does he report?

Mr. Joseph Nugent: She reports-----

Deputy Peter Burke: She.

Mr. Joseph Nugent: ----- directly to me. In the short term will be reporting to-----

Deputy Peter Burke: Therefore, responsibility for the returns for the bar and the restaurant comes directly under Mr. Nugent's line management.

Mr. Joseph Nugent: In terms of the regularisation of the issues, I am dealing with that. Once the issues are regularised they will come-----

Deputy Peter Burke: I do not want to know about the regularisation.

Mr. Joseph Nugent: Sure.

Deputy Peter Burke: It is very clear here that in terms of the chain of command now based on who has the password to go on Revenue online, to process those returns and to sign the VAT return, it is the restaurant manager and the administrator and they are accountable to Mr. Nugent.

Mr. Joseph Nugent: The restaurant manager is the one who made the last Revenue return.

Chairman: Essentially on your behalf.

Mr. Joseph Nugent: Essentially on behalf of the restaurant. This comes back to this general issue that it was not a company, but it was being considered as an entity in its own right. Deputy Connolly asked the question, when are we going to resolve this. Part of the issue relates to the fact that the staff who are employed in the restaurant are associated with that entity. The reason why we have not been able to close down the bank account associated with that entity is because we have to regularise the position of those employees in the first place.

Chairman: I understand the VAT, PAYE, employees and PRSI. How about annual income tax returned that every-----

Mr. Joseph Nugent: From the restaurant and the bar, it would have been managed by the restaurant manager.

Chairman: When was the last income tax return for the bar submitted?

Mr. Joseph Nugent: I will come back to the committee on that.

Chairman: Mr. Kelly did an internal audit down there. Can he tell us?

Mr. Niall Kelly: There was an internal audit on that. I think the last set of accounts was in 2009 which were the qualified accounts by the accountant.

Chairman: I am talking about for Revenue.

Mr. Niall Kelly: For Revenue, well there have been no accounts completed since then.

Chairman: Is it possible there is a substantial liability to Revenue of accounts that have not been submitted over a period?

Deputy Peter Burke: If accounts were not submitted, how could returns have been done?

Mr. Joseph Nugent: The bar has been closed for the last X number of months. It has been closed since last year.

Deputy Peter Burke: That is the point.

Chairman: However, we are talking about the income tax returns if there is a surplus, interest, DIRT, etc.

Mr. Joseph Nugent: I hear that. Can I revert to the committee with the detail of that in the next 24 hours?

Chairman: Yes. However, Mr. Nugent will understand how from the point of view of An Garda Síochána it looks very strange that a most basic question-----

Mr. Joseph Nugent: But, I think at the heart of the issue-----

Chairman: We will give Mr. Nugent 24 hours.

Mr. Joseph Nugent: The heart of the issue I keep coming back to is this peculiar, if I can use that phrase, arrangement.

Deputy Mary Lou McDonald: Of course he can.

Deputy Alan Kelly: He can use worse than that as well.

Chairman: Our point is that Mr. Nugent has had the draft report since September of last year. There are arguments about words and including paragraphs, but as responsible citizens to the State in relation to tax, I have not seen attention given to that. We want that. Regarding the organisation's liability to the State, the internal audit report states that under the provisions of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2010, officeholders in the public service over a certain grade or rank are required to make an annual declaration of interest, including any directorships held. This includes gardaí of the rank of superintendent and above, and civil servants of the rank HEO and above.

How many people in An Garda Síochána are required under that legislation to make an annual return of their interests and directorships to SIPO? This includes the ranks of superintendent, assistant commissioner and Commissioner. Mr. Barrett says he is equivalent to that grade.

Mr. Joseph Nugent: There are five directors of the Sportsfield company.

Chairman: I am not talking about the company at all. It refers to every officeholder. That means everybody might have nil returns. Am I correct in saying that? Perhaps Mr. Ruane can help.

Mr. Kenneth Ruane: Certainly my understanding is that it is from principal officer up.

Chairman: They must make a return.

Mr. Kenneth Ruane: That is my understanding.

Chairman: How many people does the Garda Síochána have of the rank of superintendent and higher?

Mr. Joseph Nugent: There would be hundreds.

Chairman: A hundred. Do those 100 make a return under the Ethics in Public Office Act 1995 to SIPO every year? This is an annual declaration of interest, including - but not exclusive to - company directorships.

Mr. Joseph Nugent: I can speak for myself in that I was asked to make my return.

Chairman: By whom?

Mr. Joseph Nugent: It was an internal notification.

Chairman: Who is responsible? Somebody please help the Garda Síochána. Here is a question of 100 people. I would love to say it had a spreadsheet and they are all in. Is there a mechanism? Is the Garda Síochána complying with this law?

Deputy Alan Kelly: On a point of order, certain current senior members of the Garda are directors of the Sportsfield company that is being wound up. Are they not submitting returns under SIPO?

Mr. Joseph Nugent: They should be.

Deputy Alan Kelly: I am not being personal. None of this is personal; it is just exasperation. Does Mr. Nugent not know?

Chairman: I am asking what mechanism exists in the Garda Síochána corporate governance to ensure that everybody of the rank of superintendent and above complies with the standards in public office legislation. Is there a system in place to do that? The witnesses are all here. Is that system in place and who is in charge of it?

Mr. Michael Culhane: I can help here. In terms of-----

Chairman: Just tell us.

Mr. Michael Culhane: As part of my office, I send an email to everybody.

Chairman: How many?

Mr. Michael Culhane: To everybody, say, above those ranks. I am not exactly sure what number. I can come back to the committee with the number. We send out an email every year to remind people to make their returns. I have not got the number of actual returns that we get on an annual basis, but I can provide the committee with that information.

Chairman: Do they come back through Mr. Culhane or directly to SIPO?

Mr. Michael Culhane: The declarations are made to a person whom I have appointed to manage this process.

Chairman: Does Mr. Culhane know if everybody above the rank is complying with this legislation?

Mr. Michael Culhane: One can make a nil return or one does not have to make a return if one has nothing to return.

Chairman: I think that is a nil return.

Mr. Kenneth Ruane: My understanding is that if one has a nil return, one does not actually have to make a return.

Chairman: I will ask the Comptroller and Auditor General who, I believe, wearing his other hat is a member of SIPO. Please rescue us here.

Deputy Bobby Aylward: Before the Chairman leaves that, can I ask-----

Chairman: No, we are on that topic.

Deputy Marc MacSharry: Just one second-----

Chairman: I am about to move off this topic. I just want this clarified. It was in the internal audit report.

Deputy Marc MacSharry: I know it is only clarification and I know I interrupted on one occasion myself. However, can we come to Deputy Murphy and me for our ten minutes?

Chairman: Okay, fine.

Deputy Marc MacSharry: We are growing old here.

Chairman: I will give one last word to the Comptroller and Auditor General. What is the requirement?

Mr. Seamus McCarthy: The requirement is to be aware of one's obligations to make a return and to make that return if there is something to declare. There is no obligation to make a nil return, but many people do make nil returns. That actually creates a difficulty in terms of monitoring compliance. That is the way the legislation is set up.

Deputy Bobby Aylward: Before the Chairman moves on, may I ask Mr. Nugent that he clarify for us in written form within a couple of days. Did the directors that we are speaking of in Templemore - four or five gardaí - make a return-----

Chairman: Every year.

Deputy Bobby Aylward: ----- every year while they were directors of the companies set up to run this? On behalf of the public, I want to know if those five people, women and men, make that return.

Chairman: Mr. Culhane is going to get that for us.

Deputy Bobby Aylward: That should be sent back to us within two days.

Chairman: Mr. Culhane is going to get that information for us because his office monitors that.

Mr. Michael Culhane: In terms of the Sportsfield Company Limited, again at the risk of annoying the committee, that is outside An Garda Síochána. In terms of managing the organisation, my office sends an email to everybody about the necessity to make the return.

Chairman: Okay. I am sorry about this.

Mr. Michael Culhane: But I do not include the Sportsfield company.

Chairman: We are talking about some of the most senior officers of An Garda Síochána and we are asking all of the senior management among the witnesses to please confirm that the senior officers of An Garda Síochána, who we know are listed as directors of the Sportsfield company, have complied with their SIPO return for every year while there was a requirement. Is anybody in a position to deal with this issue for the Garda Síochána?

Mr. Joseph Nugent: I will take it away.

Chairman: I thank Mr. Nugent.

Deputy David Cullinane: I understand one of the recommendations of Mr. Kelly's report is that this should happen. It is not that we can just say it is up to the individuals. It is recommended. Mr. Kelly's report also states - the Commissioner touched upon this - that support would then be given to those individuals to explain their obligations to them. It is one of the recommendations of the interim audit report, which we are being led to believe are being implemented.

Mr. Joseph Nugent: That offer was made to the individuals concerned.

Chairman: I call Deputy Catherine Murphy and apologise for cutting across.

Deputy Catherine Murphy: I noted a comment made earlier that captured the problem in a few words and that is that there were lots of outputs but it was the outcomes and there were no outcomes to the outputs. The outputs was a 2008 report, another output was a 2010 report. We are all very determined that the internal audit report is now going to have an outcome. That is the infuriating thing. I concur with the witness's sentiments. I am infuriated that nothing happened as a consequence of all of these outputs. It is typical case of a report on the shelf gathering dust.

Mr. Culhane just told us that the Sportsfield account is separate. It did not seem to be separate when it came to transferring money into the restaurant, from the restaurant into the Sportsfield account. That was public Vote money that went into a private entity. Mr Kelly was asked earlier if this was all incompetence and he answered that yes, his assessment was that it was incompetence. That is completely at odds with what he gave us in his opening statement. He is drawing attention to something here: "I strongly believe that any surplus money does not belong to the State but rather is owned by the members of AGS from whom they were collected." This continues. There are a number of references in this opening statement to not being told about things. That is not incompetence. I ask Mr. Kelly to come back and think about what he has said in describing that as incompetence. There are things here that were done for a very deliberate reason and Mr. Kelly has referred to them in his opening statement. Can I ask that

Mr. Kelly come back to me with his initial response to this?

Mr. Niall Kelly: On whether it is incompetence or deliberate? I have outlined in my audit report and in my opening statement that there was a lack of transparency and a lack of information coming to me. I have outlined that fairly well. What the Deputy is asking me is whether that was deliberate or was that an oversight.

Deputy Catherine Murphy: I am just reflecting what the witness said.

Mr. Niall Kelly: I agree that some of this was deliberate. What I was referring to earlier about incompetence was people managing money, bank accounts and even a company without very much experience, knowledge or training. That is what I was referring to earlier as incompetence. There are elements of both, the Deputy is right.

Deputy Catherine Murphy: There are people who have to sign off on things. One can have incompetent people but then one can have people at very high levels, very well paid people, who have to sign off on things. That is where the buck stops.

Mr. Niall Kelly: I agree with the Deputy there.

Deputy Catherine Murphy: Incompetence at lower levels is a different thing entirely. Reference was also made to the whole area of corporate governance and compliance, matters that are not in the criminal code perhaps and are regarded as low-level concerns. That is how it comes across to me. This is An Garda Síochána we are talking about here.

Mr. Niall Kelly: There was definitely a culture of that, of seeing these things as administrative rather than as serious corporate governance issues.

Deputy Catherine Murphy: What are these corporate governance issues in breach of? Are they in breach of the law?

Mr. Niall Kelly: There is a code of corporate governance both in An Garda Síochána and across the public service. It would certainly be in breach of those codes.

Deputy Catherine Murphy: What about the money that is voted now? I am sorry to put all of these questions to Mr. Kelly as I know that it is Mr. Culhane who has responsibility for finance. Mr. Kelly's responsibility is to interrogate Mr. Culhane's work and Mr. Howard's role is to oversee or to qualify what Mr. Kelly has done. But there is criminal law and there is civil law. There are corporate elements in civil law.

Mr. Niall Kelly: Yes.

Deputy Catherine Murphy: Are there breaches of corporate law? Did the witness see them?

Mr. Niall Kelly: Yes there are, yes.

Deputy Catherine Murphy: In other words, there are offences in all of this.

Mr. Niall Kelly: I am not sure whether there are offences in these breaches.

Deputy Catherine Murphy: So one can break the law and there is no offence?

Mr. Niall Kelly: Perhaps Mr. Ruane might help me here.

Mr. Kenneth Ruane: Certainly. I am aware that there are individual sanctions within the Companies Act, for example for directors who do not file annual returns.

Deputy Catherine Murphy: So they get struck off and the like, there are minor issues.

Mr. Kenneth Ruane: There are issues, yes. I am certainly aware of cases that have been taken to court for failure to file annual returns.

Deputy Catherine Murphy: An accountant, for example, would have membership of an organisation associated with their profession with which they would have to comply. Is that correct? So there are things to be complied with?

Mr. Niall Kelly: Yes, absolutely.

Deputy Catherine Murphy: Mr. Culhane had the oversight of all of this. The money that was voted here was his responsibility and ultimately that of the Commissioner as the Accounting Officer. So Mr. Culhane prepared all of this for the minute.

Mr. Michael Culhane: I am responsible for the Vote. The way that things were set up in the college, they were effectively set up outside the Vote. We have reviewed and discussed that. With regard to how the college was funded, there was a stipend per week per student. That went into the restaurant account. The restaurant account was effectively the engine within the Garda College which then distributed money to other activities within the college. Currently it is the college administrator who has responsibility for these entities but previously it was the director and the college administrator.

Deputy Catherine Murphy: It is all very well talking about that in academic terms. The restaurant was the vehicle through which money was sent to a private company, the Sportsfield company, which Mr. Culhane has no responsibility for. Is that right? Mr. Culhane knew all of this. He referred to his own 2008 report. He had an overview of this. Returning to the point about outputs and outcomes, did it occur to Mr. Culhane that this should not be continuing, that this is wrong, that this money is voted for a specific purpose and it is not being used for that purpose? Where was Mr. Culhane's responsibility in that?

