

# DÁIL ÉIREANN

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## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

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*Dé Máirt, 20 Meitheamh 2017*

*Tuesday, 20 June 2017*

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The Committee met at 9 a.m.

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### MEMBERS PRESENT:

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

DEPUTY SEAN FLEMING IN THE CHAIR.

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*The committee met in private session until 9.39 a.m.*

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

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

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

**Ms Nóirín O'Sullivan** (*Commissioner, An Garda Síochána*) called and examined.

**Vice Chairman:** The committee is now in public session. We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, as permanent witness to the committee. He is joined by Mary Henry, deputy director of audit. The Chairman, Deputy Sean Fleming, sends his apologies that he cannot attend today. We will take the business of the committee at the meeting next Thursday.

Today, we will continue looking at the 2015 appropriation accounts both for the Garda Síochána and dealing specifically with the internal audit of financial procedures in the Garda College. The committee met to deal with this matter on 4 May, 31 May and 13 June. Today, the committee will engage with the Garda Commissioner, Ms Nóirín O'Sullivan, who is the Accounting Officer. The second session of the committee today will take place at 7 p.m. with the Policing Authority and the Department of Justice and Equality. The focus of today's meeting will be what has happened since 2015, the interim audit report and its implementation. As was the case at the previous meeting, I ask that members and witnesses co-operate in this regard. Representatives of the Garda Síochána present include the sole witness for this session, Ms Nóirín O'Sullivan. She is supported by the deputy commissioner in charge of governance and strategy, Mr. Dónall Ó Cualáin; Mr. John Twomey, deputy commissioner; Mr. Joseph Nugent, chief administration officer; Superintendent Marie Broderick, private secretary to the Commissioner; Inspector Darren McCarthy of the office of the Commissioner; and Mr. Andrew McAlinden, director of communications. All are very welcome. We are again joined by Ms Anne Barry of the Department of Justice and Equality.

I remind members, witnesses and those in the Visitors Gallery that all mobile phones must be switched off.

I advise the witness that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if she is directed by it to cease giving evidence on a particular matter and continue to do so, she is entitled thereafter only to qualified privilege in respect of their evidence. The witness is 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, she 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 merits or objectives of such policies. They are also reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

We are joined by the people I have mentioned. The Commissioner will be the sole witness in this session. She is supported by those around her. However, no questions will be directed at anyone other than the Commissioner. If she needs to confer with any of those with her today, she may do so in regard to answering questions but no evidence will be given by anyone other than the Commissioner. I ask the Commissioner to make her opening statement.

**Ms Nóirín O’Sullivan:** I wish to provide the Vice Chairman and members with an update on resolving the unacceptable financial issues in the Garda College found in the interim audit report by the Garda internal audit service. This is in addition to the actions that I advised the committee have been taken following the receipt by the Garda executive of the draft interim audit report in September 2016. As members are aware, these issues have their origin in the funding model set up for the Garda College several decades ago. These are very complex and complicated financial and legal arrangements that in some cases require us to take expert advice to resolve them and ensure they cannot happen again. Notwithstanding this, we are determined to resolve them as quickly as possible as they clearly do not meet modern corporate governance or financial standards. All of the recommendations of the interim audit report will be implemented and we are happy to provide periodic updates on our progress to the Comptroller and Auditor General, the Department of Justice and Equality, the Policing Authority and the independent Garda audit committee. On that note, I wish to advise the committee that on Friday of last week the head of the Garda internal audit section provided me with a verbal briefing on concerns he had in regard to particular financial matters relating to activities in the Garda College. Following this meeting, I requested that a written report from the internal audit service be provided on Monday. I reviewed the report yesterday and, based on the information available, the matter has now been referred to the Garda Síochána Ombudsman Commission, GSOC, for investigation. I am also conscious that the Garda internal audit section is continuing its audit of the Garda College and any further issues that may arise as that audit progresses will be addressed and appropriate action taken by the Garda executive.

As the Chairman has said, those accompanying me are available to assist the committee in any way possible.

**Vice Chairman:** I thank the Commissioner for her opening statement. The delay in the commencement of this meeting related to a number of documents that the committee received late last night and needed time to go through. One of those documents from the Commissioner refers to the fact that on Friday last the internal auditor, Mr. Kelly, gave the witness a verbal report on the area of EU-funded training programmes and projects and the witness yesterday received his written report on the matter and referred it to GSOC. Is that correct?

**Ms Nóirín O’Sullivan:** Yes, the matter was referred to GSOC yesterday.

**Vice Chairman:** Has the witness notified the Minister for Justice and Equality of this issue under section 41(b) of the Garda Síochána Act?

**Ms Nóirín O’Sullivan:** I have notified the Secretary General of the Department of Justice and Equality for the information of the Minister.

**Vice Chairman:** The Department has been informed.

**Ms Nóirín O'Sullivan:** It has.

**Vice Chairman:** What is the differentiation between this issue being immediately referred under section 41(b) of the Garda Síochána Act and it taking a considerable amount of time for the report received by the Commissioner in July 2015 to be brought to the attention of the Department of Justice and Equality, with that eventually occurring, as the committee found out, through the Department being copied on an email looking for legal advice? How does the Commissioner distinguish between using section 41(b) of the Act to refer this issue, of which she learned on Friday, within one working day, and taking a huge amount of time to refer the original report that was allegedly brought to her attention in July 2015?

**Ms Nóirín O'Sullivan:** The Vice Chairman has made a number of points in that question. I will take them in sequence. There is a very significant difference between the report that was received yesterday and the report that was received in July. The difference is that I yesterday received a report from the head of our Garda internal audit section to say that he had reasonable suspicions about activity regarding a particular account-----

**Vice Chairman:** For clarification, did the Commissioner receive the report yesterday or on Friday?

**Ms Nóirín O'Sullivan:** I got a verbal briefing on Friday from the head of internal audit, Mr. Kelly. I asked him could he complete his report over the weekend and deliver it to me by Monday. I received his completed report yesterday. On receipt of that report, Mr. Kelly informed me that, as a result of the audit he was and is conducting in regard to a particular account he identified in connection with which he suspected suspicious activity had taken place, he referred the matter under section 59 of the Criminal Justice (Theft and Fraud Offences) Act 2001. It was very clear. In such a significant case, the Policing Authority as well as the Department of Justice and Equality would always be informed. Mr. Kelly spoke with the Comptroller and Auditor General in this regard and Deputy Commissioner Ó Cualáin informed the chair of the audit committee. All relevant parties were informed yesterday. Mr. Kelly also informed the European Anti-Fraud Office, which is known as OLAF.

**Vice Chairman:** Who did Mr. Kelly inform?

**Ms Nóirín O'Sullivan:** OLAF, the European Anti-Fraud Office.

**Vice Chairman:** The Commissioner found it necessary, because of the seriousness in regard to potential fraud and theft in connection with what she was informed of in writing yesterday, that the issue be referred to all of the bodies mentioned, including the Department, through the Secretary General, under section 41(b). However, she distinguished that from the scale of issues brought to her attention in July 2015 that she felt should not be brought to the attention of the Secretary General under section 41(b).

**Ms Nóirín O'Sullivan:** As I said, there are several points I would like to clarify because many were raised in the Vice Chairman's question. Perhaps I may deal with them in sequence. The first point related to why I referred on the matters that I received a report on yesterday. Mr. Kelly, the head of internal audit, who, as members know, has a statutory function, told me that he considers there is sufficient suspicion that fraud may have been committed in respect of a particular account. On that basis, I decided to refer the matter to the Department and the Policing Authority. As I said, my colleagues Mr. Kelly and deputy commissioner Ó Cualáin

informed the chair of the audit committee, the Comptroller and Auditor General and OLAF. Those are the appropriate steps to take.

In July 2015, I became aware that a number of issues had been identified in regard to broader activities of the Garda College. This is a very specific issue and there is reasonable cause to suspect that fraud has been committed on an account. That is why the matter was referred to GSOC yesterday to examine the report and to make further inquiries to see if a criminal offence has been committed.

**Vice Chairman:** In summary, the distinction is that yesterday Ms O'Sullivan felt that because there were specific allegations of theft and fraud, it was worthwhile notifying the Department under section 41. However, in July 2015, a date which is disputed and which we will clarify later, Ms O'Sullivan did not feel that the broad issues relating to a multiplicity of concerns on the issue of the Garda College were of such magnitude as to warrant referral to the Department of Justice and Equality under the same legislation.

**Ms Nóirín O'Sullivan:** Perhaps I can give my view of what happened in July 2015. I was made aware that certain issues had been raised about the Garda College. There was a multitude of various issues. It was very clear from the information that was in my possession at the time and from briefings that I got from colleagues that more information was required. However, I was very anxious that there would be full transparency on the matters that we were looking at. A working group was established, with the Department of Justice and Equality involved and with full sight and full visibility from the Department.

**Vice Chairman:** Ms O'Sullivan was inquiring months later.

**Ms Nóirín O'Sullivan:** It was also evident from the inquiries I made from my own office when these matters were brought to my attention that, prior to the matters being brought to my attention in 2015, from a perusal of a file that was there from 2008, it was evident that the Department of Justice and Equality had been involved in some discussions, and indeed there had been external attempts to provide advice and to seek advice to have the matters regularised. I was very unclear as to what had been done from 2008 to 2015, and it was very necessary, on the advice of the then chief administrative officer, the deputy commissioner in charge of governance and strategy, that we needed to compile more information and have a fuller and clearer picture on what precisely had been done from 2008 to 2015.

**Vice Chairman:** I find it incredible, I have to say. In the evidence on 4 May, Ms O'Sullivan said she did not feel there was any evidence of misappropriation of funds or fraud. Does she still believe that?

**Ms Nóirín O'Sullivan:** As I said on 4 May, and as I have always said, the internal audit is ongoing. Matters may be addressed. In my opening address on 4 May, I said the same thing, and as the audit continues and if issues are addressed, they of course will be dealt with appropriately, as we did yesterday.

**Vice Chairman:** Ms O'Sullivan now accepts that there is a possibility of misappropriation or fraud.

**Ms Nóirín O'Sullivan:** On the basis of the report I received yesterday from the head of internal audit, it is evident to me, and I am informed that the head of internal audit, Mr. Kelly, has reasonable grounds to suspect, that some suspicious activity may have taken place.

**Vice Chairman:** Is the suspicious activity referred to fraud or misappropriation of funds?

**Ms Nóirín O'Sullivan:** That would be for GSOC to investigate.

**Vice Chairman:** That is the scale of what we are talking about.

**Ms Nóirín O'Sullivan:** What Mr. Kelly says, to be precise, is that sufficient suspicion-----

**Vice Chairman:** We as a committee have not seen the report, for the benefit of viewers.

**Ms Nóirín O'Sullivan:** I want to be very clear. That is the basis on which Mr. Kelly is sending the report to me and that is the basis on which the matter has been referred to GSOC.

**Vice Chairman:** What is the status of the report now? Where is it being referred to, so that the public knows?

**Ms Nóirín O'Sullivan:** The report has been referred to GSOC for its examination and consideration.

**Vice Chairman:** Where is it internally?

**Ms Nóirín O'Sullivan:** It was with the deputy commissioner for policing and security.

**Vice Chairman:** Where will it go next?

**Ms Nóirín O'Sullivan:** It will be examined by GSOC.

**Vice Chairman:** Has it been referred to the audit committee?

**Ms Nóirín O'Sullivan:** Yes. The chair of the audit committee has been informed by Deputy Commissioner Ó Cualáin and it will be brought to the attention of the audit committee at the next meeting on 27 June.

**Vice Chairman:** Deputy MacSharry is our lead questioner.

**Deputy Marc MacSharry:** It is great to be second lead questioner.

**Vice Chairman:** We had to clarify issues relating to the documentation that came through.

**Deputy Marc MacSharry:** Of course. I welcome the Commissioner. She is well aware that this committee is often robust and at times I may have to cut her off because my time is limited and I want to try and get through as much material as I can. Are there any grounds for this report to be made available to us in the context of our work?

**Ms Nóirín O'Sullivan:** Is the Deputy talking about the report received yesterday?

**Deputy Marc MacSharry:** Yes, yesterday's report.

**Ms Nóirín O'Sullivan:** Yes, of course. There are a number of issues and we will have to consult GSOC, because it has primacy in the investigation.

**Deputy Marc MacSharry:** I understand that, but is there any reason it could not have been provided to us today?

**Ms Nóirín O'Sullivan:** There is a process which must be followed, and our primary concern was to refer the matter to GSOC. I and the head of internal audit provided a note to the



committee to make it aware. We will have to speak to GSOC, but with its consent I can see no reason the committee cannot have the report. There may be other considerations as well.

**Deputy Marc MacSharry:** It will go to the audit committee on 27 June, irrespective of what GSOC does.

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Marc MacSharry:** If Ms O'Sullivan were asking the questions, would she be suspicious about the fact that none of these matters was referred to the Minister under section 41, immediately to the Comptroller and Auditor General and, by dint of this investigation, to GSOC? Does that not preclude us from asking certain questions of Ms O'Sullivan today?

**Ms Nóirín O'Sullivan:** Not at all, because the report will be made available. In case I was not clear to the Chair, the report has been referred, under section 41, to both the Department of Justice and Equality and the Policing Authority. The report will also be made available to the committee. Both Mr. Kelly and Deputy Commissioner Ó Cualáin have been in touch with the chair of the audit committee, and my understanding is that Mr. Kelly has been in contact with the office of the Comptroller and Auditor General and with OLAF.

**Deputy Marc MacSharry:** Yes, I understand. On the basis of his letter to us which says that he has suspicions of fraud, which is criminal activity, would it be Ms O'Sullivan's instinct to refer this matter to GSOC straight away?

**Ms Nóirín O'Sullivan:** Yes. It is of huge concern if any law is broken.

**Deputy Marc MacSharry:** What was Ms O'Sullivan's instinct when she received the letter from the director of finance seeking that a colleague be investigated for a crime?

**Ms Nóirín O'Sullivan:** I did not interpret that letter in that way.

**Deputy Marc MacSharry:** It seemed pretty specific.

**Ms Nóirín O'Sullivan:** From my memory-----

**Deputy Marc MacSharry:** I am sure we can jog Ms O'Sullivan's memory and get this up on the screen if necessary.

**Vice Chairman:** I ask the secretariat to put the letter from Mr. Culhane on screen.

**Deputy Marc MacSharry:** He seemed to have a very specific view that a criminal investigation into a breach of the Official Secrets Act should be carried out into a senior management member. It was only in this room that Mr. Barrett, the subject of that letter, became aware of its full contents after many attempts to source this letter, personally and through his solicitor. Ms O'Sullivan acted swiftly on the comments of the head of internal audit, Mr. Niall Kelly, as to his suspicions of fraudulent activity. He is more junior than the director of finance. When the director of finance wrote to Ms O'Sullivan and suggested that a criminal investigation be carried out into Mr. Barrett for a suspected breach of the Official Secrets Act, how is it that Ms O'Sullivan did not take similar action at that point, if that was her instinct as a lifelong detective?

**Ms Nóirín O'Sullivan:** Perhaps I should deal with the difference between that and yesterday. Yesterday, I received a statutory report from a person with statutory responsibility whom I

had appointed to conduct an internal audit on these matters. The head of our internal audit unit told me about this. I perceived, as a detective, that the minute I received, along with some other recipients, was the view of a particular individual. On the face of it, it appeared to me that it was an interpersonal difference of opinion between two individuals, and one of the individuals had become aware of something.

**Deputy Marc MacSharry:** It does not say anything about that in the letter. It does not say that “I do not like Mr. X”.

**Ms Nóirín O’Sullivan:** If the Deputy reads the-----

**Deputy Marc MacSharry:** It says, “A criminal investigation under the Official Secrets Act”.

**Ms Nóirín O’Sullivan:** What it actually says-----

**Deputy Marc MacSharry:** It would be helpful if it was up on the screen.

**Ms Nóirín O’Sullivan:** I am trying to find the correct portion of it here. I am looking for the minute dated 24 October.

**Deputy Marc MacSharry:** Is it further down?

**Ms Nóirín O’Sullivan:** It is probably down further. It is on the second page. What it actually says is:

In collecting all of this confidential material and posting it to himself, I assume to his own home address, is JB unwittingly guilty of a criminal offence under the Official Secrets Act? The Commissioner may wish to initiate a formal investigation of JB’s activities under the Official Secrets Act as his intent may appear to be cause damage to An Garda Síochána either through unauthorised disclosure or leaks to the press.

That is a very different scenario than I was presented with yesterday, where my head of internal audit was actually telling me that he believes that-----

**Deputy Marc MacSharry:** That is the Commissioner’s director of finance, and that alleges a potential breach of the law too.

**Ms Nóirín O’Sullivan:** An inadvertent breach of the law. What I did-----

**Deputy Marc MacSharry:** Nevertheless. One does not inadvertently rob a bank.

**Ms Nóirín O’Sullivan:** No but, as always, what one does is one evaluates and assesses information which comes to one’s attention.

**Deputy Marc MacSharry:** What did the Commissioner do in evaluating this assessment? Did she ring Mr. Culhane? Did she ring somebody and ask what this was about or did it just go into the file?

**Ms Nóirín O’Sullivan:** No, it most certainly did not. I made contact with the deputy commissioner of governance and strategy, who was acting Commissioner at the time. I asked him to raise the matter at the next executive, which was on the Tuesday. From memory, this document was received on a Saturday. I asked him to raise it at the next executive. To me, this was an interpersonal dispute between two individuals in a particular line of management. At that time,



the line manager was the chief administrative officer. I asked the acting Commissioner to have Mr. Dunne meet with both of the individuals and try to address and resolve this and identify if there were any further actions required.

**Deputy Marc MacSharry:** Mr. Dunne did address it with Mr. Barrett. He called it feedback. He got some feedback and had a chat with him. Is that a new way of dealing with fair procedures – that somebody alleges criminal activity by a colleague and then senior management go back and say “Look, I got some feedback”?

**Ms Nóirín O’Sullivan:** Well, I am not in a position to know what was in Mr. Dunne’s mind but-----

**Deputy Marc MacSharry:** Would the Commissioner say that was appropriate?

**Ms Nóirín O’Sullivan:** What I would say is that Mr. Dunne had to resolve this matter in the best way he thought appropriate and my understanding, from documents that I have now seen, is that Mr. Dunne also asked Mr. Culhane if he wished to pursue this matter further, which at that time he did not. Mr. Dunne also gave advice to Mr. Barrett, which I think was quite appropriate. Mr. Barrett was relatively new to the organisation and may not have fully understood the consequences of sending documents off-site, so to speak. Mr. Dunne also gave Mr. Barrett some advice in respect of managing his documents and his files in a more secure manner.

**Deputy Marc MacSharry:** How many times did Mr. Barrett, personally or through his solicitor, request a copy of this minute the Commissioner described as a letter?

**Ms Nóirín O’Sullivan:** I can get the Deputy the exact number of times by conferring with my colleague.

**Deputy Marc MacSharry:** Rather than the exact number, was it more than five?

**Ms Nóirín O’Sullivan:** From memory - I can get the timeline on it - it was probably five and I think it was in a period from roughly around-----

**Deputy Marc MacSharry:** Why would the Commissioner have not responded to that?

**Ms Nóirín O’Sullivan:** It was responded to. It was responded to on every occasion.

**Deputy Marc MacSharry:** As in, “Thanks for your letter. We will get back to you. It is being looked into”?

**Ms Nóirín O’Sullivan:** No. If the Deputy wishes, I can give him the timeline.

**Deputy Marc MacSharry:** No, it is not just the timeline I am interested in. It was only in this room a couple of weeks ago that Mr. Barrett found out the full context of that letter. He had only received a redacted version after going through the freedom of information process. When a request was made to the Commissioner looking for this letter, why did she not give it to him?

**Ms Nóirín O’Sullivan:** The request was received on 25 October 2016. I will have to confer with my colleague, Mr. Nugent, about what day of the week that was. On Tuesday, 26 October that correspondence was acknowledged by my staff and Mr. Barrett was informed that it had gone to the chief administrative officer, his line manager, to be dealt with. That office had previously dealt with the matter. On 26 October, the letter was also sent to the chief administrative officer to address it. So that is one piece of correspondence.

The next piece of correspondence was on 28 October - three days later, which would have been Friday of a bank holiday weekend, when the second piece of correspondence was received from Mr. Barrett.

**Deputy Marc MacSharry:** Why did the Commissioner not just give him the letter?

**Ms Nóirín O'Sullivan:** I am sorry but if I could just continue because I think this is really important.

**Deputy Marc MacSharry:** No, my time is limited. It is not as important as the Commissioner says. If there was a series of acknowledgements or the matter was looked into or it was a case of Bob passed it to Joe and Mary passed it to John, the net result is that he did not get the letter in its full context until he was in this room with us two weeks ago. I am just asking directly why he did not get a copy of the letter. I am not interested in a chronological list of superficial responses that were given. Rather, I am interested in the substantive issue of why he did not get a copy of the letter and who decided not to give it to him.

**Ms Nóirín O'Sullivan:** If I may continue, because it is not actually a long chronology at all. On the Friday we received-----

**Deputy Marc MacSharry:** No, my time is up. With no disrespect to the Commissioner, I did say at the outset that sometimes the questions are robust because our time is limited.

**Vice Chairman:** Could the Commissioner expedite her reply?

**Ms Nóirín O'Sullivan:** Yes, I can expedite it. That was the Friday of the bank holiday weekend. I might provide some context. This was a weekend when we were dealing with unprecedented threatened industrial action by members of An Garda Síochána. On that Friday, the third piece of correspondence was received from Mr. Barrett. Correspondence was received on the previous Tuesday and the Friday and then on the following Tuesday after the bank holiday weekend. On 2 November, the chief administrative officer had been inquiring from a legal perspective how the documents could be released to Mr. Barrett given there was third-party information involved.

**Deputy Marc MacSharry:** Okay.

**Ms Nóirín O'Sullivan:** If I may, because this is really important.

**Deputy Marc MacSharry:** All right.

**Ms Nóirín O'Sullivan:** I do not wish to speak on behalf of my colleague, Mr. Nugent. I feel very awkward as he is sitting here beside me. I do not wish to put words into his mouth.

**Deputy Marc MacSharry:** Mr. Nugent can confer with the Commissioner if he needs to but the Commissioner can answer.

**Ms Nóirín O'Sullivan:** Yes. On 4 November, some ten days later, on the basis of legal advice which said that the document needed to be released, preferably under FOI or data protection, Mr. Nugent informed Mr. Barrett and on 4 November Mr. Barrett's solicitor then requested that. As the committee is aware, that request then went into a process and that process was dealt with and the decision was made about what precisely was released. All of the documents were released to our data protection office and as committee members know there is a process there and it decided what was released.

**Deputy Marc MacSharry:** In that process, was there any input into the redactions by the Commissioner or other personnel?

**Ms Nóirín O'Sullivan:** Absolutely not.

**Deputy Marc MacSharry:** Or the Department of Justice and Equality?

**Ms Nóirín O'Sullivan:** No, absolutely not.

**Deputy Marc MacSharry:** I assume the Commissioner is not going to answer any questions relating to the matter that has been referred to GSOC.

**Vice Chairman:** The Deputy should not assume that.

**Deputy Marc MacSharry:** I am asking.

**Ms Nóirín O'Sullivan:** If the Deputy wishes to ask a question, then I am very happy to see whether we can answer it. I am conscious that the matter has been referred to GSOC and now forms part of its consideration and examination. I will be precluded from discussing a lot of a detail but I am happy if I can assist the Deputy with his questions.

**Deputy Marc MacSharry:** Is it alleged that a sum of approximately €100,000 is unaccounted for?

**Ms Nóirín O'Sullivan:** That is not my understanding but, obviously, there has to be a full investigation now or an examination in respect of the matter.

**Deputy Marc MacSharry:** Who is the signatory on the account in Cabra?

**Ms Nóirín O'Sullivan:** I am not in a position to answer those questions because the matter has to be fully examined and investigated.

**Deputy Marc MacSharry:** Okay, but surely the signatory on the account is a matter of fact rather than speculation.

**Ms Nóirín O'Sullivan:** It is not contained in the internal audit report and it would be a matter for the investigation to identify precisely.

**Deputy Marc MacSharry:** No. I know who signs my account - it is me. Irrespective, and without prejudice to any investigation about any misappropriation of funds, who is the signatory on the account in Cabra?

**Ms Nóirín O'Sullivan:** Well, there are a number of things. There has to be fairness to individuals and until such time as the matter-----

**Deputy Marc MacSharry:** Including this committee, in fairness.

**Ms Nóirín O'Sullivan:** Yes. I am very happy to do so and as soon as we have consulted with the Garda Síochána Ombudsman Commission and gone through the process the committee is very welcome to the reports we have received.

**Deputy Marc MacSharry:** In fairness, that is not very acceptable. The public is watching this debate and people are concerned. In her experience as a detective, I put it to the Commissioner that if she was sitting where I am in recent weeks and I was sitting in her place the complexion of events is not very convincing. Could I ask who is the signatory on the account

in Cabra?

**Ms Nóirín O’Sullivan:** I am not in a position to answer that at this stage.

**Deputy Marc MacSharry:** Why not?

**Ms Nóirín O’Sullivan:** It way predates the time that I was there. I had no knowledge of the account in Cabra until such time as I heard it being discussed at this committee-----

**Deputy Marc MacSharry:** Who did?

**Ms Nóirín O’Sullivan:** -----and I received the report yesterday.

**Deputy Marc MacSharry:** Would Commissioner Callinan have known the signatory on that account?

**Ms Nóirín O’Sullivan:** It predates Commissioner Callinan’s time also.

**Deputy Marc MacSharry:** Would the previous Commissioner know?

**Ms Nóirín O’Sullivan:** Until this matter is fully examined and investigated-----

**Deputy Marc MacSharry:** Did anybody in the Garda check in the meantime, irrespective of and without prejudice to any investigation by GSOC or otherwise? As a matter of form, who signs for what account for what money?

**Ms Nóirín O’Sullivan:** Yes. The internal audit has examined a lot of documentation.

**Deputy Marc MacSharry:** Does the Commissioner know who the signatory on the account is?

**Ms Nóirín O’Sullivan:** No. I am not aware of who all the signatories on the account are.

**Deputy Marc MacSharry:** What about that specific account?

**Ms Nóirín O’Sullivan:** The Cabra account? No, I am not aware of all of the signatories.

**Deputy Marc MacSharry:** The Commissioner said “all of the signatories”, so were there multiple signatories?

**Ms Nóirín O’Sullivan:** The history of the account will have to be traced in the course of the investigation.

**Deputy Marc MacSharry:** I appreciate that but histories of accounts, transactions and misappropriations or not, as alleged, are all irrelevant.

There was an account in Cabra. Who were the signatories - the Commissioner said “all”, so I assume there was more than one - on that account?

**Ms Nóirín O’Sullivan:** My understanding is that the account changed over time and it would be a matter for the investigation to identify-----

**Deputy Marc MacSharry:** Who were the most recent signatories on that account?

**Ms Nóirín O’Sullivan:** I do not think it is appropriate or fair that I would name individuals here in the committee until such time as an appropriate-----

**Deputy Marc MacSharry:** Why not? They were serving members of An Garda Síochána and public servants. Surely the public is entitled to know who was in a position to lodge, withdraw or transfer funds from an account.

**Ms Nóirín O'Sullivan:** We are now in a position where the head of internal audit has advised and referred the matter to me, suggesting that suspicious activity has taken place on this account. Due process and fairness to individuals, as I am sure the committee will appreciate, must take place.

**Vice Chairman:** By way of information, does the Commissioner know the rank level of the people involved?

**Ms Nóirín O'Sullivan:** A retired senior officer.

**Vice Chairman:** Of what rank?

**Ms Nóirín O'Sullivan:** My divulging that here would be tantamount to identifying an individual and I do not think that is appropriate.

**Deputy Marc MacSharry:** The public is entitled to this information. The person is a signatory to an account but that does not mean that he or she was party to any wrongdoing. As I said, this is all without prejudice.

**Ms Nóirín O'Sullivan:** Without prejudice and with respect to the committee, there is a process that must be gone through. There must be due process and fair procedure applied to every individual.

**Deputy Marc MacSharry:** What about this process? This is a constitutional committee of the State.

**Ms Nóirín O'Sullivan:** I am here to assist the committee in every way possible-----

**Deputy Marc MacSharry:** I appreciate that-----

**Ms Nóirín O'Sullivan:** -----but I did preface my remarks by saying that-----

**Deputy Marc MacSharry:** If one was a viewer here, one might say that it was curious that it took 16 months to take action on one level and that it was very convenient to be able to put this to GSOC late yesterday evening.

**Ms Nóirín O'Sullivan:** Deputy-----

**Deputy Marc MacSharry:** Now, all of a sudden, we cannot ask questions here today because we have to afford due process to people who were in control of taxpayers' money, without prejudice as to whether they did a great or a terrible job with that. We are now not entitled to know that because very conveniently, it was kicked into GSOC yesterday evening and we are not going to know. It is on the never-never. God knows who will be on the Committee of Public Accounts when that information comes out.

**Ms Nóirín O'Sullivan:** I am not sure what the inference is but I would just say-----

**Deputy Marc MacSharry:** I am not inferring anything. I am only asking a question-----

**Ms Nóirín O'Sullivan:** Under no circumstances-----

**Deputy Marc MacSharry:** -----as to who signed the account that money was in but the Commissioner is saying that she has to protect the identity of that person. I am not saying that person did anything wrong. I am just asking who was in control of the cash.

**Ms Nóirín O’Sullivan:** I am not protecting the identity of any individual. What I am doing is affording every individual due process and fair procedure. That is our obligation.

**Deputy Marc MacSharry:** Okay, I am sure it is fair to assume that all 12,000 gardaí were not signatories on the account so I am just asking who was.

**Ms Nóirín O’Sullivan:** As I have said, every individual must be afforded due process and fair procedure. In the case of this investigation, the same due process and fair procedure has to apply to all of the people affected by this.

**Deputy Marc MacSharry:** If there was an investigation into somebody robbing a shop who happened to work in it, that would not preclude somebody from answering a question and providing the names of the people who worked in the shop. What is the problem?

**Ms Nóirín O’Sullivan:** I would presume, in that case, that the people employed in the shop would be witnesses.

**Deputy Marc MacSharry:** Sure, but-----

**Ms Nóirín O’Sullivan:** One would not necessarily, in my experience, put the names of witnesses in the public domain. They are entitled to protection and privilege also.

**Deputy Marc MacSharry:** The public is not entitled to know the identity of the signatories on an account containing public funds. Is that the position?

**Ms Nóirín O’Sullivan:** Of course, the public and this committee will be entitled to full transparency and full knowledge of these matters when they have been investigated.

**Deputy Marc MacSharry:** It does not seem that we are getting that, as I am sure the Commissioner will appreciate.

**Ms Nóirín O’Sullivan:** If I could come back to something that I said earlier. I would like it to be on record that under no circumstances was this matter referred to GSOC to keep it from the public view or the view of this committee. It was referred to GSOC because that is the appropriate impartial and objective statutory body that is there to carry out examinations and investigations into any matters relating to serving or retired members of An Garda Síochána.

**Deputy Marc MacSharry:** Clearly, there are a number of matters to be investigated. The Commissioner would have been in a position to say: “Look, there is definitely fraud there, we are giving in to GSOC to get it off our desk.” Would there not have been enough in the original report to refer the matter to GSOC?

**Ms Nóirín O’Sullivan:** No, what we had in the original report, that is the material I received from the Deputy Commissioner which had been compiled by the head of legal affairs, was the suggestion that there was a whole myriad of very complex issues surrounding the management and accounting structures at Templemore. It was very clear, as I have said already, that between 28 and 30 July there were considerable files relating to this matter. The focus was on making sure that sufficient information was gathered to be in a position to fully know precisely what had happened since 2008 when these matters had been brought to attention. That was the



purpose of the work that was being conducted by the then working group.

**Deputy Marc MacSharry:** The Commissioner can appreciate that from where I sit, the complexion is very much that An Garda Síochána decided to sit on this and contain it as much as possible. We are only here today because of the contributions of some of the Commissioner's senior colleagues on the civilian side and the work of this committee. These matters have been dragged out as opposed to being put out.

**Ms Nóirín O'Sullivan:** Can I be very clear on this? I have listened to and read a lot of the commentary on this matter and I want to be very, very clear on something. At no stage was there any intention to do what the Deputy has suggested. At all stages, what we-----

**Deputy Marc MacSharry:** There may have been no intention by the Commissioner, but she cannot speak for everyone in the organisation.

**Ms Nóirín O'Sullivan:** What I can be clear about is that the team represented here and Mr. Dunne, who was part of the executive-----

**Deputy Marc MacSharry:** Just on that point, when was the last time the Commissioner spoke to Mr. Dunne?

**Ms Nóirín O'Sullivan:** I do not know exactly. I think I saw him briefly at the Garda memorial service in May and I said hello to him.

**Deputy Marc MacSharry:** Did the Commissioner speak to him in the last fortnight?

**Ms Nóirín O'Sullivan:** No.

**Deputy Marc MacSharry:** Was there any contact at all through third parties?

**Ms Nóirín O'Sullivan:** No. May I just finish my point? I want to be very clear that at all times we acted in absolute good faith and with propriety. The minute these matters were brought to our attention our focus was on doing two things. One was regularising the matters at the Garda College, to make sure the regularity was there and also, in terms of propriety, to make sure that the appropriate actions were taken, that we got full sight of what had been done and that we made sure that processes were in place to correct things that were wrong, to fix them and put new mechanisms in place to ensure they could never happen again. Our focus was also to make sure that we got a complete picture of the historical context, of who had done what and what had actually been actioned. What was very clear was that over the years this was a very complex matter. The record will show that what this executive did from the time we became aware of it in 2015 all the way through to the present day was unravel what is a very, very complex structure, try to regularise it, get appropriate advices, appropriate support and put regulatory and propriety practices in place that ensure this can never happen again.

**Deputy Marc MacSharry:** How am I for time?

**Vice Chairman:** Grand, the Deputy has time for another couple of questions.

**Deputy Marc MacSharry:** Is the Commissioner aware of evidence to this committee that three people at a meeting, including an Assistant Commissioner, were instructed that under no circumstances was the McGee report to be given to internal audit?

**Ms Nóirín O'Sullivan:** I cannot say I am.

**Deputy Marc MacSharry:** The Commissioner would not have been party to any instruction to hide this report from internal audit-----

**Ms Nóirín O'Sullivan:** Absolutely not, no. I want to be very clear. I have made it very clear, even since I took up the role of interim Commissioner, that internal audit is a key part of the internal structures that we have in place to give me assurances as Commissioner. What we are doing is very important. There is no doubt, because we have heard and seen it, that the structures we have in place need to be reviewed and robustly addressed. What we are doing on 27 June is taking the opportunity provided by a new audit committee to ask it to provide me as Commissioner and my team, as an executive, with advices as to how best that can be put in place, to repair some of the relationships and to make sure that there are proper and appropriate interactions between all of the various elements of the internal control mechanisms.

**Deputy Marc MacSharry:** I have a few quick questions on some housekeeping matters to which the Chairman also referred. The Commissioner told us on 4 May that the first she knew about the scandalous financial irregularities at the Garda Síochána was on 27 July 2015. Is that still her position?

**Ms Nóirín O'Sullivan:** The 27th of July, yes.

**Deputy Marc MacSharry:** That is still the Commissioner's position.

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Marc MacSharry:** Things arise as a result of the Commissioner's answers but I might leave that to my colleagues because I want to get through my remaining questions and get them on record. The Commissioner also told us on 4 May that the meeting where she was first told of these issues lasted five minutes and took place over a cup of tea. Is that still her position?

**Ms Nóirín O'Sullivan:** I do not believe I ever said five minutes.

**Deputy Marc MacSharry:** Okay. It was over a cup of tea, it might have been a longer cup of tea but how long was the meeting? What is her position on that?

**Ms Nóirín O'Sullivan:** If I put it in context, the meeting that we had in the Garda College was not about this issue. The meeting started at-----

**Deputy Marc MacSharry:** We are digressing a bit. I am just wondering how long the meeting lasted.

**Ms Nóirín O'Sullivan:** I would like to put it in context. The meeting started at 8 a.m. At 9.30 a.m. we went from one meeting, which was a meeting of the senior team, into a strategic transformation meeting. That went on-----

**Deputy Marc MacSharry:** We could go through a whole day-----

**Ms Nóirín O'Sullivan:** I would like to put it in context.

**Deputy Marc MacSharry:** We both know what we are talking about, do we not?

**Ms Nóirín O'Sullivan:** If I understand the Deputy's question correctly, he asked me to comment on my interpretation of the meeting.

**Deputy Marc MacSharry:** I am just going back to the Commissioner's evidence. I am

sorry if I said “five minutes”. The Commissioner certainly said “a cup of tea”. Cups of tea go cold, so we can deduce that it was not a very lengthy meeting.

**Ms Nóirín O’Sullivan:** I would like to explain because “a cup of tea” might seem that in some way I was denigrating the meeting. I certainly was not. As would be our normal practice at a meeting of that length, we finished our meeting at around 5.30 p.m. As would be the normal practice of the executive, we went for our normal debrief to a reception room where we would normally have tea at the end of the day.

**Deputy Marc MacSharry:** The Commissioner and her colleagues had a cup of tea. For how long did that go on?

**Ms Nóirín O’Sullivan:** It was an informal meeting. I honestly cannot remember how long the meeting went on. There is no issue regarding how long the meeting went on. I believe the focus is on what actually transpired at that meeting, and the outcome of that meeting. In terms of what transpired at that meeting, I was aware that Mr. Ruane, the head of legal affairs, had sent a report to Deputy Commissioner Ó Cualáin. The person who had contributed to the authoring of that report, Mr. Barrett, was present at the meeting in the college that day - the day-long meeting. Deputy Commissioner Ó Cualáin invited Mr. Barrett over to the reception room so that he could hear what we were going to discuss regarding the content of Mr. Ruane’s report. Those discussions went on and arising from those discussions, the following morning, Deputy Commissioner Ó Cualáin sent me a report regularising what we had discussed at those meetings. Thereafter, immediate actions were taken, which has led to the implementation of the recommendations in the internal audit report, which we are now discussing. I am not in dispute around the length of the meeting. It was at the end of a very long day. The meeting was informal in nature. If it was a formal meeting-----

**Deputy Marc MacSharry:** Would the Commissioner accept that her response on the previous day led us at least to believe that this was a very short kind of reference to these matters at the end of a day’s meeting?

**Ms Nóirín O’Sullivan:** I do not believe that I ever suggested there was a reference.

**Deputy Marc MacSharry:** The Commissioner did not. It was over a cup of tea. Perhaps it is our interpretation of a cup of tea being much longer than it is.

**Vice Chairman:** We might pull up the evidence given on 4 May, which involved questioning from me at the time. It was that it was a very short meeting. Go ahead, Deputy.

**Deputy Marc MacSharry:** While we are doing that, I will move on to the next couple of points. Colleagues should be aware that I am nearly finished these few points. I seek answers that will help in terms of asking further questions. When the Commissioner last appeared before the committee, she claimed legal privilege over advice given by Mr. Ruane, head of legal affairs, in his letter of 24 July. Is that still her position?

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Marc MacSharry:** Why, in a constitutional democracy, would the Commissioner deny the representatives of the people here an understanding of what she was told about matters so serious?

**Ms Nóirín O’Sullivan:** As I hope I explained the last day, I have no problem talking about

what I did. However, as the committee will be aware, there is an absolute privilege applying to lawyer-client confidentiality and my understanding is that it is my right to assert that privilege.

**Deputy Marc MacSharry:** It is a right the Commissioner could choose to waive in the interests of addressing the matters at hand and the fact that they are of such public interest. Would she still maintain her right to assert legal privilege?

**Ms Nóirín O’Sullivan:** It is such a fundamental constitutional privilege, yes. I think it is an absolute privilege and I assert my right to privilege.

**Deputy Marc MacSharry:** That is the Commissioner’s right, but in terms of the complexion of these matters and executing that right, does she believe it helps or deducts from the transparency with which these matters are-----

**Ms Nóirín O’Sullivan:** I am absolutely willing to assist the committee in the most open and transparent way. What I can say is that on all of the actions that were taken arising from those advices, I am very happy to assist the committee in any way that I can, as I did the last day in relation to that.

**Vice Chairman:** Does the Deputy have a final question?

**Deputy Marc MacSharry:** I will ask a final question and I can come in again later. In his evidence to the committee, which I alluded to earlier, as did the Vice Chairman, the Comptroller and Auditor General said that to “immediately inform the relevant authorities”, including his office, was the absolute correct course of action in the circumstances. Does the Commissioner accept that the Comptroller and Auditor General is correct in saying that?

**Ms Nóirín O’Sullivan:** We have all learned a lot of lessons not just in our own organisation, but as we have looked at corporate governance procedures over the past while. As I said, we are getting advices from the audit committee, but my view today, as happened yesterday, is that everybody is informed immediately of matters. Absolutely, I accept that.

**Deputy Marc MacSharry:** Does the Commissioner believe that her role and responsibilities as Accounting Officer, and familiarity with that role and responsibilities, have been a work in progress?

**Ms Nóirín O’Sullivan:** No. I am acutely aware of my role and responsibility as Accounting Officer.

**Deputy Marc MacSharry:** However, they have evolved to the extent that the Commissioner now knows she must tell the Comptroller and Auditor General, internal audit and so on immediately, whereas when it came to the McGee or other reports, it was a case of “Let us throw this around a little bit internally, get more information and when we have enough, we will let them know.”

**Ms Nóirín O’Sullivan:** I was not Accounting Officer when the McGee report was issued.

**Deputy Marc MacSharry:** I am only talking about now.

**Ms Nóirín O’Sullivan:** Now, no problem. For the record, I do see some commentary suggesting that I have been Accounting Officer ever since the McGee report was published, but that is not the case.

**Deputy Marc MacSharry:** Who was the Accounting Officer then?

**Ms Nóirín O’Sullivan:** From my memory, the Accounting Officer in 2008 would have been Mr. Murphy.

**Deputy Marc MacSharry:** Would the Commissioner think Mr. Murphy should have passed it on immediately?

**Ms Nóirín O’Sullivan:** I do not think that it is fair. I can come in here and account for myself. It is not my place to account for my predecessors.

**Deputy Marc MacSharry:** Did the role of Accounting Officer change since he was Accounting Officer and the Commissioner became Accounting Officer?

**Ms Nóirín O’Sullivan:** Some of the corporate governance standards have changed, yes.

**Deputy Marc MacSharry:** Would it have been appropriate then and now to immediately inform the Comptroller and Auditor General if matters of this nature arise?

**Ms Nóirín O’Sullivan:** Absolutely, yes.

**Deputy Catherine Murphy:** I, too, will keep my questions short and I hope the responses will be as succinct as possible to try to maximise the time available. To pick up on the Cabra account, it was the Cabra account.

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Catherine Murphy:** Was it a personal account or a Garda account?

**Ms Nóirín O’Sullivan:** Again, without pre-empting what the investigation will uncover, my understanding is that it was a Garda account.

**Deputy Catherine Murphy:** The suspicion that the money-----

**Vice Chairman:** Was it always held in the name of An Garda Síochána?

**Ms Nóirín O’Sullivan:** My understanding is “Yes”.

**Vice Chairman:** That account or other related accounts were never in the name of somebody who is no longer a member of the force.

**Ms Nóirín O’Sullivan:** I do not know. We would have to check with the head of internal audit.

**Deputy Catherine Murphy:** It was Mr. Kelly, who was head of internal audit, who notified the Commissioner so he would have indicated an approximate amount. In what range was that?

**Ms Nóirín O’Sullivan:** At its peak, it would have been in the region of €90,000 plus, down to maybe €5,000.

**Deputy Catherine Murphy:** There is a range.

**Ms Nóirín O’Sullivan:** That is roughly-----

**Deputy Catherine Murphy:** What timeline are we talking about?

**Ms Nóirín O’Sullivan:** I will have to confer with some of my colleagues. My understanding is that the account was opened in 1999 and closed in 2010.

**Deputy Catherine Murphy:** It could be a range of different people.

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Catherine Murphy:** In terms of the level of offence of which there is suspicion, is that on the serious end?

**Ms Nóirín O’Sullivan:** At this point, I do not know. That is where the investigation will establish if any offence occurred. What Mr. Kelly has reported is that he has reasonable cause to suspect that there may be, so potentially there may be criminal or fraudulent activity around the account, but that will be a matter for the ombudsman commission to establish.

**Deputy Catherine Murphy:** Is that exclusively around the European money?

**Ms Nóirín O’Sullivan:** My understanding is “Yes”, but I want to be very careful. I am giving the Deputy what I got as a preliminary report from the head of internal audit. I do not know the facts and I think it would be wrong of me to pre-empt what the investigation will establish.

**Deputy Catherine Murphy:** There are two ends to this account. There is the money controlled by an account in Cabra but in terms of how it got there, I raised a question here a couple of weeks ago about money coming from Templemore to a Dublin account that was controlled by a senior member of the force. I presume that is what we are talking about here. When I asked Mr. Kelly, he said that he was not happy to discuss it at that meeting a couple of weeks ago because it was the subject of an audit. Again, I asked Deputy Commissioner Ó Cualáin last week about inquiries other than the internal audit, and we have progressed to that in less than a week. The money would have had to come from Templemore. There is a number of different accounts there. As such, somebody in Templemore was transferring money to an account. Was that straightforward in the normal course of events? Would money that was allocated for the purpose of the European funding not have been exclusive to Templemore? Why would that have gone to the Cabra account?

**Ms Nóirín O’Sullivan:** I am not in a position to answer those questions. Obviously, they are facts that will have to be established in the investigation. To be fair to the committee, I want to be very clear. What the internal auditor has told us at the moment - if I can just quote from his audit report - is that he considers that there is sufficient suspicion that fraud may have been committed. That means that the matter needs to be investigated to establish-----

**Vice Chairman:** Did he use the words “*prima facie*”?

**Ms Nóirín O’Sullivan:** No, he did not.

**Vice Chairman:** Did he use them orally with the Commissioner?

**Ms Nóirín O’Sullivan:** No, he did not. They are his exact wordings and that is why I think it is really important. We are talking about a potential suspicious activity on an account that may potentially lead investigators to establish that something has happened. We have to be very careful in terms of the context that we are putting on this. This is at the very early stages. It has not even - I do not even want to say that the ombudsman commission - it was only considering the matter. To be fair, the ombudsman commission got the matter yesterday. Of course, we remain there to assist the ombudsman commission in whatever way possible, including with



the expertise available throughout the organisation.

**Deputy Catherine Murphy:** I do not want to be unfair to the Commissioner, but I must refer to the timing of the referral yesterday given that this is a subject which, over the last two weeks, has come into play here. While I am very pleased that something is being inquired into by the appropriate body, I have to point out that the timing appears incredibly convenient given that the Commissioner is in front of us today and it puts out of bounds discussions on some of the matters that we were trying to explore.

