

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 15 Meitheamh 2017

Thursday, 15 June 2017

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Bobby Aylward,	Deputy David Cullinane,
Deputy Shane Cassells,	Deputy Catherine Murphy.
Deputy Catherine Connolly,	

DEPUTY ALAN KELLY IN THE CHAIR.

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

Business of Committee

Vice Chairman: I am chairing the meeting because the Chairman is otherwise engaged.

Deputy Catherine Connolly: We will have to put up with you.

Vice Chairman: I thank the Deputy. She might have to put up with me next Tuesday also because it looks like the Chairman will not be here that day either. Deputy David Cullinane has agreed to chair the meeting from 10.45 a.m.

We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness at the committee. He is accompanied by Ms Ruth Foley, deputy director of audit. Apologies have been received from Deputies Josepha Madigan and Alan Farrell.

Are the minutes of the meetings of 31 May and 1 June agreed to? Agreed.

There are three categories of correspondence. Category A is correspondence for today's meeting. Nos. 583A(1), 583A(2), 583A(3) and 587A are the HSE's briefing documents and opening statements.

Category B is correspondence from Accounting Officers and-or Ministers as a follow-up to previous meetings. No. 547B is correspondence, dated 30 May 2017, from the Secretary General of the Department of Justice and Equality providing information requested by the committee following the meeting on 11 May. The correspondence includes information on payroll overpayments; Mahon report recommendations; mental health supports, including counselling services, provided in direct provision centres; the policy on canvassing in direct provision centres; and the pilot third level education project for residents in direct provision centres. Is the correspondence noted?

Deputy Catherine Connolly: Is this the extra information which we asked for?

Vice Chairman: Yes. The correspondence will be noted and published.

Nos. 553 and 576B are correspondence, dated 30 May 2017 and 9 June 2017, from Mr. Noel Waters, Secretary General of the Department of Justice and Equality, providing follow-up information requested by the committee, particularly on the process followed by gardaí when opening bank accounts. There was a short discussion on the matter yesterday. The correspondence will be noted and published.

No. 554B is correspondence, dated 30 May 2017, from the Secretary General of the Department of Education and Skills, providing the information requested by the committee on the accommodation requirements of Caranua.

Deputy Catherine Connolly: May I look at the document for a moment?

Vice Chairman: Of course.

Deputy Catherine Connolly: I have read it.

Vice Chairman: Is the Deputy happy?

Deputy Catherine Connolly: I am not, but I have read it and I am happy that we have received it.

Vice Chairman: Is the Deputy happy that she has read it?

Deputy Catherine Connolly: Yes.

Vice Chairman: No. 555B is correspondence, dated 1 June 2017, from the Secretary General of the Department of Education and Skills, providing the follow-up information requested by the committee following its meeting on 12 May on the transfer status of 15 properties being transferred to the State from the Congregation of the Sisters of Mercy. Is the correspondence noted and may it be published?

Deputy Catherine Connolly: When we received the list, it was suggested the properties had been transferred as part of the handover. However, when we asked a further question, we found out that some properties had yet to be fully transferred. For example, the St. Anne's Lenaboy property in the Taylor's Hill district of Galway, with which I am familiar, has not been handed over. It is mentioned at the bottom of the document. The last list we received suggested it had been handed over in 2009. Where do we go now if we do not keep chasing it? We are being given pieces of information.

Vice Chairman: There is not full clarity.

Deputy Catherine Connolly: No.

Vice Chairman: We will write to ask that the dates on which all of the properties were transferred be published.

Deputy Catherine Connolly: We need to know the dates on which they will be transferred. They have not been-----

Vice Chairman: We will look for the proposed dates for the transfer of each of the properties.

Mr. Seamus McCarthy: It is worth considering that a number of the properties are operationally in use but that the title has not transferred. That point was made and it may be causing some of the confusion.

Deputy Catherine Connolly: The property I have mentioned is empty and deteriorating on a daily basis. We asked for it to be given to the city of Galway, but that is a separate story.

Vice Chairman: We will write to ask for the dates on which it is proposed that the properties will be transferred. We will also ask whether they are in use. We will get all of the information and collate it.

Deputy Shane Cassells: I apologise for being late. I would like to pick up on Deputy Catherine Connolly's important point about the deterioration of buildings that are lying idle. A former primary school in Trim, County Meath has been transferred to the Department of Education and Skills, but nothing is happening. The property is to be used by the education and training board for the Educate Together school in Trim which is operating from a golf club four miles outside the town. I have raised the issue in the Dáil with the Minister for Education and Skills. It has now been discovered that the cost of fitting out the school exceeds what it was thought it would be. The children are staying in the golf club on the Kildalkey Road. Deputy

Catherine Connolly's point is extremely well made. There is no point in having a scenario in which property deteriorates before it is transferred to the extent that it is worth absolutely nothing to anybody. The building control unit in the Department that analyses these properties does not provide a proper costing of what is required to make schools habitable for children when they are transferred. One part of the Department is not speaking to another.

Vice Chairman: That is quite obvious.

Deputy Shane Cassells: It is scandalous.

Vice Chairman: We will ask for the dates on which it is proposed to transfer the properties and information on whether they are occupied and their status.

Deputy Catherine Connolly: The National Rehabilitation Hospital in Dún Laoghaire is one that might be in use. Are there impediments to making the investments needed if there is no clear title? It is possible that, in the absence of a clear title, a Department will not fund an upgrade that is needed.

Mr. Seamus McCarthy: I imagine they would be very specific to individual sites. Perhaps that might be an additional question.

Vice Chairman: We will ask that question also.

Mr. Seamus McCarthy: If the committee were able to discover the basis or nature of the title, perhaps it might be able to determine whether the title is clean. In a number of cases transfers have been held up pending resolution of the issue of proper title. A number of properties have been rejected and substituted where information on proper title has not been or cannot be provided.

Vice Chairman: We will ask those four questions.

No. 562B is correspondence, dated 7 June 2017, from Bord na gCon, including the minutes of the meetings of the national greyhound consultative forum in March, July and November 2016 and a summary of the points made during the initial consultation on the question of incentivising ownership. Is the correspondence noted?

Deputy Shane Cassells: It is good to see this morning that an agreement has been reached to race again.

Vice Chairman: At last.

Deputy Shane Cassells: That is good to see, leaving aside anything else that has been discussed here.

Vice Chairman: It is good to see that there is racing again.

Deputy Shane Cassells: Yes.

Vice Chairman: We all have reservations about the board.

Deputy Catherine Connolly: Is the barking mad period over?

Vice Chairman: It is not, but there is racing again in Dublin. The barking mad period will continue-----

Deputy Catherine Connolly: It will.

Chairman: -----while we have the evidence we heard on two occasions.

The correspondence, dated 2 June 2017, from Mr. Ken Ruane, head of legal affairs in An Garda Síochána, includes five emails sent to the chief administration officer in 2015. This information was requested by the committee on 31 May. Is this correspondence noted? I think we dealt with the matter yesterday and will deal with it again next Tuesday.

No. 565B is correspondence, dated 7 June 2017, from Mr. Ed Sibley, director of credit institution supervision in the Central Bank, in response to the committee's request for further information on the bank's review of certain allegations about an Irish credit institution that was referred to in email correspondence on 27 September 2016 and to queries regarding Bank of Ireland collateral arrangements. The correspondence will be noted and published. No. 568B, is correspondence, dated 2 June 2017, from Professor Patrick O'Shea, President of University College Cork, UCC, enclosing trust fund financial statements for 2014 and 2015. This information about the non-consolidation of trust fund accounts was requested by the committee. It is noted.

No. 574B, is correspondence, dated 8 June 2017, from the same Patrick O'Shea, President of UCC, and Catherine Day, chairperson of the UCC governing body, in relation to UCC's acquisition of the Irish Management Institute and the "Morning Ireland" programme on 26 May 2017. This is noted. The president will be before the committee on 22 June.

No. 575B, is correspondence, dated 9 June 2017, from An Garda Síochána about the information requested from the committee at the meeting of 31 May 2017 regarding the interim audit of financial controls at the Garda College, Templemore. This is noted.

No. 578B, is correspondence, dated 9 June 2017, from Graham Love, chief executive, Higher Education Authority, HEA, regarding the HEA review of the spin out and sale of FeedHenry and other spin-out companies from the Telecommunications Software and Systems Group. The terms of reference for the proposed external review are enclosed. This is noted.

No. 585B, is correspondence, dated 13 June 2017, from Noel Waters, Secretary General of the Department of Justice and Equality, with follow-ups from the meeting of 31 May 2017 with members of management at An Garda Síochána. This is noted.

No. 588B, is correspondence, dated 14 June 2017, from the Health Service Executive, HSE, with clarification points on the Grace case. This will be covered in the first part of our meeting today.

Category C is correspondence from or relating to private individuals and any other correspondence. No. 529C is carried over from the meeting on 1 June 2017, also Nos. 556C, dated 31 May 2017, from Deputy Catherine Murphy and 572C, dated 25 May 2017.

There is correspondence, dated 11 May 2017, from an individual regarding matters relating to a protected disclosure to the Irish Prison Service. The individual has indicated he has received an apology from the director general of the Irish Prison Service. He made a recommendation to the Irish Prison Service to appoint a protected disclosures manager and has asked the committee to support his recommendation, to support persons making protected disclosures, and to summon the director general of the Irish Prison Service to explain why it would appoint a judge to conduct a review and then ignore the judge's findings. We will probably have to consider

this again, but for the time being I propose we request a response from the Irish Prison Service regarding the recommendation to appoint a protected disclosures manager. I request an update from the Irish Prison Service regarding the implementation of the review mentioned, and we might return to this. I presume many members of the committee are receiving correspondence from this individual. I certainly have. Some of the allegations are very serious. We will ask for an update on these two matters and will follow up on them later. It is worthy of our attention.

No. 549C is correspondence, dated 29 May 2017, from an individual writing on behalf of a children and youth action based group in Dublin's north inner city regarding the use of public funds for youth services in the area. The group wrote to Deputy McDonald in 2015. This is a policy matter not within the remit of the committee and I propose the correspondence be referred to the relevant sectoral committee, the Oireachtas Joint Committee on Children and Youth Affairs. Is that agreed? Agreed.

No. 550C is correspondence, dated 28 May 2017, addressed to the Minister for Jobs, Enterprise and Innovation and copied to the committee concerning a letter sent to the Minister for Jobs, Enterprise and Innovation, responsible for the Office of the Director of Corporate Enforcement, regarding an audit of the Irish Small and Medium Enterprises Association, ISME, in 2016. We will note that.

No. 551C is correspondence, dated 26 May 2017, from an individual making comments relating to greed and a lack of accountability in the public sector. That is noted.

No. 552C is correspondence, dated 30 May 2017, from an individual relating to procurement processes in respect of the Eircode system. The letter alleges the Oireachtas Joint Committee on Communications, Climate Action and the Environment was misled by An Post. An Post is not within the remit of this committee so I propose we refer this correspondence to the communications committee which may wish to proceed and consider the matter further. Is that agreed? Agreed.

No. 557C is correspondence, dated 31 May 2017, from Deputy Catherine Murphy enclosing an email from an individual regarding the appointment process for a coroner in south and east Kerry. The appointment of coroners is the responsibility of local authorities, but I propose to refer the matter to the Minister for Housing, Planning, Community and Local Government for a response. Is that agreed? Agreed. The individual obviously had a grievance about the process.

No. 559C is correspondence, dated 29 May 2017, from the Secretary General of the Department of Public Expenditure and Reform providing an update about a minute of the Minister following publication of a review of the Courts Service Spectrum growth fund. The matter is more relevant to the Courts Service which will be before the committee on 13 July. I suggest we make the Courts Service aware that this matter will be discussed on the day. We will also send a copy to the individual who raised the matter. This is noted.

No. 564C is correspondence, dated 6 June 2017, from the whistleblower in the Grace case who met the committee on 25 May 2017, enclosing a note about the matters discussed at that meeting. This is noted. A further note was received very late last night. Members will need time to consider the latest item, and if there are matters arising that we need to put to the HSE, we will put them in writing based on the letter we received. It is a fairly detailed letter and we certainly need time to consider it. I presume people will raise elements of it here today.

Deputy Catherine Connolly: It has relevance to today's meeting. I just skimmed it but

maybe we should take a few minutes to read it before today's meeting.

Vice Chairman: I agree. We will do that. The HSE does not have it either so maybe we will give time to everyone to consider it for a few minutes. We will get copies printed and give some to the witnesses and to committee members and we will take ten minutes to consider it. We know that the witnesses cannot be 100% comprehensive about this.

Deputy Catherine Connolly: We could read it in the first instance. We are raising issues with witnesses and they want more time to consider it. That is no problem. That is due process but we could read it in the first instance to inform our questions.

Vice Chairman: I have no problem with that. We will get them printed and let everyone read them. Do we allow the HSE have a copy of it now as well?

Deputy Catherine Murphy: Fair is fair.

Vice Chairman: We will give the witnesses copies of it but they will not be able to respond in detail to some of the issues in it. It is important that everyone read it. We will take time to read it when we finish dealing with the correspondence.

No. 566C is correspondence, dated 7 June 2017, from the chairman of the National Asset Management Agency, NAMA, stating that it will engage with the commission of investigation into the sale of Project Eagle and that no information given to the committee in their responses was wrong. This is noted.

No. 567C is correspondence, dated 7 June 2017, from Deputy Catherine Connolly regarding queries in respect of the overall settlement in the Grace case. These questions were forwarded to the HSE and it is expected they will be responded to as part of today's meeting. That is noted.

No. 569C is correspondence, dated 17 May 2017, from an individual relating to the ownership of Dundalk greyhound track and Bord na gCon grants for the track and Horse Racing Ireland grants for an all-weather horse racing track. This is a very interesting note. I propose we write to Bord na gCon and Horse Racing Ireland to request clarity and information on the provision of grants to Dundalk greyhound track. Is that agreed? Agreed.

No. 570C is anonymous correspondence, dated 29 May 2017, about the building of a boat on school premises in Carraroe, County Galway. We will refer this to the Department of Education and Skills to request a response. Is that agreed? Agreed.

No. 571C is correspondence, dated 26 May 2017, from an individual alleging that the committee was misled by the Secretary General of the Department of Education and Skills in respect of the legal advice obtained by the County Leitrim Vocational Educational Committee, VEC. The individual previously wrote to the committee and the correspondence was forwarded to the Department requesting a response on 13 April 2017. We await a response and the secretariat will follow that up. This is noted.

No. 573C is correspondence, dated 30 May 2017, from Deputy Thomas Broughan. It relates to the PARC Road Safety Group's analysis of replies to parliamentary questions from the Deputy by the Tánaiste and Minister for Justice and Equality. The analysis relates to information on offences of holding a mobile phone while driving, for speeding and for drink-driving. We will note that.

No. 577C is correspondence, dated 9 June 2017, from Noel Waters, Secretary General of

the Department of Justice and Equality, confirming the attendance of officials for yesterday's meeting. We will note that.

Nos. 579C, 580C, 581C and 582C include correspondence to Deputy Cullinane - 579C - dated 30 May 2017. It is from a councillor in Cavan County Council regarding the arrangements for an office lease for Cavan Vocational Education Committee, VEC. The additional correspondence, namely, Nos. 580C, 581C and 582C, supports the councillor's request for the matter to be reviewed. I propose to write to the Department of Education and Skills to request a response in the first instance. Is that agreed? Agreed.

Mr. Seamus McCarthy: Could I suggest that writing to the education and training board, ETB, would be a more direct approach?

Vice Chairman: That is fair enough. I will now display on the screen the statements and accounts received since the previous meeting.

Deputy Catherine Murphy: Could I ask one further question? We were supposed to get a document from the Department of Public Expenditure and Reform about wards of court. Did we receive that?

Vice Chairman: Yes, it was No. 559C.

Deputy Catherine Murphy: Right. I did not pick up on that. Is the issue on our work programme to follow up on it?

Vice Chairman: The Department will be in on 13 July – a great date, as it is my birthday – in addition to the Department of Justice and Equality.

Deputy Catherine Murphy: Okay.

Vice Chairman: We can deal with it then. The Courts Service, the Garda Commissioner and the Department of Justice and Equality are also in that day. That will be a long day.

Deputy Catherine Murphy: Yes.

Vice Chairman: We will move on to the statements and accounts received since the previous meeting. Five accounts and statements received are shown on the screens. They include those of the HSE, which is before us today. The Insolvency Service of Ireland received a clear audit opinion. Sport Ireland also got a clear audit opinion. The National Asset Management Agency got a clear audit opinion but attention was drawn to disclosures by NAMA of non-competitive procurement in 2016 to the value of €3.5 million. Are there any notes on that?

Mr. Seamus McCarthy: I am just drawing attention to the fact that NAMA is disclosing that information.

Vice Chairman: Can we get a note on it?

Mr. Seamus McCarthy: There is quite a bit of detail in the financial statements themselves about the make-up of that and the circumstances whereby NAMA did not comply with procurement. I suggest that the information is in the SIFC.

Vice Chairman: That is fair enough. The HSE got a clear audit opinion. Attention was drawn to disclosures by the HSE regarding a significant level of non-competitive procurement. There was a lack of evidence of competitive procurement in relation to 49% by value of a

sample of payments worth €30.8 million. That is quite significant.

Mr. Seamus McCarthy: It is a recurring problem with the Health Service Executive.

Vice Chairman: We will ask later on why it is a recurring problem. Is it consistent?

Mr. Seamus McCarthy: I think its systems are so dispersed. It has been working on it as it is something to which we have drawn attention and on which we have reported on a number of occasions.

Vice Chairman: Does it relate to a particular sector or geographic area or is it across the board?

Mr. Seamus McCarthy: It is general, but it varies from region to region. We generally try to look at four or five locations.

Vice Chairman: Which region is the worst?

Mr. Seamus McCarthy: I have not done enough work to say that one is the worst but it varies from year to year. In 2015, it was about 30% on a similar size sample.

Deputy Catherine Connolly: When the Comptroller and Auditor General said the systems are dispersed, does he mean geographically around the country?

Mr. Seamus McCarthy: Yes, each hospital is procuring stuff and each local health office is procuring stuff. In some cases they are using central contracts and drawing down from those, and in general they are procured reasonably appropriately, but at local level there seems to be this problem.

Deputy Catherine Connolly: So they could have a provider generally that they are just picking.

Mr. Seamus McCarthy: Yes, someone they use locally.

Deputy Catherine Connolly: That is the danger for every agency when procurement is not being complied with.

Mr. Seamus McCarthy: Yes, that is the problem.

Deputy Catherine Murphy: Is there a system in place for the HSE in relation to eProcurement?

Mr. Seamus McCarthy: ETenders is a public service wide system and it is operational for every public sector body.

Deputy Catherine Murphy: In the local government system in the UK what they did was have an amalgamation and they used a collaborative approach. They were different organisations. This is one organisation. That is the point I am making, not just about eTenders but about----

Mr. Seamus McCarthy: The Office of Government Procurement also encourages collaborative arrangements. Within the health sector there are specific types of procurement that would not be generally required by any other public sector body, so there would be special collaborative arrangements put in place, or at least that is the intention, in the provision of health

products.

Vice Chairman: There was also a reference to inadequate monitoring and oversight of grants to an outside agency. We all know about that. We will be discussing that later on today as well. There was a clear audit opinion on the Strategic Banking Corporation of Ireland.

We will now deal with the work programme. We had a brief discussion about this yesterday. Today, we have the HSE. Next Tuesday, we have An Garda Síochána and the Department of Justice and Equality and the Policing Authority later on. On Thursday, 22 June, we have third level institutions, namely, the HEA and Department of Education and Skills, the University of Limerick, UL, and University College Cork, UCC. At 11 a.m. on that day we will have the Dublin Institute of Technology, DIT, and the Cork Institute of Technology, CIT. I suggest we will do well to meet that timetable. On Thursday, 29 June, we have a date in the diary to fill. We will probably need it for the reports. On Thursday, 6 July we have the Department of Finance and then the Department of Public Expenditure and Reform. That will be interesting given the joining of those Ministries. On 13 July, we have the Garda Síochána and the Courts Service in with us. We have a date in the diary that we have kept free and we need that for reports.

We will move on to any other business. Is there any other business?

Deputy David Cullinane: I wish to be clear that we will get the information relating to yesterday's hearings. I did ask for two specific reports, one from the Comptroller and Auditor General's office and one from An Garda Síochána relating to reporting structures to the Comptroller and Auditor General's office within An Garda Síochána. I want to know who is responsible for what and what is the line management responsibility when information about irregular practices is raised by an individual.

Vice Chairman: Yes, that is fine. I made a number of requests for information as well. What will happen is an email will be sent out tomorrow with all the requests, and if anyone has any issues, he or she should respond to it.

Deputy David Cullinane: It is because a lot of requests were made that I wish to make sure that one is included.

Vice Chairman: Yes, of course. I made a lot of requests too. In terms of next Tuesday's meeting, an issue arose about one of the witnesses not attending yesterday. We had agreed that the Garda Commissioner, with relevant clerical staff, would be here on Tuesday. At a previous meeting we agreed to bring the Commissioner in on her own with appropriate staff. Assistant Commissioner Twomey was not able to make it yesterday and the question is whether we want to bring him in for 45 minutes in advance of the Commissioner's appearance.

Deputy David Cullinane: I do not see any need.

Vice Chairman: He is party to a discussion on the 27th but I think we have enough information about what happened on the 27th.

Deputy David Cullinane: We could ask him by means of written correspondence if we need to get information.

Vice Chairman: Yes. Is it agreed that we do not want him to attend?

Deputy David Cullinane: Yes.

Vice Chairman: Agreed. The meeting on Tuesday will be with the Commissioner on her own with the appropriate clerical staff only.

Is there any other business? If there is not, we will, as we agreed earlier, take some time to read the correspondence that has just come in. Mr. Tony O'Brien, director general of the Health Service Executive has been given the correspondence but said he cannot be expected to answer questions on this today. He was asked to provide clarification on issues raised but the HSE refused to take this today. I presume it will respond in writing. Mr. O'Brien has said he does not have the time to prepare. I suggest we take time to read it as it will inform the thought process for asking questions. We will go through the meeting as normal and following that we can write to Mr. O'Brien based on this. Is that agreed?

Deputy David Cullinane: Is there a time limit to this part of the meeting? I believe it was agreed to be an hour.

Vice Chairman: Yes.

Deputy David Cullinane: Are we sticking to that?

Vice Chairman: Yes. Is that agreed? I do not foresee a huge attendance. We should be able to stick to it pretty easily.

Deputy David Cullinane: It is the celebrations.

Vice Chairman: We will deal with the matter for the first hour and the rest of the time will go to the normal HSE business.

The committee went into private session at 9.42 a.m. and resumed in public session at 9.55 a.m.

HSE Financial Statements 2015 and 2016

Clarification of Matters Relating to Meeting of 2 February 2016

Mr. Tony O'Brien (*Director General, Health Service Executive*) called and examined.

Vice Chairman: Today, we will examine the 2015 and 2016 financial statements of the Health Service Executive. First, however, we will deal with the clarification from Mr. Tony O'Brien relating to evidence given to the committee on the "Grace" case. We agreed yesterday to keep this part of the meeting to an hour and we must be mindful that a commission of investigation has been established and we should allow it to do its work. We have given Mr. O'Brien the opportunity to provide any further clarification after his last appearance on this topic and to provide a response to questions forwarded by the committee following its meeting in private with the whistleblower in the "Grace" case, along with any other related questions. We can provide a transcript of this meeting and any further information to the commission in due course with the agreement of the committee, and I am sure that will not be an issue.

I welcome Mr. Tony O'Brien, director general of the HSE, and thank him for attending today. He is accompanied by Mr. Ray Mitchell from the parliamentary affairs section and Mr.

Dara Purcell from the office of the director general for this first session.

I remind members, witnesses and those in the Gallery that all mobile phones must be switched off. I advise the witnesses that by virtue of section 17(2)(I) 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 it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to 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 asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable.

Members of the committee 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 objectives of such policies.

Finally, members are reminded of the longstanding 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.

Mr. O'Brien, would you like to make some opening comments or go directly to clarifying questions from the members?

Mr. Tony O'Brien: Thank you, Vice Chairman. Just to clarify-----

Vice Chairman: Do you want to make some opening comments?

Mr. Tony O'Brien: I wish to make a couple of comments to be useful.

Vice Chairman: Following your opening comments, the members will ask some brief questions. We will finish this part in an hour.

Mr. Tony O'Brien: I wish to clarify that Mr. Mitchell and Mr. Purcell are not witnesses. They are here to assist with the documentation. For the remainder of the meeting, colleagues from the HSE and the Department may not be present in the room. They may be elsewhere in the building but will be available when the committee requires them.

Like the committee members, I have to be mindful of the existence of the commission of inquiry as well. Indeed, I have been mindful in preparing my answers for the committee.

I wrote to the committee in letters dated 23 May 2017 and 14 June 2017. Answers to specific questions raised by members of the committee via the secretariat have been responded to. I am happy to take verbal questions in respect of matters that have been discussed in that correspondence, but I do not propose to make a formal statement. I will hold that until we get to the second part of the meeting.

Vice Chairman: That is fair enough. This is not a normal Committee of Public Accounts round of questions. We are going to have brief clarification session involving questions from members. I appeal to members to be brief. We are going to try to get through all the members. We will start with Deputy Cullinane.

Deputy David Cullinane: I have two questions on two separate issues. The first relates to the last time Mr. O'Brien was before the committee. At the time there was a conversation

about the freedom of information request from certain journalists. Specifically, RTE journalists tabled extensive FOI requests. Mr. O'Brien said in his response that if RTE had made a more comprehensive request in respect of local interaction between the HSE and the Garda at the time, then the response RTE would have received would have been different. It seems that RTE did make such a request but that the HSE wrote back to RTE stating that the broadcaster had to limit the scope of the questions. Is Mr. O'Brien aware of that? If that is the case, does Mr. O'Brien need to correct the record of the Committee of Public Accounts?

Mr. Tony O'Brien: I believe that in the interim period we have provided the full dossier of all the correspondence. There is one thing that I would like to make clear, because I think there may have been an ambiguity about it when we were here before. The coverage of the matter by the programme, that is to say, the "This Week" programme, which made the FOI request, was of course accurate in respect of the coverage. The issue I referred to was other reportage that included a headline on the RTE news website implying that there had been no contact at all.

Deputy David Cullinane: Let us stick with the programme mentioned. It is good that Mr. O'Brien has at least acknowledged that it was accurate.

Mr. Tony O'Brien: We always did, actually.

Deputy David Cullinane: I thank Mr. O'Brien for that.

In respect of the request made, does Mr. O'Brien accept that a request was made by that programme for wider information and that there was a response from the HSE to the effect that it would be better if the requester reduced the scope of the information sought?

Mr. Tony O'Brien: I have no wish to paraphrase the correspondence, given that we have both seen it, but it is clear that the FOI officer who dealt with the request asked the requester to be more specific in terms of the request. This included dates and the areas of the HSE that the requester wanted the information from. That is certainly the case. The documentation we provided makes that clear.

Deputy David Cullinane: I thank Mr. O'Brien for that.

I will move on to my second question. One of the issues raised was funding for the Waterford Intellectual Disability Association. This was one of the organisations providing care for Grace. Is that correct?

Mr. Tony O'Brien: The question is not incorrect, but hitherto we have not sought to name that organisation for reasons to do with legislative provisions to protect certain persons.

Vice Chairman: We will move on then and simply ask the question.

Deputy David Cullinane: Okay.

Mr. Tony O'Brien: I would prefer if we can have the discussion without naming the organisation.

Deputy David Cullinane: An organisation was providing a service. There were issues. There were certainly allegations made by that organisation to the effect that its funding had been reduced because people within the organisation had made protected disclosures. Mr. O'Brien is aware, at least, that this was an accusation made by those involved.

Mr. Tony O'Brien: Yes, I have acknowledged that.

Deputy David Cullinane: However, that has been refuted by the HSE. Is that not correct?

Mr. Tony O'Brien: Actually, no. I want to be clear what I am saying “no” to. I am aware of the allegation. I have discussed the allegation with the organisation concerned and with this committee on several occasions. At corporate level, the HSE has not refuted that allegation.

What I have done is that I have commissioned a review into two key aspects. One is the funding provided for the care of the person we refer to as Grace. The other is the other funding relating to the other aspects of the funding relationship between the HSE and that area and the organisation. I have made a clear commitment that if this review indicates that there was unfair treatment, then it would be put right and dealt with.

Deputy David Cullinane: Has the HSE received a draft report from Deloitte?

Mr. Tony O'Brien: The individuals who participated in the review – I am referring to all individuals, including the service provider and the relevant officials - have been engaged in a review of the drafts.

Deputy David Cullinane: Has the HSE rejected any elements of the review? To the knowledge of Mr. O'Brien, has the HSE rejected any of the findings in the draft report, which, Mr. O'Brien maintains, HSE staff have sight of?

Mr. Tony O'Brien: I wish to be clear. What happens with these reviews is that the firm carrying out the review goes through a due diligence process whereby it shares elements or the entirety of the document with the individuals concerned for their comments, fact-checking, accuracy, interpretation and so on. I am aware that the people carrying out the review, who are from Deloitte, are currently working through the responses they have received in the period since the beginning of this month.

As the commissioner, I have not received the report. The only person who could reject the report on behalf of the HSE is the commissioner. Individuals who are dealing with references to themselves can of course express their views about the accuracy or otherwise of what is being reflected in a draft report.

Deputy David Cullinane: I have two more quick questions. Is Mr. O'Brien aware of any view expressed by anyone in the HSE to the funding organisation that it should fund-raise to cover the cost of providing care for Grace, because the funding the organisation required was not given?

Mr. Tony O'Brien: The question of funding of Grace has been dealt with by way of a High Court settlement mediated by-----

Deputy David Cullinane: That is not the question I asked. The question I asked was whether a view was ever expressed, to the knowledge of Mr. O'Brien, by anyone in the HSE to the effect that the organisation providing the service, the service provider, should fund-raise to provide the level of care that Grace needed because the money requested by that organisation was not forthcoming.

Mr. Tony O'Brien: I am aware from my discussions with representatives of the organisation concerned that it is their view that in the past, as they were in discussion about the requirements of the organisation for funding, a question was raised about the extent to which fund-

raising was supporting the organisation. I am not aware of anything more recent than that.

Deputy David Cullinane: Can Mr. O'Brien provide this committee with any details of that, if that is what the representatives of that organisation are claiming? I understand they say their estimation of the cost of providing the service for Grace would have been €100,000. They were told by the HSE that it would be €50,000. We need to bear in mind that this is for one-on-one support for someone who has been neglected by the State in the eyes of many people. The representatives of the organisation were then told that they needed to fund-raise to cover the additional costs. Does Mr. O'Brien accept that this would be a difficult situation for the service provider as well as being very unfair given the history of this issue?

Mr. Tony O'Brien: I wish to be clear. In order to be fully informed on these matters, I commissioned Deloitte to carry out a review of both aspects. One relates to the funding provided in respect of Grace. The other was the issue of whether the overall funding relationship was adversely affected or otherwise by the role played by the organisation.

Deputy David Cullinane: Mr. O'Brien told us when he was here last time that the Deloitte report would be published imminently - I believe that was the word he used. It has not been published. I am trying to understand whether there is an attempt by the HSE, at any level, to frustrate the publication of that report by not agreeing with elements of it, holding it up or whatever. I am being led to believe that Mr. O'Brien's organisation has difficulties with many elements of the report and believes it has gone beyond its terms of reference. He might not be in a position to answer these questions today but, in any event, the report has not been published. If his organisation is not happy with elements of it, that is the HSE's right, but I would be worried if it held up the publication of the report.

When Mr. O'Brien last attended the committee, he expected the report to be published imminently. It has not been published. We are being given information that his organisation has difficulties with many elements of it. Is that what is holding up the report's publication?

Mr. Tony O'Brien: I need to unpack that, if I may. It is important-----

Vice Chairman: This is a really important question.