Mr. Michael Culhane: I again return to the minute I wrote in 2008 in which I set out an action plan to address the issues which had been identified in the 2008 report.

Deputy Catherine Murphy: What did the witness do after that to make sure it happened?

Mr. Michael Culhane: I reported to the chief administrative officer. That went to the Commissioner and the Commissioner approved it. Deputy Commissioner Rice was then consulted. He objected to and effectively rejected my report.

Deputy Catherine Murphy: So he was the one who saw what I quoted earlier from Mr. Kelly's account. Does Mr. Barrett have a comment?

Mr. John Barrett: In the interests of full disclosure and in the interests of giving input to the committee that I think it desperately needs at this point, I will read an email from Mr. John Leamy, the former CAO, to Mr. Culhane, dated the 15 April 2010.

Thanks Michael. I had a meeting yesterday with Niall Kelly on a couple of IA reports and issues. He again raised the issue of the Garda College Finance Reports. After a lot of toing and froing he agreed holding off completing the college IA report for a

period of 3 months. I reckon that is enough time for us to sort out the taxation and any other financial issues and get a final report to the Commissioner. Will you work to that deadline and get all the outstanding issues resolved, say end of July? Thanks, John.

Mr. Niall Kelly: That is the note referred to in my opening statement.

Deputy Catherine Murphy: There is so much. I want to go back to the 2008 report, Mr. Culhane. In respect of the 2008 report we heard about Revenue and it was disclosed that the Garda Sportsfield Company was also used as a vehicle to develop the Garda college golf and leisure club. Revenue disallowed the claim because the club did not contract to develop the golf course. I do not know if anyone here was ever in a company that the Revenue Commissioners audited. It is an awful feeling and not something one ever forgets. They go through absolutely everything. Do the witnesses recognise that? They make it really uncomfortable and one would never want to put oneself through that again. The idea of talking about not being able to be sure about Revenue and compliance after having that experience beggars belief. I know the Sportsfield Company is a limited company and I am not sure if Mr. Kelly has a function in that but would it not have really heightened his concerns about the kind of interrogation that was needed in respect of the accounts presented?

Mr. Niall Kelly: Is Deputy Murphy talking about the document Mr. Barrett read out?

Deputy Catherine Murphy: I am talking about the 2008 report.

Mr. Niall Kelly: I did not get a copy of the 2008 report until I started the audit of the college in 2016.

Deputy Catherine Murphy: Was Mr. Kelly aware that there was a Revenue audit?

Mr. Niall Kelly: I was not aware that there was a Revenue audit until that stage. I was not aware of the 2008 report until 2016 when I started my own audit.

Deputy Catherine Murphy: Mr. Culhane mentioned the Revenue audit in his report.

Mr. Michael Culhane: That was recording an event. The report was done and we picked up on that issue. It was a record of that.

Deputy Catherine Murphy: Tax compliance would have been a sizeable issue after the experience with Revenue. The company would then have been on Revenue's radar as a consequence. Would that not be the case?

Mr. Michael Culhane: Yes.

Deputy Catherine Murphy: It would have paid particular attention to the company because of that.

Mr. Michael Culhane: It would have paid particular attention to the Sportsfield company. I did not have responsibility for Sportsfield. It was part of the college activities.

Deputy Catherine Murphy: Yes but the money went from the restaurant to the Sportsfield account-----

Mr. Michael Culhane: I accept that.

Deputy Catherine Murphy: -----and it was then grant-aided to a private company.

Mr. Ruane told us that on 31 August 2015 he notified the Department of Justice and Equality.

Mr. Kenneth Ruane: Yes I sent a submission seeking advice to the Attorney General's office and the following day, on 1 September, I forwarded a copy of that complete submission to an officer in the Department of Justice and Equality for information.

Deputy Catherine Murphy: What did the complete submission comprise?

Mr. Kenneth Ruane: There was an analysis of the advice and a number of attachments. I was trying to provide as much information as I could to the Office of the Attorney General to assist it.

Deputy Catherine Murphy: That would have gone to the Department of Justice and Equality.

Mr. Kenneth Ruane: I am certainly aware that in providing advices in any event the Office of the Attorney General would have insisted that we would have notified the Department in respect of any advices we were seeking. It is good practice.

Deputy Catherine Murphy: Does the Department of Justice and Equality have anything to say?

Ms Anne Barry: We have already said in evidence that when we received the copy of Mr. Ruane's request for legal advices that was what drew our attention to the fact that there were issues in the college. I joined the policing division in September. I took over from Eugene Banks who would have received the email from Ken Ruane. I examined the request for advices and the attachments and I subsequently wrote to the chief administrative officer, CAO, Mr. Dunne. My letter was dated 6 October and it set out that the correspondence raised a range of issues from our perspective.

Deputy Catherine Murphy: Would Ms Barry's attention have been drawn to the 2008 and 2010 reports?

Ms Anne Barry: My recollection is that the papers that were attached to the request for the advices led me to the view that there appeared to have been some efforts in 2008 to regularise the situation. I made reference to that in my letter to Mr. Dunne on 6 October.

Deputy Catherine Murphy: That was 6 October 2015.

Ms Anne Barry: Yes.

Deputy Catherine Murphy: Would that information have been brought to the Minister's attention at that stage?

Ms Anne Barry: We did not bring the issues to the Tánaiste's attention at that point. We have said in evidence that we brought the draft interim audit report to her attention on 16 September 2016.

Deputy Marc MacSharry: I thank the Chairman for calling me; may I put my name down for a third round?

We have seen so far that processes, procedures and systems are a riddle wrapped up in a mystery inside an enigma, in terms of who is responsible for what and who communicates with

who. On certain issues when we are doing our business there are Chinese walls, on others there seem to be mountains separating one Department from the other. There are so many questions that we all have to skip from one issue to another.

Deputy Murphy touched on an issue. Mr. Ruane has given us a copy of his note from the meeting of 6 August 2015 at 11.15 a.m. After he was asked to refine that minute to whatever the practice had been before, an issue was mentioned in the note that we now have a copy of - and I think this is the point Deputy Murphy was trying to get at - which says that "M.C.", presumably Mr. Culhane, pointed out that, among other things, the Minister had received correspondence from a Deputy about this and the Minister for Justice and Equality had been provided with a report and was fully informed. That date is 6 August 2015. Was that in the refined minute, the one that was acceptable to Mr. Dunne?

Mr. Kenneth Ruane: I expect it was.

Deputy Marc MacSharry: It is probably important. While Mr. Ruane checks that can Mr. Culhane say whether he concurs with that recollection of events?

Mr. Michael Culhane: What page?

Deputy Marc MacSharry: It is page 5 of the untampered-with minute. We see there that "M.C.", presumably Mr. Culhane, pointed out that the process must be concluded quickly given the risk of adverse possession.

Mr. Kenneth Ruane: It is in the minute.

Deputy Marc MacSharry: It is in the minute. Can Mr. Ruane please read that portion of the minute?

Mr. Kenneth Ruane: It is the minute that has been provided to the committee through Mr. Nugent's office:

M.C. pointed out that the process must be concluded quickly given the risk of adverse possession. Deputy Lowry T.D. has written to the Minister for Justice about this and the Minister for Justice and Equality has been provided with a report and is fully informed.

Deputy Marc MacSharry: Does Mr. Culhane concur with that as the official minute?

Mr. Michael Culhane: At that time representations were made and I provided some information.

Deputy Marc MacSharry: I am not interested in the representations. I am specifically interested in the reference to representations having been made subsequent to that, and that the Minister for Justice and Equality had been provided with a report and was fully informed. Is that the truth?

Mr. Michael Culhane: Yes, that is my recollection.

Deputy Marc MacSharry: Okay. Did Mr. Culhane provide that report to the Minister?

Mr. Michael Culhane: No, I did not provide anything. Well-----

Deputy Marc MacSharry: Who provided that report?

Mr. Michael Culhane: I believe that I was communicating with Eugene Banks at the time, so I would have provided-----

Deputy Marc MacSharry: Who is Eugene Banks, for the record?

Mr. Michael Culhane: He is a principal officer in the Department of Justice and Equality.

Deputy Marc MacSharry: A principal officer in the Department. Did Mr. Culhane send a report to him?

Mr. Michael Culhane: My recollection is he rang me. I gave information over the phone. I may have sent him on some additional information, but I cannot recollect whether I did or I did not. I recollect-----

Deputy Marc MacSharry: In terms of the minutes, Mr. Culhane recollects the Minister was fully informed and he feels that is an accurate assessment. If that is the case, was the Minister fully informed on the knowledge and avenues that were at Mr. Culhane's disposal or was she not?

Mr. Kenneth Ruane: That was actually under a heading in relation to proceedings involving the Garda golf club.

Deputy Marc MacSharry: Was it that issue in isolation, or are we talking about the broader melee of issues?

Mr. Michael Culhane: No, it was that issue in isolation.

Deputy Marc MacSharry: The issue in isolation of the legal action against the golf club-----

Mr. Michael Culhane: Yes.

Deputy Marc MacSharry: -----is the only matter that the Minister was informed of.

Mr. Michael Culhane: As I say, I informed an official in the Department of Justice and Equality.

Deputy Marc MacSharry: No, I understand. Mr. Culhane informed an official but, for the record, he concurs with the minutes, which state the Minister was fully informed, so either she was or she was not.

Mr. Michael Culhane: I was only assuming that her official then informed her. From what I understand, there was separate correspondence about this matter, which I believe the Minister was briefed about.

Deputy Marc MacSharry: Okay. Have there been other communications to do with the various other matters we are now discussing, about the report of 2008 and 2010 and the internal audit that would have been informed to officials in the Department?

Mr. Michael Culhane: No, not that I am aware of.

Deputy Marc MacSharry: Okay, so we told nothing to anybody in the Department about these matters.

Mr. Michael Culhane: "No" is the answer to the question, but my reporting line is to the

chief administrative officer.

Deputy Marc MacSharry: Okay, so Mr. Culhane reports to the chief administrative officer.

Mr. Michael Culhane: At that time obviously it was not Mr. Nugent, but yes, I do report to him.

Deputy Marc MacSharry: That is the line. Mr. Culhane's boss, for want of a better expression for the public listening, is Mr. Nugent today, it was Mr. Leamy then and afterwards Mr. Dunne.

Mr. Michael Culhane: Yes.

Deputy Marc MacSharry: Okay. To Mr. Culhane's knowledge, having had the knowledge that he spoke to an official specifically about the legal matter to do with Templemore Golf Club, were any of these other matters advised to departmental officials, principal officers and so on?

Mr. Michael Culhane: Not that I am aware of.

Deputy Marc MacSharry: Not that he is aware of. Okay.

I have a question for Ms Barry. Information to do specifically with the golf club was passed to the principal officer just mentioned a moment ago. Would it be practice that this would be passed to the Minister?

Ms Anne Barry: If we go back to the representations over the course of the summer-----

Deputy Marc MacSharry: I am not really interested in the representations.

Ms Anne Barry: I was just going to say we received a report on that, and it focused on the legal proceedings in relation to the golf club.

Deputy Marc MacSharry: Did it mention anything else?

Ms Anne Barry: It mentioned some background to the golf club, but it did not raise the issues that came to our attention on foot of Mr. Ruane copying us the request for legal advice-----

Deputy Marc MacSharry: Was there anything mentioning 2008 and 2010 and the report available?

Ms Anne Barry: No, it was very much around the golf club and the legal proceedings around that.

Deputy Marc MacSharry: Okay, what about the fact that there were issues in terms of continuing with those proceedings because of the fact that it was a separate company, and all of that?

Ms Anne Barry: I do not believe those issues were raised in that letter. That report from the Commissioner was focused on the background to the proceedings and why they had been taken, which was to do with the fact there were arrears for five years or so. The letter also set out the use the college could make of the lands if it was vacated.

Deputy Marc MacSharry: Okay, and did the departmental officials tell the Minister at that

point?

Ms Anne Barry: I do not believe we brought it to her attention at that point. At least we have no record that it was brought to her attention.

Deputy Marc MacSharry: Okay, and by what criteria do the departmental officials determine whether it is useful to inform a Minister or not of serious matters, such as a third-party company under the directorship of serving members in the payment of the State?

Ms Anne Barry: I suppose that is a judgment call in the individual case. I suppose-----

Deputy Marc MacSharry: Is it a judgment call in an individual case based on proper procedures? Is there a procedure around this or is it, as Mr. Culhane described earlier, the environment, and as Mr. Barrett, with whom I concur, described as a culture? Does the same environment and culture exist in the Department of Justice and Equality, where it is a matter of containment until such time as we know more?

Ms Anne Barry: No, I would not agree with that at all.

Deputy Marc MacSharry: But the officials did not tell the Minister anyway.

Ms Anne Barry: We did not. I suppose we got that report from the Commissioner. It did not raise any issues in relation to the college as such. We then got a copy of Mr. Ruane's request for legal advice. Again that raised some issues. We were pursuing them. The Department was fully seized of them. We engaged with Garda management on them. We were keen they would be brought to the attention of the Garda audit committee. We agreed to a representative being on the steering committee. We would have then had visibility of what was happening, up to the audit starting in 2016 and would have had continuing visibility of that until we got the draft audit report, which we did bring to the Tánaiste's attention because it was the draft audit-----

Deputy Marc MacSharry: And what date would that have been?

Ms Anne Barry: 16 September 2016.

Deputy Marc MacSharry: Okay

Ms Anne Barry: It was the draft audit report that stated the auditor could give no assurances in relation to the financial controls in the college that elevated it at that point, and we brought it to the Tánaiste's attention.

Deputy Marc MacSharry: Was it the case, and can I put this to Ms Barry because it is an obvious question, that the thing had turned so septic that the departmental officials said "We had better tell the Minister" and maybe they had avoided telling the Minister from August 2015 to September 2016?