**Ms Nóirín O’Sullivan:** Even if I was here without having referred this matter to the ombudsman commission yesterday, I would not be in a position to talk about these matters. They would still be under either internal audit investigation or external investigation. Under no circumstances was the matter referred for anything other than to take the appropriate and required action when something like this is brought to our attention.

**Deputy Catherine Murphy:** I want to move on to another aspect of the work we have been doing. It refers back to the letter of 24 October where we read out the section relating to Mr. Barrett collecting all confidential material and posting it to himself. It suggests the Official Secrets Act. The Commissioner termed that an “interpersonal dispute”. We have interrogated this over and back with different people over the last couple of weeks. It certainly looks very different to an interpersonal dispute to me. Mr. Barrett and a number of witnesses before us have agreed that much of this material would not have ended up in the public domain had he not forced that to happen. He was very diligent in how he pursued things. He then ends up being subject to this letter coming from Mr. Culhane and a suggestion that the Official Secrets Act should be applied. That for me is not an interpersonal dispute. Does the Commissioner regret saying that or does she still hold that it is an interpersonal dispute? She formed her opinion of that at the time but it is very important that this ended up in the public domain. We have the potential of a fraud here that has gone to GSOC. Even that would not have happened had this not come into public light or is unlikely to have happened. Does the Commissioner still believe it was an interpersonal dispute?

**Ms Nóirín O’Sullivan:** Absolutely. We may be talking about two separate things so I will clarify my position. This letter was received on 24 October 2015. It was quite evident from reading the content of the letter that there was, when I called it “an interpersonal dispute”, a difference of opinion in the way that Mr. Barrett was handling things and Mr. Culhane’s perception of that and *vice versa*. It involved a number of other parties. To my mind, what it highlighted was the interpersonal differences between two individuals operating in the same line of management and, most importantly, who had key roles to play in actually fixing the issues at hand. To come to Mr. Barrett, quite rightly he did what was proper and appropriate in bringing the matters to the attention of his then line manager, Mr. Dunne. That was back when he did do that. Then, Mr. Dunne was dealing with these matters and this letter comes into play. It was evident to me at that stage that here were two key people who actually had key roles to play in fixing these issues, which we had committed to doing. My focus was on making sure that those issues were dealt with and that any differences between these two individuals were resolved.

**Deputy Catherine Murphy:** When Mr. Dunne was here last week, he was asked about the timing of referring what he had found to the Comptroller and Auditor General. When we asked the Comptroller and Auditor General whether that was his understanding of how it should have happened or if it was the correct timing, he said it should have been referred immediately or very soon after it came to light. When one looks at the McGee report of 2008, it was given to Mr. Culhane who then had full knowledge. The genesis of the most recent report comes from

that 2008 report. Mr. Culhane was aware of that. The internal auditor was not given the appropriate information. In fact, the Comptroller and Auditor General has done a very helpful report for us on where the rights and responsibilities are, including those of the Accounting Officer. It is document No. DE0075GCT, page 9 of 12. At paragraph 60, it states that the internal audit function must operate freely and objectively. It says that this requires the full support of management, a sufficient organisational status for the function, and execution by the internal audit unit of work in a manner which is and is perceived to be objective and professional. The material was deliberately withheld and the internal auditor told us that until Mr. Ó Cualáin took his position, he had been frustrated in getting material. Given that there is a potential fraud - and it is nothing more than a potential at this stage - withholding information is also potentially a disciplinary matter. Does the Commissioner agree?

**Ms Nóirín O'Sullivan:** I cannot account for people who were in position before I became Accounting Officer. It is not appropriate to withhold information from the internal audit function. As I said earlier, the internal audit function is an integral part of the control mechanisms and structures we have in place within the organisation.

**Deputy Catherine Murphy:** If that is the case and year zero is always the day a new Commissioner comes into office and someone else who is still in position pre-dated that, does it mean no action can be taken?

**Ms Nóirín O'Sullivan:** No, it does not. What it means is that, if we are at year zero, what we have to do and what we are focused on doing as the executive at the moment, as I mentioned earlier, is ensuring that we ensure the mechanisms and structures we have in place are working to maximum effect. That is why we are getting the advices of the audit committee. How can we put these structures in place and, if I am frank, repair the relationships that are in existence, because that is what we have to do?

**Deputy Catherine Murphy:** Personal relationships and interpersonal disputes can exist. However, there are checks and balances all the way, such as internal audit, the head of finance, an audit committee and a section 41 possibility. All of these fail-safe mechanisms and systems should militate against any interpersonal disputes. They did not work, however. It was only when someone outside the organisation disrupted the system that this started to unfold, including the internal auditor realising he had a right to far more information than he was being afforded. I find it difficult to accept that the Commissioner sees this as an internal interpersonal dispute in that context. The checks and balances will not work if these are seen as that. The ongoing management then becomes a concern in the context of the potential repetition of all of this.

**Ms Nóirín O'Sullivan:** If I could just clarify, when I am talking about the internal interpersonal differences, it actually relates to the letter of 24 October. We absolutely recognise the need to have the internal governance structures in place. Back in 2015, Mr. Barrett did the right thing bringing this into place. He was there but there was also a new management team there. That should not be lost sight of. We were absolutely committed to making sure a light was shone on these matters. In our modernisation and renewal programme, one of the first things we committed to doing was strengthening governance arrangements within the organisation, including those internal structures - the mechanisms and checks and balances - and ensuring we were complying with best corporate governance standards for the public sector.

**Deputy Catherine Murphy:** It appears the person who disrupted this was the one for whom there were consequences, while there were none for those who kept a lid on it.

**Ms Nóirín O'Sullivan:** Will the Deputy clarify that? I am not sure who we are talking about and what the consequences were.

**Deputy Catherine Murphy:** The person who was disrupting all of this and forcing it out to be dealt with instead of being stuck in pigeonholes is the one who faces consequences because of the Official Secrets Act.

**Ms Nóirín O'Sullivan:** Just to clarify, there was no consequence. I want to be clear that at no stage was there ever consideration given to investigating Mr. Barrett under the Official Secrets Act.

**Deputy Catherine Murphy:** Why was it mentioned in this letter?

**Ms Nóirín O'Sullivan:** Mr. Culhane gave a view. It is only a view.

**Deputy Catherine Murphy:** Did the Commissioner respond to that?

**Ms Nóirín O'Sullivan:** Mr. Dunne responded to it. At no stage was there ever consideration given at any level in the organisation to investigate Mr. Barrett under the Official Secrets Act. For the information of the committee, the Official Secrets Act is used only in unique and exceptional cases. It is also rarely used.

**Vice Chairman:** Mr. Barrett was not investigated at all.

**Ms Nóirín O'Sullivan:** Absolutely not.

**Vice Chairman:** He was not investigated in any way, shape or form.

**Ms Nóirín O'Sullivan:** Not at all.

**Deputy Catherine Murphy:** Regarding the use of the credit union to move moneys backwards and forwards, funds were moved in from the restaurant account and back when there was a shortage. It seems to be an internal matter in light of the fact that the credit union involved is the Garda one, with potential for conflicts of interest. Does the Commissioner have any concerns about how the credit union was used?

**Ms Nóirín O'Sullivan:** The credit union is an independent financial institution. It is a separate entity entirely from An Garda Síochána. It has the same status as a financial institution.

**Deputy Catherine Murphy:** Who is on the board of the Garda credit union?

**Ms Nóirín O'Sullivan:** I am not currently aware but I am sure it is available in the public domain.

**Deputy Catherine Murphy:** However, those involved are likely to have been drawn from the Garda Síochána.

**Ms Nóirín O'Sullivan:** No, not necessarily.

**Deputy Catherine Murphy:** Given that Central Bank has a regulatory oversight of credit unions, it might be quite useful to ask it to have a look at this particular case.

**Vice Chairman:** That is a good suggestion. We will ask for that.

**Deputy Catherine Murphy:** Other than reimbursing gardaí for expenses or buying items

such as food and water for people in detention, is there any other reason moneys would be lodged into Garda members' personal accounts?

**Ms Nóirín O'Sullivan:** Does the Deputy mean members' individual personal accounts?

**Deputy Catherine Murphy:** Yes.

**Ms Nóirín O'Sullivan:** No, not that I am aware of.

**Vice Chairman:** We had evidence given by Mr. Kelly that hundreds of cheques were issued and were lodged.

**Ms Nóirín O'Sullivan:** I am not aware of that evidence. It is all electronic fund transfers now. In the past, if an individual member was to receive a payment for travel and subsistence, for example, it may well have been issued by cheque. Accordingly, the person who received it may have lodged it into his or her personal bank account.

**Vice Chairman:** There was also evidence given that the excessive income derived from the activities in Templemore was not used for such purposes. We need this to be clarified.

**Ms Nóirín O'Sullivan:** My colleague tells me we have no information in that regard but we will continue to work on it.

**Vice Chairman:** It is interesting because it seems incredible.

**Deputy Catherine Murphy:** When I asked Mr. Kelly several weeks ago about the money transferred to a Dublin account, he said he was not at liberty to talk about it because he was involved in auditing it. Mr. Kelly told the committee it could take up to two years to finalise all the work produced as a consequence of the interim report. What other audits are under way?

**Ms Nóirín O'Sullivan:** From what I understand from my colleague, Mr. Kelly has a number of streams of work under way. He was focusing on prioritising the one he has just completed and delivered to us yesterday. He has a number of other streams, the priority of which he will decide now. Obviously, he will make the audit committee aware of them.

**Deputy Catherine Murphy:** Will the priority be in cases where there is a suspicion of matters similar to those in respect of which he has completed audits?

**Ms Nóirín O'Sullivan:** It is not necessarily suspicious. I think the focus is one of ensuring the audit process is carried out thoroughly and robustly. It is not necessarily where there is any suspicion. There will be a prioritisation. As the Deputy knows, the work plan is agreed in conjunction with the deputy commissioner and the audit committee.

**Deputy David Cullinane:** I welcome the witnesses. The Commissioner has much experience in An Garda Síochána. How many years has she worked with the force?

**Ms Nóirín O'Sullivan:** Thirty-six years.

**Deputy David Cullinane:** I imagine the Commissioner has either led investigations and examinations or has been involved in investigations and examinations in her long career in An Garda Síochána. Is that fair to say?

**Ms Nóirín O'Sullivan:** Yes.

**Deputy David Cullinane:** Does she agree that getting co-operation from witnesses is a key part of any investigation?

**Ms Nóirín O'Sullivan:** Yes. Building trust and rapport with witnesses is key.

**Deputy David Cullinane:** Does she agree that getting information from people is also very important?

**Ms Nóirín O'Sullivan:** Gathering information, yes.

**Deputy David Cullinane:** Does she also agree people should not be frustrated in their work?

**Ms Nóirín O'Sullivan:** In general investigations-----

**Deputy David Cullinane:** I imagine Ms O'Sullivan would want to get full co-operation, would want full information and would not want to be in any way frustrated if she was carrying out an examination or investigation.

**Ms Nóirín O'Sullivan:** Of course, but in my experience one does not always get full co-operation.

**Deputy David Cullinane:** One may not but one would expect people who work in An Garda Síochána to provide full co-operation-----

**Ms Nóirín O'Sullivan:** Yes.

**Deputy David Cullinane:** -----and full information. Is Ms O'Sullivan aware of the opening statement given by the head of internal audit, Mr. Niall Kelly, when he was here last in which he claimed he did not get full co-operation from people within An Garda Síochána and that he was frustrated in his work? He cited three time periods. Is Ms O'Sullivan aware of that?

**Ms Nóirín O'Sullivan:** I am familiar with it. I will not say I have a detailed knowledge of it.

**Deputy David Cullinane:** Ms O'Sullivan is aware of it.

**Ms Nóirín O'Sullivan:** Yes, I am familiar with it.

**Deputy David Cullinane:** Two of the time periods he referenced are from July 2015 to March 2016 and September 2016 to March 2017. What he actually said was, "In regard to interference, non-co-operation and withholding information from internal audit, there are three periods of time that should be considered". Would Ms O'Sullivan not see it as serious that the head of internal audit feels his work was interfered with, that he did not get full co-operation, that information was withheld from him and that for two of the time periods where he suggests that was the case, Ms O'Sullivan was the Commissioner and the Accounting Officer?

**Ms Nóirín O'Sullivan:** Perhaps we could get Mr. Kelly's statement on the time period, which the Deputy is referring to here, because I also think subsequently Mr. Kelly clarified some of the comments when the Chairman-----

**Deputy David Cullinane:** It is in his opening statement and he says he did not get full co-operation. I will go into the details of it but what I am saying is in overall terms, for a long number of years, it is quite obvious from his opening statement and testimony - Mr. Barrett also



had very similar views - that he felt he did not get full co-operation, that his work was interfered with and that information was withheld from him. Does Ms O'Sullivan agree it is certainly his view?

**Ms Nóirín O'Sullivan:** Could we get Mr. Kelly's opening statement? In his evidence, when he was asked by the Chairman to clarify certain matters about the context and timing, I think Mr. Kelly may have provided some clarification. Unfortunately I do not have materials available to me.

**Vice Chairman:** We will ask the secretariat to pull up the opening statement. We have the opening statement. Ms O'Sullivan might be more specific on when Mr. Kelly supposedly said this.

**Ms Nóirín O'Sullivan:** I was not present but if I-----

**Vice Chairman:** Ms O'Sullivan is referring to it so-----

**Ms Nóirín O'Sullivan:** My colleague was present. It is in the transcript.

**Deputy David Cullinane:** I want to be clear with the Commissioner and I want frank answers. It is quite obvious from the testimony of Mr. Kelly that he felt and stood over his claim at this hearing that his work was interfered with. He did not get full co-operation and information was withheld from him and others. It is his clear view. Does Ms O'Sullivan acknowledge it was his view?

**Ms Nóirín O'Sullivan:** No, I am trying to read it here on screen. Of course, if that is what he says, it is his view. For the purpose of the record, it is important to say that during his testimony, when asked by the Chairman presiding on the day, my understanding from my colleague is the matter was clarified around the time period Mr. Kelly was-----

**Deputy David Cullinane:** We have five pages of an opening statement. He cites three time periods: from 2008 to 2011, from July 2015 to March 2016 and from September 2016 to March 2017. Two of those time periods were when Ms O'Sullivan was Commissioner. I will go through exactly what his concerns were. His statement was long, considered and very clear on where he felt his work was interfered with and where he did not get full co-operation from people within the organisation. Does Ms O'Sullivan accept that in the five pages of his opening statement that was his view when he was before the Committee of Public Accounts the last time?

**Ms Nóirín O'Sullivan:** I accept it was his view as articulated in his opening statement but my understanding is that, as his testimony in his evidence emerged and when he was asked to clarify by the Chairman, he brought context and clarification on precisely what he meant by the time period.

**Deputy David Cullinane:** Ms O'Sullivan and her officials and support team can find that. It is not my view of that meeting. I sat there for all the hours of testimony. I heard exactly what Mr. Kelly said and he stood over his claims. I want to turn to the time period. The last time period where he expressed concern was from September 2016 to March 2017. Ms O'Sullivan was the Commissioner at that time.

**Ms Nóirín O'Sullivan:** Which periods?

**Deputy David Cullinane:** From September 2016 to March 2017.



**Ms Nóirín O'Sullivan:** Yes.

**Deputy David Cullinane:** Ms O'Sullivan just had a discussion with an Teachta Murphy about a letter that was sent to Ms O'Sullivan, the deputy commissioner of operations, the deputy commissioner for change management, and the chief administration officer, dated 24 October 2015 from Mr. Culhane expressing concerns about Mr. Barrett

**Ms Nóirín O'Sullivan:** Yes.

**Deputy David Cullinane:** When Ms O'Sullivan received that letter, she obviously read it at that time.

**Ms Nóirín O'Sullivan:** On 25 October, yes.

**Deputy David Cullinane:** What were her thoughts when she received that letter?

**Ms Nóirín O'Sullivan:** My thoughts were it was a very serious matter, as I outlined to Deputy Murphy. It was very serious in so far as the two people who were at the centre of this were having issues with each other and differences of opinion. What was very important was they were two key people in making sure we put right the structures that were in place.

**Deputy David Cullinane:** Mr. Culhane said in this letter that he found the record of the meeting and the statements made by Mr. Barrett to be very disturbing and alarming. This was his reference to issues such as that John Barrett was not satisfied with how the CAO dealt with issues, that issues were not brought to the attention of legal and were not brought to the audit committee in time. He stated this matter was not going to go away and that he would pursue the matter. He said the Commissioner, which is Ms O'Sullivan, should do a section 41 disclosure, that the Comptroller and Auditor General's office should be informed and so on. He is, to me, stating the obvious. What the head of the finance directorate is saying is that he found it very disturbing and alarming. When Mr O'Sullivan read it, what was her view?

**Ms Nóirín O'Sullivan:** I am not sure if we are talking about two different letters.

**Deputy David Cullinane:** No.

**Ms Nóirín O'Sullivan:** I am referencing the letter of 24 October 2015.

**Deputy David Cullinane:** Yes, 24 October.

**Ms Nóirín O'Sullivan:** There is a different one on the screen so I am getting slightly confused. I am sorry.

**Deputy David Cullinane:** This is the letter that was sent to the Commissioner, Ms O'Sullivan.

**Ms Nóirín O'Sullivan:** This was the letter sent to the-----

**Deputy David Cullinane:** The letter from Mr. Culhane sent to Ms O'Sullivan, dated 24 October 2015. Ms O'Sullivan had a discussion with an Teachta Murphy.

**Ms Nóirín O'Sullivan:** Sorry, there was a different letter on the screen so I was being confused.

**Deputy David Cullinane:** Okay.

**Ms Nóirín O’Sullivan:** Will the Deputy ask the question again?

**Deputy David Cullinane:** In the letter, Mr. Culhane is saying he found John Barrett’s statements to be very disturbing and alarming. These were statements that the issues would not go away, that the Comptroller and Auditor General’s office should be informed, internal audit should be more informed and so on. When Ms O’Sullivan read that, what were her thoughts?

**Ms Nóirín O’Sullivan:** My thoughts were here were two key individuals who both had responsibilities in the same line with separate responsibilities for putting these matters right and here they were having a difference of opinion in terms of how another individual within one line report was being approached.

**Deputy David Cullinane:** It was not just a difference of opinion. He went on to say John Barrett “stated in his usual sweeping style that he did not believe him and [just] stopped short of calling the [acting] Deputy Commissioner a liar”. He goes on to talk about Mr. Barrett’s irrational behaviour.

**Ms Nóirín O’Sullivan:** As I say, my thoughts were that here are two key individuals who have specific roles to play in putting these matters right and here they have a difference of opinion that needs to be addressed immediately and urgently.

**Deputy David Cullinane:** He went on to say that “Mr. Barrett is attempting to undermine my professional reputation and my record of achievement in An Garda Síochána”.

**Ms Nóirín O’Sullivan:** Again, it is Mr. Culhane’s view of Mr. Barrett’s behaviour towards another member of staff.

**Deputy David Cullinane:** It was his view. Ms O’Sullivan responded to the CAO.

**Ms Nóirín O’Sullivan:** No, I responded then. I received that document by email, from my memory on a Saturday. I was away out of the country and I made contact with the acting Commissioner, who at the time was Dónall Ó Cualáin, and said it needed to be urgently addressed and it was addressed at the executive on the Tuesday.

**Deputy David Cullinane:** Is the Commissioner aware that Mr. Culhane also wrote to Mr. Niall Kelly, head of internal audit, on 13 October 2016? Has she seen a copy of that letter? We can get it up on the screen.

**Ms Nóirín O’Sullivan:** It was just on the screen a moment ago. That was the other letter.

**Deputy David Cullinane:** Was the Commissioner aware of that letter before she came in?

**Ms Nóirín O’Sullivan:** No. I am not aware of it since before this compilation of documents-----

**Deputy David Cullinane:** It was dealt with quite extensively. We will tease out what the process would be when letters such as this are sent. I ask that it be brought up on screen. It is a letter dated 13 October 2016 sent from Mr. Culhane to Mr. Niall Kelly - Mr. Culhane would have been furnished with a copy of a draft internal audit report - and he writes “In your report you have failed to mention the action that has been taken by College management to address various issues to such an extent that your report is misleading.” Would the Commissioner have perceived the interim audit report as being misleading?

**Ms Nóirín O’Sullivan:** No.

**Deputy David Cullinane:** He went on to state “You will note my commentary on page 15 in which you have made defamatory comments about my character and professional reputation.” Therefore Mr. Culhane is accusing Mr. Kelly, the head of internal audit, of calling into question his character by making defamatory comments calling into question his professional reputation.

**Ms Nóirín O’Sullivan:** So, I am reading that there.

**Deputy David Cullinane:** He goes on to state, “Consequently I am reserving the right to issue legal proceedings against you for defamation unless you amend your report accordingly.” Mr. Niall Kelly was doing a body of work and had a draft report. The head of the finance directorate sent him a letter advising that he was considering legal proceedings and that he found Mr. Kelly’s report misleading. He then went on to state that in “omitting these facts the report is unprofessional, misleading and mischievous”. Does the Commissioner see that?

**Ms Nóirín O’Sullivan:** I see it here, yes.

**Deputy David Cullinane:** What are the Commissioner’s views on that letter sent to internal audit? Does she regard it as an appropriate letter for the head of the finance directorate to send to the head of internal audit?

**Ms Nóirín O’Sullivan:** It is Mr. Culhane’s submission, as I understand, to the response to the draft interim audit report. All of the individuals affected in the draft interim audit report were invited to make submissions in accordance with due process.

**Deputy David Cullinane:** I am asking the Commissioner to comment on the specific letter. It is more than that. Following the McGee report in 2008 a former Commissioner recommended that the finance directorate should take a more hands-on approach. There were five specific recommendations none of which were implemented, by the way, which raises more questions for the finance directorate. Here we have a draft report in 2015, nine years on from when these issues first surfaced. The head of the finance directorate wrote to the head of internal audit, accused him of calling into question his character, stated the report was unprofessional, misleading and mischievous and went on to threaten him with legal action.

In his opening statement to us, Mr. Kelly said:

I find these two letters totally unacceptable because Mr. Culhane questions my motives and my professional integrity and competence. I can only view these letters as an attempt to undermine the report or to try to get me to change my audit opinion, findings and recommendations.

Would the Commissioner regard it as very serious that the head of the finance directorate could attempt to undermine or change the opinion of internal audit and its findings and recommendations?

**Ms Nóirín O’Sullivan:** What I see here is Mr. Culhane’s submission to Mr. Kelly. I should put this on the record for the committee. The committee is aware that subsequently Mr. Howard, the then chairperson of the audit committee, actually referred these letters to me and they are in a process at the moment which-----

**Deputy David Cullinane:** I am asking the Commissioner whether she regards it as acceptable that the head of the finance directorate would threaten legal action against the head of

internal audit and seek to influence his report. He asked him specifically to amend this report. He was very clear that if Mr. Kelly did not amend his draft report, he would take legal action against him.

**Ms Nóirín O’Sullivan:** Obviously, the submission made to Mr. Kelly-----

**Deputy David Cullinane:** It is not a submission. It is a legal threat.

**Ms Nóirín O’Sullivan:** My understanding is that this document is a submission made in response to Mr. Kelly’s draft interim audit report where all of the parties affected were asked to make submissions.

**Deputy David Cullinane:** The Commissioner is not answering the question. I ask the Vice Chairman to direct the Commissioner to answer the question. Irrespective of whether it was a submission, it was a letter that the head of the finance directorate wrote to internal audit. In response to a previous Teachta, the Commissioner already said that she values and understands the importance of the work of internal audit and its independence. The head of the finance directorate, who has a very clear financial responsibility, wrote to the head of internal audit stating “I am reserving the right to issue legal proceedings against you for defamation unless you amend your report accordingly”. Does the Commissioner find that acceptable?

**Ms Nóirín O’Sullivan:** No. Nothing should interfere with the work of the internal audit. It is independent and it is-----

**Deputy David Cullinane:** I did not ask the Commissioner that. I asked if she finds that acceptable.

**Ms Nóirín O’Sullivan:** As I said, this is a matter we are dealing with separately under a separate process. Again, in fairness to all the individuals----

**Vice Chairman:** Commissioner, in fairness, it is a fairly detailed question.

**Deputy David Cullinane:** It is a straightforward question. Does the Commissioner find it acceptable for the letter to state, “Consequently I am reserving the right to issue legal proceedings against you for defamation unless you amend your report accordingly”?

**Ms Nóirín O’Sullivan:** What I would say is that Mr. Culhane wrote that submission.

**Deputy David Cullinane:** I am asking the Commissioner for her opinion because the buck stops with her. We have everybody in here and she is in here today. This was one of the time periods in which she had responsibility where Mr. Kelly feels he was frustrated in his work. I put this to the Commissioner, as the Accounting Officer. Is she satisfied that it was appropriate for the head of the finance directorate to put in writing what he put in writing?

**Ms Nóirín O’Sullivan:** I do not believe it was appropriate but nevertheless, it was Mr. Culhane’s view at the time.

**Deputy David Cullinane:** The Commissioner is not prepared to say it was wrong that the head of the finance directorate threatened legal action.

**Vice Chairman:** In fairness, the Commissioner has said that it was inappropriate.

**Ms Nóirín O’Sullivan:** I want to be very clear. This is something that there is follow-up action on. I want to be fair to all the individuals involved.

**Vice Chairman:** The Commissioner has said that it was not appropriate.

**Deputy David Cullinane:** We have been presented with the minutes of the first steering group meeting. There is a reference to Mr. Culhane saying that he was shocked by what had just been said by Mr. Ken Ruane, who is head of legal, when Mr. Ruane said he would need to seek the advice of the Attorney General in respect of some issues. This is on page 3 of the letter. The secretariat has it. It states Mr. Culhane “said that he was shocked by what had just been said by [Ken Ruane]”-----

**Deputy Catherine Connolly:** To which letter is the Deputy referring?

**Deputy David Cullinane:** It is the minutes of the meeting. I got a copy of it from the secretariat earlier.

**Deputy Catherine Connolly:** What is the date of the document to which he is referring?

**Deputy David Cullinane:** It is dated 6 August 2015. It was a meeting that started at 11.15 a.m. and finished at 1.15 p.m.. I refer the Commissioner to page 3, which states “MC [which is Michael Culhane] said that he was shocked by what had just been said by [Ken Ruane] in that there was nothing complex or difficult about this issue and why would the issue have to be elevated to the Attorney General’s office without all the relevant documentation”.

The last paragraph states “He again expressed shock that [Ken Ruane] is considering that there are complex corporate law issues here”. Again there seems to be a pattern here. Mr. Culhane is unhappy with even the Office of the Attorney General being informed.

**Ms Nóirín O’Sullivan:** It is normal process that the head of legal affairs would look for advices from the Attorney General’s office as our law officer. That would be normal process.

**Deputy David Cullinane:** Would the Commissioner be concerned that the head of the finance directorate would have been in open conflict with the head of legal? It is very clear from the minutes that they had very strong and differing opinions. He seemed to be very concerned that the matter could be referred to the Attorney General.

**Ms Nóirín O’Sullivan:** The Deputy will appreciate that I was not present at the meeting. I see the minute of the meeting but I am not aware of the context in which this discussion took place.

**Deputy David Cullinane:** When did the Commissioner take up her post?

**Ms Nóirín O’Sullivan:** I took it up on an interim basis in March 2014 and on a full-time official basis from November 2014.

**Deputy David Cullinane:** When did she first become aware of the irregularities at the training college?

**Ms Nóirín O’Sullivan:** In July 2015.

**Deputy David Cullinane:** In July 2015, what action did she take?

**Ms Nóirín O’Sullivan:** In July 2015, when I became aware of it, the chief administrative officer, the two deputy commissioners and myself discussed the matter and we decided the best course of action was to compile all of the information. The first thing I did was I reviewed files available in my office which quite clearly identified to me that in the period of 2008 there was a

lot of interaction in response to what has now been termed as the McGee report.

**Deputy David Cullinane:** What did the Commissioner do specifically when she was made aware in July 2015 of irregularities at the Garda College? What action did she take?

**Ms Nóirín O’Sullivan:** Mr. Dunne outlined to me the work that he had been doing. It was agreed, and the deputy commissioner on the back of Mr. Ruane’s advice advised, that we needed to get more information. We formalised, if I can use that word, a working group to gather and compile all the necessary information.

**Deputy David Cullinane:** A working group?

**Ms Nóirín O’Sullivan:** It was more than a working group.

**Deputy David Cullinane:** Yes, it was a high-level working group. It was a steering group.

**Ms Nóirín O’Sullivan:** It was a steering group to compile and collate all the available information from all the various offices.

**Deputy David Cullinane:** These are the minutes of that working group or steering group?

**Ms Nóirín O’Sullivan:** The Deputy asked me what I did. I also instructed that the Department would be involved and that there would be full sight and transparency in relation to what we were doing. It was focused on two things. One was to make sure we regularised the situation in the here and now.

**Deputy David Cullinane:** The Commissioner went through all that with Deputies previously. I am aware of that.

**Ms Nóirín O’Sullivan:** With respect, the Deputy asked me what I did. Second, it was to make sure that we looked back and saw the context of this and who knew what, what had been done and where the gaps were that needed to be addressed.

**Deputy David Cullinane:** Yes. There was, however, a steering group established and the minutes of that steering group meeting were up on the screen a moment ago. Is the Commissioner aware that the CAO chaired that meeting?

**Ms Nóirín O’Sullivan:** Yes.

**Deputy David Cullinane:** The note of the minutes of the meeting states, “The CAO noted that work has progressed on this matter for a number of years and the CAO pointed out that the group will consider whether external involvement is warranted but it is not required at this point in time.” When I put those questions to Mr. Dunne when he was before the committee, he said that it involved and included the Comptroller and Auditor General, the Committee of Public Accounts and others. Here we have a situation where the Commissioner was informed about this in July 2015, she was obviously concerned enough to establish the steering group, the steering group met and one of its discussions was around whether external players should have been informed, and they were not informed. Would the Commissioner see this as satisfactory?

**Ms Nóirín O’Sullivan:** It was always my intention that everyone would be informed, but on the advice I got, there needed to be a lot of information compiled and gathered together and collated to make sure-----

**Deputy David Cullinane:** Did the Commissioner’s office specifically inform the Office of



the Comptroller and Auditor General at any point?

**Ms Nóirín O’Sullivan:** Not my office.

**Deputy David Cullinane:** Why not? Is the Commissioner not the Accounting Officer?

**Ms Nóirín O’Sullivan:** Yes, but as the Deputy knows, there is a structure in place in the organisation, and ordinarily it would not be directly through my office that the Comptroller and Auditor General’s office-----

**Deputy David Cullinane:** It is directly through the Commissioner’s office because I went around the houses on this issue. This is why the Commissioner was brought in to the committee last. We had the different heads of Departments before the committee and when they were asked about why they did not give information to the Comptroller and Auditor General’s office, they said that it was to do with their superiors. We had middle and senior management of An Garda Síochána before the committee and I put the question to them as well. They said that the role of the Accounting Officer is very clear. The Accounting Officer has a responsibility to inform the Comptroller and Auditor General. I asked Mr. McCarthy specifically about who has responsibility for informing his office. Maybe Mr. McCarthy could clarify this again for me. Who has the ultimate responsibility for informing his office of irregularities when they become known within An Garda Síochána?

**Mr. Seamus McCarthy:** Ultimately, it would be the Accounting Officer.

**Deputy David Cullinane:** Which is?

**Mr. Seamus McCarthy:** The Commissioner.

**Deputy David Cullinane:** That is the Commissioner, and she did not do it.

**Ms Nóirín O’Sullivan:** My understanding was that the Comptroller and Auditor General-----

**Deputy David Cullinane:** No, it is not about the Commissioner’s understanding. With respect to the Commissioner, we cannot have a situation where we go from heads of Departments, to senior gardaí, to the Commissioner before the committee today and the Commissioner is still saying it is someone else’s role. We have heard it from the Comptroller and Auditor General that it is the Commissioner’s job, the buck stops with her and she did not do it. I ask the Commissioner again the very straight question. Why did she not exercise her duty in informing the Office of the Comptroller and Auditor General of the establishment of a steering group and of the irregularities of which she was made aware in July 2015?

**Ms Nóirín O’Sullivan:** It was my understanding that with the working group, which was established and comprised the CAO and the head of internal audit - I beg your pardon, not the head of internal audit as I understand it now from the minutes of that time - the director of finance, that the Office of the Comptroller and Auditor General would have been informed-----

**Deputy David Cullinane:** The office was not informed. It was the Commissioner’s job to inform them. She wrote to the-----

**Ms Nóirín O’Sullivan:** If the Deputy could allow me to finish that point.

**Vice Chairman:** Let the Commissioner answer.

**Ms Nóirín O’Sullivan:** I am informed by my colleague, Mr. Nugent, who was present on the day, that Mr. Dunne now accepts that he should have informed the Comptroller and Auditor General immediately.

**Deputy David Cullinane:** No. The Commissioner or her office should have done it.

**Ms Nóirín O’Sullivan:** I was of the view-----

**Deputy David Cullinane:** The Commissioner has the responsibility to make sure it is done. Whoever does it is irrelevant. The Commissioner is the Accounting Officer. What she did-----

**Vice Chairman:** For clarity-----

**Ms Nóirín O’Sullivan:** If I could-----

**Deputy David Cullinane:** I am just getting to an important point.

**Ms Nóirín O’Sullivan:** Could I please clarify and finish answering the question? The fact is this group was established and it was to go through the process of informing all the relevant parties, keeping the Department and everyone else informed of that. I entrusted the job, and the sequence with which that was done, to the group as it was established. It is my understanding that it is accepted practice that the Accounting Officer cannot have oversight and responsibility for absolutely everything. It is my understanding that it is standard practice-----

**Vice Chairman:** It is a pretty fundamental thing that the Comptroller and Auditor General is informed.

**Ms Nóirín O’Sullivan:** Absolutely, and I completely accept that.

**Vice Chairman:** Did the Commissioner not ask whether this had happened?

**Deputy David Cullinane:** We have already heard from the Comptroller and Auditor General that ultimate responsibility rests with the Accounting Officer. He or she needs to make sure the work is done. I want to refer to a letter the Commissioner did send to Mr. McCarthy, which he has furnished to the committee.

**Vice Chairman:** This is the Deputy’s last question.

**Deputy David Cullinane:** The letter is dated 31 July 2015. Was this before or after the Commissioner was made aware of irregularities at the Garda College?

**Ms Nóirín O’Sullivan:** It was four days after.

**Deputy David Cullinane:** Will Mr. McCarthy clarify if it is a letter of representation or a letter of understanding?

**Mr. Seamus McCarthy:** A letter of representation.

**Deputy David Cullinane:** What is a letter of representation?

**Mr. Seamus McCarthy:** It is a letter we seek from an Accounting Officer at the end of the audit to confirm to us that all accounting records have been made available and that all information that should be brought to our attention has been.

**Deputy David Cullinane:** I will read it. The Commissioner says that

I confirm to the best of my knowledge and belief, and having made appropriate enquiries of my officials of An Garda Síochána, the following representations, which are given to you in connection with your audit of the Appropriation Account for Vote 20 ... for the year ended ... I am satisfied that the expenditure and receipts disclosed in the Appropriation Account for the Vote have been applied only to the extent and for the purposes indicated ... All the accounting records have been provided to you for the purpose of your audit and all the transactions undertaken by An Garda Síochána have been properly reflected and recorded ... I have disclosed to you all instances of loss, fraud or irregularity are known to have occurred or have been reported in the year.

Irregularities were reported to the Commissioner and here she was on 31 July 2015 sending a letter to the Comptroller and Auditor General saying that she had disclosed all instances of irregularities. The Commissioner did not disclose all instances of irregularities.

**Ms Nóirín O’Sullivan:** I was informed on the evening of 27 July in the report from Mr. Ruane that Mr. Barrett had identified a number of issues.

**Deputy David Cullinane:** No, sorry, that is not the case. I asked the Commissioner earlier and she was very clear with this committee that she first became aware of irregularities in the Garda College in July 2015. She was briefed on the issues, she had a meeting with Mr. Barrett, and, I take it, others also, but she was most certainly aware of the issues involved and that these issues were historical, going back over a long number of years. The Commissioner then furnished the Office of the Comptroller and Auditor General with a very important letter where she says “I have disclosed to you all instances of loss, fraud or irregularity are known”. That is simply not the case because she did know of irregularities.

**Ms Nóirín O’Sullivan:** I will be very clear to the Deputy on what I knew. I knew that Mr. Barrett had raised certain matters with Mr. Ruane, our head of legal affairs. Mr. Ruane had reported those matters to the deputy commissioner for strategy and governance on 27 July. On 28 July, I got a report from the deputy commissioner, three days before the letter to the Comptroller and Auditor General was issued. I caused inquiries to be made in my office and I found there was-----

**Vice Chairman:** That was 28 July. We met on 27 July.

**Ms Nóirín O’Sullivan:** Yes, it was the following day. On 28 July, when I was back in Dublin, I caused inquiries to be carried out in my office.

**Deputy David Cullinane:** With respect, the Commissioner is counting down the clock.

**Ms Nóirín O’Sullivan:** No, I am not.

**Deputy David Cullinane:** With respect, the Commissioner is.

**Ms Nóirín O’Sullivan:** Please, I am-----

**Deputy David Cullinane:** I make that charge because I believe it to be the case. I want to put a question to Mr. McCarthy.

**Vice Chairman:** This is the last question, Deputy.

**Deputy David Cullinane:** Given that the Commissioner would have been at least aware of irregularities, is Mr. McCarthy satisfied the letter he received, dated 31 July 2015, where the

Commissioner said she had disclosed all instances of loss fraud or irregularity is accurate?

**Mr. Seamus McCarthy:** I am sorry but I am not aware of the full information the Commissioner would have had on that date.

**Deputy David Cullinane:** The Comptroller and Auditor General did say in the past he would have expected to have been informed, for example, of issues such as the establishment of a steering group or when there are issues of potential irregularities.

**Mr. Seamus McCarthy:** If there was a question around potential irregularities, then I feel that is something that should be made known to me. I cannot comment in respect of the information the Commissioner had.

**Vice Chairman:** Okay.

**Deputy David Cullinane:** What the Comptroller and Auditor General had said is that from 2008 onwards, his office should have been informed.

**Mr. Seamus McCarthy:** Yes, I am satisfied from the documents that I have seen.

**Vice Chairman:** When the Comptroller and Auditor General was before us previously he said that he would have expected that his office would have been informed about the issues from 2008 on.

**Mr. Seamus McCarthy:** Yes.

**Vice Chairman:** The Commissioner has said that she was notified in July 2015. There was a letter from Mr. Ken Ruane on 24 July, there was a meeting on 27 July and we have just been told there was another letter or report on 28 July. What is the status of this letter?

**Mr. Seamus McCarthy:** This was provided to me in the context of closing out the audit for the 2014 appropriation.

**Vice Chairman:** The Comptroller and Auditor General has explained why he cannot give an opinion on that, but he has stated previously that he felt that he should have been told in 2008, 2010, etc. The Commissioner was well aware, before this letter was sent, of issues relating to the Garda College. Mr. Barrett's report, which was then followed up by Mr. Ruane's legal letter, which we will not see, and then the report from Assistant Commissioner Ó Cuálain on 28 July all preceded the letter in question. Does the Comptroller and Auditor General feel that it would have been appropriate, given that there was a new Accounting Officer in place who has given evidence that she was made aware of these issues on 27 July, that she, as Accounting Officer, should have told his office about these issues?

**Mr. Seamus McCarthy:** I am not aware of the precise terms in which it was put-----

**Vice Chairman:** I am not asking about the precise details but rather about the fact that there was a process.

**Mr. Seamus McCarthy:** Yes, certainly in principle. If the information that was in Mr. Barrett's dossier of early July had been put to the Commissioner, particularly any question mark over the appropriation account or that there might be implications for an appropriation account, that would be a matter that should have been brought to my attention.

**Vice Chairman:** The letter of 31 July was a missed opportunity to do that.

**Mr. Seamus McCarthy:** Depending on the information that the Commissioner had.

**Vice Chairman:** We know what information-----

*(Interruptions).*

**Vice Chairman:** I am chairing the meeting.

**Mr. Seamus McCarthy:** If there was any question mark over the appropriation account or the regularity of any transactions, even in previous appropriation accounts, then I feel that should have been brought to my attention.

**Vice Chairman:** The Comptroller and Auditor General was not informed in 2008, 2010 or later. Ms O'Sullivan became Accounting Officer when she became Commissioner. I presume that when she was acting Commissioner she took on that role as well. The report from Mr. Barrett went in and there was a meeting on 27 July. The latter is disputed as being the first meeting. Assistant Commissioner Ó Cuáilain's report was on 28 July, and the Comptroller and Auditor General's office was still not informed about the issues that had arisen. In the context of the letter on 31 July, the latter did not happen either.

**Deputy David Cullinane:** In all of the material that was disclosed to this committee, there was a letter from Mr. Barrett to the CAO. It was, in fact, a very extensive presentation. We are led to believe that it was the basis upon which the Comptroller and Auditor General was briefed. It says in the letter that there was potential that appropriation accounts had been compromised and signed off on by commissioners.

**Mr. Seamus McCarthy:** That is my reading of Mr. Barrett's document.

**Deputy David Cullinane:** How is it that we have a document from the head of human resources which talks about accounts being potentially compromised and then a letter sent by the Commissioner to Mr. McCarthy at the end of July in which she stated that there was no problem and that everything was okay. When she was briefed, she was aware of the irregularities. A steering group had been established. The head of human resources was saying that accounts were potentially compromised and yet the Commissioner gave a letter of assurance to the Comptroller and Auditor General's office that said that everything was okay.

**Ms Nóirín O'Sullivan:** If I may, Chair-----

**Vice Chairman:** Yes, this is the Deputy's final contribution.

**Ms Nóirín O'Sullivan:** -----I do not know what letter to Mr. Barrett the Deputy is referring to. On 31 July, I was not in possession of complete information. I had a briefing that had been given to me and we had discussed what we needed to do next, which was to get more information and get the full facts of the matter so that we could compile what the information was.

**Deputy David Cullinane:** That is not good enough, with respect. I have to insist on a decent-----

**Vice Chairman:** I am chairing the meeting. The Deputy should allow the Commissioner to conclude.

**Ms Nóirín O'Sullivan:** At that time, I was aware that a number of very complex issues had

been identified in respect of the college. I was not aware of precisely what had been done and what the precise state of all of those issues was. If I knew then what I know now, having completed all of that work, of course I would have contacted the Comptroller and Auditor General.

**Vice Chairman:** We have heard directly from the Comptroller and Auditor General that he feels he should have been notified long before this. He also told us that, given the information provided to her in July, he would have expected the Commissioner, who was then Accounting Officer and aware of the issues, to notify him in this letter. Ms O’Sullivan did not do so and that is a huge contradiction for us, as a committee. She is now informing us that if she was aware then of what she knows now, she would have put the information in the letter.

**Ms Nóirín O’Sullivan:** Yes, because this was a work in progress. Three days later, I set up a working group and I am acting with the confidence and assurance that they were a working group comprising of all of the relevant internal stakeholders that are going to give visibility to everybody. If I had known what the outcome of the work of that group was going to be, it would be a different matter.

**Vice Chairman:** We are going to have to return to the role of the Accounting Officer. If a document emerges in which allegations or declarations of issues that pertain to the documentation that was brought before the witness on 27 July are made, the role of the Accounting Officer of any organisation is very clear -there is a duty to inform the Comptroller and Auditor General.

**Ms Nóirín O’Sullivan:** I want to clarify that because this is a very important issue. I am not aware of the letter from Mr. Barrett that is being spoken about here. What I am aware of is the briefing that I got from the deputy commissioner and the meeting that we had on the evening of 27 July. I was asked by Deputy Cullinane what I did. The outcome was to set up this group to gather information and inform me of what the issues were.

**Vice Chairman:** Mr. Barrett compiled a report. On the basis of that report, which was discussed internally among the management team, the Commissioner received a letter from Mr. Ruane in respect of which she is claiming privilege. That is the report that we are referring to from Mr. Barrett. Everything else fell out of that. As a consequence, is the witness saying that she was not privy to the high-level points in Mr. Barrett’s report that gave rise to Mr. Ruane writing to her?

**Deputy David Cullinane:** Can I add an important point to that?

**Vice Chairman:** Very quickly.

**Deputy David Cullinane:** It is very important. Mr. Dunne was informed by Mr. Barrett that accounts were potentially compromised and then chaired a meeting of a steering group at which he said that he did not believe that external players should be informed. Is the Commissioner telling us today that Mr. Barrett gave an extensive report and briefing to the chief accounting officer, CAO, Mr. Dunne, talking about the potential of accounts being compromised and that Mr. Dunne did not inform the witness of that fact?

**Ms Nóirín O’Sullivan:** I am telling the Deputy that I was not aware of Mr. Barrett’s report until later.

**Deputy David Cullinane:** That is not what I asked. Was the witness informed by the CAO that there was potential that accounts were compromised?



**Vice Chairman:** The Deputy should ask questions through the Chair.

**Ms Nóirín O'Sullivan:** What the CAO told me was that much more information was needed in order to establish exactly what the position was.

**Vice Chairman:** The point the witness is making is that what was reported to her on 27 and 28 July did not justify a report to the Comptroller and Auditor General. That is the executive summary of what happened. What is alarming is that Mr. Barrett's report, which went through Mr. Dunne and which was the basis for Mr. Ruane letter, was not brought to the witness's attention.

**Ms Nóirín O'Sullivan:** I do not want to get into other people's mindsets, but I can tell the committee-----

**Vice Chairman:** Was the witness aware of the details of Mr. Barrett's report on 27 and 28 July?

**Ms Nóirín O'Sullivan:** I had not seen Mr. Barrett's report.

**Vice Chairman:** I did not ask that question. Was the witness aware of the details of the report?

**Ms Nóirín O'Sullivan:** In a very general way, yes, but not the specifics. I want to clarify again because I want to be fair to everybody here. Mr. Dunne informed me that what he was in possession of was incomplete information and that more information needed to be gathered in order to establish the facts of the situation.

**Vice Chairman:** This is incredible stuff. I am sorry.

**Deputy Josepha Madigan:** I welcome the Commissioner and thank her for her contribution thus far. She is in a position of enormous responsibility and I am sure she can appreciate the difficulties that members of the public have with the breadth of issues that have arisen. If people cannot have faith in the Garda Síochána to be above reproach, what faith do they have? The Commissioner is here to try to answer some of those questions for the committee. In terms of Ms O'Sullivan's opening statement, Deputy Cullinane mentioned her actions in July 2015. I note that she took over as Commissioner in March 2014, as she just said, on an interim basis until November 2014, when she was appointed on a permanent basis. I am interested in the time between November 2014 and July 2015 because in her earlier evidence she mentioned mechanisms and structures and putting those in place. The McGee report was completed in 2008. Ms O'Sullivan must therefore have been aware for a significant period of time of some of the issues within the wider Garda Síochána. What actions did she take when she became Commissioner?