Mr. Tony O'Brien: We need to be clear, in that there is a distinction between the HSE as an organisation and individuals who may work for the HSE-----

Deputy David Cullinane: Yes.

Mr. Tony O'Brien: -----and whose actions or activities may be the subject of a review. Any individual whose activities are under question or review is entitled to reflect back to the reviewers if he or she so chooses. If there is an issue that he or she believes is incorrect on a factual or sequential basis or whatever it might be, the person is entitled to do that. If he or she has done so, it does not amount to the HSE having a problem with the report.

Vice Chairman: For the sake of clarity, is Mr. O'Brien saying that, in terms of the report and elements of the information within it, individuals as opposed to the HSE or both are making requests for clarifications or changes?

Mr. Tony O'Brien: No. I am answering the question.

Vice Chairman: Mr. O'Brien should answer what I asked as well, then.

Deputy David Cullinane: Just before he does, I will ask a follow-up question. What I am hearing from him is that the authors of the report may be engaging with some of those who are subject to the report. People who work within the HSE may be offering their opinions. That is a matter for them. Mr. O'Brien is the Accounting Officer for this corporate body, though. Has his organisation engaged with Deloitte at that level? At his own level, has Mr. O'Brien expressed concerns about any element of the draft report? Has he read the draft report?

Mr. Tony O'Brien: No. As the commissioner, I would not read a draft report. Neither would I receive one. The body that has been commissioned by me will provide me with its final report. The only concern that I have had about the report is that it should be concluded.

Deputy David Cullinane: I want to be clear on my last point. Is it Mr. O'Brien's contention that, as a corporate body, the HSE has not criticised or found unacceptable elements of the draft report?

Mr. Tony O'Brien: No. In law, the corporate functions of the HSE are vested in me. I have not read the report. I have not received and failed to read the report. As such, corporately the HSE has not expressed any opinion.

Deputy David Cullinane: That is all I needed to know.

Mr. Tony O'Brien: The service providers, the persons with whom they dealt, their actions, their information and their submissions are at the core of the report. All of those parties have been given an opportunity. My understanding is that, since the beginning of this month, the persons in Deloitte who are carrying out the review have been working their way through the responses. I sought to put them under some pressure to complete their work within reason. Their advice to me is that they could not provide me with the report in time for today's meeting. It would have made my life somewhat easier if they had. I am now advised that they are in the final stages and that I should have it soon. I have not seen-----

Deputy David Cullinane: That is clear in terms of Mr. O'Brien's role.

Vice Chairman: In fairness, Mr. O'Brien has answered.

Mr. Tony O'Brien: Have I dealt with the Vice Chairman's question?

Vice Chairman: Yes.

Deputy Catherine Connolly: We are not in a court of law and Mr. O'Brien's careful answering does not give reassurance. We are here because of the "Grace" case, which was appalling in every respect. There was absolute neglect. We are here because whistleblowers - two women - were courageous and have persisted at great cost to themselves, so let us get real. Specifically, we are examining three aspects - procurement, the employees who were promoted and the Deloitte report. In terms of the staffing issue, it was at the very least unclear which staff had been promoted, which had been involved in the decision-making process and so on. Mr. O'Brien has finally confirmed something for us today. If he could listen, I would appreciate it, as we are short on time and he had lots of time to consult beforehand. He has clarified that, of H3, H7, H12, H4 and H6, three were promoted. Is that correct? "Yes" or "No"?

Mr. Tony O'Brien: The information is as I have set it out in the correspondence.

Deputy Catherine Connolly: Please, no more information. I have had to work very hard, as have the other members. We had to submit specific questions to ensure that Mr. O'Brien

would be prepared. Of the five staff, three have been promoted. Is that correct?

Mr. Tony O'Brien: In the course of their careers, yes.

Deputy Catherine Connolly: I want Mr. O'Brien to tell me precisely when in the course of Grace's life and their responsibility for her they were promoted. The first one is H3, who was promoted to the second level of the grade. When was that? If Mr. O'Brien does not know, his colleagues might find out for him.

Mr. Tony O'Brien: No, I have the information with me.

Deputy Catherine Connolly: Good.

Mr. Tony O'Brien: Before I answer the specific question, I need to address the Deputy's opening remarks to me.

Deputy Catherine Connolly: Yes?

Mr. Tony O'Brien: As I understand it, the reason I am here is because the committee has concerns about the accuracy of answers given previously, so it is a little odd to be criticised for being careful in my answers in a situation where the precision of my answers is the very subject of-----

Deputy Catherine Connolly: Mr. O'Brien-----

Vice Chairman: Point taken. Could Mr. O'Brien answer the-----

Deputy Catherine Connolly: I am sorry, but no point is taken by me. What is Mr. O'Brien's salary?

Mr. Tony O'Brien: It is a matter of public record that it is very slightly over €190,000.

Deputy Catherine Connolly: That is okay. Mr. O'Brien is presiding over a major organisation with a major budget. We are discussing a specific case. I will revert to its cost to the taxpayer so far, not to mention the damage done. That is the context. When were the three staff promoted? Take the first one quickly - H2.

Mr. Tony O'Brien: I believe the Deputy means H3.

Deputy Catherine Connolly: Yes. I have put my glasses on now. I thank Mr. O'Brien.

Mr. Tony O'Brien: According to the information available to me, H3 was last promoted on 1 December 1991.

Deputy Catherine Connolly: Last promoted. Next is H7.

Mr. Tony O'Brien: In other words, the individual achieved the grade at which he or she retired on that date.

Vice Chairman: Okay. Keep going.

Mr. Tony O'Brien: H7-----

Deputy Catherine Connolly: H7 was promoted to the second level of the grade and remained in that role until 2010. When was the promotion given? Can I leave it to Mr. O'Brien's

colleagues to revert to him?

Mr. Tony O'Brien: No. I am-----

Deputy Catherine Connolly: Give the information, so.

Mr. Tony O'Brien: I know that the Deputy does not want me to be careful in my answers, but I feel obliged to be.

Deputy Catherine Connolly: Mr. O'Brien-----

Vice Chairman: Okay, but-----

Deputy Catherine Connolly: I am not going on about being careful. I am going on about time.

Vice Chairman: I know, but we will move on. Will Mr. O'Brien answer the question?

Mr. Tony O'Brien: The last promotion as such, according to the information available to me, was on 10 June 1996.

Deputy Catherine Connolly: She was promoted to the second level of the grade and remained in that role until 2010. Is Mr. O'Brien saying that the promotion occurred on 10-----

Mr. Tony O'Brien: That person was promoted to a grade higher than the grade that he or she left on in 1996 and reverted a year or so later.

Deputy Catherine Connolly: I will tell the Vice Chairman what I am going to do. I will ask for the information on when the person was promoted to be written and given to us within a few days. It is a specific question and I am limited-----

Vice Chairman: It is a good request. If the Deputy could list off the people who-----

Deputy Catherine Connolly: No. They are laid out here.

Vice Chairman: Fine.

Deputy Catherine Connolly: I am not using up any more of my time on this. When were they promoted? It is a simple question.

Vice Chairman: Will Mr. O'Brien write to us in respect of each individual by the middle of next week and outline when he or she was promoted and to what grade?

Mr. Tony O'Brien: That would be no difficulty.

Vice Chairman: I thank Mr. O'Brien.

Deputy Catherine Connolly: Let us discuss the cost of the reports. My quick assessment puts that at €534,940. I am on page 4. It starts with the Devine report and moves on. I could be out in my figures. I am referring to the Resilience Ireland and Devine reports and so on, although the amount does not take into account the Dignam report, which was not procured by the HSE, or was it?

Mr. Tony O'Brien: It was procured by the Department of Health.

Deputy Catherine Connolly: It was a separate cost.

Mr. Tony O'Brien: Yes.

Deputy Catherine Connolly: Does Mr. O'Brien happen to know that cost?

Mr. Tony O'Brien: No.

Deputy Catherine Connolly: These reports amount to approximately €500,000.

Mr. Tony O'Brien: That is correct.

Deputy Catherine Connolly: Was there not a question about the procurement of those reports?

Mr. Tony O'Brien: That is correct.

Deputy Catherine Connolly: Has that been rectified and, if so, how?

Mr. Tony O'Brien: Obviously, it is not possible to change a procurement retrospectively.

Deputy Catherine Connolly: Absolutely, but to prevent it happening in the future.

Mr. Tony O'Brien: Mr. Dignam identified in his report that while the procurements were in accordance with European directives, the HSE's own internal financial regulations were silent – to use his phrase – on the procedure to be followed where it was not going through what is called full procurement. There are exemptions provided in EU directions but they were not reflected or replicated in the HSE's internal financial regulations.

Deputy Catherine Connolly: Mr O'Brien has set that out here in writing. I have read the documents. My question concerns what has been rectified by the HSE.

Mr. Tony O'Brien: Two things, which are both set out in the letter-----

Deputy Catherine Connolly: Could Mr. O'Brien clarify them, please?

Mr. Tony O'Brien: The first is that the internal financial regulations have been amended to reference the provisions of the European directives, as transposed into Irish law, so that availing of any exemptions provided for in law is understood and comprehended by the financial regulations.

The second issue is the establishment of a framework agreement. In other words, there is an issue about where an urgent requirement arises. In that situation, they went for what is often referred to as a mini-competition *de novo*. In future, that will not be necessary because a framework agreement has been in place since 2015 whereby a total of 18 service providers are placed on a framework. Commissioners of review within the HSE can draw down from that framework when required using what is known as the negotiated procurement procedures. Had these arrangements been in place originally, it is my opinion that Mr. Dignam would not have found fault with the procedures followed.

Deputy Catherine Connolly: He did find fault.

Mr. Tony O'Brien: Yes. That is what I am saying.

Deputy Catherine Connolly: Good.

Mr. Tony O'Brien: Had these procedures been followed, fault would not have been found.

Deputy Catherine Connolly: He did find fault. It cost the taxpayer money for him to find that fault. Let me move on to my final topic, the settlement for Grace and the Deloitte report. On the last occasion Mr. O'Brien was before us, he told me specifically in response to a question that the report was imminent and was going to be published. Why has it not been published?

Mr. Tony O'Brien: It has not been published because it has not been completed and I have not received it.

Deputy Catherine Connolly: If we had representatives of Deloitte before us today, they would tell us they have not completed the report.

Mr. Tony O'Brien: They would.

Deputy Catherine Connolly: Would they tell us they have not completed the report because they are talking to the stakeholders or the people directly affected by the report?

Mr. Tony O'Brien: As I understand it, or as I have been informed, in fact, they have received feedback from persons involved in the report, and they are now processing that feedback in order to finalise their report.

Deputy Catherine Connolly: That is slightly different from what Mr. O'Brien said a second ago.

Mr. Tony O'Brien: No, it is the same thing.

Deputy Catherine Connolly: It is the same thing. They are no longer getting feedback. They have got the feedback from the service provider.

Mr. Tony O'Brien: Yes.

Deputy Catherine Connolly: There is one service provider and they have got the feedback from it. Who else did they need to get the feedback from?

Mr. Tony O'Brien: From the persons who are the other part of the financial transactions.

Deputy Catherine Connolly: Who are they?

Mr. Tony O'Brien: They would be the various staff members in community healthcare organisation area 5-----

Deputy Catherine Connolly: In the health executive.

Mr. Tony O'Brien: They would be employees of the HSE, yes.

Deputy Catherine Connolly: Is the health executive one stakeholder and the provider the other?

Mr. Tony O'Brien: I am referring to the individual staff. The HSE, through me, is the commissioner of the review, as a corporate body.

Deputy Catherine Connolly: Given Mr. O'Brien's salary and what it has cost the taxpayer to get this far, given that there is an independent inquiry and given that there is somebody who has suffered tremendously and whistleblowers who have suffered tremendously, let us please

put a human face on this. Mr. O'Brien should try to answer. He was before-----

Mr. Tony O'Brien: I am sorry but I have answered the questions of Deputy Cullinane in exactly the same way.

Deputy Catherine Connolly: No, he did not.

Mr. Tony O'Brien: -----and with exactly the same meaning as when answering Deputy Connolly.

Deputy Catherine Connolly: Maybe I am a little slower and maybe it takes me a little longer to comprehend things. Was the report commissioned over a year ago?

Mr. Tony O'Brien: Yes.

Deputy Catherine Connolly: When was it commissioned? Mr. Purcell seems to have the details.

Mr. Tony O'Brien: Mr. Purcell is not a witness.

Deputy Catherine Connolly: Great. Will Mr. O'Brien tell us what Mr. Purcell has said?

Mr. Tony O'Brien: It is more than a year since I gave the instruction.

Deputy Catherine Connolly: When precisely did Mr. O'Brien give the instructions for the Deloitte report?

Mr. Tony O'Brien: I gave the instructions immediately following the February hearing of the Committee of Public Accounts, which was the day before the 2016 general election was called.

Deputy Catherine Connolly: There was a different Government prior to the election and Mr. O'Brien commissioned a report. That was in February 2016 and it is now June 2017, yet the report has not come out.

Mr. Tony O'Brien: That is correct.

Deputy Catherine Connolly: Mr. O'Brien is saying that is because Deloitte has taken that long to consult the staff in the health executive and the provider.

Mr. Tony O'Brien: I am saying, at this point in time, that what stands between me receiving the report and not receiving it is their taking into account the responses they have received to the draft report. I was asked who gave the feedback from the health service, CHO area 5. The chief officer, Ms Aileen Colley, would have given that feedback based on her review of HSE records, bearing in mind that she was not in post at the point in time when these issues arose.

Deputy Catherine Connolly: Could the Vice Chairman clarify how much time I have left?

Vice Chairman: The Deputy can go on for another minute.

Deputy Catherine Connolly: Have any of the gentlemen beside Mr. O'Brien looked at the draft report?

Mr. Tony O'Brien: Yes. Mr. Purcell has, as has another colleague.

Deputy Catherine Connolly: Have any of the gentlemen beside Mr. O'Brien told him what is in the draft report?

Mr. Tony O'Brien: No.

Deputy Catherine Connolly: The two gentlemen are not allowed to speak here today.

Mr. Tony O'Brien: They are not witnesses.

Deputy Catherine Connolly: They have read the report.

Vice Chairman: They can talk to Mr. O'Brien briefly now if they want.

Deputy Catherine Connolly: Maybe Mr. O'Brien would like some time to discuss with the two gentlemen what is in-----

Mr. Tony O'Brien: No. As commissioner, I do not wish to be party to a draft report. When Deloitte signs the report and certifies it as its report, then it comes to me.

Deputy Catherine Connolly: From the two gentlemen beside Mr. O'Brien, can he establish whether they have a difficulty with the draft report? Have they gone back to Deloitte and said they are not happy with some aspects of it?

Mr. Tony O'Brien: I know that the role that they have, on my behalf, is trying to chase Deloitte to conclusion. "Chase" is the wrong word. I refer to seeking to establish the potentiality for me to have the report before today's proceedings. That is their primary role.

Deputy Catherine Connolly: I just hope we are not back here correcting things. Mr. O'Brien is now telling the Committee of Public Accounts that the role of the two gentlemen beside him is chasing Deloitte to get this report, not to change it, not that-----

Mr. Tony O'Brien: Not to chase.

Deputy Catherine Connolly: Please. Mr. O'Brien is after saying their role is to "chase" Deloitte.

Mr. Tony O'Brien: They would have chased - "chased" is perhaps the wrong word but I think we know what I am trying to say - both the people carrying the report and any internal stakeholders to conclude their feedback to Deloitte as quickly as possible, but not to influence that-----

Vice Chairman: The time this process has taken is absolutely ridiculous. With the agreement of the members, I suggest that we write to Deloitte asking when the report will be concluded. I believe we will note that-----

Deputy Bobby Aylward: Have the terms of reference been breached?

Vice Chairman: Sixteen months is insane.

Deputy David Cullinane: Could I ask just one question?

Vice Chairman: Deputy Connolly is finishing and then we will move on.

Deputy David Cullinane: My question was related.

Deputy Catherine Connolly: Mr. O'Brien was going to say something.

Mr. Tony O'Brien: As I understand it, the first of draft of the report for comment and review was provided to all those whom it was provided to on 19 May this year. The author, Deloitte, made some changes.

Deputy Catherine Connolly: I beg Mr. O'Brien's pardon. I missed that.

Mr. Tony O'Brien: The date 19 May of this year was when Deloitte provided a first draft of the report to all those to whom it provided it.

Vice Chairman: I beg your pardon.

Deputy Catherine Connolly: Let us be careful now. Does "to all" mean the service provider plus staff within the health executive?

Mr. Tony O'Brien: Within the CHO area 5, yes.

Deputy Catherine Connolly: The health executive.

Mr. Tony O'Brien: Yes. All staff of all parts of the health service within the HSE.

Deputy Catherine Connolly: Continue.

Mr. Tony O'Brien: On 1 June, certainly the HSE was notified of further changes to the report, presumably arising from feedback on the first draft.

Deputy Catherine Connolly: What does that mean? By whom were changes made?

Mr. Tony O'Brien: By the authors.

Deputy Catherine Connolly: On what basis?

Mr. Tony O'Brien: The reason they seek feedback is so-----

Deputy Catherine Connolly: No, please. What I am trying to establish is whether the health service staff asked for changes. Did Mr. Purcell or Mr. Mitchell ask for changes?

Mr. Tony O'Brien: I need to be clear about these gentlemen's role.

Vice Chairman: For clarity, was the first version on 15 May?

Deputy Catherine Connolly: It was on 19 May.

Mr. Tony O'Brien: It was 19 May.

Vice Chairman: Is Mr. O'Brien telling me that an organisation like Deloitte took 15 months to produce the report?

Deputy Catherine Connolly: Was it 19 May this year or last year?

Mr. Tony O'Brien: They would have had to have been procured-----

Vice Chairman: From its start date.

Mr. Tony O'Brien: I need to clarify. Earlier on, I gave a date for when I initiated the pro-

cess of the review. That would have initiated-----

Vice Chairman: Mr. O'Brien might clarify when Deloitte started to work as opposed to-----

Deputy David Cullinane: I have a quick question which is relevant to this.

Mr. Tony O'Brien: Can I answer this question first?

Deputy David Cullinane: Of course.

Mr. Tony O'Brien: I want to be fair to Deloitte.

Vice Chairman: So do I. I want to know the dates.

Mr. Tony O'Brien: In the course of a meeting in this room I said that I would organise an objective review. I would have given instructions for that to happen. That would have had to have been procured and then there would be a mobilisation period. I do not want to give the impression that Deloitte started that day because it could not have. In the interests of fairness, I will come back to the committee with the actual sequence of dates. The first draft was provided on 19 May.

Deputy Catherine Connolly: Does Mr. O'Brien mean 19 May this year?

Mr. Tony O'Brien: Yes, this year. Everything I say from now on refers to this year.

Deputy Catherine Connolly: Very good.

Mr. Tony O'Brien: On 1 June, changes to that report were notified to the relevant persons in the HSE. The reason drafts are issued is so that feedback can be considered, and it is usual that there would be a number of iterations of a report before a finalised report is produced. Formal comments were provided by persons in the HSE to whom the draft was provided on 9 June. Yesterday, in response to an inquiry from my office, Deloitte confirmed that the report has not been finalised at this time as the section relating to the financing of the service provider by the HSE has not been finalised. To clarify, there are two parts to the review. One relates specifically to funding concerning the person we call Grace and the second part relates to the wider financial relationship.

Deputy Catherine Connolly: I have to say that I find that unhelpful. I am doing my best to get specific answers from the head of the-----

Mr. Tony O'Brien: If the Deputy gives me a specific question, I will answer it.

Deputy Catherine Connolly: I will ask a specific question again. Has the HSE, through any of its members, asked for changes to the Deloitte report? It is a yes or no question.

Mr. Tony O'Brien: The Deputy's question does not allow itself to be answered yes or no.

Deputy Catherine Connolly: It does, actually.

Mr. Tony O'Brien: It does not. The Health Service Executive is a body corporate established by law in 2005.

Deputy Catherine Connolly: Has anyone employed by the HSE in whatever section Mr. O'Brien is referring to asked for the draft report to be changed?

Mr. Tony O'Brien: Possibly. I would not know.

Deputy Catherine Connolly: Would the gentlemen either side of Mr. O'Brien know the answer to that?

Mr. Tony O'Brien: I will answer the Deputy's question, but I have to clarify Mr. Mitchell's role. He works in parliamentary affairs. His role in this report has been on my behalf to ascertain whether it was available for this committee. He manages all-----

Deputy Catherine Connolly: Did Mr. O'Brien hear my question?

Mr. Tony O'Brien: Yes, I did.

Deputy Catherine Connolly: Can either of the gentlemen on either side of Mr. O'Brien ask for changes? Are they aware whether anyone below them or anyone in another part of the HSE has asked for changes to the draft report?

Deputy David Cullinane: I believe this would be helpful as well. I understand what the director general is saying. He is telling this committee that he commissioned this report and that the role of Mr. Mitchell and Mr. Purcell on his behalf in recent times was to try to expedite the publication of the report.

Mr. Tony O'Brien: Yes, to its conclusion.

Deputy David Cullinane: We have asked Mr. O'Brien whether the organisation sought to influence the draft report at a corporate level and he has said "No". The question is whether the HSE sought to question whether Deloitte had extended its terms of reference.

Mr. Tony O'Brien: Whether Deloitte had gone beyond its terms of reference?

Deputy David Cullinane: Yes, exactly.

Mr. Tony O'Brien: Certainly not at corporate level, no.

Vice Chairman: Deputy Catherine Murphy has been waiting for a while.

Deputy Catherine Connolly: Yes, absolutely, but I still have not got an answer to the question. I have asked a very specific question. Did anyone in the HSE who was consulted at whatever level in relation to Deloitte, which cost €10,000, ask for changes to the draft report? I ask that question bearing in mind that this report arose from whistleblowers who pointed out that there was a decrease in funding.

Vice Chairman: If the witness does not know, he can say that.

Mr. Tony O'Brien: I do not know specifically but it is reasonable to conclude that most people, when presented with a draft report, will provide some feedback, so I would not like to suppose that no one did that.

Deputy Bobby Aylward: On a point of order, can I ask why Mr. Mitchell and Mr. Purcell cannot answer any questions? While they are not witnesses, what were they brought in here for? Was it for us to sit and look across at them?

Vice Chairman: They were not called as witnesses. We should have asked them as witnesses.

Deputy Bobby Aylward: It is strange.

Deputy Catherine Murphy: Can Mr. O'Brien remember the date that he was before the committee when he said that the report was imminent?

Mr. Tony O'Brien: I cannot. I could look it up.

Deputy Catherine Murphy: How long ago was it?

Mr. Tony O'Brien: Probably three months, I am guessing.

Deputy Catherine Murphy: Mr. O'Brien said that the report was imminent at that stage. What information did he have to suggest that?

Mr. Tony O'Brien: That was the understanding I had, that it was near to completion. Obviously, that was not correct.

Deputy Catherine Murphy: Where did Mr. O'Brien get that information from?

Mr. Tony O'Brien: I got that from Deloitte.

Deputy Catherine Murphy: Is this the first time Mr. O'Brien has commissioned a report of this nature?

Mr. Tony O'Brien: No.

Deputy Catherine Murphy: When Mr. O'Brien tells us that this is the way things work, he has some understanding that a draft report is issued, people are asked for comment, and all that. Did Mr. O'Brien have any knowledge of the process as it was at that time when he said the report was imminent? Was he aware that people had been consulted at that stage? That appears to be quite a long part of the finalisation of the report.

Mr. Tony O'Brien: I would not have asked the specific question if that had happened. The reason I have looked for that level of detail on this occasion was because what has happened since has not been what I expected at that time. This procedure around the draft report would be the same procedure, for example, that the Comptroller and Auditor General would use for a special report. There would be drafts, they would be shown, relevant parties would be given opportunities for comment and typically there might be a second draft.

Deputy Catherine Murphy: Mr. O'Brien came to the committee and told us that this report was imminent. We were expecting to see the report imminently.

Mr. Tony O'Brien: So was I.

Deputy Catherine Murphy: Imminently within weeks. Was Mr. O'Brien misled in terms of where the report was at the time?

Mr. Tony O'Brien: In so far as I was given to expect that it would be concluded and available imminently, yes.

Deputy Catherine Murphy: Since the report, a number of things have happened. Since the previous time Mr. O'Brien was before the committee, we were expecting the report to be issued imminently. We then had a meeting in private session with the whistleblower, and then there was a High Court case, which came as a bit of a surprise to some of us. I do not think that

was referred to at the particular meeting in February or March, but the High Court case was heard within days of that meeting. I want to refer to the High Court case. Would it have been a disadvantage to have the Deloitte report issued in advance of that case?

Mr. Tony O'Brien: No, I do not believe so.

Deputy Catherine Murphy: Would that have been a consideration of any kind?

Mr. Tony O'Brien: No. The case in question had been ongoing for more than a year. It was being managed by the State Claims Agency and there had been significant interaction, probably using the same base source of data for the terms of settlement. The Deloitte report would not have altered the outcome of the proceedings because it was using the same raw data as the matter that is the subject of the court case, which is the specific funding required to meet the past, present and future care needs of Grace.

Deputy Catherine Murphy: What was the component in the High Court case that was identified by the independent auditor relating to the underfunding of the care?

Mr. Tony O'Brien: That was not identified by the independent auditor. It was agreed by the State Claims Agency in consultation with the HSE and through a negotiation between counsel for either side. The element relating to past care is €600,000.

Deputy Catherine Murphy: I presume that the €600,000 has been transferred to the service provider.

Mr. Tony O'Brien: In accordance with the terms of the settlement, that money goes to the service provider.

Deputy Catherine Murphy: Essentially the whistleblower and the care provider were saying that they were being underfunded and it was compromising the care of Grace. The court accepted that and provided further funding. Is that correct?

Mr. Tony O'Brien: The HSE accepted that and the court agreed with the proposed settlement. The terms of the settlement were negotiated between the State Claims Agency, acting for the HSE, and counsel for the Office of Wards of Court.

Deputy Catherine Murphy: Is it not an awful pity that it took a High Court case to bring people to a point where they accepted that there was underfunding of the care of a very vulnerable person? That High Court case would have been a very expensive exercise and €500,000 was spent on the production of some of the reports. It strikes me that if the proper care had been provided in the first place, all this damage and unnecessary expense could have been avoided. Are there lessons to be learned in this regard?

Mr. Tony O'Brien: The care was provided but the issue is whether the service provider who provided that care was adequately funded in terms of the costs-----

Deputy Catherine Murphy: Clearly not, according to the HSE.

Mr. Tony O'Brien: We have accepted that €600,000 should be paid to the service provider as recompense for the costs that it had incurred and for which it was not funded. To go back to an earlier comment, this was not a court case. There was no hearing in court as such. Due to the particular legal status of the individual involved, the only way such a settlement could be made was if it was endorsed, in this case, by the President of the High Court, but it was a

negotiated settlement.

Deputy Catherine Murphy: Was it negotiated because that was the best legal route in terms of bringing the case to a conclusion?

Mr. Tony O'Brien: When I was before the committee in February 2016, I made a very clear and unambiguous statement in relation to this whole issue, not just the Grace case but the other cases which were the subject of the Resilience Ireland reports, that where it is clear that persons had been harmed, had suffered a loss or a negative consequence as a result of failures of the then South Eastern Health Board or the HSE, we would not be taking an adversarial, contested approach to dealing with those issues. That was what was followed in this case. I was absolutely clear at the end of January and in early February of 2016. The Deputy will recall that there was an issue about apologies and so on. I intervened and made a full apology, personally, to everyone involved and I made it clear that this was not to be dealt with in an adversarial manner.

Deputy Catherine Murphy: I doubt that Grace would understand an apology. Judging by the engagement-----

Mr. Tony O'Brien: The Deputy is right but that does not mean the apology should not be given. In the past, one of the criticisms of the HSE and other bodies was that the consideration of the extent to which an apology would be understood has led to a failure to provide such an apology. That is not the approach taken here.

Deputy Catherine Murphy: As the High Court settlement makes very obvious, what Grace actually needed was that the people who were in the position to provide for her care would have provided appropriate funding and placement for her. It is very clear that there were very significant failings in this regard.

Mr. Tony O'Brien: Yes, and I have always accepted the reality of that.

Deputy Catherine Murphy: It took a battle that was settled in court to have the funding that was outstanding to a service provider provided to it. That provider was struggling because the amount of money that was provided was inadequate to provide fully for Grace's care without engaging in fund-raising or stretching itself to the point that services to others in its care were compromised. Is it fair to say that?

Mr. Tony O'Brien: From my own meeting with service providers in February and subsequently, it is clear they did everything they possibly could to meet the care needs of Grace. The reason this part of the settlement has gone directly to the service providers is to reflect that. Obviously, prior to that-----

Deputy Catherine Murphy: I do not for one minute disagree that the service provider in question provided the care. In actual fact, the care was provided despite the HSE, not thanks to the HSE. That is very obvious from the settlement.

I have one last question for Mr. O'Brien on the Deloitte report. Has there been any request for aspects of the draft report to be removed or redacted?

Mr. Tony O'Brien: I am not privy to the dialogue between any of the interested parties and Deloitte so I cannot, in truth, answer that question.

Deputy Catherine Murphy: Does Mr. O'Brien have a fixed date for when the report is going to be published?

Mr. Tony O'Brien: I have now been promised that I will have it before the end of this month, and I mean promised.

Deputy Catherine Murphy: I suggest that when that report is published, we will have to engage again here because then we will have something substantial to talk about.

Deputy David Cullinane took the Chair.

Deputy Shane Cassells: I welcome the director general of the HSE and the other witnesses. As Deputy Connolly said, three specific items are being addressed in terms of the clarification that has been provided by the HSE. However, in our discussions this morning, we must remember that these are three specific items concerning the care of a human being. That sometimes gets forgotten in the context of these debates. I must say at the outset that this committee by its very nature is not one given to emotion, as can be seen at this or any other meeting, but the passion of the whistleblower when she addressed us last month is something that should have been heard by Mr. O'Brien. Indeed, I would have loved all senior managers in Departments to have heard her. Despite all the adverse circumstances she faced, she showed no bitterness but instead showed resilience and professional determination. She reminded all of us that the person in question, Grace, feels loved and knows love. That is sometimes forgotten when we are discussing facts, figures, underpayments and so forth. I just wanted to put that on the record.

I will now turn to that funding issue, which is the first point on the correspondence. It is a simple question as to whether there had been underfunding or a cut to the funding of the service provider since 2010, but it is amazing how long it took to get to an acknowledgement of that fact from the HSE. Even at that, the language used is not precise. The HSE refers to an acknowledgement that the funding was "not sufficient". It does not refer to a cut or to underfunding. Why did the HSE go to war with this small agency, which it will not name, in terms of underfunding?

Mr. Tony O'Brien: The Deputy is asking me about something in which I was not involved.

Deputy Shane Cassells: The organisation that Mr. O'Brien heads up-----

Mr. Tony O'Brien: Let us be clear here. There are two parts to this. One is whether there was sufficient funding provided for Grace's care. It has been acknowledged by the HSE, in a settlement agreed and approved by the President of the High Court, that there should be additional funding of €600,000 retrospectively provided to the service provider. The second part is whether other aspects of the agency's funding were adversely affected as a result of the relationship between it and the local representatives of the HSE in the context of their whistleblowing. That is the second part of the Deloitte review. When I have that, I will have an objective opinion as to whether this agency was penalised more generally, underfunded or cut - whatever terms we want to use - in ways that do not relate to the issue of insufficient funding being provided for the care of Grace.

Deputy Shane Cassells: I will try to explore that in a different way. In terms of the acceptance of underfunding, does Mr. O'Brien accept that repeated communications beginning in 2009 pointed out that insufficient funding was being provided for the level of care and psychological care required and for the trauma this person suffered, and that double the amount of funding was needed? Does Mr. O'Brien accept that those communications were sent? From my understanding, internal audits in 2014 deemed the funding to be sufficient.