Ms Anne Barry: I would not agree that we avoided telling the Minister over that period.

Deputy Marc MacSharry: The officials just chose not to, then.

Ms Anne Barry: I suppose when we got the draft audit report, a statement to the effect the auditor could not give any assurance in relation to the financial controls of the college was obviously of a very serious order and we had to bring it to the Tánaiste's attention.

Deputy Marc MacSharry: The Department was aware that the directors of the sports club

were serving gardaí?

Ms Anne Barry: From our involvement in the steering committee from December 2015 we were aware. At the time, it was reported there was only one serving garda who was a director of that company.

Deputy Marc MacSharry: And one was okay?

Ms Anne Barry: Well no, it was not okay.

Deputy Marc MacSharry: Did the Department check with SIPO that they were making the appropriate returns?

Ms Anne Barry: We have to remember that it is the Commissioner who is the Accounting Officer, so the Department does not have responsibility-----

Deputy Marc MacSharry: We are back to the pigeonholes now.

Ms Anne Barry: I would not agree with that either.

Deputy Marc MacSharry: That is not our pigeonhole, that is two pigeonholes up.

Ms Anne Barry: The Accounting Officer has legal responsibilities.

Deputy Marc MacSharry: Has the Department checked at this stage?

Ms Anne Barry: I think Mr. Nugent has already said that he has advised the gardaí involved that they are obliged to-----

Deputy Marc MacSharry: No, I did not ask that. I heard him say that. I am asking whether the Department of Justice and Equality checked that people under the payment Vote of justice, who are legally obliged under the law to make returns to the Standards in Public Office Commission have done so or not, be it one person or five or 25 people?

Ms Anne Barry: The Commissioner is their employer, so it would be matter for the Commissioner.

Deputy Marc MacSharry: The answer to the question is “No, we have not checked”.

Ms Anne Barry: It is not our responsibility to check-----

Deputy Marc MacSharry: So, no.

Ms Anne Barry: -----so no, we have not.

Deputy Marc MacSharry: Okay, that is great.

Can I go back, because there is so much and I do want to get to Mr. Barrett. On 15 September, Mr. Barrett met Mr. Dunne to discuss the report. Can he walk us through that meeting?

Mr. John Barrett: Yes, certainly I can. This came in the immediate aftermath of the publication by Mr. Justice Nial Fennelly of the interim report he wrote into recordings in Garda stations and various other matters arising therefrom. The meeting was essentially to review where we were at *vis-à-vis* the six weeks, eight weeks or whatever it was, that had expired since we first had the meeting on 2 July.

Deputy Marc MacSharry: Yes.

Mr. John Barrett: We were now into September and a number of things were concerning me about the pace at which matters were being realised, dealt with, considered, whatever the case may be, so I brought it to Mr. Dunne's attention. To be honest, at the very beginning of this entire process I had every faith that Mr. Dunne was of like mind about where this thing was going, so it was not in any way creating a scenario of four legs good, two legs bad, and I am right and you are wrong.

I was saying to Mr. Cyril Dunne that there were some serious guidelines laid down by the Fennelly report that we needed to apply to this particular issue arising in the college. It all surrounded the issue of effective communication. We heard Mr. Howard talk earlier about the September meeting when there was an item under any other business, AOB, that made reference to the college. Despite the fact that my report had been sitting there since 6 July, it was an AOB oral delivery and it clearly did not catch the imagination of the chairman. That was his testimony earlier. From 27 July - when Mr. Dunne had said it in that meeting in the college with the Commissioner, the acting deputies and himself - I became conscious that the material I had prepared for 6 July had not been given to the audit committee. My antennae were tweaking a little bit as to why that had not happened. By September, when I had this meeting with Mr. Dunne, I called him out and said that the Fennelly report should be read. The report talks of the need for effective communication and how the section 41 issue should be interpreted. I was conscious of the fact that on 24 July, Mr. Ken Ruane had written a letter saying that it was a section 41 matter and this was the advice over which privilege was being claimed. I know that because I sat in on the meeting of 27 July where these issues were discussed.

By September I was beginning to feel concern that we were not making the kind of progress that we should. That is the basis of the lengthy note, which I believe speaks for itself - *res ipsa loquitur*. It is very clear in terms of my concerns to Mr. Dunne. I went to him, as my boss, and said that there are some issues that need to be addressed. That is the genesis and the theme of the whole thing. I draw members' attention to my note to Mr. Cyril Dunne, specifically to the chapter heading Interim Report of Justice Fennelly:

Having carefully read and re read the Interim Report of the Fennelly Commission, I am very much clearer on the approach required in dealing with serious issues which may fall within the terms of section 41 of the Garda Síochána Act 2005. I am satisfied that the matters which first came to my attention in June from Mr. McGee's report and subsequently, need to be very carefully and forensically investigated and do, on a prudential basis fall within the terms of [section] 41(1)(b) and (c) in particular and as advised by HOLA [head of legal affairs]. Justice Fennelly makes clear that a [section] 41 is to be used for matters for which the Commissioner judges to be 'significant'.

I go on to explain why I believe these matters are significant.

Deputy Marc MacSharry: What happened after the meeting in September?

Mr. John Barrett: Mr. Ruane has referred to the minutes of the next meeting of the steering group, which took place towards the end of September, following my meeting with Mr. Dunne on-----

Mr. Kenneth Ruane: That was 29 September.

Mr. John Barrett: My note is dated 20.9. That was the 20th of the ninth, when I wrote to

Mr. Dunne following my meeting with him and it deals with the issue of effective communication. We then had a meeting on 29 September, which Ken has the minutes of.

Mr. Kenneth Ruane: The minutes are with the committee.

Deputy Marc MacSharry: Is there a version of Mr. Ruane's minutes and then the refined version?

Mr. Kenneth Ruane: I assume the Deputy has the final version of the minutes but there may have been administrative amendments, nothing substantial. They would have been based on notes I took. They are typed up.

Deputy Marc MacSharry: What happened after the meeting of 29 September?

Mr. John Barrett: After the meeting on 29 September I felt I had made a particularly careful case as to the risk of either not moving with sufficient *élan* or seeking to put this under a bushel. Deputy Catherine Murphy asked me earlier about the nature of the documentation. At this point in time, I genuinely believed that the light had been shone on this and we had to go forward and deal with it transparently, which can be seen from the notes I have circulated. When this began, my thoughts were that there was only one way to deal with it. We would deal with it openly, transparently and with the stakeholders. That is referenced in my discussions on 2 July at the very first meeting and in the cover note to my report on 6 July. My concern was that the transparency might not have been appreciated in the same way by others. That was my concern.

Chairman: We are going to move on now.

Deputy Marc MacSharry: I have two very last questions about something that came up earlier. After the letter seeking, perhaps, an investigation into Mr. Barrett, was Mr. Barrett aware of an investigation? Was he interviewed and questioned?

Mr. John Barrett: Let me assure the Deputy that this is part of the reason I am somewhat on edge in this session, and I do apologise if that is being communicated. This is something I had made six requests for when I had become aware of it. I have already told the committee that I have a redacted copy with about 85% of it blacked out. This is all news to me. I have never been interviewed, I have never been advised and I have never been cautioned. I do not know if any actions were taken on foot of that. I will be making further inquiries.

Deputy Marc MacSharry: With the benefit of hindsight, and granted that Mr. Barrett is only aware of these matters today in respect of the actual wording, does he recall any unusual questioning that could have been construed as an investigation?

Mr. John Barrett: Since I met with the committee last on 4 May I have had to do a series of exams at the King's Inns. An investigation into a criminal charge cannot be done informally. It cannot be done surreptitiously. It must be done face to face and if the matters alleged are as called out, then my rights to constitutional natural justice are my first concern.

Deputy Marc MacSharry: Finally, I have a question for Mr. Michael Culhane. Are there other financial areas properly under his control in respect of his function such as the control of cash by other financial sources within the organisation, charge-back for Garda support operations for the races or concerts, grant applications, vending machines in Garda stations or in headquarters and so on? Where does that cash go? Is this Mr. Culhane's remit and can he

outline this for the committee?

Mr. Michael Culhane: With regard to services provided under the Garda Síochána Act - I forget which section - one can request the provision of Garda services to cover concerts, athletic events and games. The process is that the local superintendent would look for a financial sanction to undertake the duty. The sanction would be granted by my office and then the number of hours required to discharge the duty would be calculated. A rate per hour is applied and billed to the event organiser. The money is received by us and is accounted for in the appropriations-in-aid.

Deputy Marc MacSharry: Okay. What about vending machines or other shops elsewhere on campuses, bars or sports clubs?

Mr. Michael Culhane: I am sure there are vending machines around the organisation that I am not aware of. For example, in headquarters we have a vending machine but it is part of the outsourced canteen facility in headquarters. They look after the vending machine. The receipts from the vending machine are their responsibility.

Deputy Marc MacSharry: Okay.

Mr. Michael Culhane: I know there are other vending machines in the college. They were not included in the Vote.

Chairman: The next speaker was Deputy Peter Burke but he has stepped outside. We may take a short break after Deputy McDonald.

Deputy Mary Lou McDonald: I do not think I have ever seen anything quite as shambolic as this. It feels as though we are trapped in an episode or even a series of "Father Ted". Nobody is responsible for anything, everybody knew everything, yet nobody knew anything. It is absolutely astonishing. Mr. Culhane did not make Mr. Kelly aware of the 2008 report done by Mr. McGee. Why did Mr. Culhane not make Mr. Kelly aware of it?

Mr. Michael Culhane: This was discussed with the chief financial officer at the time. There were a lot of unanswered questions in the report. In the meantime, we were trying to establish some of the answers and to resolve some of the issues around what had been identified in the report. Earlier this morning I charted out the actions that were taken in between the period of time-----

Deputy Mary Lou McDonald: Please, really. Do not totally break me by going through all of those again. I have an email from Mr. Barry McGee addressed to Mr. Barrett. It is from 25 June. I believe that is 2015. Mr. Culhane commissioned Mr. McGee to carry out this report. It was under Mr. Culhane's auspices?

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: Where is Mr. McGee? Does he still work for Mr. Culhane?

Mr. Michael Culhane: Yes, he does.

Deputy Mary Lou McDonald: This is Barry McGee?

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: This email from Mr. McGee to Mr. Barrett might help us

shed light on what was happening here. Mr. McGee asks how Mr. Barrett is doing and goes through some of the issues. He then says: “I think the problem in approaching the solving of this, is that because of the potential negative reputational risk for the organisation - in that once this starts to be sorted out it hits the public media, either through audit etc., it could have very big ramifications - like the accounting officer appearing before the PAC etc. - so it is how to solve this quietly without risking exposure - again this is just my opinion - so this report was quiet sensitive - Michael...” - presumably this is Mr. Culhane-----

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: -----”has said if you wish to meet and discuss this etc. might be useful...”

Mr. John Barrett: That is correct.

Deputy Mary Lou McDonald: I thank Mr. Barrett. I do not doubt the provenance of the email or its authenticity.

Chairman: Is that part of the pack we have received?

Deputy Mary Lou McDonald: Yes. It is received from Mr. Barrett. It is page 117 of the pdf. I have extracted pieces from it.

Chairman: Thank you.

Deputy Mary Lou McDonald: Mr. Culhane commissioned Mr. McGee to write the report, and he duly went about his business and produced the report. Mr. Culhane did not think it appropriate to tell Mr. Kelly of internal audit about the report. Who did he share the report with?

Mr. Michael Culhane: I reported to the chief administrative officer and I think-----

Deputy Mary Lou McDonald: Mr. Dunne?

Mr. Michael Culhane: No. At that time it was Mr. Leamy.

Deputy Mary Lou McDonald: Okay, our friend Mr. Leamy. Mr. Culhane passed it up. Obviously, Mr. Culhane was troubled by what was in the 2008 report.

Mr. Michael Culhane: Yes, I had concerns about what was in it.

Deputy Mary Lou McDonald: Obviously Mr. McGee also had concerns.

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: However, it appears that his biggest concern was the possibility of reputational risk and of the Accounting Officer appearing before this committee. Did Mr. Culhane discuss those matters with Mr. McGee?

Mr. Michael Culhane: That email was addressed to Mr. Barrett. I only got it as part of the package that was given to the Committee of Public Accounts. I had not seen it before.

Deputy Mary Lou McDonald: I remind Mr. Culhane that he is giving an account of himself and his responsibilities to an Oireachtas committee.

Mr. Michael Culhane: Yes, I understand.

Deputy Mary Lou McDonald: I want Mr. Culhane to answer with full accuracy. Did he have a discussion with Mr. McGee about the manner of sorting these things out, the risk of reputational damage and, in particular, the possibility of the Accounting Officer, that is, the Garda Commissioner, appearing before the Committee of Public Accounts?

Mr. Michael Culhane: I have no recollection of having a discussion with Mr. McGee on the lines the Deputy has just outlined. Obviously, when he submitted his report to me, it was a complex report so I certainly would have discussed his findings in the report. Certainly, we had discussions-----

Deputy Mary Lou McDonald: I know there were discussions. Did Mr. Culhane have the type of discussion I am outlining?

Mr. Michael Culhane: No, I did not.

Deputy Mary Lou McDonald: Mr. Culhane never had such a discussion with Mr. McGee?

Mr. Michael Culhane: Well, I had discussions-----

Deputy Mary Lou McDonald: I know that. It is a particular type of discussion that I have described.

Mr. Michael Culhane: We are going back to 2008. I do not remember everything that was discussed relating to the report but it was not-----

Deputy Mary Lou McDonald: I am sorry, Mr. Culhane-----

Mr. Michael Culhane: Can I just finish the point?