**Ms Nóirín O'Sullivan:** To clarify, I was not aware of the McGee report until these issues transpired in 2015.

**Deputy Josepha Madigan:** Ms O'Sullivan did not know about it at all?

**Ms Nóirín O'Sullivan:** No, I did not.

**Deputy Josepha Madigan:** What position did Ms O'Sullivan hold in 2008?

**Ms Nóirín O'Sullivan:** From memory, at the beginning of 2008, I was assistant commissioner in charge of the western region. In October 2008 approximately, I was assigned to hu-

man resource management, HRM, and was there for six months until April 2009, at which stage I went to the crime and security section.

**Deputy Josepha Madigan:** Who knew about the McGee report in 2008 if Ms O'Sullivan did not?

**Ms Nóirín O'Sullivan:** Mr McGee obviously did. He reported to the finance directorate. From what I now know and from perusing documents, the then chief administrative officer, Mr. Leamy, and the Commissioner-----

**Deputy Josepha Madigan:** Was the Commissioner not aware of any issues in the Garda Síochána when she took up her current position?

**Ms Nóirín O'Sullivan:** In November 2014, I was not aware of any issues in regard to the Garda College.

**Deputy Josepha Madigan:** Did she know anything of any wider issues of impropriety rather than specifically in regard to the Garda College?

**Ms Nóirín O'Sullivan:** In the period between March 2014 and November 2014, we were dealing with a series of very serious issues. There were many issues being dealt with in November 2014.

**Deputy Josepha Madigan:** During that period she was interim Commissioner. However, after November 2014, she was the Accounting Officer.

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Josepha Madigan:** Ms O'Sullivan said that it is not her place to account for previous officers, but was she aware of any malpractice in the Garda Síochána at that time?

**Ms Nóirín O'Sullivan:** No. As I said, for clarity, I was aware of a number of ongoing issues that had emerged over the previous couple of years and-----

**Deputy Josepha Madigan:** What ongoing issues?

**Ms Nóirín O'Sullivan:** Different issues in regard to many controversies and crises we were dealing with.

**Deputy Josepha Madigan:** Will Ms O'Sullivan elaborate on those issues and what steps she took to address them?

**Ms Nóirín O'Sullivan:** There were many issues, particularly relating to public confidence in the Garda Síochána arising from several of the controversies and crises that had arisen from, for example, issues in regard to fixed charge penalty notices, whistleblowers and the organisation having gone through many very serious issues and challenges. We were dealing with several other issues such as the bugging of GSOC. There were a myriad of issues at the time.

**Deputy Josepha Madigan:** What measures did Ms O'Sullivan put in place to address those deficits?

**Ms Nóirín O'Sullivan:** The first thing I did as interim Commissioner in April 2014, having taken up the position on 25 March 2014 approximately, was to set about restoring confidence in the Garda Síochána, which at that time had dropped to an all-time low of 67%. Part of our focus

was three-pronged: to ensure we restored public confidence and confidence of the institutions of the State in the Garda Síochána, and to restore the morale and confidence of our members. That was a mammoth task to then undertake. As we worked through that, the first thing I wanted to do was to ensure we could create a culture where people could speak up as this was a really controversial issue.

**Deputy Josepha Madigan:** Is Ms O'Sullivan satisfied with the whistleblower procedures that are currently in place? Does she think they help whistleblowers?

**Ms Nóirín O'Sullivan:** They are moving in the right direction. We are working very closely with Transparency International. We are also working with the Policing Authority. The procedures are moving in the right direction. We still have a way to go but the structures we have put in place----

**Deputy Josepha Madigan:** What else needs to be done?

**Ms Nóirín O'Sullivan:** I am on the record of the Committee on Justice, Defence and Equality as saying that to provide absolute objectivity and enable people to have the confidence to come forward, not just from within the Garda Síochána but right across the sector, it is important there is an independent office to which people can go to have a safe place to raise these issues. However, that does not abdicate our responsibility. We have put in place internal structures such as appointing two protected disclosures managers and ensuring we have structures in place to investigate all matters. I am on record as having said since April 2014 that dissent is not disloyalty. That is relevant in relation to encouraging people to speak up, to have the confidence to come forward and to know that the issues they raise may not always be completely right but will be listened to, taken seriously and investigated, as was the case in this-----

**Deputy Josepha Madigan:** In the context of what Ms O'Sullivan said earlier about repairing relationships, does she think there is still a cultural difference between uniformed gardaí and civilians? From the evidence given to this committee in recent weeks, it seems there is a disconnect between uniformed gardaí and civilians. What steps is the Commissioner taking to address that?

**Ms Nóirín O'Sullivan:** To refer back to 2014 once more, there had been a moratorium on recruitment and one of the key focuses of this management team is to ensure we have absolute integration. For the first time ever, we identified opportunities to increase the civilian representation on the senior management team. Mr. Barrett's appointment provides the first evidence of that. A decision was taken in 2007 that the HR position should be held by a civilian. That was never acted upon, but when I took up as Commissioner, I ensured that was done and that a civilian, Mr. Barrett, was appointed to the position, which had been held previously by an assistant commissioner. Since then, new civilian members have been appointed to the team. There has been a huge cultural shift in terms of speaking up and the integration of gardaí and civilian employees. What has manifested here at the committee, in the public domain and in commentary is not helpful and is not conducive to that because we are trying to develop a cohesive, effective team-----

**Vice Chairman:** The committee also has to do its job.

**Ms Nóirín O'Sullivan:** Absolutely. I accept that.

**Deputy Josepha Madigan:** It is accountable to the Government.

**Vice Chairman:** All members agree that the process does not help but the committee has to do its job and get to the bottom of what happened here.

**Deputy Josepha Madigan:** Ms O'Sullivan mentioned in her opening statement that the recommendations of the interim audit report will be implemented and that she is happy to provide periodic updates to the Comptroller and Auditor General. That indicates that it will take a very lengthy period of time. Will Ms O'Sullivan tell us how long it will take? We want to expedite it, as I am sure she appreciates.

**Ms Nóirín O'Sullivan:** That is a view we share. If I may, I will consult my colleague, Mr. Nugent, who is in charge of the steering group. Alternatively, with the permission of the Vice Chair, Mr. Nugent has direct responsibility for this issue and is willing to talk about it.

**Vice Chairman:** Ms O'Sullivan may consult Mr. Nugent.

**Ms Nóirín O'Sullivan:** I apologise for the delay. I was just getting the information from Mr. Nugent. He tells me that an indicative date of June of this year was given for all 19 recommendations to be completed. Given some of the delays-----

**Deputy Josepha Madigan:** June 2017?

**Ms Nóirín O'Sullivan:** Yes, June 2017. Given the complexity in terms of certain advice received and the unstructuring, so to speak, of some of the entities that are there, he now indicates that the recommendations will certainly be closed out by the end of the year but the June deadline will not be met.

**Deputy Josepha Madigan:** It will be December 2017?

**Ms Nóirín O'Sullivan:** December 2017 is my understanding.

**Deputy Josepha Madigan:** I recommend that that deadline be met because this needs to be addressed. One of the most important things the public wants to ensure is that this type of thing does not happen again. In Ms O'Sullivan's opening statement she mentioned that she had a verbal briefing with Mr. Niall Kelly and requested a written report from him. Does Ms O'Sullivan have a contemporaneous note of that verbal briefing? It is important for the committee to know what the thought processes were and what conversation she had with him.

**Ms Nóirín O'Sullivan:** I have a note of the meeting.

**Deputy Josepha Madigan:** It would be helpful if that could be provided to the committee.

**Ms Nóirín O'Sullivan:** I will have to take advice on that. Obviously, it is going to feed into the investigation that is ongoing as well. At whatever stage we can make it available, I will be happy to make it available.

**Deputy Josepha Madigan:** That is fine. When Ms O'Sullivan talked about the appropriate action being taken by the Garda executive, what action does she envisage?

**Ms Nóirín O'Sullivan:** Sorry, Deputy, let me refer back.

**Deputy Josepha Madigan:** It is the final paragraph.

**Ms Nóirín O'Sullivan:** As in this case, it will be whatever the appropriate action is. As Mr. Kelly's audit is completed, if there are issues identified which require independent, objective

and impartial investigation, we will refer them to the appropriate authority. In the case I dealt with yesterday, that was the Garda Síochána Ombudsman Commission. Whatever action needs to be taken, be it structural or process, will be taken.

I mentioned earlier that one of the things we have identified, out of everything that has happened since 2015, is the need to give ourselves, this committee and the public assurances that this can never happen again. That is why we are using the opportunity of the first meeting, that is, the induction of the new audit committee on the 27th to look for advice on how we can make sure that all of our internal structural mechanisms, our internal financial control framework, our audit committee, our internal audit and our risk management process, which the deputy commissioner was responsible for revising recently, are best working together. In the interim, we restructured all of those to bring them together in a more meaningful way to give me, as Accounting Officer, assurances, to give this committee assurances, to give the Comptroller and Auditor General assurances and to give our audit committee assurances that this cannot happen again.

**Deputy Josepha Madigan:** To go back to the Accounting Officer's reporting obligations, there is no formal requirement set out under the PFP for an Accounting Officer to inform the Comptroller and Auditor General of significant matters of concern. There is, however, an expectation and established practice that significant matters be communicated to the auditors at the earliest opportunity. Earlier, Ms O'Sullivan said there were very clear and significant issues, in her view, and that is why she set up a working group. In hindsight, does she think the Tánaiste and the Department of Justice and Equality should have been made aware of that at the time?

**Ms Nóirín O'Sullivan:** There are many ways of informing the Tánaiste and the Department of Justice and Equality. In this instance, I instructed Mr. Dunne to make sure that the Department of Justice and Equality was fully informed and sighted on all of the issues because it was evident to me, from my perusal of the files available in my office, that the Department had involvement as far back as 2008 and beyond.

**Deputy Josepha Madigan:** Has Ms O'Sullivan revised her view in respect of her obligations?

**Ms Nóirín O'Sullivan:** At that stage, my view was that the Department was being adequately informed by virtue of the fact that it was involved and sighted in respect of the work of the committee. Obviously, it would be kept fully sighted in regard to that.

**Deputy Josepha Madigan:** Okay. Where are we regarding the report on breath tests?

**Ms Nóirín O'Sullivan:** I will have to confer with my colleague. I apologise for the delay. We expect the interim report on breath tests to be completed by the end of this month. It will probably be finalised in about six weeks.

**Deputy Josepha Madigan:** Okay. I have one or two more questions. I refer to Templemore. Does Ms O'Sullivan believe it is appropriate for serving gardaí to act as directors of companies with an interest in lands? Did the arrangements in Templemore breach section 29(3) in her view?

**Ms Nóirín O'Sullivan:** There are two aspects to that. By current standards, my answer is "No". The company was set up prior to the 2005 Act. As the committee is aware, advice is being sought about that and it is one of the recommendations that is being implemented by my

colleague, Mr. Nugent.

**Deputy Josepha Madigan:** What oversight is there to ensure serving gardaí do not breach that section?

**Ms Nóirín O’Sullivan:** I can tell the Deputy directly in one moment. We have the annual return to ensure that everybody is in compliance with SIPO legislation. We are in the process of sending out an instruction to everybody to reiterate the fact it cannot happen.

**Deputy Josepha Madigan:** My final question relates to Mr. Barrett. Ms O’Sullivan mentioned that he was new and would not have understood sending documents off-site. If that is going to be a problem, how is she addressing it for people who are new so that they know what the processes are?

**Ms Nóirín O’Sullivan:** Again, with our new staff coming into the organisation from outside, we have induction training to make people aware of their obligations, particularly around public documents.

**Deputy Josepha Madigan:** Is that new training?

**Ms Nóirín O’Sullivan:** Yes. We have induction training which makes people aware of the legislation and the architecture that governs the oversight and accountability mechanisms that are in place, particularly around their data protection obligations concerning protecting the sensitive personal data of individuals they come into contact with.

**Deputy Josepha Madigan:** I thank Ms O’Sullivan.

**Vice Chairman:** Has Deputy Madigan concluded?

**Deputy Josepha Madigan:** Yes.

**Vice Chairman:** We will take a break and resume at 11.55 a.m.

*Sitting suspended at 11.45 a.m. and resumed at 12 noon.*

**Vice Chairman:** The committee is in public session. I call Deputy Catherine Connolly.

**Deputy Catherine Connolly:** Cuirim fáilte roimh an gCoimisinéir go dtí an seomra arís. Mar is eol di, tá dualgas orainn ceisteanna a chur agus tá dualgas ar na finnétithe na ceisteanna a fhreagairt. Sa chomhthéacs sin, tá súil agam go mbeimid ag obair as lámh a chéile. The Standards in Public Office, SIPO, was mentioned before the sos. The total number of members above the level where SIPO declarations are required is 272. Of those 272, 250 have indicated compliance-----

**Ms Nóirín O’Sullivan:** That is correct.

**Deputy Catherine Connolly:** -----and 22 have not indicated compliance.

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Catherine Connolly:** What is the delay?

**Vice Chairman:** On a point of information, the information requested by the committee was in regard to compliance from 4 May but that is not what has been received. The Commissioner might send that information so that we can then distinguish how many have met their



obligations since.

**Ms Nóirín O’Sullivan:** From 4 May this year?

**Vice Chairman:** Yes. That is what was requested originally.

**Ms Nóirín O’Sullivan:** I will do that.

**Deputy Catherine Connolly:** Perhaps the Commissioner will clarify why 22 members have not complied. What is the reason for the delay?

**Ms Nóirín O’Sullivan:** We do not know, Deputy. The CAO is following up on it. It may be that people are on leave or absent from duty. There could be a variety of issues.

**Deputy Catherine Connolly:** Okay. What is the longest period of non-compliance beyond the time for compliance?

**Ms Nóirín O’Sullivan:** We do not know.

**Deputy Catherine Connolly:** The Commissioner does not know.

**Ms Nóirín O’Sullivan:** I am sorry, Deputy. I am conferring with my colleague, Mr. Nugent, who is compiling this process. Regarding the 22 people, we do not know. They were asked to confirm whether they were in compliance. The returns are from all of the available people. Obviously, Mr. Nugent is engaged in a process of following up with the 22. Perhaps some of them are out of the country.

**Deputy Catherine Connolly:** There might be reasons but the Commissioner does not know the period beyond the time for compliance. Of the 22 people, do any of them relate to the company we have been referring to in recent weeks?

**Mr. Joseph Nugent:** Certainly not.

**Deputy Catherine Connolly:** I thank Mr. Nugent.

I have raised a matter concerning the Commissioner’s statement previously. When she reacted to the situation publicly and before this committee, she referred to it as a legacy issue. Is that not right? Let me put the question first. She made the point that it was in the past. Does she now accept that it is not in the past and that there are ongoing issues arising from Templemore?

**Ms Nóirín O’Sullivan:** Absolutely, I accept that. As to my statement on the legacy issues, we found ourselves dealing with structures and systems, including complex accounting systems, that had been put in place as far back as the 1980s or, in some cases, earlier.

**Deputy Catherine Connolly:** When the Commissioner referred to legacy issues, she meant issues arising from those structures. Was she referring to the lack of candour and co-operation within certain segments of the Garda?

**Ms Nóirín O’Sullivan:** Yes. From the evidence that we have heard and what we have uncovered in the audit, there are certainly issues that appear to have been cultural in nature, possibly at a particular time, as well as perceptions of different matters held by various people. Indeed, there were witnesses before the committee-----

**Deputy Catherine Connolly:** I will revert to the lack of candour. It is a matter that Mr.

Howard raised more than once. The Commissioner has explained “legacy issues” as relating to structures and the ongoing consequences. Has the period during which there was a lack of candour and co-operation in the Garda finished or is it still ongoing?

**Ms Nóirín O’Sullivan:** I believe it is finished. I am not going to say that it is completely over. A big job of cultural and structural reform is under way.

Deputy Cullinane asked a question earlier but I could not find the information at the time. We have found it since. The Chair asked us to find it and get our officials to point to it. Somebody has found it for us. When Mr. Kelly was asked by the Chairman to clarify whether it was then or now, Mr. Kelly said - I might be able to find the quote in a moment with the assistance of my colleague, Mr. Nugent - that things had changed. I do not want to misquote him, but he said that the doors “are [now] being flung open”. In respect of myself and the deputy commissioner,-----

**Deputy Catherine Connolly:** I agree that that is what Mr. Kelly said. It is written down. However, that only came about recently. Is that not right? In response to a question that I put, Mr. Barrett is on record as saying that this matter would not have seen the light of day only for himself.

**Ms Nóirín O’Sullivan:** Mr. Barrett did the right and appropriate thing.

**Deputy Catherine Connolly:** Does the Commissioner agree with him?

**Ms Nóirín O’Sullivan:** He did the appropriate thing in bringing it forward.

**Deputy Catherine Connolly:** Does the Commissioner agree with what he said? It was not a boast, merely a statement of fact. Without him persisting, raising this matter and keeping his - I do not like the word “dossier” - notes, this situation would not have reached this level of openness.

**Ms Nóirín O’Sullivan:** I agree that Mr. Barrett raised the matter appropriately. I also wish to draw the committee’s attention to the fact-----

**Deputy Catherine Connolly:** My question was on whether the Commissioner agreed with what he said, namely,-----

**Ms Nóirín O’Sullivan:** Yes. I-----

**Deputy Catherine Connolly:** -----that without him, it would not have seen the light of day.

**Ms Nóirín O’Sullivan:** I absolutely agree that Mr. Barrett did the right thing in bringing this forward. If I could follow up on that, as soon as it was brought to the attention of the executive, the appropriate actions were taken to deal with the matter and to ensure that there was full transparency. An important element that I would like to get on the record is that one of our key focuses was to ensure that we fixed what had been going on for several decades. We ensured that we unravelled the complexities. Mr. Nugent has informed me that we will have all of the recommendations of Mr. Kelly’s audit implemented by the end of the year.

**Deputy Catherine Connolly:** I hear that. In fairness, the Commissioner has said that many times. I will ask her again. If she cannot answer now, I will revert to the matter when I go through Mr. Howard’s statement about a lack of candour. Does the Commissioner accept what Mr. Barrett said, namely, that without him, this would not have happened?

**Ms Nóirín O'Sullivan:** Mr. Barrett did the right thing-----

**Deputy Catherine Connolly:** Okay.

**Ms Nóirín O'Sullivan:** -----in bringing it forward. He did the right thing in shining a light on these issues.

**Deputy Catherine Connolly:** That is where-----

**Ms Nóirín O'Sullivan:** And then-----

**Deputy Catherine Connolly:** The Commissioner is choosing to answer the question in that way.

**Ms Nóirín O'Sullivan:** No. Please, if I could. The sequence of actions thereafter taken has ensured that we have got to the point where, by the end of this year, we will have unravelled a complex structure and architecture that has been in place for several years.

**Deputy Catherine Connolly:** Another theme that has, I believe, come from the Commissioner and Garda spokespersons is that was then and it would not be appropriate by present standards. Is that not right? That comment has been made. By modern governance standards-----

**Ms Nóirín O'Sullivan:** Proper governance standards, yes.

**Deputy Catherine Connolly:** This is my third time putting to various witnesses that it was not appropriate by the standards of the time either. We will go from the 2008 report. Is that not right?

**Ms Nóirín O'Sullivan:** Absolutely. At my previous appearance before the committee, I said in my opening statement and during my evidence that they were unacceptable practices.

**Deputy Catherine Connolly:** In fact, a separate accountancy system was operating. It was outside public scrutiny.

**Ms Nóirín O'Sullivan:** Several accounts were operating in tandem.

**Deputy Catherine Connolly:** Let us leave the accounts alone because they are being tracked down. They have been reduced to four from 50. I do not need to go into the details, as I will accept what the auditor will tell us. That process is under way. I am more interested in the 2008 report. Has the Commissioner read it yet?

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Catherine Connolly:** It reads:

The amount of organisations, sub-committees and bank accounts being operated from the Garda College creates an environment whereby it is difficult to implement proper internal controls. ... The shadow audit reveals that these organisations and entities have been operating outside governmental accounting regulations ...

The general comment in the report is that this was totally wrong at that point in time in 2008. Is that not right?

**Ms Nóirín O'Sullivan:** Yes, that is accepted.

**Deputy Catherine Connolly:** It is accepted that this was not acted upon.

**Ms Nóirín O'Sullivan:** We now know that it was not but we did not know that until the audit had been completed.

**Deputy Catherine Connolly:** It was not acted on. Does the Commissioner accept that?

**Ms Nóirín O'Sullivan:** Now we know that.

**Deputy Catherine Connolly:** Following the Garda's inquiries to date, does the Commissioner know why it was not acted on?

**Ms Nóirín O'Sullivan:** No. I might take the opportunity to ask my colleagues whether they can help me.

**Deputy Catherine Connolly:** Let me. I have read it, as have all of the Deputies present. The report was published in 2008. Unfortunately, Mr. McGee has his name on it. It was commissioned by the financial director above him. It went to Mr. Fachtina Murphy, who was the then Commissioner, and returned with a recommendation from him that it be implemented. A comment is made somewhere to the effect that it would be a breach of trust if the report was not implemented. On top of that, there was a recommendation that an internal audit be conducted. That did not happen. If the Commissioner still does not have an idea from the Garda's inquiries to date as to why that did not happen, that is okay, but she should make that clear to me. She can confer with her colleagues.

**Ms Nóirín O'Sullivan:** We do not know. As the Deputy knows, Mr. Kelly's audit is continuing. As he uncovers further documentation and evidence, it may become more apparent. At this point in time, it is not clear to us from what we have examined as to why the recommendations were not acted upon or who chose not to-----

**Deputy Catherine Connolly:** Is the Garda conducting an inquiry into that?

**Ms Nóirín O'Sullivan:** Mr. Kelly's audit is continuing.

**Deputy Catherine Connolly:** His audit relates to the financial aspects. Is that not right?

**Ms Nóirín O'Sullivan:** He is also continuing to uncover information that may fill some of the gaps.

**Deputy Catherine Connolly:** As information is uncovered. In respect of previous Commissioners, though, I am asking Ms O'Sullivan as the current Commissioner why action was not taken when such a blunt analysis of the situation in 2008 clearly told the Garda that this was not right. We are not talking about 2016 or 2017.

**Ms Nóirín O'Sullivan:** I cannot account for my predecessors or previous officeholders.

**Deputy Catherine Connolly:** Does Ms O'Sullivan think it was wrong that the analysis was not followed up on?

**Ms Nóirín O'Sullivan:** I think it was wrong.

**Deputy Catherine Connolly:** Good.

**Ms Nóirín O'Sullivan:** I think it would have been much preferable if it was followed up.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O'Sullivan:** If it was, then I do not think we would be dealing with the issues that we are dealing with today.

**Deputy Catherine Connolly:** That is good. It was wrong, it was not followed up on, but the Commissioner has no idea why it was not.

**Ms Nóirín O'Sullivan:** Yes, Deputy, at this time.

**Deputy Catherine Connolly:** In terms of trust, when did the Commissioner become aware of the following? She has said that she became aware, in July, of the difficulties in the Garda College.

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Catherine Connolly:** Am I wrong in thinking that somewhere, in all of this documentation here, the legal adviser approached the Commissioner in June?

**Ms Nóirín O'Sullivan:** Not to my knowledge. The first time that I was approached was the legal adviser approached Deputy Commission Ó Cualáin.

**Deputy Catherine Connolly:** When was that?

**Ms Nóirín O'Sullivan:** I will ask the deputy commissioner. My colleague, Deputy Commissioner Ó Cualáin has told me that Mr. Ruane, the head of legal affairs, approached the then Acting Deputy Commissioner in July 2015.

**Deputy Catherine Connolly:** I am incorrect. The Commissioner can check that fact. She has clearly answered July in response to repeated questions. If I say the legal adviser told her in June or put her on notice, am I wrong?

**Ms Nóirín O'Sullivan:** I have not seen any document to suggest that.

**Deputy Catherine Connolly:** Yes, no document. Did the legal adviser talk to the Commissioner in June alerting her of the situation in the Garda College?

**Ms Nóirín O'Sullivan:** No. The correspondence that I received was from Deputy Commissioner Ó Cualáin who had received it from the head of legal affairs, and that was in July.

**Deputy Catherine Connolly:** My question is not did she get a document. My question is as follows. Did the legal adviser alert her verbally or in any way, in June, to the situation in the Garda College?

**Ms Nóirín O'Sullivan:** No. From my recollection, the first time was July.

**Deputy Catherine Connolly:** Was that during the famous meeting of 27 July?

**Ms Nóirín O'Sullivan:** Yes, Deputy.

**Deputy Catherine Connolly:** I think the Commissioner has told the committee that it was a very short meeting.

**Ms Nóirín O'Sullivan:** From recollection, Deputy, what I said was a brief meeting.

**Deputy Catherine Connolly:** Mr. Barrett said, no, it was a very long meeting. On top of a very long day, it was two hours of a meeting.

**Ms Nóirín O'Sullivan:** As I said this morning, Deputy, yes, we had a very long day. The meeting started at about 8 a.m. in the morning and went on to 5.30 p.m.

**Deputy Catherine Connolly:** We are not going back there, Commissioner, but we will stay with this for a minute. Mr. Barrett has said that the meeting lasted for approximately two hours. Does the Commissioner accept that?

**Ms Nóirín O'Sullivan:** From my experience of dealing with witnesses-----

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O'Sullivan:** -----over several years, different people have different recollections of events. I have no reason to dispute Mr. Barrett's recollection but I can only give the Deputy my recollection.

**Deputy Catherine Connolly:** I understand. Mr. Barrett took the trouble to write an account after the event. His notes are not contemporaneous. He noted the meeting and stated that it lasted at least two hours.

**Ms Nóirín O'Sullivan:** I have seen Mr. Barrett's note-----

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O'Sullivan:** -----which was written in September-----

**Deputy Catherine Connolly:** That is correct.

**Ms Nóirín O'Sullivan:** -----of a meeting that took place in July.

**Deputy Catherine Connolly:** That is correct.

**Ms Nóirín O'Sullivan:** Witnesses, in my experience, often have varying accounts.

**Deputy Catherine Connolly:** I understand. God help judges who must listen to different things. Does the Commissioner accept what Mr. Barrett has said in terms of the two hours?

**Ms Nóirín O'Sullivan:** Deputy, I cannot remember the-----

**Deputy Catherine Connolly:** No, that is why so he can-----

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Catherine Connolly:** -----and he took a note.

**Ms Nóirín O'Sullivan:** Different people have different memories.

**Deputy Catherine Connolly:** All right.

**Ms Nóirín O'Sullivan:** I accept Mr. Barrett has a note, which was made in September, of a meeting that took place in July.

**Deputy Catherine Connolly:** Yes.



**Ms Nóirín O’Sullivan:** From my memory, it is titled critical inflection point. I have no reason to dispute whatever is Mr. Barrett’s recollection of the length of the meeting.

**Deputy Catherine Connolly:** I understood from the Commissioner that it was a very quick meeting and he was made aware of. He sets out that it was made known to her in detail, and to all of those present, based on a very detailed report in which he highlights 21 concerns. Was the Commissioner aware of all of that on that day?

**Ms Nóirín O’Sullivan:** What we discussed at that meeting was the deputy commissioner’s report that he had received from Mr. Ruane, the head of legal affairs.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** What we discussed at that meeting was the content of that report and the fact that Mr. - sorry, excuse me, I should also say that what we also discussed at that meeting, from my memory, was the work that Mr. Dunne, as the chief administrative officer, had been undertaking.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** Then we made a decision on the next steps in that. The deputy commissioner, on the very following day, on the 28th, actioned that by way of a minute to me.

**Deputy Catherine Connolly:** The Commissioner has read Mr. Barrett’s note. He gave a detailed note on all of the issues that were raised. Does she accept that as a fairly reliable account of what happened during the two-hour meeting?

**Ms Nóirín O’Sullivan:** I would have to read it again. As the Deputy may recall, I read it here in a brief, to use that phrase.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** The note was given to me here in the middle of a committee meeting. I would have to read it again in detail.

**Deputy Catherine Connolly:** I think the Commissioner should do so. It is disappointing that she has not done so because he mentioned quite a number of things that were brought to the attention of those who attended the meeting. He mentioned AC Nolan’s report in 2010 and the McGee report, and highlighted many things in the note, and that the meeting went on for well over two hours. He mentioned, in particular in relation to McGee, the missing records. He stated that he was told to be careful in making allegations like that, and mentioned that aspect twice.

Let me explain what I am doing. I do not expect the Commissioner to know every bit of the note but I did expect that she would have read it. Mr. Barrett stated that it was a very serious meeting where he raised all of these issues. Alarm bells should have rung. The 2008 and 2010 reports were not acted on and he brought this matter to her attention.

**Ms Nóirín O’Sullivan:** I can give the Deputy my recollection of the meeting. As I say, people’s recollections of meetings will always differ.

**Deputy Catherine Connolly:** I appreciate that and the Commissioner has given her recollection. Did alarm bells go off in her head when she heard all of this? It is not a legacy issue.

It is a serious problem and two major reports have not been acted on.

**Ms Nóirín O’Sullivan:** Absolutely, alarm bells and that is why we took the action we did. Can I clarify something, Deputy?

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** The Deputy mentioned that Mr. Barrett in his note says, “be careful”.

**Deputy Catherine Connolly:** Yes. He was told to be careful.

**Ms Nóirín O’Sullivan:** Yes. Can I put context on that particular aspect?

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** In the course of that meeting, which was informal in nature, as I explained this morning, at the end of a long day it is the practice of the executive here that we have our own debrief. Mr. Barrett was invited to attend that by the deputy commissioner.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** In the course of that meeting, Mr. Barrett made allegations or assertions that a particular named individual had removed or, and I do not want to use the word, taken a bank draft for £85,000-----

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** -----and that the books were not available.

The context in which Mr. Barrett used the words “be careful”, and I do not know if those were his exact words, if Mr. Barrett was making assertions and had at that stage established that there was a case, that there was some reasonable suspicion, that a particular individual had, in some way, taken or removed €85,000 or £85,000-----

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** -----and there was no trace of it, then the matter needed to be dealt with in a separate way, that the fraud squad needed to be involved immediately. It subsequently transpired that the £85,000 was actually found lodged into an account of the OPW in the course of Mr. Kelly’s audit, and that the money had been transferred from pounds into euros.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** The amount of money correlated with that. That is the context.

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O’Sullivan:** It was nothing to do with Mr. Barrett’s purview in relation to raising the issues.

**Deputy Catherine Connolly:** It is interesting that the Commissioner has a detailed recollection of that but no note.

**Ms Nóirín O’Sullivan:** Deputy, I have a detailed recollection of the meeting because we

actioned it immediately the following day.

**Deputy Catherine Connolly:** All right.

**Ms Nóirín O'Sullivan:** Based on the minute that was sent to me by the deputy commissioner, it was immediately actioned. That is why the gravity and the seriousness of the issues were actioned. Since that moment, we have continued to action all of the issues that have been raised and to deal with them.

**Deputy Catherine Connolly:** We have dealt with that. There is an ongoing report. I will list the questions I want answered in the short time allotted to me.

**Vice Chairman:** The Deputy can ask the last of her questions.

**Deputy Catherine Connolly:** The Vice Chairman has interrupted my train of thought. Trust is at the heart of all of this. The Garda College trains all the young gardaí. I understand that the working group was set up by the CAO, chief administrative officer, not by the Commissioner, and it was set up prior. Is that correct?

**Ms Nóirín O'Sullivan:** On that evening, on the 27th, Mr. Dunne had already started some work on this when Mr. Barrett initially raised it with him.

**Deputy Catherine Connolly:** Had Mr. Dunne already set up a working group prior to that meeting?

**Ms Nóirín O'Sullivan:** Yes, Deputy, he had.

**Deputy Catherine Connolly:** Did the Commissioner change that?

**Ms Nóirín O'Sullivan:** May I just explain?

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O'Sullivan:** So Mr. Dunne's working group, if I can call it that-----

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O'Sullivan:** -----and I do not want to confuse the committee or, indeed, myself. Regarding Mr. Dunne's working group, Mr. Barrett had raised certain issues in relation to the Garda College with Mr. Dunne, as I understand. Mr. Dunne then had convened a working group comprising the line management in the Garda College.

**Deputy Catherine Connolly:** I am not going into all of that because we know that.

**Ms Nóirín O'Sullivan:** Yes. Can I just explain, Deputy?

**Deputy Catherine Connolly:** Yes. I want to know what the Commissioner changed.

**Ms Nóirín O'Sullivan:** On the 27th, when we met in the college-----

**Deputy Catherine Connolly:** Yes.

**Ms Nóirín O'Sullivan:** -----Mr. Dunne, at that meeting, gave us an outline of the work that he had been conducting since these matters were brought to his attention, trying to gather together all of the relevant information. What was agreed that day was that the work would

continue. The following day the deputy commissioner sent me a minute, which would have been a note of what we agreed at the meeting, saying what work Mr. Dunne's working group would now comprise. I emphasised to Mr. Dunne and to the deputy that all of the relevant parties would be involved in it.

**Deputy Catherine Connolly:** I asked the Commissioner what changes she made. She has acknowledged that the working group was set up prior to her taking any decision. What changes, if any, did she make to that working group following the meeting on 27 July?

**Ms Nóirín O'Sullivan:** I did not make any changes; I left it to Mr. Dunne to make the changes, but what I instructed was that all relevant inputs would be had and that the Department would be kept fully sighted in relation to it and all the relevant-----

**Deputy Catherine Connolly:** However, the Commissioner did not set up a working group. She elaborated on the existing working group. The working group was set up; "yes" is the answer to that. The Commissioner did not set up a working group; it was already set up.

**Ms Nóirín O'Sullivan:** To be clear, they are two separate working groups.

**Deputy Catherine Connolly:** No. There was one working group at this point.

**Ms Nóirín O'Sullivan:** My colleague is showing me something here. This may be helpful to the committee. My colleague, Mr. Nugent, is showing me a clarification that was sent to the Chairman, Deputy Fleming, from Mr. Dunne dealing with this very issue.

**Deputy Catherine Connolly:** There was group 1 and group 2.

**Ms Nóirín O'Sullivan:** There were two separate groups.

**Deputy Catherine Connolly:** No. At this point there was no group set up by the Commissioner; it was set up prior to her involvement.

**Ms Nóirín O'Sullivan:** No, that is not correct.

**Deputy Catherine Connolly:** That is what you said.

**Ms Nóirín O'Sullivan:** No. With respect, Mr. Dunne had a group which was looking at internal procedures in the Garda College arising from issues that Mr. Barrett had raised with him about matters arising in the Garda College. When we got the report from the deputy commissioner and we met on the 27th, it was clear that there was much more information available than just in the mere silo of the Garda College. There was information available-----

**Deputy Catherine Connolly:** Commissioner-----

**Ms Nóirín O'Sullivan:** Deputy, if I may please-----

**Deputy Catherine Connolly:** The Commissioner may and I will not interrupt her to let her finish. She has just said that she made no difference to the-----

**Ms Nóirín O'Sullivan:** No. With respect, that is not what I said.

**Deputy Catherine Connolly:** You did actually.

**Ms Nóirín O'Sullivan:** No.

**Deputy Catherine Connolly:** You said, “No, I didn’t change the working group; I just talked about making sure all the stake-----

**Ms Nóirín O’Sullivan:** Sorry-----

**Deputy Catherine Connolly:** Just let me finish my thing and I will not interrupt you. You clearly told us you made no changes except to ensure all the stakeholders were on that working group.

**Ms Nóirín O’Sullivan:** However, the focus of the group changed and that is the important aspect.

**Deputy Catherine Connolly:** Okay.

**Ms Nóirín O’Sullivan:** We should read Mr. Dunne’s clarification to the committee into the record. I ask the Deputy to let me finish out on this because I think it is an important clarification. I want to be very clear. Mr. Dunne, as was his responsibility in that line, was dealing with issues that had been brought to his attention within his line management network.

**Deputy Catherine Connolly:** I am going to ask the Commissioner not to repeat that. She has said that; it is on the record.

**Ms Nóirín O’Sullivan:** However, I think it is important-----

**Deputy Catherine Connolly:** The Commissioner may well think it is important, but the Vice Chairman is watching the clock for me and I need to get to another question. The Commissioner has clearly said that. I am not taking her short. She has clearly outlined it and it is on the record.

**Ms Nóirín O’Sullivan:** But-----

**Deputy Catherine Connolly:** Should Mr. Nugent subsequently, through the Commissioner, want to read it into the record, that is fine. Let me move on from that working group.

**Ms Nóirín O’Sullivan:** Sorry, with respect, I just want to finish out.

**Deputy Catherine Connolly:** Do not give me a history.

**Ms Nóirín O’Sullivan:** The second working group, if we call it that, or the working group that was established after that was with an entirely different focus and comprised different individuals-----

**Deputy Catherine Connolly:** Okay.

**Ms Nóirín O’Sullivan:** ----- to get a complete picture of what precisely we were dealing with.

**Deputy Catherine Connolly:** Did the two working groups work in parallel with each other?

**Ms Nóirín O’Sullivan:** No. They were all subsumed into the one that continued after the 27th.

**Deputy Catherine Connolly:** There was a working group, as a result of the 27th. There was a working group set up without the Commissioner. From 27 July the working group was

expanded. They are not two parallel working groups. I will let the Commissioner correct that in a minute and she can perhaps take the Vice Chairman's time.

I will leave that for a moment and move on to candour, change and trust. Irrespective of the title on the working group, it is to work through the problems and then the steering group is to implement the recommendations of the interim audit. Is that not correct?

**Ms Nóirín O'Sullivan:** No. This was in July 2015.

**Deputy Catherine Connolly:** Please, just one second. If I am wrong about the implementation, who was monitoring the implementation of the interim report?

**Ms Nóirín O'Sullivan:** Mr. Nugent. That does not happen until 2016.

**Deputy Catherine Connolly:** I understand all that. There was a working group and a separate group monitoring the implementation off the internal audit.

**Ms Nóirín O'Sullivan:** However, in 2015 the group that is established is simply to collate information and to compile all of the available information.

**Deputy Catherine Connolly:** I am not in any way mixed up about this. I accept the Commissioner's answer at this point. She is stopping me going on to the next question, which is about trust in whatever system was set up, whatever group was set up and candour. Let me go to Michael Howard, the head of the internal audit, who does not seem to know anything even though he is the head of the internal audit because he has not been told anything. Leading in to what I am going to do here now, it has already-----

**Vice Chairman:** For clarification, he is not head of internal audit; he is head of-----

**Deputy Catherine Connolly:** Sorry, the audit committee. I thank the Vice Chairman for the correction.

Let me go back to what the Commissioner said was a personality clash or personality issues between Mr. Barrett and Mr. Culhane. Does she still hold that it was a personality clash?

**Ms Nóirín O'Sullivan:** I think it is very serious interpersonal issues between two individuals which led to very entrenched beliefs on both sides.

**Deputy Catherine Connolly:** Where does the Commissioner see any issues arising on the side of Mr. Barrett?

**Ms Nóirín O'Sullivan:** I do not understand.

**Deputy Catherine Connolly:** The Commissioner has said there were very serious interpersonal issues between two people.

**Ms Nóirín O'Sullivan:** Interpersonal differences.

**Deputy Catherine Connolly:** Yes. The only evidence I see of that is Mr. Culhane writing letters. Where is the evidence that there were problems with Mr. Barrett?

**Ms Nóirín O'Sullivan:** It is like in any organisation, small or big, where one has individual human beings working together. Different people have different perceptions of others' behaviour.



**Deputy Catherine Connolly:** Just please-----

**Ms Nóirín O'Sullivan:** This is what we are dealing with.

**Deputy Catherine Connolly:** This is not what the Commissioner is dealing with. She is dealing with a very senior person from the outside who has been brought in and given a very high title. There is Mr. Culhane who is the chief financial officer. The only correspondence I see where complaints are made is Mr. Culhane's. This is a very detailed letter making very serious allegations in October 2015. The Commissioner's response today was Mr. Ó Cualáin is to follow up on that.

**Mr. Dónall Ó Cualáin:** Mr. Dunne.

**Deputy Catherine Connolly:** Mr. Dunne and subsequently Mr. Ó Cualáin, I understand.

**Mr. Dónall Ó Cualáin:** No. I chaired a meeting in which he took the action.

**Vice Chairman:** Sorry-----

**Deputy Catherine Connolly:** I come back to the Commissioner regarding Mr. Dunne. This was addressed to her on 24 October 2015. Without context, it is a very serious letter. In context, given all that went before and no action - a 2006 report, a 2008 report and a 2010 report-----

**Vice Chairman:** Last question.

**Deputy Catherine Connolly:** I am just finishing on this. I want to put these last few things on candour. Some of my colleagues have already referred to 24 October. Is the Commissioner seriously putting all these issues, including considering applying the Official Secrets Act, down to a personality clash or interpersonal difficulties? Even now, is she seriously putting that letter down to fault on both sides, as it were, or difficulties on both sides?

**Ms Nóirín O'Sullivan:** No, I think what this letter is, in my view, is Mr. Culhane taking issue with certain matters relating to Mr. Barrett. It is Mr. Culhane's perception. At no stage did I consider in any manner commencing an investigation in relation to Mr. Barrett.

**Deputy Catherine Connolly:** The Commissioner has said that.

**Ms Nóirín O'Sullivan:** Under no circumstances.

**Deputy Catherine Connolly:** The Commissioner has said that. I am asking her to look back at this letter with hindsight. It is an extraordinary, is it not? The Commissioner would accept it is an extraordinary letter. This is a man who is sitting on a committee with Mr. Barrett.

**Ms Nóirín O'Sullivan:** It is extraordinary. As I said this morning - and I would like to repeat it - my concern was these are two key individuals in our internal control mechanisms who needed to be fixing these problems. My focus was on making sure we were bringing the team together effectively to fix the problem.

**Deputy Catherine Connolly:** The Commissioner has said that a few times. I think she absolutely misread the situation either deliberately - which is probably an unfair allegation - or unintentionally in relation to what was being done here.

**Ms Nóirín O'Sullivan:** Let me respond because that could potentially be a very serious

allegation. I neither deliberately misread it-----

**Deputy Catherine Connolly:** I take back “deliberately”.

**Ms Nóirín O’Sullivan:** I want to be very clear on this.

**Deputy Catherine Connolly:** I take back “deliberately”.

**Ms Nóirín O’Sullivan:** Sorry, Deputy, I think this is a very serious thing-----

**Deputy Catherine Connolly:** Absolutely.

**Ms Nóirín O’Sullivan:** ----- and I would like to clarify for the record.

**Deputy Catherine Connolly:** I will let her.

**Vice Chairman:** Allow the Commissioner to clarify.

**Ms Nóirín O’Sullivan:** Under no circumstances did I deliberately misread anything.

**Deputy Catherine Connolly:** Okay.

**Ms Nóirín O’Sullivan:** There is a structure in An Garda Síochána. It is important that this committee understands the structure. The structure is that there is line management. In this case, Mr. Dunne is the appropriate line manager to deal with these issues. The acting Commissioner, on my-----

**Vice Chairman:** I presume that this structure does not apply to the internal auditor. The internal auditor has to have a relationship with the Accounting Officer.

**Ms Nóirín O’Sullivan:** Of course. That is separate completely.

**Vice Chairman:** So it is completely separate even though he is only at the grade of assistant principal.

**Ms Nóirín O’Sullivan:** These are two reportees to Mr. Dunne as the CAO. Therefore, Mr. Dunne was asked to deal with this matter and to resolve the issues between the two individuals.

**Deputy Catherine Connolly:** Mr. Dunne dealt with the matter in relation to meeting Mr. Barrett and Mr. Culhane. He has a note, which the Commissioner has read, of those two meetings. Did he resolve anything?

**Ms Nóirín O’Sullivan:** Well, in my experience some of these deeply held personal differences are very difficult to resolve.

**Deputy Catherine Connolly:** I did not ask the Commissioner’s opinion, I asked her if he resolved anything.

**Ms Nóirín O’Sullivan:** What I can say is, as of today, we continue to work with the team we have to create the most cohesive, effective team that we can, and to get people to work together to deliver what it is are our objectives to deliver.

**Deputy Catherine Connolly:** The Commissioner should listen to me.

**Vice Chairman:** The time is up. Deputy Connolly should finish her question.

**Deputy Catherine Connolly:** I will finish on this point. I wish to put a question on Mr. Howard. If I accept that the Commissioner was landed with all of this, and these are historical issues that she is struggling to deal with, I have difficulty with that now when I look at all of this correspondence and when I see this letter going before her and she left it to Cyril Dunne to deal with that. It is not dealt with in my opinion. I have asked the Commissioner if she thought it was dealt with and she talked about difficulties. I ask the Commissioner again whether she thinks it was dealt with - yes or no.

**Ms Nóirín O’Sullivan:** Mr. Dunne, as the line manager, reported back to the executive that he had met with both of the individuals and that he had dealt with the matter to a satisfactory resolution. Mr. Culhane was asked, as is the appropriate process, whether he wished to take the matter further and he said “No”.

**Deputy Catherine Connolly:** Did it not ring alarm bells in the Commissioner’s head that something was seriously wrong, that this was a committee which was supposed to be looking at issues?

**Ms Nóirín O’Sullivan:** I have said it this morning and I have no problem repeating it: I was very concerned.

**Deputy Catherine Connolly:** Finally, is it correct that Mr. Howard, as head of the internal audit committee has written to the Commissioner more than once?

**Ms Nóirín O’Sullivan:** Yes, he has.

**Deputy Catherine Connolly:** He clarified the lack of candour and wrote about not shooting the messenger. Is that not correct?

**Ms Nóirín O’Sullivan:** I think I am only aware of one letter in that tone.

**Deputy Catherine Connolly:** Did that alert the Commissioner? Was that in 2016?

**Ms Nóirín O’Sullivan:** It was 2017.

**Deputy Catherine Connolly:** Was there one in 2016?

**Ms Nóirín O’Sullivan:** No, I am not aware. We would have to check the records.

**Deputy Catherine Connolly:** It is very important to check the records because it concerns the head of the audit committee in 2016 and 2017. Mr. Howard wrote to the Commissioner on 25 October. Let me put this in perspective and I will conclude on this issue. The letter was addressed to the Commissioner and concerned the audit of the Garda. Does the Commissioner wish to see it on the screen or does she have a copy?

**Ms Nóirín O’Sullivan:** I do not have it.

**Deputy Catherine Connolly:** It is PAC32-R-575. I am sorry as I am wasting time. The letter is here if the Commissioner wants to look at it. Mr. Howard raised serious concerns about the background. He stated: “Again during 2015, the matter was raised internally within management. On this occasion, the existence of a potential problem in the Garda College was at least mentioned to the Audit Committee” and he gave the background. He wrote:

The internal audit has not, to date, uncovered evidence of actual fraud. But, while welcome in itself, this provides limited grounds for reassurance. Over a lengthy period, some

of the most important arrangements for financial management at the College were incompatible with public financial procedures. Some basic controls were simply absent.