Mr. Tony O'Brien: I do not believe there was an internal audit. Was there?

Deputy Shane Cassells: I believe there possibly was.

Mr. Tony O'Brien: Would that audit have been carried out by the HSE's internal audit division?

Deputy Shane Cassells: That is correct.

Mr. Tony O'Brien: I do not believe there was.

Deputy Shane Cassells: I believe that is the case and that the funding provided was deemed sufficient in spite of the service provider having pointed out that it required double the amount over that period. Does Mr. O'Brien accept that that communication exists and that it was-----

Mr. Tony O'Brien: I am not aware that the internal audit division ever had a role in regard to the service providers.

Deputy Shane Cassells: I will seek clarity on that point. Leaving it aside, does Mr. O'Brien accept that there was communication from the service provider that stated that double the amount of funding for care was required?

Mr. Tony O'Brien: That is part of the information that will be contained in Deloitte review. The service provider has told me that it made significant representations and I have no reason to question that.

Deputy Shane Cassells: We are again going round the houses to try to get to simple facts, as was the case with the very first question regarding written statements. If Mr. O'Brien deemed that the money provided was not sufficient, there are obviously reasons it was not. That is what I am trying to get to.

Mr. Tony O'Brien: Yes. We have accepted through a High Court-mediated process that approximately €600,000 of costs, which is the agreed settlement, were incurred by the service provider but were not reflected in additional funding in regard to Grace. That is unambiguous.

Deputy Shane Cassells: Why was that the case?

Mr. Tony O'Brien: That will be the subject of the Deloitte review.

Deputy Shane Cassells: I know that. However, in terms of why this was done or not provided, there were concerns from people in the small voluntary agency that Mr. O'Brien will not name that funding for the work-----

Mr. Tony O'Brien: The reason I will not name them is that we are not supposed to identify whistleblowers, as the Deputy should know.

Deputy Shane Cassells: That is fine.

Mr. Tony O'Brien: It is not I who will not name them.

Deputy Shane Cassells: That is fine. That is no problem.

Mr. Tony O'Brien: Can we agree that we should not name them-----

Deputy Shane Cassells: We can agree. That is fine.

Mr. Tony O'Brien: -----rather than keep on saying that I will not name them?

Deputy Shane Cassells: That is fine. Okay. This agency that cannot be named-----

Mr. Tony O'Brien: Should not be named, yes.

Deputy Shane Cassells: Should not be named. I will use Mr. O'Brien's language as it is a better way of doing business. There were concerns in the small voluntary agency that cannot be named that funding for its work might be negatively impacted by virtue of a protected disclosure made. Minutes of the HSE meeting held on 12 November 2009 discuss the need to remind the small agency that it was entirely reliant on HSE funding which was perhaps a reminder to stop the whistleblower pursuing this further, a bit like Donald Trump telling James Comey that he hopes Comey will not pursue an inquiry. Was that line taken in this case?

Mr. Tony O'Brien: The Deputy is asking me to talk about things that are not within my knowledge, that will undoubtedly be in the Deloitte review and are certainly going to be considered by the commission of inquiry. I am not in a position to answer that question.

Deputy Shane Cassells: Is Mr. O'Brien willing to explore whether there is any merit in that statement?

Mr. Tony O'Brien: Not in advance of receiving the Deloitte review, no.

Acting Chairman (Deputy David Cullinane): One final question from Deputy Cassells if he has one.

Deputy Shane Cassells: I do not. It is evident from this morning's evidence that there is a need for expediency in the delivery of the Deloitte report.

Mr. Tony O'Brien: With the permission of the Chair, I need to address that point. I was expressly asked by the former chairman of this committee, Deputy McGuinness, at the conclusion of the final meeting of this committee during the previous Dáil, to enquire into whether this agency had been adequately funded or penalised or any other negative thing that may have happened as a result of whistleblowers being from that agency. I undertook to this committee to engage in an external review and that is why it is happening.

Deputy Shane Cassells: All members look forward to the publication of the external review. I thank Mr. O'Brien.

Acting Chairman (Deputy David Cullinane): With the agreement of members, I will allow this discussion to continue for another ten minutes. I note Deputies Connolly and Murphy wish to speak. Does Deputy Aylward also wish to do so?

Deputy Bobby Aylward: I have a few brief questions to follow on from what has been asked. I am talking about the Grace case in particular, what happened in that case and the length of time it took. A witness attended a private meeting of this committee a couple of weeks ago. To listen to that person give the details of what happened to a child left in that situation for 24 years in the area from which I come would bring tears from a stone. As a senior executive of the HSE, does Mr. O'Brien take responsibility for any form of neglect by the HSE or for the agency not doing its job or for not making sure this person was treated in the manner she should have been during those 24 years?

Mr. Tony O'Brien: Speaking for the HSE as a body corporate and myself as its current director general, I have unambiguously accepted that there were significant failings in the standard of care which led to significant harm for Grace and, potentially, other persons as well. I

am already on the record as having accepted that and having comprehensively apologised for it, and a formal apology agreed with the wards of court office has been issued in regard to this matter. There has never been any ambiguity or doubt about that.

Deputy Bobby Aylward: To be more specific, were the responsible personnel on the ground at the time, and I do not know who they were, ever reprimanded? Was anyone taken to task over the neglect, the wasted time and that this was allowed to happen under their watch? Was anyone ever questioned or forced to pay a cost for it?

Mr. Tony O'Brien: There is currently a disciplinary process in regard to some of those numbered H in the Devine report which has not yet been brought to conclusion. That was initiated once the Devine and Resilience Ireland reports were published earlier this year.

Deputy Bobby Aylward: Mr. O'Brien stated previously that all personnel involved were retired and gone and then he or someone else retracted that and said there were still one or two people in the system who had been involved in the Grace case. What is the situation now?

Mr. Tony O'Brien: The position is as I clarified at the most recent meeting of this committee that I attended and has not changed. I identified a group of people about whom I had specific concerns when I read the Devine report and I reported that to this committee at the beginning of February 2016. I indicated then and until quite recently that it was my understanding that they had all retired or left the public service. I corrected that on the day before my most recent appearance before this committee by saying that I had new information in regard to one of those people that indicated that he or she was still engaged in the public service. The person was working for Tusla. There are others outside of those five who are mentioned in the Devine report as having some role in this general matter and who are also still in public service.

Deputy Bobby Aylward: Should they be?

Mr. Tony O'Brien: Not everyone in the Devine report is mentioned in the context of potential wrongdoing. They are mentioned because they are part of the record. However, some individuals are the subject of a disciplinary process.

Deputy Bobby Aylward: Will the Deloitte report, when published, clarify why there was neglect for such a long time in this case and others, as Mr. O'Brien mentioned? Will it make clear to this committee the reasons for this happening, why it was allowed to happen and that it will never happen again?

Mr. Tony O'Brien: No, the Deloitte report is only about the funding relationship between the HSE and this individual service provider. One part is in relation to the funding of Grace, though to some extent that is a little bit moot because it has been dealt with through a court settlement. However, it will tell me how we got to that position. The second is about the wider funding relationship and whether the fact that this organisation had the whistleblowers within it led to any negative approach towards the funder. The wider questions the Deputy is asking are really matters that will be dealt with and resolved through the work of the Farrelly commission.

Deputy Bobby Aylward: Does Mr. O'Brien respect the two whistleblowers who came forward on the HSE? Does he admire and respect what they did and the reason they did it? Does he hold them in high esteem for doing what they did?

Mr. Tony O'Brien: Yes, I have met them in their own place, as it were, on one occasion and in my office on one occasion. There is no doubt that they have acted with great sincerity and in

the very best interests of their client at all times.

Acting Chairman (Deputy David Cullinane): Before Teachta Connolly begins, I will seek clarity from Mr. O'Brien on certain matters. I thank him for the answers he has given so far. In terms of process, is it correct that there was a disagreement between the Health Service Executive and the service provider on the issue of funding?

Mr. Tony O'Brien: Yes, there were certainly two views taken.

Acting Chairman (Deputy David Cullinane): Mr. O'Brien stated there was a settlement in respect of the funding for Grace and this has been paid. There is still a disagreement about the wider funding for the organisation that is the subject of the Deloitte report commissioned by the HSE.

Mr. Tony O'Brien: I do not know if there is still a disagreement because-----

Acting Chairman (Deputy David Cullinane): The committee has been in contact with the organisation or it has been in contact with the committee and I can tell Mr. O'Brien that there is a disagreement on its part.

Mr. Tony O'Brien: There should not yet be the potential for disagreement because the service provider does not know what view I will ultimately take on the report. What I have undertaken-----

Acting Chairman (Deputy David Cullinane): I expect the Deloitte report was commissioned because there was disagreement. Is that not the case?

Mr. Tony O'Brien: I do not know about disagreement because the relevant officials now in place in CHO 5 or certainly the chief officer was not there when all of this occurred. What we are doing is looking back - through Deloitte rather than the HSE - at decisions that were made to determine whether, objectively, those decisions appear to be fair or unfair. I have indicated that if it becomes clear that the service provider was treated unfairly, I will rectify that position.

Acting Chairman (Deputy David Cullinane): On that point and because it follows on from the question from Teachta Aylward regarding whistleblowers, Mr. O'Brien was asked earlier about the importance of giving an apology in respect of Grace.

Mr. Tony O'Brien: Yes.

Acting Chairman (Deputy David Cullinane): My understanding is that no apology has been given to the whistleblower or whistleblowers in this case. Is that an oversight on the part of the HSE? Does Mr. O'Brien wish to take this opportunity to apologise to the whistleblower? I am sure that will be important on his part. It is my understanding, although I may be wrong, that until now the HSE, as a corporate body, and Mr. O'Brien, as its director general, have not given an apology to the whistleblower.

Mr. Tony O'Brien: Certainly in respect of the one part that we are very clear about at this point, I have no hesitation, on behalf of the HSE, in apologising to the service provider and, by extension, the whistleblower and to the whistleblower and, by extension, the service provider for the fact that it was necessary to agree to pay to it €600,000 to cover the costs of past services that it had provided. The agreement does deal with future costs and so on.

The second part is in relation to whether there was discrimination against the service pro-

vider. I will not offer an apology on that until I have ascertained the facts because it would be somewhat hollow to do so.

Acting Chairman (Deputy David Cullinane): However, Mr. O'Brien offers an apology regarding the first matter on which an agreement has been reached. He accepts, therefore, that there was a failing on the part of his organisation.

Mr. Tony O'Brien: We have unambiguously agreed and made - and had accepted - an offer to pay to the service provider and we have in fact paid.

Acting Chairman (Deputy David Cullinane): To make clear, Mr. O'Brien is now offering an apology to the service provider and whistleblower for that element of the funding.

Mr. Tony O'Brien: Yes. I will deal with the thing comprehensively once I have the Deloitte report.

Acting Chairman (Deputy David Cullinane): I need to be absolutely clear on any potential for interference with the work of the independent report, which is ongoing and on which Mr. O'Brien has answered questions. I accept the HSE has commissioned this report and is seeking to expedite its publication. I accept the role of Mr. Purcell and Mr. Mitchell. I asked Mr. O'Brien whether anyone on behalf of the HSE, as a corporate body, had sought to influence the report or offered a critique of its terms of reference, in other words, if Deloitte had gone beyond its terms of reference. Mr. O'Brien answered "No" to those questions. He stated, however, that there were obviously individuals in his organisation who may be party to the work that the independent author of the report is doing, may have been working in the HSE and may have been part of decision making at the time and they might have offered an opinion but he, his staff and people representing him have not offered an opinion. Has anybody above local level in the HSE, namely, anyone other than those persons who would have been subject to the decision making at the time in the Grace case, offered an opinion on the draft report?

Mr. Tony O'Brien: I cannot tell the Acting Chairman specifically because I do not know but my expectation would be that the reviewer would have needed to consult the disability part of the social care division in order to get relevant information. In the period that we are talking about-----

Acting Chairman (Deputy David Cullinane): We are reaching an important point as that would have involved representing the corporate body.

Mr. Tony O'Brien: No.

Acting Chairman (Deputy David Cullinane): It certainly would be representing a division within the organisation.

Mr. Tony O'Brien: Sure.

Acting Chairman (Deputy David Cullinane): We will park the corporate body side because we may be confusing ourselves with language. Is Mr. O'Brien saying it is possible that divisions within the HSE may have offered an opinion on the terms of reference or that they were not happy with aspects of the draft report?

Mr. Tony O'Brien: To be clear, I do not actually know one way or the other.

Acting Chairman (Deputy David Cullinane): Yes, but it is possible?

Mr. Tony O'Brien: Of course, it is possible because I would expect that the reviewers would, in the course of their work, have needed to have information from both the national division and the local office, as a result of which they would have gone back to check its interpretation of that information. In the ordinary course, I would not regard that as interference, no more than when I am asked by the Comptroller and Auditor General, by formal correspondence, to provide feedback on draft reports which will ultimately come here. If I provide that feedback, I do not regard it as interference and I do not think the Office of the Comptroller and Auditor General does either.

Acting Chairman (Deputy David Cullinane): Let us not use the word “interfere”. The point is whether anyone sought in any way to influence or critique the draft report. All I am asking is whether it is possible that divisions in the HSE had copies of the report, were unhappy with elements of it and offered a critique of elements of it, rightly or wrongly.

Mr. Tony O'Brien: Nobody offering any kind of feedback would do so, in my view, unless he or she intended in some way to influence the content or assist the author. However, that is just the normal process of developing an external review. The key issue is that those who have been charged with carrying out the review are robust, independent persons from a highly credible firm who I would not expect to be susceptible in any way to undue influence but who would take account of representations made in a fair and objective way.

Deputy Catherine Connolly: Did Mr. Purcell or Mr. Mitchell read the draft report? I know Mr. O'Brien answered that question but I have forgotten what the answer was.

Mr. Tony O'Brien: I will have to ask them again because I have also forgotten. I am informed they have both read it.

Deputy Catherine Connolly: Did either of them express an opinion on it?

Mr. Tony O'Brien: Does the Deputy mean express an opinion to themselves, each other or anybody else?

Deputy Catherine Connolly: Will Mr. O'Brien clarify that for me?

Mr. Tony O'Brien: I ask Mr. Mitchell and Mr. Purcell whether they have expressed an opinion. He expressed an opinion to him.

Deputy Catherine Connolly: The three monkeys who see no evil and hear no evil come to mind at this point.

Mr. Tony O'Brien: Once upon a time, that may have been an acceptable thing to say.

Deputy Catherine Connolly: I do not mean to be derogatory but that is what springs to mind.

Mr. Tony O'Brien: Unfortunately, these days that is regarded as derogatory but I know the Deputy did not mean it that way.

Deputy Catherine Connolly: I did not mean it and I take it back. However, it is an image that springs to mind when I observe the officials being asked who said what to whom. It is not my way to be derogatory. I am asking a question on a report. The report was commissioned as a result of the whistleblowers and service provider pointing out to the health board that there was inadequate funding. Is that right? They repeatedly pointed out that there was inadequate

funding for the care of Grace. Is that how this arose?

Mr. Tony O'Brien: Yes, essentially.

Deputy Catherine Connolly: Good. In an appearance in front of the Committee of Public Accounts before the last election, Mr. Pat Healy of the health board said there was an increase in funding to the service provider. Is that correct?

Mr. Tony O'Brien: No. My opening statement, which is a matter of record, points out that having been asked to address this question the Thursday before the meeting, I agreed to come in very quickly. I now believe this was ill advised but there was a rush to get the committee meeting out of the way before the Dáil was dissolved. I presented a very simple chart showing the funding provided to this service provider relative to other service providers.

Deputy Catherine Connolly: It had increased.

Mr. Tony O'Brien: It was a factual statement on the overall level of funding. The service provider made it clear to me that it felt that, while it was factual, it was not sufficient, complete or rounded. We have accepted in the settlement that this did not deal with the funding required for Grace. I have asked Deloitte to go through the sequence year by year and all the new services they had to provide-----

Deputy Catherine Connolly: Mr. O'Brien-----

Mr. Tony O'Brien: Please. This is a question that deserves a complete answer.

Deputy Catherine Connolly: I understand what Mr. O'Brien is saying but I am trying to ask questions on this and I just want answers. This arose because the service provider said it was not being funded properly.

Mr. Tony O'Brien: I have already said "Yes" to that.

Deputy Catherine Connolly: The proceedings in the High Court were initiated but it was later settled. There was no mediated agreement and High Court proceedings had to be initiated first.

Mr. Tony O'Brien: In these circumstances, the only way one can reach a settlement relating to a person with this legal status-----

Deputy Catherine Connolly: It has to be ruled on by the court.

Mr. Tony O'Brien: It has to be.

Deputy Catherine Connolly: I understand that but it is not my question. High Court proceedings were issued.

Mr. Tony O'Brien: We have already agreed that.

Deputy Catherine Connolly: Different words were used. Was Mr. O'Brien here in 2014 as head of the Health Service Executive?

Mr. Tony O'Brien: Many times.

Deputy Catherine Connolly: I meant to ask whether he was employed by the HSE at that time.

Mr. Tony O'Brien: I was.

Deputy Catherine Connolly: Can Mr. O'Brien say whether there was an internal audit on the cost of the Grace case in 2014?

Mr. Tony O'Brien: I can come back to the committee with a response on that.

Deputy Catherine Connolly: If there was, was the service provider consulted?

Mr. Tony O'Brien: If there was an internal audit the service provider would, as in this process, have an opportunity to comment on the audit before its finalisation. I will answer the question in writing but it is standard procedure to consult the service provider where there is an internal audit.

Deputy Catherine Murphy: I will return to the High Court case. We know the amount of the settlement with the service provider but there were other elements to the settlement.

Mr. Tony O'Brien: Would the Deputy like a full breakdown?

Deputy Catherine Murphy: That would be quite useful. In addition to the settlement, what is the amount set aside for legal and professional fees?

Mr. Tony O'Brien: The total settlement sum was €1,712,356.26. General damages for past care were €600,000. Past payments of disability allowance, which was between the person and both the HSE and Tusla, represented by the State Claims Agency, SCA, were €87,356.26. Future payments in lieu of disability allowance were €275,000 because the value of the individual settlement would render the person ineligible for disability allowance. Transport costs were €100,000 and there was €50,000 to enable the individual to have access to independent advocacy. In addition, provision was made for future care and the HSE gave an undertaking to the High Court to provide for Grace's present and future care needs as follows: providing for Grace's daytime care for not less than 12 hours per day on a one-to-one basis at a cost of not less than €120,484 per annum; providing for Grace's night-time care per day on a shared basis with not fewer than two other service users; and the provision of such psychology, psychiatry, speech and language therapy, occupational therapy and dental services as Grace shall require. The HSE also provided an apology in terms acceptable to the ward of court and read in open court.

Deputy Catherine Murphy: Is that the total?

Mr. Tony O'Brien: The total settlement was €1,712,356.26. The legal costs associated with any action taken against the HSE are managed by the State Claims Agency and I do not think we have visibility on those.

Deputy Catherine Murphy: The accounts of the HSE were very prudent and it knew it was a case where there would be a cost. What has it provided for?

Mr. Tony O'Brien: The State accounts for this without accrued provisions for future legal costs. The State Claims Agency is funded on a pay-as-you-go basis through the in-year Vote of the HSE. The State Claims Agency would have a view on future liabilities but it is not reflected in the accounts of the HSE and we do not make provisions in the way a commercial entity would.

Deputy Catherine Murphy: Does Mr. O'Brien have a ballpark indication of what the amount might be?

Mr. Tony O'Brien: We would have to ask the State Claims Agency but we can come back to the Deputy with a response on that. There is a very substantial expectation of future liabilities across all the health and social care services based on known future liabilities.

Acting Chairman (Deputy David Cullinane): How many members of staff in the HSE are subject to an internal examination by the organisation relating to their work in respect of the Grace case?

Mr. Tony O'Brien: I do not have that information.

Acting Chairman (Deputy David Cullinane): Can Mr. O'Brien provide us with that information?

Mr. Tony O'Brien: Yes.

Acting Chairman (Deputy David Cullinane): It was important that Mr. O'Brien apologised earlier to the whistleblower in respect of one element of the funding and the service provider. I do not wish to tell Mr. O'Brien what was said when the whistleblower came before a private meeting of this committee for 90 minutes. Given the wider treatment of the whistleblower, there would also be merit in the HSE apologising, not just for the way the funding element was handled but for how the person was treated from the moment they came forward until today.

Mr. Tony O'Brien: As I said to the Acting Chairman earlier, I will examine that once I have possession of the Deloitte review.

Acting Chairman (Deputy David Cullinane): That will deal with funding but I am talking about the overall treatment of this person.

Mr. Tony O'Brien: It is suggested that funding and the use of funding were central to the overall treatment. I would prefer to deal with the issue as a whole once I am fully informed.

Acting Chairman (Deputy David Cullinane): A further apology may come, depending on the outcome of the report.

Mr. Tony O'Brien: Exactly.

Deputy Catherine Connolly: When will the report be available to us? Will it be available by the end of the month?

Mr. Tony O'Brien: It will be with me by the end of the month. We will seek the approval of the commission to provide it to the committee but will only do so with that agreement.

Sitting suspended at 11.20 a.m. and resumed at 11.40 a.m.

Acting Chairman (Deputy David Cullinane): We are examining the financial statements of the HSE for 2015 and 2016. As well as Mr. Tony O'Brien, director general, we are joined from the HSE by Mr. Ray Mitchell; Mr. Stephen Mulvany, chief financial officer and interim deputy director general; and Ms Mairéad Dolan, assistant chief financial officer. We are also joined by Mr. Greg Dempsey, assistant secretary at the Department of Health.

I call on the Comptroller and Auditor General, Mr. Seamus McCarthy, to make an opening statement.

Mr. Seamus McCarthy: As the Acting Chairman explained, the financial statements of the Health Service Executive before the committee are for the financial years ending on 31 December 2015 and 31 December 2016. As shown in Figure 1, the HSE had recognised income totalling €13.9 billion in 2015 and €14.6 billion in 2016, a year-on-year increase of 4.9%. Exchequer funding represents the largest source of income for the HSE and amounted to €13.5 billion in 2016. Changes introduced by the Health Service Executive (Financial Matters) Act 2014 required the HSE to deliver services within the grant funding allocated to it annually by the Oireachtas. A deficit in 2015 of €7.9 million was brought forward and met from the 2016 Exchequer grant funding. The HSE incurred an operating deficit of €10.3 million in 2016 which, likewise, was carried forward and met from its 2017 Exchequer grant allocation. Income from patient charges in hospitals accounted for approximately 3% or €450 million of the HSE's total income in 2016. Three quarters of the total, €335 million, was derived from charges imposed on private patients in HSE hospitals and other care settings. Other income totalling €611 million includes employee pension contributions and pension related deductions from staff salaries which the HSE retains.

As shown in Figure 2, the HSE incurred expenditure totalling €14.58 billion in 2016. Approximately 80% of this expenditure was spread across three main areas. HSE pay and pensions accounted for just over one third of the expenditure totalling €5.1 billion; grants to section 38 and section 39 agencies accounted for just over one quarter, or €3.8 billion, of the expenditure, while expenditure on primary care and medical card schemes accounted for one fifth, or just under €3 billion, of the expenditure. The HSE enters service arrangements with a wide range of service providers under sections 38 and 39 of the Health Act 2004. Agencies funded in this manner vary in scale and complexity, ranging from large acute hospitals to local community-based organisations providing personal social care services. The audit report on the 2016 financial statements drew attention to weaknesses acknowledged by the HSE in its oversight and monitoring of grants to these agencies. The statement on internal financial control discloses that 2016 service arrangements and grant aid agreements with a number of agencies had not been put in place by the end of April 2016; evidence of regular monitoring meetings and review of periodic financial reporting was not documented on file; there was no evidence in a number of cases of the receipt of funded agencies' annual audited financial statements and/or their review by the HSE, and that a number of funded agencies had not complied with public procurement guidelines or public sector pay policies.

The audit report on both sets of financial statements drew attention to a significant level of non-competitive procurement by the HSE. This is consistent with our audit findings in earlier years, on which I reported previously. We examined a sample of procurements worth €30.8 million in five HSE operating units in 2016 and found a lack of evidence of competitive procurement processes in relation to 49% by value of the sample. Similarly, an examination of a sample of procurements worth €29.6 million in five HSE units in 2015 found a lack of evidence of competitive procurement in relation to 30% by value. The HSE's statement on internal financial control outlines the steps being taken to deal with these matters.

Deputy Sean Fleming took the Chair.

Chairman: I thank Mr. McCarthy and now invite Mr. O'Brien to make his opening statement.

Mr. Tony O'Brien: I thank the Chairman and members of the committee for the invitation to attend to discuss the HSE's annual financial statements for 2015 and 2016. I am accompanied by Mr. Stephen Mulvany, chief financial officer and interim deputy director general; Ms.

Mairéad Dolan, assistant chief financial officer, finance division; and Mr. Ray Mitchell in his usual role. As we submitted information and documentation to the committee in advance of the meeting, I will confine my opening remarks to the following issues.

On the financial outturn for 2016, following discussions which commenced in May 2016, a Revised Health Estimate was approved by the Oireachtas on 7 July, with an additional €500 million notified to the HSE as part of the revision. This represented a significant commitment to ensuring health and social care services would be placed on a more sustainable financial footing for 2016 and marked a move away from the practice of allocating supplementary funding at year end. The annual financial statements for 2016 reported a combined, revenue and capital, income and expenditure, surplus of €12.4 million before the impact of the first charge mechanism. The result after the first charge related to 2015 was a combined surplus of €4.7 million.

On the financial outturn for 2015, the 2015 annual financial statements reported a combined, revenue and capital, income and expenditure, deficit of €7.7 million, which, under the principles of first charge, was reflected in the financial statements for 2016. This was after a total of €649 million had been provided in supplementary funding for the financial year 2015. It included €212 million in net Supplementary Estimates for the HSE in respect of projected deficits in areas within its direct control which were reflective of financial performance challenges related primarily to cost pressures within acute hospitals and disability services and €437 million for overruns in respect of the primary care reimbursement service, PCRS, pensions and the State Claims Agency, as well additional funding for new initiatives approved after the HSE national service plan was finalised such as waiting list and winter planning initiatives. The €437 million represents approximately two thirds of the total supplementary funding for 2015 and does not reflect any adverse financial performance by the HSE.

To put the HSE's financial performance in recent years in context, looking back over the nine years from 2008 to 2016, there has been €500 million in net Supplementary Estimates for the HSE for areas within its direct control which are reflective of financial performance challenges. This equates to 0.46% of the total original net Vote over the period of €108.512 billion. Also, there was €791 million in Supplementary Estimates to the HSE for the PCRS for medical cards, GP fees, drugs and other demand-led schemes, including the dental treatment services scheme. This equates to 0.73% of the total original net Vote of €108.512 billion over the period. There was €1,948 million in Supplementary Estimates to the HSE for Exchequer related and other items outside the control of the HSE. This equates to 1.8% of the total original net Vote over the period. Further details for the years 2008 to 2016, inclusive, have been provided in the briefing submitted. I will now deal with matters of exception across the two financial years as reported on by the Comptroller and Auditor General. In his audit certificate which accompanies the annual financial statements the Comptroller and Auditor General drew attention to concerns about the monitoring and oversight arrangements for grants to outside agencies and also non-competitive procurement issues. The HSE acknowledges these matters of concern and is progressing medium to long-term plans required to bring about improvements.

On non-compliant procurement, the scale and complexity of the HSE's overall procurement activity are such that it will take a sustained focus for a number of years to ensure high levels of compliance. This is a key focus for the HSE. It continues to progress a number of initiatives which are organised around three key themes: supporting infrastructure, including training, improving data analytics, etc.; sourcing - putting in place additional contracts and frameworks; and compliance - supporting services to move towards compliance with contracts and frameworks. Further details in respect of the steps being taken to address the issue of non-compliant

procurement are contained in the statement of internal financial control within the 2016 annual financial statements.

In the context of monitoring and oversight of grants to outside agencies in 2016, just under €3.8 billion of the HSE's total expenditure related to grants to over 2,000 outside agencies. These range from the large voluntary hospitals and disability organisations to small local community-based agencies. Weaknesses in the monitoring and oversight of these grants to outside agencies have been identified.

The HSE continues to progress the necessary medium to long-term actions to address these weaknesses. Those actions are co-ordinated nationally by the HSE compliance unit established in 2014. This unit is supporting the development of improved grant oversight by our community health care organisations and hospital groups. This improved oversight is intended to raise the level of compliance by grant-funded agencies within the HSE's governance framework. An example of the actions already taken is the external review of governance arrangements in respect of all section 38 providers. That review is under way.

Further detail regarding the steps being taken to address the issue of weaknesses in the monitoring and oversight of grants to outside agencies is published in the statement of internal financial control within the 2016 annual financial statements. The Comptroller and Auditor General's reporting is, therefore, timely and will assist the HSE in managing these key areas of focus. This concludes my opening statement.

Chairman: I thank Mr. O'Brien. The first speaker listed is Deputy Connolly. She will be followed by Deputy Cullinane.

Deputy Catherine Connolly: I thank Mr. O'Brien. He is very welcome. This is a very good exercise and I welcome both of the officials who accompany Mr. O'Brien. It is very good that the Health Service Executive is before the committee to account. The HSE has had a clean audit, which is good, but it is subject to two very serious modifications. I shall come to those, and the section 38 and section 39 issues, but first I have a general query. The total budget of the HSE for 2016 was almost €15 billion. Is that right?

Mr. Tony O'Brien: Yes.

Deputy Catherine Connolly: It was €14.974 billion. In Mr. O'Brien's opinion, is that an adequate amount to provide a public health service?

Mr. Tony O'Brien: It enabled the 2016 service plan to be delivered approximately on budget. The task given by the Oireachtas to the Health Service Executive is to receive the estimate set out on budget day, translate that into a service plan, migrate the service plan into implementation during the course of the year and live within budget. This was the first year in which that was possible, subject to the significant Revised Estimate as agreed by this Oireachtas.

As the Sláintecare report published by another Oireachtas committee has made clear, there are policy opportunities - which will be debated in due course by Government and the Oireachtas - to transform the way the health care system is organised. To change it subjectively-----

Deputy Catherine Connolly: Can I stop Mr. O'Brien there for a moment. I agree with him about that and we are part of the Dáil and we know that. Is the budget that the HSE receives sufficient to deliver the service or is it inevitable collateral damage that patients are sitting on trolleys for two or three days in hospitals in Galway? On occasion, it varies up and down but

we can accept that it could be two days on a trolley. We can take any hospital. I do not wish to be parochial. What is happening with this funding? Does the HSE just accept it? I am not in any way laying blame, I am asking. Does it upset Mr. O'Brien that he has this budget and yet there are people in those situations? I use Galway as an example. There are huge waiting lists, one MRI scanner in a centre of excellence and so on. It could be any hospital. How does Mr. O'Brien-----

Mr. Tony O'Brien: Let us talk about Galway. I was there last week in a hospital myself. It is my view, and I shall answer the Deputy's question directly-----

Deputy Catherine Connolly: Good, I would be delighted.

Mr. Tony O'Brien: I believe that it is possible to organise the health service in a better way, to get better value for that €15 billion.

Deputy Catherine Connolly: Is that so people are not on trolleys and waiting lists?

Mr. Tony O'Brien: Yes. As with other health systems, there will always be people on trolleys. The question is about how long they are there. In the UK's NHS, for example, the standard is that a person should either be seen and discharged or seen and admitted - that is, no longer on a trolley - within four hours. We could move to that way of thinking about things, but there are always going to be patients on trolleys.

Deputy Catherine Connolly: Why have we not moved to that way of thinking?