Deputy Mary Lou McDonald: No, Mr. Culhane cannot. This email to Mr. Barrett is from 2015. In it, Mr. McGee specifically sets out what he regards as the big jeopardy of reputational damage and, not least, these matters coming to the attention of the Committee of Public Accounts. He goes on to say in the same email that Michael - he refers to Mr. Culhane by his first name - is open to meet to discuss this. He says Mr. Culhane said to him, "to meet to discuss this... [these matters] might be useful".

Mr. Michael Culhane: Yes.

Deputy Mary Lou McDonald: However, Mr. Culhane is telling us now that he never discussed with Mr. McGee the issue of reputational damage, appearances before the Committee of Public Accounts and so forth.

Mr. Michael Culhane: That email went from Barry McGee to John Barrett. I did not see the email until I got the package. Can I just explain?

Deputy Mary Lou McDonald: No, Mr. Culhane absolutely cannot. I want him to answer the question. Did he or did he not have a discussion with Mr. McGee in which he discussed reputational damage and the possibility of these matters coming before the Committee of Public Accounts, "Yes" or "No"?

Mr. Michael Culhane: I have no recollection of having a discussion-----

Deputy Mary Lou McDonald: Is no recollection a "Yes" or a "No"?

Mr. Michael Culhane: In fairness, we are talking about an event in 2015 and there is a lot of stuff going on so I would not remember everything-----

Deputy Mary Lou McDonald: I do not accept that. I am sure Mr. Culhane has a very busy and varied life but I do not accept that he would have no recollection of such a discussion with Mr. McGee.

Mr. Michael Culhane: Well, I did not have a discussion with him in 2015 on those topics.

Deputy Mary Lou McDonald: Did Mr. Culhane not have a discussion with him in 2015 or did he never have a discussion with him around reputational jeopardy and appearances before the Committee of Public Accounts?

Mr. Michael Culhane: In his report, from recollection, he mentions those items, so they would have been in the report in terms of when the report was submitted in 2008.

Deputy Mary Lou McDonald: Chairman, I believe the only way we can remedy this is to invite Mr. McGee to appear before the committee - I realise he is not listed - to clarify this matter.

Chairman: I appreciate that. Is it in the pack we received from Mr. Barrett?

Deputy Catherine Connolly: It is page 56.

Deputy Mary Lou McDonald: The reason I raise this is that we could go around forever on this merry-go-round of saying "we know nothing". This email crystallises what was taking place here, which was a deliberate strategy to keep things quiet and contained, and to attempt to co-opt others - in this case Mr. Barrett - into that strategy for managing these issues.

Mr. Michael Culhane: I would not agree with that interpretation. I gave Mr. Barrett the report; I instructed Mr. McGee to give him the report. The intention was to address the issues in terms of the recommendations-----

Deputy Mary Lou McDonald: On what date did Mr. Culhane give him the report?

Mr. Michael Culhane: I think it was in June 2015.

Deputy Mary Lou McDonald: Funnily enough, this email is in June 2015 too.

Mr. Michael Culhane: I presume Barry wrote that subsequent-----

Deputy Mary Lou McDonald: So Mr. McGee wrote this off his own bat.

Mr. Michael Culhane: Yes. I did not instruct him to write it or try to edit it in any fashion. As I said before, when I got this pack it was the first time I saw it.

Deputy Mary Lou McDonald: In addition, Mr. Culhane did not have that discussion with Mr. McGee.

Mr. Michael Culhane: No.

Deputy Mary Lou McDonald: Okay. On that turn of events, what is Mr. Barrett's recollection of those events? He got the report in June 2015 from Mr. Culhane and he was in receipt of this email from Mr. McGee.

Mr. John Barrett: Let me give the running order, which I believe will help. The genesis of this was a series of questions I asked about overtime in the Garda College.

Deputy Mary Lou McDonald: That is right.

Mr. John Barrett: The answers were less than satisfactory from my perspective. I sought, therefore, to dig deeper. As I did so, a number of matters came to my attention about people who were not, as it were, in the Garda Vote and those who were serving in the restaurant or doing other activities who I understood up to that point were civil servants and employed in the Garda College. Immediately I began to get sight of what was, essentially, a private enterprise operating within the Garda College. I raised my concerns about this. Barry McGee very kindly, and I did not understand it was Michael at the back of this, gave me a copy of a report, because I asked him to assist me. It was a copy of a report he did in 2008. When I got that, I read it. It is about 18 pages and I scanned through it very quickly. I rang Cyril and said, "Cyril, just got this. I have asked Barry to make a copy for you." Cyril had not seen it up to that point in time. That is what he assured me, but the Deputy herself can ask him the question. He and I began a dialogue about what to do about this. Then we discovered there was a 2010 report done by Assistant Commissioner Jack Nolan, and Jack was very forthcoming and very helpful to me in my inquiries around this. The lineage of the issue became clear to me.

I met with Mr. Culhane and Mr. McGee in my office at 14.15 on 30 June - this is in the report, at page 38 - and we discussed this quite openly. My minute of the meeting is contemporaneous - it is right there. The meeting began with my summary of the concerns on the general financial controls in the college, the need to appoint a qualified accountant and for that accountant to report, solid-line, to the CFO and, dotted line, to me as executive director. This was seen as a good idea by the CFO, though it immediately pointed to a limited number of senior personnel to draw upon. In response also, the CFO outlined the independence which the college had historically exercised. This was all news to me. I could not, quite frankly, get my head around the idea that we had these independent operations within the Garda College.

The meeting examined the need to seek a link between activity and cost in a meaningful system of accounting, like ABC, activity based costing, which would seek to hold resource managers to account for their stewardship of staff and all other types of resources. I expressed the view that finance and HR should collaborate around that initiative so that we could better link deployment of operational choices to some kind of standard efficient measures.

My approach to this was entirely open-handed. I assumed we were all in this-----

Deputy Mary Lou McDonald: Okay.

Mr. John Barrett: -----with a view to figuring it out.

Deputy Mary Lou McDonald: Would Mr. Barrett now explain Mr. Culhane's approach to it?

Mr. John Barrett: Mr. Culhane obviously had an awareness of these issues stretching back much further than mine.

Deputy Mary Lou McDonald: Yes.

Mr. John Barrett: As we discussed this, it was perfectly plain that these issues continued despite the 2008 report, despite a report that I learned about subsequently - the 2006 report - and

the 2010 report. As the Yanks would say, “Go figure.”

Deputy Mary Lou McDonald: Let us go figure. Mr. Barrett received that email from Mr. McGee, the author of the 2008 report.

Mr. John Barrett: Mr. McGee is a first-class accountant out of the Comptroller and Auditor General’s office.

Deputy Mary Lou McDonald: I am not disputing that for one moment but the email reads as I have placed on the record.

Mr. John Barrett: Absolutely.

Deputy Mary Lou McDonald: It talks about concerns around reputational damage-----

Mr. John Barrett: Yes.

Deputy Mary Lou McDonald: -----the danger of the Commissioner “appearing before the PAC”. He advises Mr. Barrett that “Michael” is available to “discuss this, etc”. What did Mr. Barrett make of that?

Mr. John Barrett: I treated it for exactly what it was. He was informing me of a status and if the Deputy just turns to my report of-----

Deputy Mary Lou McDonald: Sorry, I put it to Mr. Barrett that Mr. McGee was doing more than that? Was he crystalising an approach in terms of how this should be managed and also crystalising for Mr. Barrett why it had not been managed in the transparent, straightforward and open way that Mr. Barrett had assumed would be the approach?

Mr. John Barrett: That question did occur to me-----

Deputy Mary Lou McDonald: Yes?

Mr. John Barrett: -----but everybody is entitled to come explain. I do not jump to prejudgments, but it was a warning shot. It was a warning shot. I read it like the Deputy has read it.

Deputy Mary Lou McDonald: Okay. I am going back to Mr. Kelly, just on this business of bank accounts and how many there are. We have now established from Mr. Nugent that currently there are three bank accounts.

Mr. Joseph Nugent: That I am aware of, yes.

Deputy Mary Lou McDonald: I thank Mr. Nugent. That Mr. Nugent is aware of?

Mr. Joseph Nugent: Yes.

Deputy Mary Lou McDonald: That is an important caveat. How many bank accounts is Mr. Kelly aware of?

Mr. Niall Kelly: At the moment, I am looking at this as part of an audit of the cash management within the college.

Deputy Mary Lou McDonald: So I see.

Mr. Niall Kelly: I have not concluded my audit. I will conclude it and I will be able to

give-----

Deputy Mary Lou McDonald: Will Mr. Kelly give us an interim report on it? Are there more than three?

Mr. Niall Kelly: The last time I looked, there were.

Deputy Mary Lou McDonald: How many more than three?

Mr. Niall Kelly: I do not know what has happened in the last week - maybe things have happened.

Deputy Mary Lou McDonald: Oh, come on, Mr. Kelly, please.

Mr. Niall Kelly: What I am saying is there would be, the last time I looked, about six.

Deputy Mary Lou McDonald: About six?

Mr. Niall Kelly: Yes.

Deputy Mary Lou McDonald: Six is double three. Let us do the maths here.

Mr. Niall Kelly: Maybe things have moved on in the last week or so.

Mr. Joseph Nugent: If I can clarify what my awareness of the three is then that would help. The shop, the restaurant and CEPOL - those are the three.

Deputy Mary Lou McDonald: The shop, the restaurant-----

Mr. Joseph Nugent: And the CEPOL account.

Deputy Mary Lou McDonald: And the?

Mr. Joseph Nugent: C-E-P-O-L, CEPOL.

Deputy Mary Lou McDonald: Shop, restaurant and CEPOL are the three that Mr. Nugent knows and that is his last word on it, as and from now.

Mr. Niall Kelly: That is what I am aware of.

Deputy Mary Lou McDonald: We can come back to that in a moment, let us first get the number of them.

Mr. Joseph Nugent: Yes.

Deputy Mary Lou McDonald: Is Mr. Kelly's reckoning that-----

Mr. Niall Kelly: There might be more.

Deputy Mary Lou McDonald: -----there are six?

Mr. Niall Kelly: As I said, there are two CEPOL accounts and I am not sure about all of these savings accounts. Are they all closed off at this stage?

Mr. Joseph Nugent: The only accounts that I am aware of are those three.

Deputy Mary Lou McDonald: Mr. Nugent is aware of three.

Mr. Niall Kelly: What I am saying is that I have not had a chance to go through every single account and see what the status is, but there may be more. Well, the last time I looked, there were more than three.

Deputy Mary Lou McDonald: There were more than three.

Mr. Niall Kelly: Yes.

Deputy Mary Lou McDonald: Are these from the previous 48 that we knew about that just have not been closed down-----

Mr. Niall Kelly: Yes.

Deputy Mary Lou McDonald: -----or are they new accounts that have come to Mr. Kelly's attention?

Mr. Niall Kelly: No. I have not got any new accounts.

Deputy Mary Lou McDonald: I assume Mr. Kelly is fairly advanced in this work at this stage, is he?

Mr. Niall Kelly: We are. We are progressing. We are trying to get reports by the middle of July.

Deputy Mary Lou McDonald: The middle of July?

Mr. Niall Kelly: Yes.

Deputy Mary Lou McDonald: Mr. Kelly is still very hazy, for my liking.

Mr. Niall Kelly: The Chair might assist me here. I have not concluded my reports. I cannot give an audit opinion. If I was to do that, it would be unprofessional of me. I would rather just ask that the committee hold off.

Deputy Mary Lou McDonald: Can I respond to that?

Chairman: Yes.

Deputy Mary Lou McDonald: I am not asking Mr. Kelly to give the definitive final answer-----

Mr. Niall Kelly: I thank the Deputy.

Deputy Mary Lou McDonald: -----but it is a matter of considerable importance as to how many bank accounts there are.

Chairman: I will help the Deputy on this.

Deputy Mary Lou McDonald: One moment, it is not satisfactory-----

Chairman: I will help the Deputy on this.

Deputy Mary Lou McDonald: -----to come here and be hazy and vague.

Chairman: I accept the internal audit function is not complete and we will ask Mr. Nugent to establish the number and send us a note on it immediately. We will not complicate the inter-

nal audit but Mr. Nugent can check with whoever he needs to check with, and Mr. Nugent can confirm the figures to us.

Deputy Mary Lou McDonald: Can they confirm none of those are offshore?

Mr. Niall Kelly: None of those are offshore.

Deputy Mary Lou McDonald: Was that a red herring?

Mr. Niall Kelly: It was a possibility that I was examining in the course of my audit but I did not find any.

Deputy Mary Lou McDonald: I thank Mr. Kelly.

I read with interest Mr. Howard's letter of 19 April 2017. It was written as he was, as they say, on the way out the door.

Mr. Michael Howard: That is correct.

Deputy Mary Lou McDonald: Mr. Howard's term was coming to an end. Was it a fixed term?

Mr. Michael Howard: I was appointed for three years, yes.

Deputy Mary Lou McDonald: It had run its natural course.

Mr. Michael Howard: It had run its natural course.

Deputy Mary Lou McDonald: The letter reflects the fact that Mr. Howard left, not on bad terms. Was there a bit of animosity as Mr. Howard was exiting?

Mr. Michael Howard: For my part, there was no animosity.

Deputy Mary Lou McDonald: Mr. Howard writes, "On the contrary, as my term is now concluding, I would have greatly preferred to depart on a more harmonious note".

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: Therefore, it was not all harmony.

Mr. Michael Howard: The letter, as the Deputy can read, is rather direct. I am regretfully obliged to bring to the Commissioner's attention what I believe is a serious matter for the integrity of the internal audit process.

Deputy Mary Lou McDonald: Therefore, Mr. Howard writes to the Commissioner as Mr. Howard is leaving his function-----

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: -----defending the honour of Mr. Kelly against the assertion from Mr. Culhane that his report was "unprofessional, misleading and mischievous - comments that [Mr. Howard asserts] directly call into question the personal motives and integrity of the report's author (Mr. Kelly)".