He went on to outline them. That was in October 2016, after all the working groups and steering groups had been set up. He went on to note in emails that there was a lack of candour, which he would be raising personally with the Commissioner and Deputy Commissioner Ó Cualáin. He said he intended to reiterate the points in the letter to the Commissioner. He emphasised the apparent lack of candour in disclosing the matter. He wrote to the Commissioner personally. Does the Commissioner have the correspondence for 2017?

**Ms Nóirín O’Sullivan:** I will see if Mr. Nugent has the emails.

**Deputy Catherine Connolly:** I have a letter that is undated. Mr. Howard said is standing full-square behind Niall Kelly, so it must be after the audit. There is no date on the letter but it is addressed to the Commissioner, Nóirín O’Sullivan. He said: “Dear Commissioner, I regret that I am obliged to write to you again concerning a matter...” and he goes on in relation to Mr. Culhane’s letters. I think that letter is from 2017.

**Mr. Joseph Nugent:** Was it 2017?

**Deputy Catherine Connolly:** Yes. Mr. Howard wrote a detailed letter again. He said: “I regret that I am obliged to write to you again” and he went on to express his concerns. I am finished, Vice Chairman. There is a letter and there are emails dating to late 2016 and early 2017 and after the audit. The head of the audit committee expressed serious concerns about lack of candour. As Commissioner, does Ms O’Sullivan stand over that?

**Ms Nóirín O’Sullivan:** It is very concerning. The October letter related to, as we explained earlier, when the draft interim audit report was produced by Mr. Kelly in September 2016; the legal advices that Mr. Kelly got from Mr. Ruane were that all of the individuals named in the audit report had to be entitled to due process.

**Deputy Catherine Connolly:** Please.

**Ms Nóirín O’Sullivan:** I am sorry but if I could explain please because I think it explains the content of the letter.

**Deputy Catherine Connolly:** Please.

**Vice Chairman:** No, I am sorry. Deputy Connolly has had her time.

**Deputy Catherine Connolly:** Please. Just let me conclude. I only want my question answered. The Commissioner is talking down my clock.

**Ms Nóirín O’Sullivan:** No.

**Vice Chairman:** The Deputy’s clock was run down long ago.

**Deputy Catherine Connolly:** I wish to deal with the lack of candour right up to 2017. This is my final question. I am simply asking the Commissioner what she thinks about that. What decisions did she take? What actions did she take in relation to the expressed lack of candour?

**Ms Nóirín O’Sullivan:** If I can explain, in September 2016, on production of Mr. Kelly’s interim audit report legal advices were received by Mr. Kelly from Mr. Ruane that all of the individuals had to be given due process to make submissions. Those submissions, as I under-

stand it, were copied or the audit committee made aware of them. Mr. Howard quite rightly raised the issue in relation to October and subsequently we had a number of meetings with Mr. Howard to explain the process that had to be undertaken, the legal advices that were there. We assured him that I and the executive took this matter extremely seriously and that we were fully supporting Mr. Kelly in completing his audit process, respecting the fact that the due process and the submissions had to be made by the individuals that were making them.

**Vice Chairman:** The running order-----

**Deputy Catherine Connolly:** That was not an answer to my question on the lack of candour but I will leave it and come back to it.

**Vice Chairman:** Okay. The running order now is Deputy Farrell, who is not here, me, Deputy Cassells, Deputy McDonald, Deputy Burke and following on that we have everyone indicating again. That is just the running order based on who was here at the time.

The Commissioner pointed out earlier that Mr. Dunne made a clarification and sent us an email. We are aware of that. It is interesting that it was a clarification that he was not even asked for but he still sent it in. Has there been any communication from anyone in An Garda Síochána over the past three months with Mr. Dunne?

**Mr. Joseph Nugent:** Could I comment?

**Vice Chairman:** It must be done through the Commissioner. We must stick to the rules.

**Ms Nóirín O'Sullivan:** I am going to ask Mr. Nugent if I am in any way misrepresenting what he has just said to me, because I find this process a little bit delaying for the purpose of assisting the committee. Mr. Nugent has informed me just now that his office spoke to Mr. Dunne with a view to getting him the information and getting information that was required for the committee.

**Vice Chairman:** I suggest that what we will do is write to the Commissioner and ask when the meetings took place and what was discussed.

**Ms Nóirín O'Sullivan:** I am sorry. Mr. Nugent informed me that there were no meetings.

**Vice Chairman:** We will write to ask for clarification because it does seem strange that a clarification was sent in by Mr. Dunne even though it was not requested, which relates to a very important piece of evidence that he gave.

I have asked this question numerous times in the committee and I will ask the Commissioner the same thing. Does she have confidence in everybody who is at senior management level within the Garda Síochána, given the level of contradictions, the evidence that has been given and, dare I say it, the almost hostility some witnesses who were working together have for one another? Does Ms O'Sullivan have full confidence in all of their abilities and capacity to work together?

**Ms Nóirín O'Sullivan:** My job is to make the most effective and cohesive use of the team I have. Our focus as the executive and senior leadership team is to ensure we provide cohesion to the team. We are doing that in a number of ways because it is very important. These are very important people positioned in the organisation. We are doing it in a number of ways, including working very closely with the Department and the Policing Authority in terms of getting additional professional skill sets in place to support the team.

**Vice Chairman:** Will Ms O'Sullivan answer my question now, please?

**Ms Nóirín O'Sullivan:** I have to work with the team I have and to get the very best out of them.

**Vice Chairman:** Okay, for a third time, will Ms O'Sullivan answer my question, please?

**Ms Nóirín O'Sullivan:** I work every day with the team I have to get the very best out of them.

**Vice Chairman:** Okay, for the fourth time, will Ms O'Sullivan answer my question, please?

**Ms Nóirín O'Sullivan:** I have confidence we are working to get the very best out of the team.

**Vice Chairman:** I will repeat it. Does Ms O'Sullivan have confidence in every single member of senior management in An Garda Síochána in their current positions? The majority of them have been witnesses here. Does Ms O'Sullivan have full confidence in each and every one of them and their capacity to work together?

**Ms Nóirín O'Sullivan:** With respect, there could be two separate questions. Capacity is one thing. Getting the team to work together as a cohesive, collective team is the second one.

**Vice Chairman:** Ms O'Sullivan can break it down whichever way she wants. I will make it simple for her. Does she have full confidence in them in their roles? That is the first question. Second, does she have full confidence that every member of her senior management team has the capacity to do their job? Third, does she have confidence they can all work together collectively to the best of An Garda Síochána's ability and in the best interest of the Irish public?

**Ms Nóirín O'Sullivan:** I will take the last one first. Yes, I am confident we are working together to create a cohesive, effective team. It is greatly assisted by the capacity issue, which means we have had new people brought onto the team in recent times. There are new skill sets and a different perspective. It is a very positive thing. I have confidence going forward that we will and can create a cohesive, effective team. I think that will be very much supported by the skill sets that we are working to bring onto the team.

**Vice Chairman:** To be fair to the Commissioner, I have asked this question in numerous ways now and I am still not getting a clear answer. Members of the public, who are watching proceedings, need to know, as a result of what they have seen here, that Ms O'Sullivan has full confidence in every way in each and every one of the management team in An Garda Síochána. I need to know this, as the person who is chairing this meeting. I have gone through thousands of pages of documents and have seen contradictions all over the place. I have seen issues with interpersonal relationships - we all have, in fairness - and evidence that is contradictory. It is imperative that Ms O'Sullivan honestly answers the question whether she has full confidence in each and every one of them given what has transpired before the Committee of Public Accounts on this issue.

**Ms Nóirín O'Sullivan:** I will put it like this: if I look back on 2014 to now, it is only very recently in the last couple of weeks that we actually have anywhere close to a full complement management team. It was not until January of this year that we actually had a fully functioning executive. That is nobody's fault here. The reality is what we have had to do since 2014 is build up a team and build up an effective team. In any organisation going through the type of



deep structural change, cultural change and reform we are going through, there will always be tensions within teams. Our job is to make sure we pull together that team into a cohesive, effective team and I am confident we are doing that. I am confident that the members of the team supported by the appropriate skill sets will be in a position to continue to provide that effective leadership.

**Vice Chairman:** So Ms O’Sullivan has confidence in every single person.

**Ms Nóirín O’Sullivan:** I have confidence in the collective ability of the team.

**Vice Chairman:** That does not mean Ms O’Sullivan has confidence in every individual. I find it absolutely alarming. I will move on. Earlier we had engagement with the Comptroller and Auditor General on the role of Accounting Officer. I presume Ms O’Sullivan is fully aware of what is the role of Accounting Officer.

**Ms Nóirín O’Sullivan:** Yes.

**Vice Chairman:** Ms O’Sullivan has been fully aware since she took over the role.

**Ms Nóirín O’Sullivan:** Yes.

**Vice Chairman:** What date did Ms O’Sullivan take over?

**Ms Nóirín O’Sullivan:** I believe it was 25 March 2014.

**Vice Chairman:** Given the evidence we have heard previously on what the Commissioner was told in July 2015, which is disputed by different evidence we have heard from many different witnesses, would the Comptroller and Auditor General have expected to be informed of matters that were being examined or investigated internally prior to the completion of an investigation? In other words, we now know the Commissioner was informed by legal letter, a letter we cannot see, which I will return to, on 24 July and that a meeting took place on 27 July. There is a dispute on when the committee was set up. A further meeting or document was put in place on 28 July, which we were told today. Would the Comptroller and Auditor General have expected that prior to the completion of such an investigation, he would have been informed once the Commissioner was made aware of these issues?

**Mr. Seamus McCarthy:** Yes. The principle here is that a person exercising an independent function such as an external or internal audit should be given information that allows them to exercise their independence. If one does not know about something, one cannot take it into account when one exercises one’s function. If the question is being put at a senior level in an organisation about whether they should tell the Comptroller and Auditor General about something, that is the time to tell. They might only be telling partial information but it gives the external auditor - in that case, me, as Comptroller and Auditor General - the power to assess the information that is available to identify any action we might recommend.

**Vice Chairman:** In layman’s terms, even if the Commissioner was made aware of only partial or basic information, some indication should have been made.

**Mr. Seamus McCarthy:** Yes, of the nature of the concerns that had arisen.

**Vice Chairman:** Even if it was only fairly basic.

**Mr. Seamus McCarthy:** Yes, even if it was only basic, because then at least I can start in-

dependently to think through the implications of it for the appropriation accounts.

**Vice Chairman:** Given what the Comptroller and Auditor General has told Ms O'Sullivan there, does it not alarm her that she did not inform him?

**Ms Nóirín O'Sullivan:** I think what I-----

**Vice Chairman:** Will Ms O'Sullivan accept she had basic information on this?

**Ms Nóirín O'Sullivan:** Yes. I think what I said before lunch was that if I knew then what I know now, of course I would. I absolutely accept what the Comptroller and Auditor General says.

**Vice Chairman:** Ms O'Sullivan said earlier on she understood the role of an Accounting Officer.

**Ms Nóirín O'Sullivan:** Yes.

**Vice Chairman:** With regard to the role of Accounting Officer, the Comptroller and Auditor General has told us that even with basic information he would have expected to have been told. We can debate how much she knew, but Ms O'Sullivan has accepted she had knowledge. Why is there a letter of 31 July that does not make any reference to it?

**Ms Nóirín O'Sullivan:** I will talk about my mindset first. My mindset at that time and when I was presented with the statement of internal financial controls was that I certainly was not in possession of complete information. The advice I had been given from both the chief administrative officer and the deputy commissioner was that we needed to gather more information to have a complete picture. I fully accept what the Comptroller and Auditor General is saying and I have absolutely no issue with it.

**Vice Chairman:** It is alarming. I will ask the Comptroller and Auditor General if it is an appropriate defence for any Accounting Officer to say they would not inform him of potential issues no matter how limited or basic the information is, which the Comptroller and Auditor General has just answered. Is it a defence to say they are gathering materials and all materials are not available to them so they have not informed the Comptroller and Auditor General yet?

**Mr. Seamus McCarthy:** An Accounting Officer makes a judgment and I do not want to comment on a judgment made by the Accounting Officer. Where a significant matter arises where there is a question mark over an appropriation account or even that controls were not operating in the way they should have, that is the nature of an issue that should be brought to my attention.

**Vice Chairman:** Even a suspicion that controls are not in place and where there are basic concerns, it should have been brought to the Comptroller and Auditor General's attention.

**Mr. Seamus McCarthy:** That is my view.

**Vice Chairman:** It is not a defence to say that we have not gathered all the information yet.

**Mr. Seamus McCarthy:** It is a matter for the committee to decide whether it is a defence or not. I am quite clear it should have been brought to my attention.

**Vice Chairman:** There was a discussion in July 2015. I think the Commissioner should reconsider publishing the letter from Ken Ruane. As Chairman of the committee here today

I will officially ask her to reconsider that. It is her own decision but I am just asking her officially. It would be helpful to everyone and it would be in the interest of transparency. We will certainly be having a conversation with the Department of Justice and Equality about it later in the meeting.

In July 2015, the Commissioner said that she had a basic understanding of what was going on. I do not want to put words in her mouth so I ask her to let me know if she disagrees. I am not going to ask her about the letter from Ken Ruane but I will ask her about that whole process and about the meeting on 27 July that went on for somewhere between five minutes and more than two hours. Was the McGee report not appended to documentation provided for that meeting?

**Ms Nóirín O’Sullivan:** First, I would like to clarify something. I never said five minutes.

**Vice Chairman:** I did not say that the Commissioner did.

**Ms Nóirín O’Sullivan:** The Vice Chairman said between five minutes and two hours so I just want to clear that up. I never said five minutes.

**Vice Chairman:** I did not say that the Commissioner did but that is the spectrum that we are looking at here. Did the Commissioner say that it was a very short meeting?

**Ms Nóirín O’Sullivan:** I said it was brief.

**Vice Chairman:** Over a cup of tea?

**Ms Nóirín O’Sullivan:** It was brief. I never said, and I am not on record as saying, five minutes. Several people suggested five minutes. I never did.

**Vice Chairman:** I accept that but it was very brief, which suggests a few minutes, but go on.

**Ms Nóirín O’Sullivan:** No, it does not.

**Vice Chairman:** What is very brief? Two hours?

**Ms Nóirín O’Sullivan:** In the context of a very long day from eight o’clock in the morning until 5.30 in the evening, this meeting was a debrief meeting and informal in nature.

**Vice Chairman:** That is fine. We do not need to go over this. There is going to be a difference of evidence and that is fine. Just answer the question.

**Ms Nóirín O’Sullivan:** I just want to be very clear that I never said five minutes. What was the question again?

**Vice Chairman:** In the meeting on 27 July, was the Commissioner not in possession or aware of the McGee report?

**Ms Nóirín O’Sullivan:** I most certainly do not remember. I certainly was not in possession of the McGee report.

**Vice Chairman:** Was it not discussed at the meeting?

**Ms Nóirín O’Sullivan:** There were certainly discussions of a 2008 report, a 2010 report, the work that Mr. Dunne had been doing within the confines of the college and also the infor-

mation that had been provided to Mr. Ruane by Mr. Barrett, leading to him corresponding with the deputy commissioner.

**Vice Chairman:** Will the Commissioner consult her colleagues with her to find out if the McGee report was attached to the letter from Mr. Ruane? I appreciate that the Commissioner is not going to talk about that letter but I want to know if the McGee report was attached. If so, was it part of the meeting? If not, was it not discussed as part of the meeting? Will the Commissioner discuss that with her colleagues and give us an answer, please?

**Ms Nóirín O'Sullivan:** My colleagues do not fully recall. What we do know is that the McGee report was attached to the report given to the deputy. We are not clear, from memory-----

**Vice Chairman:** Which deputy?

**Ms Nóirín O'Sullivan:** Deputy Commissioner Ó Cualáin. The correspondence that had gone to this office. If I can put this in context as well, to be fair to all concerned, from my memory, on Friday we had been at a meeting in Ballymun in Dublin and on Monday we went directly to the college. I do not want to put words in the deputy commissioner's mouth but the correspondence would have landed over that-----

**Vice Chairman:** I am just trying to get a flavour of this meeting that took place on 27 July and which is disputed in length. Were Mr. Barrett's report and Mr. McGee's report discussed at length? It questions the Commissioner's level of knowledge which informed her decision not to bring in the internal auditor, not to do a section 41 and not to refer to any of this in the letter of 31 July to the Comptroller and Auditor General. This is critical information.

**Ms Nóirín O'Sullivan:** I never said that we were not going to do a section 41. The decision that was taken on the advice-----

**Vice Chairman:** The Commissioner did not do one.

**Ms Nóirín O'Sullivan:** -----I was given, and that I agreed with, was that we needed to compile more information to be in a position to arrive at an informed decision. I also instructed that the Department be fully informed of what I was doing and that it would be invited to join in the working group. Section 41 takes many forms. At no stage did I make a decision not to do a section 41 or inform the Department.

**Vice Chairman:** Okay, but the fact is the Commissioner did not do one. The second issue is that we need to know if and at what length the McGee and Barrett reports were discussed at that meeting. The Commissioner's decision as based on the basic or more extended knowledge she has is a critical issue for our committee in terms of making deliberations and reporting on this. The decision not to do a section 41, not to inform the internal auditor until March 2016, and not to inform the Comptroller and Auditor General, despite his evidence here today, is based on the documentation and discussion at that meeting, which is a highly disputed meeting.

**Ms Nóirín O'Sullivan:** As I said to Deputy Connolly, in my experience things can differ. I am sure that we all have a different account of this meeting here, for example, even though there is a public record of it. I am sure that in two months or two years we will all have a very different recollection and account of what transpired. That is a fact.

**Vice Chairman:** That is not a fact actually, but go on.

**Ms Nóirín O'Sullivan:** Sorry, Vice Chairman, I am a very experienced investigator. From

my experience of investigations, interviewing witnesses and indeed suspects, and reviewing factual evidence, it is a well-known fact that different witnesses have different recollections.

**Vice Chairman:** I am pretty experienced politician and I can see when there is contradictory evidence being given in front of me that does not stand up to scrutiny. That is what I am seeing here today and what I have seen over the past four meetings. This concerns just one meeting.

**Ms Nóirín O'Sullivan:** I am not challenging that, but what I am saying is that different people can have very true reflections.

**Vice Chairman:** Okay. You might answer the question, please.

**Ms Nóirín O'Sullivan:** It may be disputed, but that does not mean that one person is right and the other is wrong.

**Vice Chairman:** Okay. Let us run through this meeting. It took place on 27 July, the letter was from 24 July. We have evidence given to us here from Mr. Ruane that he has a note from 30 June where he was informed by Mr. Barrett that Mr. Dunne had informed the Commissioner of the issues around Templemore on 30 June. We have a meeting that took place on 2 July. It is now under dispute as to whether that was the committee that was set up to deal with Templemore. The Commissioner is saying, and she should contradict me if I am being unfair, that this is the first iteration. That then moved on because the Commissioner claims in her evidence on 4 May that she acted promptly and immediately once she was made aware of the issues on 27 July. We have a dispute as to whether that was the committee that was set up to deal with Templemore or whether that was set up at the meeting of 27 July. Mr. Culhane and Mr. Barrett were in agreement that it was on 2 July that this was set out. We also have evidence of a letter sent by Mr. Barrett to Mr. Dunne on 8 July which he received on 9 July which also states that the Commissioner was informed of this.

Does the Commissioner not see that these multiple contradictions over when she was informed of the issues around Templemore cause both the public and this committee serious concerns?

**Ms Nóirín O'Sullivan:** I can only account for what I know. I cannot account for what someone told someone else who told someone else. What I can account for is-----

**Vice Chairman:** It is not all hearsay.

**Ms Nóirín O'Sullivan:** If someone tells someone something who tells someone else something who makes a note of it, that is hearsay.

**Vice Chairman:** With all due respect, there is other evidence, namely, the letter of 8 July. This is not hearsay. It is just a letter saying this happened.

**Ms Nóirín O'Sullivan:** I want to be very clear. I cannot account for what someone else put in letters. What I do know and can inform the committee of is what I know, my personal knowledge. My personal knowledge is that I became aware of this on 27 July. I just want to be very clear. At some stage Mr. Dunne told me that he would be away from the office on a particular day because he was going to the college to deal with matters. That is the only other thing that I am aware of. I became aware of the issues around Templemore on 27 July.

**Vice Chairman:** We will have to make a judgment call here. We are hearing contradictory

evidence all over the place about this committee and about 27 July. We will have to make a decision based on the evidence given to us. I have some final few questions. Does the Commissioner believe that full co-operation has been given to Niall Kelly?

**Ms Nóirín O'Sullivan:** I believe that Mr. Kelly, with the support of the executive, is now getting full co-operation, yes.

**Vice Chairman:** When Deputy Commissioner Ó Cualáin wrote to Mr. Kelly asking him to come in and look at these issues in March, was he subsequently given access to all accounts and everything?

**Ms Nóirín O'Sullivan:** Yes, he was, on the deputy commissioner's instructions.

**Vice Chairman:** Was he given access to the European accounts that are now under discussion?

**Ms Nóirín O'Sullivan:** Yes. The instruction was that he was to be given full access to anything he wished to examine.

**Vice Chairman:** That is not my question. My question was not whether it was instructed that he be given access but whether he was given access to the European accounts, which Mr. Kelly briefed the Commissioner on over the last weekend.

**Ms Nóirín O'Sullivan:** I will have to confer with my colleague.

**Vice Chairman:** Fine.

**Ms Nóirín O'Sullivan:** The deputy commissioner is not aware that he was refused it.

**Deputy Marc MacSharry:** Will the Commissioner repeat that?

**Ms Nóirín O'Sullivan:** Sorry, Deputy. The deputy commissioner informs me that he is not aware that anybody had - I do not want to put words into his mouth - denied or refused Mr. Kelly access.

**Vice Chairman:** So-----

**Ms Nóirín O'Sullivan:** Sorry. I am doing a very good job as interlocutor here. I apologise to the committee because this is a very unusual place to be to be locating the information.

**Vice Chairman:** That is okay. Go ahead.

**Ms Nóirín O'Sullivan:** From what I have been told by Mr. Nugent and Deputy Commissioner Ó Cualáin, my understanding is that, basically, in Mr. Kelly's initial audit all 50 accounts were examined by him, which would include those accounts. The only account he may not have been aware of at that time was what is now known as the Cabra account, and that subsequently came out in the audit.

**Vice Chairman:** Why was he not made aware of the Cabra account? The Commissioner might ask Mr. Ó Cualáin as well. He has been in front of us twice. Why did he not make us aware that he was not made aware of the Cabra account?

**Ms Nóirín O'Sullivan:** I am sure the Vice Chairman will appreciate that I am sitting here-----



**Vice Chairman:** Yes. Fine.

**Ms Nóirín O’Sullivan:** ----- almost putting words into mouths of colleagues who are here-----

**Vice Chairman:** You are the witness. They are here to support you.

**Ms Nóirín O’Sullivan:** Yes, but to be fair, if the Vice Chairman is putting a question to me in relation to Deputy Commissioner Ó Cualáin, the person is sitting here-----

**Vice Chairman:** Fine. Ask him.

**Ms Nóirín O’Sullivan:** -----and I think he has an entitlement to answer the question himself.

**Vice Chairman:** We have rules and procedures inside here, Commissioner, so please answer the question.

**Ms Nóirín O’Sullivan:** The Vice Chairman is asking me to ask the deputy commissioner-----

**Vice Chairman:** No, I am not. I am asking the Commissioner a very specific question. She is the Accounting Officer and might please remember that. We need to know if the internal auditor, Mr. Niall Kelly, was given access to everything from March 2016. The Commissioner has now given evidence that subsequently he got information on the Cabra account. Why was that?

**Ms Nóirín O’Sullivan:** I personally do not know.

**Vice Chairman:** Does that not concern the Commissioner? Listen, we have reports now of what is potentially fraud. Now we find out that the internal auditor - at the same time he was given access to everything else - was not given access to the Cabra account, and the Commissioner does not know about it.

**Ms Nóirín O’Sullivan:** If I may clarify, none of my colleagues are aware of it. Deputy Commissioner Ó Cualáin, was not aware of it. We will have to check with Mr. Kelly and come back to the committee because I am not aware of the answer to the question that the Vice Chairman asked. Mr. Kelly has not raised any issues with me personally.

**Vice Chairman:** Okay.

**Ms Nóirín O’Sullivan:** I am told by the deputy commissioner-----

**Vice Chairman:** Let me-----

**Ms Nóirín O’Sullivan:** Sorry, Vice Chairman, but if I could. I am told by the deputy commissioner that he has not raised any issues with him, if he wishes to clarify for the committee whether there was any account.

Mr. Nugent is trying to be helpful and indicated that perhaps it was the Cabra account, but we do not know. We are speculating.

**Vice Chairman:** Basically, this is what we need to know. I will also make a comment. First, we need to know, which the Commissioner as the Accounting Officer cannot confirm, if

Mr. Kelly was given access to everything from March 2016.

**Ms Nóirín O'Sullivan:** My understanding from the information available to me is that he was.

**Vice Chairman:** Earlier evidence was that he may not have been given access to the Cabra account, which is now pretty famous at this stage. Let me finish. There is a second issue. Through this process, will the Commissioner as the Accounting Officer, even though I believe she should be aware of it, ask her management team if he was given access to all accounts immediately? This is not about instructions but whether he actually was given access to all of the accounts.

As a last thing, the Commissioner said earlier on that Mr. Barrett-----

**Ms Nóirín O'Sullivan:** On a point of clarification, because I think we may be confusing ourselves, all of us here, including me, by this conferring and confusing the committee, it is very hard to follow a train of conversation while conferring with witnesses who are present. Our understanding is that the Cabra account closed in 2010. Therefore, I do not know - I am speculating - but the account may have been uncovered in Mr. Kelly's audit process as opposed to someone giving access to an audit that started in 2015. However, we will have to clarify that because I want to be fair and truthful to the committee.

**Vice Chairman:** Fair enough.

**Ms Nóirín O'Sullivan:** So, the fact is-----

**Vice Chairman:** We will give the Commissioner that time.

**Deputy Bobby Aylward:** On a point of order, why do we bring in witnesses and have only one witness?

**Vice Chairman:** The Deputy was not here at the beginning.

**Deputy Bobby Aylward:** I only asked the question. In the same way here the last day-----

**Vice Chairman:** No. I understand-----

**Deputy Bobby Aylward:** Can I say it? We have two people sitting outside our witness in the middle who are relevant to what is being asked. Why did we not make them witnesses? The same thing happened here the last day. There were two witnesses again outside-----

**Vice Chairman:** Deputy Aylward, we had a discussion in private session. You were not here for it. Maybe-----

**Deputy Bobby Aylward:** Is that the reason I should not ask the question?

**Vice Chairman:** No, it is not. I am just telling the Deputy what happened. It was a decision of the committee. It was not my decision.

I have a final two very quick ones. When asked about when Mr. Barrett looked for correspondence relating to the letter in which Mr. Culhane had cited the Official Secrets Act, the Commissioner gave evidence, in fairness to her, that absolutely no investigation was ever even considered in relation to the issue. She also spoke about that weekend when Mr. Barrett looked for the letter. She said it was a very busy weekend and that a lot of stuff was going on and there

was a potential industrial strike. Where was she that weekend?

**Ms Nóirín O'Sullivan:** I would have to check.

**Vice Chairman:** The Commissioner might come back to us. This is my last question. We have had a serious number of questions asked about how funds were distributed and used etc. I presume the Commissioner is not aware-----

**Ms Nóirín O'Sullivan:** Sorry, Deputy, but I can confirm - I have just been told - that I was here. Not here, obviously, at the committee, but here in Dublin.

**Vice Chairman:** Fine. Was the Commissioner aware of any of the funds? She was in Templemore. She might remind me of when she was superintendent. Was it around 2000?

**Ms Nóirín O'Sullivan:** I was superintendent in charge of specialist training in the college-----

**Vice Chairman:** In 2000.

**Ms Nóirín O'Sullivan:** -----from approximately July 2000 until approximately October 2001.

**Vice Chairman:** The Commissioner was there again subsequently, in 2007-ish, as assistant commissioner.

**Ms Nóirín O'Sullivan:** No. I was the assistant commissioner in charge of human resource management, HRM, but at that stage the responsibility for the college had transferred to the assistant commissioner for strategy, training and professional standards.

**Vice Chairman:** Fair enough. However, during all of this time, she was never aware of any issues relating to Templemore, any issues relating to any accounts or any issues whatsoever. She was not aware of any unauthorised spending, spending on inappropriate gifts or spending on anything that was inappropriate during all of that time.

**Ms Nóirín O'Sullivan:** No. I was in charge of specialist training. While it was part of the college, it covered things such as firearms training, detective training and various other training.

**Vice Chairman:** As part of being acting Commissioner and Commissioner, she was aware that a company was set up and, since she became acting Commissioner and then Commissioner, that there were bank accounts in the names of senior gardaí. When did she become aware of those issues?

**Ms Nóirín O'Sullivan:** I believe it was July 2015.

**Vice Chairman:** They were both issues that were illegal. A garda could not be a director of a company and, obviously, could not be opening bank accounts. We had evidence whereby they actually opened bank accounts without the permission of the Department of Justice and Equality. What did the Commissioner think of that?

**Ms Nóirín O'Sullivan:** When I became aware of it?

**Vice Chairman:** Yes.

**Ms Nóirín O'Sullivan:** I was informed that steps were being taken to regularise the situa-

tion and I absolutely wanted that to happen. That was one of the priorities that we identified.

**Vice Chairman:** I call Deputy Cassells.

**Deputy Shane Cassells:** I thank the Vice Chairman and welcome the Commissioner and her team here this afternoon. At the outset, let us look at the exploration of the questioning that has been happening over a series of these meetings relating to Templemore and its importance to public discourse. In the complexities of some of the questions that are being thrown at the Commissioner, that and why this probing is happening is sometimes lost. Specifically, I think it is best encapsulated by the document, “A Critical Inflection Point” which she referenced earlier and was written on 29 September 2015. Mr. Barrett, when writing to the CAO, expressed his concern about the scale and amount of co-mingled moneys at Templemore - some €12 million over ten years and a total of €2.3 million in investment accounts at its peak - and the confirmation that no refund was made at year-end from the surpluses generated. This is a point to which Mr. Kelly referred in his presentation to the committee when he said Deputy Commissioner Rice stated in a note in 2009 “I strongly believe that any surplus money does not belong to the State but rather is owned by the members of AGS”. He pointed out that this had occurred since the position of Accounting Officer had been bestowed on the holder of the office of Commissioner in 2005. This is the crucial point in years when An Garda Síochána needed a substantial Supplementary Estimate from the Exchequer. We are not just interested in exploring bad processes here because this had a direct impact on the taxpayer. This was effectively a bailout. Substantial surpluses were being generated yet, as pointed out in “A Critical Inflection Point”, this was at a time when Supplementary Estimates were needed as well. The Commissioner mentioned her 36 years on the force. While she was not Commissioner at the time in question, can Ms O’Sullivan explain how these belief systems came into being such that people were of the view that surpluses generated did not belong to the State but rather to members of An Garda Síochána at a time when Supplementary Estimates from the taxpayer were required?

**Ms Nóirín O’Sullivan:** To clarify in respect of Mr. Barrett’s “A Critical Inflection Point”, the first I saw of that document was when it was here at the first committee meeting, I believe. As a point of record, it is very disadvantageous to be asked to read documents in a committee room in the course of a meeting. It would have been preferable to have had the opportunity to see the documents beforehand and it would be much better from a learning point of view if they were all shared with the witnesses beforehand. It is very difficult for me to get into the mindsets of people but I can say that the historical context is that this was a funding model established some time around the time of the Walsh report in the 1980s. It was a very complex structure at the time with the *per capita* grants being given. It then developed and became even more complex in nature and the practices that developed around that prior to the time of the Commissioner’s becoming Accounting Officer became very complex and unwieldy. That is evidenced by the fact that they were so complex when we began the work in 2015 that trying to unravel them and distinguish what was what was very tedious.

**Deputy Shane Cassells:** I appreciate that. I know that some accounts operated independently of each other but the Commissioner can understand people’s concern and anger if surpluses were being generated - for example, €2.3 million at the peak - at a time when Supplementary Estimates were required from the Exchequer.

**Ms Nóirín O’Sullivan:** Yes I can, and I can absolutely understand the concern of this committee and, indeed, the concerns of the general public. Our focus has been on making sure that this cannot happen again. By way of assurances, these surpluses cannot build up in the model that is currently implemented.

**Deputy Shane Cassells:** The Commissioner said to Deputy Connolly earlier that by the end of this calendar year she would be confident that she would unravel the complex architecture of the accounts. Does she have real confidence that everything will be unearthed and that, as was said earlier, there will be a blowing wide open of all the policies involved? On what is that confidence based?

**Ms Nóirín O'Sullivan:** Yes, I am confident. The confidence is based on the 19 recommendations of Mr. Kelly's interim audit report which had been given to Mr. Nugent to implement in full. Mr. Nugent chairs a high-level steering group. He has informed me that today he is in a position to inform the committee that we believe those recommendations will all be implemented by the end of this year.

Second, we have put in new administrative structures in the college, including one of the recommendations in Mr. Kelly's report, a principal officer with experience in this area who we are also supporting.

Third, to satisfy ourselves and to give me, as Accounting Officer, this committee and us, as the executive, assurances, our new audit committee is meeting for the first time next week, on 27 June, which is opportune. We will ask the audit committee for its advices on reviewing our internal control mechanisms and on how the internal financial control mechanisms - the audit committee, the internal audit and our new risk management processes - interact to ensure that we are in compliance with best corporate governance standards for public sector bodies. We will keep that under continuous review and take any advices from this committee and the Comptroller and Auditor General when he completes his report and from our own audit committee.

**Deputy Shane Cassells:** In response to earlier questioning by Deputy MacSharry, the Commissioner said that, at the meeting on 27 June, she hopes relations will be repaired. She spoke to Deputy MacSharry of that difference of opinion and interpersonal differences. To describe the relationship between Mr. Culhane and Mr. Kelly and Mr. Barrett as a difference of opinion would be to gloss over what is happening there. The best word to describe the atmosphere on the day they attended a meeting of this committee is "toxic". It was unbelievable to see the hostility manifest itself between those gentlemen who were supposedly on the same side. I do not think it was a difference of opinion. I am asking about the Commissioner's confidence to the effect that she can get to the heart of the matter and achieve the reform she seeks in light of the sheer toxic hostility between these people. Can the Commissioner understand that from our position, seeing that toxic atmosphere, we wonder what in God's name they are like when they are away from here where they were on public show? If they could not hide their contempt for one another on that day, what are they like when they are elsewhere? The relevance of this for everyone watching and trying to get to the truth of the matter is whether we can have confidence that these gentlemen can work together.

**Ms Nóirín O'Sullivan:** In case there is any misunderstanding, I absolutely think these are really serious issues. They go to the heart of what we are trying to achieve in the way of cultural reform. My explanation of the interpersonal difficulties is the genesis of what has happened. There are very deeply held differences of view and opinion between individual members. Our job is to make sure we put those into place. One of our serious concerns - and my concern, as Accounting Officer and as Commissioner - is to make sure that we review the process in place to ensure these matters cannot happen again, and that those very critical structures and the individuals leading them are able to interact and work together effectively to make sure I can get the assurances I need. That is why we are asking the audit committee to give us advices on



how to review the structures. Separately, we are doing some work. As I said, only in the past two weeks we have made the latest additions to our senior leadership team. That is a very positive move. When we get the new civilian members of the team, the dynamic of the team will change. It is my job, as Commissioner, and our job collectively, as an executive, to make sure we support the team, create a cohesive, effective team and make sure the skill sets are there to support all the individuals.

**Deputy Shane Cassells:** Has the Commissioner spoken to Mr. Culhane since his appearance before this committee and asked him whether he can work with the gentlemen on the audit team who were present?

**Ms Nóirín O’Sullivan:** I have not personally spoken to him since then - only in passing - but I know that Mr. Nugent, as his line manager, is engaging with all of the individuals.

**Deputy Shane Cassells:** To refer again to the famous letter dated 24 October 2015, he was quite vociferous in his attacks on Mr. Barrett. That is quite unusual. Whatever someone might say behind a person’s back, to put it in writing and nail this guy in the manner that he did when he said Mr. Barrett “just stopped short of calling a deputy commissioner a liar” and when he referred to his “irrational behaviour” and “lack of respect” was quite something. It was quite damning language that he used in respect of Mr. Barrett.

**Ms Nóirín O’Sullivan:** It is very strong language, Deputy.

**Deputy Shane Cassells:** I was a journalist in my previous career and I would not call it strong language, I would call it damning.

**Ms Nóirín O’Sullivan:** Deputy, these are Mr. Culhane’s words.

**Deputy Shane Cassells:** In terms of these interpersonal issues, and the super toxic atmosphere, I think it is more sinister. There is the issue of the uncovering of practices. On the last occasion I asked Mr. Kelly whether these practices were wilful misappropriation or incompetence. Mr. Kelly said it was coming down on the scale of incompetence rather than wilful misappropriation. However, I probed him further on the practices that were uncovered and on the concerted effort to thwart the truths that were coming to light, a point that was scratched on a while ago. I think that is as serious as it gets in terms of the issues at play.

In terms of people’s interpretation of whether this was wilful misappropriation of funds or just sheer incompetence, if there was a concerted effort to thwart Mr. Kelly in his work on the matter, that brings a whole new dimension. I put that question to Mr. Kelly and he said: “I think there is sufficient evidence before this committee to say that the Office of the Director of Finance, or in the past the Office of the Deputy Commissioner of Strategy and Change Management did not forward information to me.” The college itself did not forward information to internal audit. That is a pretty damning situation.

**Ms Nóirín O’Sullivan:** Yes, Deputy. I do not know whether Deputy Cassells was here earlier, but he may be aware that Mr. Howard, the outgoing chair of the audit committee had corresponded with me in relation to certain matters and those matters are in a different process which we are dealing with at present through the chief administrative officer. Separately, we have to be very mindful of the fact that we are working to make sure that we deal with all of these issues and that we put the necessary structures in place that address all of these issues and ensure that they can never happen again.



**Deputy Shane Cassells:** I have no doubt of that, Commissioner, but in terms of dealing with the issues, it is whether there are team players willing to make that happen. Again, I refer to Mr. Barrett's reply to the same question, who spoke about having a very substantial difference of opinion with the finance director. These are his words:

I think there is a very significant difference between outputs and outcomes. There may be memos, there may be meetings, as Mr. Culhane outlined, but it changed nothing. The show went on. On my arrival in Templemore I could not believe what it was that sat in plain view despite all the memos and all the history that Mr. Culhane has referred to, it continued in plain view contrary to the blue book.

He concludes: "I did not create this, I stumbled upon it, I did not get the "let us resolve it attitude" as the first response. Those who I would have imagined were statutorily responsible for dealing with matters like this did not race to my aid, no more than that do I need to say."

**Ms Nóirín O'Sullivan:** Deputy, as I say, when we became aware of these matters in July 2015, we immediately took Mr. Barrett's concerns very seriously. They were immediately addressed.

**Deputy Shane Cassells:** He does not believe so, Commissioner.

**Ms Nóirín O'Sullivan:** Sorry, Deputy.

**Deputy Shane Cassells:** He does not believe so.

**Ms Nóirín O'Sullivan:** Deputy, I think the evidence speaks for itself. What we can demonstrate very clearly is that from 27 July 2015, to date, there were immediate actions taken. If I may give the timeline on that, on 27 July these matters were raised. On 30 July they were actioned. The first meeting of the steering group took place on 6 August and thereafter a series of actions were implemented, which resulted in the 19 recommendations of Mr. Kelly's internal audit report that will be implemented by the end of this year. What is really important to emphasise about that is that this is something that has been going on and an architecture and an infrastructure that is very complex and complicated has developed over nearly 40 years. What we have managed to do in that short space of time is to unravel that, to deal with it, where necessary, to deconstruct all that had been done and to put in place mechanisms to ensure that it can never happen again.

**Deputy Shane Cassells:** I want to touch on some of those factual recommendations in a moment. First, let us consider what the Commissioner is facing to achieve that aim. Mr. Kelly in his summation made two key points that summed up everything that he was concerned about - governance and culture. If one is swimming against the tide of the culture - he pointed to the fact that he was convinced there was and still may be a culture in parts of the Garda Síochána of not admitting to problems - problems persist in trying to keep them in-house and away from transparent public scrutiny. Will the Commissioner outline how she proposes to untangle that culture that permeates the force and not just in the edifice of Templemore? Where does the root and branch reform of the culture begin and end?

**Ms Nóirín O'Sullivan:** It goes on, it began in 2014. Part of the emphasis in 2014, and I made this point to Deputy Madigan earlier, was to ensure we start a significant cultural and structural reform. May I mention Mr. Kelly, because to be fair to Mr. Kelly, at his last appearance before the committee, when asked by the Chairman, Deputy Fleming, to clarify whether it was then or now, my understanding is that Mr. Kelly is on record as saying it was then. He

openly admits the change in the culture, that he is getting co-operation and he mentioned in particular, the deputy commissioner, myself and others.

**Deputy Shane Cassells:** He was not able to clarify the extent of the “now” part.

**Ms Nóirín O’Sullivan:** Deputy, the “now” part is really important because it is part of what we are about. From 2014, as well as creating an environment where people can speak up freely, such as Mr. Barrett bringing these matters to our attention, we also decided that we would identify where we had problems. I was asked earlier about the breath test, which is a good example. If we had problems, we were going to shine a light on them and turn over the stones and ensure that we not only identified the issues but that we brought them to the surface and dealt with them and put them right. On top of that, we made a commitment to openness and transparency that would make it clear that they were in plain view and to involve all of the necessary parties.

**Deputy Shane Cassells:** In terms of the “now” and Mr. Kelly has not used the past tense but the present tense, he said “there is also evidence of a culture that thinks that An Garda Síochána is different from other public sector bodies and that the normal processes, the financial procedures and transparent democratic accountability do not apply”.

**Ms Nóirín O’Sullivan:** There has been lots of commentary and some of it very fair and just, and very right about the culture of An Garda Síochána. There are many positives in the culture of An Garda Síochána. In many ways it is different, but when it comes to financial management procedures, public finances and transparency and accountability and in particular democratic accountability, let us be under no illusion, we are absolutely committed to engaging in democratic accountability to its full extent. That includes the architectural oversight that has been put in place. We remain committed to that as an executive. We remain committed to that not just as an organisation, there is an important distinction to be made here, we pride ourselves on our profession. This is not about An Garda Síochána as an organisation, this is about a profession of policing. An Garda Síochána is the professional policing service to protect the Irish citizens and the Irish public. In doing that we must engage to satisfy public confidence in the democratic accountability of the force.

**Deputy Shane Cassells:** I will focus on recommendation No. 6 in terms of the bank accounts; the recommendation was that the bank accounts under the control of the college management should be closed, with the exception of the college impress account. Let me ask whether Ms O’Sullivan has personally reviewed the arrangements regarding the bank accounts under the control of Garda management. Is she satisfied with the progress regarding implementing the recommendation in respect of the banking arrangements?

**Ms Nóirín O’Sullivan:** Yes, Deputy. Mr. Nugent keeps me informed of the progress that has been made in that regard. He has line responsibility but also strategic responsibility for it. I am satisfied. My understanding is that, and Mr. Nugent can correct me if I am wrong, there are five bank accounts remaining and the five remaining bank accounts are being addressed as we speak. I can get more information from Mr. Nugent if the members so wish.

**Vice Chairman:** I call Deputy McDonald. We will be taking a lunch break afterwards.

**Deputy Mary Lou McDonald:** Will the Commissioner just remind members of the date on which Mr. Ruane advised her in respect of the section 41 disclosure?

**Ms Nóirín O’Sullivan:** Speaking from memory, it is 27 July and I think the minute he prepared for the deputy commissioner was dated 24 July.

**Deputy Mary Lou McDonald:** I thank Ms O'Sullivan. Did she discuss that advice with others?

**Ms Nóirín O'Sullivan:** I discussed the advice with the two deputy commissioners and the CAO.

**Deputy Mary Lou McDonald:** What did they advise? Did they advise Ms O'Sullivan to go along with what Mr. Ruane was suggesting? Did they try to dissuade her of that?

**Ms Nóirín O'Sullivan:** No, they were not trying to dissuade me. What we discussed was very open. Mr. Dunne gave us an overview in terms of what-----

**Deputy Mary Lou McDonald:** I am not being rude. We do not have the scope for a long narrative. I just need Ms O'Sullivan to answer. Did the persons concerned try to talk her in or out of observing the legal advice she had been given?

**Ms Nóirín O'Sullivan:** They did neither. They set out the factual position to me. Mr. Dunne outlined to me the work he had undertaken since these matters came to his attention and-----

**Deputy Mary Lou McDonald:** Okay, that is fine.

**Ms Nóirín O'Sullivan:** -----the decision was that there needed to be further information in order for us to have a complete picture.

**Deputy Mary Lou McDonald:** The decision was taken. She was collaborating with these folks as she made up her mind one way or the other. Is that right?

**Ms Nóirín O'Sullivan:** No, we met in the college to discuss the content of the letter. We knew Mr. Dunne had been doing some work and we wanted to discuss that to make sure Mr. Barrett was aware of what had been going on. The following day, on the 28th, I believe, the deputy commissioner wrote to me and-----

**Deputy Mary Lou McDonald:** I am trying to get clarity on a point. Mr. Ruane advised, in respect of the Garda Síochána Act 2005, that a disclosure be made under section 41. Ms O'Sullivan received that advice and then discussed, conferred, debated and deliberated on that advice with Mr. Twomey, Mr. Ó Cualáin and who else?

**Ms Nóirín O'Sullivan:** Mr. Dunne. To be clear, it was not the advice but rather the fact of the content of the letter that was discussed. I obviously considered Mr. Ruane's advice-----

**Deputy Mary Lou McDonald:** Just bear with me. We will go there. I just want clarity. She had the advice and then conferred with Mr. Twomey, Mr. Ó Cualáin, Mr. Dunne-----

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Mary Lou McDonald:** Did she confer with Mr. Culhane?

**Ms Nóirín O'Sullivan:** No.

**Deputy Mary Lou McDonald:** Okay. I have a letter that was referred to earlier, which refers to Mr. Barrett and was written by Mr. Culhane. It was sent to the Commissioner and deputy commissioners and is dated 24 October 2015. It is pretty excoriating in respect of Mr. Barrett. I think Ms O'Sullivan would recognise that the language is pretty choice and dramatic.