Mr. Tony O'Brien: We have not moved to that way of thinking because for probably 20 years in this country we have been talking about a fundamental shift to primary care, community-based care and changing what we do in the hospital systems. However we have never reached an opportunity to really develop our community and primary care services to the point where we can remodel our acute hospital system. It is clear that the funding we have and the way we are organised currently are inadequate to meet the health care needs of Irish society. This is evidenced by access issues such as the inability obtain services, time spent on waiting lists and time spent on trolleys. Demand for services is growing and even though our capacity is increasing, there is a continuing mismatch.

Deputy Catherine Connolly: Just a minute-----

Mr. Tony O'Brien: I do not think the answer is simply to put more money in to the current system. Any investment should be about redesigning the system.

Deputy Catherine Connolly: Absolutely. Theoretically, the primary care policy was rolled out in 2000 or 2002.

Mr. Tony O'Brien: It was published.

Deputy Catherine Connolly: Yes. We will come back to when Mr. O'Brien was in Galway. He knows that University Hospital Galway - especially in the context of its accident and emergency department - is creaking at the seams. The Government, in its supply-and-trust motion, or whatever it is called, has agreed that the accident and emergency department in Galway is not fit for purpose. Is that right?

Mr. Tony O'Brien: There is no question that it is not fit for purpose.

Deputy Catherine Connolly: Not only that, is Mr. O'Brien aware that the hospital is at number one on the risk register?

Mr. Tony O'Brien: On whose risk register?

Deputy Catherine Connolly: The clinical director has publicly stated that the hospital is number one on the risk register. Its lack of capacity-----

Chairman: Is this the regional hospital or the national hospital?

Deputy Catherine Connolly: It is the regional hospital in Galway, the centre of excellence which covers the area from Donegal down along the west coast. It is number one on the risk register. It is in such a position that the authorities there have made a written submission. I will come back to the specifics of this report shortly but Mr. O'Brien mentioned Galway and I am happy to discuss it. The accident and emergency department there is not fit for purpose. Has Mr. O'Brien any update on that?

Mr. Tony O'Brien: We are currently funding a design study. There is not sufficient funding in the current capital envelope. There is a mid-term capital review, which may or may not resolve that. In order to be ready should we obtain access to more funding, we have provided money for what is known as the first step - the design study and feasibility study.

Deputy Catherine Connolly: Where is that design study at?

Mr. Tony O'Brien: It is currently in progress.

Deputy Catherine Connolly: Where is it at?

Mr. Tony O'Brien: It is being managed by University Hospital Galway.

Deputy Catherine Connolly: When will it be finished?

Mr. Tony O'Brien: That I do not know.

Deputy Catherine Connolly: We have situation now, and again it is indicative of a lot of other things throughout the country, where a hospital that is a centre of excellence has an accident and emergency department that is not fit for purpose, that is still at design stage. Mr. O'Brien can imagine the level of frustration.

Mr. Tony O'Brien: It only went to design stage relatively recently. It was only last year there was agreement to do that.

Deputy Catherine Connolly: There have been major problems in University Hospital Galway for a very long time. It is unsafe. The Irish Nurses and Midwives Organisation has stated that the conditions there are unsafe.

Mr. Tony O'Brien: We have agreed to talk about Galway but this can be viewed through a national lens also.

Deputy Catherine Connolly: Yes, please do so.

Mr. Tony O'Brien: The infrastructure in Galway is not the only poor or inadequate infrastructure. In my opinion, there is a mismatch - and I have articulated this to other Oireachtas committees - between the proportion of revenue that is spent on health and the proportion of the

capital budget that is spent on health. There is also the collective reality for the entire State that prior to the economic collapse it was intended to invest in capital health infrastructure at roughly double the rate we have been able to afford as a result of that collapse. This is compounded in health by the fact that in what we understood - perhaps incorrectly - to be the economic boom time, there was quite a significant investment in equipment, much of which is now at the end of its serviceable life. There is a huge capital requirement there.

Deputy Catherine Connolly: So there was a failure to invest in capital in the health service generally?

Mr. Tony O'Brien: There was an unaffordability aspect also.

Deputy Catherine Connolly: It was a failure.

Mr. Tony O'Brien: It did not happen.

Deputy Catherine Connolly: I would put it that it was a failure. The hospital in Galway is in serious trouble. The psychiatric unit is in serious trouble. The Mental Health Commission visited the facility recently, as it does every year, and highlighted huge inadequacies such as the lack of privacy and of care plans. These are all listed out. The new building was to come on stream but times have changed. It was to be done by the end of April this year but it has not been done. I am going to try to move off the particular in a moment, but there is evidence of extraordinary inadequacy. We have moved on from the accident and emergency service, which was inadequate, to the hospital itself.

Saolta and the clinical director have given a document to the Minister. Is Mr. O'Brien aware of that?

Mr. Tony O'Brien: Yes, I have received a copy of it.

Deputy Catherine Connolly: They are asking for permission to go ahead and look at options for a new hospital. Is that right?

Mr. Tony O'Brien: They certainly have made that request.

Deputy Catherine Connolly: They have done so on the basis that the hospital is not suited for the needs of that area and the city. Is that right?

Mr. Tony O'Brien: I understand that is the basis on which they have done it.

Deputy Catherine Connolly: Does that concern Mr. O'Brien?

Mr. Tony O'Brien: I am concerned in general about the quality of our health infrastructure.

Deputy Catherine Connolly: I am asking Mr. O'Brien specifically about the hospital in Galway because it is number one on the risk register in the context of its lack of capacity.

Mr. Tony O'Brien: I think probably every hospital would put its capacity on its risk register. Equally, to be balanced, last week I visited the new ward block in Galway, which is a high-quality facility providing good facilities for patients, largely in single rooms that were not there before. There is progress being made.

Deputy Catherine Connolly: Is that fully occupied and staffed?

Mr. Tony O'Brien: Yes, in the case of the ward I was in.

Deputy Catherine Connolly: My question is whether the new building referred to by Mr. O'Brien is fully occupied.

Mr. Tony O'Brien: It is not yet fully commissioned. However, it was not planned that it would be fully commissioned at this stage.

Deputy Catherine Connolly: It was, actually. I sat for ten years on a forum. It was to be fully staffed but it is not fully staffed. Why is it not fully staffed?

Mr. Tony O'Brien: One would have to ask the hospital for the particular reasons. One thing that sometimes differentiates the witnesses of the HSE from witnesses of other State organisations is that we are a little bigger and more diverse and we do not have all the local knowledge-----

Deputy Catherine Connolly: I am looking at a vast budget on one hand and a particular hospital on the other. They do not match and there are serious problems in this regard. I will park that for a moment and consider other serious issues.

There is an ongoing serious problem with procurement. The Comptroller and Auditor General has picked several samples. He cited five locations. In the five locations he examined, 45% of procurement projects have not been complied with. The amount relating to these projects is €30 million. The figure has gone up from the previous year and the situation has become worse. The Comptroller and Auditor General only looked at five locations. Why is this an ongoing problem? Why has it got worse? The Comptroller and Auditor General only picked a sample. If he were to look at more, would the problem be worse?

Mr. Tony O'Brien: I will ask my colleague, the chief financial officer, to address that.

Mr. Stephen Mulvany: In the context of procurement in an overall sense, the HSE acknowledges that we have significant issues. Our statement on financial control sets out how considerable work is ongoing to fix that. However, given the scale and complexity of the issues that will take some years. In order to explain the fundamental reason, we would point to the fact that we have been unable in recent years, especially in the recession years, to invest sufficiently in our overall procurement capacity. We have addressed a significant amount of that. We have put in an additional cohort of 45 staff into a procurement sourcing department.

Deputy Catherine Connolly: There is an additional cohort of 45 staff. Is that correct?

Mr. Stephen Mulvany: Yes.

Deputy Catherine Connolly: When did the HSE do that?

Mr. Stephen Mulvany: Over the past 12 months or so.

Deputy Catherine Connolly: Was that recruitment specifically in respect of procurement?

Mr. Stephen Mulvany: It is specifically in respect of sourcing, as in the preparation of contracts and frameworks. We look at this in terms of three overall aspects.

The first is the overall infrastructure. We must have sufficient staff in procurement and sufficient data tools. This is despite the lack of a single financial procurement system. We have to put in significant training. That is the infrastructure aspect. We have done considerable work to

improve that. The second aspect relates to sourcing. We simply cannot have compliance with procurement if we do not have sufficient contracts. We have a target for the coming two or three years to get to over 80% compliance in respect of our €2.2 billion in procurement spending.

Our procurement team has indicated that the international evidence suggests if we are at over 85% compliance, then we are in best-practice territory. If the rate is between 55% and 65%, then we are in the average range. If the rate is less than 35%, then the rating is poor. Based on the Comptroller and Auditor General sample – which we do not disagree with – we are below average, certainly.

Deputy Catherine Connolly: Why has that happened year after year? Why is it getting worse in 2016?

Mr. Stephen Mulvany: I have answered the question on why.

Deputy Catherine Connolly: It is because of lack of staff. Is that it?

Mr. Stephen Mulvany: We have been unable to invest sufficiently in our overall procurement infrastructure, although we have begun to address that.

Deputy Catherine Connolly: Why not?

Mr. Stephen Mulvany: It was because we do not have sufficient resources. As an organisation that is largely a provider of social and health care services, we were prioritising the provision of service staff and front-line staff. In a different question on those 45 staff, I might be asked why the number of clerical and administrative staff has increased. Those 45 procurement staff - albeit they are professionals in procurement and they are essential - are not regarded as front-line clinical staff. They are in the cohort of administration and clerical staff. The question of why is answered.

Deputy Connolly referred to things worsening based on the 2015 report, which stated that non-compliance was 30%, and the 2016 report, which stated that non-compliance was 49%. This is derived from looking at the sample. The significant difference between those two figures is that when the 2015 audit was done, our national agency contract was still live. When the 2016 audit was done, that contract had run out of time. We were putting in place its replacement. We were delayed on that.

Let us consider the €16 million relating to non-compliance. In 2016, the Comptroller and Auditor General looked at an adjusted value of €31 million. A total of €16 million of that was non-compliant. Of that €16 million a total of €4 million was agency contract. We now have in place a national agency contract. Had we not been delayed on that-----

Deputy Catherine Connolly: Why was that delayed?

Mr. Stephen Mulvany: It is a very complex contract. It was delayed for both stakeholder interests and a variety of practical reasons. I do not have the details before me. However, it is a complex contract. It amounts to hundreds of millions of euro per year over several years and, therefore, there is a certain complexity to it. The reality is that it was delayed but is now in place. Had it been in place for this sample, it would have brought the non-compliance rate down to approximately 38%, which is still somewhat higher than last year but there is no great difference. I hope that explains the difference between the samples from the two years.

Deputy Catherine Connolly: Is the national contract to which Mr. Mulvany is referring

renewed every year?

Mr. Stephen Mulvany: No, it is a contract that generally lasts two to three years with a capacity to renew it for a number of blocks of one or more years.

Deputy Catherine Connolly: A new contract is in place. Is that correct? Some 45 staff are in place. What is the HSE target for compliance for 2017?

Mr. Stephen Mulvany: I do not have a specific target before me. We are one year into our three-year plan. Our target at the end of our three-year plan is to be far closer to 80% compliance for that €2.2 billion worth of procurable spend. I do not expect that we will see significant improvement when we do the 2017 audit. However, we would expect that, by the time we do the 2018 audit, we would see-----

Deputy Catherine Connolly: In 2017 the non-compliance will still be up high. Is that correct?

Mr. Stephen Mulvany: I expect it will be, yes.

Deputy Catherine Connolly: What about 2018?

Mr. Stephen Mulvany: We expect to see substantial improvement at that stage. This should have been seen in the context of the scale of the organisation.

Deputy Catherine Connolly: I asked the question in terms of the sample picked. If there was a larger sample, would there be more non-compliance issues?

Mr. Stephen Mulvany: Deputy Connolly would have to ask the Comptroller and Auditor General in terms of the basis of the sample.

Mr. Seamus McCarthy: I wish to make a point. There is a difficulty with sampling in the HSE. Since there are different procurement and financial systems, it is not possible to take a random sample across the entire organisation and test it. If we were able to do that, the figures that would come out could be scaled up as being representative of the entire organisation. However, we have to pick certain operational units and examine procurement at a local level. The figures that come out and changes in the figures from year to year are not necessarily indicative of a trend. There may be trends in the data but we cannot tell what those trends are. It could be that the situation across the HSE improves from year to year but because of the way we have to sample, it may look like it got worse. That is a difficulty in interpreting the figures.

Deputy Catherine Connolly: That is a question of context.

Mr. Seamus McCarthy: It is certainly the case that there has been a systemic problem within the HSE in respect of procurement. It needs a national push to reduce this. There may still be pockets where things have not improved and that will skew the result in any particular year.

Deputy Catherine Connolly: Is there a move nationally to look at the systemic non-compliance?

Mr. Stephen Mulvany: From the data we have been able to gather across our entire system despite the absence of a single national financial procurement system - something I can update the committee on later - we accept that the sample may well be representative. Previous years'

samples showed a much lower level of non-compliance in some cases. We would say this would have flattered the organisation. There is a co-ordinated central national approach. I mentioned the infrastructure piece, including the staff, and the push to get more contracts in place. The third piece is to support compliance with those contracts. We have built a small compliance improvement team whose aim is to assist each of our service divisions - our nine big community health care organisations and seven hospital groups - to review their current purchasing and contracting arrangements and existing contracts, see whether they can be brought into partial or full compliance, and ensure that we flesh out fully the sourcing plan for the coming years.

Deputy Catherine Connolly: In respect of the impact locally, people come to us and tell us that they feel there is an unfairness and that certain people are getting contracts so that is the importance of procurement - that there is a fair system. If it is non-compliant, it is leading to a perception on the ground that certain people, companies and employers are being favoured.

Mr. Stephen Mulvany: It can do. Regardless of whether or not there is compliance, certain people will feel they are not getting access to certain contracts.

Deputy Catherine Connolly: That is a separate matter. I am talking about where there is non-compliance. Where there is non-compliance, there is a basis for people believing that.

Mr. Stephen Mulvany: Yes. It is much clearer if one can point to a competitive process that was conducted and fairly evaluated and scored. People should not then have a reason to complain, which means they will not.

Deputy Catherine Connolly: If we move on to section 38 and section 39 organisations, this involves a huge amount of money. I think the figure is €3.4 billion.

Mr. Stephen Mulvany: It is.

Deputy Catherine Connolly: €3.4 billion.

Mr. Stephen Mulvany: It is €3.4 billion for the voluntary section 38 and 39 organisations.

Deputy Catherine Connolly: The section 38 organisations make up a smaller group. There are 2,000 section 39 organisations.

Mr. Stephen Mulvany: There are 39 section 38 organisations. They are the ones whose staff are considered to be public servants. They are generally but not always the bigger ones. Section 38 states they are providing services for and on behalf of----

Deputy Catherine Connolly: I understand that. There are 39 organisations funded under section 38 while 2,000 organisations are funded under section 39.

Mr. Stephen Mulvany: They are the bulk of the 2,000 plus.

Deputy Catherine Connolly: Does the figure of €3.4 billion go to section 38 or section 39 organisations? What is the breakdown?

Mr. Stephen Mulvany: The section 38 organisations receive about €2.6 billion so they are north of 70% of the total. The section 39 organisations receive the rest.

Deputy Catherine Connolly: Obviously, there have been huge problems. The HSE has appeared before us previously in connection with Console. Difficulties have been identified by the Office of the Comptroller and Auditor General in terms of monitoring and accountability. I

understand that a review is under way in respect of section 38 organisations. Is that right?

Mr. Stephen Mulvany: Yes.

Deputy Catherine Connolly: Does it just concern section 38 organisations?

Mr. Tony O'Brien: Yes, although some other work is being done around section 39 organisations.

Deputy Catherine Connolly: We will stick with section 38 organisations for the moment. Could the witnesses give me an example of who they are?

Mr. Stephen Mulvany: They include all 16 of the Irish voluntary hospitals - Beaumont Hospital, the Mater-----

Deputy Catherine Connolly: Mr. Mulvany does not need to list the 16 voluntary bodies.

Mr. Stephen Mulvany: They are all section 38 organisations. Generally, they also include the larger disability organisations, care and some in-house organisations like St. John of God's, the Daughters of Charity and St. Michael's House.

Deputy Catherine Connolly: There is a current review of those organisations.

Mr. Stephen Mulvany: A variety of actions are being taken as part of our overall compliance framework, one of which following on from an earlier piece of work is that all of the 39 section 38 organisations are having their governance arrangements reviewed externally. We have commissioned Deloitte to do that. We have brought forward the timescale for that to have it all completed by the end of 2017. The expectation is that they will all be completed by the end of 2017.

Deputy Catherine Connolly: All of the 39 organisations?

Mr. Stephen Mulvany: Yes.

Deputy Catherine Connolly: So Deloitte is conducting a review of these organisations' governance and finances?

Mr. Stephen Mulvany: Yes. In 2014, again as part of our overall governance framework, the HSE instituted an annual compliance statement for the section 38 organisations. That requires their boards and chairs to state things in writing to the HSE around governance and a range of other issues. An obvious question is how do we know so-----

Deputy Catherine Connolly: Absolutely. They have a duty to report so the first question is whether they report them. Is there 100% compliance? How is the HSE monitoring and reviewing that?

Mr. Stephen Mulvany: To answer the second question, the external review is one of the ways one can assess whether what one is being told in the annual compliance statements can be backed up. Obviously, it is important for us to be clear that while the HSE acknowledges its responsibility around grants, the key responsibility for ensuring good governance and good controls inside a voluntary organisation rests with the board of that organisation.

Deputy Catherine Connolly: We have been here before with this regarding Console. The HSE is the medium through which public money is given.

Mr. Stephen Mulvany: Absolutely.

Deputy Catherine Connolly: I am asking Mr. Mulvany whether the HSE is reliant on just financial statements coming back or self-governance. His answer is that the duty is primarily on the organisation and that the HSE has engaged Deloitte to review the section 38 organisations.

Mr. Stephen Mulvany: I am not sure what the questions are. What is the actual question?

Deputy Catherine Connolly: How is the HSE monitoring the effective use of public money given the Console debacle? We will keep that case in our heads because-----

Mr. Stephen Mulvany: I will deal with Console. Console was a section 39 agency. Some of the same principles apply. Just to be clear, our role in terms of Console was to ensure, first and foremost, that we were getting value for money and the services for which we were paying. The HSE was satisfied that it was getting the services from Console for which it paid. The governance arrangements within Console are absolutely a matter of concern for the HSE and we certainly do not deny that. They are also a matter of concern for the board of Console so if the Deputy is asking me how we are seeking to improve our overall governance and monitoring, which the Comptroller and Auditor General referenced, I can tell her that we are taking a number of steps.

We have an overall governance framework, a national central compliance unit which administers that and provides support to us and a series of agreements in varying levels of detail depending on whether we are providing funding of over or less than €250,000. The annual compliance statement for the section 38 agencies has been in place from 2014 and we extended it to the larger section 39 organisations for 2016 - all those organisations receiving over €3 million - so that is about 54 more agencies. Those two together represent north of 90% of the total funding we give to those agencies. We are carrying out the Deloitte external review of the section 38 organisations. That is intended to become a five-year cyclical piece. The area where we are in most difficulty, particularly when one gets to the volume of section 39 organisations, is in having sufficient capacity within our CHOs to be able to monitor those arrangements effectively.

Deputy Catherine Connolly: What are the initials used by Mr. Mulvany?

Mr. Stephen Mulvany: They refer to community health care organisations. The 16 larger voluntary organisations are administered by five of the seven hospital groups so the numbers are not significant. Obviously, the issues are significant. When one gets towards the 2,000 section 39 organisations, whichever way one wants to cut it, there are an awful lot of organisations our nine community health care organisations have to administer the relationship with. Part of our current efforts involve trying to ensure we have enough capacity in those nine community health care organisations to physically be able to conduct, record and minute all of the meetings necessary with those organisations. Obviously, our community health organisations are often primarily focused on securing services for individuals or finding residential or respite places. What we want to do, and what we must invest in, involves not preventing them focusing their time on getting those services, but also ensuring they have sufficient capacity so that they can conduct the relationship management and contract management with these organisations starting with the larger ones. We accept that we have a capacity issue which we are moving to address but, again, like the procurement-----

Deputy Catherine Connolly: How serious is the capacity issue?

Mr. Stephen Mulvany: It is not something I can put a number on. It depends on the community health care organisations and is variable depending on what number of voluntary organisations they are trying to deal with but, on average, about 40% of the total resource of each of our nine community health care organisations goes to voluntary organisations so it is a significant part of their overall remit.

Deputy Catherine Connolly: Is my time up?

Chairman: Yes. Deputy Connolly will get a second opportunity.

Deputy David Cullinane: I think we all need second and third opportunities because there is so much we could talk about and so many questions we would ask the witnesses. I thank them for their presence. Earlier, Mr. O'Brien rightly said that he could not be expected to be across the detail of what is happening in every hospital and I would not expect him to be. Luckily for me, I do know the detail concerning University Hospital Waterford. I put down parliamentary questions almost every week to keep myself acquainted with what is happening there. I want to use the examples of what is happening in Waterford, because I am familiar with them, in order to frame questions which have a national implication. I will start with the outsourcing of patients, whereby patients who are on waiting lists in certain hospitals are outsourced to other hospitals because capacity simply is not there in the original hospitals. One of the responses I got back to a parliamentary question on outsourcing in University Hospital Waterford was that, in 2013, the total number of patients who were outsourced - this refers to OPD patients - was 3,085. That had increased to 6,203 by 2015 and, in fact, has gone up again in 2016. That is a 100% increase in the number of patients who are being outsourced.

First, has the HSE done an analysis of whether it costs more to outsource patients in the first instance? There would certainly be a cost that is not being taken into account by the patient who will have to travel and incur costs, but is there a greater cost to the organisation? Second, when patients are outsourced, how is that paid for? Is it paid for by the hospital that refers the patient or by the hospital that provides the treatment? Let us bear in mind that many of these patients are outsourced to private facilities in different parts of the State, including the Mater Private in Cork, St. Francis Private Hospital, the Beacon Hospital in Sandyford, Barringtons Hospital, the Aut Even Hospital and the Whitfield Clinic. Most of the outsourcing, including of many patients in my area, has been done to private hospitals so my question is obvious. Has the HSE done any analysis of its cost effectiveness?

Mr. Tony O'Brien: I thank the Deputy for the thoughtful and informed question. The practice of treating patients elsewhere, other than in the primary hospital, is often generally referred to as outsourcing. We tend to use that term only for transfer into the private sector but I know that, locally, they think of outsourcing even if patients go to another public hospital. I think the figures used by the Deputy encompass both.

Where we have capacity to meet an unmet need in one hospital in another hospital, we regard it as good practice to utilise the resources of the second hospital. For example, recently there would have been a significant shift of provision of service in orthopaedics from Waterford to Cappagh in order to deal with a long-term waiting list issue and, more recently again, in the cardiac area, Cork University Hospital has been addressing the needs of some long waiters as well. That is clearly an increasingly efficient use of the public resource and that is always beneficial both to the patients and to the system.

Where there is what we essentially regard as outsourcing, which is to the private sector, that

is always done on the basis of an appropriately procured service and best value for money is obtained. Most importantly, the driver is to ensure that patients who are in need of outpatient assessment, and-or inpatient or day-case treatment they would not otherwise get in a timely way, do get it. Therefore, overall, we regard that as offering value for money.

Deputy David Cullinane: I accept that. Obviously, in situations where we have spare capacity in public hospitals in one area, and I would imagine this is part of the logic of the hospital groups that have been established, it would make sense for patients who are waiting longer in one hospital to be seen in another public hospital where there is capacity.

Mr. Tony O'Brien: There is not necessarily spare capacity and it could be a redistribution of patients in order to equalise waiting times.

Deputy David Cullinane: I can see the logic to that. What I am trying to understand is situations where we do not have capacity. Mr. O'Brien mentioned orthopaedics as one example but there are many examples not just in Waterford, but across all public hospitals where there are capacity issues and patients are then being treated in private hospitals. Has the HSE done any cost analysis in regard to whether it would be better to put the capacity into the original hospitals to enable them to treat those patients, rather than having to pay for those patients to be treated in private hospitals? I am not asking from a patient perspective, which is important and I would always put myself in the shoes of a patient as I know most people do not want to travel, but from a cost perspective. Mr. O'Brien is the officer accountable to us. Has his organisation done an analysis of the cost of treating patients in private hospitals as opposed to putting the capacity into the public hospitals?

Mr. Tony O'Brien: In general, it is preferable to treat at marginal cost patients in public hospitals where we do not have to pay overhead charges and so on. Typically, where this occurs it is because there is not really an option to increase capacity so-----

Deputy David Cullinane: With respect, and I do not want to interrupt, I asked a direct question. With the limited time we have, it would be better if we could get a direct response. Has the HSE done a cost analysis?

Mr. Tony O'Brien: Yes, but we take into account in that whether there is a practical reality about providing the service from the public hospital. For example, if we have a long-term vacancy for a rare specialty consultant that we have not been able to fill, then there is not really a good public sector benchmark that one can use because there is not a reality about having that available.

Deputy David Cullinane: Would there be a greater cost on the State, given some patients are being treated in private hospitals?

Mr. Tony O'Brien: In some cases the unit cost can be higher, yes, but that is not necessarily a generalisable statement. There will be circumstances-----

Deputy David Cullinane: If the HSE has done a cost analysis, can Mr. O'Brien furnish this committee with examples of that cost analysis?

Mr. Tony O'Brien: We will provide the committee with the example of a couple of specialties where we have outsourced and where we can show the comparisons.

Deputy David Cullinane: Another area that causes some people concern is the increase

in agency spend. Again, I will give examples in University Hospital Waterford because I have those figures. In 2012, the total agency spend by the hospital was €1,648,000, in 2013 it was €3,597,000, and in 2014 it was €6,289,000. It reduced slightly in 2015 to €5,145,000 but went back up close to €6 million in 2016. Therefore, agency spend was approximately €1.6 million and increased to almost €6 million, which is a significant increase. Is it costing taxpayers more to hire agency staff as opposed to direct employment in the public service?

Mr. Tony O'Brien: Certainly, the in-year cost can be higher but the long-term cost may not be because of the impact of long-term pensions and so on. Our preference is that agencies should only be used at the margins. There will always be some requirement for agencies and, indeed, all of our hospitals have a conversion target in-year, which Mr. Mulvany will speak to in greater detail.

Deputy David Cullinane: Would Mr. O'Brien accept it is more than on the margins if there is in one hospital an increase from €1.6 million in 2012 to almost €6 million three years later?

Mr. Tony O'Brien: Yes.

Deputy David Cullinane: Does Mr. O'Brien accept they are being forced to do this because they simply do not have the capacity in the public system? Maybe in the past this was due to recruitment problems, the embargo and so on. Whatever the reason, there was a quadrupling of agency spend at University Hospital Waterford. I am trying to understand if that is costing us more, as taxpayers.

Mr. Stephen Mulvany: Typically, overall, agency is currently some 5% of our total pay cost, and we would prefer it not to be. Where it is most worrying is in regard to medical costs, where agency is more like 14% of our total pay cost. While I do not have the specific figures for Waterford, I would hazard a guess that it is an increase in medical agency, which is a large part of the driver. Generally speaking, I can say for almost any grade that the cost of agency versus the cost of flat-rate hours - the normal hours - is definitely higher.

Deputy David Cullinane: It is definitely higher. That is all I needed to know.

Mr. Stephen Mulvany: In terms of why it is there, it is typically because we cannot recruit. There is a market issue. If people are not in the market or are not making themselves available for permanent roles, hospitals are often-----

Deputy David Cullinane: I dealt with that with the Minister for Public Expenditure and Reform, who tells me there is no difficulty with recruitment in the public service but, in any event, that is certainly the case in some areas of health. All I needed to know is that there is a greater cost, and that has been acknowledged.

Mr. Stephen Mulvany: I said it is definitely more expensive for agency compared to flat rates. I should say that, compared to overtime rates, it depends on the grade and depends on the agency.

Deputy David Cullinane: Again, if the HSE has done any cost analysis on agency spend, it would be helpful if it could furnish it to the committee.

Mr. Stephen Mulvany: No problem. We can give some examples of that.

Deputy David Cullinane: I want to move to a third issue. Again, I want to stick with examples from University Hospital Waterford as I am familiar with it. To ensure Mr. O'Brien

was not blindsided, I signalled before the meeting that I would be putting this issue to him. I am trying to understand the relationship between policy, which he is not here to answer for as it is an issue for the Minister, operational matters and costs of funding. I have been following the process of the deployment of a mobile cath lab to treat cardiac patients at University Hospital Waterford for some time and am still unable to understand it. My understanding is that an announcement was made by the Minister in January that this would happen. A couple of weeks later, a business case was developed by the hospital management and sent to the South/South West hospital group. The group then sent it in January to the HSE, the Department or both. Four months later, nothing had happened and no decision had been made. At the time that the business model was developed, 580 patients were awaiting cardiac procedures at University Hospital Waterford. The hospital then entered into a service level agreement with hospitals in Cork and 380 of those patients are now being seen in Cork University Hospital, CUH, and a private hospital in Cork. If Mr. O'Brien will bear with me, I want to understand the process. At the time when the mobile cath lab was needed most, when the business case was made and the demand was greater, no decision was made. Even though it seems the Minister had made the decision, the hospital was not given approval to go to the procurement stage. The hospital has today stated it will be given that approval next week and that will then involve a procurement process. I am trying to understand the relationship between policy and decision making. Mr. O'Brien can correct me if I am wrong in my understanding. If the Minister were to make a policy decision that the deployment of a mobile cath lab could be one of several options used to reduce cardiac care, would it then be up to the HSE and the Department to make an operational decision as to whether that is necessary at any given time? Can Mr. O'Brien explain the decision-making process and who is responsible for what? I want to ask about procurement also. That is the real reason I am asking this but we will come to that presently. Can the witness explain the decision-making process?

Mr. Tony O'Brien: As Deputy Cullinane knows, the process includes the Herity report, which looked at demand versus capacity issues for cardiac catheterisation for the population served by University Hospital Waterford and recommended that capacity should be increased to achieve equilibrium between likely demand and likely capacity in the future. Since that time, the Minister identified as a policy priority, as he is entitled to, that that capacity should become equalised. In order to do so, we have commenced the process of recruiting additional staff to enable the hours of operation of the existing cardiac cath lab to be extended. In view of some of the issues we discussed earlier in terms of agency staff and recruitment, that is likely to be a longish process. The practical way in which capacity can be increased in the meantime is by bringing on site a private provider to provide staff and a temporary additional cardiac cath lab. As I said, this has been identified as a ministerial priority. At group level, there has been an effort to deal with the backlog through facilitating patients to travel to CUH, as Deputy Cullinane described. As he has agreed, a significant number of patients have been treated who otherwise would not yet have received their treatment. As a result of that, a procurement process, which I will not talk about until the Deputy has asked his questions, will soon commence to give effect to the provision of a temporary deployment of a mobile staffed cardiac catheterisation laboratory for a brief period at University Hospital Waterford.

Deputy David Cullinane: What will that procurement process involve? There seem to be ongoing issues in regard to compliance and procurement rules within the HSE. We have had many examples - I do not know how many - where the Comptroller and Auditor General has given a qualified reporting of accounts because of breaches of procurement rules in the HSE. In this instance, can the witness say what will happen in terms of procurement?

Mr. Tony O'Brien: I do not think the Comptroller and Auditor General has given a qualified reporting of accounts. Rather, he has included a matter of emphasis, which is a different process.

Deputy David Cullinane: Okay. However, Mr. O'Brien knows the point that I am making.

Mr. Tony O'Brien: I do. In this case, it is fortunate that this is not the first time we have deployed cardiac catheterisation mobile units and consequently we have a valid framework in place. That provides for a number of pre-qualified suppliers, each of which, when a hospital wishes to draw down, is invited to take part in what is colloquially called a mini-competition. The suppliers are pre-qualified through open tender to take part in the mini-competition against each other. It is intended to commence that mini-competition within the framework in the next few days. That will be validly procured. If that were subsequently included in the sampling by the Comptroller and Auditor General, subject to the view he reached, I would be satisfied that it would be deemed to be procurement-compliant, provided all steps are followed correctly.