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: Therefore, Mr. Howard writes to the Commissioner setting out his stall-----

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: -----and Mr. Howard believes that the accusations are very serious.

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: Any reasonable person would share that. Mr. Howard writes, "The situation can only be resolved if the assertions made by Mr. Culhane are either unconditionally withdrawn or unambiguously overruled by a superior authority".

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: Who did Mr. Howard mean by "a superior authority"?

Mr. Michael Howard: The superior authority would either have to be the Commissioner or, I believe, the CAO.

Deputy Mary Lou McDonald: Okay. I am correct in saying that neither happened. There was neither an unambiguous withdrawal nor an overruling by a superior authority.

Mr. Michael Howard: Not that I am aware of, no.

Deputy Mary Lou McDonald: What did Mr. Howard do about that?

Mr. Michael Howard: The Deputy will appreciate that was 19 April and I finished on 30 April. I received an acknowledgement of the letter and was told it would be dealt with. What I had done is I have passed the matter on to my successor in office. That is all that I can do.

Deputy Mary Lou McDonald: Did Mr. Howard contact the Office of the Comptroller and Auditor General to make it aware that the integrity and standing of the head of audit and, by extension, the internal audit process itself were being challenged in such a direct way by the director of finance or whatever Mr. Culhane's official title is?

Mr. Michael Howard: I did not write formally to the Comptroller and Auditor General.

Deputy Mary Lou McDonald: Did Mr. Howard contact the Office of the Comptroller and Auditor General at all on this matter?

Mr. Michael Howard: I believe I discussed the matter with Mr. Andy Harkness.

Deputy Mary Lou McDonald: Mr. Howard believes he discussed it.

Mr. Michael Howard: Yes, I did, simply to make him aware that the issue existed but that I had addressed it to the Accounting Officer to deal with.

Deputy Mary Lou McDonald: Was the Comptroller and Auditor General aware that this challenge to the internal audit and its head had been made in such a direct way by Mr. Culhane?

Mr. Seamus McCarthy: I was not and I was not aware of this letter. I have not seen this letter until now. It is on the screen in front of me.

Deputy Mary Lou McDonald: According to Mr. Howard, Mr. Harkness was the person he spoke to in the Office of the Comptroller and Auditor General. Does Mr. McCarthy have any record of that?

Mr. Seamus McCarthy: He did speak to him and I think there was a letter subsequently.

Mr. Michael Howard: No, the letter that I would have written would have been on 25 October.

Mr. Seamus McCarthy: Right.

Mr. Michael Howard: That was a letter in which I suggested that the Office of the Comptroller and Auditor General might wish to make its own report on these matters.

Mr. Seamus McCarthy: Yes, otherwise I have not had a communication.

Mr. Michael Howard: This was considerably later than that.

Deputy Mary Lou McDonald: Yes.

Mr. Michael Howard: It was 19 April. In the course of dealing with this issue, I was advised that I should not interfere with Mr. Culhane's right to comment on a draft report until our business with the report was concluded, which took place on 23 March. My father passed away on 29 March and I did not deal with official business for a week or two and I returned to it then.

Deputy Mary Lou McDonald: I am sorry to hear of the passing of Mr. Howard's father. At that stage, Mr. Howard wrote a letter in which he set out to the Commissioner the reservation he had in terms of commenting on this matter but he now feels liberated to do so.

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: Indeed, Mr. Howard does so very explicitly in his letter.

Mr. Michael Howard: Yes.

Deputy Mary Lou McDonald: What I cannot understand is why Mr. Howard did not much more energetically pursue the Commissioner in terms of remedying this matter and why he was not much more energetic in his engagement with the Comptroller and Auditor General. It does not get much more serious when the head of finance in an organisation, which is Mr. Culhane's position, openly challenges the head of internal audit? The use of the term "unprofessional, misleading and mischievous" by Mr. Culhane is damning.

Mr. Niall Kelly: Yes.

Deputy Mary Lou McDonald: That is the most profound and most basic challenge to the authority, integrity and efficacy of the audit process. I cannot imagine a more serious challenge than that.

Mr. Michael Howard: I would agree with the Deputy that is an extremely serious challenge.

Chairman: I ask Deputy McDonald to conclude.

Deputy Mary Lou McDonald: Yes.

Chairman: We spoke about this matter this morning. As Mr. Howard is no longer in the same position, Mr. Nugent indicated he is working on the reply and will revert to the committee very promptly with the reply from the Commissioner.

Deputy Mary Lou McDonald: That is fine. I accept that Mr. Howard is no longer in position and appreciate he is here to assist us with our inquiries. However, this is off-the-wall stuff. Maybe those of us on the outside have different expectations of those on the inside who carry such significant responsibilities. Mr. Culhane directly and openly challenged the authority of Mr. Kelly, the internal auditor, on issues that Mr. Howard knew were serious, troubling, worrying and all of the other adjectives that have been used. The fact that this challenge was made is absolutely extraordinary but the fact that those charged with oversight were silent is absolutely disgraceful and inexplicable. I do not know in what kind of organisation that happens. Much has been said about culture but that does not even capture the toxicity of what we are seeing here. It is astonishing and, as a member of this committee, I am not satisfied with the answer Mr. Howard has provided or his stewardship of this series of events. As for Mr. Culhane-----

Deputy David Cullinane: On that issue, I will make one quick point because it is important.

Chairman: We have to put these matters to the Commissioner and it is up to her to respond to everything that has been said.

Deputy David Cullinane: We heard that Mr. Nugent is taking charge of the complaint made by Mr. Howard in respect of Mr. Kelly.

Chairman: I ask Mr. Nugent to clarify the position on this issue, which we discussed with him this morning.

Mr. Joseph Nugent: I said that there was an issue of due process and we are discussing a matter which, if Mr. Culhane does not mind, has only been brought to the attention of Mr. Culhane today. There is advice being sought on the issue.

Deputy David Cullinane: What I am saying is that now that we know that very similar charges were made by Mr. Culhane in respect of Mr. Barrett, which Mr. Barrett also only learned about recently, will that matter also be examined by the Commissioner?

Mr. Joseph Nugent: I will take that matter back with me.

Deputy David Cullinane: Will Mr. Nugent take it up because they were very similar charges?

Mr. Joseph Nugent: Yes.

Chairman: We will conclude on that. I have a list of Deputies who wish to speak. I propose we take a ten-minute break first.

Deputy Catherine Connolly: We should take a 20-minute break because we have been here for a long time.

Chairman: That is up to members.

Deputy Bobby Aylward: Has everyone spoken?

Chairman: All speakers wish to contribute for a third time. I ask everyone to return in ten

minutes. We will resume with Deputy Cullinane if Deputy Peter Burke has not returned by that time. Is it reasonable to resume after the break for one hour?

Deputy Catherine Connolly: It would be unreasonable to continue for longer than one hour.

Chairman: We will suspend for ten minutes only.

Sitting suspended at 7.47 p.m. and resumed at 8 p.m.

Chairman: The next speaker is Deputy Burke and then Deputies David Culliane, Alan Kelly, Bobby Aylward, Catherine Muphy and Catherine Connolly in that order. I am confining members to six minutes each because we will be well out of here within the hour and I have to give a few minutes to the witnesses who will want to say a few things that they may not have had a chance to say or points they wish to clarify before we close.

Again, one member's phone is buzzing away and causing a problem to the recording equipment.

Deputy Mary Lou McDonald: It is Deputy Aylward.

Chairman: Please put it on airplane mode.

Deputy Peter Burke: To return to the audit, I want to develop further the tax numbers that were there in the college and focus on the tax numbers that are exclusively the responsibility of An Garda Síochána that we cannot pass off to a board of directors. We are talking about the bar and the restaurant, the two bigger ones I would think. In the audit report, Mr. Kelly pointed out that the last set of accounts was 2009 and he mentioned that the independent accountant had audited them. On page 25 of the interim report, it states that Mr. Kelly had discussions with the accountant regarding what qualification means and whether the accountant had any suspicion regarding possible misappropriation of money. Mr. Kelly also noted that the control and record keeping was inadequate in terms of stock control and poor management. He met with the accountant regarding further investigation he had done on the preliminary work on these accounts and he was reluctant to give an audit opinion from 2010 onward.

From 1 January 2014, Mr. Kelly was talking to the restaurant manager. A small sample of transactions was audited in that case, including wage slips for work in the bar, a lodgement, a number of payments to suppliers, lodgements that were verified by lodgement slips, till receipts, etc. Controls were noted to be weak. Moving on to the restaurant, on page 26 of the report, he noted that restaurant expenses such as food, wages, and Revenue and pension contributions were paid from the restaurant account and all energy costs were paid through the Garda Vote. Further down on page 26, he stated that the audit took sample payments from 2009 and 2015. For supporting invoices and documentation in regard to each payment sampled, he was provided with all invoices and also provided with satisfactory explanations for payments to the account. On the work carried out on those two entities, which had a tax number, at any stage did Mr. Kelly ask were their taxes up to date?

Mr. Niall Kelly: I think I dealt with that in the earlier section on the tax. I deal with the tax liability on page 21 of the report.

Deputy Peter Burke: Can Mr. Kelly expand?

Mr. Niall Kelly: For clarity, I do not accept that the Sportsfield Company Limited is not

part of the Garda. I would contend that it is part of the Garda Vote. There is voted money in it.

Deputy Peter Burke: I fully accept that. Mr. Nugent is saying that the tax issue is a matter for the board of directors. That is how he pushed away the response to the question.

Mr. Niall Kelly: I would not completely concur with that.

Deputy Peter Burke: Neither would I.

Mr. Niall Kelly: No.

Deputy Peter Burke: We are directly responsible for these two tax numbers. What I am finding hard to understand is that in the course of that investigation, when Mr. Kelly is talking to these two heads, would he have got P35s and reconciled wages with them to see if there was a discrepancy? Were there unvouched wages that tax has not been paid on?

Mr. Niall Kelly: We looked at that and the tax liability on pages 21-22. This report was a catch-all audit. It had a broad scope. We did not delve into any one item with any particular depth. We were trying to find everything and do so in a very short time. We are now going back and looking deeper and in more depth and detail on issues.

Chairman: There is someone's phone again.

Deputy Peter Burke: When Mr. Kelly says that the audit found that the Garda restaurant and shop were compliant in the payment of payroll taxes, is he saying the bar was also compliant?

Mr. Niall Kelly: There is one person who occasionally works in the bar, but is really assigned to the restaurant. The bar does not open that frequently so it is not as if there is a full-time bar person in that job. It is someone who comes in and does a couple of hours now and again, and is probably paid through the restaurant account.

Deputy Peter Burke: It still has a balance of €417,000.

Mr. Niall Kelly: I know.

Deputy Peter Burke: For a bar that does not open that often, that does not make sense.

Mr. Niall Kelly: It does not, no. The Deputy is right.

Deputy Peter Burke: To expand on that, can Mr. Kelly give me assurance that the returns are up to date for those tax heads? If he was doing an interim report, I would imagine he would have asked for this.

Mr. Niall Kelly: I said on page 3 that I cannot give assurance. Is the Deputy referring particularly to the tax?

Deputy Peter Burke: I want to be respectful here but perhaps there is a huge difference in how auditing is done in the public sector. I know that potentially internal audits might not be as robust. On taxation, I would have thought that, for argument's sake, that if one was doing an interim audit, one would get a statement from Revenue for each of those tax numbers. It is a very simple thing. It takes about two working days to do it on Revenue online. One puts in the number, requests a statement and it comes out in the post.

Mr. Niall Kelly: I do not think we did that. I disagree with Deputy Burke in that I would say an internal audit was more detailed than an external audit.

Deputy Peter Burke: That looks worse for him. I cannot understand this. We have an internal report. We are hanging our hat on the major discrepancies in accounts, the major balances where the private accountant said there was concern regarding cash, and we do not have a statement from the Revenue Commissioners as part of our audit work. Is that not an unbelievable set of events for an internal auditor?

Mr. Niall Kelly: No, I am taking a panoramic view. I am touching on things to see what are the big ticket items.

Deputy Peter Burke: Is Revenue not a big ticket item?

Mr. Niall Kelly: I do not think so for this. There are not that many staff.

Deputy Peter Burke: But it is upholding the law?

Mr. Niall Kelly: Yes.

Deputy Peter Burke: It is critical that there is compliance with Revenue, if compliance and a standard is set for the public. Payment of all is one of the most important issues to be assured. We are talking about over €400,000 that accumulated in the bar. As we know, VAT is a transaction tax. To amass that type of money over the years suggests there was a significant level of turnover. As a transaction tax, the risk that it was misstated in the absence of accounts for these years is significant. I do not understand why this has not been done. I am very frustrated when I hear the responses to this.

Chairman: The point is well made. I will move on to Deputy Cullinane. The issue of outstanding taxation is unresolved. A year on, we still do not know. It should have been one of the recommendations. If Mr. Kelly did not complete it during his report, it should be a recommendation that all that be wrapped up. That is an issue we will come back to.

Deputy David Cullinane: We are all tired after a long day but it has been extraordinary. I found a lot of the statements and answers given by some of the witnesses today to be shambolic and deeply troubling. It is a real matter of concern for us because we are messengers of the people. We have to make sure good practices are in place and taxpayers' money is spent well. It is impossible for anybody who listened to or watched today's proceedings to have confidence in some of the civilian heads of An Garda Síochána in respect of their roles and functions. I have found today troubling, to say the least.

Mr. Ruane would approach processes, practices and procedures from a very legal perspective. What did he make of the shambolic performances today, and some of the answers that were given?

Mr. Kenneth Ruane: Clearly there are significant conflicts over what occurred at various meetings. Certain members have withdrawn claims they had earlier made and I am glad that those issues have been resolved.

Deputy David Cullinane: I will return to those issues in a few minutes. From a legal perspective, and the perspective of processes, policies and procedures, does Mr. Ruane agree that if somebody watched the proceedings for the first time today, having been unaware of the issues, they would be deeply troubled?