The interesting thing is that the title of the letter sent is “Re Garda Síochána Act section 41 - Garda College”. I find it very interesting that Mr. Culhane is having a right go at Mr. Barrett, up to and including suggesting that he may have broken the Official Secrets Act and all sorts, and defending his honour.

He was quite aggressive in respect of Mr. Barrett and stated Mr. Barrett thought he was responsible for the devil and all and that it is all his fault. Is it not interesting that this is how he highlights the matter? He does not explicitly say anywhere that a disclosure should not be made. If one read the letter, one would have to imagine it was designed not just to take a pop at Mr. Barrett, but also to dissuade any notion of making that disclosure.

He states: “I refer to the ongoing issues concerning the Garda college which recently culminated in a minute from the head of legal affairs [that is our friend, Mr. Ruane] based upon partial and inaccurate representations made by Mr. John Barrett advising the Commissioner to make a section 41 disclosure to the Minister.” Although he never says in the text that a disclosure should not be made, if it landed on my desk I would read it as an attempt to persuade me not to make that disclosure. Is that how Ms O’Sullivan read the document?

**Ms Nóirín O’Sullivan:** Absolutely not. I wish to point out that the document is dated 24 October 2015.

**Deputy Mary Lou McDonald:** Yes.

**Ms Nóirín O’Sullivan:** As I said earlier, there are many ways of-----

**Deputy Mary Lou McDonald:** No, no.

**Ms Nóirín O’Sullivan:** Excuse me-----

**Deputy Mary Lou McDonald:** No, excuse me. Ms O’Sullivan is not doing that. Stick to the knitting.

**Ms Nóirín O’Sullivan:** With respect-----

**Deputy Mary Lou McDonald:** I do not want a big long narrative from Ms O’Sullivan.

**Ms Nóirín O’Sullivan:** With respect, we are not knitting here. I have been asked a question and I would like to answer the question.

**Deputy Mary Lou McDonald:** I would like Ms O’Sullivan to answer briefly.

**Ms Nóirín O’Sullivan:** Yes. If Deputy McDonald can allow me to answer the question-----

**Deputy Mary Lou McDonald:** Briefly-----

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Mary Lou McDonald:** -----and to the point.

**Ms Nóirín O’Sullivan:** To the point.

**Deputy Mary Lou McDonald:** Yes.

**Ms Nóirín O’Sullivan:** The letter is dated 24 October 2015.

**Deputy Mary Lou McDonald:** Yes.

**Ms Nóirín O’Sullivan:** In effect, the working group, which was set up to establish this, was set up on 6 August 2015. That date was the first meeting of the group. My understanding is the Department was involved in this. My point was that there are many ways of ensuring that the Department was kept fully informed and that was one way of making sure the Department was fully informed. A section 41 disclosure does not always need to take the form of a letter. Under no circumstances-----

**Deputy Mary Lou McDonald:** With all due respect, the Commissioner is doing a bit of verbal pilates in terms of how she is presenting facts. She did not interpret Mr. Culhane’s letter as an attempt to dissuade disclosure one way or the other. Is that right?

**Ms Nóirín O’Sullivan:** No. I do not do pilates and I do not do knitting.

**Deputy Mary Lou McDonald:** I am delighted. I am not interested in her pastimes.

I want to move on to another piece of correspondence. This is again from Mr. Culhane, but was sent to Mr. Kelly. It is dated 13 October 2016. He wrote this a couple of weeks before he wrote to the Commissioner. In this letter, he takes Mr. Kelly to task. He accuses him of being unprofessional, misleading and mischievous. He accuses him of making defamatory comments. Ms O’Sullivan is familiar with this piece of correspondence. Again, the language is fairly dramatic. Those are his words.

Mr. Howard, chair of the audit committee, wrote to Ms O’Sullivan not in respect of this letter, but, rather, this turn of events because he is obviously very concerned that this is a direct interference with the internal audit function. He is alarmed by this. In his correspondence, he said he felt moved to raise the issue with Ms O’Sullivan and that, in his view “the Head of Internal Audit has acted in good faith. Therefore I have to treat an accusation to the contrary as a very serious issue of principle”. He went on to say: “The situation can only be resolved if the assertions made by Mr Culhane are either unconditionally withdrawn or unambiguously overruled by a superior authority.” I understand that the remarks were neither withdrawn nor overruled by a superior authority. Am I right in that assessment?

**Ms Nóirín O’Sullivan:** The first thing is that I think the date of the letter may be incorrect.

**Mr. Joseph Nugent:** I ask the Deputy to clarify the date of the letter.

**Deputy Mary Lou McDonald:** Whatever the date, we can clarify that after Ms O’Sullivan accepts she knows the letter to which I am referring.

**Ms Nóirín O’Sullivan:** What does the Deputy want me to clarify?

**Deputy Mary Lou McDonald:** I want Ms O’Sullivan to clarify that he wrote to her - I have the letter here - he said this is very serious, in reference to the head of internal audit, and something needs to happen. Either the accusation needs to be withdrawn by Mr. Culhane or it needs to be overruled by a superior authority. My understanding is that the remarks were not withdrawn, nor were they overruled by a superior authority. Am I right in thinking that?

**Ms Nóirín O’Sullivan:** Can we clarify the letter? I think we are looking at a different letter on the screen. I want to be clear that we are talking about the same letter.

**Vice Chairman:** What is the reference number on the top of the letter?



**Deputy Mary Lou McDonald:** It is 55-262802/15. It is a letter from Mr. Michael Howard, chair of the Garda audit committee, to Commissioner O'Sullivan. I understood it was dated 19 April.

**Mr. Joseph Nugent:** 2017.

**Deputy Mary Lou McDonald:** Yes.

**Ms Nóirín O'Sullivan:** I think the document we are looking at on the screen is dated 25 October.

**Deputy Mary Lou McDonald:** Mr. Howard also told us he had a good and very open relationship with Ms O'Sullivan. He said they were in touch and enjoyed good confidence. There was no tension. He told us he raised these issues with Ms O'Sullivan. We have in writing the fact that he looked for the matter to be resolved and asked for the unconditional withdrawal of Mr. Culhane's remarks or the overruling of those remarks by a superior authority. I simply want to know whether either of those things happened.

**Ms Nóirín O'Sullivan:** It is happening. Perhaps the Deputy was not here earlier when we discussed that. It is in a process and is being dealt with at the moment.

**Deputy Mary Lou McDonald:** Ms O'Sullivan received the letter. What did she do? Did she go and talk to Mr. Culhane?

**Ms Nóirín O'Sullivan:** We got legal advice regarding how best it should be handled.

**Deputy Mary Lou McDonald:** When did the Commissioner get that legal advice?

**Ms Nóirín O'Sullivan:** It has been happening on an ongoing basis. I have charged Mr. Nugent, as the line manager of Mr. Culhane, with getting the legal advices and ensuring that the matter is dealt with.

**Deputy Mary Lou McDonald:** The Commissioner did not automatically approach Mr. Culhane.

**Ms Nóirín O'Sullivan:** No. It has gone into a process and it was important-----

**Deputy Mary Lou McDonald:** When did it go into that process?

**Ms Nóirín O'Sullivan:** I have to just check. I am told it was actioned very quickly and the advices of the law officers were sought. It is now in the process.

**Deputy Mary Lou McDonald:** We need a firmer answer than that. It was very clear from the correspondence that what Mr. Howard wanted was for the Commissioner to intervene because she is in charge. Is the latter not the case?

**Ms Nóirín O'Sullivan:** Absolutely, and I did intervene. I absolutely intervened. I directed that Mr. Nugent would seek the advices of the law officers as to how best we should deal with this matter. We are now in receipt of those advices and it is being dealt with.

**Deputy Mary Lou McDonald:** What authority does the Commissioner carry within the force?

**Ms Nóirín O'Sullivan:** I do not understand the Deputy's question.



**Deputy Mary Lou McDonald:** What clout does she carry? I am conscious that she is the first woman in the job. I do not know, because I do not work in her organisation, how that was received. I imagine, given the nature, size and scale of the organisation, she probably got mixed reviews on her appointment. I am trying to establish, because she is in charge, if the Commissioner carries the level of clout required for a person who is in charge. That is what I am asking her.

**Ms Nóirín O'Sullivan:** I do not think the Deputy was here earlier when I was explaining the structure of the organisation. We are an organisation of approximately 16,000 people. It is a €1.5 billion operation, dispersed 24-7, 365 days a year right across the Twenty-six Counties and with international obligations. We have the mandate for both policing and security, as the committee will know. As such, we have a management structure in place to help with the day-to-day management of that company.

**Deputy Mary Lou McDonald:** But the Commissioner is in charge, is she not?

**Ms Nóirín O'Sullivan:** As the Commissioner and Accounting Officer of An Garda Síochána, I have responsibilities which I delegate to individuals. There are three other members on the executive - namely, the two deputy commissioners and Mr. Nugent, the CAO - who each have line responsibility for particular lines. In this case, Mr. Nugent has line responsibility. In that line responsibility, I directed and requested Mr. Nugent to seek legal advices. As such, I am not really sure I understand the context of the Deputy's question.

**Deputy Mary Lou McDonald:** Let me put it a different way. In what circumstances does the Commissioner decide not to delegate? What needs to happen for the Commissioner, as the person in charge, to decide that, on a particular occasion and notwithstanding her organisational structures, a matter requires her direct intervention? What was to stop her contacting Mr. Culhane to say that the matter had been raised with her and to express the concern she clearly holds in respect of the correspondence with Mr. Kelly? What was to stop her doing that?

**Ms Nóirín O'Sullivan:** Nothing, and nothing stopped me.

**Deputy Mary Lou McDonald:** Why did the Commissioner not do it?

**Ms Nóirín O'Sullivan:** I needed legal advice.

**Deputy Mary Lou McDonald:** Why did the Commissioner need legal advice?

**Ms Nóirín O'Sullivan:** I wanted advices from the law officers as to the appropriate mechanism to deal with the issues raised.

**Deputy Mary Lou McDonald:** Is that the Commissioner's managerial style? Is her leadership style such that she asks for legal advice on everything before she makes an intervention of that sort?

**Ms Nóirín O'Sullivan:** The facts were that this was an unprecedented situation. Legal advices and the advices of the law officers were required as to how best and what mechanism should be used to engage with this matter. We are now in receipt of those legal advices and the matter is with-----

**Deputy Mary Lou McDonald:** Is there not a disciplinary procedure within An Garda Síochána? Are there not standard channels and mechanisms for dealing with either what the Commissioner describes as personality clashes or tensions between individuals or acts which

would be considered offside and unacceptable by management and by the person in charge of An Garda Síochána?

**Ms Nóirín O’Sullivan:** There are. The Deputy would have heard earlier this morning at the committee that we have several mechanisms available to us, including internal disciplinary structures, the Garda Síochána Ombudsman Commission and a number of different mechanisms.

**Deputy Mary Lou McDonald:** To summarise, because I am mindful of the time, the Commissioner is telling the committee that she has those channels and procedures and that she is the person in charge, but when something like this happens, which is an obvious matter of concern as any attempt to interfere with the carrying out of the internal audit function is, of course, going to cause alarm, she cannot either approach the person directly or turn her hand to the established channels. Instead, she had to go through some as yet unspecified and convoluted process of going to law officers and seeking legal advice before acting.

**Ms Nóirín O’Sullivan:** It is not a convoluted process. Every single individual has an entitlement to due process.

**Deputy Mary Lou McDonald:** Absolutely.

**Ms Nóirín O’Sullivan:** In order to ensure that we are adhering to due process, it is important that the advices of the law officers are there. I want it on the record that I have absolutely no reticence in taking immediate action when required and in this case I took immediate action to get advices. It is important that the advice is there to give everybody fair procedures and due process.

**Deputy Mary Lou McDonald:** There is no evidence of the Commissioner taking immediate or decisive action in this whole debacle. On the contrary, we seem to have heard of a decision, taken at whatever level, not to inform the Comptroller and Auditor General to keep these matters beyond the purview of the Committee of Public Accounts. We dealt with correspondence earlier today, which I will not retread, in terms of a letter the Commissioner sent to Mr. McCarthy which might be interpreted as being misleading to the Office of the Comptroller and Auditor General. She was given legal advice then by Mr. Ruane to activate section 41, which was the right advice for what it is worth, but she did not take it. She had some methodology of collaborating, informing or discussing but she did not act decisively in that case. Then we have, astonishingly, a scenario in which the head of finance, Mr. Culhane, attempts to lean on and goes so far as to threaten legal action against the head of internal audit. This matter is then raised with the Commissioner by the chair of the Garda audit committee. Far from being decisive, the Commissioner failed to act.

**Vice Chairman:** Final question, Deputy.

**Deputy Mary Lou McDonald:** The Commissioner failed to act decisively. Is this not a testament to the failure of her leadership within An Garda Síochána?

**Ms Nóirín O’Sullivan:** Just like this committee, I am used to dealing in evidence and facts. The fact of the matter is that I took decisive action the moment this came to my attention.

**Deputy Mary Lou McDonald:** When?

**Ms Nóirín O’Sullivan:** On 27 July 2015. Within days of that meeting, there was a process

established and put in place to deal with these very complicated issues, which have been going on for almost 40 years and which will be finalised by the end of this year. The evidence will show that, not just now but in my role as Commissioner, I have always taken decisive and sometimes quite unpopular action.

**Vice Chairman:** We need to conclude.

**Deputy Mary Lou McDonald:** Can the Commissioner write to us and set out on paper the facts in respect of Mr. Howard's ask of her to intervene? He was asking her to intervene and override the attack on Mr. Kelly by Mr. Culhane. We have had a vague sense of something happening and legal advices but can we have on paper dates, times, if possible, and exactly the nature of the decisive intervention?

**Ms Nóirín O'Sullivan:** Yes. The matter has been dealt with and we will provide the committee with a note.

**Vice Chairman:** We will break until 2.30 p.m. I put the witness and her colleagues on notice that they may be required for the evening session at 7 p.m. We are here from 2.30 p.m. to 3.30 p.m. when we will see how matters are progressing.

*Sitting suspended at 2 p.m. and resumed at 2.40 p.m.*

**Vice Chairman:** We are now in public session. The next speaker on the list is Deputy Peter Burke, but as he is not present, I call Deputy MacSharry.

**Deputy Marc MacSharry:** I thank the Chairman and request that he alerts me when I am coming close to the end of my time.

I thank the Commissioner and her team for staying with us.

**Vice Chairman:** Let us bear in mind that we will adjourn at 3.30 p.m. and resume at 7 p.m.

**Deputy Marc MacSharry:** I will be brief and I can come back in again later.

I wish to raise questions on the document that has been pulled up.

**Vice Chairman:** What is the number of the document?

**Deputy Marc MacSharry:** I do not think it is numbered. The document only emerged this morning.

**Vice Chairman:** Who is it from? What is the date on the document?

**Deputy Marc MacSharry:** It is an email thread from Michael Culhane to Mr. Eugene Banks, the Garda HR division, Department of Justice, Equality and Law Reform and it also includes emails to and from George Redden of PwC to Michael Culhane in relation to taxation matters and the potential of PwC undertaking some work on behalf of the Garda college. Does the Commissioner have the documents to which I refer before her?

**Ms Nóirín O'Sullivan:** I see it on the screen, Deputy.

**Deputy Marc MacSharry:** With the permission of the Chair, Ms O'Sullivan may wish to take a few minutes to read the three or four emails to which I will refer. It might be easier.

**Vice Chairman:** Obviously I do not expect the Commissioner to have full knowledge.

**Mr. Joseph Nugent:** Can I confirm just in relation to this, while the Commissioner reads, that although it was dated as being received in my office on the 14th, I actually only received this document yesterday afternoon? Just to clarify, the Commissioner has not had a chance to see this in advance.

**Vice Chairman:** That is noted.

**Mr. Joseph Nugent:** Yes.

**Deputy Marc MacSharry:** While the Commissioner is looking at it, can I ask Mr. Nugent something? Is that in order?

**Vice Chairman:** He is not a witness, to be fair.

**Deputy Marc MacSharry:** All right.

**Ms Nóirín O'Sullivan:** I could put something on record while I read the document. As I mentioned before the break, I think it is very disadvantageous that I am here, as Accounting Officer, and that there are documents being circulated to the committee which I, or my team, have not had sight of.

**Vice Chairman:** She has.

**Deputy Marc MacSharry:** The Commissioner is right and that certainly is not her fault. I can tell her with absolute certainty that it is not the fault of anybody in terms of the secretariat or the membership of the committee. I happened to become aware that there may be a document of this nature. I sought it from the secretariat who did not know of it and who, in turn, raised it outside the room with some of the Commissioner's officials here today. Lo and behold, the document was produced.

**Vice Chairman:** It was produced.

**Deputy Marc MacSharry:** That is not my fault.

**Ms Nóirín O'Sullivan:** Nobody, Deputy-----

**Vice Chairman:** I understand what the Commissioner has said and she is correct. We did not know about this document and the Commissioner only got the document yesterday.

**Ms Nóirín O'Sullivan:** Mr. Nugent has just informed the committee that he got it yesterday.

**Vice Chairman:** We can only work within what we know about this-----

**Ms Nóirín O'Sullivan:** Yes.

**Vice Chairman:** What is in this document?

**Ms Nóirín O'Sullivan:** I would like to put it on the record that, as Accounting Officer, I find it very disadvantageous that both at this meeting and a previous meeting documents were circulated to the committee-----

**Vice Chairman:** Fine.

**Ms Nóirín O'Sullivan:** -----and as a point in principle-----

**Vice Chairman:** Yes.

**Ms Nóirín O'Sullivan:** -----which I, as the Accounting Officer, have not been sighted on and have not been copied on.

**Vice Chairman:** Duly noted.

**Ms Nóirín O'Sullivan:** I have no knowledge of this correspondence. I would like it recorded that I have serious concerns about the manner in which these documents have been circulated.

**Deputy David Cullinane:** And, possibly, we get information from witnesses-----

**Deputy Marc MacSharry:** Yes.

**Deputy David Cullinane:** -----very late in the day as well, including opening statements.

**Vice Chairman:** We constantly get information all the time.

**Deputy Catherine Murphy:** On the morning.

**Vice Chairman:** We also get opening statements that are not given. For instance, we got an opening statement from the Commissioner last night very late. I did not read it until I came into the committee meeting this morning, and that is not helpful either. I understand-----

**Ms Nóirín O'Sullivan:** I wish to make the point.

**Vice Chairman:** Excuse me, respect the Chair. I have not finished talking, please.

In relation to this document, I understand that the Commissioner has not had a chance. In relation to her evidence being given here, I ask her to understand the following. We will respect the fact that she has only seen this document briefly. We will pursue the matter only on that basis and not as if she has full and wholesome knowledge of this for a long period. Is that okay?

**Ms Nóirín O'Sullivan:** Sorry, Vice Chairman, can I make the point? I absolutely accept that my opening statement came yesterday but that is in accordance with established procedures. I am not aware of the established procedures for the committee where documents are circulated by individuals which the Accounting Officer is not sighted on. I am not sure, for example, if the Comptroller and Auditor General has been sighted on this document.

**Mr. Seamus McCarthy:** No.

**Ms Nóirín O'Sullivan:** It is impossible, therefore, for me as Accounting Officer and me as a witness to give a full account of anything where I am disadvantaged.

**Vice Chairman:** It is noted. This happens all the time in relation to the documentation that is provided to this committee. Unfortunately, it has happened on numerous occasions and has nothing to do with the witnesses or the Garda. It happens in relation to a whole range of other issues. That is life, unfortunately, and I doubt that it will change. We have to make judgment calls on this matter to the best of our ability too. I ask the Commissioner to please respect the fact that we are only trying to do our job as well.

**Deputy Marc MacSharry:** Absolutely.

**Ms Nóirín O'Sullivan:** Absolutely.

**Vice Chairman:** We need to move on.

**Deputy Marc MacSharry:** Yes. There is nothing personal in my following question. Did the Commissioner have an opportunity to read the document?

**Vice Chairman:** The Commissioner can take three or four minutes.

**Ms Nóirín O'Sullivan:** I have scanned it very quickly, Deputy, but I will need time to consider it.

**Deputy Marc MacSharry:** I will talk for a minute, which will give the Commissioner another chance to read it.

As I said, I did not see this document. I got wind that there may be a document in relation to charitable status. I asked for it and this was produced. Is that okay?

I will read into the record the cover note, dated 13 June 2017, that was sent by John Barrett to the chief administrative officer. Notwithstanding the fact that the CAO has said that he did not see it until yesterday, 19 June, his office date stamped it 14 June so somebody read it in his office to the extent that he or she stamped it. If he is away or otherwise engaged, I am sure somebody is delegated with the responsibility in his office that if something is important, it should be passed up the line. The Commissioner can clarify the matter.

The cover note states:

I refer to a hand delivered document in an Oireachtas envelope which arrived at the gate this morning.

I have no idea of its provenance.

It was collected by Mr. Paul Flood from my office and this is a copy of the contents which you may wish to note.

I would respectfully suggest that you draw the attention of all the various correspondents to the document and provide them with copies as a matter of courtesy.

Further it seems to me that the Public Accounts Committee may have an interest in the content and I would again respectfully suggest that this be brought to the attention of the PAC immediately.

Let the record show that it was not brought to our attention; we brought it to our own attention.

Moving on, there is one specific small email that follows on from correspondence between PwC and Mr. Culhane, in 2010, in terms of matters of taxation and all of the issues before us here today. He, in turn, was obviously corresponding or in contact with Eugene Banks of the Garda division in the Department of Justice and Equality. I am extremely troubled by one of the emails dated 5 July 2010 that was sent at 17.26. It seems to be a response to Eugene Banks, in the Garda division, who inquired whether there had been any developments on the matters raised below, in particular, the relationship between the college and the companies and the legal entity of the college itself. Mr. Culhane responded:

Eugene



There have been no further developments. To muddy things up, I included charitable status for the College in the letter to the Revenue dated 28th May but as you can see it was not included in their response.

We do not have the response. I wish to refer to the phrase “to muddy things up” in the context of all the evidence we have received so far - the conflicting evidence from certain parties. For a finance director to use the phrase “to muddy things up” in the context of any correspondence with the Revenue Commissioners and inform Eugene Banks from the Department of Justice and Equality seems to suggest an awful lot, Commissioner. I take her word that she has seen this document for the first time in recent minutes. What is her response to such language?

**Ms Nóirín O’Sullivan:** I think the first thing I would have to do, Deputy, is to put on record that I am not in the habit of quickly scanning documents and then arriving at a conclusion.

**Deputy Marc MacSharry:** Yes.

**Ms Nóirín O’Sullivan:** I would like to have time to examine the document. My initial response is the language is unusual. I do not know or I am not aware of the context in which-----

**Deputy Marc MacSharry:** Yes.

**Ms Nóirín O’Sullivan:** -----either these discussions or this email correspondence arose.

**Deputy Marc MacSharry:** I have read the document but perhaps I had a little more time because it was handed out before the break. My reading of it is that there was an attempt on the basis of a suggestion of a law that exists in England by PwC that the Garda may have some grounds to build a case. I see heads shaking in the background over there. I do not know whether that is relevant to what I am saying or something else. That is the letter. I will quote it because I am concerned about the shaking heads and I will mention the relevant part about charitable status.

George Reddin of PwC wrote to Michael Culhane in response to the latter’s letter to PwC on 23 March, a copy of which we do not have. The email states: “As we discussed, there may be a possibility of arguing that all of the investment income [which is the cash income from shops, restaurants and so on] is effectively being applied for charitable purposes. There is judicial authority in the UK that the expression ‘charitable purposes’ includes the furtherance/provision of education in schools/universities etc.”

Then we have, following this correspondence, the phrase being used: “I included charitable status for the College in the letter to the Revenue.” I do not know, and without prejudice to the answer to my next question, as Accounting Officer, what waters were being tried to be muddied?

**Ms Nóirín O’Sullivan:** Deputy, I would like to make a couple of points. First of all, the nodding in the background was in relation to the fact that, and this is not the fault of the secretariat or indeed any of the committee members, obviously this document was available to the committee or it was aware of it or it was available to the committee prior to the break. Perhaps if we had it prior to the break we would have been able to make some inquiries during the break.

**Vice Chairman:** Understood.

**Deputy Marc MacSharry:** One of the Commissioner’s officials can take the time to go out-----

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Marc MacSharry:** The Commissioner will be the only one talking and an official can make those inquiries.

**Vice Chairman:** For clarification, the clerk to the committee has informed me that the witnesses were given the document before the break.

**Ms Nóirín O’Sullivan:** I am sorry. Maybe some of us had it and some of us did not. My apologies.

**Deputy Marc MacSharry:** In any event, there are six people here so I am sure one person can go out and make whatever calls need to be made.

**Ms Nóirín O’Sullivan:** Second, I note that the date of the email correspondence is around the last piece that the Deputy quoted, 5 July 2010.

**Vice Chairman:** For clarification, Commissioner, I think we actually got the document from the Garda originally so the organisation had it.

**Deputy Marc MacSharry:** Yes. The document was provided to us by one of the Commissioner’s delegation here today.

**Mr. Joseph Nugent:** I explained at the start that I received it yesterday.

**Vice Chairman:** Yes.

**Mr. Joseph Nugent:** So it had not but I-----

**Deputy Marc MacSharry:** Mr. Nugent received it yesterday but in fairness we must ask the question. Why is it stamped 14 June if he was served it yesterday? With regard to the paper trail, although Mr. Nugent may not have been in the office and someone else must have the authorisation to open his mail, stamp it accordingly and so on, it says 14 June which is six days ago.

**Vice Chairman:** The Commissioner can continue.

**Ms Nóirín O’Sullivan:** The email correspondence quoted by the Deputy is actually dated 5 July 2010. Prior to that is the 6 April 2010 and I make the point that during this period between June and July 2010, I am not sure and I am not aware of what was going on then as I was not the Accounting Officer.

**Deputy Marc MacSharry:** I appreciate that. There is a consistency in answering since these hearings began along the lines of “I was not in the post, it was not my responsibility and there are line managers”. We are having huge difficulty getting to who knows what and who did what.

We are all time limited and I will return shortly to the phrase of “muddying of the waters”. I asked the Commissioner earlier about the signatory to the account in Cabra. She said in later testimony to some of the other questions that, when she inquired of her colleagues, she found that this account had been closed in 2010. Was the account ever in the personal name, with the personal address, of a retired member of the Garda after he or she retired?

**Ms Nóirín O’Sullivan:** I want to make two points on that. At the break in today’s proceed-

ings, Deputy Commissioner Dónall Ó Cualáin took the opportunity to speak to Mr. Kelly in order to answer the Vice Chairman's question whether Mr. Kelly believed any accounts were held from him. I do not want to put words into other people's mouths as I would be in the area of hearsay, so if the committee wishes, Deputy Commissioner Ó Cualáin can answer this question. Mr. Kelly has informed us that he does not believe accounts were kept from him. On the specific account in Cabra, as I said this morning, the fact is that this matter is now under examination and consideration by the Garda Síochána Ombudsman Commission, GSOC, and it would be quite inappropriate for me to comment on signatories or otherwise of that account.

**Deputy Marc MacSharry:** Again, the Commissioner cannot blame us for wondering about the convenience of that. Would it not have been much better if the committee had had the opportunity to consider these matters before our meeting today? There were 16 months in terms of real action, and notwithstanding the intervention of Mr. Barrett and Mr. Ruane, we manage to have this matter in GSOC. It is certainly appropriate that GSOC would look at it but can I ask-----

**Ms Nóirín O'Sullivan:** Sorry-----

**Deputy Marc MacSharry:** -----whether the Commissioner would not refer all these matters to GSOC at this point? It would appear to me to be muddying the waters for Revenue. I would suggest, and ask, that the senior management would consider referring all these matters to GSOC. It is a State organisation and yet it seems many department heads operated as islands. Retirements and so on seemed to have been hugely disruptive to the extent that no one knows anything about anything.

**Ms Nóirín O'Sullivan:** I want to make the point about convenience, and this has been suggested before. Immediately on receiving Mr. Kelly's report yesterday, and with regard to the seriousness of the matter, the deputy commissioner referred the issue to the GSOC, which is appropriate practice. Under no circumstances was this done to keep it out of the view of this committee, and indeed it was quite the opposite. I would hope that it would provide assurance to the committee that we would take appropriate action as soon as it comes to our attention.

On the actions taken in the 16 month intervening period, there was, and there is evidence to show there was, action taken at all times and the appropriate mechanisms and structures put in place to ensure Mr. Kelly's recommendations will be fully implemented by the end of this year, as we heard earlier from Mr. Nugent, or through me from Mr. Nugent.

**Deputy Marc MacSharry:** Would the Commissioner agree with me that any senior officer of any State organisation seeking to muddy the waters for Revenue is a very serious matter?

**Ms Nóirín O'Sullivan:** Mr. Nugent informs me that he does not believe that the disclosure in relation to Revenue concerned the college but other matters. Leaving that aside, I have not had an opportunity, as the Accounting Officer, to see or study this documentation. I will see it, having now received it, but I want to say that I find it quite unsatisfactory that I am not in a position to assist the committee in a fulsome way and forthrightly as I am disadvantaged by only seeing the documentation now.

**Deputy Marc MacSharry:** The Commissioner should talk to the gentleman at her right hand about that.

**Ms Nóirín O'Sullivan:** I also want to be in a position to consider what needs to be done with this document having read and considered the content of it.

**Vice Chairman:** This is the Deputy's last question.

**Deputy Marc MacSharry:** Having read the documentation in detail, and I did not have much more time to do so than the Commissioner, I suggest that the date trail shows that, notwithstanding what the CAO has said, it was in Garda hands since 14 June. It was not given to us, even though it was suggested that it should be, until we sought it, and it was provided to us this morning by the gentleman sitting on the Commissioner's right, Mr. Joseph Nugent. It would appear from my humble, non-legalistic view as a citizen that someone was seeking to muddy the waters for Revenue in the context of charitable status and other matters relevant to the Garda College in Templemore and taxation. This is shocking in the extreme. Is this organisation too unwieldy for one person to run?

**Ms Nóirín O'Sullivan:** I am not sure I understand the Deputy's question.

**Deputy Marc MacSharry:** The Commissioner said that An Garda Síochána comprised 16,000 personnel. The consistent theme from all witnesses in these hearings since they began has been, "I do not know about that, I was not in the post, I was responsible for something else, and they are responsible for that." When the Commissioner is asked something, even though the buck stops with her, she says it is the CAO's responsibility and he is retired. Is the organisation too unwieldy and can it be run by one person?

**Ms Nóirín O'Sullivan:** Of course it can be done. We have put, and continue to put, the structures, the necessary checks and balances and the safeguards in place to make sure there are effective communications, structures and processes. That is work we continue to do with the support of the Policing Authority and the Department of Justice and Equality. I mentioned earlier about getting new skill sets in, and as of two weeks ago, we are now the closest we have ever been to a full management team, and we are not completed yet. That is an important consideration. There is no doubt that over recent years, with the downturn in the economy and with various Government decisions, there was a reduction especially in the senior management cadre in the organisation. At one stage we were left with five people at the top of the organisation. With the support of the Government, the Department and the Policing Authority, we have rebuilt that. The organisation can be run by one person, but the necessary structures and architecture need to be put in place to support that.

**Vice Chairman:** Deputy Burke has not made a contribution yet so he may do so now.

**Deputy Peter Burke:** I welcome the Commissioner and her team to the committee. I have listened to most of the discussion and I want to focus first on those people who report to the Commissioner and the chain of command that is in operation in An Garda Síochána. I know the Vice Chairman has asked whether the Commissioner has confidence in those who report to her. I want to focus on capacity and how one would expect personnel to carry out their functions and how capable individuals are in their roles within An Garda Síochána. It is very important for this committee to see if they are operating as prescribed. I find it difficult to get my head around one area in particular. I appreciate that the Commissioner is the Accounting Officer and that at the end of the day these personnel report to her through the chain of command.

In the meeting of the committee on 31 May 2017, a document was circulated which was correspondence of Mr. Michael Culhane. The reference on the top is PAC 32-R-539-B. There is a detailed memo with attachments dated 4 March 2011 where a review has been carried out into the Garda College in Templemore by the financial director of the time, Mr. Culhane, and it was also sent to the head of internal audit, Mr. Niall Kelly, whose name is on the top of the memo. I

am concerned that back in 2011, a number of issues were raised in that correspondence, including the need to reduce urgently the number of bank accounts by 13. To any reasonable person without any major financial knowledge, if one talks of reducing the number of bank accounts by such a significant quantity, it would suggest there is a big operation at play. Other issues raised in the correspondence were the urgent need for new accounting procedures, all accounts to be audited, and if the financial director at that time, Mr. Culhane, had checked that the accounts were audited. For example, the bar account had not been audited at that stage. Will the Commissioner comment on this? We have the financial director giving assurances on paper to the internal auditor that things happened and they were compliant in some respects, whereas at the time he signed that memo, there was not compliance. Is that good enough for those who occupy positions of serious responsibility?

**Ms Nóirín O'Sullivan:** The Deputy may not have been present when I said it but, with the incoming audit committee, which is meeting on 27 June, we are in the process of reviewing all internal structures, including financial control structures, internal audit, the audit committee and the new risk management processes, so as to ensure that this does not happen again and there is cohesive and joined-up thinking on how it could happen.

**Deputy Peter Burke:** My concern is that those individuals are still occupying senior roles in An Garda Síochána and are overseeing a large change in the Garda. I would expect someone who was auditing the accounts and monitoring that checks and balances in the Garda were operating to have some scepticism and check that what he or she was being told was correct. Does the Commissioner not concur that someone carrying out an audit function should be expected to check the work that is handed to him or her by those in the Garda, including the financial director?

**Ms Nóirín O'Sullivan:** We are going to have more probity in respect of these matters, as well as more questioning and challenging of processes. That is why we are taking the advice of the incoming audit committee or, indeed, this committee. We are focused on learning lessons from what has gone before, ensuring that we put safeguards, checks and balances and structures in place, as well as supporting people in order that the proper professional skill sets are in place to support those functions.

**Deputy Peter Burke:** I appreciate where the Commissioner is coming from, in that the Garda operated under a moratorium that posed difficult challenges in terms of its members' understanding of financial transactions and other aspects, but I have a concern. The 2011 memo referred to a number of significant points, including the facts that certain entities, such as the bar and restaurant, were using different PAYE, PRSI and VAT numbers, the restaurant made a loss in 2009 of in excess of €400,000, the OPW had entered into an arrangement with the Garda regarding land that subsequently was rented and the bar had its own audited accounts. Clearly, this information was in the hands of the Garda's financial director, who is accountable to this committee, in 2011 and it was in the hands of the internal auditor who has conducted an audit of the Garda. For the life of me, I cannot see what has changed since. Why are people not being held to account in their roles? I know from operating in the private sector that, if I signed a letter giving an untruthful assurance that an entity had been audited, its accounts were up to date and financial procedures and protocols would be followed, it would be a serious situation. I would like to see that the Commissioner is concerned about this.

**Ms Nóirín O'Sullivan:** I am certainly concerned. That is why we are taking these steps. As Accounting Officer, I want to have assurances. We as the executive, the committee and the public need assurances to the effect that we have the correct processes and skill sets in place to



be more probative and challenging in respect of these matters, there is more cohesion and we are in compliance with best corporate governance standards in the public sector. That is what we are working towards. When Mr. Kelly's audit is finally completed, there may be other issues that we need to address, including some of those that the Deputy has referenced.

**Deputy Peter Burke:** If matters arose and were recorded on paper and someone was aware of them but did not act, it would also be an issue. Everyone is in the dock, including the Accounting Officer and all other ranks who have dealt with Templemore. What has changed in the chain of command within the Garda that allowed this to happen? If something happened now, how could we be sure that it would be acted upon differently? I am concerned because many people who are potentially in senior positions did not act on cases in 2011.

**Ms Nóirín O'Sullivan:** I will point the Deputy to the evidence of what we did from 2015 onwards. We immediately actioned what was brought to our attention. In that period, we were able to deal with the 19 recommendations in Mr. Kelly's audit report. As the committee heard through me from the CAO, we will be in a position to have all of the 19 recommendations implemented by the end of this year. That is the unravelling of the complicated infrastructure and financial accounting architecture that were put in place over an almost 40-year period. That does not happen easily. It is a daunting task. I must commend the work of Mr. Nugent and his steering group, which has managed to do that, and Mr. Kelly and his audit team, which was able to undertake the audit in the intervening period. This demonstrates the commitment of this executive and management team to ensuring that, not only in terms of the college matters, but all matters, we turn over the stones, identify the issues, bring them to the surface and deal with them in an open and transparent manner. That has been our intention at the committee at all times. The evidence trail in the intervening period will show that that is what we have done.

**Deputy Peter Burke:** I can see where the Commissioner is coming from, but I am concerned about the current situation. We have been advised of the reporting requirements and that GSOC will now examine a number of transactions. The Commissioner might enlighten me as to the current guidelines for the Garda receiving State funding. How does it prove something to the State? Like all other State agencies, is the Garda Síochána currently required to get a tax clearance certificate for moneys that it receives from the State?

**Ms Nóirín O'Sullivan:** Yes. I might confer with my colleague. My apologies, as I again find myself answering almost by proxy.

**Deputy Peter Burke:** It is okay.

**Ms Nóirín O'Sullivan:** Of course the Garda is required. As Mr. Nugent has just outlined to me and as he outlined at a previous committee hearing, there are tensions around whether, for example, the restaurant is an independent entity or part of the college infrastructure. "Yes" is the answer to the Deputy's question. We are addressing the matter.

**Deputy Peter Burke:** In theory, were the Garda in discussions with Revenue about one of those tax numbers, it could be impossible to obtain a tax clearance certificate in respect of that number.

**Ms Nóirín O'Sullivan:** We are in ongoing discussions with Revenue and my understanding from Mr. Nugent is that we will be updating the committee as soon as we have finalised them.

**Deputy Peter Burke:** Has the Garda a tax clearance certificate for that number?



**Ms Nóirín O’Sullivan:** Not for that particular number because it was not seen as part of An Garda Síochána. That is one of the issues that we are in ongoing discussions with Revenue to clarify.

**Deputy Peter Burke:** Our concern is about taxpayers’ money from the Vote going into that account. Consider what normal people and businesses must go through to get tax clearance certificates to receive any funding from the State, be it an older person trying to get a mobility grant in respect of his or her house, a business seeking to receive State funding or a State body. It is concerning that the Garda is overseeing an entity - the form of which is not known - that cannot furnish a tax clearance certificate from Revenue.

The Commissioner referred to GSOC investigating potential fraud issues. Surely someone must be held to account for letting a situation evolve in the Garda Síochána in which a tax number did not have a tax clearance certificate even though, in theory, it was in possession of State funding in some form or other having, for example, grown within one of the entities or having come directly from the State. Given that Ms O’Sullivan is the Commissioner and Accounting Officer for the Garda, does she foresee there being action in terms of prosecutions? If a private sector entity could not obtain a tax clearance certificate, the consequences for it would be stark.

**Ms Nóirín O’Sullivan:** There are probably three points to the Deputy’s question. I will take them in order. First, it is a major concern. A part of our objective of pulling that account into the general tax number is to ensure that we regularise the situation. That is the purpose of our ongoing discussions with the Revenue Commissioners and, of course, we will update the committee on that as soon as that process is finalised.

Second, the referral to GSOC relates to a specific audit report received yesterday regarding a specific matter and on the findings of the head of internal audit. Separately, as I informed the committee before, we have an assistant commissioner with responsibility for special crime operations who is examining the totality of Mr. Kelly’s interim report. He will also continue to examine Mr. Kelly’s next iteration of that report. If any matters at all, from any perspective, come to attention, he will make recommendations on how they need to be dealt with and, if necessary, if there are matters that come to his notice that require referral to GSOC or any other agency, that will happen.

**Deputy Peter Burke:** If matters in An Garda Síochána were brought to the attention of people who occupy positions and they did not act on them, it is critical that they are also held to account.

**Ms Nóirín O’Sullivan:** Absolutely. That will all be encompassed between the internal audit, the review being conducted by Assistant Commissioner O’Driscoll and the ongoing processes that we have in place.

**Vice Chairman:** I thank Deputy Burke and call Deputy Catherine Murphy.

**Deputy Catherine Murphy:** I will return to an issue arising from some of the questions I and other members asked the Garda Commissioner this morning. The Commissioner categorised what happened between Mr. Barrett and Mr. Culhane as an interpersonal and issue and referred the matter to Mr. Dunne, the CAO. Given that Mr. Barrett was head of human resources, I would expect he would understand if something was an interpersonal issue. It would be part of the discipline and part of the reason he was recruited into his role would have been that he had considerable experience.

I would like to return to the governance architecture. This is not about a team. The internal audit, audit committee and head of finance are not a team. Tensions are expected in this architecture which is, or should be, designed with tensions, albeit not to the extent that people beat each other up or anything. It is not an interpersonal matter and should not be categorised as such, given Mr. Barrett's background and given that this friction is intended. One can introduce all the recommendations one likes but if this matter is viewed as people having a working relationship with one other that does not work well, I have serious concerns about whether this architecture will provide the protection to which the Garda Commissioner repeatedly refers. She keeps referring to checks and balances. What is it about these checks and balances that are different and will not be able to overcome a difficulty that is described as interpersonal?

**Ms Nóirín O'Sullivan:** Maybe I explained this earlier and if I did not, let me explain it again now. The Deputy is perfectly right; there is the architecture and there are the key individuals and the key roles within that architecture, such as, for example, the head of internal audit unit, the director of finance, the chair of the audit committee and the deputy commissioner who is in charge of our risk governance board. That is the architecture that I see and that is where we are revising and reviewing that architecture to ensure the regularity and propriety of it to make sure it is working effectively in the way that we want it.

Separately, there is the team and the individuals we refer to are all part of the senior leadership team. As well as being involved in the architecture, they are absolutely key players in delivering on not just our reform programme, but also the goals and objectives that we have to deal with every single day. I am very concerned that there are these tensions between these key individuals. As I said earlier, it is our job to work to make sure that we work through these difficulties, that we make the most effective use of the team and that the architecture and the skill set are there to support that team in delivering on their individual and collective missions.

**Deputy Catherine Murphy:** It was not just an interpersonal issue in the case of Mr. Barrett and Mr. Culhane. Mr. Kelly, in his opening statement, which I am sure the Garda Commissioner had read when she appeared before the committee a couple of weeks ago, drew our attention to the reasons he was not able to do his job. He referred, for example, to the attitude to the public money that was provided for recruits and, for example, to Deputy Commissioner Rice's attitude to what that money was for. In fact, I asked Ms Anne Marie McMahon, whose rank I cannot recall, and Mr. Pat McCabe about this and they were both of the opinion that this money was for more than the upkeep of the members in relation to the restaurant. That must have come from somewhere. Mr. Kelly's opening statement was littered with comments, including, for example, that he now knew he was misinformed and that Mr. Culhane had questioned his motives. Deputy Cullinane raised this matter earlier. Mr. Kelly's statement features many comments setting out how he was frustrated in doing his job. This was not just an interpersonal problem. A range of different players are involved in this and it is very important that it is not seen as an interpersonal problem.

A number of different audit committees have operated since the function of Accounting Officer transferred from the Department to the Commissioner. There was one in place from 2006 to 2009 and another in place between 2009 and 2013. A further audit committee operated subsequent to that and there is probably a new one in place now. Was any member of the audit committee that operated between 2006 and 2009 a signatory to the bank account that is under investigation?

**Ms Nóirín O'Sullivan:** I do not know. We would have to check and I can come back to the committee. I do not know and we will not know precisely who all of the signatories were until

the investigation or examination is completed. Certainly, we can come back to the committee on it. I do not know.

**Deputy Catherine Murphy:** I ask that the Commissioner come back to the committee quickly on that.

**Ms Nóirín O'Sullivan:** We will come back as quickly as we are able because, as I say, it will take the investigation to identify in fact who the signatories are. We will do our very best to come back as quickly as possible.

**Deputy Catherine Murphy:** I presume there is an understanding that this would have to happen at both ends and it would not just be a bank account that is being looked at. Is the way in which the money got to the bank account also being looked at?

**Ms Nóirín O'Sullivan:** Yes, so it will look at any transactions that operated in or out of that bank account. That is my understanding but again I want to be careful as I do not want to pre-empt the examination or investigation that is being considered by the Garda Síochána Ombudsman Commission at the moment. As I said this morning, we remain in a position to assist in whatever way we can. I do not want to pre-empt what the nature or extent of its investigation will be.

**Deputy Catherine Murphy:** While I know an investigation takes time to complete, when the Garda refers a matter to GSOC does it expect GSOC to work within a timeframe? In other words, is it timely?

**Ms Nóirín O'Sullivan:** Yes, my experience is that it is timely. There are updates given under section 103 of the Garda Síochána Act and the process works well.

**Deputy Catherine Murphy:** I will leave it at that.

**Vice Chairman:** Deputy Madigan may speak for 30 seconds. I am breaking my own rules.

**Deputy Josepha Madigan:** I thank the Garda Commissioner for her forbearance. My understanding is that a retired member is a signatory on the account in Cabra. I know the Commissioner has made comments on that. In relation to similar labyrinthine types of financial structures - this is in the style of Bernie Madoff - does the Garda Commissioner accept that the Committee of Public Accounts has helped uncover what went on in the Garda College? How does she know this is not occurring elsewhere?

**Ms Nóirín O'Sullivan:** Yes. I accept that. We are very grateful to the committee for helping us and supporting us in addressing all of these issues and we look forward to any advice that the committee can give us.

**Vice Chairman:** The Commissioner is delighted with the work of this committee in this regard.

**Ms Nóirín O'Sullivan:** We very much welcome it, yes. It has helped bring matters to light. It is very useful in that regard. To answer the Deputy's question, that is why we are establishing checks and balances and carrying out a review around the internal controls and structures. This will help us to identify such issues. The executive is undertaking a lot of work, as are internal audit and all of the other sections, to make sure that all of these issues are highlighted.

**Deputy David Cullinane:** I will helpfully suggest to the Commissioner that before she at-

tends meetings of the Committee of Public Accounts she should confer with her staff to make sure that all up-to-date documentation and correspondence they have received is passed on to her. We had a situation where Mr. Nugent had information yesterday evening which was not passed on to the Commissioner. That is his fault, not ours. It is something that the Commissioner needs to take charge of when she comes before the Committee of Public Accounts. Any up-to-date information that people have should be passed on to her prior to her coming before the committee. I helpfully suggest that.

**Mr. Joseph Nugent:** I put up my hands to say that I did not reply to the Commissioner. I apologise for that.

**Deputy David Cullinane:** People make mistakes and there is a lot of documentation. I understand all of that, but obviously we also have an awful lot of documentation to go through. As Mr. Nugent can see, we have to spend a lot of time going through the information. I just wanted to make that point first.

In response to Teachta McDonald, the Commissioner earlier defended her position that when she first became aware of irregularities at the Garda Training College she took decisive action. Is that not what the Commissioner said?