Deputy David Cullinane: In terms of the issue of cardiac care nationwide, which is also important to me, is it correct that in 2004 there was a review of services in Dublin?

Mr. Tony O'Brien: Yes.

Deputy David Cullinane: What was the outcome of that review?

Mr. Tony O'Brien: That there was a clear requirement for additional capacity in Dublin.

Deputy David Cullinane: What was the outcome of the review? What recommendations were made?

Mr. Tony O'Brien: Although the Deputy notified me earlier that we would be discussing issues in regard to Waterford, there was not sufficient time for me to review the Dublin report.

Deputy David Cullinane: Is the witness aware that there was a review in Dublin?

Mr. Tony O'Brien: I am.

Deputy David Cullinane: Is it correct that following the review in Dublin the HSE and the Department decided to carry out a national review?

Mr. Tony O'Brien: That is correct.

Deputy David Cullinane: When was that decision made?

Mr. Tony O'Brien: Back then.

Deputy David Cullinane: When is that?

Mr. Tony O'Brien: Subsequent to 2014. Probably 2015, but I-----

Deputy David Cullinane: It was in 2015.

Mr. Tony O'Brien: -----qualify all these remarks by saying that I have not recently reviewed this matter and am operating off memory that could be slightly deficient.

Deputy David Cullinane: I have a letter sent by Joan Regan of acute hospitals policy division 3 to Professor Herity while he was compiling his report. The letter says that following the

Dublin review the acute hospitals policy division 3 asked the acute coronary syndrome, ACS, programme to review the arrangements for the provision of primary percutaneous coronary intervention, PPCI, nationally and to make recommendations. This was in 2015. At the time, it was intended that the review would be completed in three months. That never happened. The programme for Government was then published which provided for a review to be conducted in regard to Waterford, which was done, as the witness is aware. A person was commissioned to do a body of work. The letter goes on to say that it would be necessary to bring forward the Waterford element of the review but would be important to ensure that the results of the Waterford review be fed in as appropriate to the national review. Is it Mr. O'Brien's understanding that there was a review in Dublin, following which the HSE decided to undertake a national review? The programme for Government contained a specific commitment in regard to Waterford, which review has been completed and will feed into the national review. Is that national review currently under way?

Mr. Tony O'Brien: That review would be commissioned by the Department and I am not aware if it is under way.

Deputy David Cullinane: Can the witness furnish the committee with that information?

Mr. Tony O'Brien: I can inquire of the Department in that regard.

Deputy David Cullinane: Could he also inquire as to whether there are terms of reference for the review and who will carry it out?

Mr. Tony O'Brien: I will inquire on those issues and provide the committee with all the information I receive.

Deputy David Cullinane: I am asking for specific information.

Mr. Tony O'Brien: Mr. Ray Mitchell is taking notes.

Deputy David Cullinane: If Mr. Mitchell is listening, the specific information-----

Mr. Tony O'Brien: Mr. Mitchell is always listening.

Deputy David Cullinane: -----I am asking for is that there are references to a national review and I am unsure as to whether it has commenced. In any national review of services, whatever the outcome of the review, it may cost more or less money and there could be improved or reduced services in various areas and it will have an impact on hospital budgets and so on. In that context, hospitals, patients and others in various regions will be anxious to know when the review is going to happen, what its terms of reference will be and so on. I do not yet have that information in spite of making several attempts to get it. If I could be given as much information as the good office of Mr. O'Brien can obtain in that regard, it would be very helpful.

Mr. Tony O'Brien: I will make the inquiries on the Deputy's behalf.

Deputy David Cullinane: I wish to deal with the issue of section 38 and 39 organisations. The first meeting of this committee that I attended was the one at which we dealt with the internal audit at Console. Mr. O'Brien might remember that hearing.

Mr. Tony O'Brien: Definitely.

Deputy David Cullinane: There were up to 80 findings in that report, all of which were

flagged as high priorities. Mr. O'Brien might also remember that, because of the nature of the issues raised, the internal audit found that there were systemic problems in the HSE's relationship with the organisations and service level agreements in question. Since then, there have been issues with GLEN, St. John of God and so on. The problem does not seem to have gone away. Now, there are problems with other sections 38 and 39 organisations. What improvements in processes have been made by the HSE to ensure that these types of situations do not recur repeatedly? We do not want to deal with these issues time and again. It is taxpayers' money.

I will put a number of specific questions. Was GLEN funded by the HSE? I will get to my questions on St. John of God, which is funded by the HSE, later. Subsequent to the internal audit report into Console, what changes, if any, in governance have been made by the HSE?

Mr. Stephen Mulvany: We have instituted the extension of the annual compliance statement process to the larger of the section 39 organisations. Under it, the board and chair of a voluntary body have to provide a list of assurances to us regarding governance, risk management and a variety of other matters. It started in 2014 with the section 38 agencies and was extended in 2016 to those section 39 bodies in receipt of more than €3 million per annum, approximately 455 organisations. I would have to check the exact timing but we have also instituted an external review by Deloitte of section 38 organisations. I am certain that we have at least brought forward the completion date of that review from the end of 2018 to the end of 2017. Based on a number of internal reports, we have also written to all board chairs advising them and their boards of some common issues that have been appearing. We are seeking to improve capacity within our CHOs so that, where engagement is a problem, they have sufficient resources to engage more frequently with some of the voluntary organisations, given that there are more than 2,000 of the latter in total.

Deputy David Cullinane: I appreciate Mr. Mulvany's answer. Given that I have limited time, would it be possible to furnish the committee with a report on what changes have been made to the HSE's interaction and relationship with and oversight of sections 38 and 39 organisations from a governance perspective since the Console internal audit report?

Mr. Stephen Mulvany: We included a briefing in the papers that we submitted, but we can re-examine it in light of the specific timeline that the Deputy is asking about and work from there.

Deputy David Cullinane: Would it be possible to get that?

Mr. Tony O'Brien: Yes.

Deputy David Cullinane: St. John of God "told HSE auditors it was common practice for State-funded section 38 agencies to top up executive salaries, often from private sources" and the HSE was "specifically aware" at the time "the order paid supplemental pay to employees." Is that correct?

Mr. Tony O'Brien: In the full audit, we identified a wide range of voluntary bodies in the section 38 space that were making additional payments or top-ups, to use the colloquial phrase. A significant pay policy exercise was undertaken to require all of them to come back into line. The committee was heavily involved with one section 38 body, a particular hospital in Dublin, as members may recall.

Following an internal whistleblowing, there is now an audit concerning the way in which certain individuals at St. John of God had their pay regularised. Members may be familiar with

what is alleged. A significant forensic internal audit is being carried out and is almost complete in the sense that the feedback process is under way. That report is not yet finalised.

Deputy David Cullinane: May I put the process to Mr. O'Brien so as to ensure that my information is correct? In 2013, a direction from the HSE banned top-up payments. Is that correct?

Mr. Tony O'Brien: Yes.

Deputy David Cullinane: It became necessary then for all charities to regularise matters and ensure that no non-Exchequer funding was used to supplement approved rates of pay.

Mr. Tony O'Brien: Not all charities. All section 38-----

Deputy David Cullinane: All sections 38 and 39 agencies. I am sorry.

Mr. Tony O'Brien: Only the section 38 agencies.

Deputy David Cullinane: That is correct.

Mr. Tony O'Brien: Section 39 agencies are not subject to public pay policy.

Deputy David Cullinane: St. John of God asserted at the time that this could have "serious implications" for the order's funding "due to contractual terms and future pension risk of the employees".

Chairman: The Deputy has already asked about that. He will be able to contribute again.

Deputy David Cullinane: While I am on it. I am nearly finished. I will forgo my second contribution if I can finish this.

Chairman: That sounds like a good offer.

Deputy David Cullinane: Would the HSE have been informed by St. John of God that it was concerned about these "serious implications"?

Mr. Tony O'Brien: My understanding is that it did not say that to us.

Deputy David Cullinane: There is no evidence that it came to the HSE.

Mr. Tony O'Brien: That is my understanding. This is all the subject of an internal audit.

Deputy David Cullinane: According to my information, the HSE "rejected these arguments" and imposed a ban on top-up payments, but Mr. O'Brien is telling me that they were not rejected because the request was not made.

Mr. Tony O'Brien: What I am saying is that that is not my information. However, a full forensic audit is currently in the feedback phase. In other words, the individuals concerned are now commenting back to internal audit. That report will, therefore, be finalised shortly.

Deputy David Cullinane: Did St. John of God not assert that it had found "139 cases of non-compliance since last December"? Is Mr. O'Brien aware of that?

Mr. Stephen Mulvany: The Deputy asked about whether something that St. John of God had said was true. That matter is separate from whether St. John of God submitted a business

case in response to the September 2013 issue of public pay policy from the HSE.

Deputy David Cullinane: I am only interested in what St. John of God told the HSE. What interaction was there between the two organisations? Obviously, St. John of God says certain things that may or may not be true, so Mr. Mulvany can help us by saying that it did not happen. As Mr. O'Brien stated,-----

Mr. Stephen Mulvany: In response to the September 2013 general issue of the Department's documented pay policy to all section 38 agencies, I have no doubt that St. John of God, along with others, submitted business cases to seek regularisation. There would have been an output of that process, but I do not have that output with me. In December 2016, our national HR division also wrote to all section 39 bodies reminding them of the pay policy and outlining a process by which any residual regularisation issues should be proposed in a business case format. I have no doubt that St. John of God made a submission. Whatever it included in those submissions is what it has told the HSE.

Deputy David Cullinane: I thank Mr. Mulvany. My final question is also a point. My understanding is that St. John of God recently wrote to the Department of Health pleading poverty and seeking €7 million in additional funding despite an allegation, one that Mr. O'Brien stated was being examined, of €6 million in secret payments to senior executives within the organisation. Is that an accurate description of the allegation that has been made and would Mr. O'Brien be prepared to comment on it?

Mr. Tony O'Brien: The allegation is that, privately, secretly or however we care to characterise it, St. John of God made undisclosed substantial payments to 14 senior managers to ensure that what it regarded as contractual obligations were discharged. The issue from our point of view is non-disclosure and whether that-----

Deputy David Cullinane: Was that in compliance with the rules?

Mr. Tony O'Brien: Sorry?

Deputy David Cullinane: Was St. John of God in contravention of any rule by doing that?

Mr. Tony O'Brien: That is what the audit is going to determine. On the face of it, it is not in compliance with public pay policy. There is a separate discussion, which has been initiated by the same organisation, about its viability as a provider of section 38 services, and we are in a process with it in regard to this.

Deputy Catherine Murphy: On St. John of God, we probably all know the institutions in our own localities best and they provide an avenue for us to understand the wider context. Some of the top-ups paid in 2013 were for pensions. Can Mr. O'Brien say whether the HSE knew about them?

Mr. Tony O'Brien: The HSE did not know about them. We became aware of them as a result of the whistleblower exercise.

Deputy Catherine Murphy: Is Mr. O'Brien looking at the relationship between the HSE and St. John of God as service provider?

Mr. Tony O'Brien: Yes.

Deputy Catherine Murphy: Is that with a view to changing the relationship?

Mr. Tony O'Brien: The issues raised both by the whistleblower, which has been very well ventilated, and by the organisation itself are fundamental and are likely to have a fundamental impact on the relationship between the HSE and St. John of God.

Deputy Catherine Murphy: There is a St. John of God facility in Celbridge which provides services to people with intellectual disabilities, and there have been cutbacks in service provision there, such as to transport and respite services and the fact only cold food is now provided to children in the day services. These services rely very heavily on fund-raising by parents and other supporters. When public attention is drawn to the additional payments, there is a detrimental impact on people's trust, and this affects the charitable side of the organisation, resulting in an additional loss of funds which can be raised. When something like this happens, does the HSE calculate it in its service model?

Mr. Tony O'Brien: When an organisation is dependent on funding both from us and from other sources to provide a range of services, we have to be cognisant of what happens to the latter sources. The most significant example I can give goes back to where this all began, namely, the Central Remedial Clinic, which was in the eye of the storm in respect of this issue three years ago. The revelations about financial arrangements caused a total collapse in private and voluntary funding to the CRC. We were careful to rehabilitate the CRC as a voluntary body capable of having the confidence of service users. That has occurred here and our aim in dealing with this includes, first of all, preserving and, where possible, improving the services to service users of St. John of God, who are at the heart of our concern. Second, we try to bring any organisation we fund which is not currently in compliance with public pay policy fully into compliance. The other thing we are doing is trying to ensure sustainability by looking at the organisation in the round, for which a process is already in play and is examining the issues. We cannot divorce our attitude to the totality of a service from the issues of concern about how decisions are made at the highest level in an organisation.

Deputy Catherine Murphy: There is quite a sizeable difference between what can be provided by St. John of God and what can be provided by a comparable organisation like Stewart's in Palmerstown, such as in service levels and the activities afterwards. How does the HSE look at this kind of issue? Does it provide money in a block grant or on the basis of a service level agreement? Is it like with like? Why are there such differences?

Mr. Tony O'Brien: Every funding arrangement or service level agreement specifies the funds and the quantum and type of services to be provided. The individual circumstances, such as the nature of clients and the requirements for and of clients, are taken into account in arriving at the funding decisions. Every arrangement has a signed document specifying the funding and the range, type and quantum of services to be provided and is arrived at as part of a process in which the particular circumstances are examined. Every agreement in place is also a product of history. We started at a certain place but, with pay reductions, FEMPI and so on, we have now the end product of a series of processes.

Deputy Catherine Murphy: Did the top-ups which were made in 2013, without the HSE's approval, come out of the HSE budget?

Mr. Tony O'Brien: I understand it is being contended that these payments, the subject of the audit, were from private funding and not from HSE-provided funding.

Deputy Catherine Murphy: They were from fundraising.

Mr. Tony O'Brien: Yes, or they could have come from endowments or capital. I cannot comment on how they were obtained.

Deputy Catherine Murphy: Mr. O'Brien said he was looking at the relationship with St. John of God and that this could involve severing that relationship or changing service provider for those who currently get their services from St. John of God. Given that section 38 covers pension liabilities, would the HSE not look at direct provision of services as opposed to outsourcing them to the charitable sector?

Mr. Tony O'Brien: I am not saying we would not look at that but significant policy considerations would arise in that space, not just for the HSE but the Department, under whose aegis we operate, and the Department of Public Expenditure and Reform.

Mr. Stephen Mulvany: It is not our intention to sever the relationship with St. John of God. Our aim is to ensure St. John of God addresses the issues it has, including its governance issues, and to look at the way we and it interact together in order that we can continue to provide the services and the staff can continue to be employed. We would not want to say anything here that might upset either a family or the staff. This needs to be fixed and we need to move on.

Deputy Catherine Murphy: It is the families who have members in the institution who are upset. They see their family members being subjected to direct and significant cutbacks while there has been a substantial and unauthorised payout to the senior people running the organisation, which has diminished fund-raising in the organisation.

Mr. Tony O'Brien: It is a legitimate area of concern but one thing I would not want to come out of today's hearing is any sense on the part of service users or their families that the services themselves are at stake. They are not.

Deputy Catherine Murphy: I have a question on agency nurses, to pick up on a point made earlier. Mr. Mulvany said people making themselves available as agency nurses are perhaps not making themselves available to be directly employed. The HSE pays the agency a fee. Has any work been done on the amount paid to the nurse? Is it known? Obviously it varies from agency to agency. To what extent has the lower rate of pay in the more recent recruitment been a factor in people opting for agencies as opposed to being directly employed?

Mr. Stephen Mulvany: My comments on there being a market, and perhaps individuals not making themselves available, was particularly directed in the medical area where we have much higher agency numbers. It applies to all the grades, including nursing. The rate of pay is known. There used to be a blue card, so it is very obvious what the nursing rate of pay is. While I am not an expert in HR, I understand that in recent years legislation has progressively made the requirement to ensure agency members of staff are at least getting a rate of pay comparable to those directly employed. The issue is there is an additional payment and there is a commission and VAT on top.

Deputy Catherine Murphy: I want to go to another issue, which I think Mr. Mulvany referred to in his opening statement, on income, other than directly voted income, which comes from charges that are collected. Some of this has been in the news recently with regard to what happens when people present through accident and emergency departments. I had cause to write to the Minister six weeks ago and I received a reply from the Department of Health last week, dated 31 May. I have a general question, but I want to set the scene in this regard. The case describes how the situation has evolved. A person presented to me, and I am using it as

an example. I documented the example and went to the Minister for Health. This person presented at an accident and emergency department. Someone followed the person around with a clipboard asking whether the person had health insurance. It got to the point where a medic had to be called because the person's blood pressure became a problem. The person documented to me the follow-up, including after leaving the hospital. To be perfectly honest, I was alarmed at the behaviour. The reply I received detailed that operational procedures are managed by the HSE, which has no centrally held policy to direct individual hospitals on the completion and signing of private health insurance forms. It stated individual hospitals may have developed their own standard operating procedures in respect of the completion and signing of the forms, but this information is not collated, nor held centrally, by the HSE. The reply stated it is considered that the application of these operational procedures should be sensitive to the health status of patients while in hospital. We can see why this would be the response. It also stated the HSE has been asked to investigate this particular case and come back to me.

Obviously, individual hospitals are looking at their own budgets, and if there is going to be a shortfall, a more aggressive approach may well be taken in respect of this. In the case I documented, the person's health was compromised by the approach made at a very vulnerable point. Is the HSE developing central procedures on this? What pressure, if any, is the HSE putting on hospitals to come up with specific incomes through private health insurance in respect of this particular aspect.

Mr. Stephen Mulvany: To speak in generality, all our staff involved in this process, particularly in dealing with people coming through emergency departments, often work in very difficult circumstances. It is also a very difficult time for the individual patients and their families. Most of our staff are always doing their absolute best. We could not and do not condone any situation where a patient would be harassed, and it is regrettable if anyone perceived they were, so that needs to be investigated and followed up. That said, our general policy in terms of interacting with patients would not allow for that. It does not require necessarily a separate specific policy when we are speaking to them about insurance matters. If that incident occurred, it will be investigated. It should not have happened. We suggest it is not the norm and is not what our staff come to work to do every day.

With regard to the budget, I remind people the charges we are speaking about were introduced under 2013 legislation. This means they are legal embodiments of policy. We are obliged to raise them. The funding of the health service assumes we raise them. Approximately 7% to 8% of the total costs of the 48 hospitals in the health service hospital division is supported by the increments raised from the private health insurance charge. The majority of this comes from people who enter the system through the emergency route. That said-----

Deputy Catherine Murphy: How much is that again?

Mr. Stephen Mulvany: The budget for income for 2017 is more than €600 million, which is approximately 7% or 8% of the gross cost of all-----

Deputy Catherine Murphy: The amount that comes through accident and emergency departments-----

Mr. Stephen Mulvany: It is the majority. I do not have the figure. It is more than 50% and I think it is more than two thirds. We can give the Deputy the figure. It comes through the emergency route. This is what the legislation and policy states.

As regards aggressive approaches when people are falling short on income, that is not what we seek. Last year, our acute hospital division and finance division conducted a significant exercise, with external support. We sampled 14 hospitals and looked at all their income processes. We have given it back to the hospitals to implement process improvements. None of the process improvements involves deliberately harassing patients. Our expectation is if income shortfalls are occurring, and the reasons they are occurring include the actions of some insurers, hospitals will make sure they implement process improvements as best they can to maintain their income. It stops there.

Deputy Catherine Murphy: Is the HSE introducing any common policy on this? I do not imagine the person who came to me was just picked out of the blue. It must have been the approach of the individual hospital and it was aggressive. There is no doubt in my mind it was aggressive. Then we heard other stories. I went privately to the Minister and gave the information to him and said I was concerned about this. Then I heard others on the radio saying exactly the same thing. Mr. Mulvany has stated it is not HSE policy that there is this aggressive approach.

Mr. Tony O'Brien: Obviously the culture on this has to be influenced by top-down behaviour. At present, I am carrying out performance meetings with a number of hospitals on their financial performance and I am specifically excluding from this the issue of health insurance generated income. I am certainly not putting any pressure on any hospitals in relation to this particular question, even though there are variances on that income against original budgets. Our performance dialogue is much more on the expenditure side, specifically because of this issue. In our performance process we are not pressuring the hospitals to do better or to do more on this. With regard to the traditional levying of insurance charges for elective treatment, we do pressure them to make sure they do not allow forms to go out of date. It is a discussion we have had here many times. This is obviously a new component. There is no pressure within the organisation, undue pressure or pressure to maximise this form of income. It is a reality that it is a line in the budget because that is the way the budget is received.

Deputy Catherine Murphy: There is something driving this behaviour. I am really just trying to focus on this one particular aspect, not the whole health insurance issue.

Mr. Tony O'Brien: I would be happy to have details of that individual case. I do not believe I have received it.

Chairman: The Deputy is running out of time.

Deputy Catherine Murphy: I have just a couple of further questions

Chairman: Okay, but the Deputy is nearly there.

Mr. Tony O'Brien: It is worth noting that private health insurance companies, while accepting subscriptions from their members are actively seeking to persuade them to not use their private health insurance. They are entitled to do that but it also raises questions.

Deputy Catherine Murphy: I thank Mr. O'Brien for that. Returning to his opening statement, and carrying on from the session this morning, is there a contingent liability included in the HSE accounts in respect of legal or other matters?

Mr. Stephen Mulvany: We have declared in our notes of the accounts around the State Claims Agency, which includes the clinical indemnity scheme, as a contingent liability. There is no actual amount of provision-----

Deputy Catherine Murphy: I am not talking about the individual cases, just generally.

Mr. Tony O'Brien: Mr. Mulvany is answering generally.

Mr. Stephen Mulvany: We do not include any physical figure or amount in our accounts for a contingent liability to do with future claims. We reference that fact in one of the notes to the statement.

Deputy Catherine Murphy: What is the amount?

Mr. Tony O'Brien: We do not include the amount.

Chairman: In the accounts there is a reference to it at note 11. There is also a reference to it on page 167. There might also be another note. There is a specific reference to the State Claims Agency on page 167.

Mr. Stephen Mulvany: It is referenced in two places but in either case, the question is do we actually put into our accounts any provision for those future liabilities?

Chairman: On page 167, where there is a specific reference to the State Claims Agency, it is stated:

Based on actuarial estimates, the charge to the Statement of Revenue Income and Expenditure is expected to increase significantly in future years. In accordance with the directions of the Minister for Health, no provision has been made for this liability in the financial statements.

I ask the Comptroller and Auditor General how does this policy to not include a liability stand with proper financial accounting standards?

Mr. Seamus McCarthy: Generally accepted accounting principles, GAAP, would require that a provision be included, but there may be an exemption that the Minister is empowered to give.

Chairman: So the Minister has an exemption to overrule?

Mr. Seamus McCarthy: The Minister grants an exemption.

Chairman: Let us be clear on this. Has the Minister for Health the power to overrule the generally accepted accounting principles, or is he or she giving the HSE an exemption to compliance in this regard?

Mr. Seamus McCarthy: The Minister is giving the HSE an exemption not to have to comply.

Chairman: Where is this stated?

Mr. Seamus McCarthy: In note 1 of the accounting policies.

Chairman: That is great. What page is that?

Mr. Seamus McCarthy: That is page 156.

Chairman: It states:

Claims under the Clinical Indemnity Scheme which are paid by the HSE, and administered by the State Claims Agency on the HSE's behalf, are accounted for on a 'pay as-you go' basis. This does not comply with FRS 102 'Section 21 - Provisions and Contingencies'. Details of the amount recognised in the Statement of Revenue Income and Expenditure in 2016, together with the actuarially estimated future liability attaching to this scheme at 31 December 2016, are set out in Note 11.

Mr. Seamus McCarthy: Note 11 was the note the Chairman was looking at there.

Chairman: But a figure is not given.

Mr. Seamus McCarthy: On page 167.

Chairman: The phrase used there is "together with the actuarially estimated future liability attaching to this scheme at 31 December 2016, are set out in Note 11." It is also stated that "The financial statements are also prepared in accordance with the Department of Public Expenditure and Reform Circular ... [and] the HSE financial statements are prepared in Euro and rounded to the nearest €'000." Where is the figure of the actuarially estimated liability?

Mr. Seamus McCarthy: In note 11, approximately halfway or two thirds of the way through the paragraph on page 167.

Chairman: Yes, that is the page to which I refer.

Mr. Seamus McCarthy: It is the paragraph beginning "At 31 December 2016, the estimated liability incurred to that date ..."

Chairman: Yes, it is there. By the way, this contingent liability of more than €1 billion is actually shown in the smallest print in the entire document.

Mr. Seamus McCarthy: There is another note also on that.

Chairman: The report also states:

The State Claims Agency's best current estimate of the ultimate cost of resolving each claim, includes all foreseeable costs such as settlement amounts, plaintiff [sic] legal costs and defence costs such as fees payable to counsel, consultants etc. The estimated liability is revised on a regular basis in light of any new information received for example past trends in settlement amounts and legal costs. At 31 December 2016, the estimated liability incurred to that date under the Clinical Indemnity Scheme and State indemnity was €1.922m (2015 €1,525m). [This is an increase of €400 million in the course of one year.] Of this €1,922m, approximately €1,669m relates to active claims in respect of clinical care, with the balance of the estimated liability relating to non-clinical care claims. In 2016, the charge to the Statement of Revenue Income and Expenditure was €228.9m [compared to €205.2m the previous year]. Based on actuarial estimates, the charge to the Statement of Revenue Income and Expenditure is expected to increase significantly in future years.

It went up €400 million in one year.

Mr. Stephen Mulvany: That is the charge that the State Claims Agency is estimating went up by €400 million.

Chairman: Yes, but it is the HSE's liability. The agency is only handling it on the HSE's

behalf. It is the HSE's liability not that of the State Claims Agency, which is just the handling agent.

Deputy Catherine Murphy: Where does the money physically get handed over?

Chairman: It comes out of the Department of Health Vote. I put it to the Comptroller and Auditor General that it is all very well to read this in the notes and in the small print, but there is a liability of €2 billion that is not clearly shown in the financial statements.

Mr. Seamus McCarthy: It is not on the balance sheet.

Chairman: It is not on the balance sheet, and just because a Minister-----

Mr. Seamus McCarthy: There is no provision for it.

Chairman: There is no provision on the HSE balance sheet for the €2 billion that would have to be paid by the HSE. As Chairman of the Committee of Public Accounts, the fact that a Minister says that one need not show it is, in my view, just not good enough. This will need to be teased through with us. The Minister gives the exemption and the HSE is following his or her direction, From a financial reporting aspect, however, the fact that a Minister says something does not change general international accounting standards. Why would this not merit a qualification in the report, or is it in the report?

Mr. Seamus McCarthy: The opinion I give is that the financial statements, which have been properly prepared under the accounting standards specified by the Minister for Health, give a true and fair view in accordance with those standards of the state of the Health Service Executive's affairs at 31 December 2016, and of its income and expenditure for 2016.

Chairman: That is on page 149?

Mr. Seamus McCarthy: Yes. That is the report under the heading of opinion on financial statement.

Chairman: It says, "In my opinion, the financial statements, which have been properly prepared under the accounting standards specified by the Minister for Health ...". Who is the Minister that specifies accounting standards? Please help us on this.

Mr. Stephen Mulvany: On page 156 it notes that "Under Section 36(3) of the Health Act 2004, the Minister specifies the accounting standards to be followed by the HSE.". This is similar in some ways - but perhaps a little different - to the fact that no public body actually provides for future pension costs, which would also be a departure from-----

Mr. Seamus McCarthy: It is not "no public body", it is no health bodies. The non-provisioning for pensions is specific to health bodies.

Chairman: Right.

Mr. Seamus McCarthy: Pensions are done on a pay-as-you-go basis.

Chairman: That qualification was made by the Comptroller and Auditor General in his report.

Mr. Seamus McCarthy: In respect of health bodies.

Chairman: We see that in lots of other accounts.

Mr. Seamus McCarthy: No. There is a distinction between what happens in the health sector and the education sector.

Chairman: In other words, that is in the Comptroller and Auditor General's report, but he signs all of the other accounts that he audits in accordance with standards specified by the Minister. What other Ministers have specified other accounting standards that are not generally accepted internationally?

Mr. Seamus McCarthy: I think the Department of Health is the only area in which there is a significant deviation from the generally accepted accounting principles, GAAP.

Chairman: I do not think this is sufficiently or adequately prominent in the financial statements. I know that the Comptroller and Auditor General has referred to the Minister's accounting standards, but our job is not just to follow how the Minister says we should do our job. Anybody reading the accounts is entitled to assume they generally accord with international accounting standards. Leaving €2 billion off the balance sheet is fundamental and material.

Deputy David Cullinane: It is not just that; it is also pensions. Is there anything else for which provision has not been made?

Deputy Catherine Murphy: It is not Monopoly money. We need to be able to scrutinise it. That is in the small print, but I accept that it is included in a couple of other sections of the report which I will read in more detail. It all has to come out of the health Vote. Very often liability drives behaviour, for example, in the case we discussed this morning. There is a correlation in that if one anticipates this is going to cause a problem, one's behaviour may well change. The money is important from that point of view.

Mr. Stephen Mulvany: It is very important. I would like to deal with two things. While I accept that the note later on is in a small point size, it is similar to one that has always appeared. Much more important, in defence of the Health Service Executive, on the first page of the accounting policies, in note 1, we set out very clearly the exceptions from the GAAP. I do not want anyone to think the HSE is in any way seeking to hide it. I cannot comment on policy, but it is policy that this is how it is done. That is a separate matter.

Chairman: We accept that the HSE has no option but to follow the legislation.

Mr. Stephen Mulvany: Exactly, but we are also being up front about it. That has not changed radically in recent years.

Chairman: The figure has gone up by €400 million a year. I accept that it is in the tiny print, but can Mr. Dempsey comment on the issue?

Mr. Greg Dempsey: Yes. I think I was involved in considering the derogation. It is a future liability on an actuarial basis. It can go up and down in size based on interest rates and so forth. Putting it on the balance sheet, given the effect it would have on reserves, would be misleading.

Chairman: Whose reserves?

Mr. Greg Dempsey: The HSE's. It would cause complications in terms of the first charge and so forth. Ultimately - I cannot remember all of the Department's considerations - we felt it was more appropriate to include it as a note rather than on the balance sheet.

Chairman: I get that, but are we saying this is a liability? We have crossed over contingent assets before, but I always thought they were liabilities of the State. I know the figure, but is €1.9 billion the best figure we have. If it is not included, is it excluded from the national accounts in terms of the State's deficit? I presume it is. Is it off the State's balance sheet if it is off the HSE's balance sheet? It would hardly be-----

Mr. Greg Dempsey: The Central Statistics Office might include it in its accounts, but I will have to check if that is the case.

Chairman: Yes, please check it. Mr. Dempsey gets the point.

Mr. Seamus McCarthy: One of the things worth bearing in mind and which Mr. Dempsey mentioned is the variation. The figure is an estimate. Part of the reason it has gone up by €400 million is that there has been a change in the rate of return included in the actuarial assessment from 3% to 1%. Effectively, we are back to the discount rate being applied to actuarial assumptions. It is the same argument in pension liabilities being estimated. There can be a lot of fluctuations, depending on the assumptions used. Part of the concern is that if one were to make provision for all of these things, there would be major jumps from year to year that could be very significant. Even in an account as big as the HSE's, it can distort the financial performance in the year. That is the argument against it.

Chairman: Will Mr. Dempsey in due course prepare an information note for the Committee of Public Accounts on the other contingent liabilities that are not shown in the accounts or financial statements? He mentioned pensions. They are probably all marked, but this is separate from pensions.