Mr. Kenneth Ruane: In my own opinion, the answer is “Yes”.

Deputy David Cullinane: The note of Mr. Barrett’s meeting with the Garda Commissioner is dated 1 October 2015.

Mr. John Barrett: That is correct.

Deputy David Cullinane: Mr. Barrett said the Commissioner perused the 2008 report and concluded that there was no evidence of misappropriation. Is that what she said?

Mr. John Barrett: That is what she said.

Deputy David Cullinane: Was that premature on her part?

Mr. John Barrett: The 2008 report has been discussed at this meeting so members will have some idea of it and the documents are worth looking at. There is no basis for the level of abstraction in the report or for reaching a conclusion that all cash was managed appropriately. It is impossible, and this is not a comment on the Commissioner. From the level of detail in the report this is not possible to verify.

Deputy David Cullinane: Mr. Barrett did comment on the Commissioner.

Mr. John Barrett: She made the point.

Deputy David Cullinane: He said the Commissioner perused the 2008 report and concluded that there was evidence of misappropriation.

Mr. John Barrett: That happened at the meeting.

Deputy David Cullinane: Was that a declaration of faith on her part?

Mr. John Barrett: I suspect it was because there is no factual basis for saying that all cash was properly managed.

Deputy David Cullinane: Was it wishful thinking on her part?

Mr. John Barrett: You will have to ask her.

Deputy David Cullinane: We will ask her. Mr. Barrett said the meeting debated the degree to which the Department was aware of these issues. He noted that there were differences of opinion but that he felt the Department was likely to be completely unaware of them.

Mr. John Barrett: That was my view but I have heard Ms Barry say this afternoon that the Department was aware of them to a certain degree. I am not worried about the boundary but it was an item we discussed at the meeting.

Deputy David Cullinane: What was Ms Barry aware of?

Ms Anne Barry: We did an extensive trawl of our records back to the late 1980s and we did not find records on the establishment of the arrangements in the college or its finances. Garda management supplied us with two documents, one from 1989.

Deputy David Cullinane: When did it supply them? The note in question was 1 October 2015.

Ms Anne Barry: It was after that.

Deputy David Cullinane: So it was after the meeting. When this was being discussed, was the Department aware of any of these issues?

Ms Anne Barry: Given that the Secretary General of the Department was the Accounting Officer prior to 2006, our view is that, while we do not have any documentary evidence, we must have been aware of the arrangements that were put in place in the early 1990s. We participated in the Walsh committee, which made certain recommendations relating to Templemore and we were involved in other groups.

Deputy David Cullinane: We are tight for time so I ask Ms Barry to write to the committee to explain exactly what the Department was aware of prior to 1 October 2015.

Mr. Barrett goes on to say there was a reticence on the part of the Commissioner and others to accept the conclusions of the 2008 report and other materials added by the CAO.

Mr. John Barrett: There was a view that the report did not represent their understanding of the reality. I would not put it any more strongly than that. Barry McGee's report was passed around at the meeting and was appended to Mr. Ruane's letter of recommendation of what the Commissioner should do. The discussion was around whether the report was overly critical of the scenario.

Deputy David Cullinane: The Commissioner had concerns over the possibility that the 2008 report was overly critical and the problems overstated.

Mr. John Barrett: Yes, precisely.

Deputy David Cullinane: In the letter Mr. Barrett sent to Mr. Kelly dated 12 October 2016, it states that a suggestion was made that recommendations in Mr. Kelly's report could or should be varied by the Commissioner and the executive. Who suggested that the Commissioner might vary the report?

Mr. John Barrett: Can the Deputy run that by me again?

Deputy David Cullinane: In the letter Mr. Barrett sent to Mr. Kelly dated 12 October 2016, he cites concerns about information deliberately and systemically kept outside the purview of the statutory audit committee and said that a suggestion was made that recommendations in Mr. Kelly's report could or should be varied by the Commissioner and the executive.

Mr. John Barrett: My two-page letter to Mr. Kelly is very clear. I am critical of Mr. Kelly's report because the cash audit element was not included at that point. I understand why - he was not able to get it done in time to meet the deadline for the Comptroller and Auditor General's report in September. We need to go back to the well and verify some of the comments made on the cash. That is what Mr. Kelly is doing now.

Deputy David Cullinane: What Mr. Barrett said goes to the heart of these issues. He referenced internal guard dogs "not barking" and said that withholding information appeared to have been co-ordinated. He said that denying information to internal audit could only have happened if it was supported by senior Garda management. This is a very serious accusation. He goes on to say these practices were not just tolerated, but protected from scrutiny, and he referred to concerns over the risks being run. He also said the actions being undertaken by the working group were an effort to cover up.

Mr. John Barrett: Yes.

Deputy David Cullinane: He said in a previous note that there was a co-ordinated attempt to deny information. This smacks of a conspiracy.

Mr. John Barrett: I will parse what the Deputy has said because I want to make sure people get the context. Mr. Kelly and I had lengthy discussions when he became involved in the process and he made it clear he had not been involved in anything other than an A03 audit in the college. The A03 audit is a simple audit of fees paid for courses but the fundamental enterprises within the college were unknown to him in the extent of their operation and he had not seen the 2006, 2008 or 2010 reports. In my note back to him, I wondered aloud whether that was accident or design.

Chairman: I have to move on to Deputy Kelly as we are in six-minute slots.

Deputy Alan Kelly: I appreciate this is an ongoing process so I will not ask Mr. Kelly to be specific on names or times but, during the audit process in Templemore, has he ever come across any cheques made out to senior gardaí?

Mr. Niall Kelly: Yes, I have.

Deputy Alan Kelly: Is that not absolutely bloody well incredible?

Mr. Niall Kelly: There can be very innocent explanations for cheques being made out to senior gardaí.

Deputy Alan Kelly: How many has Mr. Kelly come across?

Mr. Niall Kelly: There can be very legitimate reasons for cheques being made out to gardaí in recompense of expenses, etc.

Deputy Alan Kelly: I understand that. How many cheques has he come across?

Mr. Niall Kelly: There could be hundreds of them. In the normal course of events, people can expend money on items and they can be properly vouched.

Deputy Alan Kelly: Of course. Presumably, though, Mr. Kelly will have to go through every stub and correlate an expense.

Mr. Niall Kelly: Yes. What we could do in-----

(Interruptions).

Deputy Alan Kelly: I am sorry, but someone's phone-----

Chairman: It is buzzing somewhere.

Deputy Alan Kelly: Take it away, please.

Mr. John Barrett: It is not mine.

Chairman: The transcripts cannot be completed otherwise.

Mr. Niall Kelly: That is the normal course of auditing - an auditor might not look at every single stub but he or she might-----

Deputy Alan Kelly: But the auditor will have to look at all of them.

Mr. Niall Kelly: I believe the Deputy is saying that, as regards senior gardaí, everything must be properly vouched for.

Deputy Alan Kelly: Absolutely.

Mr. Niall Kelly: That is being done.

Deputy Alan Kelly: Hundreds of cheques are made out to senior gardaí payable to the gardaí themselves.

Mr. Niall Kelly: Yes.

Deputy Alan Kelly: We need to correlate whether each of those was for expenses or a payment for something else. That will be some piece of work.

Mr. Niall Kelly: We are not averse to hard work.

Deputy Alan Kelly: I appreciate that, but Mr. Kelly will have to trace back years. How far back does it go?

Mr. Niall Kelly: There are techniques to-----

Deputy Alan Kelly: How far back does it go?

Mr. Niall Kelly: We are engaged in two audits, one of which goes back to 1998.

Deputy Alan Kelly: Mr. Kelly will have to correlate cheque stubs with expenses going back the guts of 20 years.

Mr. Niall Kelly: We will not be able to do every single stub. We will do it using a representative sample of payments.

Deputy Alan Kelly: I do not want a date, time or name, but what is the largest amount that Mr. Kelly has seen made out to a senior garda?

Mr. Niall Kelly: I cannot-----

Deputy Alan Kelly: Is it thousands of euro? Is there any-----

Mr. Niall Kelly: There could be ten payments of thousands.

Deputy Alan Kelly: Tens of thousands?

Mr. Niall Kelly: If the cheque was for plane tickets to Australia or somewhere, the bill could be in the thousands.

Deputy Alan Kelly: I am sure that, if he saw one, Mr. Kelly would remember it, but is there any payment stub in the tens of thousands?

Mr. Niall Kelly: Not that I can think of.

Deputy Alan Kelly: But there are some in the thousands.

Mr. Niall Kelly: There would be.

Deputy Alan Kelly: It is incredible stuff. In all of Mr. Kelly's period of auditing, is there any evidence of payments for gifts for retiring senior gardaí?

Mr. Niall Kelly: I have documented it in my report. There are payments.

Deputy Alan Kelly: Was this a consistent trend?

Mr. Niall Kelly: It seems to have been at a time in Templemore, given that I have documented quite a few of them in my report.

Deputy Alan Kelly: How many approximately and when was the latest?

Mr. Niall Kelly: In my report, I go through the laundry account and what was paid out of it. I list a number of them on, I believe, page 30. There were a number of gifts or payments at retirement.

Deputy Alan Kelly: Would they be the likes of paintings, vases and crystals?

Mr. Niall Kelly: Yes, that sort of thing.

Deputy Alan Kelly: For retiring Commissioners, senior gardaí and so on.

Mr. Niall Kelly: Yes.

Deputy Alan Kelly: Was that appropriate?

Mr. Niall Kelly: I would not think so, no.

Deputy Alan Kelly: By hell, I would not think so.

Mr. Niall Kelly: I would not think so.

Deputy Alan Kelly: Obviously, Mr. Kelly is going to investigate that.

Mr. Niall Kelly: I am investigating. I have some of that done and, if more needs to be done, I will do it.

Deputy Alan Kelly: I wish Mr. Kelly the best of luck in that.

Mr. Niall Kelly: I thank the Deputy.

Deputy Alan Kelly: Mr. Kelly should ask for co-operation from all of those from whom he needs it. If he does not get it, he might notify us.

Mr. Niall Kelly: Yes.

Deputy Alan Kelly: I have a few quick-fire-----

Chairman: The Deputy is on his sixth minute.

Deputy Alan Kelly: Will I get another chance?

Chairman: Yes, if everyone does six minutes.

Deputy Alan Kelly: Then just one last question.

Chairman: One minute.

Deputy Alan Kelly: It is only a request for information from Mr. Nugent. It goes back approximately 20 years. When was the sports club set up?

Mr. Joseph Nugent: It was 199-----

Deputy Alan Kelly: It does not matter. Could Mr. Nugent provide us with a list of its directors since its establishment to date to the best of his capabilities?

Mr. Joseph Nugent: Yes.

Deputy Alan Kelly: Between now and - I will take the Chairman's guidance on this - one week from now, could Mr. Nugent ask everyone who he as the CAO feels appropriate or necessary and who has obligations under SIPO? We met on 4 May. Could Mr. Nugent ask every single person, and provide a list to this committee within a week or ten days, to state whether he or she has met his or her obligations under the Standards in Public Office Act? We all operate under it. This is something that we read carefully and go through in intricate detail. I want to see a full report covering the time since SIPO first applied of whether every officer at senior level in the Garda and who was a director of a company - even if now retired, seeing as how the information should be in the records - met his or her obligations.

Mr. Joseph Nugent: That will be challenging. In the context of what Mr. McCarthy stated, not making a return because there was nothing to declare in itself is a-----

Deputy Alan Kelly: I will tighten it. Will Mr. Nugent ask all currently serving gardaí who are appropriate? That should not be a problem.

Mr. Joseph Nugent: All currently-----

Deputy Alan Kelly: Serving members of the Garda or any other appropriate person. Have they made their SIPO returns since it commenced and before 4 May of this year?

Mr. Joseph Nugent: That is still a big undertaking. I am not trying to get away-----

Deputy Alan Kelly: Send out an email.

Mr. Joseph Nugent: I accept that. I would pursue it. I am just saying that there are-----

Deputy Alan Kelly: Why is it a challenge?

Mr. Joseph Nugent: There are 16,000 people currently in the organisation.

Chairman: No. The Deputy is only referring to people over the grade of superintendent.

Mr. Joseph Nugent: I accept that, but it is a large-----

Deputy Alan Kelly: Send an email to everyone over superintendent level and anyone who was a director of a company and give those people the chance of a week or so to answer the question. If they do not, Mr. Nugent will take it as the default that they did not, but he should say that in the email.

Deputy Bobby Aylward: The people might not necessarily be superintendents but they

still should make a return if they are directors.

Deputy Alan Kelly: That is my point. Mr. Nugent needs to take a catch-all approach and, to be fair to him, leave the responsibility with them. All he has to do is collate the information. Could we agree a date for that return?

Chairman: We spoke about this with Mr. Culhane. His office sends out these emails. He knows the mailing list in respect of those who are required.

Deputy Alan Kelly: It is a matter for that office.

Chairman: It is between Mr. Nugent and Mr. Culhane to work it out. They have the mailing list of those who, based on their grades, are required. Some might not have to make returns if they have nothing to declare, but the witnesses should check with them all that they have confirmed their liability.

Deputy Alan Kelly: My request is for pre-4 May. To be reasonable, will we say two weeks?

Chairman: Certainly before the Commissioner returns, as we will want her to give an assurance on this matter. In the interests of ensuring that the Commissioner-----

Deputy Alan Kelly: We must agree something. Is two weeks agreeable?

Mr. Joseph Nugent: The request is for two weeks.

Chairman: Before the Commissioner attends.

Mr. Joseph Nugent: We will task this.

Chairman: Do your best.

Mr. Joseph Nugent: Before we end, I would be clear on exactly what the committee is asking for.