**Ms Nóirín O'Sullivan:** Yes.

**Deputy David Cullinane:** The Commissioner stands over the fact that she took decisive action.

**Ms Nóirín O'Sullivan:** Yes.

**Deputy David Cullinane:** Why did she take decisive action?

**Ms Nóirín O'Sullivan:** I did so because action was required.

**Deputy David Cullinane:** Why? Why did the Commissioner take decisive action?

**Ms Nóirín O'Sullivan:** I wanted to make sure that we began a process of regularising the matters that had been brought to my attention and also to make sure that we got an understanding of the context of what had happened in the past.

**Deputy David Cullinane:** When did the Commissioner take this decisive action? After what period of time?

**Ms Nóirín O'Sullivan:** On the evening of 27 July.

**Deputy David Cullinane:** When did the Commissioner first become aware? Did she say 26 July or 27 July?

**Ms Nóirín O'Sullivan:** My memory of it was that it was 27 July.

**Deputy David Cullinane:** The Commissioner first became aware of the situation on 27 July and she stands over the fact that she took decisive action, because she wanted to regularise the accounting practices in the Garda Training College.

**Ms Nóirín O'Sullivan:** I wanted to ensure that we understood what was happening, that we regularised matters and that we began a process of putting the situation to right.

**Deputy David Cullinane:** The Commissioner wanted to do so because she accepted they were irregular.

**Ms Nóirín O’Sullivan:** Can I make a point?

**Deputy David Cullinane:** Yes.

**Ms Nóirín O’Sullivan:** I wished to unravel what was there. I was very clear that we did not have a complete picture of what we were dealing with.

**Deputy David Cullinane:** The Commissioner said that she took that decisive action because she wanted to regularise matters. She said that a number of times today. She wanted to regularise what was happening, which means that she would have had to accept that there were irregular activities.

**Ms Nóirín O’Sullivan:** What I said was that I was trying to put right what had been-----

**Deputy David Cullinane:** No, the Commissioner said regularise.

**Ms Nóirín O’Sullivan:** Okay, we can use the word “regularise”.

**Deputy David Cullinane:** That is what the Commissioner said.

**Ms Nóirín O’Sullivan:** Can I just be clear on something? If I could just answer the question, I took decisive action in so far as I decided, on the basis of advice I had received, that we had incomplete information. In other words, we did not have the whole picture.

**Deputy David Cullinane:** Notwithstanding incomplete information - of course one would always want more information - the Commissioner had enough information to exercise judgment that decisive action was necessary to regularise accounting practices at the Garda Training College. Is that a fair assessment?

**Ms Nóirín O’Sullivan:** If I could just explain, we wanted to get a complete picture. Mr. Dunne had been the person pulling all of this information together and he told me that, at that point in time, he had incomplete information. We needed to do far more work to get the information. We needed to put a process in place to do that. That is precisely what we did.

**Deputy David Cullinane:** If the Leas-Chathaoirleach will bear with me, with respect to the Commissioner, a number of questions were put to her this morning by a number of members of the committee, to which she replied that the reason she took decisive action was because she wanted to identify the problem and fix it. She accepted that there was a problem. She would not have established a steering committee if she did not accept that there was a problem. A couple of minutes ago, she used the word “irregular”. I did not use the term. The Commissioner also used it earlier today. All I am asking is whether she accepted at that point that there was the possibility of irregular financial activity in the Garda Training College, even if she did not accept that it was a fact?

**Ms Nóirín O’Sullivan:** I was aware that there had been a historical context, the complete history of which I was unaware of. I knew, however, that we had to get the information to find out what that was.

**Deputy David Cullinane:** Was the Commissioner made aware of the fact that there was the possibility of irregular financial activities at the Garda Training College? It is a yes or no

answer.

**Ms Nóirín O’Sullivan:** I was made aware of issues at the Garda Training College.

**Deputy David Cullinane:** If the Commissioner was a witness in a witness box, or if she was somebody who was being interviewed by one of her own staff who were helping with an inquiry, she could be described as a hostile witness in some instances.

**Vice Chairman:** We will not-----

**Deputy David Cullinane:** Sorry, with respect, the question is a straightforward one.

**Vice Chairman:** Sorry. Let us refrain from that. We will drive on.

**Ms Nóirín O’Sullivan:** With respect, I have never been described as a hostile witness in my entire career.

**Vice Chairman:** I think-----

**Ms Nóirín O’Sullivan:** Sorry Chairman, may I continue?

**Vice Chairman:** Yes.

**Ms Nóirín O’Sullivan:** I am here to assist this committee. I have come here today in circumstances where I am the sole witness.

**Vice Chairman:** I understand.

**Ms Nóirín O’Sullivan:** I am here to assist the committee and I think to describe me as a hostile witness is so-----

**Deputy David Cullinane:** Can the Commissioner then please-----

**Vice Chairman:** Please move on Deputy. Let us not get into this.

**Ms Nóirín O’Sullivan:** I am sorry. I take issue with being described as a hostile witness.

**Vice Chairman:** Okay, noted.

**Deputy David Cullinane:** The Commissioner can take issue with it. Can she please, with respect-----

**Ms Nóirín O’Sullivan:** I would like it recorded that I take issue-----

**Vice Chairman:** It is noted.

**Ms Nóirín O’Sullivan:** -----with being described as a hostile witness.

**Vice Chairman:** Can we please move on?

**Deputy David Cullinane:** Can the Commissioner-----

**Ms Nóirín O’Sullivan:** Sorry. I take issue with being called a hostile witness.

**Vice Chairman:** We have noted that. It has been recorded.

**Deputy David Cullinane:** It has been noted. Can the Commissioner please answer the



question I put? It is very frustrating for us to sit here and put questions to which we do not receive answers. The Commissioner was given information, that in my view was very clear, that there were irregularities at the Garda Training College. All I am asking her to do is to accept that was the information she was given. It is a very simple yes or no question. When she was given information on 27 July, was there the possibility of irregularities at the Garda Training College at that time?

**Ms Nóirín O’Sullivan:** I want to put on record that I am here at all times to assist this committee. I am here in my capacity as a witness and Accounting Officer to assist this committee. In that context I am trying to answer the committee’s questions. If I was given the opportunity to answer the questions, I would do so fully.

**Vice Chairman:** The Commissioner has an opportunity now.

**Ms Nóirín O’Sullivan:** Would the Deputy please repeat the question?

**Deputy David Cullinane:** I do not know how many times I have asked the question. I will ask it again. The Commissioner says she first became aware of issues at the Garda Training College on 27 July 2015. She was obviously briefed on the extent of the issues. The question I asked was, when she was first briefed and became aware on 27 July, was she aware of actual irregularities or was she aware that there was the potential of irregularities at the Garda Training College?

**Ms Nóirín O’Sullivan:** I was aware that issues had been identified at the Garda Training College which required further exploration to precisely identify their nature and extent. In identifying those issues the process thereafter was to do what I described.

**Deputy David Cullinane:** The Commissioner received a letter from Mr. John Barrett dated 12 June 2017. Does the Commissioner have a copy of that letter in front of her?

**Ms Nóirín O’Sullivan:** I am not sure I do.

**Deputy David Cullinane:** I assume she would have received this letter.

**Ms Nóirín O’Sullivan:** Yes.

**Deputy David Cullinane:** And that letter says that-----

**Ms Nóirín O’Sullivan:** Sorry, could I again take the opportunity to put it on the record that this is a document which has been circulated to the committee but which I have not been made aware of. I have no issue with it being circulated to the committee, but it would be very useful if, as a witness, I was made aware of it.

**Deputy David Cullinane:** The letter was sent to the Commissioner, was it not?

**Ms Nóirín O’Sullivan:** Yes, but this is correspondence between me and a member of my staff. I think it would be very helpful if I was informed, as Accounting Officer, that these documents had been circulated to the committee.

**Deputy David Cullinane:** With respect, we only received these today, which is not our fault.

**Vice Chairman:** It is nobody’s fault. This happens from time to time.

**Deputy David Cullinane:** Can I just put my questions? I accept what the Commissioner says-----

**Vice Chairman:** We will condition the questions based on that.

**Deputy David Cullinane:** The letter was written to the Commissioner, so obviously she would have received it. She would have read it. She would have had to consider what it said when she received it, although perhaps not in preparation for this meeting. I accept that, but she certainly would have received the letter. It says that at the meeting which took place - the meeting which Mr. Barrett says took over two hours and which the Commissioner says was over a shorter time period, but let us park that for a second - that written advice was given by Ken Ruane, who was head of legal affairs, and that the 2008 report of Mr. Barry McGee was appended to a lengthy letter from Mr. Ruane. Is that correct?

**Ms Nóirín O'Sullivan:** I am trying to find it on this document. Could the Deputy point me to the correct paragraph?

**Deputy David Cullinane:** It is the second paragraph in the letter.

**Vice Chairman:** It is the first paragraph on the screen.

**Deputy David Cullinane:** The letter states, "I know the focus of that meeting, which was greater than two hours duration, was the written advices of Mr. Ken Ruane, Head of Legal Affairs ... and the 2008 report of Mr. Barry McGee which was appended to that lengthy letter from Mr. Ruane." Was the Commissioner aware of the existence of the 2008 report?

**Ms Nóirín O'Sullivan:** I said earlier that I do not recall the McGee report on that night but I recall a conversation on the advices received from Mr. Ruane.

**Deputy David Cullinane:** Was the letter or the McGee report appended to the lengthy letter from Mr. Ruane?

**Ms Nóirín O'Sullivan:** The Deputy will recall that, earlier, I conferred with my colleagues who are present today and we cannot recall the document being there. There was a meeting at the end of another very lengthy meeting. Different witnesses have different recollections of events and my recollection is that I cannot say whether the McGee report was there or not. However, I most certainly did not read the McGee report that night.

**Deputy David Cullinane:** It then states that, on 30 June 2015 and again in early July, Mr. Cyril Dunne had brought these matters of critical concern, which I have been raising, to the Commissioner's personal attention. This was before 27 July, when the Commissioner says she first became aware of this. Is Mr Barrett right in saying that Mr. Dunne, on 30 June 2016 and again in early July, would have brought these matters of critical concern to the Commissioner's attention? Did he bring these matters to her attention?

**Ms Nóirín O'Sullivan:** Mr. Dunne did not do so prior to this. He told me that, on one particular occasion, he would not be in the office on the following day because he was going to the college. Mr. Barrett had brought certain matters in relation to the college to his attention and he was going there to deal with them. Mr. Barrett wrote that he got information from Mr. Dunne, but I cannot account for the information Mr. Dunne gave to him.

**Deputy David Cullinane:** I am asking for answers to questions. Is the Commissioner telling me that he is wrong to assert that Mr. Dunne briefed her on these matters of critical concern

on 30 June and in early July?

**Ms Nóirín O’Sullivan:** Mr. Dunne did not brief me on those matters but he did inform me on one occasion that he was going to the college. Mr. Barrett had raised issues and said he would be away from the office on the following day.

**Deputy David Cullinane:** He did not brief the Commissioner on the matters of critical concern.

**Ms Nóirín O’Sullivan:** No.

**Deputy David Cullinane:** It goes on to state that during the meeting, which was greater than two hours duration though the Commissioner says it was less, “time was spent discussing Mr. Ruane’s suggestion that all key external stakeholders (the Minister for Justice and Equality, the Comptroller and Auditor General, the Secretary General of the Department of Justice and Equality) should immediately be notified before advancing the work of the steering committee further”. It seems to me from this letter that Mr. Ruane got it. He knew that the Comptroller and Auditor General should be informed immediately and that was the advice he said he gave the meeting. It has been acknowledged by the Comptroller and Auditor General that it would have been better had he been informed. We now have an actual discussion and we have gone beyond whether, in the Commissioner’s judgment, it should have been done or what she knew back then. There was an actual discussion at this meeting about whether the Comptroller and Auditor General should be informed and we have an opinion from the legal section that he should be informed immediately, but this was not done.

**Ms Nóirín O’Sullivan:** That is Mr. Barrett’s account of the meeting.

**Deputy David Cullinane:** Is it accurate or inaccurate?

**Ms Nóirín O’Sullivan:** It is not my memory.

**Deputy David Cullinane:** Ms O’Sullivan disagrees again with Mr. Barrett.

**Ms Nóirín O’Sullivan:** My memory is very clear. There was discussion around the content of Mr. Ruane’s report and there was discussion around what needed to be done next. Mr. Dunne outlined the work he had been doing and continued to do since these matters were brought to his attention by Mr. Barrett. At the end of the meeting, a decision was taken that the deputy commissioner would write to me the following morning on foot of Mr. Ruane’s advices, and that was actioned. The committee was set up straight away and its first meeting was, from memory, on 6 August.

**Deputy David Cullinane:** Mr. Barrett goes on to say it was clear from the evidence that the evidence given to the Committee of Public Accounts by the Commissioner on 31 May 2017, namely, her assertion that she was first informed of these matters on 27 July 2015, was not correct. He respectfully suggested that she corrects the Dáil record in that regard and on the actual duration of the meeting on the evening of 27 July. He suggested the information she gave to this committee was incorrect in respect of when she first knew. He suggested the Commissioner would have been briefed by Mr. Dunne but she refutes that. Is she also refuting the claim that she was incorrect and should therefore correct the record of the committee?

**Ms Nóirín O’Sullivan:** I am not refuting anything. In my memory, the first I became aware of these matters was on 27 July. I cannot account for what Mr. Dunne told Mr. Barrett.

**Deputy David Cullinane:** Mr. Barrett says the Commissioner's testimony on 31 May is not correct. I ask her to put herself in my shoes, as a Teachta Dála and a member of this committee. The head of human resources in An Garda Síochána writes a letter to the Commissioner stating that he does not believe the information she gave to this committee is correct. Does she understand how that causes me difficulties?

**Ms Nóirín O'Sullivan:** I am not clear as to what part of my evidence Mr. Barrett says is incorrect

**Deputy David Cullinane:** Does the Commissioner accept that he says in the letter that it was not correct?

**Ms Nóirín O'Sullivan:** I am not clear what part-----

**Deputy David Cullinane:** Did the Commissioner write back to ask for clarity from him as to exactly what was incorrect?

**Ms Nóirín O'Sullivan:** No. I only received this letter very recently

**Deputy David Cullinane:** It is dated 12 June.

**Ms Nóirín O'Sullivan:** Yes, but with respect, many things have been happening in An Garda Síochána since 12 June.

**Deputy David Cullinane:** I have one final question relating to the letter the Commissioner gave to the Comptroller and Auditor General. We had a lengthy discussion on the use of the word "irregular", a word she used when first responding to my questions on whether she had acted appropriately. She said she had done and took the right corrective action, saying she wanted to "regularise" accounting practices. This morning she used the same word but she signed a letter to the Comptroller and Auditor General on 31 July, which is certainly after she became aware. She said, "I have disclosed to you [the Comptroller and Auditor General] all instances of loss, fraud or irregularity" that were known to her. She goes on that, "where such instances [including irregularities] are known to me I have reported them to you". It strikes me that she did not do this. It is quite obvious that the Commissioner did not report these to the Comptroller and Auditor General. Can the Vice Chairman tell me if this letter, which was given to the Comptroller and Auditor General, is inaccurate? If it is inaccurate to say, "where such instances are known to me I have reported them to you" because they did not happen, it calls into question whether the letter sent by the Garda Commissioner to the Comptroller and Auditor General is accurate.

**Vice Chairman:** We will address that in our report.

**Deputy David Cullinane:** That is quite serious.

**Ms Nóirín O'Sullivan:** I responded to this earlier. I am not sure if the Deputy was out of the room.

**Deputy David Cullinane:** I was here.

**Ms Nóirín O'Sullivan:** I will respond again. When we became aware of these issues, there was incomplete information and we were not aware of the full nature and extent of what was being dealt with.

**Vice Chairman:** For accuracy, the Comptroller and Auditor General has already said that incomplete information is no reason not to inform.

**Ms Nóirín O'Sullivan:** I accept that but I wish to finish out my point-----

**Deputy David Cullinane:** I want to be respectful to the Commissioner. I have listened to what she said and have sat through all the meetings on these hearings. All I want to do is establish the facts and the truth. The Commissioner weaves one narrative when asked questions on what she did because she wants to point out that on 27 July when she said she first became aware of this, she did everything she possibly could because she understood the seriousness of the issues, having been briefed on them. Her response to this, however, is entirely different, and she says that she was only aware of the generalities, not all the information. She has enough information. She cannot assume the role of the Comptroller and Auditor General. Mr. McCarthy said that, if he was informed, he could pass judgment. Is that correct?

**Mr. Seamus McCarthy:** That is correct.

**Deputy David Cullinane:** That is the view of the Comptroller and Auditor General. That is very serious because these letters give this committee the assurance it needs. I do not have an assurance that the Commissioner acted appropriately.

**Ms Nóirín O'Sullivan:** If the Deputy will give me the opportunity, I may be able to provide him with some assurance. I was trying to get complete information. I fully accept the Comptroller and Auditor General's position and have no issue with it. As I said earlier, if we knew then what we know now, he would have been informed. On 28 July I caused inquiries to be made in my office. I found that there was an extensive file available in my office, which indicated that there were files in other parts of the organisations. It was clear that there were outside bodies and other sections within the organisation that may have information. I was trying to get as complete a picture as possible. My mindset at the time was that if I had known the extent of what was available-----

**Deputy David Cullinane:** My point-----

**Ms Nóirín O'Sullivan:** If I may finish?

**Vice Chairman:** The Deputy should let the Commissioner finish her answer.

**Ms Nóirín O'Sullivan:** If I had known the full extent of the situation, it would have been very different and I would have informed the Comptroller and Auditor General. However, lessons are always learned from these things and now what we will do is inform the Comptroller and Auditor General and all other relevant bodies, as we did yesterday.

**Deputy Marc MacSharry:** That was my next question. Notwithstanding what the Commissioner says-----

**Vice Chairman:** The Deputy should be brief as we need to vacate the room. On a point of clarification, the Commissioner said that when she was informed in July, she found an extensive file in her office.

**Ms Nóirín O'Sullivan:** Yes.

**Vice Chairman:** What is in that file?

**Ms Nóirín O’Sullivan:** I understand it has been shared with the committee. The file indicated that the McGee report in 2008 had gone to the then Commissioner through the chief administrative officer, Mr. Leamy.

**Vice Chairman:** It is the whole story.

**Ms Nóirín O’Sullivan:** I think the committee has-----

**Vice Chairman:** I was just making sure that was what the Commissioner was referring to. The file was in her office but she did not know it was there.

**Ms Nóirín O’Sullivan:** When I say “the whole story”, the file was part of the story.

**Vice Chairman:** It dealt with the McGee report and so on and the Commissioner had not been made aware of it but it was in her office.

**Ms Nóirín O’Sullivan:** Yes. It was received by the then Commissioner in 2008 through the office of the then chief administrative officer.

**Vice Chairman:** It was in the Commissioner’s office but she had not been made aware of it?

**Ms Nóirín O’Sullivan:** Yes.

**Deputy David Cullinane:** A final point on what the witness captured in one of her responses. She said that if she knew then what she knows now, she might have done things differently. The witness has heard from Mr. McCarthy that what she knew at the time was enough for her to alert his office. He said that the Commissioner should have alerted him at the time. To accept that if one were to go back in time, one would do something differently is to accept that one made a mistake. People do make mistakes. Is the Commissioner accepting that she made a mistake?

**Ms Nóirín O’Sullivan:** No, that was my mindset at the time and-----

**Deputy David Cullinane:** But she would do it differently now?

**Ms Nóirín O’Sullivan:** I would have expected that these matters would have been brought to my attention when the statement of internal financial controls was presented to me. My mindset at the time was that we were in the process of collecting information and as soon as we had that information, the Office of the Comptroller and Auditor General would be informed.

**Deputy David Cullinane:** But the Commissioner said that lessons have been learned.

**Ms Nóirín O’Sullivan:** Yes.

**Deputy David Cullinane:** She has said that if something similar happened now and she was made aware of issues of a similar nature, she would report it to the Comptroller and Auditor General.

**Ms Nóirín O’Sullivan:** Yes.

**Deputy David Cullinane:** Does that mean she made a mistake by not doing so previously?

**Ms Nóirín O’Sullivan:** I have tried to explain my mindset at the time to the committee, which was that I was not in possession of complete information. It had not been brought to my attention-----



**Vice Chairman:** I think we have been down that road. There is a difference of opinion between what the Comptroller and Auditor General expected and what the Commissioner did and she is saying that if she were now to deal with the same circumstances, she would act differently. That is a summary of where we are: the Comptroller and Auditor General expected the witness to notify him at the time and that did not happen. I think we have cleared that up. It is a direct contradiction.

We now have to suspend and will be back at 7 p.m. We have to suspend because, regrettably for the witness and her colleagues, there is no room available. We will limit the discussion at 7 p.m. to a very short period of time. It will certainly be over by 8 p.m. if not earlier because the Department of Justice and Equality and the Policing Authority will also be in attendance. We will resume in this room at 7 p.m. but all documentation must be removed from the room because another committee will be using it.

*Sitting suspended at 3.45 p.m. and resumed at 7 p.m.*

**Vice Chairman:** The committee is in public session. I thank the witness, her staff and colleagues for returning. The aim is to have this session completed by 8 p.m. or 8.10 p.m. at the latest. The committee will then meet witnesses from the Policing Authority and the Department of Justice and Equality. Is it agreed that I will remain in the chair until this session is concluded?

**Deputy Sean Fleming:** The procedure is that when the Chairman is in the room, he or she would chair the meeting but as the Vice Chairman was in the chair for the earlier part of this session it would probably make more sense for him to continue in the chair until this session has been completed.

**Vice Chairman:** I thank Deputy Fleming. The first speaker is Deputy Mary Lou McDonald.

**Deputy Mary Lou McDonald:** The Commissioner will, I am sure, have noticed from many of the contributions that the committee is a little frustrated by the conflicting evidence and accounts being given. Notwithstanding the fact that the system and practices at Templemore college date back decades, we have not had from An Garda Síochána collectively a coherent or credible account or response in terms of what happened. I am not referring in the first instance to how all of these practices became established, convoluted and so on. Everyone accepts the interim audit report and all of the criticisms therein, some of them very serious, including in regard to the Commissioner. We have not managed to unravel what was happening within senior management in An Garda Síochána. Mr. McGee, a colleague of Ms O'Sullivan, was before the committee last week and I explored with him an email he had sent to Mr. Barrett. In the email he addresses his report of 2008 and says the best thing is to deal with the matter quietly. The best thing is to keep it out of the Committee of Public Accounts and away from the Comptroller and Auditor General. I asked him if this was his preferred way of dealing with things, if it was his idea and did the idea of keeping things quiet originate with him. I did not get an answer to that. I think he felt very much put on the spot. I would not be persuaded that Mr. McGee, given his level within the organisation, came up with this strategy. He is a very competent person, I have no doubt, but he is not, in relative terms, a very senior person. I think the evidence reflects that it was the approach taken.

I will put the next question to the Commissioner because I really want to know what was happening here. She inherited this situation. I do not think anybody disputes that even though Ms O'Sullivan is a long-serving officer. As Commissioner she inherited this. What I cannot

understand is the lack of decisive action on her part. What I am trying to understand is whether she simply fell into the same mindset as her colleagues, perhaps because she has such long service, I do not know, and whether she was persuaded by colleagues to go along with this “softly, softly, say nothing, sort it out and regularise matters” approach. I want Ms O’Sullivan to help me to understand that. I just want to make clear it is the reason I raise the issue of gender. I am very struck that Ms O’Sullivan is a trailblazer in many respects. She is the first woman in this job, in the most senior position. She is in charge. If there was a dynamic around that, I would like to know whether that happened and whether it was a factor. If it is not a factor, she should simply tell us it was not a factor and not an issue and that is fine. Ms O’Sullivan needs to give us an explanation beyond the well-trodden ground of “I heard about this in July and I did this”. She has had ample questioning from colleagues which demonstrates that a letter Ms O’Sullivan wrote or signed off on to the Comptroller and Auditor General was misleading. The Comptroller and Auditor General has said he believes in his position, in the constitutional office he holds, that he did not get the full information that would have enabled him to carry out his function. I hope I am not misrepresenting the position. We have not had an adequate or convincing explanation from Ms O’Sullivan as the leader and person in charge as to why those things happened. I want to give Ms O’Sullivan an opportunity to explain that.

**Ms Nóirín O’Sullivan:** There are a lot of points in the Deputy’s question so maybe I will deal with them in rotation and if I leave something out the Deputy might come back to it. First, in Mr. Kelly’s interim audit report, I am not aware of criticisms of me personally. I am very familiar with the report. I am quite happy to go through those if the Deputy wishes. The point I would make on Mr. McGee’s appearance here at the committee is that he appeared here as a voluntary witness to assist the committee and he, as other witnesses, is an office holder. My understanding is he was forthright and open with the committee in respect of his interactions on the email I see here on the screen. I cannot get into the mindset of Mr. McGee as to why he authored this email. What I can say is the Deputy asked about decisive action. I am very clear and I have always been very clear on my decisive action around matters such as this. My decision is they need to be actioned. What was very clear to me, when these matters were brought to my attention and in the days subsequent to 27 July, was that there had been, on perusal of files of my office, interactions with a number of different offices. There had been interactions with the Department and with outside external advisers to try to fix these issues. What I was not cited on is what had been done. Part of the purpose of the committee we established was to gather all of that information and to compile and collate it and find out what precisely had been done. It was very clear in the correspondence I saw at that time that the then Commissioner had issued instructions. What I was not clear on was whether those instructions had been acted upon or not. On the completion of Mr. Kelly’s draft interim report in September 2016, it was evident that some of these actions and what had been agreed by the Commissioner, both in 2008 and 2010, were not actioned. It was important in my mindset that we got a complete picture. I also want to be clear - I am sure the Deputy will appreciate this - that I absolutely respect the constitutional office of the Comptroller and Auditor General and I absolutely respect the parliamentary position of this committee. What I have said is we are all of the time learning lessons. We have learned lessons from this process. I have heard quite clearly and very carefully considered what the Comptroller and Auditor General has said. At that time, my mindset was we needed to be in possession of complete information to be able to make an informed decision and to be able to fully inform everybody who needed to be informed of precisely what had been done. We were dealing, as the Deputy said, with four-decade old structures. Nobody knew what had been done and nobody gave us succinct answers about what had been done. The collation exercise was to make sure we had complete information. I respect what the Comptroller

and Auditor General says, that his office would be willing to accept partial information and that is a lesson. From here on in - and even before now - partial information will be supplied. The Deputy asked me-----

**Deputy Mary Lou McDonald:** Before Ms O'Sullivan does that, she misled the Comptroller and Auditor General.

**Ms Nóirín O'Sullivan:** No.

**Deputy Mary Lou McDonald:** Ms O'Sullivan accepts she misled the Comptroller and Auditor General.

**Ms Nóirín O'Sullivan:** No, I do not accept it.

**Deputy Mary Lou McDonald:** That is his contention.

**Ms Nóirín O'Sullivan:** I respect the Comptroller and Auditor General's view. I do not respect the view that I knowingly or wittingly misled the Comptroller and Auditor General. I want to be very clear. At the time, on 31 July, which was some four days after this meeting, nobody brought to my attention, as I would have expected when the statement of internal financial controls was presented to me, that there was anything at that point to which we should alert the Comptroller and Auditor General.

**Deputy Mary Lou McDonald:** Ms O'Sullivan's antennae were not up.

**Ms Nóirín O'Sullivan:** I absolutely knew there was something-----

**Deputy Mary Lou McDonald:** Amiss.

**Ms Nóirín O'Sullivan:** Issues had been identified in the Garda College that needed to be addressed. I was not clear on what had been addressed in the intervening period between 2008 and when this issue was brought to our attention in 2015.

**Deputy Mary Lou McDonald:** So when Ms O'Sullivan signed that letter to the Comptroller and Auditor General, she could not have been sure in her mind that it was an accurate and true reflection of the state of play.

**Ms Nóirín O'Sullivan:** I was satisfied on the basis of what was presented to me at that time that it was not an accurate and true reflection.

**Deputy Mary Lou McDonald:** I fail to see how Ms O'Sullivan could have been satisfied in that regard.

**Ms Nóirín O'Sullivan:** If I could just finish out, please. The issue was that we were compiling information. As soon as we became aware that the matters had not been actioned and that there were still different issues in the college that had not been done, we immediately informed all of the relevant parties, including the Comptroller and Auditor General, when Mr. Kelly began his work on the audit of the college. That was my mindset. I absolutely accept there are lessons learned all of the time. We have learned lessons on this. As I say, we now quite clearly understand that partial information is absolutely sufficient and I also take the Comptroller and Auditor General's point that with regard to partial information, perhaps they would have been in a position to assist.

**Deputy Mary Lou McDonald:** How long is the Commissioner in the Garda Síochána? Is

it all her working career?

**Vice Chairman:** The Deputy should be short this time around.

**Deputy Mary Lou McDonald:** This is my final point.

**Ms Nóirín O’Sullivan:** Thirty-six years.

**Deputy Mary Lou McDonald:** That is a long and, no doubt, distinguished career. I do not think the account Ms O’Sullivan has given of her interaction with the Comptroller and Auditor General is credible

**Ms Nóirín O’Sullivan:** The Deputy has asked me two other questions which touch on something I would like to continue on. The Deputy asked me about my career and whether I was part of this. She wanted to know my mindset. I want to be crystal clear with the committee. From the moment I took up as interim Commissioner and in that intervening period until November 2014 when I was appointed Commissioner, and indeed throughout my career, my focus, and the focus of the team that I have here, was always on identifying what needed to be fixed within the organisation. It was to root out and to shine a light and to turn over stones and to identify things and practices that were not up to standard, and that is what we did. We have suffered quite a lot from that - I will use that - because fingers have been pointed and we have been accused because we do shine a light on these things and bring them to the surface, and more than just bring them to the surface because we deal with them-----

**Vice Chairman:** What does the Commissioner mean by “suffered”?

**Ms Nóirín O’Sullivan:** Even in this instance, we, in good faith, identified issues, surfaced the issues and put a process in place to deal with them. The finger is then pointed - it is not just this particular issue; I can use a multitude of examples - and we are asked how come it happened on our watch. On our watch, these matters were identified and surfaced and are being dealt with.

**Vice Chairman:** So it was an odd case of the Commissioner holding the ball when people found out.

**Ms Nóirín O’Sullivan:** I do not think-----

**Vice Chairman:** The Commissioner said that it was on her watch. It was an odd case of her just happening to be the Commissioner. Is that what she is saying? I am intrigued by the Commissioner’s use of the word “suffered”. What suffering was there?

**Ms Nóirín O’Sullivan:** I will put it this way: both internally and externally, it takes courage, commitment and dedication and, to link it to the Deputy’s question, very strong leadership to say that we will look internally at our own organisation and that we are going to identify issues that need to be-----

**Vice Chairman:** Is the Commissioner not obliged to?

**Ms Nóirín O’Sullivan:** It is a commitment that we have made to the true cultural-----

**Vice Chairman:** Surely the Commissioner is obliged to do that.

**Ms Nóirín O’Sullivan:** Let me be very clear. When undergoing a process of reform such as that to which we have committed - deep cultural and structural reform - one will identify

practices, good and bad. I want to make that point. We have identified good practices which we have been able to replicate. We have also identified practices such as this that were not in accordance with current standards and practices. They were not standard over the years, and we have rectified those. I will finish out on one point the Deputy made. I am sure the Deputy will understand my comment in relation to this, as a female deputy leader of a growing party. I am sure that during her political career - I do not want to make any assumptions about her - but I can certainly say that throughout the 36 years of my career, I have never chosen to hide behind my gender. I have never chosen to allow my gender to be a barrier to anything that I do. I have never defined myself by my gender. I am a professional police officer and I am very proud of that fact.

**Vice Chairman:** I call Deputy Aylward.

**Deputy Bobby Aylward:** This is my first time coming in today, just to remind the Vice Chairman. I know I was missing for a lot of it.

**Vice Chairman:** You were, Deputy.

**Deputy Bobby Aylward:** I had other issues-----

**Vice Chairman:** Good.

**Deputy Bobby Aylward:** I have more than one poker in the fire.

**Vice Chairman:** Do not we all, except some of us had to be here.

**Deputy Bobby Aylward:** At this stage, I will not go, because a lot of things probably have been asked while I was not here. For an oversight and a whole view, this is the fourth day of witnesses being confronted from all different aspects of it. We have asked every question, I suppose, that is to be asked about Templemore at this stage. If the Commissioner thinks the governance - the dysfunctional governance and oversights in Templemore - and lack of training for administrative and public financial procedures were so bad, how was it allowed to happen for 30 years or 40 years, as she stated earlier on? How was that allowed to go on for so long? It was only in July 2016 really that the whole thing seemed to come to a head. I would like to see at this stage why that happened. Can she explain why it happened? Why did someone in her position before her not shout "Stop"?

**Ms Nóirín O'Sullivan:** As I explained this morning, and it has been explained at previous committee meetings, in the past, following the Walsh report and even some time before that, a funding model was put in place in Templemore. There was a *per capita grant* per student. I do not want to speak for people who were there before me but until 2006, the Commissioner was not the Accounting Officer. The Accounting Officer was the Secretary General at the Department of Justice and Equality. The evidence we have identified to date would indicate that there was certainly knowledge in other Departments, including the OPW, about some of the arrangements that had been put in place. This capitation grant grew, particularly around the time of the accelerated recruitment. Surplus funds began to build up in the college. In terms of the oversight, it would appear that certain parties knew about this but it is not clear if it was anticipated to the totality of the surplus that would-----

**Deputy Bobby Aylward:** There were three reports from 2008 to 2016, yet it still continued until July 2016.



**Ms Nóirín O’Sullivan:** If I can explain, as I explained to the committee earlier, from what Mr. Kelly has uncovered in his audit to date - I want to make the point that the audit is continuing - it is difficult to identify what happened between the 2008 and 2010 reports. However, I can say that in 2015, once the matters were brought to our attention, immediate action was taken to put in place structures and mechanisms to unravel this very complicated architecture and accounting system that had grown up over four decades and to put in place the necessary structures and processes that would ensure it could never happen again. I know the Deputy may not have been here earlier on, but I gave evidence to the committee through my colleague, Mr. Nugent, who I appointed to chair a steering group to ensure that the 19 recommendations of the interim audit report were fully implemented. Mr. Nugent has given assurances through me to the committee. We had an implementation deadline of June of this year. Due to advices that we are continuing to be in receipt of and the complexities of some of the issues that we need to do, basically they will now be completed by the end of December 2017. I think that is indicative of the commitment, energy and leadership that was applied to making sure that these very complex and complicated issues were dealt with.

**Deputy Bobby Aylward:** I just want to ask the Commissioner another personal question. It concerns section 41 of the Garda Síochána Act 2005 and the evidence the Commissioner gave here. We made a big thing about why she did not report to the Minister. I could include the Comptroller and Auditor General in that as well. In hindsight, is she sorry that she did not use her powers in both cases?

**Ms Nóirín O’Sullivan:** If I deal with section 41-----

**Deputy Bobby Aylward:** Earlier. I mean that she did not bring it to the notice of the Minister or to the Comptroller and Auditor General earlier.

**Ms Nóirín O’Sullivan:** Section 41 is a mechanism contained within the Garda Síochána Act to inform the Department and the Minister of certain issues of significant interest and issues that in my opinion need to be brought to the attention of the Minister and the Department. It was always my intention that these matters would be brought to the attention of the Department because it was clear to me from the perusal of the files I had available to me that the Department had knowledge of this going back several years. My emphasis was on making sure that the Department was involved and fully sighted of the work of the working group which was pulling together these materials. My understanding is that Mr. Dunne had engaged with the Department to see if it had any files that could fill in some of the missing links, to fill in the Deputy’s question about how this came about. In my view, having the Department engaged and involved in that process fulfilled my obligations to keep the Department of Justice and Equality informed of what we were doing. Once Mr. Kelly’s report was done and the process in terms of the internal audit started, then the Comptroller and Auditor General was informed. As I have said, and I have no difficulty repeating it, if I knew then what I know now I would certainly, with the partial information we had available to us, inform the Comptroller and Auditor General-----

**Deputy Bobby Aylward:** Therefore, in hindsight the Commissioner is saying that she would. In hindsight, she said that if she was back again she would have made these reports.

**Ms Nóirín O’Sullivan:** I am very clear that all of the time the Department was informed. It was always the intention to keep the Department fully informed and fully sighted with regard to what was happening. It was also our intention always to so keep the Comptroller and Auditor General. We probably would have done it earlier with the partial information that we had.



**Deputy Bobby Aylward:** I want to move on. The headlines on the six o'clock news were about this European funding and the account in Dublin and a senior garda being involved and his or her name - I am not sure but a person's name - and the senior gardaí being involved with it. That seems to be the headline that is coming out this evening in the news. The Commissioner is bringing that to the fraud squad. Is that true? Is that what she said earlier on, that she is bringing it to the fraud squad or-----

**Ms Nóirín O'Sullivan:** No, and I am very cautious around this because I do not want to do anything that may prejudice a potential-----

**Deputy Bobby Aylward:** It was on the six o'clock news.

**Ms Nóirín O'Sullivan:** On the extent to which we can discuss this at the committee, I am very conscious that I do not want to prejudice a potential investigation. However, the matter was referred to the Garda Síochána Ombudsman Commission for its consideration. It was on foot of a report that I received yesterday from the head of our internal audit unit. I must emphasise that it is a draft audit report and it is still in draft form. It has been referred for consideration by-----

**Deputy Bobby Aylward:** Is the Commissioner worried about it? Does she think there could be repercussions out of what she has seen so far?

**Ms Nóirín O'Sullivan:** I am not sure, Deputy-----

**Deputy Bobby Aylward:** The way it has been presented this evening, it looks like there is some kind of fraud involved. There is an account that should not be in Dublin. European money that was for purposes in Templemore ended up in an account in Dublin. That is my reading of it. Maybe I am reading it wrong and if I am, I apologise.

**Ms Nóirín O'Sullivan:** Without pre-empting or prejudicing any investigation that will take place - I cannot possibly speculate on the outcome of an investigation - I am satisfied that the matter will be dealt with fully, in accordance with law, due process and fair procedure to all involved.

**Deputy Bobby Aylward:** Will there be any repercussions for individuals or groups in Templemore? Will there be repercussions for retired or serving members? Will anyone be brought to justice?

**Ms Nóirín O'Sullivan:** As Mr. Kelly's report and audit continues, the matters will be reviewed. If there are any issues arising, such as what was brought to our attention yesterday, the appropriate actions will be taken. As well as referring the matters yesterday, the Deputy may recall that at the previous committee meeting, I said that we had an assistant commissioner examining the interim audit report to see if there are any issues outside of the matters that we have referred yesterday that need to be addressed and they will be addressed.

**Deputy Bobby Aylward:** If personnel are retired, are they exempt?

**Ms Nóirín O'Sullivan:** No.

**Deputy Bobby Aylward:** Are they still subject to the law?

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Bobby Aylward:** The number of accounts was reduced from 50 down to five. The recommendation in the report is that there should be only two accounts. Why are there still five accounts and not two?

**Ms Nóirín O’Sullivan:** If I may, I will confer with my colleague, Mr. Nugent, who is managing this.

**Vice Chairman:** We need to speed things up.

**Deputy Bobby Aylward:** I have just two more questions. It is the first time I have been in.

**Vice Chairman:** Yes, but unfortunately when there were longer segments, the Deputy was not here. We are caught for time.

**Deputy Bobby Aylward:** The Vice Chairman keeps reminding me of that.

**Vice Chairman:** I am sorry but I am just trying to be fair.

**Ms Nóirín O’Sullivan:** My colleague, Mr. Nugent, tells me that basically we are going through a process to wind down some of the entities and until such time as they are wound down, three of the accounts have to remain in place but they will be closed as the other entities are wound down.

**Deputy Bobby Aylward:** In hindsight, is 50 accounts not ridiculous? As I said previously, Smurfits would not have as many accounts as that even though it is a big, multinational business. How could the college in Templemore have 50 accounts? The mafia would not do it as good.

**Ms Nóirín O’Sullivan:** I cannot account for the people who were there, the accounting system that was being used or the advices that were being given. I do not want to second guess that and pre-empt Mr. Kelly’s continuing audit. What I can say is that the operation, if I can call it that, in Templemore was a very big one. As both Deputy Aylward and the Vice Chairman will know, it generated a lot of employment, income and economy for the local area. Over time that grew and I know that the local area has benefited from it. Indeed, as I said at a previous meeting, we also benefited. Obviously all of these matters have now been regularised. Obviously in terms of local procurement issues and the rules around the provision of supplies and food and the employment of staff, with the new procedures in place that will go outside of the local economy - or will potentially go outside of the local economy - because it will have to be tendered for across the broader EU.

**Vice Chairman:** On a point of clarification, what the Commissioner just said sounds very weird. Essentially what she is saying is that because of the clean-up of what has happened - and the Commissioner admits that there were 50 accounts and inappropriate tendering-----

**Deputy Bobby Aylward:** Inappropriate procurement-----

**Vice Chairman:** -----and procurement - the economy of Templemore is going to lose out.

**Ms Nóirín O’Sullivan:** I am making the point that I do not know because I do not know who is going to tender-----

**Vice Chairman:** The Commissioner was very specific there. She made the specific point that there is a change in terms of doing things properly, for want of a better phrase, which the

Commissioner has acknowledged.

**Ms Nóirín O'Sullivan:** Absolutely.

**Vice Chairman:** Why would the Commissioner make the distinctive point that the local economy is going to miss out?

**Deputy Bobby Aylward:** Can I answer that? The local economy is still there. The Commissioner told me herself that the local economy-----

**Vice Chairman:** Is this a mutual statement?

**Deputy Bobby Aylward:** The Commissioner hopes to keep the local economy as part of Templemore.

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Bobby Aylward:** An Garda Síochána will be able to do that with two accounts. Why does it need 50? Why hide behind 50 accounts to use the local community? That does not make sense.

**Ms Nóirín O'Sullivan:** No, regularising the accounts is something that is a work in progress. We will have that done and it will be done, as I said, by the end of this year. The point I was trying to make is that obviously, public procurement guidelines now mean that there has to be a tendering process for the provision of goods and services, for example and for various contracts.

**Deputy Bobby Aylward:** We are talking about good governance here.

**Ms Nóirín O'Sullivan:** Yes, absolutely.

**Vice Chairman:** Was there not always?

**Ms Nóirín O'Sullivan:** Yes but my understanding is that over the years - and I cannot account for what led to this - a lot of the provisions were supplied locally.

**Vice Chairman:** I know but my point is that surely in recent years, everything was tendered for.

**Ms Nóirín O'Sullivan:** Yes but my understanding-----

**Vice Chairman:** How, then, will the local economy lose out?

**Ms Nóirín O'Sullivan:** My understanding is - my colleague Mr. Nugent informs me - that the EU procurement process means that it will have to be tendered for right across the EU.

**Vice Chairman:** I still fail to see the differential between a few years ago and now. Surely this was already in place.

**Ms Nóirín O'Sullivan:** I am speaking by proxy so I can only tell the Vice Chairman what I am being advised.

**Vice Chairman:** We will have to dig deeper into that because the Commissioner has opened a whole can of worms here. I am taking from what the Commissioner is saying that procurement in relation to some issues was not taking place in the last number of years so now there

will be a change. If that has happened, that is opening up a whole range of other issues.

**Ms Nóirín O’Sullivan:** I am just clarifying that this is actually one of the issues that is identified in the interim report of Mr. Kelly.

**Deputy Bobby Aylward:** That is why I asked.

**Ms Nóirín O’Sullivan:** It is one of the issues that Mr. Kelly has identified, namely that there were weaknesses in procurement processes. We have to make sure, as part of the regularisation, that the procurement processes are now in accordance with best practice and with EU procurement guidelines.

**Vice Chairman:** We will have to ask further questions but I ask Deputy Aylward to conclude for now.

**Deputy Bobby Aylward:** I have a few quick ones. I presume the 19 recommendations are going to be implemented.

**Vice Chairman:** Last question.

**Deputy Bobby Aylward:** I have one observation after that. How long before all of the 19 recommendations will be put in place?

**Ms Nóirín O’Sullivan:** I have been advised by my colleague, Mr. Nugent, who chairs the steering group charged with implementing all of those recommendations, that they will be all fully implemented by the end of this year.

**Deputy Bobby Aylward:** Have the lands transferred to the OPW?

**Ms Nóirín O’Sullivan:** I must confer with Mr. Nugent on that. No, not as yet.

**Deputy Bobby Aylward:** Is that in progress?

**Ms Nóirín O’Sullivan:** Yes.

**Deputy Bobby Aylward:** I want to ask about the insurance costs which are referred to in the report. The State insures itself. Why were there insurance costs when the State insures itself? Why insure twice? If An Garda Síochána is insured by the State because it is a public body, why did it take out insurance? That seems to me to be a waste of money.

**Ms Nóirín O’Sullivan:** Basically, some of the entities that were operating in the college, such as the Sportsfield company and the restaurant, deemed themselves to be private entities and as such required separate insurance rather than public, State indemnity.

**Deputy Bobby Aylward:** Was that true or could they not have been covered under the premises insurance? Is it true that they should have gotten separate insurance cover?

**Ms Nóirín O’Sullivan:** What we are doing at the moment is seeking advices to ensure that they can continue to benefit from or can benefit from the State indemnity.

**Deputy Bobby Aylward:** There was no need for the private insurance to be in place at all. Is that correct?

**Ms Nóirín O’Sullivan:** We are taking advices on that.

**Deputy Bobby Aylward:** The last thing I want to do is make a comment. I have to praise Mr. Barrett from human resources and Mr. Kelly, the auditor, who came before this committee. They were from the civil side of An Garda Síochána and I considered them to be the most honest of witnesses. They highlighted everything that we asked of them and were the most honest people in terms of answering questions and without them, we would not be where we are today. I would like to put on record my admiration for what those two men did.

**Vice Chairman:** I thank Deputy Aylward. A lot of us admire them.

**Ms Nóirín O'Sullivan:** Can I make a point there? As the Accounting Officer, I must make a point. All of the witnesses, in my view, that came before the committee on behalf of An Garda Síochána came forward as honest witnesses and gave an honest and true account of their recollection of events.

**Vice Chairman:** Okay.

**Deputy Bobby Aylward:** I did not say they were dishonest. All I am saying is that those two witnesses were more-----

**Vice Chairman:** First, everyone is expected to do so, so they should not be congratulated. Second, they contradict one another in a lot of their evidence. The Commissioner has been asked on numerous occasions if she has confidence in each and every one and we know what the answer was. Deputy MacSharry is next.