Deputy Catherine Murphy: An actuarial assessment will not be completely without foundation; it is projecting from something. We are all familiar with cases taken in which there was fault at birth and claims are settled as a consequence. Sometimes they are unavoidable, but sometimes people seek services rather than a payment. If it was felt services would be provided throughout the lifetime of the person damaged, that might well change the approach to being litigious in having to provide for the person concerned. There is a relationship between people believing they have to go to court and the provision of services. Is this factored in in an actuarial assessment?

Mr. Tony O'Brien: The point the Deputy makes is very well founded. We are working with the State Claims Agency to take a different approach, particularly the issue to which the Deputy refers, the catastrophic birth injury which typically gives rise to some of the largest settlements. Historically and, to some extent, currently, part of the valuation of a claim is about the services to be provided following the catastrophic incident and their adequacy. Through our primary care and disability services divisions and in discussions with the State Claims Agency, we are working to become increasingly proactive in addressing these health care needs, notwithstanding the fact that there may be the prospect of litigation or it is in train. Fundamentally, irrespective of litigation, we are the health and social care service of the State and need to be proactive in meeting these health care needs, however they arose. There is a view that our role and that of the State Claims Agency will be influenced by this, but most importantly, it can make the consequences of an adverse event less traumatising than they might otherwise be by building a better relationship between the local health service and the parents who suffered the event. I have to admit, and do so freely, that historically it has not been the hallmark of the way things have been done and that this has led to very long running, long outstanding high value claims by people who have suffered not only the consequences of an adverse event but also a damaged

relationship with the health care system in the interim.

On the small print, it is my understanding we have not formally gone to print. As we are looking at a PDF, the text is fractionally smaller than it will be in print. If we have not gone to print, we will increase-----

Chairman: It could be printed in bold. I have really bad eyesight. I can only read that on a screen. I cannot read it here.

Chairman: Yes.

Mr. Tony O'Brien: I will arrange for it to be increased in size.

Chairman: I appreciate that.

Mr. Seamus McCarthy: I wish to make the following point. Certainly, the figure is a very significant one.

Chairman: True.

Mr. Seamus McCarthy: The question that the committee might also consider is whether there is sufficient disclosure there in terms of numbers of cases, nature of cases and so on.

Chairman: A breakdown.

Mr. Seamus McCarthy: Equally, the information could be given in the State Claims Agency account, which the committee is also entitled to examine.

Chairman: Ultimately, it is the HSE's liability.

Mr. Seamus McCarthy: Yes.

Chairman: It is only the handling agent.

Mr. Seamus McCarthy: Yes.

Chairman: I ask the HSE to provide us with a summary of the cases but no details on any cases. Obviously the €1.9 billion is made up probably of 1,000 cases. The HSE will be able to grade them.

Mr. Tony O'Brien: Yes.

Chairman: The high one versus the medium one.

Mr. Tony O'Brien: We will have to ask the State Claims Agency for that-----

Chairman: To provide that.

Mr. Tony O'Brien: -----data.

Chairman: Yes.

Mr. Tony O'Brien: Provided it is happy to give it to us then we are happy to give it to you.

Chairman: Give it to us in bands that make sense to us.

Mr. Tony O'Brien: Sure.

Mr. Seamus McCarthy: The other factor that is significant in this is the duration of claim - how long has the claim been outstanding.

Chairman: Yes.

Mr. Seamus McCarthy: There is useful performance information that may be helpful to the committee, but also to members of the public generally.

Chairman: What I find most distressing as Chairman of the Committee of Public Accounts, and people will agree with me on this, is there is a figure of €2 billion that we now know, at the end of 2016, that is ultimately due. That includes the legal aspect. So there is €2 billion due to be paid. Most of it is for people who have suffered medical negligence cases. Is that correct?

Mr. Tony O'Brien: That is correct.

Chairman: The majority or the biggest element is clinical indemnity.

Mr. Tony O'Brien: That is true although I would just make this point because it is probably relevant to a wider debate that you might have after this. In many jurisdictions, in some of these catastrophic birth injuries, and there is a certain irreducible rate of them, some in that category, some as a result of poor professional practice, it is not necessary to prove negligence or to go to court in order to do that. I point to the example of New Zealand. There has been a discussion about moving to a different place in terms of how we deal with these lifetime care needs, which are as a result of catastrophic birth injury.

Chairman: Maybe they could be handled through the Department rather than out of the HSE's Vote to provide health care but that is a different issue.

Mr. Tony O'Brien: Yes.

Chairman: In essence, €2 billion must be paid out to outstanding known claims. The best actuarial advice has indicated that will be the figure. Last year only €228 million, or 10%, was paid out. Without any new claims, we are saying that the cases on hand, at the rate we are paying them, and these people have already suffered a catastrophic incident, it will take ten years before the cases on hand as at last December are paid out. That is what I find unacceptable. The director general knows that I am from Portlaoise where we have had recent cases. I know that they are not all clinical indemnity cases but these will take several years.

Mr. Stephen Mulvany: Chair, one cannot divide the amount into each year, necessarily, of the Estimates.

Chairman: No.

Mr. Stephen Mulvany: A work-out that will be ten years.

Chairman: It is only an average. It could take longer; it could be shorter. We have all read about children aged six, seven, eight or nine years and their parents suing, etc. Often there is a settlement without an admission of liability.

Mr. Tony O'Brien: There sometimes is but sometimes-----

Chairman: Yes. One does not have to admit liability to make the payment.

Mr. Tony O'Brien: In certain-----

Chairman: I know it requires court approval.

Mr. Tony O'Brien: And also-----

Chairman: I ask the director general to finish on that matter.

Mr. Tony O'Brien: There is one point that may be of interest.

Chairman: The HSE would probably make interim payments, I would hope.

Mr. Tony O'Brien: Yes but also, sometimes, in terms of a court being able to settle on the lifetime quantum-----

Chairman: Yes.

Mr. Tony O'Brien: -----that is sometimes influenced by how a child has developed and progressed. Sometimes there is a common view-----

Chairman: Less weight.

Mr. Tony O'Brien: -----to parents in the court that there is a need, in order to settle on the right sum, to wait until the child has grown a bit.

Chairman: That is helpful information. That is genuine.

Deputy Catherine Murphy: When the HSE gives us the information, can the director general also see if we can have the legal fee aspect separated out.

Mr. Tony O'Brien: Yes.

Chairman: It is approximately a third of that figure, from our previous experience.

Mr. Tony O'Brien: Yes.

Chairman: Has Deputy Murphy finished?

Deputy Catherine Murphy: Yes. I will come back to this matter.

Chairman: I call Deputy Cassells.

Deputy Catherine Murphy: I ask the Chairman to keep me on his list because I wish to raise one little thing.

Chairman: I was going to ask the question later. Can we suspend for five or ten minutes?

Deputy David Cullinane: Yes.

Chairman: I propose that we suspend for ten minutes as people may need a break. There is no need to break for lunch. We will not sit long after the break. Is a 15 minute break reasonable?

Deputy Catherine Connolly: Why not take a decent break?

Chairman: I propose that we suspend until 2 o'clock. Is that agreed? Agreed.

Sitting suspended at 1.35 p.m. and resumed at 2.05 p.m.

Chairman: The next speaker is Deputy Shane Cassells.

Deputy Shane Cassells: I welcome the witnesses here. First, I note the significance of the budget we are discussing, namely, €14.5 billion. Earlier, Deputy Connolly referred to University Hospital Galway and how things can have an impact on so many aspects of our lives. Last night I was dealing with an application relating to a small project in Navan for school completion, which the HSE will, hopefully, fund as well. It is a case of going from something very big to something very small, taking into account the manner of how the HSE impacts across so many aspects of our lives. It is important to note as well that HSE expenditure does not just relate to primary medical care but also to the school completion programme, which in the case I mentioned will hopefully keep troubled teenagers in school.

Mr. Mulvany spoke about the plan concerning procurement. He gave 2020 as the date by which he hopes to see matters resolved. Could he elaborate on the plan a bit more in terms of the complexities involved in that respect?

Mr. Stephen Mulvany: One of the complexities for the HSE is its sheer size and scale, and as the Deputy alluded to, the breadth of its activities which cover most citizens in some shape or form and there are very few services across health and personal social care that we do not provide. The intention is to get north of €2.2 billion worth of procurable spend up to and then beyond 80% compliance, which would be good or best practice. What is involved in that is drawing up a large number of procurement contracts or frameworks or both in the coming years. The director general has explained what frameworks are. To put the issue in some context, on average in recent years we are losing just north of €100 million worth of contracts every year in terms of them coming out of date. Our aim is to make a net gain of €300 million to €400 million a year, which means we have to put in place €400 million to €500 million a year in contracts over the next number of years. As we sit here today, we have roughly €1.1 billion under contract. We are trying to get north of the €2.2 billion mark by making up the roughly €100 million a year which we lose due to contracts expiring and exceeding that by €300 million to €400 million in net terms. That leaves us with €400 million or €500 million a year in contracts. There is significant work in that, which is why we have made the investment in the additional 45 staff in sourcing, which is the part of our procurement team that does contracts and procurement frameworks.

Deputy Shane Cassells: In terms of the HSE liaison with the Comptroller and Auditor General's office, which has flagged this issue in previous years, I ask the Comptroller and Auditor General whether there is confidence that the improvements can be achieved by the deadline of 2020. I acknowledge that the Comptroller and Auditor General is not obliged to set that out.

Mr. Stephen Mulvany: Is the Deputy asking me or the Comptroller and Auditor General?

Deputy Shane Cassells: I am asking both the witness and the Comptroller and Auditor General, if that is appropriate.

Mr. Stephen Mulvany: I am reasonably confident that we are taking very structured actions to deliver this, both in sourcing, which is pulling the contracts, and then in compliance support which is trying to assist services to make sure that they are using those contracts. We are also improving our data capacity and in the background, we are also working towards a single national financial system. It may not be in place by 2020 but I am satisfied that we should have

achieved our targets in terms of getting to and beyond that €2.2 billion by then.

Mr. Seamus McCarthy: There has already been a long process here. It has taken time and we are monitoring it. I cannot say that it will or will not be delivered. That is really for the organisation to say.

Deputy Shane Cassells: Mr. Mulvany mentioned the monitoring and oversight of grants to outside agencies which involved the significant sum of €3.8 billion in 2016. He mentioned the compliance unit. Mr. O'Brien also mentioned the weakness in monitoring. What is the extent of the potential for monitoring? If we look at the Console situation, Mr. O'Brien made a particular point that this agency was held up to international acclaim because of the work that it was doing. Who was to know that such misappropriation of funds was happening, given that in its primary role it was held to such acclaim? The witness talks about weaknesses in monitoring and the oversight of grants. What is the potential extent of financial exposure to the organisation?

As for the change of approach since Console, I am aware Mr. Mulvany has noted that staff have been added, but has there been a change of approach as well, given what I have said about the work that Console was doing? The job they were doing primarily was acclaimed but the misappropriation of funds was happening on a different level.

Mr. Tony O'Brien: The Console case is a particularly interesting one from our point of view. Even looked at retrospectively, it is clear that the services we were buying were being provided and at a reasonable cost. We were a relatively small part of the overall Console picture. Even if we had put significantly more resources into the active monitoring of the delivery of the bit that we were funding, I do not believe that would have precluded, prevented or eliminated the risk. In the other part of its business, Console could have done whatever it was doing.

We interface with many section 39 agencies and are connected with them in respect of only a fraction of their businesses. We obviously do not have wider regulatory powers or authorities. As we discussed at the time, there was a particular dynamic there. This was an organisation that was getting a clean audit certificate from a registered auditor. If we were ever to conclude that we could not rely on such audit processes we would have a fundamental problem. However good we are at monitoring the use of our resources, it would not preclude the type of thing that happened in the other part of that organisation's business. I do not believe that the HSE can get into the business of seeking to regulate beyond what it is buying. Our focus is clearly on ensuring systematically that we are getting the service that we are paying for to the standard we expect and at a reasonable cost in those agencies with which we have a relatively small relationship in the context of their total size. That is why we have tended to have a tapered approach where we focus more attention on those that are public bodies, or section 38s, and those with who we have a substantial financial relationship, which is likely to be greater than 50% of their activity or represents a significant sum of public money beyond a certain threshold. We have a tiered approach.

We have established the central compliance unit, which has 12 staff members but our focus now is on ensuring that each of our nine community health organisations, CHOs, has developed within itself the effective capacity to monitor the grant agreements for which it is responsible. We do not believe, given the wide distribution of entities that we fund, that this is sensibly done at central level. It obviously must be done to central standard and with central oversight, but it must be done on the ground. If we are funding the project to which the Deputy referred, it will have a relationship with the relevant community health organisation and no one at the centre

will have particular visibility of that. It is really about developing capacity.

The CHO is a relatively new structure and needs capacity in a number of areas, of which this is one. In conjunction with the chief officers of those CHOs, we are currently carrying out a fairly intensive discussion to establish what they need to do their jobs most effectively and then we will have to go into the business of providing that to them.

Mr. Mulvany spoke of adding an extra 45 staff into the procurement department. That does take a little time in that we have to secure both the cash, the headroom and the prioritisation in order to do it. We are doing that against a background of competing priorities for staffing and so on.

Deputy Shane Cassells: I appreciate that there is not necessarily a change of approach, in that the HSE is still only focused on the aspect of the service it is getting and not the wider reputational aspect of an organisation.

Mr. Tony O'Brien: If we get information or have reason to believe there are questions of doubt or trust about the section 39 organisation then we will audit it or speak to the regulator of charities as appropriate. However, if we were to devote the requisite level of resources to go through compliance processes and audits with organisations about aspects of their business to which we are not connected, we would be diverting resources away from securing our resources in section 38 organisations and in organisations that we have a more material relationship with.

Mr. Stephen Mulvany: If we look at the practical realities of the numbers of organisations, there are more than 2,000 section 39 organisations. The legislation is quite clear and differential. Section 38 organisations are providing services for and on behalf of the HSE. In the case of section 39 organisations, we are making a contribution towards services they are providing that are aligned with our own objectives and goals. That does not mean that we are not interested in their governance, as the director general has said, particularly in the larger agencies. However, we are not the Charities Regulator. We are not the regulator of the sector. As one goes down the scale of the smaller organisations, to which we may still be giving substantial amounts of money as €200,000 is a substantial sum for most people, for us to get involved in effectively inspecting and auditing some of those is simply not practical. Several of the practices that have been reported in the media will not show up on a review of a set of accounts. It may or may not show up in an audit. In some cases they should show up. They may not show up even if there is the normal level of performance meetings with such an organisation per year. At €200,000 per year, our guideline requires one to three meetings per year. One will not necessarily pick up on the type of issues that have become systemic. That is why we have written to all the chairs of the boards to state that without wanting it to appear as though we are not taking responsibility for that for which we are responsible, the fundamental responsibility for ensuring there is good governance inside each of those 2,000 organisations lies with the boards of those organisations. They are the people who control it, not the HSE. That is without trying to avoid anything for which we are responsible.

Deputy Shane Cassells: I want to move on to the number of staff. I note from looking at the different employee statistics that there have been small increases in acute services, social care and so on. An aspect I want to touch on is those directly employed in home help. The numbers there have gone from 3,700 in 2014 to just 3,100 last year, which is a 14% reduction. One of the biggest issues coming across our desks relates to the quandary of people being approved for home care packages but not having the staff available to implement what was approved. Can the HSE expand on where the issue is with the reduction of the staff who are

directly employed in home help?

Mr. Stephen Mulvany: I do not have any specific information on the balance between directly employed and the number who are outsourced. We fund a large amount of home help provision through section 39 providers which do not appear in our own staff census numbers. We also fund the provision of home help through private for-profit or not-for-profit organisations. We are spending more money now than we were in the past on home help. If I am right, we are providing 10.5 million hours of home help albeit to 49,000 people. If one works that out, it is an average of four hours per week. That is not sufficient to meet the entire need and demand out there but it is the total level of resources that is available. There are issues in terms of getting sufficient staff numbers to provide hours. It is a combination of having reached the resource capacity or, where we have resources, a lack of available staff. We will provide directly or through a private actor.

Deputy Shane Cassells: I appreciate that. Can Mr. Mulvany explain why there was a significant reduction in the number of directly employed staff? While the HSE is also outsourcing the service, there is an issue if people are being approved for packages but cannot then get the actual home help.

Mr. Stephen Mulvany: I will have to come back to the Deputy unless Mr. O'Brien can answer.

Mr. Tony O'Brien: I would have to go back to get the full answer, but there has been a change in employment opportunity which has led to a reduction in the number of people available to be employed as home helps. However, that is not the full answer. We will give the Deputy a full answer to it.

Deputy Shane Cassells: I am just trying to find out because the HSE referred earlier to the cost of agency staff as opposed to the cost of those who would be directly employed.

Mr. Tony O'Brien: We do not use agency staff in that sense in the home help space. We have direct employment, external contracts or delivery through section 39. That is it broadly speaking. It is not an area that is amenable to agency employment like agency nursing in hospitals.

Deputy Shane Cassells: I touch on that issue of things the HSE funds but does not necessarily provide itself. It funds these services to ensure they are part of the health service. Mr. O'Brien mentioned the Supplementary Estimate in 2015 for disability services. Last week in my constituency of Meath the issue of adult disability services was a very prominent matter. It was covered extensively by the local media. The issues were location and transport funded by the HSE. The transport aspect was the toughest for the parents of the young adults involved. In some cases, young adults were on a bus for over an hour and three quarters during a journey which should only take 15 minutes. That was because of the route being taken. That was provided by a particular service provider who the HSE was funding. In the context of internal reviews of what the HSE is getting for its money, it is clearly unacceptable that young adults with intellectual disabilities are spending that long on a bus. They would be in Wexford more quickly than they were getting home. These are particularly vulnerable people.

Mr. Tony O'Brien: I am happy to take the details of that scenario and we will look into it.

Deputy Shane Cassells: I very much appreciate that as will the parents involved. One of the notes I saw related to the receipts from road traffic accidents which were on average €5 mil-

lion and indeed nearly €6 million last year. Can the HSE explain the nature of these receipts and the income generated from them?

Mr. Stephen Mulvany: If an individual is injured as a result of a road traffic accident and a driver of a car is held liable on foot of a claim, we will levy a charge in respect of those costs on the individual driver through his or her insurance company. Where there is a settlement, the hospital expects to get paid. That is provided for under legislation. It is €5 million or €6 million. If we add in the voluntaries which are not in our accounts, it is perhaps twice that for a full year. As such, it is a relatively small part of the overall income for hospitals.

Deputy Shane Cassells: If there is a liability on the part of a driver in a road traffic collision, the insurance company pays. An issue that pops up consistently is where the fire service co-ordinates with the paramedic service. This is ambulance dispatch units and their interaction with local fire services. In terms of the policy across the board, it seems to be a particular problem in my own county where there is a lack of synergy between agencies where ambulance dispatch units liaise with the fire service in road traffic collisions. There are instances in other counties where there is a good synergy. Can the HSE explain the problems relating to that?

Mr. Tony O'Brien: I do not have a grasp on the operational detail of that interface in Meath. I accept what the Deputy says but I do not have operational knowledge of it. Typically, all calls to the National Ambulance Service are routed through our national emergency operations centre and that centre liaises with the relevant control centre of each fire service. As Deputy Cassells is telling me there is an issue in Meath, I will certainly take that away. My experience generally is that the interface is good. Clearly, there is room for improvement in Meath and we will take that on board.

Deputy Shane Cassells: I ask for that. Local media covered this last month and the HSE was provided with a catalogue of incidents from my own home town of Navan as well as from Ashbourne and the northern part of the county, but no response was provided to the queries.

Mr. Tony O'Brien: Was that a media response?

Deputy Shane Cassells: Yes. I ask for that to be followed up because it is a recurring issue. Fire services in Meath have actually won international competitions. My own home town hosted an international competition only two weeks ago for road traffic collision teams. However, the synergy does not exist between the paramedics and fire services in Meath, which has been a particular source of irritation for the fire services.

Mr. Tony O'Brien: Is the Deputy referring to the utilisation of the fire service as emergency first responders?

Deputy Shane Cassells: Yes, at the scene of a road traffic collision.

Mr. Tony O'Brien: I will ask Mr. Ray Mitchell, who will be in touch with the Deputy after the meeting to get the details, and we will follow that up.

Deputy Shane Cassells: I appreciate that and thank Mr. O'Brien. I have a final question on the capital side. I noticed in the report that there were references to the Letterkenny situation, namely, how much was paid in insurance and the deficit that was left as a result. This is going somewhere else in terms of the broader capital plan. How will the deficit that was left be funded and what is its impact on other aspects of the capital plan?

Mr. Stephen Mulvany: I do not have the specific detail but in general terms the rebuilding of the hospital will cost more than the insurance claim provides. That is in part because we are rebuilding as new and in some cases better and expanded. As such, there will be a draw and it will be part of the overall prioritisation within the capital plan. If we spend it there rather than somewhere else, it will not be available for other aspects of the capital plan.

Deputy Shane Cassells: As such, there is no supplementary capital allocation by Government that would come out of the HSE's existing capital revenues.

Mr. Stephen Mulvany: It comes out of the rolling five-year capital that is available. As the director general indicated earlier, in previous years it had been hoped that we could move beyond the current level of capital and there is a mid-term review scheduled for either later this year, or next year.

Deputy Shane Cassells: Of the capital plan?

Mr. Stephen Mulvany: Of the overall Government capital plan, of which we receive a relatively small portion.

Deputy Shane Cassells: I have a question for Mr. Mulvany on that aspect of the money that is allocated for the capital plan. My particular interest in this regards the shelving or otherwise of the proposed regional hospital in Navan. In 2011, Deputy Regina Doherty, Minister for Employment and Social Protection as of last night, and Minister of State with responsibility for housing, Deputy Damien English, extensively highlighted that this would be built within five years. This open pledge was made on the front pages of newspapers in my constituency a week before a general election in 2011. That is a statement by them, I do not expect Mr. Mulvany to comment on that. In the context of that very public pledge, however, I ask Mr. Mulvany if there was ever any attempt to ascertain the particular resources available to the HSE to implement such a pledge.

Mr. Stephen Mulvany: I would have some past experience from previous roles with this. There have never been resources available within the overall capital plan nor a specific policy decision to build a hospital there, nor the working out of the possible implications that would have for other hospitals in the region. The reason that hospital was first mooted was as an all-encompassing level 3 or level 4 hospital for what was at the time covered by five hospitals in the north-east region. There are things that come with having a single large hospital that are not yet visible in policy and certainly not funded in a region such as that, which would have implications for the other hospitals. Those issues have never been fully resolved. I will not comment on the Deputy's-----

Deputy Shane Cassells: I am only asking in the context of any money having been allocated to it, for its construction, or costed.

Mr. Stephen Mulvany: Certainly, no, there was never any money available for its construction or allocated because it would have to go through a number of steps first, which the director general had mentioned in general terms. I do not believe it has ever proceeded through any of those steps.

Deputy Shane Cassells: Since then, there has also been a reconfiguration of the areas which I presume has a natural impact. I have asked parliamentary questions about this. Is there any plan whatever for a regional hospital or is it dead, given first, the reconfiguration and second, what Mr. Mulvany has said about there not having been any funding set aside for it?

Mr. Stephen Mulvany: I am not aware of any plan for that regional hospital. I may not be aware of it. I am aware that Navan hospital is in a different hospital group. The hospital groups are largely contained in a report which we would consider to be Government policy. Navan sits in the Ireland East group and the other hospitals in what was the north east are in the RCSI group. Whether that mitigates against a hospital in the future or not, I cannot tell.

Deputy Shane Cassells: As I said, the response from the Minister for Health, indeed the last three Ministers for Health since that pledge was made was that there were no plans for any such hospital. Given that, could I get a note on the potential for the development of the five acres beside Our Lady's Hospital in Navan which the HSE acquired from Meath County Council some 16 years ago? It now lies idle. It is derelict and unsightly. It is an extensive site in the middle of a town. The HSE purchased it in 2001, and has owned it for 16 years. Has it any plans to develop those five acres that adjoin the hospital?

Mr. Tony O'Brien: I will provide the Deputy with that note.

Chairman: We are now on our second round. I call Deputy Connolly.

Deputy Catherine Connolly: I want clarification on a number of matters. I forgot one matter relating to note 17 and the big change in the figure for pharmaceutical manufacturers for 2016 compared with 2015. I did not understand it. Could Mr. Mulvany please explain it? It relates to pharmaceutical manufacturer debtors. The figure seems to jump.

Mr. Stephen Mulvany: This is the rebate that is due from the pharmaceutical manufacturers, in this case between those who are members of IPHA, the pharmaceutical association, under the IPHA agreement that commenced on 1 August 2016. We, the Department and the Department of Public Expenditure and Reform have had a series of rolling three or four year agreements with the pharmaceutical suppliers who are members of IPHA. The latest agreement commenced on 1 August 2016. It provided for additional rebates, effectively additional price discounts.

Deputy Catherine Connolly: Is this money due and owing to the Health Service Executive?

Mr. Stephen Mulvany: It is, that is what I am saying. This is money that is coming to us as a rebate. It is effectively a price discount paid after we purchase. Because the amount of those rebates has increased the amount owing to us at any period of time is increased. Broadly it is a good thing. It normally is not a good thing if one's debtors are going up but this is broadly good.

Deputy Catherine Connolly: When will the HSE receive that?

Mr. Stephen Mulvany: Typically, it will flow in a month or two afterwards - in this case, 31 December 2016.

Deputy Catherine Connolly: Can I ask Mr. O'Brien about Resilience Ireland, the company that did the review for him? There was a Mr. Crowley involved in that.

Mr. Tony O'Brien: Sorry?

Deputy Catherine Connolly: A Mr. Gerard Crowley.

Mr. Tony O'Brien: Yes.

Deputy Catherine Connolly: A social worker.

Mr. Tony O'Brien: I do not know his profession.

Deputy Catherine Connolly: It is not significant.

Mr. Tony O'Brien: I know who you mean.

Deputy Catherine Connolly: Does he sit on a health board risk committee?

Mr. Tony O'Brien: He did but no longer does.

Deputy Catherine Connolly: When did he sit on the risk committee?

Mr. Tony O'Brien: He sat on the risk committee until about February 2016.

Deputy Catherine Connolly: February 2016.

Mr. Tony O'Brien: I think it is in one of the schedules in the report.

Deputy Catherine Connolly: I saw his name, or a saw a name on the report but it is a doctor. The person on the risk committee is one and the same person.

Mr. Tony O'Brien: If it is the person on the risk committee then yes, the other man is a different chap altogether.

Deputy Catherine Connolly: What is the figure for patients going abroad for treatment? What has been the take-up on that scheme?

Mr. Tony O'Brien: There are two different schemes. There is the treatment abroad scheme which is the traditional route, so to speak, and then there is the new cross-border scheme. I do not know if the figures are in the report.

Deputy Catherine Connolly: I did not see them. They did not jump out at me.

Mr. Tony O'Brien: We can get that figure for the Deputy if it is not there.

Deputy Catherine Connolly: Under the two.

Mr. Stephen Mulvany: For this year the approved allocation for overseas treatment, which includes both of the schemes mentioned by Mr. O'Brien, is €14 million.

Deputy Catherine Connolly: A sum of €14 million is what has been approved.

Mr. Stephen Mulvany: That is the total budget that we have available.

Deputy Catherine Connolly: To spend on patients going abroad.

Mr. Stephen Mulvany: Yes.

Deputy Catherine Connolly: What was it last year?

Mr. Stephen Mulvany: I believe it was something similar. At the end of the first quarter we have spent €3 million and the budget was €3.5 million, so it is slightly under budget.

Mr. Tony O'Brien: We will get the Deputy a figure for last year.

Deputy Catherine Connolly: Okay. On lands and rented lands, I looked at the HSE's premises. It is renting a substantial number of premises.

Mr. Stephen Mulvany: We would, yes.

Deputy Catherine Connolly: What is the figure? I had it out but I have lost it.

Mr. Stephen Mulvany: Does the Deputy mean the amount of rent that we are paying?

Deputy Catherine Connolly: Yes. The witnesses have given me the number of buildings which are leased. It is note 23.

Ms Mairéad Dolan: If one looks at note 23 - property - it says the HSE estate comprises 2,459 properties.

Deputy Catherine Connolly: And the leasehold is 899.

Ms Mairéad Dolan: It is 899 in 2016.

Deputy Catherine Connolly: What is the figure for that?

Ms Mairéad Dolan: The leasehold rent will be included in the operational expenses. If the Deputy will bear with me, I cannot recall exactly which analysis that is in but I will find it in a second. It should be in note 8. Note 8 has the non-pay expenditure.

Mr. Stephen Mulvany: The total for office expenses including rent and rates is €181 million.

Deputy Catherine Connolly: It is €181 million.

Mr. Stephen Mulvany: It is €181 million. That is office expenses including rent and rates. I will see if we have a rents-only figure.

Deputy Catherine Connolly: Can Mr. Mulvany come back to me with that? It is a colossal amount of rent.

Mr. Stephen Mulvany: In terms of an organisation that has 70,000 staff, is it?

Deputy Catherine Connolly: I think so. I have seen many premises rented in Galway city in my time. We had to fight to stop the leasing of more premises, including a finance office opposite the hospital in the private sector. At no stage were buildings built. I forget the figures but they were astronomical. Such was the high rent being paid for a premises on the Seamus Quirke Road that it was in the interests of the health service to break the lease and pay a penalty of approximately €1 million. That is an example from the past and I acknowledge the position has changed. The number of buildings leased and rented was a waste of money. Mr. Mulvany indicated it is not a waste of money given the number of staff. How many primary care centres are included in the figure?

Mr. Stephen Mulvany: We would have to check how many of those are rented.

Deputy Catherine Connolly: These are important figures because, to take the example of Galway again, I understand the Health Service Executive is paying €250,000 per annum to rent the building that houses the primary care centre recently opened on the east side of the city.

Mr. Tony O'Brien: We would be very happy to provide the Deputy with all that level of

detail but it is-----

Deputy Catherine Connolly: Okay. To return to policy, why is the HSE not building primary care centres as opposed to paying out money in rent, including a minimum of €250,000 in the case I mentioned?

Mr. Stephen Mulvany: We are building primary care centres. We have built, I believe, 100 primary care centres.

Deputy Catherine Connolly: Were they directly built?

Mr. Stephen Mulvany: They are either directly built or built through public private partnerships but typically through general capital.

Deputy Catherine Connolly: I am asking about direct build of a Health Service Executive owned premises as opposed to paying-----

Mr. Stephen Mulvany: I am answering. What I am saying is that we have provided 100 new primary care centres which we have either bought with capital or built through capital by getting someone to build or we have used a public private partnership, which has the same result. It means a building is built or is provided.

Deputy Catherine Connolly: It is not the same result. To use the example of Galway again, an annual rent of €250,000 is being paid by the Health Service Executive.

Mr. Tony O'Brien: That is not a PPP.

Deputy Catherine Connolly: A rent of €250,000 is being paid from public money.

Mr. Tony O'Brien: One does not pay rent under a PPP. One pays a unitary charge.

Deputy Catherine Connolly: I did not say anything about a PPP. I am referring to primary care centres. The simplest thing the HSE could do is provide me with a list of the primary care centres that have been rolled out, indicating whether the HSE owns them directly, whether they have been procured under a public private partnership and will eventually revert to the HSE or whether they are owned by private consultants or a private group to which we pay rent. That is all I want from the HSE.

Mr. Tony O'Brien: We can provide that.

Deputy Catherine Connolly: Lovely. I have tabled parliamentary questions on a case involving physiotherapy services. I want the witnesses to respond specifically and generally to the example I will give. A person retired from or left a physiotherapy post in An Cheathrú Rua i gCroílár na Gaeltachta. We received a series of letters indicating the post would be filled in due course. Subsequently, either last week or the week before last, we were informed the matter was with the national office in Dublin. The national office then decided the post would not be filled and people from Connemara could travel to Galway city for physiotherapy if they were in the priority 1 category. We could forget about patients in priorities 2, 3 and 4, however. Does the HSE stand over this decision involving a vital physiotherapy post in the heart of the Gaeltacht? I am informed that when a post remains vacant, as in this case, it is eliminated because it has not been filled.