Deputy Alan Kelly: I am asking Mr. Nugent to ask gardaí and senior civilian members of the organisation whether they are meeting their SIPO requirements and have they done so historically. Obviously, I am referring to everyone over the grade of superintendent and anyone who is or has been a director of any company associated with the Garda.

Chairman: We will move on. Deputy Aylward is next, and he has six minutes.

Deputy Bobby Aylward: I will not take that much time.

Chairman: Good.

Deputy Bobby Aylward: I compliment everyone on this side and that side on being here for 11 hours. Fair play, people have stuck with it through thick and thin.

I will start with the two observers from the Department of Justice and Equality. Will they provide an overview of the evidence that they have heard today and at the previous meeting? Some of it was conflicting. As representatives of the Department, what is each observer's opinion? What is their take on this? Do they want to give an opinion?

Ms Anne Barry: It would not be appropriate. A great deal of evidence has been given today

and the Commissioner will be given an opportunity to respond to it, so it would not be appropriate for the Department to comment on it at this point.

Deputy Bobby Aylward: The observers have no comment to make at all on any aspect of what they have heard.

Ms Anne Barry: No. Obviously, the Department would not have been privy to most of what has been put forward today in evidence by-----

Deputy Bobby Aylward: Does the Department play an oversight role in how money is spent, the Garda's behaviour and how the Garda implements its policies and runs its business?

Ms Anne Barry: The Commissioner is the Accounting Officer and, therefore, has primary responsibility but the Department has a role in regard to securing resources and so on. There are certain matters that require sanction and we engage with the Department of Public Expenditure and Reform in that regard. We do have some oversight but not at a detailed level.

Deputy Bobby Aylward: Did the Department ever use that oversight to investigate, ask questions or probe issues in respect of the running of the Garda?

Ms Anne Barry: In terms of the interim audit report, issues were brought to our attention in September 2015 and we wrote to the chief administrative officer at that point to say that we had concerns regarding the report and thought the issue should be brought to the attention of the audit committee. That is one example in this context but there are others.

Deputy Bobby Aylward: During the time that Templemore has been in operation and in the context of what we are finding out today about its running and mismanagement, were concerns ever raised by the Department in that regard or was it aware of what has been happening there for the past 20 years?

Ms Anne Barry: As I said, the Secretary General of the Department was the Accounting Officer until 2006. The money that was going to the Garda College would have appeared in the appropriation accounts prior to 2006. In terms of the issues that have now been raised, they appear to have been raised in an incomplete report in 2006, another report in 2008 and an updated report completed in 2010. All those reports were produced after the Commissioner took up the role of Accounting Officer. Prior to 2006, there was no visibility of the issues in the Garda College.

Deputy Bobby Aylward: Did it raise concerns in the Department that moneys being used for running Templemore were not part of the Garda Vote?

Ms Anne Barry: I cannot say because I have no knowledge of the period prior to 2006. The appropriation accounts would have been audited and signed off at that point in accordance with the rules that applied.

Deputy Bobby Aylward: I want to ask the same thing in regard to the Comptroller and Auditor General. He told us earlier today, before Ms Barry attended the committee, of when he was made aware of wrongdoing in the running of the Garda College. Can any witnesses comment on why he was not notified sooner? He is the overall auditor of the other auditors and has to sign off on all this. I will ask Mr. Culhane if there was any reason the attention of the Comptroller and Auditor General was not drawn to the 2006 report, the McGee report of 2008 and the Nolan report of 2010? Perhaps Mr. Kelly could also comment on that issue.

Mr. Michael Culhane: At the risk of repeating myself, I reiterate that I wrote to the chief administrative officer in May 2008 to recommend that the McGee report be forwarded to the Comptroller and Auditor General. That did not happen.

Deputy Bobby Aylward: Did Mr. Culhane follow up and ensure it was sent?

Mr. Michael Culhane: I did not.

Deputy Bobby Aylward: The witness wrote a letter and that was the end of it.

Mr. Michael Culhane: That is not quite the case. I reported the matter to the chief administrative officer who in turn reported it to the Commissioner. The Commissioner accepted the report. There was a parallel development involving Deputy Commissioner Rice, who did not accept the report.

Deputy Bobby Aylward: That being the case, was it the Commissioner's duty to notify the Comptroller and Auditor General if there was something amiss? She can be asked that question when she appears before the committee. Does the witness know if it is the responsibility of the Garda Commissioner to notify the Comptroller and Auditor General in the case that something is amiss or they feel something is not right?

Mr. Michael Culhane: The Commissioner is the Accounting Officer and, therefore, that is the direct line in terms of reporting issues to the Comptroller and Auditor General.

Deputy Bobby Aylward: It is the Commissioner's responsibility.

Mr. Michael Culhane: The Commissioner is supported by her staff, including the chief administrative officer and myself-----

Deputy Bobby Aylward: With whom does the buck stop in terms of the responsibility to pass on the information to the Comptroller and Auditor General?

Mr. Michael Culhane: The Accounting Officer is ultimately the person accountable.

Deputy Bobby Aylward: That is a nice way of going around it. Will Mr. Kelly please address that question?

Mr. Niall Kelly: As soon as I became aware of the extent of these problems, I sought a meeting with the senior auditor, Mr. Gerard Enright, and Ms Mary Henry and fully briefed them on what I knew.

Chairman: In what year did the witness do so?

Mr. Niall Kelly: That was in May 2016.

Deputy Bobby Aylward: As soon as the witness knew that, he-----

Mr. Niall Kelly: That is when I knew the full extent of it.

Deputy Bobby Aylward: Mr. Kelly is the first person involved in the investigations and reports to make the Comptroller and Auditor General aware of what was taking place?

Mr. Niall Kelly: Yes.

Deputy Bobby Aylward: That is what we were told today by the Comptroller and Auditor

General. I thank the witness. At least someone is telling us the truth.

Chairman: I ask Deputy Aylward to move on. His six minutes are up.

Deputy Bobby Aylward: My six minutes are up already?

Chairman: They are. Time flies.

Deputy Bobby Aylward: I want to ask about the charity status of organisations in Templemore.

Chairman: Okay. This will be the Deputy's last question.

Deputy Bobby Aylward: Do many organisations within the Garda College have a charity status and thus a tax exemption? Have any had that status in the past? Did the sports club in Templemore have charity status?

Mr. Niall Kelly: It did.

Deputy Bobby Aylward: And, therefore, did not have to pay tax.

Mr. Niall Kelly: That is correct.

Deputy Bobby Aylward: The golf club in Templemore was also open to the public. I presume that, like any golf club, a significant amount of money was raised through membership fees, green fees and so on. A golf club can realise a significant amount of money in a year. The golf club had charity status but its moneys were moved into the restaurant account. To me, that seems to be a way of hiding money and not paying tax on it. Did the golf club have charity status?

Mr. Niall Kelly: I am not aware of money being transferred from the golf club to the restaurant account. It went the other way round, from the restaurant account to the sports club limited company account to developing the golf club and building the clubhouse and so on. I am not aware of money going in the other direction.

Deputy Bobby Aylward: Is an audit being carried out on where the money was spent, what tax was paid and whether relevant organisations had charity status?

Chairman: The Deputy should ask one final question.

Deputy Bobby Aylward: Was this a slush fund that was being used as convenient?

Mr. Niall Kelly: The Sportsfield limited company that got its money from the restaurant spent money on various sports facilities, including the golf club.

Deputy Bobby Aylward: May I ask one final question? I want to ask about the land that was purchased by the OPW, after which the group was set up, the land was rented and the rent was collected by the Garda rather than the OPW.

Mr. Niall Kelly: That is correct.

Deputy Bobby Aylward: That money is owed to the OPW and the taxpayers of this country. Was it ever repaid?

Mr. Joseph Nugent: Arrangements will be made to repay it.

Deputy Bobby Aylward: It will retrospectively be repaid in full.

Mr. Joseph Nugent: Yes, it will.

Chairman: The Deputy should conclude.

Deputy Bobby Aylward: The Chairman is rushing me.

Chairman: Six minutes was agreed to and the Deputy has exceeded that time.

Deputy Catherine Murphy: Can Mr. Kelly confirm he will revert to the committee in regard to the several bank accounts which he is investigating? Does Mr. Kelly or Mr. Nugent know if anything was discovered when the bank accounts were being closed? Is there any specific indication of any Templemore moneys being sent to a bank account in Dublin which was under the control of a former senior Garda officer? Is a specific investigation being carried out concerning anything of that nature?

Mr. Niall Kelly: With the permission of the Chair, I would rather not answer that question because it concerns an ongoing audit.

Chairman: Okay.

Mr. Niall Kelly: I will revert to the committee with an answer to that question.

Deputy Catherine Murphy: There is, therefore, an audit examining issues of that nature.

Mr. Niall Kelly: Some issues which the Deputy touched on might form part of our ongoing audit.

Chairman: Will Mr. Kelly revert to the committee with a more definite answer?

Mr. Niall Kelly: I will, yes.

Deputy Catherine Murphy: The committee has been told of several specific things that are subject to a follow-on audit. Are there other things that have been found and are now the subjects of an investigation?

Mr. Niall Kelly: I have detailed that I have two audits ongoing. I am prioritising work and risk-assessing the areas involved. I am trying to allocate resources to the priority items in order to obtain clarity for this committee and the public on some of the issues. I envisage that we will be auditing these issues on an ongoing basis for approximately two years before they are fully resolved.

Deputy Catherine Murphy: I have asked the witness a very specific question. Is it likely that he will be able to answer it when he returns before the committee in July?

Mr. Niall Kelly: I cannot say what I will find in the future. I can only give my audit opinion when I have drawn conclusions. I am not yet at that point.

Deputy Catherine Murphy: Has the use of the ATM machines been regularised? Mr. Kelly or Mr. Culhane can answer. I am referring to how the ATM was being used, which emerged in the 2008 report. Has the practice changed?

Mr. Michael Culhane: I think Mr. Kelly reported that the ATM had been removed. I am not too sure. I never knew there was an ATM machine there so maybe, I do not know, if some-

body else could clarify that.

Mr. Niall Kelly: That was not part of my report. There is not-----

Deputy Catherine Murphy: No, it is not. It was a previous report.

Mr. Niall Kelly: The machine has been removed. It used to be in the college and now it is gone. Is that not the case?

Mr. Michael Culhane: I think so-----

Mr. Niall Kelly: Yes.

Mr. Michael Culhane: -----but I do not know.

Deputy Catherine Murphy: I think it was the 2008 report. Does this matter exclusively relate to Templemore? Are there other relationships outside, with Sportsfield Company Limited, other than the boat club with clubs like the one at South Circular Road, Westmanstown or any of those?

Mr. Niall Kelly: Not that I am aware of.

Deputy Catherine Murphy: I thank the witnesses.

Chairman: Deputy Connolly has the last six minutes.

Deputy Catherine Connolly: Before I make a few comments I wish to ask about the company. How many directors are in the company now?

Mr. Joseph Nugent: Five.

Deputy Catherine Connolly: Was there a period when there was just one director?

Mr. Joseph Nugent: Yes. One director believed that four other directors had executed their resignations. That turned out not to be the case and that is why there are five directors. There was a belief at one point in time that there was only one director. On examination of that issue it transpired that the resignations of the other four directors had not been properly pursued and as a result the five directors remain.

Deputy Catherine Connolly: Is this the note compiled by Mr. Ruane? It refers to the-----

Mr. Kenneth Ruane: It was a period-----

Deputy Catherine Connolly: Sorry. A chief superintendent-----

Mr. Kenneth Ruane: Certainly the instructions that were forthcoming was that there was a belief by one director that that person was the only director.

Deputy Catherine Connolly: The sole director.

Mr. Kenneth Ruane: Yes.

Deputy Catherine Connolly: She was worried about her position there in relation to a lease. She actually was not the sole director ever.

Mr. Joseph Nugent: That is correct, Deputy.

Deputy Catherine Connolly: I do not have any questions left. All young gardaí are trained at Templemore College. The most difficult part has been discovering that this was the culture in the college.

Mr. Barrett, am I correct in saying that without his presence none of this would have come to light?

Mr. John Barrett: Yes, probably.

Deputy Catherine Connolly: Notwithstanding the 2006, 2008 and 2010 reports, we were going nowhere, and notwithstanding an internal audit, and having a director of finance, plus another committee.

Mr. John Barrett: The internal audit was subsequent to my raising these issues.

Deputy Catherine Connolly: I understand that but the position of internal audit was there. All of the controls were theoretically there.

Mr. John Barrett: Yes.

Deputy Catherine Connolly: The audit committee was there and yet this would not have happened. The Comptroller and Auditor General was not aware. Without Mr. Barrett's concerns this would not have happened and nothing would have emerged. Am I wrong about that?

Mr. Kenneth Ruane: Deputy, certainly as somebody who has been involved in certain of these issues for quite some time, my view is that while Mr. Kelly carried out a very comprehensive report, in my view, that report would not have occurred were it not for Mr. Barrett.

Mr. John Barrett: Thank you.

Deputy Catherine Connolly: And not for Mr. Barrett's persistence.

Mr. Kenneth Ruane: Yes, Deputy.

Deputy Catherine Connolly: And Mr. Barrett's persistence in taking notes after the events so that he-----

Mr. Kenneth Ruane: He recognised an issue and he persevered with it. That is my objective view.

Deputy Catherine Connolly: Where does Mr. Ruane come into this matter? Is he the adviser to the Commissioner?

Mr. Kenneth Ruane: Yes, Deputy.

Deputy Catherine Connolly: What other role does Mr. Ruane play?

Mr. Kenneth Ruane: I am the head of legal services, as it is titled.

Deputy Catherine Connolly: For the Garda?

Mr. Kenneth Ruane: For An Garda Síochána.

Deputy Catherine Connolly: Through the Commissioner?

Mr. Kenneth Ruane: Yes. The Commissioner, ultimately, is the client. There would be circumstances where obviously I would issue advices to various individuals.