**Deputy Marc MacSharry:** I welcome everyone back. It has been a long day. There has been time during the break to consider the correspondence that the Commissioner only saw today for the first time, even though her colleagues had it earlier. Would she have anything to add to her earlier contribution with regard to Mr. Culhane's reference to muddying things up? That was of course in relation to seeking charitable status for the college. Does the Commissioner have anything to add? She has perhaps had time to confer and consult externally on that. She said it was the first she had heard of it.

**Ms Nóirín O'Sullivan:** When I left the committee I went back to attend to some business that continues while we are here.

**Deputy Marc MacSharry:** That is not a bother. The Commissioner has had time.

**Ms Nóirín O'Sullivan:** But I did ask Mr. Nugent to attempt to make contact with Mr. Culhane and he has not been able to do so. I am afraid we are not able to add anything further to that but, nevertheless, Mr. Nugent will provide a note to the committee, which we are happy to do.

**Deputy Marc MacSharry:** It would certainly be appropriate. The Commissioner is aware of the evidence of Mr. Culhane to the committee. Did she find his story credible? He was appointed in 2000. We had the 2006 report. We had the McGee report in 2008. We had the Nolan report in 2010. Nobody externally was told about any of those matters ever and that remained the position until Mr. Barrett came along. All those years were lost when very little was done. Is it credible that it is not Mr. Culhane's fault?

**Ms Nóirín O'Sullivan:** The audit is continuing and I am sure Mr. Kelly's audit will identify where there were any failures and who was responsible.

**Deputy Marc MacSharry:** The director of finance said in his evidence that he advised the

Commissioner and, effectively, it appears that she did not listen to him. He told us he wanted to change all the arrangements but clearly the Commissioner did not want to. Is that correct?

**Ms Nóirín O’Sullivan:** I am not aware of that evidence. Perhaps we could get it up on the screen as that would help me.

**Deputy Marc MacSharry:** I am paraphrasing his evidence. He had a vision for all these changes that never happened.

**Ms Nóirín O’Sullivan:** Could I confer with my colleague because I am not aware of that?

**Vice Chairman:** Just to help the Commissioner, basically what Deputy MacSharry is referring to is that Mr. Culhane gave evidence that he was aware of all of those issues previously – to be fair, he commissioned one of the reports – and he pushed them up the line but effectively nothing happened.

**Deputy Marc MacSharry:** The line he kept using when he was in with us is that he pushed it up the line. It is frustrating for us committee members. I know it is difficult for the Commissioner to confer with people but we find it useful if the person in charge answers the questions. Mr. Culhane pushed it up the line. People up the line were aware of all those matters in 2000, 2006, 2008, 2010. He pushed it up the line and effectively nothing happened. In the midst of that, it is against a backdrop where I am bound to say that the question of charitable status for the Garda college in 2010 was a means of muddying the waters. Is that not a real reflection of what was going on? According to Mr. Culhane, it would seem up to 2010, in effect, that it was all about keeping matters obscure and muddying the waters for us, the Revenue, internal audit and whomever else? The Commissioner should tell me if I am incorrect.

**Ms Nóirín O’Sullivan:** If I understood Deputy MacSharry’s opening question, he said Mr. Culhane raised those matters with me and they were just glossed over.

**Deputy Marc MacSharry:** He said he passed it up the line. The Commissioner was up the line.

**Ms Nóirín O’Sullivan:** I was not Accounting Officer in any of the years 2000, 2006, 2007 or 2008 and 2010. I became Accounting Officer in March 2014 and full time in November 2014. Mr. Culhane did not push those issues up the line to me.

**Deputy Marc MacSharry:** If Mr. Culhane’s evidence is correct, is it a failure of the Commissioner’s predecessors?

**Ms Nóirín O’Sullivan:** I am sure Deputy MacSharry will appreciate that I can come here and account for my actions but I cannot account for the actions or otherwise of my predecessors.

**Deputy Marc MacSharry:** But as the head of a professional body, this is part of “the culture” with which we as a committee are becoming familiar. There seems to be a culture of protecting one’s predecessor at all costs and passing the buck, in effect saying that was not my pigeon hole it was somebody else’s pigeon hole – with impermeable walls between pigeon holes. We are not getting any closer to the truth because anytime it is a difficult question to reply is: “I wasn’t in post. I didn’t know. That was somebody else. We can check that.” We got correspondence earlier that I got from the person sitting beside the Commissioner that she did not know existed.

**Ms Nóirín O’Sullivan:** I am on record as saying we are undertaking huge cultural change.



It is a fact. I cannot account for the actions or inactions of my predecessors or any officeholder. It is a fact that people have retired and that people have moved on from positions. I cannot change that.

**Deputy Marc MacSharry:** Why did the Commissioner demote Ken Ruane in spring 2016?

**Ms Nóirín O’Sullivan:** I am sorry but could the Deputy repeat the question?

**Deputy Marc MacSharry:** Why did the Commissioner demote Ken Ruane in spring 2016?

**Ms Nóirín O’Sullivan:** I did not demote Mr. Ruane in spring 2016.

**Deputy Marc MacSharry:** Did his reporting level gain an additional level between senior management or more senior management in the spring of 2016?

**Ms Nóirín O’Sullivan:** Mr. Ruane’s position remains the same as the day he joined the organisation.

**Deputy Marc MacSharry:** I mean in the order of things. Although his position stayed static, was there an additional level in the chain of command put in by the Commissioner in the spring of 2016?

**Ms Nóirín O’Sullivan:** In response to a recommendation contained in the inspectorate’s report, which recommended that a deputy commissioner of governance and strategy would be appointed, we were implementing as part of our reform programme all 1,084 recommendations of all 11 of the Garda Inspectorate’s reports. Part of that was implementing structural change which had been recommended. A key element of that structural change was to appoint a deputy commissioner for governance and strategy and to appoint an assistant commissioner with responsibility for governance. In the realignment of our structures, which happens in every single organisation, there was a realignment of portfolios and those positions were identified as being necessary, A, to implement the inspectorate’s reports and, B, to strengthen the governance arrangements that we are speaking about today.

**Deputy Marc MacSharry:** So the answer is “Yes”.

**Ms Nóirín O’Sullivan:** No, it is not the answer because Mr. Ruane’s reporting structure has not changed.

**Deputy Marc MacSharry:** Does Mr. Ruane’s reporting structure remain precisely the same and it was not reversed at a later date? The Commissioner might check with the deputy commissioner. Did he receive a letter from the executive director of human resources noting the organisational risks which would arise from the demotion decision being tested in court?

**Ms Nóirín O’Sullivan:** I was just conferring with the deputy commissioner. To explain, there was a restructuring of the organisation. There was no demotion of anybody, quite the opposite – there were new positions identified for civilian heads of staff at the equivalent of assistant secretary, which we call executive director level. One was in charge of legal and compliance and one was in charge of governance and strategy. In those realignments temporary people were put into position until such time as those competitions could be run to fill those vacancies. Those competitions are currently being run. I will just check with Mr. Nugent. That position will be shortlisted in the coming weeks. At no stage was there any demotion of any individual. Yes, there was a change to organisational structures and reporting structures, and an important point is that there was also full consultation in relation to those changes because we

were trying to implement recommendations made.

**Deputy Marc MacSharry:** So Mr. Ruane was always happy. I have just one more question and then I am finished. So Mr. Ruane did not think he was demoted or that he was diluted in terms of his influence or seniority.

**Ms Nóirín O'Sullivan:** He should not in my opinion.

**Deputy Marc MacSharry:** Did he ever protest to that effect?

**Ms Nóirín O'Sullivan:** I can get the deputy commissioner to answer that. I understand Mr. Ruane looked for clarification from the deputy commissioner and I believe the position was clarified to his satisfaction.

**Deputy Marc MacSharry:** Does a letter exist to the deputy commissioner from the director of human resources noting an organisational risk which would arise from the restructuring outlined by the Commissioner? If such a letter exists could the committee have it?

**Ms Nóirín O'Sullivan:** Yes, the deputy commissioner advises me that he did get a letter from Mr. Barrett explaining that to him but he wrote to both of the individuals concerned and told them it was not the case and there was no question of demotion.

**Deputy Marc MacSharry:** Could we have a copy of the letter?

**Ms Nóirín O'Sullivan:** Yes.

**Vice Chairman:** And the reply.

**Deputy Marc MacSharry:** Based on evidence, there is a concern here that these matters were taking place against a certain backdrop. Going back to the "cup of tea" meeting of the 4th, in inviting Mr. Barrett to the meeting it is alleged that Mr. Culhane said: "The Commissioner wants to see us. Ken has pushed the nuclear button." Does that kind of language surprise the Commissioner?

Can she understand then why we are forced to ask whether Ken Ruane was being taught a lesson with the proposed restructuring?

**Ms Nóirín O'Sullivan:** Just so that I am clear, who is it suggested said that?

**Deputy Marc MacSharry:** I am suggesting it.

**Ms Nóirín O'Sullivan:** No, sorry. Could the Deputy just repeat that?

**Vice Chairman:** To whom is the Deputy attributing the comment "Ken is after pressing the nuclear button"?

**Deputy Marc MacSharry:** The deputy commissioner.

**Ms Nóirín O'Sullivan:** Then I will ask the deputy commissioner because obviously-----

**Vice Chairman:** That is fine.

**Ms Nóirín O'Sullivan:** The deputy advises me that he does not use that type of language and what he advised Mr. Barrett on the occasion was that there was a letter from Mr. Ruane which we were going to discuss at our informal meeting at our own debrief.

**Deputy Marc MacSharry:** So, there was no mention of a nuclear button.

**Ms Nóirín O'Sullivan:** I must admit, knowing the deputy commissioner, I would be very surprised to hear him use language like that. He is here beside me and I want to be clear that I do justice to his words. He tells me he would not use language like that. I would like to clarify something with him. He informs me he did not say that.

**Deputy Marc MacSharry:** Okay.

**Vice Chairman:** Right. I have a quick few questions and a couple of comments and then we have two very final questions. When was the Commissioner first made aware in her 36 years, or how long is she a member of the force?

**Ms Nóirín O'Sullivan:** It is 36 years.

**Vice Chairman:** That is to be admired. I was at a retirement do at the weekend for a member of An Garda Síochána who was 39 years in the job. When was she first made aware of the Sportsfield company during her service?

**Ms Nóirín O'Sullivan:** I would believe in 2015.

**Vice Chairman:** The same July 2015.

**Ms Nóirín O'Sullivan:** July.

**Vice Chairman:** The Commissioner was not aware of it before then.

**Ms Nóirín O'Sullivan:** No.

**Vice Chairman:** Okay. This is a quick-fire round. The Commissioner has referred the issues raised by Mr. Kelly last Friday and Monday to GSOC and the Comptroller and Auditor General, etc. She has also referred them to OLAF. Is it a source of embarrassment for her that a member of An Garda Síochána has, over the last number of weeks, referred these issues to OLAF and the European Court of Auditors already?

**Ms Nóirín O'Sullivan:** Maybe I do not understand the question.

**Vice Chairman:** It has been reported that a member of the force has referred matters and written to OLAF and the European Court of Auditors asking that the issues in relation to the European accounts, which we discussed earlier on, be investigated. The Commissioner is aware of that.

**Ms Nóirín O'Sullivan:** I am aware of media reporting to that effect but my understanding is that Mr. Kelly informed OLAF.

**Vice Chairman:** We have seen receipts from the organisation saying that they are looking into it.

**Ms Nóirín O'Sullivan:** I just need to confer with my colleagues. The only person we are aware that referred the matter - and he informed me of it - was Mr. Kelly. It was not I who referred the matter to OLAF, it was Mr. Kelly as the head of internal audit. Mr. Kelly is the only person that we are aware of having referred the matter to OLAF.

**Vice Chairman:** It is a fact that a member of the force has in the last two weeks written to

both organisations and referred this whole issue to them.

**Ms Nóirín O’Sullivan:** Is the Vice Chairman referring to someone other than Mr. Kelly?

**Vice Chairman:** Yes.

**Ms Nóirín O’Sullivan:** I am not aware of that and my colleagues here are not aware of that.

**Vice Chairman:** A number of us on the committee are well aware of it.

**Ms Nóirín O’Sullivan:** Again, I feel we are being very disadvantaged in terms of-----

**Vice Chairman:** There is no documentation with everyone in the committee. I am only asking if the Commissioner was aware that this happened and, if she was, whether it was embarrassing. She has now told us she was not aware.

**Ms Nóirín O’Sullivan:** To be fair, the Vice Chairman referred to receipts.

**Vice Chairman:** No. I have seen receipts. I did not say the committee.

**Ms Nóirín O’Sullivan:** I have certainly not seen receipts-----

**Vice Chairman:** Okay. Fine.

**Ms Nóirín O’Sullivan:** -----but again we are very disadvantaged. However, it would be no cause of embarrassment because I am aware that, quite appropriately, Mr. Kelly, as head of internal audit, informed OLAF quite early in his audit.

**Vice Chairman:** I am only asking for clarification. I move to the last couple of questions. We have now become aware of the European accounts. Are there any other accounts the Commissioner feels will end us up in this territory which at this moment in time she is concerned will be dealt with by Mr. Kelly in a similar manner? At this juncture, are there other accounts she feels will end up in similar territory? I say “at this juncture” to be fair to her.

**Ms Nóirín O’Sullivan:** Mr. Kelly’s audit continues and he has undertaken to keep us informed of any matters. He has indicated nothing at this point in relation to any other accounts.

**Vice Chairman:** I have a final question and then a couple of comments. When did the Commissioner first inform the Department of the issues in Templemore? Sorry, I will take that back. When did she have her first ever conversation or communication of any sort with the Department? I refer to the Commissioner personally because we have heard that the Department found out through being cc’d on an email from Mr. Ken Ruane. They are in next and Ms Barry is here. When did the Commissioner have her first conversation or communication with anyone in the Department?

**Ms Nóirín O’Sullivan:** I was aware that Mr. Dunne was in conversation with the Department and was having a member of the Department or a representative from it sit on the committee. I cannot recall. I would have had conversations with the Department but I cannot recall when.

**Vice Chairman:** The Commissioner said she acted promptly on 27 July. She should be aware that the Department will be in here after her. She mentioned 27 July. Did she insist that the Department be on the committee?

**Ms Nóirín O’Sullivan:** Yes. My emphasis was on the need for the Department to be fully sighted in relation to what we were doing and also that there would be engagement with the Department to see over the following days. Particularly by 13 July, I was clear that there had been previous engagements with the Department around a number of issues in both 2008 and prior to that from correspondence-----

**Vice Chairman:** In fairness, the Commissioner made us aware of that. However, the strange thing is that if the Commissioner acted promptly and wanted the Department involved, why was it that the Department was not made aware of the committee until 6 October? That is from 27 July to 6 October. Second, the Department nominated someone for it on 10 November. If this was such an urgent issue and the Commissioner acted promptly, why was there such a gap between 27 July and 5 November?

**Ms Nóirín O’Sullivan:** I do not know, but my understanding and belief is that Mr. Dunne was engaging with the Department prior to those dates. Perhaps the Department or Mr. Dunne can provide clarity on that.

**Vice Chairman:** I have a full transcript of the Department’s engagement here before when it verified these dates. It told us when it first became aware of it and it has also told us that it first became aware of the committee on 6 October. There is a big gap there on acting promptly and involving the Department. Remember, the Department told us on the record of this committee that it first became aware of this when it was cc’d on an email to Mr. John O’Callaghan. Yet, the Commissioner says she acted promptly. However, the Department was not even made aware that a committee existed until 6 October. They did not meet until November.

**Ms Nóirín O’Sullivan:** I have not seen or heard all of the evidence of the Department or Mr. Dunne, but I think they are probably best placed to answer that. What I know is that I received assurances from Mr. Dunne that the Department would be kept involved. I also understood from Mr. Dunne that he was engaging with the Department to see if there were any files or any available records within the Department and he was gathering those together as his process.

**Vice Chairman:** I come back to this issue of 27 July and the Commissioner acting promptly. Obviously, this must have been a very important issue for the Commissioner. It must have been very high in her priorities given the evidence or documentation she had been made aware of. She had the letter, which we cannot see, from the head of legal affairs. She told us she wanted the Department involved and she acted promptly. However, August, September, October; there were two and a half months where the Department did not even know that this existed.

**Ms Nóirín O’Sullivan:** I might confer with my colleagues because I think we may have-----

**Vice Chairman:** I have checked the record. We might ask Ms Barry while the witness is conferring. Is that correct?

**Ms Anne Barry:** I think we mentioned in our correspondence with the committee that we had a short conversation with Mr. Dunne on 1 October on the margins of a meeting in the Office of the Attorney General. I believe he mentioned at that point that he had established or was chairing a steering group.

**Vice Chairman:** And there was a letter on 6 October.

**Ms Anne Barry:** We wrote formally then ourselves setting out our concerns and that crossed with a letter from Mr. Dunne dated 2 October where he did mention - sorry, he more than men-

tioned it. The purpose of that letter was to inform us formally about the group and to invite us onto it.

**Vice Chairman:** When did the Department first become aware of the existence of the committee?

**Ms Anne Barry:** It was mentioned on 1 October, as far as I am aware.

**Vice Chairman:** That is 27 July to 1 October, according to the Department.

**Ms Nóirín O'Sullivan:** We are just checking to see whether we have any record with us. As far as I was concerned, Mr. Dunne was advised to keep the Department informed and, importantly, to identify whether the Department had any documentation.

**Vice Chairman:** It is obvious from Ms Barry that that did not happen.

**Ms Nóirín O'Sullivan:** I have not seen or heard Mr. Dunne's evidence. We are trying to find something.

**Vice Chairman:** Ms Barry might clarify, as the Department is in next and this is important. "The Commissioner acted promptly" in July is the evidence given. On 1 October, there was a discussion between Mr. Dunne and who?

**Ms Anne Barry:** Mr. O'Callaghan and me on the margins of another meeting in the Attorney General's office.

**Vice Chairman:** On what date was the Department invited to serve on the committee?

**Ms Anne Barry:** The letter from Mr. Dunne was dated 2 October, which we received after our letter of the 6th. That letter contained the invitation.

**Vice Chairman:** On the 6th of what?

**Ms Anne Barry:** Mr. Dunne's letter was 2 October.

**Vice Chairman:** And the Department's letter back was on the 6th.

**Ms Anne Barry:** The letters crossed over. We wrote on the 6th, but it was after that that we received Mr. Dunne's letter to-----

**Vice Chairman:** On what date was the Department requested to put a representative on the committee?

**Ms Anne Barry:** It would have been mentioned informally on the margins of that-----

**Vice Chairman:** On what date was the letter?

**Ms Anne Barry:** It was the letter dated 2 October from Mr. Dunne.

**Vice Chairman:** So, 2 October. Does the Commissioner see what I am getting at? The Commissioner acted promptly but, according to Ms Barry's evidence and the Department, which will be before us next, there was no communication at all with the Department between 27 July and 1 October at the very earliest, and even then only informally.

**Ms Nóirín O'Sullivan:** My understanding from Mr. Dunne is that he was carrying out this



process of collating all the information available. We believed that an element of the information that was available was with the Department and perhaps other Departments. That was the process that was being undertaken.

**Vice Chairman:** The Department will be before us next. I will make two points. First, Mr. Nugent must revert to us about 4 May and the Standards in Public Office Commission, SIPO. I would appreciate that. Second, the Commissioner-----

**Mr. Joseph Nugent:** To be clear on that, and this is a matter Mr. McCarthy has commented on, there is no requirement for people to submit a return to any body if they believe they have a nil return to make.

**Vice Chairman:** Fine.

**Mr. Joseph Nugent:** Therefore, it is not possible for us to confirm other than by way of people's statements that they had not made returns.

**Vice Chairman:** I understand that. As legislators, we understand SIPO legislation.

**Mr. Joseph Nugent:** Yes.

**Vice Chairman:** If people replied to Mr. Nugent and stated they had adhered to the legislation, that would be fine. However, the issue is that the request was made on 4 May. We are trying to determine something in straight language. The people who made returns to SIPO did not do so as a result of their being raised by this committee or, in other words, from 4 May until now.

**Mr. Joseph Nugent:** I accept that, but large numbers of people-----

**Vice Chairman:** I understand Mr. Nugent's point.

**Mr. Joseph Nugent:** -----have no returns to make. Therefore, it is-----

**Vice Chairman:** In simple language, this is the same exercise that Mr. Nugent did back-dated to 4 May, which was when the request was made.

**Mr. Joseph Nugent:** Okay.

**Vice Chairman:** The final issue-----

**Ms Nóirín O'Sullivan:** Might I clarify something before the Vice Chairman moves on? I want to be clear. I asked Mr. Dunne, as the chair of the working group, to ensure all the material was collated, there was engagement with the Department in order that we would be aware of whatever documentation it had and determine whether it could fill in any of the gaps, and the Department was invited to sit on the committee.

**Vice Chairman:** Yes, but the fact is no one communicated that to the Department until 1 October, and that was orally.

**Ms Nóirín O'Sullivan:** I cannot account for Mr. Dunne, but I hear what the Vice Chairman is saying.

**Vice Chairman:** It is not that. This is the evidence of Ms Barry and the Department, which is consistent with the evidence that has been given previously. There is a gap of approximately

two and a half months during which the Department did not know the committee existed, but the Commissioner acted promptly.

**Ms Nóirín O’Sullivan:** I suppose it was over the summer period as well. I am just noting that.

**Vice Chairman:** This is one of the most serious issues the Commissioner will have dealt with.

**Ms Nóirín O’Sullivan:** Absolutely.

**Vice Chairman:** The Department is the parent of the Commissioner’s organisation.

**Ms Nóirín O’Sullivan:** Yes. For clarity, I am just looking at something. The first meeting of the group, I understand, took place on 6 August and its next meeting took place on, if I am right, 22 or 29 August.

**Vice Chairman:** The committee met, but it did so without the Department.

**Ms Nóirín O’Sullivan:** I do not want to second-guess the work of Mr. Dunne or the committee, but I believe it was gathering information.

**Vice Chairman:** There was a Garda communiqué. It is a book that was produced by the Garda. I will not share it, but there is a chapter called “Internal Audit”. This is from 2001 and was written by a superintendent. I will not say his name. It gives a full six-page description of how internal audit works in An Garda Síochána. In fairness, I will ask the Commissioner to try to dig this out. I can give her a copy of it. Given what this committee has heard in recent weeks and months, it is effectively a piece of fiction about the controls that were in place. The Commissioner might read it for her own amusement.

We have two last sets of questions from Deputies Connolly and Murphy, in that order.

**Deputy Catherine Connolly:** I have only one question. I do not know which of us is the most tortured at this point. It is hot this evening. In the interests of good practice, we should make a decision on when we will finish.

My only question relates to a matter that I touched on today. I might have inadvertently misled the Commissioner a little. It had to do with the letter from Mr. Howard, head of the audit committee, before he departed. He wrote to the Commissioner regarding what Mr. Culhane had said about the internal audit. He specifically asked for matters to be withdrawn. I do not know whether this was raised already, so I apologise if I am repeating anything, but I want to know what happened. I will read from the second-last paragraph, which is the only issue I wish to raise: “I believe that the Head of Internal Audit has acted in good faith. Therefore I have to treat an accusation to the contrary as a very serious issue of principle.” This is the letter that we could not date, but it was just prior to his departure in April 2017. It continues:

The situation can only be resolved if the assertions made by Mr Culhane are either unconditionally withdrawn or unambiguously overruled by a superior authority. If the Executive Director is unwilling to rectify the matter himself, then I believe that his superiors are under an obligation to act decisively.

Is the Commissioner familiar with this?

**Ms Nóirín O'Sullivan:** Yes.

**Deputy Catherine Connolly:** What did the Commissioner do about the letter? It is a recent one. I cannot find a date for it, but it is certainly-----

**Ms Nóirín O'Sullivan:** April 2017, from memory. We dealt with this matter earlier, but I welcome the opportunity to deal with it again. I wish to emphasise to the committee that, when the document was received, I had legal advices through the CAO regarding the best mechanism to deal with this process. That process is ongoing. The legal advices have been received in recent days and we now have a mechanism that we are following to do exactly what it says here.

I am conscious of the fair procedure and due process that must be afforded to all parties involved. There is a process that we have been advised to follow. However, I want to make a point regarding something that Deputy McDonald raised. Some inference may have been drawn to the effect that I was not dealing with this matter personally. As most of those present who are executives of organisations know, there is a segregation of duties in an organisation. Deputy McDonald asked whether there were different disciplinary processes, etc. There are, but an important segregation of duties is also maintained. Given that I, as Commissioner of An Garda Síochána, may have to be the arbiter or adjudicator on a matter, there must be a segregation of duties between the line managers who deal with this because the ultimate decision may be mine. For example, it may be my decision that a matter should be referred to a different forum.

Maybe I did not explain it well earlier, but I want to be clear for the purpose of the record. It was not me deflecting or delegating something that it was not appropriate to delegate. It is quite the opposite. It is appropriate, lawful and procedurally correct and proper that I would delegate that function to the line manager, where the process will take place, and the matter may end up on my desk as decision-maker regarding what needs to be done next.

**Vice Chairman:** Do you have a final question Deputy Murphy?

**Deputy Catherine Murphy:** Going back to the Cabra account, I want to clear something up for myself. That was an account into which moneys from Templemore were transferred rather than being one of the 50 Templemore accounts. Was it an account that the Commissioner knew about? Was the opening of that account sanctioned? Or is the real issue here how that account was used rather than its existence?

**Ms Nóirín O'Sullivan:** Again Deputy, and I know I said it this morning, the Cabra account as we now call it forms an integral part of a potential investigation. I do not want to say or do anything that would jeopardise that investigation. I do not want to pre-empt the outcome of that investigation and I also want to make sure that we do not prejudice or disaffect anybody in terms of fair procedure or due process. Unfortunately then, we are not in a position to comment on that account because it forms the integral part of the investigation.

**Deputy Catherine Murphy:** One requires permission to open accounts. Did it have that permission?

**Ms Nóirín O'Sullivan:** I am sure the investigation will establish that.

**Deputy Catherine Murphy:** I want to ask the Commissioner about this year zero. She says she cannot account for anything that happened prior to her taking her current position. Presumably there was a handover and the Commissioner was briefed by various elements. As

Accounting Officer, who was she briefed by?

**Ms Nóirín O'Sullivan:** The circumstances in which I took over were unique and did not happen in accordance with normal practice. Yes, over time I was briefed by various people but not in the way that a normal structured transfer of responsibility would take place. This was because of the circumstances in which things happened.

**Deputy Catherine Murphy:** Did Mr. Culhane brief the Commissioner?

**Deputy Catherine Murphy:** Mr. Culhane gave me briefings, yes.

**Deputy Catherine Murphy:** He would have been aware of the McGee report and so on. Did he draw the Commissioner's attention to any of that?

**Ms Nóirín O'Sullivan:** It was more in the context of the general financial situation.

**Deputy Catherine Murphy:** Can I reiterate the point I made earlier today that the Central Bank be asked to formally examine the credit union account with specific reference to this?

**Vice Chairman:** We have said that before. Does the Chairman wish to comment?

**Deputy Sean Fleming:** I apologise for not having been here earlier today. I was unavoidably elsewhere. With regard to the points made earlier by Deputies Murphy and McDonald, we raised with Mr. Howard the issue of the letter he wrote to the Commissioner in his final days in office. It refers to Mr. Culhane's letter about the draft report, a very serious letter. What we as a committee were concerned about in the previous meetings was the question as to whether efforts were made by senior Garda management to in some way block what was being carried out by internal audit. That is why we took a serious view of that letter and the whole tone of it. Mr. Culhane did in fact withdraw parts of it here in public session at the last meeting. We are now at the end of our public hearings and we will want to do a report in the coming weeks. We have indicated that we want to know, and we asked Mr. Nugent the last day, what the response was to that letter. The Commissioner says that that is still being considered and we have not got a response. That puts us as a committee in a position that, as of now, that letter still stands as it was written as a reflection of a senior manager's view on what the internal audit was doing. As of now, nobody has seen fit to respond to us and tell us that that is not reflective of senior Garda management.

We will need a response very promptly on the Commissioner's view on that letter. Otherwise we can conclude, in the absence of a response, that we have no response. Does the Commissioner understand the point?

**Ms Nóirín O'Sullivan:** I understand the point Chairman.

**Deputy Sean Fleming:** It is a very important one.

**Ms Nóirín O'Sullivan:** The matter is being dealt with. It is being dealt with by Mr. Nugent, who informs me that he will be in a position to provide the committee with a report as soon as possible. I share the Chairman's concerns about the tone and content of the letter. Perhaps I could pick up on one of the Chairman's points. In his absence earlier today I explained how this came about. When Mr. Kelly published his draft interim audit report in September 2016, the legal advices he received from Mr. Ruane were that he needed to circulate the draft document to all parties involved. He did that. The matter referred to here by Mr. Howard is actually a submission that was received on behalf of Mr. Culhane, who was obviously named in the

report. Other submissions were also received.

**Deputy Sean Fleming:** Which Mr. Dunne dealt with on the last day here.

**Ms Nóirín O’Sullivan:** Yes. Having received Mr. Howard’s letter, we took it very seriously. There are very serious issues raised in it. In order to be sure that we were dealing with it through the appropriate mechanisms, we took legal advices from the law officers as to how to best proceed. As the committee will appreciate, this is an unprecedented situation. We needed to be sure how precisely to deal with it and not to jeopardise any process. We are now in receipt of those advices and Mr. Nugent is dealing with the matter.

**Deputy Sean Fleming:** The Commissioner must be conscious that we have a timeline within which to produce a report.

**Ms Nóirín O’Sullivan:** Yes, absolutely.

**Deputy Sean Fleming:** It would be helpful to An Garda Síochána to have that matter dealt with before we do our report.

**Ms Nóirín O’Sullivan:** We are very conscious of that, Chairman.

**Vice Chairman:** That point was well made. As the sole witness along with her colleagues, I would like to thank the Commissioner and her colleagues for the information supplied today and also over the last number of weeks. There is still some information outstanding. When all of this is received and discussed the committee intends to report on issues pertaining to the financial procedures in Templemore. The Commissioner will be before us again on the matter of the rest of the Garda Vote on a great date, my birthday on 13 July. We will all look forward to that.

**Deputy Mary Lou McDonald:** We look forward to it with joy.

**Vice Chairman:** I know, I can see it written across the Commissioner’s face.

**Ms Nóirín O’Sullivan:** I am sure we will share a birthday cake, Vice Chairman.

**Vice Chairman:** I thank the Commissioner again for her time today. It has been a long day. We will now suspend for a few minutes while the witness and her colleagues leave. With the agreement of the committee I will ask the Chairman to resume his rightful position for the second session.

*The witness withdrew.*

*Sitting suspended at 8.16 p.m. and resumed at 8.24 p.m.*

**Mr. Noel Waters** (*Secretary General, Department of Justice and Equality*) called and examined.

**Ms Josephine Feehily** (*Chairperson, Policing Authority*) called and examined.

*Deputy Sean Fleming took the Chair.*

**Chairman:** We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, a permanent witness to the committee. We are continuing our examination of matters arising from the interim report of An Garda Síochána internal audit unit on financial procedures at the

Garda College, Templemore. We are joined by the Secretary General of the Department of Justice and Equality, Mr. Noel Waters, who is accompanied by Mr. John O'Callaghan, assistant secretary, and Ms Anne Barry, principal officer, who has been with us all day.

We are also joined from the Policing Authority by Ms Helen Hall, chief executive, and Ms Josephine Feehily, chairperson. This is Ms Feehily's first time here as chairperson of the Policing Authority, but she has appeared here several times previously as chairperson of the Revenue Commissioners and is very familiar with appearing before the Committee of Public Accounts.

I remind members, witnesses and those in the Gallery to ensure all mobile phones are turned off or put in airplane mode as otherwise they will interfere with the recording system. It is not sufficient to put them on silent.

I advise witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of the evidence they are to give this committee. If they are directed by the committee to cease giving evidence in relation to a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the provisions of Standing Order 186 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits or objectives of such policies. Members are reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

We are taking note of the speakers and I will give a two-minute warning. We will stop at the end of ten minutes and that will be it. The secretariat officials are taking note of people who are putting up their hands.

I will put the first question to Ms Feehily, chairperson of the Policing Authority, and I will move on to the first questioner after that. Her organisation has been in existence for a year and a half at this stage. When did she become aware of this issue? What action has the Policing Authority taken to ensure these matters in Templemore were brought to a conclusion? I ask her to outline her role in this. Is the flow of information from An Garda Síochána to the Policing Authority as she would have expected?

**Ms Josephine Feehily:** Our role is extremely limited, just to start from there. The authority was established with effect from 1 January 2016, but actually the members did not meet until 28 January because the members did not know each other. The first several months were taken up with establishing ourselves. The chief executive took up duty in the second half of January. Really, it was well into 2016 before we were established, notwithstanding the commencement date of 1 January.

Somewhere in the early part of 2016 I became aware probably that there were questions and issues in relation to the college. In June or July 2016, I spoke to the chair of the audit committee, with whom the authority has a relationship because the authority appoints the audit committee. It is a function that used to be carried out by the Minister and now the authority does it, so we have a relationship with the chair of the audit committee. I spoke to him around June



or July. I have been trying to remember; I do not have a detailed note. In the course of that conversation, I was satisfied that the audit committee was aware of the matter. There was an internal audit under way. I had really no sense of any detail, only that I said, “Fine, there is a process under way”. He undertook to keep me posted as the audit progressed.

The next timeline I have is towards 19 or 20 September. Mr. O’Callaghan telephoned me to tell me for the first time about this internal audit because by then the draft audit report had been circulated. It was a courtesy call to simply let us know that it existed because he expected that it might find its way into the media and he did not want us to be surprised.

The following day the deputy commissioner, Mr. Ó Cualáin, contacted the chief executive in similar vein. I briefed the authority informally the following week at our monthly meeting and there it rested because we took the view that an internal audit belongs within the organisation. It was under the auspices of the audit committee. I got one of my colleagues in the authority to contact the Comptroller and Auditor General to confirm the Comptroller and Auditor General’s office knew about it. We said the system is working; the machinery is doing what it should be doing. We stepped back until the final audit report was published. In the intervening months, to be fair to An Garda Síochána, they did offer us some briefing notes in relation to the audit, but we declined. We took the view that we really wanted the final audit report and not to get something just from the management side. We felt that the notes would not have been helpful to us. That is more or less the sequence. The final audit report was then published and immediately, or very shortly, after its publication the Minister for Justice and Equality referred it to the Policing Authority to oversee the implementation of the recommendations and we have been doing that with regular meetings with Mr. Nugent and his team to make sure the implementation of the recommendations is proceeding. I was keeping an eye on this discussion this morning and I was a bit disappointed to hear Mr. Nugent say that the timeline for some of the recommendations is drifting towards the end of the year. While I understand that some of the recommendations are complex they are not all complex and so this was a bit disappointing.

I shall now turn to the next sequence, in the context of the Policing Authority’s consideration of this matter. We had our regular meeting in Templemore last month and we were aware that this committee was going to have a series of significant hearings. We were aware that Mr. Kelly was doing a next phase, so we decided that the most prudent thing we could do was to continue to oversee the implementation of the previous recommendations, wait for Mr. Kelly’s next instalment and wait for the work of this committee. I am aware that the Comptroller and Auditor General is obviously looking at matters to do with his audit and the appropriation account. We decided to review matters in September to see if there was any other gap that the Policing Authority should involve itself in.

**Chairman:** At this stage, speakers have indicated in the following order: Deputies Marc MacSharry, Catherine Connolly, Alan Kelly, David Cullinane and Catherine Murphy. It is ten minute slots and it is up to Deputies to use their time. The shutter stops at ten minutes.

**Deputy Marc MacSharry:** I thank the witnesses for coming to the committee and I am sorry they were kept waiting. Will Mr. Waters tell the committee if there is an audit committee within the Department of Justice and Equality, as is the case with the Department of Communications, Climate Action and Environment?

**Mr. Noel Waters:** Yes.

**Deputy Marc MacSharry:** Does this committee audit transactions or issues around where

the Department's Vote is distributed?

**Mr. Noel Waters:** Yes, the Department of Justice and Equality Vote and the prisons Vote.

**Deputy Marc MacSharry:** Did Mr. Waters instruct or ask that audit committee to examine any of the issues to do with the Garda College in Templemore?

**Mr. Noel Waters:** No. We have no function in relation to that. Our audit committee is our own internal audit committee in the Department of Justice and Equality.

**Deputy Marc MacSharry:** The Department of Communications, Climate Action and Environment, which is responsible to this committee also, gives money to local authorities to run themselves. There is a local authority audit committee that the Department can then assign to look at various transactions within local authorities. Is there a similar audit committee where the Department of Justice and Equality can take a level of oversight?

**Mr. Noel Waters:** No. The audit committee in An Garda Síochána is a statutory audit committee appointed by the Policing Authority.

**Deputy Marc MacSharry:** So the Department has no role there at all?

**Mr. Noel Waters:** Not in the audit committee, no.

**Deputy Marc MacSharry:** As Secretary General of the Department, what is Mr. Waters's view of the complexion of all these matters?

**Mr. Noel Waters:** Reflecting on them, obviously they present huge challenges. Reflecting on the whole span of things and what we now know over the course of these hearings, I believe issues have been identified that must be addressed. Issues have been identified that impact on the relationship between the Garda and the Department, and the wider architecture of the other bodies around policing in Ireland. These are issues that will be addressed by the Commission on the Future of Policing in Ireland. We welcome this measure and it is very important to us.

If we go back a little bit on this, back to when these issues were first addressed, the level of sophistication in auditing was practically non-existent. When we were Accounting Officer-----

**Deputy Marc MacSharry:** I have to stop Mr. Waters there. We heard evidence earlier about audit and when Deputy Kelly was Vice Chairman he showed us an internal document from 2001 showing us that there were audit procedures. It is not as though auditing is a new science that developed in recent months or under the current Commissioner, or indeed during Mr. Waters's own tenure. The practice of auditing has existed for quite some time.

**Mr. Noel Waters:** That is correct and I agree. I will give the Deputy some sense of where we were at in the Department-----

**Deputy Marc MacSharry:** I do not wish to be disrespectful, and Mr. Waters is entitled to have his say, but we are on ten minutes slots and I want to move to Ms Feehily. I asked Mr. Waters what is his view, as Secretary General; is he appalled, is he shocked or is he happy enough?

**Mr. Noel Waters:** I think this is a problem that needs to be cleaned up and cleaned up very quickly. It goes to the heart of ensuring that we can have confidence in the Garda.

**Deputy Marc MacSharry:** Okay and I agree with Mr. Waters on that. The Garda Vote from the Department of Justice and Equality is some €1.7 billion. Once the money is handed

out, is that it to the extent that “It is nothing to do with me and I hope you spend it wisely”?

**Mr. Noel Waters:** The Commissioner is the Accounting Officer in the force, but as the Deputy knows the Policing Authority exercises an oversight role. The Department also exercises an oversight role on behalf of the Minister and the Government in respect of it, but with regard to the financial direct issues it is a matter for the Garda Commissioner and her team to ensure the money is properly spent.

**Deputy Marc MacSharry:** Okay. Would there be an ongoing interaction between the Garda College or the financial director in the Garda and the Department?

**Mr. Noel Waters:** There is a financial management unit, headed by an assistant secretary, where each month all the various bodies in the area of justice - eight Votes - are brought together and wider budgetary issues are discussed.

**Deputy Marc MacSharry:** Would they say things like “It looks like we need a bit of extra money here” or “We are going well there”?

**Mr. Noel Waters:** Correct, or it may be the case that some Vote is overspending, or over time-----

**Deputy Marc MacSharry:** Would it be the practice for a body to say it may have a problem in such an area?

**Mr. Noel Waters:** No. The Garda College in Templemore, Garda headquarters, or any other area is not addressed in that context.

**Deputy Marc MacSharry:** So it is only the general issues of being short of a few bob or them doing well. Is that the case?

**Mr. Noel Waters:** Yes, at subhead level.

**Deputy Marc MacSharry:** What role had Eugene Banks in the organisation in 2010?

**Mr. Noel Waters:** He was the principal officer in the Garda division.

**Deputy Marc MacSharry:** He was a principal officer in the Garda division?

**Mr. Noel Waters:** Of the Department, yes.

**Deputy Marc MacSharry:** Is that now Mr. Callaghan’s role?

**Mr. Noel Waters:** No. Ms Barry is now the principal officer.

**Deputy Marc MacSharry:** Is Mr. Banks still around?

**Mr. Noel Waters:** He now heads the Reception and Integration Agency of the Department.

**Deputy Marc MacSharry:** He heads what?

**Mr. Noel Waters:** The Reception and Integration Agency of the Department. The agency deals with accommodation for asylum seekers.

**Deputy Marc MacSharry:** Is he still a principal officer?

**Mr. Noel Waters:** Yes.

**Deputy Marc MacSharry:** Okay. Was Mr. Waters aware that Mr. Banks received emails? Did Mr. Waters keep an eye on proceedings here earlier today?

**Mr. Noel Waters:** I dipped in and out during the course of the day.

**Deputy Marc MacSharry:** Was Mr. Waters dipped in when I was quoting from an email-----

**Mr. Noel Waters:** As much as I could during my own work.

**Deputy Marc MacSharry:** The email was from the director of finance, Mr. Michael Culhane in An Garda Síochána to Mr. Banks in the Garda division asking if there had been any developments on the matters raised - and I paraphrase - because Mr. Culhane had come to realise, due to other documentation provided, that there were issues around financial and taxation matters in the Garda College in Templemore. We gather that there must have been a discourse between Mr. Banks and the director of finance in the Garda. In one of his emails to Mr. Banks, Mr. Culhane said:

There have been no further developments. [This is in response to a query from Mr. Banks] To muddy things up, I included charitable status for the College in the letter to the Revenue dated 28th May but as you can see it was not included in their response.

Was Mr. Waters familiar with, or aware of, such language being used in emails - “to muddy things up” for Revenue?

**Mr. Noel Waters:** No. I would not have been aware of it. This would not have been a general practice.

**Deputy Marc MacSharry:** Would it be of concern to Mr. Waters?

**Mr. Noel Waters:** If the purpose of the language was to deliberately attempt to confuse something for Revenue then of course it could be of concern, if that was the case.

**Deputy Marc MacSharry:** I ask that we put this letter up and that it be provided to the Secretary General after this meeting so that they could investigate internally the full thread of correspondence around muddying things up.

The Chairman may correct me here if he feels it is appropriate but I wish to ask Ms Feehily a question. It would be remiss of me to not take advantage of her current role and the fact that she occupied a role that may have a view on this issue. As head of the Policing Authority and as former head of the Revenue Commissioners is it a matter of concern to Ms Feehily that a director of finance of a State body would use the words “To muddy things up, I included charitable status for the College in the letter to the Revenue dated 28th May”? Would this be of concern to Ms Feehily?

**Ms Josephine Feehily:** I think it is fair to say that it would. I am on the record in this regard, and the Chairman referred to my previous appearances at this committee where I have spoken a number of times in general terms about the importance of openness and transparency with Revenue. We used the line “Come to us before we come to you” and that is still the policy.

**Deputy Marc MacSharry:** For clarity, when Ms Feehily refers to her previous attendances at the committee, she means as head of Revenue.

**Ms Josephine Feehily:** As head of Revenue I would have spoken a number of times. In the context of my current role one of our remits is about governance and in that capacity one would certainly wonder about the kind of language referred to by the Deputy.

**Deputy Marc MacSharry:** Absolutely. I thank Ms Feehily for that. I would ask that the Chairman would guide me on my next comments because I am going to refer to Ms Feehily's previous role. Is it in order for me to ask if she was aware in her previous role of a discourse to carry out a charitable status request from Templemore?

**Ms Josephine Feehily:** In my previous role I would have told the Deputy that I was bound by taxpayer confidentiality which extends to individuals, entities, corporate bodies and public bodies-----

**Deputy Marc MacSharry:** That would preclude Ms Feehily from answering the question, even if she wanted to.

**Ms Josephine Feehily:** -----so even if I was, I would not tell the committee.

**Deputy Marc MacSharry:** I understand, but it would be a matter of concern. In Ms Feehily's current role, would the Policing Authority take a close view of this matter in terms of muddying the waters on the charitable status for Revenue purposes and the impression that has been left with the committee in terms of the evidence given at recent meetings? It seems to underpin a culture of keeping matters obscure.

**Ms Josephine Feehily:** The question of the settlement with Revenue is one of the follow-up actions the Policing Authority is looking into as a consequence of the internal audit report. We will be looking for progress reports on that, and I imagine my successor will, by tomorrow, be aware of this email.

**Deputy Marc MacSharry:** Can I ask that the secretariat make this letter available to the Policing Authority, if it is appropriate, to assist it in its work? Ms Feehily mentioned she had a dialogue with Mr. Kelly, the head of internal audit in the Garda, and he told her that processes were afoot. Did he at any time allude to Ms Feehily that he was not getting the kind of co-operation he required or that there was a level of obstruction? Was there any sense or indication of that?

**Ms Josephine Feehily:** We have had very limited engagement with Mr. Kelly. He has spoken to the chief executive once or twice. The most substantial conversation we had with him about co-operation was a concern he had about the language being used around the breath tests data. The tests were referred to as an audit, and he was quite concerned about that, as was the chair of the audit committee. They both contacted us and asked us to make it clear that it was not an audit in the accepted sense of that word, and I did that at our last public meeting.

**Deputy Catherine Connolly:** Mr. Waters is the Secretary General of the Department of Justice and Equality.

**Mr. Noel Waters:** Yes.

**Deputy Catherine Connolly:** How long has Mr. Waters been in that role?

**Mr. Noel Waters:** I worked in an acting capacity from October 2014 until I was appointed permanently in October last year.

**Deputy Catherine Connolly:** What position was Mr. Waters in before that?

**Mr. Noel Waters:** I was director general of the immigration service of the Department and I continued in that position for the two years I spent as acting Secretary General.

**Deputy Catherine Connolly:** Mr. Waters has dipped in and out of the evidence. No one can watch this. It is tortuous for all of us.

**Mr. Noel Waters:** I have watched as much as I could.

**Deputy Catherine Connolly:** A strong thread has emerged from a number of witnesses which suggests the Department of Justice and Equality was at all times fully aware of what was going on in Templemore.

**Mr. Noel Waters:** On the basis of the evidence we have heard and on the basis of the documentation that has been provided to us by the Garda - we have limited or no records around this issue - we conclude that the design of the funding model for Templemore, dating back to the late 1980s or early 1990s, must have been known to the Department. We have no definitive evidence, documents or submission which says that specifically, but it must have been known to us.

**Deputy Catherine Connolly:** I put that question to Ms Barry on a previous occasion. The witnesses tell us the Department of Justice and Equality knew exactly what was going on and that it was aware that public money was going in, co-mingling with private money and a profit was being made, and that was all done with the blessing of the Department of Justice and Equality as each year passed. In fact, it endorsed that because it was a way of providing facilities for the college.