Mr. Stephen Mulvany: We would have to check the individual circumstances, which we

will do. It would probably be unreasonable to try to comment on one individual post out of our 70,000 staff.

Deputy Catherine Connolly: I understand that. There are two points here.

Mr. Stephen Mulvany: The Deputy asked a specific question which would require a specific answer.

Deputy Catherine Connolly: I have received an answer indicating the HSE will not fill the post.

Mr. Stephen Mulvany: The Deputy asked whether we were standing over the decision. She asked a specific question and we will give her a specific answer to it. It is just not possible to stand over it now because we do not know the details in terms of what decision was made and what was the rationale for it. We will check that and revert to the Deputy if that is okay.

Deputy Catherine Connolly: Let me stick with this issue for a moment. For months, I received correspondence indicating the post would be filled. Approximately two weeks ago, I was told a decision had been made at national level not to fill the post as there was no money or resources available and that patients from Connemara could go into Galway city.

Mr. Stephen Mulvany: I heard the question and we will get the Deputy a specific answer as to whether we stand over that or not.

Deputy Catherine Connolly: Is there a lack of resources to fill the post?

Mr. Stephen Mulvany: I did not hear that question.

Mr. Tony O'Brien: The reality is that on a point of detail like that, we could not possibly have that level of knowledge.

Deputy Catherine Connolly: Let me ask a general question. When a post remains empty does a policy kick in whereby the post will no longer be filled and that is the end of the post? Is that a national policy?

Mr. Stephen Mulvany: There is no general policy, but if a post remains vacant for a long period of time, that is generally because some decision has been made to prioritise the resource for some other post. We reprioritise posts and that means some posts will be lost or will not be filled again unless they are funded as new development posts.

Deputy Catherine Connolly: How are they funded again?

Mr. Stephen Mulvany: A case has to be made for them and if we can secure additional funding for them, we can fund them again. It is normal practice that we have to prioritise posts from time to time.

Deputy Catherine Connolly: That response is like reading something from Kafka, an author who is very difficult to read. A post in Connemara has disappeared and will not be filled. People have been told to travel to Galway city and I asked Mr. Mulvany whether there was a policy in place. He said there was if a post was not filled after a certain period of time.

Mr. Stephen Mulvany: That is not what I said.

Deputy Catherine Connolly: What did Mr. Mulvany say in that case? I am open to cor-

rection.

Mr. Stephen Mulvany: As long as my answer does not cause another Kafkaesque remark.

Deputy Catherine Connolly: It may well cause one actually.

Mr. Stephen Mulvany: If I can answer the Deputy's question, there is no general policy that says just because a post is vacant, it is gone. There is a general requirement for any organisation in the public service to look at its overall posts. I am not talking about the specific post raised by the Deputy. We said we would give the Deputy a specific answer to her specific question. There is a general requirement on us, on behalf of the public, to use the resources and to look at posts and reprioritise posts from time to time. That always works out well and is positively received by whoever we reprioritise a post in favour of and never by those who we reprioritise it against. That is the general reality of living in a constrained resource environment.

Deputy Catherine Connolly: Let me try just once more.

Mr. Stephen Mulvany: Is that clear?

Deputy Catherine Connolly: No; I am still reading Kafka actually. Let us take the circumstances again. In a setting in Connemara in the heart of the Gaeltacht there is one physiotherapy post providing services to that area. The therapist leaves the post for some reason and it is decided the post will not be filled. Can the HSE stand over a decision like that?

Mr. Tony O'Brien: We have already said, and I will make it absolutely crystal clear, that there is absolutely no value in members of the committee seeking answers to questions like that on the hoof. There is no value. If the Deputy, at any point prior to this, had wanted that answer, she could have contacted us directly and we would have dealt with it.

Deputy Catherine Connolly: I did.

Mr. Tony O'Brien: However, trying to deal with it-----

Deputy Catherine Connolly: I have raised this repeatedly.

Mr. Tony O'Brien: The Deputy has never raised it with me.

Deputy Catherine Connolly: Mr. O'Brien-----

Mr. Tony O'Brien: Please, Chair, may I answer?

Chairman: Yes, through the Chair.

Mr. Tony O'Brien: There is no added value for members in raising individual cases like that which I could not possibly have known about or consider now. I am always open to members giving advance notice to deal with matters directly. There is no necessity to wait until I am before them.

Deputy Catherine Connolly: I hear what Mr. O'Brien says. I am making a general point in relation to a Gaeltacht area and a-----

Mr. Tony O'Brien: No; the Deputy is asking me whether I will stand over a specific decision and I refused to give her an opinion on it because I do not have enough information.

Chairman: Will Mr. O'Brien supply a written answer?

Mr. Tony O'Brien: That is what we said three times.

Deputy Catherine Connolly: If Mr. O'Brien could listen, please.

Mr. Tony O'Brien: I have been trying.

Deputy Catherine Connolly: I am asking a general question about an essential service in a Gaeltacht area. Mr. O'Brien might bear that in mind when he answers it in written form. I have pursued this issue through correspondence and parliamentary questions since last August. That is that.

I will return to whether the health service has adequate funding and the collateral damage of having people on trolleys and long waiting lists. I left this room to take a telephone call, which is very unusual for me. The details of the call were that virtually for the fourth week in a row, a person has been refused admission to the psychiatric unit in Galway, threatening serious harm to himself or herself - I will not identify the person. This is the fourth week in a row that patients - it has been a different person each week - has been refused admission. Again, I am not asking the witnesses to comment on a specific person. This is, however, an ongoing saga in the psychiatric unit in Galway, which is not fit for purpose and is refusing seriously ill people admission.

I started off my contribution by making a point with which I will also finish. How can Mr. O'Brien stand over a health service with its budget which is literally turning people in crisis in Galway city away from the door? Has this matter been brought to his attention in recent weeks? Have urgent representations been made to him? Is he aware that the Mental Health Commission has taken the unusual step of going back into the hospital following its annual visit?

Mr. Tony O'Brien: The Deputy has asked a multi-part question. As to whether I am specifically aware that someone was refused admission this morning, last week or the week before, the answer is "No". As to whether I am aware there is engagement between the mental health division and the Mental Health Commission in respect of Galway, the answer is "Yes".

Deputy Catherine Connolly: Is Mr. O'Brien aware that Galway is in an acute crisis where it is being forced to not admit people?

Mr. Tony O'Brien: I am aware our mental health service is challenged in a number of locations. I am not going to speak about Galway in particular but we do have an issue with our mental health service capacity which is very acutely connected to our capacity to recruit mental health professionals.

Deputy Catherine Connolly: At the moment there is collateral damage because people cannot get admission to a psychiatric unit in a centre of excellence. Is that something they just have to put up with?

Mr. Tony O'Brien: I keep hearing the term "centre of excellence"-----

Deputy Catherine Connolly: That is what it has been called by the HSE.

Mr. Tony O'Brien: No, we do not use that term.

Deputy Catherine Connolly: It has been used repeatedly at the health forum in Galway. In any event, let us not argue over a term, although it has been used repeatedly. That is the position in Galway and Mr. O'Brien is fully aware of it.

Mr. Tony O'Brien: The term was first used in relation to cancer care services. It is not a generalised term that relates to Galway or anywhere else. Anywhere that purports to be a centre of excellence is asking for trouble.

Deputy Catherine Connolly: That is right.

Mr. Tony O'Brien: Health services should always be improving, never satisfied and always changing, and calling oneself a centre of excellence is just daft.

Deputy Catherine Connolly: It is certainly daft that in a health service with a budget of almost €15 billion, a psychiatric service is refusing to admit patients as we speak.

Mr. Tony O'Brien: I will take Deputy Connolly back to the first conversation we had in this part of the meeting-----

Deputy Catherine Connolly: We did not have a conversation.

Mr. Tony O'Brien: We did, actually.

Deputy Catherine Connolly: I posed some questions, actually.

Mr. Tony O'Brien: In most civilised environments when two people talk to each other, they regard it as a conversation.

Chairman: Okay-----

Deputy Catherine Connolly: Can I get my last question in, please? My last question relates to the nursing homes scheme. I have looked at it and I thought-----

Mr. Tony O'Brien: Is the Deputy referring to a particular nursing home?

Deputy Catherine Connolly: No, the general scheme that replaced the subvention.

Mr. Tony O'Brien: The nursing homes support scheme, known as the fair deal scheme.

Deputy Catherine Connolly: Or the unfair deal, on occasion. I am confused about it. There is a charge on one's property of up to 7% for a maximum of three years, and one can opt into that as a way of paying for nursing home care. Eventually, when the property is sold, the money is paid. Is that right?

Mr. Stephen Mulvany: As I understand the scheme, it is 7% per annum for a maximum of three years. The last time we were here, there was a bit of a debate as to exactly how it operates.

Deputy Catherine Connolly: Yes, it works out at 21%. That is something a person can opt into if he or she has property or assets. Is that right?

Mr. Stephen Mulvany: Yes.

Deputy Catherine Connolly: There is also a loan scheme, but is that the same thing? I read here in the-----

Mr. Stephen Mulvany: I have reached the limit of my knowledge on that one.

Mr. Tony O'Brien: I refer the Deputy to the written briefing of 9 March-----

Deputy Catherine Connolly: I have read it-----

Mr. Tony O'Brien: -----which I think makes this reasonably clear. A person's contribution is based on 80% of his or her assessable income and 7.5% of the value of any assets.

Deputy Catherine Connolly: Yes, I understand that. My question is whether I am mixing up two things. Is there the option of the charge on one's property of up to 21% and a separate loan scheme or are they one and the same thing?

Mr. Tony O'Brien: We will come back to the Deputy on that because I do not want to answer it on the hoof. There is a nursing home loan-----

Deputy Catherine Connolly: That is fine; I will await the answer. I am confused myself. In terms of the nursing homes themselves, as I understand it, 80% are private and only 20% are public. Does the HSE have that statistic?

Mr. Tony O'Brien: Yes.

Mr. Stephen Mulvany: Yes, that is right.

Deputy Catherine Connolly: Is there a policy in terms of what the proper balance should be? Is the HSE happy with the 80% to 20% ratio?

Mr. Stephen Mulvany: Our view is that we would not want to see the public element go below its current percentage. We feel there must always be public nursing home provision. Part of the reason for public nursing homes costing more than private ones is that the former take higher dependency, ill elderly patients. We feel that the ratio should not fall any further.

Deputy Catherine Connolly: Is there a policy document somewhere on that? Is there a paper on it? Where is the HSE getting its 20% to 80% figure?

Mr. Tony O'Brien: It is a mathematical equation based on counting the number of beds, that is, those that we have ourselves and those that we buy from the private sector.

Deputy Catherine Connolly: That is what it comes to but who made the decision that the ratio should be 80:20 as opposed to, for example, 50:50?

Mr. Tony O'Brien: I do not think anyone made such a decision. There was an incentivised scheme - one of a number of capital tax incentive schemes - which assisted the development of private nursing homes-----

Deputy Catherine Connolly: I understand all that and I know what has happened. I am asking if there is a policy anywhere.

Mr. Tony O'Brien: What I am saying is that I do not believe anyone anywhere said that as a matter of policy, there should be an 80:20 split. I do not believe that happened.

Deputy Catherine Connolly: Yes, but the HSE has decided that, as a matter of policy, public provision should not fall below 20%.

Mr. Tony O'Brien: No.

Mr. Stephen Mulvany: The HSE does not decide policy. The HSE's view is that it should not go below the current percentage.

Deputy Catherine Connolly: Has the HSE fed that back to the Minister?

Mr. Stephen Mulvany: I am sure the Department is well aware of that view.

Deputy Catherine Connolly: Has the HSE fed it back to the Minister for Health? Has it relayed to him the view that the 80:20 ratio should stand and that public provision should not go below that critical point?

Mr. Tony O'Brien: We are less concerned about percentages than the number of beds we have *vis-à-vis* the number of people who need them. This is going to change over time. The fixed percentage is less relevant than a view on the acuity in relation to the size of a growing population that will need long-term nursing home care.

Deputy Catherine Connolly: Mr. Mulvany referred to the 20% and that is the critical point.

Mr. Stephen Mulvany: Yes. Deputy Connolly asked if we were happy with that percentage. We do not think it would be good for public provision to go lower, but that is not a statement of policy. That is an answer to a question.

Chairman: Deputy Cullinane is next.

Deputy David Cullinane: Go raibh maith agat. I will be as brief as I can because I am hosting a public meeting tonight on the future of cardiac services in the south east. I will be sure to give Mr. O'Brien a mention.

Chairman: Mr. O'Brien can now understand the value of members raising local issues at meetings. Even if Mr. O'Brien does not have an answer now, there is a value in raising these issues.

Deputy David Cullinane: Mr. O'Brien has been given a tour of the State today, from Galway, through Cavan and on to Waterford. First, health care is one of the most emotive issues for people. We are public representatives and we deal with people every day, and I am sure Mr. O'Brien respects that. Issues relating to mental health services capacity, supporting children with disabilities, patients lying on hospital trolleys and people waiting longer than 18 months for an outpatient appointment are real. They are not imagined, so when we put questions that are robust, it is because people expect us to hold those who are responsible for the provision of health care to account. They expect us to do that. If we do not do that, we are not doing our job. The robustness of our questions, while it might frustrate Mr. O'Brien at times, is driven by the fact that people expect it. Unfortunately, as Mr. O'Brien has said himself, the health service is not perfect. There are people who are not getting the quality of care they need because of systemic problems in the health system. I am just offering that up as an observation and I hope Mr. O'Brien can accept it as it is intended.

I will now move to the issue of supporting children with disabilities and early intervention. Again, I gave Mr. O'Brien prior notice that I was going to raise this and a number of other issues. I have to give Mr. O'Brien a local example because that is what I am familiar with, but it helps to frame the issue in a national context. There are two different levels to the service provision for children with disabilities. Early intervention is for those from birth to six years and then there is the service for six to 18 year olds. Is that correct?

Mr. Tony O'Brien: Correct.

Deputy David Cullinane: In Waterford and Wexford at the moment we have had a situation for some time whereby diagnostic assessments are not being carried out appropriately because the HSE does not have the staff to do them. The HSE has had to buy in child psychology services to enable some of the diagnostic assessments to be carried out because of the lack of staff. Is Mr. O'Brien aware of that?

Mr. Tony O'Brien: Yes, but it is not just in Waterford.

Deputy David Cullinane: Exactly. The problem is that there is a shortage of child psychologists. Is that correct?

Mr. Tony O'Brien: Yes, and there is a shortage in other disciplines.

Deputy David Cullinane: I asked about child psychologists. Is there a shortage of child psychologists?

Mr. Tony O'Brien: There are a number of vacancies, yes.

Deputy David Cullinane: There are not just vacancies. There is a difficulty in recruitment in that area.

Mr. Tony O'Brien: That is my way of saying the same thing.

Deputy David Cullinane: That last response typifies Mr. O'Brien's engagement with members of this committee. I am not being overly adversarial. I am just anxious to ensure that when I ask a direct question, it is answered in the way it was put. That is the point I was making earlier-----

Mr. Tony O'Brien: Yes, but the consequence of the shortage is vacancies.

Deputy David Cullinane: Thank you. There are difficulties in recruitment. I had a meeting recently, as did other Oireachtas Members, with the HSE's disability team in Waterford which covers both Waterford and Wexford. The team told me there are not enough training places for child psychologists. The training places are provided by Trinity College, UCD and UCC in the main. There are 50 placements which are all full every year, and that is where one of the problems lies. What action does the HSE take and what interaction is there between it and education or training providers to make sure that when these problems arise and it finds that it cannot recruit or that there are not enough places, there are more placements to make sure the medium to long-term solution is in place? Will Mr. O'Brien address that issue first?

Mr. Tony O'Brien: There is an interdepartmental process between the Department of Health and the Department of Education and Skills for workforce development and workforce supply. It seeks to match our future requirements for various health care professionals with access to programmes developed in the education sector. It is slightly different for medical professionals. We do this on a direct basis with the training scheme providers. For others, largely developed through the third level education sector, allied health professionals and so on, it is the Department of Health that takes the lead.

Deputy David Cullinane: Therefore, there is synergy and information that would flow from the HSE to the Department.

Mr. Tony O'Brien: Yes. The long-term and short-term supply of health professionals here and globally is a huge issue in that we know, given the increase in demand both here and other

jurisdictions, we are heading towards a very significant shortage of all health care professionals unless we increase the pipeline supply.

Deputy David Cullinane: Does Mr. O'Brien know how many child psychologist positions there are in Waterford and Wexford?

Mr. Tony O'Brien: Off the top of my head, I do not.

Deputy David Cullinane: It is 2.6. Since there are only 2.6 positions, the staff are not in a position even to provide the service for those aged between zero and six years of age.

Mr. Tony O'Brien: The problem is not unique to Waterford. I look at it through a national lens. There is a very significant issue with access to assessment, early intervention and associated therapies. It is for that reason we have recently put together a cross-divisional team to examine how we deploy our resources and their totality across all early intervention services. It would have some relationship with autism but not exclusively.

Deputy David Cullinane: Is Mr. O'Brien aware that, for those children with complex needs aged between six and 12 years, there is no child psychology service in Waterford and Wexford?

Mr. Tony O'Brien: I would not have been specifically aware of it in the case of Waterford any more than any other location, but I am aware that we have a national problem with access to both diagnosis and therapies. There is a two-pronged approach. For our part, we have initiated an operational review to look at how well, or otherwise, we are using our resources. For its part, the Department of Health, on behalf of the Minister for Health who was recently reappointed, has set up a policy review. The two reviews will dovetail in a process designed particularly to improve early diagnosis and access to relevant interventional and supportive therapies, recognising that we have a national deficit in that area.

Deputy David Cullinane: I am not expecting Mr. O'Brien to be aware of the detail in every locality, but I will give him some figures because I am building a picture. I have been told by Mr. O'Brien's staff that those aged between zero and six years are waiting on average for 18 months to see an occupational therapist and that those aged between six and 18 years are waiting three years. The number of dietician posts is 0.5 in Waterford and Wexford. There is a shortage of physiotherapists. I am being told that children aged from zero to six years in need of early intervention are simply not receiving the services they should be receiving in parts of the country because of capacity problems. There are some services for those aged between 16 and 18 years that are not being provided at all. What I am trying to figure out is if this is an ongoing problem in terms of recruitment, how it is not being addressed. It has been ongoing for years. I have been hearing about these problems for years and I am trying to figure out what funding solutions are being put in place and what policy solutions are in place to deal with them.

Mr. Tony O'Brien: On policy solutions, the Deputy will have to ask the Department of Health.

Deputy David Cullinane: The HSE is tasked with implementing them. Has it been given policy solutions?

Mr. Tony O'Brien: I think I have just mentioned that we have a twin-track process under way. The Department, on behalf of the Minister, Deputy Simon Harris, is looking at the potential impact of revised policy on improving our performance this year. For our part, we are

looking at the way we organise the distribution of resources, the total quantum of resources and the model of care to try to use the resources we have available in a better way, but also to-----

Deputy David Cullinane: I assume Mr. O'Brien is somebody who is always open to advice.

Mr. Tony O'Brien: The Deputy knows that to be the case.

Deputy David Cullinane: One of the pieces of advice I was given by HSE professionals who work in this area in the part of the country in which I live is that staff resources, be it in the areas of speech and language therapy, occupational therapy and child psychology, are not actually based on need. For example, there are no baseline staff numbers based on need; therefore, there is no stipulation that we need X number of child psychologists per X number of children in need. It is all based on existing staff posts, which is why we have a problem in some parts of the country. In Waterford there are 2.6 child psychologist posts. Is that part of the problem? The professionals are telling me that, in other areas of the mental health service, this is not the case and that the numbers are based on baseline need. In these areas, however, it is not.

Mr. Tony O'Brien: Early intervention is not part of the mental health service.

Deputy David Cullinane: That is the distinction I made. I am saying I am being told that in A Vision for Change there was a change made based on X number of staff for X number of people in need.

Mr. Tony O'Brien: That is right

Deputy David Cullinane: That is not the case in terms of early intervention.

Mr. Tony O'Brien: It came with both a clearly articulated, evidence-based policy and a funding and resource stream to match the implementation of the policy. The area about which we are talking has not yet had the benefit of that kind of intervention.

Deputy David Cullinane: Would it benefit from it?

Mr. Tony O'Brien: It would. If we were to add the totality of need and supply nationally, talking about the match between needs and supply, we would note that they would not match. In addition, there would be variable disparities in terms of how big the mismatch would be in different parts of the country, but I do not believe it is the case that there is anywhere which is over-resourced and other places which are under-resourced. Universally, it is a story of under-provision. I do not think we find ourselves on any point with a different analysis in that respect.

As in the case of the national cancer strategy and A Vision for Change, one needs an operational approach and a public policy position agreed to by the Government, the Oireachtas and so on that is evidence based, leads to a clear policy, matched either by reprioritised funding or new funding and which can then be operationalised over a given period in the health service. Where we have done this, we have seen significant improvements.

The Deputy mentioned an 18-month wait. In order that we are clear that we are on the same page, let me state that when I became director general, we were measuring them out to four years. I am very keenly aware of the importance of improving the way the health service performs. That is the reason I am doing the job. I do not have a problem with robust questions. My issue was being asked about things so specific that I could not possibly answer, which the Deputy has not done.

Deputy David Cullinane: I appreciate that. I thank the Chairman for his patience. As I have to hit the road to get to a meeting on time, I will ask my final question.

I have been asked to ask Mr. O'Brien this question by somebody in University Hospital Waterford. I asked him about the deployment of a mobile cath lab. Has the chief medical officer in the Department given approval for its deployment and does that person need to give such approval?

Mr. Tony O'Brien: That person does not need to give such approval.

Deputy David Cullinane: Therefore, it was not needed.

Mr. Tony O'Brien: No. The chief medical officer's position is not an executive one.

Deputy David Cullinane: I thank Mr. O'Brien.

Deputy Catherine Murphy: With regard to the various therapy services, including speech and language therapy, occupational therapy and psychological services, some years ago the public service cap on recruitment was lifted to provide staff for these services. There were approximately 210 posts nationally and the calculations were made based on the level of provision nationally. I have a very strong memory of it because, of the 210 posts - I think it was 210 - nearly 60 were in my area, which demonstrates that an area which is growing will be catching up. It is not very surprising that that is the profile. Are all of the posts permanent? Were they filled? Are there associated vacancies? Has the process been repeated?

Mr. Tony O'Brien: The new posts were designed to be permanent. We do take an adaptive approach. Sometimes, believe it or not, the offer of a permanent contract can scare somebody off. If they will only accept - I know it is bizarre - what they regard as a temporary contract, that is what they get, but the post itself is permanent. My understanding is that those posts were all initially filled and there will have been turnover. They are part of the core estate. We can check that.

Deputy Catherine Murphy: The funding is essentially there for it.

Mr. Tony O'Brien: Yes. They were fully funded new service developments.

Deputy Catherine Murphy: Is it repeated?

Mr. Tony O'Brien: It is in the base.

Deputy Catherine Murphy: The population growth is a dynamic thing.

Mr. Tony O'Brien: When I use the word "repeated", it does not mean it happens again. If the staff establishment is increased through a new service development by ten, 20 or 50, it remains increased by that. It does not go up again by 50 the next year unless there is a policy decision to do so.

Deputy Catherine Murphy: So the HSE would really need to look at changes in demographics from the census of population and matters of that nature. It is not necessarily factored in.

Mr. Tony O'Brien: No. When we look at the annual budgeting process - obviously there are various agreements in place in this Oireachtas to move to a longer-term planning horizon rather than an annual planning horizon for the health service - the way in which the simple cost

of meeting the increased demand through demographic change is dealt with is an issue from our point of view. Then, of course, there is how one funds and plans for new service developments on the side of that. Often those things are competing with each other.

Deputy Catherine Murphy: I had conversations with several people who are seeking these posts and who are on panels. Mr. O'Brien is saying there will be a problem with attracting people in the future. There is already a problem. It does not seem a very satisfactory arrangement for people who are seeking posts.

Mr. Tony O'Brien: Does the Deputy mean panels?

Deputy Catherine Murphy: Yes.

Mr. Tony O'Brien: A panel simply means that they were qualified for appointment but they were not high enough up the list to get one of the existing vacancies.

Deputy Catherine Murphy: One panel had approximately 200 clinical psychologists on it. Before that panel is exhausted, a new panel is opened up. From an administrative point of view, it seems incredibly wasteful.

Mr. Tony O'Brien: That sounds unusual. Panels have a particular lifetime attached to them. It is usually a year or two, is it not?

Mr. Stephen Mulvany: It would be unusual to have a panel for the same post for the same region before that one has expired to replace it with a different one. Unusual-----

Mr. Tony O'Brien: I think the phrase used was "exhausted", which I take to mean there were still people on that panel who had not yet got jobs, but it may have expired timewise.

Deputy Catherine Murphy: So it is time dependent.

Mr. Tony O'Brien: Yes.

Deputy Catherine Murphy: I did not really even mean to ask those questions. I had a number of other questions I wanted to ask.

Obviously, the history of the health boards goes back to the mid-19th century. Change has been incremental. There still appears to be a great deal of fragmentation in the HSE. It can be quite difficult to find services or even figure out funding. I recently put a question to every Department about the hiring of private investigators - it does not matter that that was the subject. It is a good way of testing to see how effective it is. The one organisation that has been most difficult to get responses back from has been the HSE. I first tabled the question in April. Following email exchanges, we narrowed down the question. We were told there were seven different ledgers. We narrowed it down again and now, in mid-June, we have gone back with another question. That is my experience of how hard it is to find information. There is certainly a dysfunction in being able to retrieve information, including financial information, because this related to a payment. I know it is necessary to invest in administrative systems in order to save time, etc. Using this as an example, what needs to change to pull that together? What is happening? What is the investment?

Mr. Tony O'Brien: I thank the Deputy for that question. In 2003, Professor Niamh Brennan published her report, known as the Brennan report. It was one of two reports that gave way to the establishment of the HSE. The Brennan commission's report was a report into the

financial systems essentially. I suspect the Chairman probably read it carefully at the time. It pointed out a number of things. It outlined the financial systems that would be needed to provide effective information flows and financial control in a nationally organised health service. In parallel with that, the Prospectus report was published. This was the one that recommended the establishment of the HSE. At the time, therefore, the Government had something saying, "Here's what a shiny health service can do for you at a national level and here are the systems it would need to make it work." This was done; this was never done. When the HSE was created it was, in my opinion, systematically starved of the types of systems it would need in order to be an effective single national organisation. On the day I came into my job, I had two things on my desk. One was my warrant as an Accounting Officer. It told me I was personally responsible for everything financial in the HSE. The other was a report that told me that the HSE's financial systems were entirely unfit for purpose. It was a happy day.

The experience the Deputy is having in getting that answer is precisely because there is no single financial system. On that date, I established the financial reform programme, which I called my single highest non-clinical priority, in order to give the health system a financial management system. I am glad to tell the committee that we received approval to proceed with it on Tuesday of this week. What is it called?

Mr. Stephen Mulvany: Sanction from the digital Government oversight unit.

Mr. Tony O'Brien: It used to be called CMOD. Now, it is not a one-year project; it is a multi-year project. It would mean that, as we go forward, questions like the Deputy's would be simple to answer. In a sense, what one has in systems terms is the HSE was created out of 54 different organisations. We still do not have all 54 visible in the organisation but there are about eight or nine visible organisations inside in system terms and that makes it difficult.

If the Deputy finds that frustrating, which I am sure she does, she should imagine how frustrating we find it trying to run that organisation. It feeds into issues of procurement, it feeds into issues of staffing and it feeds into all sorts of financial management-----

Mr. Stephen Mulvany: The sanction that we received, which is, in effect, from the Government Chief Information Officer, is the final external sanction we need to sign a contract with the software provider for the single platform for finance and procurement which the HSE, or its successors, will use for the next ten to 20 years. It is a significant milestone but, as Mr. O'Brien said, there is still another three or four-year journey at least to design across the system.

Deputy Catherine Murphy: Presumably, it is an overall approach and not a piecemeal approach to putting it together. Very often, we have seen add-ons.

Mr. Stephen Mulvany: We are not waiting for the four or five years to improve our systems; there are a number of other projects under way, but the aim here is for the health service, both the HSE and the larger section 38 organisations, to be one single national platform of finance and procurement systems.

Deputy Catherine Murphy: I can see the value on the procurement side.

I return to one of the issues I raised earlier. Somebody asked Mr. O'Brien about his salary and he said it is on the public record. I only use that as a benchmark against some of the issues regarding St. John of God. The same kinds of things arose with Rehab. Newspaper articles have outlined some salaries, including one in the region of €240,000 to €249,000. Four other people have salaries of €200,000 to €239,000. That exceeds Mr. O'Brien's own salary. As a

benchmark from a subset organisation then, those salaries seem to be very high indeed. As this is a section 38 organisation, there are pension liabilities. There have been increases but I do not know if these increases concern only salaries or also pensions. Are there or could there be unknown pension liabilities as a consequence of the actions of St. John of God?

Mr. Tony O'Brien: The question of pension liabilities is certainly central.

Mr. Stephen Mulvany: If the Deputy's question concerns St. John of God's, and I think it does-----

Deputy Catherine Murphy: Yes.

Mr. Stephen Mulvany: We have not seen the final internal audit report yet. There is an issue there around pensions, as the Deputy has said. The answer then is "Yes", there is a potential risk of additional liability to the public pension pot. We need to wait and see until we have the final report.

Deputy Catherine Murphy: If there are now contractual liabilities that have been discharged, is it likely that the public pot could inadvertently end up with a liability?

Mr. Stephen Mulvany: We could not say that it is likely. The steps will be to get the final internal audit report and then engage with the next steps on that.

Deputy Catherine Murphy: I will just go through a number of other things. I know that this is the Committee of Public Accounts but funding and service provision are opposite sides of the same coin. From newspaper reports and from talking to recipients of the service, there is a very definite feeling that the services are on a knife edge. There is a Catch-22 situation in that the HSE is trying to regularise issues in this particular organisation. In one particular case some of the donors are looking for their money back, which they did not intend to be used in the way it was. Whether that can happen is not for us to decide but I am just making the point. The people about whom I am most concerned are the sometimes very elderly parents of St. John of God's service recipients. Can we be absolutely sure that while this issue is being considered there will not be any loss of services to the people who need them? This would be as a result of St. John of God's being in difficulty because they are finding it hard to fundraise. I am really not concerned about the service provider. I am concerned about the service recipient here. I really have serious concerns about this.

Mr. Stephen Mulvany: We cannot give absolute guarantees as to what St. John of God's will or will not decide to do. As I said earlier, however, our aim in this is to address the issues in a way that ensures the continuation of those services. We are very much aware that a lot of people depend on, and some have very high regard for, the services they get from St. John of God's, and that there are a lot of staff in St. John of God's who do a very good job.

There are a number of issues and our aim is to address them. There are governance issues within St. John of God's in our view, though they have their own perspective on this. There is the outcome of the internal audit report around public pay policy. St. John of God's also has service issues, difficulties it is addressing with HIQA, the regulator. It has submitted an improvement plan to HIQA and that is being monitored. Furthermore, it has financial issues. Again, we disagree with St. John of God's when it comes to the figure they view as their deficit or under-funding. We are working through a process with them around that and we intend to do some forensic accounting work into this matter. We do not accept the level of deficit or under-funding that they talk about. Our longer-term plan acknowledges the need to invest further in

their services, but in the new type of services, the decongregated services that we want, and not just in the current services.

Deputy Catherine Murphy: Let us go back on this point again because it relates to what we talked about this morning. We had a service provider say that it was under-funded for a very vulnerable person who ultimately ended up getting a judgment in the High Court. The priority is not the service provider, it is the service user. There is a stark contrast between the service being provided by that particular service provider to some people and to others and I know of some cases very close to me. In Stewarts Hospital for example, there are more and better services, there is transport provision and there are after-school facilities. Everything like that in St. John of God's always costs extra money. Is the HSE withholding any money as a consequence of the assessment?