Deputy Catherine Connolly: Did Mr. Ruane issue very clear advices at different points in terms of what he thought was the duty?

Mr. Kenneth Ruane: I can confirm I issued advices, Deputy.

Mr. John Barrett: Can I comment, Deputy, in response?

Deputy Catherine Connolly: Yes.

Mr. John Barrett: Without Ken, as a go-to and as a source of insight and information, I do not think I would have been able to make the progress that I did. I have got to stress this point. It is not a garda-civilian thing. It is not four legs good, two legs bad. There is a requirement to look at the standard that is required of us. I think you have referred to it yourself in your most recent remarks. I am particularly conscious of the obligation we owe, given the role that we play in Irish society, to be whiter than white. It is particularly apt in our case, that our processes, procedures and standards of governance can be above reproach.

Deputy Catherine Connolly: Yes.

Mr. Niall Kelly: Can I interject, Deputy Connolly? The college effectively closed between 2011 and 2014. I would have envisaged that internal audit would have gone down to the college again-----

Deputy Catherine Connolly: Yes.

Mr. Niall Kelly: -----and may have uncovered these things.

Deputy Catherine Connolly: Yes.

Mr. Niall Kelly: But these events superceded it.

Deputy Catherine Connolly: Mr. Kelly, the Chair wants to stop me.

Mr. Niall Kelly: Okay.

Deputy Catherine Connolly: I do not mean to be unfair to Mr. Kelly-----

Mr. Niall Kelly: That is fine.

Deputy Catherine Connolly: -----but I have heard that already.

Mr. Niall Kelly: Yes.

Deputy Catherine Connolly: Mr. Barrett has reserved his position, I think, in relation to whether he has confidence in the process going forward. That is what is very important now. Is that not correct? We know this history, this ongoing digging into it. Where do we go now? Mr. Barrett is on a committee with Mr. Culhane and I do not want to personalise this matter.

Mr. John Barrett: Sure, and please do not.

Deputy Catherine Connolly: I will not. There is a serious lack of trust and serious allegations.

Mr. John Barrett: Let me put this to bed, Deputy.

Deputy Catherine Connolly: Good.

Mr. John Barrett: I have listened to various contributions on this and I think it is very important.

Deputy Catherine Connolly: Yes.

Mr. John Barrett: I have lived in many different organisations and argumentation *ad hominem*, the argumentation of the man, has always, always been taboo. It has never been the case.

Deputy Catherine Connolly: I agree with Mr. Barrett.

Mr. John Barrett: This is issue driven. This, for me, is a fundamental issue of the public purse. Whether Mr. Culhane, or not, agreed with me, it is about the office.

Deputy Catherine Connolly: Yes. That is why I am asking Mr. Barrett during this committee process whether he has confidence now.

Mr. John Barrett: I have confidence that Mr. Kelly, in continuing his due diligence, will reach a conclusion on the issue that I left open on 4 May.

Chairman: I want to ask the Department one quick question, which will only take 30 seconds. Can the Department send us what information it has, in view of the fact that the Garda Commissioner is the Accounting Officer? When the Minister comes in here to meet the Oireachtas Select Committee on Justice and Equality to discuss the annual Estimates and sits down with the committee to discuss the group of Votes for the Department of Justice and Equality, who accompanies the Minister in respect of the Garda Vote? Who accompanies the Minister?

Ms Anne Barry: Which officer of the Department?

Chairman: And the Garda. When the Minister comes here to discuss the Estimates for the Garda group of Votes, who accompanies the Minister from the Department to that meeting?

Ms Anne Barry: It is probably the assistant secretary over corporate services.

Chairman: Who would come from the Garda Síochána to a meeting like that, with the Minister?

Mr. Michael Culhane: Occasionally I am called in to give support.

Chairman: The Minister would have been aware of this issue since at least last September. I do not know how early but we all know that in September the draft report was out. The Minister would have come in towards the end of last year, I presume, or early this year looking for the Estimate for the Garda Síochána for 2017. Okay? One would expect that one would not allow the Minister to come in here without a briefing on this issue in case these issues were raised with the Minister, and the Minister had no answers, and the Minister would not look good looking for an Estimate. It would appear to me that a proper briefing note on the Templemore issue would have had to have been prepared for the Minister coming to the annual Estimates meeting. She might have said some of those issues had she been asked but she had to have information. Can Ms Barry give us the briefing note that the Department prepared for the Minister coming to the annual Estimates meeting for 2017? In light of the fact that the Department and the Minister

were aware of this issue, it is quite possible there was a full blown discussion with the Minister. I do not know whether there was or was not. I will not say it was remiss but it would have been putting the Minister in a very awkward spot to arrive without a briefing note on what was clearly known in the Department. Does Ms Barry get what I am coming at?

Ms Anne Barry: I do and I will check back. Yes, certainly.

Chairman: Does Ms Barry understand what we are looking for?

Ms Anne Barry: I cannot recall the dates now, etc.

Chairman: I do not even know the date for the Estimates.

Ms Anne Barry: I can certainly check that out, if I get a second.

Chairman: I am not asking for the Minister's thoughts. I want to know what information was given to the Minister to prepare her for that meeting.

Deputy Kelly, we have a minute or two left and that is it.

Deputy Alan Kelly: A minute or two.

Chairman: We are all gone at 9 o'clock.

Deputy Bobby Aylward: There are only three of us left now.

Chairman: We are gone at 9 o'clock.

Deputy Alan Kelly: I know.

Chairman: The committee decided that we would be out of here at 9 o'clock.

Deputy Alan Kelly: It is 8.50 p.m. so we are all right.

Mr. Nugent, as a Deputy elected for Tipperary and a Dáil representative, my role is to uphold the Constitution, legislate and, as part of the Committee of Public Accounts, to investigate these matters. I represent Templemore. I am very proud of Templemore. It is a fantastic town, to which the Garda College is central. I want to see the college grow and investment is necessary to provide specialist training to Garda and a whole range of other things. While there is huge public confidence, in the last few weeks there have been changes in the relationship with the people of Templemore. The local community no longer has access to the swimming pool. The ladies' football team has been thrown off the pitches. There are a number of other issues. In fairness, on 4 May Mr. Nugent said he needed to get his ducks in a row as regards the issues. I agree with him on that because they are probably *ad hoc* at the moment. For God's sake, though, could he put in some interim procedures to allow the people of Templemore access to facilities, particularly when the gardaí are not using them? That is the right thing to do. The Garda College contributes hugely to the local economy. The local people embrace the college, welcome it and work with it, and do everything in that spirit. Could Mr. Nugent please ensure they have access to the facilities?

Mr. Joseph Nugent: The answer to that is "Yes". We will take that away. It is a really important matter. The college is central to the community.

Deputy Alan Kelly: Absolutely.

Mr. Joseph Nugent: There are linkages that go both ways in that regard. The sooner we can have arrangements to provide the sort of facilities the Deputy is talking about to the town of Templemore, the better for all concerned. As the Deputy said, I am trying to put in place the right processes. That is all. I hear what the Deputy is saying and I will go away and come back-----

Deputy Bobby Aylward: I asked the same question of the Commissioner the last day and she gave a commitment that she would give the facilities back to the local people as soon as possible.

Deputy Alan Kelly: Deputy Aylward asked a similar question, not the same question. I want to move on. I know Mr. Nugent has to have his ducks in a row with a proper process for everything. That is fine. However, that could take a long time. Could he try to work out an interim arrangement for the swimming pool and the pitches? The golf club is still active so that is fine. Could he please work on those facilities and the gym and all of that?

Mr. Joseph Nugent: May I commit to reverting to the issue at the next meeting or indeed writing to the committee?

Deputy Alan Kelly: If Mr. Nugent could come up with some interim measure while he is arranging the bigger process, I would appreciate that.

I have a few very quick questions and a couple of remarks. I did not have time to ask Ms Barry from the Department of Justice and Equality any questions today. I am sorry about that. I find it incredible that the Department of Justice and Equality did not know about these issues. I find it unbelievable, to be honest. I would like Ms Barry to go back and ask who approved the setting up of the sports club. We were told by the Department that it first became aware of the issues in Templemore in October 2015. Does anyone here believe - or rather, have any evidence that the Department was aware substantially of these issues prior to that?

Mr. Joseph Nugent: We provided to the committee a note from Commissioner Fachtna Murphy of 8 May 2008 in respect of the Garda College report financial regulation, which I am taking to be the report provided at the time. Included in that are handwritten notes from the Commissioner to the effect that he had a brief discussion with the Secretary General in respect of some of these matters.

Deputy Alan Kelly: I am aware of that. I am asking if there is any other evidence.

Mr. Joseph Nugent: That is the only evidence I have for the purposes of-----

Deputy Alan Kelly: Has anybody else any evidence? The Department has no evidence.

Ms Anne Barry: Can I just mention that it was September, in fact, when we became in touch----

Deputy Alan Kelly: I am not going to argue the toss. I will make a few statements and if anyone disagrees with them, they should say so. This is the easiest way of dealing with it. It seems to me that the OPW did not actually know what it owned in Templemore, in Clonmore actually. The Garda College was renting it out. The OPW did not know it was not getting rent. I have submitted parliamentary questions on this. It is incredible. It did not know it was not getting rent on something it owned. The Garda College was renting it out and getting money. I cannot understand how, in the whole budgeting and Estimates process, somewhere down the

line, there was not a note to say there would be a deduction of €38,000 or whatever the figure was because they were actually collecting the rent, so there could be some counterbalancing somewhere. That is farcical.

I found Mr. Culhane's evidence today unbelievable, frankly. It was incredible and not in a good way. It is not personal; it is Mr. Culhane's role. I have read his letters and, to be fair, he has referred issues up the chain. I accept that. I can see the emails etc. I do not know at what velocity he did it but I can see the documentation. However in his position, as far as I am concerned, he needed to go further when action was not being taken, especially in 2008 and 2010, whether by notifying Mr. McCarthy or his predecessor, or going through internal audit. On the basis of today's discussion, that raises very serious questions.

The last issue is also for Mr. Culhane. We have heard here that in respect of four of the tax numbers, we do not know if the lads will be able to make sure that they are meeting requirements and tax compliant. We have heard so much evidence over the 12 or 13 hours. Mr. Culhane has said that in fairness, he had a reputation for getting things done and all of that. There was a tax audit report done in 2010, is that correct?

Mr. Michael Culhane: Yes, that was on the Garda Vote.

Deputy Alan Kelly: How can that audit of that Vote be accurate given the information that is now being investigated by Mr. Kelly? How can we be sure that the Revenue Commissioners were paid the correct amount given the volume of issues that are being investigated? Is Mr. Culhane 100% certain that the report he did is accurate?

Mr. Michael Culhane: The 2010 Revenue audit, which I think stretched from 2010 to 2011, was covering the payment of allowances without the deduction of tax.

Deputy Alan Kelly: It was not covering anything else?

Mr. Michael Culhane: No. It was exclusively dealing with the Garda Vote. I know the Deputy is talking about the Garda College and again I am sorry to repeat this, but it was outside the Vote and therefore not part of a tax audit.

Deputy Alan Kelly: So there are no linkages at all to the-----

Mr. Michael Culhane: No, there were no linkages.

Chairman: We have to conclude. Is there some last point that any of the witnesses would like to make? They are not obliged to but if there is something they wish to put on the record before we close, they may do so.

Mr. Michael Howard: I thank the Chair. At the suggestion of one of the Deputies during the break, I want to make it clear that if some of my answers seemed a little unprepared, it is because I was only invited on Friday afternoon and I was brought in yesterday to read the papers. I want to express my appreciation to the staff who were here. In normal times I would have had more time to prepare, reflect and check up on records. I wanted to put that on the record. Arising from that, I want to say that in the course of this evening's session, something has occurred to me. I am going to be suggesting to Mr. Nugent to look for a letter that I wrote at the end of October as chair of the audit committee to the Commissioner in respect of the failure to brief and adequately inform the audit committee about these matters.

Deputy Catherine Connolly: When was that done?

Mr. Michael Howard: It was the end of October of last year.

Chairman: Around the time of the issuing of the draft report.

Mr. Michael Howard: It would have been arising from the audit committee's consideration of the draft report.

Chairman: There is no need but if anyone else wants to say something - Mr. Barrett.

Mr. John Barrett: Ar an gcéad dul síos, ba mhaith liom comhbhrón a dhéanamh leis an gCathaoirleach ar bhás a mháthar.

I come before the committee knowing the democratic power of the institution it represents. The committee members are the elected representatives of the people of Ireland. I hope to leave today's meeting having answered the committee's questions fully and thoroughly. I see this as a very significant matter for an organisation that must enjoy the trust of the people of Ireland. The powers that can be exercised - caution, arrest, detention - are of such constitutional significance that we need to have our house not just in order but in absolute order.

I sit here with a sense of embarrassment that we do not have it in order but with no sense of personal regret that I raised this issue. I continue to believe that I did the right thing in persisting. There is credit due to people on my right and on my left for their assistance in this regard. However, as I think is clear, I feel, quite frankly, that I did not have universal support. That reality is a reality that I want members of the committee to consider. As I said to Deputy Cullinane previously, I look for no bouquets in this. I feel that I am doing my job, but I want members to understand that it is not easy. The assistance this committee can give in ensuring that the standards that are required of us are demanded by it consistently and that we deliver will embolden others to do the right thing and to step forward in difficult situations. That is a key cultural change that this committee can help make.

Chairman: Does anyone else wish to say anything? I am not going back to the members now. Does Mr. Kelly have a final point?

Mr. Niall Kelly: I just want to assure this committee that I will persist in following up on these issues until they are fully resolved.

Chairman: On behalf of the Committee of Public Accounts, I thank all the witnesses from the Garda Síochána, the Department of Justice and Equality and the Comptroller and Auditor General.

The witnesses withdrew.

The committee adjourned at 9 p.m. until 9 a.m. on Thursday, 1 June 2017.