Mr. Stephen Mulvany: Deputy, we have not reduced the St. John of God's budget.

Deputy Catherine Murphy: Right.

Mr. Stephen Mulvany: We would have to check. We have a standard provision for trying to bring about the earlier and appropriate signing of our service level agreements. Starting with the larger agencies, this means that if a service level agreement has not been signed by the end of February we start to hold 20% of the cash from that organisation. I know that at least one derogation or extension to that was sought by and approved for St. John of God's but I do not know where they are with this today. I repeat that our aim is to work through the various issues with St. John of God's and to maintain and help improve the services overall. We know that means greater investment over time. We cannot simply respond, however, to every service provider that says that it needs more money. There has to be a process that we go through. I do not know whether a direct comparison between the services and the funding of St. John of God's and Stewarts Hospital, for example, is fair and reasonable. Our disability division, however, has done and is doing a lot of work to try to get much closer to what are the underlying costs and investments necessary to support better quality services.

Mr. Tony O'Brien: This is a service provider that is holding out its hand while at the same time sharing €1.848 million between 14 of its senior managers behind closed doors. There is a balance to be struck then in our assessment.

Deputy Catherine Murphy: I completely accept that. In accepting that, however, we cannot lose sight of, say, the very vulnerable six-year old in a special school who is now getting cold food because there is no money, or of the adult who cannot reach services because no transport has been provided for him.

Mr. Tony O'Brien: I will return to the example I gave earlier. When this top-up issue first emerged, the organisation that was front and centre was the Central Remedial Clinic. We took some extraordinary action on that entity, it went through the wars and it has now emerged from them. At no point were the services to its clients ever curtailed, downgraded or jeopardised. It is now in the position where it has won some kind of an award for the quality of its governance processes at board level. We will see this through. We will do so in the interests of the clients, the service users and their families. This is going to be a robust engagement because it has to be.

Deputy Catherine Murphy: I share Mr. O'Brien's concern over the sharing of that very large amount of money among a small group of people and I think that it has done incredible

damage.

Mr. Stephen Mulvany: As a point of information I will give the committee the actual facts of how much we resourced St. John of God's between 2015 and 2016. The figures in our published accounts are €140 million for 2016 and €133 million for 2015. That is a €7 million increase year-on-year, approximately 5% or 6%. We are not saying that that gave St. John of God's a huge amount of money for discretionary spend but what we are saying is that we have demonstrated that we are willing to support existing services to give them time to make the necessary changes. The investment has to be to improve services for the clients, however, and it is only the clients that we are concerned about.

Chairman: I want to run through a few questions. My first is a very simple one. Is there anything in these figures for the National Treatment Purchase Fund or was that in operation? Was it in operation this year, in 2017?

Mr. Tony O'Brien: The NTPF has operated at some level continually.

Chairman: How low?

Mr. Tony O'Brien: The headline figures that one hears of in policy terms go straight through the NTPF.

Chairman: Could Mr. O'Brien say that again?

Mr. Tony O'Brien: The headline policy figure of an increase of whatever amount of millions in the NTPF budget-----

Chairman: There was meant to be €15 million this year, I think.

Mr. Tony O'Brien: Yes. That goes directly to the NTPF and they are separately audited.

Chairman: So it does not go through the HSE? It is a separate account then. Is that under the Department of Health?

Mr. Tony O'Brien: Yes.

Chairman: Okay, that is fine.

Mr. Seamus McCarthy: I audited it. I do not have any more information but I can find out the latest position.

Chairman: If we could have a note for the next stage to indicate where it stands that would be appreciated.

I have a number of questions arising from the financial statements, and I will provide the page number and the accounts as I go along. On page 119, the expenditure by division in 2016 for acute hospitals was given as €5.651 billion. It is one of the startling figures in the financial statement. Are the section 38 hospitals separate from that?

Mr. Stephen Mulvany: There is a slight complexity in this, in that there are 16 section 38 hospitals. The amount of money that we pay to those hospitals is in that figure. It may be slightly different to their own total costs because they run their own sets of financial statements and they are not consolidated here. This is what we have given to them or have accrued as owing to them. Broadly speaking, the answer is "Yes".

Chairman: The HSE can get back to the committee with all of this information. Can Mr. Mulvany give us a breakdown of that €5.651 billion between the HSE hospitals and the section 38 hospitals?

Mr. Stephen Mulvany: Yes, it is approximately 50:50.

Chairman: Mr. Mulvany can send us a note. Is there a difference between the HSE hospitals and the section 38 hospitals in terms of the waiting lists for procedures and the trolley count? Is there any significant difference, relative to the size of the catchment areas, between the numbers waiting on trolleys in HSE-owned hospitals versus the others? The witnesses must have the figures.

Mr. Tony O'Brien: We can re-cut the data in that way. Is the Chair seeking data on the daily trolley count and the inpatient and day case waiting list?

Chairman: Yes.

Mr. Tony O'Brien: That can be done

Chairman: If there is a 50:50 split between the section 38 hospitals and the HSE hospitals, it would be interesting to know what the trolley count is in proportion to the level of financial activity and the waiting list. I am trying to see if there is a correlation. Let us say that the HSE hospitals are getting 50% but have only 40% of the waiting lists. I know it is not as simple as that and that it depends on the type of hospital.

Mr. Stephen Mulvany: We publish a whole suite of results on all 48 hospitals every two or three months in what is called our MDR. It is important to notice that those 16 hospitals tend to be the bigger hospitals, barring Galway and Cork CUH. It includes the five or six very big hospitals, the three maternity-only hospitals other than Limerick and Cork and some other smaller elective hospitals. They are not necessarily a like-for-like comparison with the balance of the 33 hospitals. The vast bulk of the level four hospitals are included in that, which includes the big urban centre hospitals barring Limerick, Cork and Galway.

Chairman: The data are complex but can they be compared?

Mr. Stephen Mulvany: Drawing conclusions from it may be difficult.

Mr. Tony O'Brien: On the trolleys, there is a particular confounder in that in the last season, we paid particular attention to the phenomenon of persons who experience delayed discharge. We put a lot of money into reducing the number of patients whose discharge had been delayed and that was predominantly, although not exclusively, a Dublin problem. As a result of this effort, this year for the first time the large model-four hospitals, which in Dublin are the five big voluntaries, have seen a significant improvement in their trolley situation whereas the model-three hospitals, some of those with which members might be more familiar and which tend to be smaller, did not have that problem, did not get the benefit of it and, relatively speaking, tended to look worse. What happens on trolleys is not particularly a function of what goes on in the hospital. It is more a function of what goes on in the community around it.

Chairman: I noticed in the report that the figure for respite care went up from €3 million to €7 million. That is used to get people into a nursing home for a month or pay for their respite. I am connecting the two.

Mr. Tony O'Brien: Yes, that was part of a specific strategy to increase egress from hospi-

tals.

Chairman: On attendance at accident and emergency departments nationwide-----

Mr. Tony O'Brien: We have that.

Chairman: -----approximately how many are presenting with GP referrals and how many are not? The witnesses might not know. We all talk about the local health centre and primary care units. There was a time when one went to the local GP, who would apply stitches if required. People are now sent on to the accident and emergency department. Of all the people who attend the accident and emergency department, how many have gone through a GP? How many of those could have been dealt with by a GP?

Mr. Stephen Mulvany: In the absence of a single electronic health record, I am not sure that we have ready access to that, but we can certainly check that.

Mr. Tony O'Brien: We might be able to supply information on a sample basis.

Chairman: I am very worried about the first line on page 105 of the report concerning ambulances, which reads, "Emergency response - percentage of clinical status 1 Delta incidents responded to by a patient carrying vehicle in 18 minutes 59 seconds or less". The target is 80% and the actual outcome for 2015 was 64% achieved within that period. In 2016 it deteriorated to 61%. That seems a very worrying situation. Am I reading that correctly? I am a layman.

Mr. Tony O'Brien: The Chair is reading it factually correctly, but there is an additional piece of information I can give that changes the context of it. First of all, the 80% target, according to a demand capacity review called Lightfoot, which we published, is largely used for urban populations such as greater Manchester. With our population distribution and density, we would need to train north of 50% of our entire population as first responders to consistently meet that target. The difference between the two years is that the international classification for blue light ambulance calls changed so that more calls go into that delta category than used to be the case.

Chairman: Can Mr. O'Brien explain delta category? There are, believe it or not, some people who watch this on Oireachtas TV.

Mr. Tony O'Brien: Echo, broadly speaking, is the most serious category, and that is where somebody has ceased to breathe.

Chairman: That is on the last line of page 104.

Mr. Tony O'Brien: The delta response relates largely to incidents such as chest pain, suspected stroke, a choking incident or a loss of consciousness but where the person is still thought to be breathing. This is an international ambulance emergency dispatch coding system. These represent the great majority of calls where we see ambulances arriving at high speed with blue lights or emergency response vehicles. Due to an international change in classification slightly more calls now go into that category than used to be the case. This is a greater number of calls with roughly the same number of ambulances, therefore there has been a negative impact on the percentage compliance with that target.

Chairman: Moving on to page 165, patient transport and ambulance services is discussed. There does not seem to have been a change in the number of vehicles. The report talks about vehicle running costs, ambulance services and a cost of €13 million versus €13 million. There

seems to have been no increase during the year, and vehicles are getting older.

Mr. Tony O'Brien: Actually our fleet is getting younger. The HSE has, out of the limited and insufficient overall capital pot that we have-----

Chairman: Does that come out of current or capital?

Mr. Tony O'Brien: Capital.

Mr. Stephen Mulvany: The running costs come out of-----

Mr. Tony O'Brien: The cost of new ambulances come out of capital. We have been buying many more new ambulances because they are generally more efficient and the maintenance costs are lower.

Chairman: How many new ambulances were bought last year? Will the witnesses send us a note? It is good news, and we only hear the bad news, so send on the good news.

Mr. Tony O'Brien: It was a significant double-digit number but we can send on the figures. That also relates to vehicles that came on the road the previous year. Their running costs are reflected in this year.

Chairman: Mr. O'Brien is saying that the reduction in respect of the delta calls is because of a reclassification of what a delta call is.

Mr. Tony O'Brien: It is an increase in the calls and a significant but still relatively modest reduction in performance against the target, that is itself an unachievable target.

Chairman: Very well. We mentioned the State Claims Agency recently and while I am not opening up debate on it, the first line on page 140 refers to a new electronic national incident reporting system and the State Claims Agency is hosting that. Is that working? I am looking for some statistic of what arose in 2016. How many cases that landed with the HSE had gone through that system and how many had not gone through that system? How effective is that new system?

Mr. Tony O'Brien: We can get to that later. I can say, at a general level, that it is regarded as a very effective system. It is improving.

Chairman: I imagine it will pick up.

Mr. Stephen Mulvany: There are still some issues in some areas.

Chairman: The witnesses can see why I am asking that, to see how effective it is. Page 136 refers to financial control and IT systems. The new platform was mentioned a minute ago and I will ask about that. The HSE got approval for first phase-----

Mr. Stephen Mulvany: We got approval. The first lot of overall procurement - which we are going to procure appropriately - is for the software platform and the licences for software. We have secured approval to sign a contract for licences for the next ten years.

Chairman: Is the HSE designing them? Are they bespoke?

Mr. Stephen Mulvany: The HSE is purchasing-----

Chairman: The HSE cannot buy it from some other similar-----

Mr. Stephen Mulvany: We are purchasing a large, tier one, enterprise resource planning set of software licences, which are configurable, but our intention is not to customise them. The next lot, after we sign that contract, is to appoint a systems implementer, and then to move on to design and implementation.

Chairman: What kind of timescale is involved?

Mr. Stephen Mulvany: To get to full roll-out across the HSE will take four to five years.

Chairman: Does this cover the new patient ID system?

Mr. Stephen Mulvany: No; this is a financial-----

Chairman: This is strictly financial?

Mr. Stephen Mulvany: This is a financial procurement system. We are also separately looking to progress moving to a national human resources, HR and payroll system. As the Chairman knows, separate to both of those we are pursuing a national enterprise health record, which is a very large investment over the years.

Chairman: I hear about three different national IT systems to be procured, one for financial, one for HR and payroll-----

Mr. Stephen Mulvany: The HR one does not require procurement of licences. We have the licences.

Chairman: If not the licences, then the investment and then there is the one for the patient ID.

Mr. Tony O'Brien: The patient system comprises multiple systems. For example, we have the national maternal and child system and we have the medical laboratory information system, so it is a modular deployment of a series of systems that will talk to each other and carry a single, unique, individual health identifier.

Chairman: Does everybody who came in contact with the HSE in 2016 have a patient ID number so that, no matter where they show up in the country-----

Mr. Stephen Mulvany: They do not, but they will.

Mr. Tony O'Brien: They did not in 2016. The relevant commencement order to enable the HSE to implement the unique patient identifier or individual health identifier was signed by the Minister within recent weeks. We have begun rolling that system out.

Chairman: How long will that take?

Mr. Tony O'Brien: About a year.

Mr. Stephen Mulvany: There is the matter of getting that system and the registry related to it but the key issue it depends on is then using that number in national clinical and operational systems. We have a national medical imaging system, which is almost fully rolled out. We are at the start of a process of rolling out a national laboratory information system. As the director general said, the maternal and newborn system is already rolled out in two hospitals, which is effectively an electronic health record for our maternity hospitals. The idea is that we want to use this individual health identifier in each of those systems and in our patient administration

systems in order that they can all talk to each other.

Chairman: Does the new financial system the HSE is drawing out include the section 38 hospitals?

Mr. Stephen Mulvany: Yes.

Chairman: It would have to, because it would be pointless if 50% was outside the system.

Mr. Tony O'Brien: It is non-negotiable.

Chairman: For that part of a service, those hospitals will say they have big investment in their own system, and now they have to-----

Mr. Tony O'Brien: If they want to continue receiving funding from the HSE, they will have to operate with the system.

Chairman: With the new system. Rightly so, because there can only be one. It would be pointless otherwise. On the personnel, payroll and related systems, PPARS, that came in years ago, where is that now? Is that still operational or is the payroll system mentioned now in place?

Mr. Tony O'Brien: It is operational where it landed and where it was completed. Despite the other controversies-----

Chairman: Out of the 110,000 staff, how many are on it?

Mr. Stephen Mulvany: I would have to check. There are more on the HR part than on the HR and payroll.

Chairman: Probably 30%, I would say.

Mr. Stephen Mulvany: It is the largest HR and payroll system that is operational in the country, bar none. It will be, in effect, the underlying backbone of what will become our national integrated staff records and payroll system.

Chairman: How long will that staff payroll system take?

Mr. Stephen Mulvany: That is a project that we are just about getting off the ground with regard to getting a business case and a governance round.

Chairman: It is behind the financial control one, and the patient one is a step ahead already.

Mr. Tony O'Brien: Yes.

Chairman: So the patient one is first, then financial control, then the rest are appearing.

Mr. Tony O'Brien: They are all running in slightly out of phase parallel. Some health systems have attempted "big bang" single deployments, which have never worked. With appropriate segregated governance, we are doing a number of things in parallel, which are all designed to integrate with each other at the appropriate stage.

Chairman: I know the PPARS might have been before Mr. O'Brien's time-----

Mr. Tony O'Brien: Thankfully, yes.

Chairman: We are not trying to land it on Mr. O'Brien. One of the difficulties was not just the system, but the complexities of the existing payment systems on the ground. I recall hearing that in one hospital, there were 27 different overtime rates, dependent on whether it was a bank holiday before Christmas or after Christmas, a Good Friday, an hour after-----

Mr. Tony O'Brien: That is why we say there is to be no customisation.

Chairman: Pardon?

Mr. Tony O'Brien: That is why we are not permitting customisation. What happened with PPARS was that there were multiple alternative customisation deployments, essentially.

Mr. Stephen Mulvany: We are not seeking to make standardisation of terms and conditions a requirement for a successful implementation of a national HR and payroll system, or a national staff records system. In fairness to our colleagues who have been working away on what was originally called PPARS, they are actually further ahead in extending that out to more of the HSE than we are on the financial system side. They may get to the endgame before the financial system does.

Chairman: On note 25 on page 172, tell me about the tax problem the HSE had and how much was involved.

Mr. Tony O'Brien: Ms Mairéad Dolan is going to make her maiden contribution to the Committee of Public Accounts.

Ms Mairéad Dolan: Committee members may recall that when we were last here, talking about accounts in October 2015, we provided a fairly detailed paper on a three-year targeted review of all heads of tax across the HSE that we did in conjunction with Revenue, which resulted in payment at the time. What we do now is that, every year, we have a couple of central tax people who report in to my role. We now do a targeted review, which is a continuation of the risk-based review, where we pick a sample every year and we go through all of the major items where we might consider that we had seen risks before. We work with our colleagues across the HSE and with the Revenue and we do our own internal audit of a very detailed sample. Over the past couple of years, that work has created a significant amount of visibility across the organisation of the need to be compliant. It therefore has reduced the level of non-compliance and therefore the level of payments that we would have had to make to the Revenue in the past number of years. The amount of tax that the HSE actually pays has now reduced very significantly as a result of that work.

Chairman: Could Ms Dolan give an indication of the scale of the figures we are talking about? That is interesting, but I have no idea about the scale.

Ms Mairéad Dolan: I do not have the information in front of me.

Chairman: This is 2016 we are talking about, now.

Ms Mairéad Dolan: I have a note on the numbers, but it is less than €3 million, if I recall it off the top of my head.

Chairman: What affected it? The payroll?

Ms Mairéad Dolan: It is generally in the areas of PAYE types, such as contractors. Revenue may require us to pay PRSI for part-time contractors, and certain flat-rate travel allow-

ances, which have significantly reduced over the past couple of years, and certain areas such as professional services withholding tax, PSWT, and relevant contracts tax, RCT, but they are very significantly mitigated by the tax certificates of the people that we pay.

Mr. Stephen Mulvany: The total voluntary disclosure for 2015 was €3.4 million on total tax paid by the HSE of €1.329 billion in that year. That represents 0.26%.

Chairman: It is less than 1%. Everybody is conscious of public bodies being tax compliant.

Mr. Stephen Mulvany: Absolutely.

Ms Mairéad Dolan: Significantly, a lot of this is actually a timing issue. While we do it a year in arrears, we have now reached a scenario where we are working with Revenue. We do not have to pay penalties any more because we are now working within a defined timescale with Revenue.

Chairman: To go back to the topic that was touched on earlier on page 162 - other income - the witnesses are familiar with this and have commented on it already. The rebate from the pharmacy companies this year was €75.6 million compared to €54 million the previous year, but the outstanding balance mentioned on another page is €50.6 million. A very high proportion was not paid during the course of the year. I know the witnesses have said that the figures have increased from €54 million to €75 million, but a balance of €50.6 million was outstanding. I saw that in note 17 on page 170. In other words, out of that €75 million of a rebate, €50 million had not been paid during the course of the year, according to note 17.

Mr. Stephen Mulvany: Just to let the Chairman now, largely we would expect timing-----

Chairman: Will the witnesses send the committee a note on when the €75 million was actually received?

Mr. Stephen Mulvany: We will.

Mr. Seamus McCarthy: There was an issue in that the quantum was recognised late in the year.

Chairman: It was an agreement during the course of the year. The witnesses will give us a note on when it was done.

Mr. Seamus McCarthy: A debtor's analysis was showing €32 million in debts less than one month old on the debtor side.

Chairman: The witnesses can give us a note because a large portion of it was not paid during the course of the year. Also in the context of page 170, will the witnesses explain the statutory redundancy claim? Who was made redundant? To whom does the HSE make redundancy payments? The amount involved is €2.225 million. If the witnesses do not have the answer with them, they can send us a note. I am not here to test their memories.

Mr. Stephen Mulvany: We will send it on.

Chairman: I did not know the HSE was in that business. It is on page 170, note 17. I wish to look at page 167. The topic of long-term residential care arose. A total cost of €990 million mentioned. The witnesses will see that includes the private nursing home subventions. I

see a note somewhere else that the HSE has directly employed home helps. Are those people employed by the HSE or by individuals? I have seen the phrase on one of our own internal-----

Mr. Stephen Mulvany: Directly employed home helps are typically on the HSE payroll.

Chairman: If I look on page 9, I see a figure of 107,000 employees. Are home helps included in that figure?

Mr. Stephen Mulvany: Generally-----

Chairman: I see somewhere else in the report that there are approximately 3,000 home helps.

Mr. Seamus McCarthy: Note 7 has the figure of 3,000. The 107,000 is above that.

Mr. Stephen Mulvany: It is separate.

Chairman: Where is that note?

Mr. Seamus McCarthy: It is note 7 on page 164. It is an analysis-----

Chairman: That is exactly my point. It indicates that total HSE employees number 67,754, and then there are 39,000 section 38 employees. HSE and section 38 employees together number 107,085. Directly employed home helps are put at the bottom as if they are not HSE employees. I recently met a group of HSE home helps and they told me that they feel like second-class citizens because of the way they are employed. They were not happy, I do not know if there is something going through the Workplace Relations Commission. They are not even listed there. Why are they not shown as normal HSE employees? They are a footnote.

Mr. Seamus McCarthy: I would have to check.

Chairman: It looks bad and it chimes with what they told me, namely, that they are not treated as proper employees.

Mr. Stephen Mulvany: I would have to check the specific history of it. However, it has been the standard practice in terms of reporting required between ourselves and the Department of Health that home helps have not been included in the general staff census and are always shown separately. I assume it is something to do with the history of that particular post and how it developed. The Chairman will remember there was a time-----

Chairman: There was a time when they were not even paid the minimum wage when it was introduced.

Mr. Stephen Mulvany: They were not being paid anything even close to that.

Chairman: I remember a time when they were being paid €2 or €3 an hour.

Mr. Stephen Mulvany: I assume it is to do with that history.

Chairman: They feel there is a legacy issue. I know those who came on got the option of making a contribution to bring their pensions up to speed. If one was being paid a fraction of the minimum wage when it was introduced, one was in no position to do so. Even though they worked as home helps, they have only got pension contributions since then. Very few of them could afford to buy the extra years. I will ask the Department of Health how many years on

from that we are. The fact that it can still be said here today and that they are not shown on the census of HSE employees shows a begrudging attitude to home helps. Does Mr. Mulvany see what I am getting at? They feel it at every step along the way. If they are not even included in the overall HSE figure, it does not show them the same dignity as everyone else. Does Mr. Mulvany take my point?

Mr. Stephen Mulvany: I do.

Chairman: There is a history to it and that history is not good.

Mr. Stephen Mulvany: If I could just say two things to be clear. First, the reporting arrangements bear no relation to how we feel about the home helps. We are very clear that they are valued members of staff. They are typically not shown, by agreement, in the reporting to the Department. That may give flexibilities or not, I do not know, but one does not imply any issue with the other. We value these staff members.

Chairman: I will ask the Department to explain why it is desirable for home helps to be listed outside the rest of the staffing figures.

Mr. Stephen Mulvany: I actually do not know. I will find out. It precedes my time. I always thought it was to highlight how many home helps we were employing but now I am hearing that there might be a different story. I will find out and get back the committee.

Chairman: Even if they are included, they should not be just a footnote at the end of the total number of employees. On page 9, the total staff number is given as 107,000. They are excluded from the chart on page 9. They are not even included in the early part of the accounts. Mr. Mulvany understands what I am saying. I am sorry, I am covering a few points here. The reason I linked that to the long-term residential care is that the latter is obviously increasing and the home help figure is decreasing.

Regarding page 163, the witnesses may be able to clarify a myth. At the bottom of that page, there is a summary analysis of pay costs. The total HSE pay costs for 2016 are listed as €4.833 billion and then there is agency pay of €277 million, together totalling €5.11 billion. That agency figures represents less than 5% of the total HSE bill.

Mr. Greg Dempsey: It is approximately 5%.

Chairman: Is that correct?

Mr. Greg Dempsey: Yes, 5% is correct.

Chairman: The witnesses need to say that because there is a certain impression out there. I hear much about agency staffing costs, in terms of hospitals and so on. I have heard this from the home helps. They say that they are being shoved aside and that agency staff are being brought in to do the home help. That does happen. One hears about the costs to hospitals. I am sure it is said at every forum throughout the country. We hear about the cost of hiring agency nurses. We hear about the cost of agency staff every day of the week. I know it is €277 million, but it is only 5% of the payroll bill. From listening to the public commentary, one would almost believe it is 30% of the payroll. It does not seem to be-----

Mr. Stephen Mulvany: I agree with the Chairman.

Chairman: Does Mr. Mulvany get the point? I am supporting-----

Mr. Stephen Mulvany: Absolutely. We did say earlier, however, that it is most worrying in the context of medical agency work, the figure for which is more like 14% on average. This means that, outside the averages, it will be worse in some places. It is a problem.

Chairman: I will return to page 173. I am sorry to go around the houses but I am seeking something on which I will compliment the HSE. The 2016 financial statements are clear, audited and submitted complete to the PAC within six months of the year end. No other organisation in the State is in that position. Organisations come here with financial statements that are a year or two out of date. As Chairman of the committee, I have to recognise the timeliness of these accounts. Very few other organisations can match that level of timeliness.

Mr. Stephen Mulvany: Our colleagues do not want you to get the credit.

Chairman: Once we get finished, it would be my hope that we would not have to see each other, at least, in this capacity-----

Mr. Stephen Mulvany: You might say that, Chair, but we could not possibly comment.

Chairman: -----at the Committee of Public Accounts. If we have the HSE's 2016 accounts done, I would hope, come the autumn, we will have somebody else to deal with.

Mr. Tony O'Brien: We love you lots but we do see a lot of each other.

Chairman: We can cope without it. It does not mean the HSE will not be getting-----

Mr. Stephen Mulvany: Straight after the compliment, Chair.

Chairman: Yes. It does not mean the HSE will not get plenty of questions from us, as members in the interim.

The HSE is involved in a legal dispute with the drug importing companies. Where are we on that? I know the HSE cannot quantify it. What can Mr. O'Brien say about that? It is a legal dispute and the HSE will not disclose it. Will Mr. O'Brien just tell us what that topic is? Mr. O'Brien will know what I am talking about. There are two matters. The next one is that the 500 medical consultants have initiated. Mr. O'Brien believes there are two possible liabilities there. Will he just tell us what the topic is?

Mr. Tony O'Brien: The topic around the pharmacy is to do with parallel imports.

Chairman: Will Mr. O'Brien explain that to us?

Mr. Stephen Mulvany: That is where there is a drug which may have a proprietary supplier in this country but an enterprising individual can source it in another country and import it in parallel. After that, we kind of lose the detail of that.

Chairman: Mr. Mulvany is saying the proprietary supplier here feels he or she has a closed shop and is-----

Mr. Stephen Mulvany: I am only defining what a parallel importer is. The actual details of the case are not disclosed to me.

Mr. Tony O'Brien: There is a parallel industry called parallel exports as well, but this relates to parallel imports.

Chairman: Who is trying to block whom? That is what I am trying to establish.

Mr. Stephen Mulvany: We are trying to enforce the EFA agreement, it looks like, and the cost savings and other issues, including rebates, against a list of suppliers.

Chairman: Can the HSE send us a note to explain the issue without complicating its legal position, and the same with the medical consultants, just so that we are aware of the issue?

Mr. Stephen Mulvany: On the medical consultants, we are not really in a position to say much more than is there.

Chairman: All I can say is I am none the wiser. Okay, it is a contingent issue.

Mr. Tony O'Brien: It is in the public domain that it relates to the non-implementation of one aspect of the remuneration of the new consultant contract that the HSE was directed to engage in but not authorised to pay at the time.

Chairman: Okay. I have one question for the Department of Health directly. The Department will have to send me a note on this because Mr. Dempsey could not possibly give me an answer. I note in the accounts, on page 121, note 3, Department of Health revenue and grant, it adds up to €13.919757 billion. This is what I am asking Mr. Dempsey to do. I have looked at the Appropriation Account for 2016 of the Department of Health - it includes the Department, it is the one Vote now - and that figure is €13.6 billion. Does Mr. Dempsey or the HSE or the Comptroller and Auditor General do this to reconcile one with the other? I saw somebody trying to do it.

Mr. Seamus McCarthy: Is it the Estimate?

Chairman: No, the final Appropriation Account.

Mr. Seamus McCarthy: For 2016?

Chairman: For 2016.

Mr. Seamus McCarthy: It is not finalised yet.

Chairman: Which?

Mr. Seamus McCarthy: The 2016 Appropriation Account is not finalised.

Chairman: What is the-----

Mr. Seamus McCarthy: That is the Vote.

Chairman: No, but what is the piece of legislation we pass the day before Christmas every year approving expenditure?

Mr. Seamus McCarthy: The Appropriation Act.

Chairman: Yes, the Appropriation Act-----

Mr. Seamus McCarthy: For-----

Chairman: -----2016.

Mr. Seamus McCarthy: Yes.

Chairman: On the Appropriation Act, there is a vote in the Dáil. We approved the Estimates during the year, we approved Supplementary Estimates on an individual basis and then, before we finish up in the Dáil every year, there is an Appropriation Bill published to ratify all Estimates and all Supplementary Estimates that have been paid during the course of the year, and I have taken that figure from there. All I am asking them to do is reconcile that with the figure in the HSE accounts. It is not as easy as it sounds.

Mr. Seamus McCarthy: It is not. It is the appropriation amount for the Department-----

Chairman: Or the Vote.

Mr. Seamus McCarthy: -----which includes other elements.

Chairman: I want it reconciled back to the Vote in the Dáil, the figure in the accounts.

Mr. Greg Dempsey: We will go into that.

Chairman: I ask for a detailed explanation because I have seen somebody trying to do this previously.

On the section 38 agreements, the HSE stated it was conducting a review. I ask the HSE to send us an update before the year is out. Mr. Mulvany should make a note for December to give us an update, if we have not met the HSE in the meantime.

Mr. Stephen Mulvany: That is the Deloitte review, the external review, of section 38s.

Chairman: Whether it is done or not done, or half-way, they should give us an update.

Mr. Stephen Mulvany: We will do that.

Chairman: Lastly, I would not be a member here if I did not mention something local.

Mr. Stephen Mulvany: There is nobody else here. The Chairman might as well.

Chairman: I will be kind to Mr. Mulvany and ask the following. I have two issues. One is home help, which I have touched on. My colleague, Deputy Billy Kelleher, would have received the detailed letter from Mr. Ray Mitchell in the past few days. We asked for the home helps by region per month in 2016 and for the figures available for 2017, and we got the figures for January and February of 2017. We just received it last week. That showed that in the two-month period of January and February of 2017, as compared to January and February 2016, there was a reduction of 50,019 home help hours nationally. Laois-Offaly saw a reduction of 15,383 hours. A total of 30% of the entire cut happened in that region. I ask Mr. Mulvany to provide a detailed note on what happened. I do not expect him to know it here now. It does not include the home care packages. It is strictly home help hours. Mr. Mitchell will be familiar with the letter that was issued to Deputy Billy Kelleher recently.

The last thing I will ask Mr. Mulvany is to send me a detailed note on where we are on the Midland Regional Hospital, Portlaoise. At the minute, something is on the Minister's desk on the accident and emergency unit. We know progress has been made on the maternity unit. There was major concern regarding the ongoing uncertainty about the accident and emergency. I ask him to send us a note. I am not asking Mr. Mulvany to say anything special here now.

15 June 2017

I think we are done. On behalf of myself and my absent colleagues who were here earlier today, I thank all the witnesses from the HSE, the Department of Health and the Comptroller and Auditor General for their attendance and the material supplied today. As Chairman, I agree to dispose of the 2015 and 2016 accounts and financial statements of the HSE. We have now disposed of them, but we still expect to receive the information we requested.

The committee adjourned at 4.07 p.m. until 9 a.m. on Tuesday, 20 June 2017.