**Mr. Noel Waters:** Going back to the start, the funding model was agreed with the Department.

**Deputy Catherine Connolly:** I am not going back to the start.

**Mr. Noel Waters:** The funding model did include those things the Deputy mentioned.

**Deputy Catherine Connolly:** The witnesses are telling the truth when they say this had the blessing of the Department of Justice and Equality.

**Mr. Noel Waters:** Yes, but the issues that arose subsequently from 2006, 2008 and 2010 were not known to us. All those red flag issues came to our attention in 2015.

**Deputy Catherine Connolly:** The Department was unaware of any issues in Templemore prior to these reports being drawn to its attention in 2015.

**Mr. Noel Waters:** Yes. We have already given evidence to the effect that an email came to the Department which was copied to us and which had been sent on by the head of legal services in the Garda to the Attorney General seeking advice on an issue which had arisen in respect of the golf club in Templemore, and part of that email raised the issues around what we now know about all the things in Templemore which have given rise to the concern.

**Deputy Catherine Connolly:** When was that?

**Mr. Noel Waters:** It was September 2015.



**Deputy Catherine Connolly:** The witnesses have come before us and we have questioned them at length about practices that were clearly outside the financial governance pertinent at the time, not just retrospectively.

**Mr. Noel Waters:** I do not understand the Deputy's point.

**Deputy Catherine Connolly:** The point was made by the Commissioner that this was a legacy issue, and judging by today's standards of course the practices were wrong. However, it is clear from all the evidence that we have seen and from the McGee report and subsequent Nolan report - we do not know much about the 2006 report except that it raised issues - that the issues raised were clearly outside of the acceptable practices at those times.

**Mr. Noel Waters:** We have made it clear that when it came to our knowledge, there were concerns in the audit report that no assurance could be given. Of course we were concerned about that.

**Deputy Catherine Connolly:** That is not my question. Stay with me for a moment. This has been dealt with as a legacy issue going way back, and this was the standard at the time.

**Mr. Noel Waters:** Nothing happened until relatively recently.

**Deputy Catherine Connolly:** I only have a few minutes. Even for the standards at the time, what was going on in Templemore, with the blessing of the Department of Justice and Equality, was clearly not right.

**Mr. Noel Waters:** My understanding of it is that when it was devised, it was to be a funding model to allow facilities to be developed in Templemore and the surplus from the restaurant account was to be put aside to enable facilities to be developed in Templemore. In more recent times, we have looked closely at the allowances that were paid to trainees in Templemore.

**Deputy Catherine Connolly:** The witness should-----

**Mr. Noel Waters:** This is important.

**Deputy Catherine Connolly:** Okay, proceed.

**Mr. Noel Waters:** It has been accepted that this was public money. We have looked at it again and for us it is a grey area as to whether that money, paid in a living allowance to the students in Templemore, was their private money or was money attaching to the State and should have been accounted for through the State. We have asked for legal advice from the Attorney General on that very specific point.

**Deputy Catherine Connolly:** If this is a grey area for the Department of Justice and Equality, perhaps we are being too hard on the Garda. I have asked the question, and the witness seems to accept that these practices and this procedure were done with the blessing of the Department of Justice and Equality from the very beginning.

**Mr. Noel Waters:** We have never sought to deny that.

**Deputy Catherine Connolly:** Public money was given through the Vote to the restaurant and a profit was made. Public and private money was put together and the profits went to various investment accounts, credit union accounts and contributions. Did the Department think that that was okay?

**Mr. Noel Waters:** At the time, the information available to us suggested that that model was advised by the Department.

**Deputy Catherine Connolly:** What available information is the witness referring to?

**Mr. Noel Waters:** On the basis of the information that was given to us from correspondence with the Garda. We have no direct knowledge or records around that point, but it is safe to assume we did have knowledge of that and that it was devised on that basis. Why would a Garda have gone to the trouble of setting up the Sportsfield company? It was non-trading and it had no capital, so clearly it was being set up for the purposes of receiving funding from somewhere. The only funding available to it was the surplus that would have arisen from the payments that were made by the restaurant account.

**Deputy Catherine Connolly:** Is the witness listening to what he is telling us? He is saying that it was perfectly okay from the point of view of the Department of Justice and Equality that money was sent out, co-mingled, went on to make a profit and went into various accounts.

**Mr. Noel Waters:** I am saying we advised on that at the time.

**Deputy Catherine Connolly:** The Department advised on investments.

**Mr. Noel Waters:** The information available suggests we did, yes, and that was the funding model that was put in place.

**Deputy Catherine Connolly:** The Department did not carry out checks and balances.

**Mr. Noel Waters:** It would appear we agreed and advised on that model at the time. No further issue arose for us until into the mid 2000s when all of these issues became knowledge and were brought to our attention in 2015.

**Deputy Catherine Connolly:** Ms Feehily has been very clear. Ms Feehily said she talked with the Chairman of the audit committee, not with Mr. Kelly.

**Ms Josephine Feehily:** That is right.

**Deputy Catherine Connolly:** Okay. Ms Feehily said that she became aware of the issues sometime in early 2016, prior to talking to the Chairman of the audit committee. How did Ms Feehily become aware of the issues?

**Ms Josephine Feehily:** I have asked myself that question a number of times. Bear in mind that we were establishing ourselves in the Policing Authority and were engaged in a lot of activity.

**Chairman:** Deputy Connolly has two minutes remaining.

**Ms Josephine Feehily:** I suspect that when we were looking at the architecture, I may have heard about the working group. Certainly Mr. Barrett mentioned that he had some concerns. It was all very informal and casual.

**Deputy Catherine Connolly:** Did Ms Feehily have a meeting with the Chairman of the audit committee?

**Ms Josephine Feehily:** I met the Chairman of the audit committee because the Policing Authority has a relationship with him. He came in to meet us and we spoke about accountability

issues.

**Deputy Catherine Connolly:** I accept that. I just wanted to get it clear in my head.

**Ms Josephine Feehily:** That is the sequence.

**Deputy Catherine Connolly:** Ms Feehily said that the Policing Authority has a very limited role as an authority. I think the Policing Authority has a responsibility to produce quarterly reports or was there an undertaking to do so?

**Ms Josephine Feehily:** The Policing Authority has been given a number of tasks.

**Deputy Catherine Connolly:** Will Ms Feehily clarify those?

**Ms Josephine Feehily:** The Minister referred to Mr. Kelly's interim audit to the Policing Authority.

**Deputy Catherine Connolly:** And Ms Feehily oversees the implementation?

**Ms Josephine Feehily:** I oversee and give a quarterly report.

**Deputy Catherine Connolly:** Ms Feehily has expressed disappointment at the targets being put back.

**Ms Josephine Feehily:** We will take that up with Mr. Nugent at our next meeting.

**Deputy Catherine Connolly:** Okay.

**Ms Josephine Feehily:** In respect of the first quarterly report, we have written to the Minister committing to have it with the members at the end of July.

**Deputy Catherine Connolly:** That is the first quarterly report. Is that the very first report from the Policing Authority?

**Ms Josephine Feehily:** That will be the first on this matter. We do lots of other reports for the Minister.

**Deputy Catherine Connolly:** I understand that. Has the Policing Authority any other function in relation to this?

**Ms Josephine Feehily:** Right now we have no other function. What I said in my evidence is that as this work progresses in the context of our general oversight about governance, we will take a view in the autumn in our work programme to see if there is something else, some gap that has not been covered between this committee and the work being done by Mr. Kelly, because we are conscious there are several more phases in the lot.

**Deputy Catherine Connolly:** Will the quarterly report be published?

**Ms Josephine Feehily:** It will go the Minister after our July meeting at the end of July. Normally when we do a report for the Minister, there is a period when the Minister is allowed to consider it and then it gets published.

**Deputy Catherine Connolly:** I thank Ms Feehily.

**Chairman:** I call Deputy Alan Kelly. He has ten minutes.

**Deputy Alan Kelly:** Will the Chairman advise me when I have five minutes remaining?

**Chairman:** I will.

**Deputy Alan Kelly:** I have one question for Ms Feehily. If I had more time, I would have many more. Given that Ms Feehily has been following the evidence to the committee, she will know we are all “mithered” from it, having gone through days of evidence and thousands of pages of documents. Does she have confidence in the financial controls that she has seen in place in An Garda Síochána?

**Ms Josephine Feehily:** If I had a limited role with internal audit, we have an even more limited role in relation to the financial controls. We have a tiny function in relation to the finances of the Garda Síochána, which is once a year to advise the Minister whether we think the Garda Síochána has enough. The accountability in the Act-----

**Deputy Alan Kelly:** I actually read the Act, but the Policing Authority has the role to advise the Department. Based on the evidence Ms Feehily has seen, what advice would she give the Department now?

**Ms Josephine Feehily:** I guess we have been struck across a number of topics, not just finances with the absence of systems and processes. That would not be a secret to anybody who is following our work in relation to other areas. To that extent-----

**Deputy Alan Kelly:** Would Ms Feehily be alarmed?

**Ms Josephine Feehily:** We certainly would be disappointed. I would be alarmed if there is no remedial action and I cannot put good news in the quarterly reports.

**Deputy Alan Kelly:** That is fair enough. I will now address my questions to the Department officials. We have had a whole load of evidence from the officials. From the last time the officials gave evidence, I have to say I felt very underwhelmed and concerned at the evidence given. Having reread the transcript, I am going to repeat some of the questions as I thought the answers that were given were not appropriate. Effectively the relationship is that the Department of Justice and Equality is the parent of the child called An Garda Síochána.

When Mr. O’Callaghan heard about the issues in Templemore, did he ever describe them as a speed bump?

**Mr. John O’Callaghan:** Not that I recall and I would be surprised if I did.

**Deputy Alan Kelly:** That is fine. I have a few quick-fire questions. My next question is addressed to the Secretary General. In the last piece of evidence, the Secretary General stated there was a meeting of which he had no memory in June 2008 at which Mr. John Leamy and Mr. Seán Aylward were present. I presume that in the intervening period he has had a chance to consult with Mr. Aylward and Mr. Leamy regarding what happened at that meeting. What did it result in?

**Mr. Noel Waters:** I did not consult them.

**Deputy Alan Kelly:** Why not?

**Mr. Noel Waters:** They have both left the Department.

**Deputy Alan Kelly:** I understand that, but surely Mr. Waters can pick up the phone and

ring them.

**Mr. Noel Waters:** I did not think it would be appropriate to do that.

**Deputy Alan Kelly:** Why?

**Mr. Noel Waters:** As I have said, they have since left the Department. Mr. Leamy was never in the Department, he was the chief administrative officer of An Garda Síochána.

**Deputy Alan Kelly:** Is Mr. Waters saying that in order to find out what happened at a meeting, at which he was present, he is refusing to ring the people who were at the meeting?

**Mr. Noel Waters:** It was not a question of me refusing Deputy, I did not think it was appropriate.

**Deputy Alan Kelly:** Why is it inappropriate?

**Mr. Noel Waters:** Mr. Aylward has left.

**Deputy Alan Kelly:** I still do not see how that is inappropriate. It would help Mr. Waters.

**Mr. Noel Waters:** As I have said, I have no recollection of that meeting. There are no records in the Department relating to that meeting.

**Deputy Alan Kelly:** But the meeting did take place.

**Mr. Noel Waters:** Mr. Fachtna Murphy, the then Commissioner, did indicate that it took place. I do not dispute that.

**Deputy Alan Kelly:** Fine. The issue is that Mr. Waters feels it is inappropriate to ask his predecessor, Mr. Aylward, and Mr. Leamy, a retired CAO of the Garda Síochána what happened at a meeting that seemed to be fairly crucial, but which he does not remember.

**Mr. Noel Waters:** He has retired.

**Deputy Alan Kelly:** I fail to understand what is inappropriate about asking somebody about this. The person was paid by the taxpayer for the guts of 40 years, became Secretary General of the Department on a very high income, and Mr. Waters is saying to me that it is inappropriate to ring him and ask him what went on at the meeting, of which Mr. Waters has no recollection.

**Mr. Noel Waters:** He had retired from the Department.

**Deputy Alan Kelly:** Answer my question, what is inappropriate about that?

**Mr. Noel Waters:** In my judgment I did not think it was appropriate.

**Deputy Alan Kelly:** Explain why.

**Mr. Noel Waters:** He had left the Department at the time.

**Deputy Alan Kelly:** I think Mr. Waters should reflect on that. The date this committee was set up is disputed some say it was on 2 July and others say it was on 27 July. In fairness, Ms Anne Barry clarified in the last session that the Department of Justice and Equality was made aware of this committee verbally on 1 October and subsequently there is a letter dated 2 October. Who was nominated to represent the Department on this committee?

**Mr. Noel Waters:** Mr. Paul McDonnell, assistant principal officer.

**Deputy Alan Kelly:** What is his grade?

**Mr. Noel Waters:** Assistant principal officer.

**Deputy Alan Kelly:** Was he the appropriate person at the appropriate grade - given the seriousness of these issues - no reflection on him?

**Mr. Noel Waters:** He was nominated, without my knowledge, by the line division of Mr. O'Callaghan but I have every reason to believe that he was the appropriate person.

**Deputy Alan Kelly:** He was at the appropriate grade, given the seriousness of these issues.

**Mr. Noel Waters:** Yes, I think so. He is a very fine officer.

**Deputy Alan Kelly:** On the last day I asked Mr. Waters two questions and I am going to repeat two of them again. I have three questions left.

Does Mr. Waters believe that his Department should have been informed more quickly by the Commissioner about the issues in Templemore? Does Mr. Waters think it was appropriate that there was a time gap from 27 July - a date that is disputed and could have been in early July - to 1 October before the Commissioner informed the Department? Does he think the Commissioner should have informed the Department at an earlier stage?

**Mr. Noel Waters:** I addressed that issue.

**Deputy Alan Kelly:** Mr. Waters did not address it satisfactorily.

**Mr. Noel Waters:** I did address it. I think the question was related to whether the Commissioner should have sent in a section 41 report.

**Deputy Alan Kelly:** No, I did not say that. I asked a question and that is one version of how the Commissioner could have informed the Department. Does Mr. Waters believe the Commissioner should have informed the Department in a quicker fashion than she did?

**Mr. Noel Waters:** We became aware of the issues on 1 September by way of an email from Mr. Ruane, which was copied to us. That was four weeks after this meeting that took place in July. That was over the summer period. I do not see why that was a major gap.

**Deputy Alan Kelly:** Given the scale of the issues and the actions which the Commissioner said she had taken and the fact that she said that she acted promptly and it is now known that there was nobody on this committee, and the Department was not aware of this committee until 1 October and it did not meet until November, does Mr. Waters not believe that the Commissioner should have informed him about these issues immediately or within a shorter time period than she did?

**Mr. Noel Waters:** My sense of that is that had evidence emerged at that point there was fraud, theft or some criminality, we should have been told. I do not believe the Commissioner was aware of that at that stage.

**Deputy Alan Kelly:** Okay. What I am taking from Mr. Waters's answer is the following - that Mr. Waters does not believe the Commissioner should have informed him in a quicker timeframe.



**Mr. Noel Waters:** If there was-----

**Deputy Alan Kelly:** That is what I have to take from this.

**Mr. Noel Waters:** If there was evidence of fraud or-----

**Deputy Alan Kelly:** No preconditions. The issues in respect of the McGee and Barrett reports, etc., are gigantic. She did not inform Mr. Waters. I am taking from his answer that he is happy that she did not inform him until 1 September, by way of copying him in on an email, and then formally about setting up the committee on 1 October. It is incredible to me that she would do that to the Secretary General of a Department.

The Department had a representative on the committee. What date was he first informed about it? Was it 1 October?

**Mr. Noel Waters:** Yes, 1 October.

**Deputy Alan Kelly:** When did it meet for the first time?

**Mr. John O'Callaghan:** We were at the first meeting on 11 December. That was the first meeting we were at, not the first meeting of the committee.

**Deputy Alan Kelly:** The internal auditor was not told until March 2016, yet Mr. O'Callaghan was sitting on a committee to discuss the issues in Templemore. Did alarm bells not go off in the Department? Does Mr. O'Callaghan not think it inappropriate that he is made aware of a committee in October and sits on it in December, but it is four months before the internal auditor is told about it? Did nobody in the Department ask why they had not told the internal auditor about these issues? I have read the report of our previous discussion and find it unbelievable that four to six months pass before the internal auditor is informed by the Department that is the parent of this organisation, which has a big budget and where issues are raised such that a committee of this scale is set up.

**Mr. John O'Callaghan:** The evidence we have heard already, which is in truth the evidence, is that when Cyril Dunne wrote on 2 October he said that he had advised the audit committee and that it was being put in the audit plan for 2016 so-----

**Deputy Alan Kelly:** I am aware of that evidence and I am caught for time.

**Chairman:** The Deputy has 20 seconds.

**Deputy Alan Kelly:** One last question - did Mr. O'Callaghan not check that the internal auditor did not have a clue about any of these matters? He had not been told.

**Mr. John O'Callaghan:** I have seen no evidence that he had no clue about it.

**Deputy Alan Kelly:** He said he was not informed until March 2016.

**Mr. John O'Callaghan:** No, he was asked to do the audit in March 2016. That is a different thing. Our information was that from-----

**Deputy Alan Kelly:** He had no clue of the detail of these issues. He has given evidence here.

**Mr. John O'Callaghan:** The audit committee had been asked to put in its audit programme

for 2016.

**Deputy Alan Kelly:** I can only deduce that Mr. O’Callaghan does not find anything wrong with not telling the internal auditor.

Does Mr. Waters understand what section 40 of the Garda Síochána Act 2005 states?

**Mr. Noel Waters:** Section 40-----

**Deputy Alan Kelly:** The section provides first that the Commissioner must account fully to the Government and the Minister through the Secretary General for any aspect of her functions and that her duty in that regard “includes the duty to provide, on request by the Secretary General, any document in the power or control of the Garda Síochána, including material in the form of Garda records, statements made by members of the Garda Síochána and by other persons and reports.”

A critical issue in all of these proceedings is the fact that, unbelievably, the Commissioner is hiding behind privilege as regards revealing Ken Ruane’s letter on 24 July. Why a Commissioner would want to hide behind privilege is beyond most of us because this is in the public interest. Under section 40, the Minister has the power to request that and any other documentation and make it public. Mr. Waters has been notified of this in writing. Is the Department going to request this letter so that we can all see its contents, for the conclusions of this committee?

**Mr. Noel Waters:** Yes, the leader of the Deputy’s party wrote very recently to the Tánaiste about that matter.

**Deputy Alan Kelly:** He has written to the current Minister as well.

**Chairman:** Sorry, Deputy Cullinane is the next speaker.

**Deputy Alan Kelly:** Let the witness answer the question.

**Mr. Noel Waters:** We have referred that letter to the Attorney General for advice and as soon as that is available, we will make it available to the committee, inasmuch as we can.

**Deputy David Cullinane:** Mr. Waters says the Department was first informed of the irregularities at the Garda college on 1 September by email. Is that correct?

**Mr. Noel Waters:** Yes, we were copied into an email which was sent to us by the head of legal services, which he had sent on to the Office of the Attorney General seeking advice in respect of Templemore Golf Club.

**Deputy David Cullinane:** Does he accept that the Garda Commissioner says she was informed at the meeting on 27 July? It was four weeks after the July meeting that he was informed.

**Mr. Noel Waters:** I understand she said that in her evidence.

**Deputy David Cullinane:** Would he have concern about the time gap from 27 July, when the Commissioner was informed and when there was a meeting that Mr. Barrett attended? There are differences of opinion between him and the Commissioner on the nature of that meeting and what was discussed. Is it correct that it was however over four weeks before Mr. Waters’ office was informed?

**Mr. Noel Waters:** It was four weeks but that was over the summer period.

**Deputy David Cullinane:** With respect, the summer period does not mean anything to me when we are talking about irregularities. People still have work and jobs to do. The summer period does not or should not interrupt due and proper process. Is Mr. Waters concerned that there was a time gap of four weeks before he or the Department was informed?

**Mr. Noel Waters:** I have already indicated that we were informed on 1 September. We took action on foot of that.

**Deputy David Cullinane:** I asked Mr. Waters was he concerned.

**Mr. Noel Waters:** Four weeks is not an unreasonable period given that the issues did go back 30 years in some cases.

**Deputy David Cullinane:** Was he not concerned? That is surprising because Mr. Barrett, who is the executive director of human resources, certainly would not agree with him. The head of legal affairs, Mr. Ruane, who seems to be somebody who did his job very well, certainly does not agree. I have a copy of a letter that Mr. Barrett wrote to the Garda Commissioner on 12 June 2017 about the meeting that took place on 27 July where he writes: "In addition time was spent discussing Mr. Ruane's suggestion that all key external stakeholders (the Minister for Justice and Equality, the Comptroller and Auditor General, the Secretary General of the Department of Justice and Equality) should immediately be notified before advancing the work of the steering committee further." It seems that he has a different view from Mr. Waters.

**Mr. Noel Waters:** That is his entitlement.

**Deputy David Cullinane:** It seems to me he was acutely aware of who should be informed of what but Mr. Waters is saying he felt the four-week period was reasonable. He did not agree. He got the seriousness of it and said that immediately before the work of the steering committee could go further, Mr. Waters should have been informed.

**Mr. Noel Waters:** If the Deputy is implying we were not taking the matter seriously when we heard about it, he would be wrong. We did take it-----

**Deputy David Cullinane:** That is not what I asked, Mr. Waters. I am saying Mr. Ruane was very clear, if this note is correct, that Mr. Waters should have been informed immediately. I have asked the Comptroller and Auditor General if he was satisfied at not being informed. He said he would have preferred to be informed. I am asking Mr. Waters the same question. Mr. McCarthy clearly understands his role. He said it would have put him in a situation where he would have at least been able to adjudicate on what he should or should not do. Mr. Waters would have been in the same position but he was not given the information.

**Mr. Noel Waters:** When we were given the information on foot of further correspondence, we did ask that this matter be brought to the attention of the audit committee and the force. That was by way of letter from Ms Barry to Mr. Dunne in early October 2015.

**Deputy David Cullinane:** I would be worried by the response Mr. Waters gave, the level of urgency and the significance he attached to these issues. I am only expressing my concern and Mr. Waters can account for himself.

**Mr. Noel Waters:** I think the Deputy is putting me in a situation where he assumes I would have been aware at that stage of all the information that was discussed at the meeting in Temple-

more in July.

**Deputy David Cullinane:** I have limited time and I am not, with respect-----

**Mr. Noel Waters:** I was not aware of that information. I just want to make that point for the record.

**Deputy David Cullinane:** I am talking about when people should have been informed because between 2006 and 2016 people were not informed. That is ten long years of people not being informed, and at crucial times when people should have been informed but were not everybody seems to say they are not sure, maybe it was reasonable when it was unreasonable. Mr. Waters has said that. The Garda Commissioner has accepted there were irregularities at the Garda Training College. She accepts that because it is in the interim audit report. Does Mr. Waters accept that there were irregularities?

**Mr. Noel Waters:** What does the Deputy mean by the word “irregularities”?

**Deputy David Cullinane:** There was irregular bookkeeping, irregular transfer of money and irregular accounting practices. The internal auditor said he cannot give assurances that the Garda finance code was adhered to. He is very clear and the Commissioner accepts there were irregularities.

**Mr. Noel Waters:** I would regard what was going on there as unorthodox practices, yes.

**Deputy David Cullinane:** The Commissioner says irregularities. She accepts there were irregularities.

**Mr. Noel Waters:** I am not aware of her having used that phrase, but she may well have. I accept it if the Deputy says that.

**Deputy David Cullinane:** Mr. Waters is not prepared to accept there were irregularities or irregular account keeping.

**Mr. Noel Waters:** The account keeping was off the books. Yes, of course, it was off the books.

**Deputy David Cullinane:** Witnesses were here. Mr. McCarthy was here. The Commissioner several times spoke about the need to regularise the accounts. She accepts and has accepted there were irregularities.

**Mr. Noel Waters:** We have accepted the contents of the auditor’s report.

**Deputy David Cullinane:** Mr. Waters is not prepared to use the word “irregular”, but even if we were to accept his word “unorthodox”, he accepts there were problems.

**Mr. Noel Waters:** If the internal auditor found that he could give no assurance, of course we would accept that.

**Deputy David Cullinane:** No assurance.

**Mr. Noel Waters:** No assurance, exactly, in respect of a number of things.

**Deputy David Cullinane:** No assurance, and yet Mr. Waters told Deputy Connolly that the Department was not only aware of the setup, the model, but that when it was asked for advice,

it said there was no further direction given. He is telling me that historically the Department knew about the unorthodox, irregular practices but felt it was all right.

**Mr. Noel Waters:** We clearly advise on the basis of circumstantial evidence of the arrangement put in place to fund Templemore. Yes-----

**Deputy David Cullinane:** The Department was aware of the irregular unorthodox practices.

**Mr. Noel Waters:** By today's standards they are unorthodox. If someone put that model in front of me today as Accounting Officer and asked me to approve it, in no circumstances would I approve it.

**Deputy David Cullinane:** Deputies Kelly and Connolly said they were surprised at Mr. Waters's response and that there were questions for An Garda Síochána. There are certainly questions for the Department of Justice and Equality given Mr. Waters's responses to this committee today.

To turn to the Policing Authority, what is Ms Feehily's view of what she has heard over recent weeks, if she has been following the proceedings of the Committee of Public Accounts? Mr. Niall Kelly, head of internal audit, stated that his work was interfered with, there was non-co-operation and that information was withheld. In his opening statement to this committee some weeks ago he said the head of the finance directorate of An Garda Síochána attempted to get him to change his opinion, findings and recommendations and threatened him with legal action. Mr. Barrett, the head of human resources, spoke about a cover-up. Mr. Kelly spoke about the circling of the wagons and claimed he was duped. We heard from the Comptroller and Auditor General that he was not informed in any year from 2006 to 2015. Mr. Kelly sought copies of the 2008 and 2010 reports and never got them. What is Ms Feehily's response to all that, given that her job is to implement recommendations? If Mr. Kelly is right, and it is only his opinion, it seems the head of the finance directorate tried to get him to change his recommendations and threatened legal action against him if he did not amend his report.

**Ms Josephine Feehily:** To clarify, first, our job is not to implement, it is to oversee the implementation by the Garda Síochána of the recommendations. For the record, I have no direct knowledge of the material but I have followed the proceedings here and have read the published opening statement of Mr. Kelly.

The oversight arrangements in place for the internal auditor are in statute. It is unusual for them to be in statute. Most Government agencies have heads of internal audit and audit committees without needing a legal framework, so there is an extra layer of protection. There is the internal audit, with the committee to oversee it to protect the auditor from interference. We appoint the committee. I have met the outgoing and incoming chairpersons. I have arranged with them that they will develop a closer relationship between that committee and the authority and will formally change the audit committee charter to formalise a closer relationship between the Garda Síochána audit committee and the authority to make sure we can have a good line of sight on the work of the audit committee.

It seems to me that structure is designed to protect the internal audit function from interference. As I was following some of the proceedings of the committee today, it seems that in the end, in a letter from the outgoing chair of the audit committee, he intervened to do what the audit committee should do to protect the internal auditor. The authority would be very concerned

if those checks and balances were not working.

**Deputy David Cullinane:** If the authority has only an advisory role, will it review all the reports of the hearings of the Committee of Public Accounts on this issue because Mr. Kelly claims that over three periods, from 2008 to 2015, information was withheld from him, and there was non-co-operation and interference? He and his office are independent, as they must be within the Garda Síochána because he has a specific job to do. We also know that a report was prepared in 2015 for Mr. Dunne, who was to brief the audit committee in June or July of that year, but he did not do so until September and raised the issue under any other business. It would seem, on the face of it, that Mr. Kelly did not get the co-operation he needed. Maybe he was right and there was a circling of the wagons. I would like Ms Feehily, if she gets the time in her busy schedule, to review exactly what has been said because I would take these as very serious charges. If the head of internal audit does not have the comfort of feeling he can do his job fairly and without interference, I would be very concerned. Given that the authority has an oversight role, I ask that it do that, and if she has to recommend changes, that she do that as well.

**Deputy Catherine Murphy:** Some of these issues have played out over recent weeks, some are described as legacy issues and it is very clear that many of the accounts were opened prior to the Commissioner's being made the Accounting Officer in 2005-2006. The Department would have had full view of how the college was being managed.

**Mr. Noel Waters:** It did not have it in respect of those accounts that were being opened.

**Deputy Catherine Murphy:** Were those accounts opened before-----

**Mr. Noel Waters:** I have no information and no records on file which would indicate that we had knowledge of those accounts being opened and operating at all.

**Deputy Catherine Murphy:** It seems quite surprising that the Department had no information on several things. For example, Mr. Waters has the same view as Deputy Commissioner Rice on this being not just a living allowance but one that was used for developing sports fields and other things. It is quite interesting to read what Mr. McGee said of the Garda College SportsField Company Limited, in 2008: "There is no evidence of sanction obtained to set up the company and there are potential negative issues to members from the administration section of the Garda College becoming directors and the regulations and legal obligations that is inferred on directors under the relevant companies' acts." They cannot find any sanction, Mr. Waters cannot find any sanction, and yet it could be difficult for them under the Companies Acts. In his opening statement Mr. Kelly, the internal auditor, said a couple of weeks ago that Deputy Commissioner Rice did not seek his advice on the issue prior to sending his note to the Commissioner in 2009. This relates to the moneys that went into the restaurant account and then to the SportsField account.

He continued:

Had he done so, I would have pointed out that this was contrary to section C5.19 of the Public Financial Procedures – the blue book - which, under the heading "Exchequer Extra Receipts", states, "These are receipts that the Department of Finance directs must be credited directly to the Exchequer and cannot be retained by Departments for their own use".

It seems the internal auditor is very clear on this and Mr. McGee is very clear but the witness is not very clear.



**Mr. Noel Waters:** The Deputy indicated in her opening remarks that I have come to a view on this but I have not come to any firm view on this.

**Deputy Catherine Murphy:** He told us a few minutes ago that this was not just for a living allowance and it was for more than a living allowance.

**Mr. Noel Waters:** This is my point. There are different views on it and it is a grey area so we have sought advice from the Attorney General to give us clarity. In reviewing our records on this to 1988, there was an issue, a discussion and a debate. We will make those records available to the committee and a Government memo about precisely what this living allowance was for. Was it just for students attending the college or did it include an element of their lodging and other support issues while they were in college? We are trying to establish that. We have also asked the Garda for further information about all these accounts, whether they were public or private bank accounts.

**Mr. John O'Callaghan:** We have asked for a report from the Garda setting out the date that each account was opened and closed, if it was closed, and the purpose for which each account was opened, whether it was a public or private account. Where an account remains open, we asked who controls it, such as the college or finance directorate.

**Deputy Catherine Murphy:** When was that asked?

**Mr. John O'Callaghan:** Ms Barry wrote on 16 May.

**Deputy Catherine Murphy:** It was this year, just a month ago.

**Mr. John O'Callaghan:** Yes.

**Deputy Catherine Murphy:** How were the files generated? Were they digital or paper? What are the witnesses looking through?

**Mr. Noel Waters:** The period being discussed was before email and digital files. We have gone through our various records and indexes in the Department to see what files we have. We have not turned up anything that is directly relevant to the circumstances of Mr. Harris, who was then what was known as our professional accountant and the lead person dealing with the Garda in respect of this in the late 1980s and early 1990s.

**Deputy Catherine Murphy:** There must have been a handover after the 2005 Act came into effect. If a Garda Commissioner was to take over the responsibility of being the Accounting Officer, surely he or she must have been fully apprised of exactly what they were taking on board. Are there records in the Department relating to that?

**Mr. Noel Waters:** The only records relate to a committee that was set up at the time under the chairmanship of Senator Maurice Hayes, who was tasked with the job of ensuring the various elements of the 2005 Act were introduced. My information in respect of the financial aspects is that his main concern was to ensure the Garda had proper and appropriate resources on the financial function in terms of internal auditors and all the matters going with that.

**Deputy Catherine Murphy:** Would it be fair to say that it appears that because it was the Garda Síochána, there was a higher level of trust that these matters would have been handled properly?

**Mr. Noel Waters:** It is fair to say that when we instructed or advised the Garda, or we were

assured by it that things were happening, we accepted that on trust.

**Deputy Catherine Murphy:** Would the Department have accepted that from other organisations?

**Mr. Noel Waters:** To be quite frank, we would if it was the likes of the Irish Prison Service, the courts or land registry. To get a sense of the Department, there were four inspectors whose job it was to police the entire justice family in respect of all the Votes. They went around the country and looked at Garda accounts. We went to courthouses. We had to take on trust information being made available to us in the sense of the then Secretary General having to sign off on the appropriation account when he was the Accounting Officer.

**Deputy Catherine Murphy:** All this time there are investments being made in all sorts of organisations or banks. How can that happen without authority?

**Mr. Noel Waters:** It was happening and we are not denying that we were not aware of the arrangements put in place for that funding model to enable the Garda college to have sports facilities. With today's standards, we would absolutely not go there at all.

**Deputy Catherine Murphy:** One element for which Ms Feehily had responsibility was the development of a code of ethics, and this is not just about ticking boxes. There is a cultural dimension. Does that play any part in what she might do in reviewing what should take place in future?

**Ms Josephine Feehily:** We are very proud that we produced a code of ethics within 12 months, as required by the Act. We have been working with Garda colleagues, developing a plan for embedding the code of ethics right throughout the work of the Garda Síochána, and not just in finance and auditing. I was certainly very pleased recently when Deputy Commissioner Twomey said to me that the code was timely and the Garda would find it very helpful in focusing the organisation on ethical commitments set out in the code. We raise this every month with the Garda Commissioner and we have set out what we expect the organisation to do in terms of embedding the code in training and the decision-making model for all their policing decisions. With promotion systems and so on, we want to see the code of ethics referenced all over the place. We will be proselytising about it for quite a while. I am sorry for the long answer but it is "Yes". It is something of which we are very proud.

**Deputy Catherine Murphy:** Should the finances be in a risk register?

**Ms Josephine Feehily:** The authority met people from the risk section at the back end of last year and we were advised the risk register we saw was in the course of modernisation and redevelopment. We plan to meet the head of that section again. It would be very strange if, after these proceedings, matters to do with audit and compliance did not feature on the risk register when we look at it a second time.

**Deputy Mary Lou McDonald:** We might stick with that theme. I understand Mr. Barrett, head of human resources at An Garda Síochána and a witness to this committee, was on the ethics committee or sub-committee of the authority.

**Ms Josephine Feehily:** That is not quite correct. I will not dance on the head of a pin. The authority has committees of authority members and they meet people nominated by the Garda Commissioner. One of our committees is the code of ethics committee and Mr. Barrett was nominated as lead by the Garda Commissioner to work with that committee in embedding the

code of ethics.

**Deputy Mary Lou McDonald:** When was he nominated by the Garda Commissioner to that position?

**Ms Josephine Feehily:** I can get the date but it was probably last year. That is probably the safest thing for me to do. In the context of the committee's work, he was nominated a number of months into it.

**Deputy Mary Lou McDonald:** I thank the witness. I am right in saying Mr. Barrett has now resigned from that position.

**Ms Josephine Feehily:** Yes.

**Deputy Mary Lou McDonald:** Am I right in saying he had a conversation with Ms Feehily in that regard?

**Ms Josephine Feehily:** He had a very brief conversation. He came to the committee and spoke with members. I was not present. He then wrote to us to formally resign. I telephoned him, more or less, to see if he was all right. As he did in the letter, he expressed to me that he felt that because he might be taking certain personal actions, he did not want to in any way undermine the work we were doing relating to the code of ethics. He just did not think it was a good fit for what he expected he would be doing personally.

**Deputy Mary Lou McDonald:** His stepping back from the position was no commentary on Ms Feehily, her stewardship of her duties or on the authority.

**Ms Josephine Feehily:** He made that very clear to us and he wished us well. We wrote to him approximately two days later on behalf of the committee, thanking him for the engagement we had up to then.

**Deputy Mary Lou McDonald:** Did he enter into any conversation about the turn of events within An Garda Síochána, his personal treatment or any personal sense of grievance he had?

**Ms Josephine Feehily:** In a general way, in so far as he indicated to us, leaving the committee, that he expected to take some action.

**Deputy Mary Lou McDonald:** Is that action-----

**Ms Josephine Feehily:** Obviously, that action would not have arisen unless he had a sense of grievance.

**Deputy Mary Lou McDonald:** Did that action concern the correspondence in which it is suggested that he might be investigated in the context of the Official Secrets Act?

**Ms Josephine Feehily:** Yes.

**Deputy Mary Lou McDonald:** Obviously then, he has taken that very badly. Was Ms Feehily aware that he had looked for that correspondence consistently?

**Ms Josephine Feehily:** I know that from the evidence here.

**Deputy Mary Lou McDonald:** He asked for it to be released under FOI and received a highly redacted version of it. That is just one of the truly bizarre and unacceptable episodes of

which the committee has become aware. Ms Feehily said that she had a conversation with the head of audit in July 2016. Was that the chair of the audit committee as opposed to the internal auditor?

**Ms Josephine Feehily:** Yes.

**Deputy Mary Lou McDonald:** That would have been Mr. Howard then.

**Ms Josephine Feehily:** Yes.

**Deputy Mary Lou McDonald:** He subsequently left that position. How would the witness describe her working relationship with him? Would she describe it as good, constructive?

**Ms Josephine Feehily:** Very good, very constructive, very open. The first conversation I had with him was a general one. I brought him in to meet the authority because, as I said, we had a relationship with the audit committee. We talked about the work the committee was doing and the huge scope of the audit domain with regard to-----

**Deputy Mary Lou McDonald:** I am moving this along because we are very limited on time. Would Ms Feehily have met and spoken with Mr. Howard regularly?

**Ms Josephine Feehily:** I certainly spoke to him regularly. Every couple of months.

**Deputy Mary Lou McDonald:** Did Mr. Howard make the witness aware of the deep concerns he had regarding the frustration of the internal auditor's work?

**Ms Josephine Feehily:** He made me aware of the concerns he had. He outlined them subsequently in a letter the committee discussed today. He made me aware of his deep concerns and that he would be dealing with that matter by way of a letter to the Commissioner.

**Deputy Mary Lou McDonald:** Can Ms Feehily recall when he made her privy to that information?

**Ms Josephine Feehily:** No. He had a bereavement.

**Deputy Mary Lou McDonald:** That is right. His father.

**Ms Josephine Feehily:** He was about to take that action and then he had a bereavement. It was prior to that. That is as close as I can be.

**Deputy Mary Lou McDonald:** Having seen the correspondence that Mr. Howard wrote to the serving Garda Commissioner, Ms Feehily is obviously aware-----

**Ms Josephine Feehily:** I just saw that watching the evidence here today, Deputy. I have no knowledge of these papers otherwise.

**Deputy Mary Lou McDonald:** Ms Feehily had no knowledge of this letter then.

**Ms Josephine Feehily:** Of the precise papers, no, other than what he briefed me that he would be doing.

**Deputy Mary Lou McDonald:** He had asked that remarks or allegations made impugning the reputation of the internal auditor either be withdrawn by the head of finance, Mr. Culhane, or that a superior authority intervene to overturn them. We questioned the Commissioner at length on this today. She told us that her response was to seek legal advice. We await further

clarification on those matters. Can I ask Ms Feehily to put on the record, from the point of view of the Policing Authority, the view that she would take of any interference undermining or frustrating the work of the internal auditor?

**Chairman:** The Deputy's time is exhausted.

**Ms Josephine Feehily:** I will answer that question in general terms because I did note that the Commissioner is taking legal advice about the specifics. Other than from the evidence here today, I have no knowledge of what is actually going on other than the fact that Mr. Howard wrote a letter. In general terms, I repeat what I said earlier. The internal audit function is a hugely important piece of corporate governance machinery in any organisation. One of the reasons we have audit committees is to allow the internal audit to function independently. It is to protect them from the line, and I say that as a general comment. The committee can take it from that the fact that, yes, we are concerned. I chaired a handover meeting between the outgoing and incoming chairmen. We discussed a number of matters. I was particularly keen to make sure that this audit continued. The entire membership of the audit committee-----

**Deputy Mary Lou McDonald:** That was-----

**Ms Josephine Feehily:** I beg your pardon, I am trying to remember. The entire membership of the audit committee is changing and I wanted to make sure that the thread would not get lost.

**Deputy Mary Lou McDonald:** That is very wise. Mr. Ruane, the head of legal affairs, advised the Commissioner to make a section 41 disclosure on this entire debacle. She did not do that. I want to ask Mr. Waters two questions. First, should the Commissioner have done that in accordance with the 2005 Act? A simple "Yes" or "No" will suffice. Second, how is such a disclosure made?

**Mr. Noel Waters:** Ordinarily, by letter to myself.

**Deputy Mary Lou McDonald:** Is there any other way to make such a disclosure?

**Mr. Noel Waters:** To the best of my knowledge, it is not specified in the legislation that it needs to be by letter. It could be done orally. I stand corrected on that.

**Deputy Mary Lou McDonald:** Mr. Waters is clearly an experienced civil servant. Is it standard practice, in his experience, that a disclosure is made in writing? That would strike me as the way to make it but I am just checking.

**Mr. Noel Waters:** I think that five or six have been made to me during my time in this role. They were written.

**Deputy Mary Lou McDonald:** For the purposes of the record, I want it noted that the Commissioner insinuated that there are myriad ways in which such a disclosure can be made. I thought that sounded rather odd but let the record reflect what was said. With the benefit of having some sight of this mess, this absolute chaotic, shambolic mess that has undoubtedly brought reputational damage to An Garda Síochána again-----

**Mr. Noel Waters:** I am not denying that.

**Deputy Mary Lou McDonald:** -----ought a section 41 disclosure have been made?

**Chairman:** Two minutes, Deputy.

**Mr. Noel Waters:** I already addressed that in my previous speech.

**Deputy Mary Lou McDonald:** I do not want to hear that; I want the witness to answer my question.

**Mr. Noel Waters:** I cannot put myself in a situation where I guess what I would have done or what the Commissioner would have done. I cannot do that.

**Deputy Mary Lou McDonald:** I thank Mr. Waters for his answer. I just want to say that I am alarmed that this is the manner of his work. I am alarmed that this is the mentality and the approach within the Department of Justice and Equality. We are looking at a big, shambolic mess. The interim report that Mr. Waters now accepts is not about unorthodox practices. It states, categorically and clearly, that there were breaches of the law in plain sight and that these were known definitively, certainly as far back as 2008. All of this has been luridly recounted to this committee. Mr. Waters is the Secretary General of the Department. He is in charge and he has given me a ludicrous, half-baked answer like that. Given the scale and nature of this matter and in light of the nature of the function of An Garda Síochána within this democracy, is it not entirely clear to Mr. Waters that a section 41 disclosure should have been made and that he should have been informed earlier rather than later? In view of the position he holds, how can Mr. Waters sit there and give a half-baked, nonsensical response such as that which he has just provided?

**Mr. Noel Waters:** I do not accept that it is a half-baked, nonsensical response. I am telling the Deputy of the situation I find myself in. I cannot put myself in the place of the Commissioner.

**Deputy Mary Lou McDonald:** I am not asking Mr. Waters to do that. I am asking him to put himself in the place of the Secretary General of the Department of Justice and Equality of this State. If we, as a committee, can conclude nothing else, it is surely - to state the blindingly obvious - that the Department ought to have been informed and that the Garda Síochána Act 2005 ought to have been complied with in line with the legal advice that Mr. Ruane gave to the Commissioner.

**Chairman:** The Deputy's time is up.

**Mr. Noel Waters:** If I may respond, with the Chairman's indulgence. As the committee knows, I cannot comment on any legal advice that the Commissioner may have received from the head of legal services. I will say this, however. If we had known at the time what we know now-----

**Deputy Mary Lou McDonald:** The information was known in 2008 and the Department was not told.

**Mr. Noel Waters:** I am not aware of the Commissioner's-----

**Deputy Mary Lou McDonald:** Is Mr. Waters okay with that? Should he be in that chair? Is he okay with that?

**Mr. Noel Waters:** I do not know what the Commissioner's evidence is on that.

**Deputy Mary Lou McDonald:** There is a report to testify to that. The only person who talks openly about this is Mr. Barry McGee, who wrote the report in 2008. Nobody else knew anything. It is astonishing.



**Deputy Alan Kelly:** Does Mr. Waters have knowledge of the relevant meeting?

**Deputy Bobby Aylward:** I will just stay on this matter. As I said to the Commissioner, I find it unbelievable to think, that after four days of questioning and hours and hours of witnesses, that this situation could reach back from 1990 up until the present day and that no one up along the line noticed it. I say this to Mr. Waters as Secretary General of the Department of Justice and Equality; there was the 2008 and the 2010 report - there were four reports in total - and yet it took until May 2015 before anyone saw the light. Was this a case of “see no evil, hear no evil”? The Department of Justice and Equality, Mr. Waters, his predecessors and all the other witnesses have said that was the practice and culture of the day. This is what we are hearing - this was the culture and the practice, but no one said “Stop”. No one said that there was something rotten to the core in Templemore and in the way it was run. At what stage did the Department realise what was happening? Mr. Waters said 2015 but, before that, did someone in the Department not see these reports?

**Mr. Noel Waters:** As I have already indicated in evidence, the information that came to light in 2015 did so in the context of an email from Mr. Ruane. I cannot speak for what went before me but it is absolutely not the case that, in my tenure, it was a case of “hear no evil, see no evil”. In my tenure in the Department, we have taken action immediately on foot of this. We have recognised the seriousness of it and we are following it through. The Tánaiste referred it to the Policing Authority, which is following up on it. I cannot answer for what happened before that. I indicated that the then Commissioner brought this to the attention of the then Secretary General at a meeting, at which he says I was present. I have no recollection of that meeting however, and we have no records of it at all in the Department.

**Deputy Bobby Aylward:** The Department of Justice and Equality, as an oversight body, has no record at all that anything was wrong. None of these reports was brought to the attention of Mr. Waters’s predecessor. There is no record that the Department read it or saw it. It never even heard in the air that any of this was going on.

**Mr. Noel Waters:** It is unfortunate, but that is the case. We do not have records around that. We do not have records.

**Deputy Bobby Aylward:** This is-----

**Mr. Noel Waters:** It must be remembered that the Department was not the Accounting Officer at that point. That role had been passed on. The then chair of our audit committee wrote to the then chair of the Garda audit committee to say that we could no longer have a function in the auditing of An Garda Síochána.

**Deputy Bobby Aylward:** The Department was still the paymaster however. It was giving more than €1 billion a year to An Garda Síochána. I know it has a Vote of its own. I understand all that, but the Department still had to hand over that money every year. Surely the Department had a role, and the Comptroller and Auditor General would have been responsible for checking up on that role. Did the Department not check along the line and see something wrong in the whole system? I keep repeating it, but it is unbelievable that no one ever brought this to mind.

**Mr. Noel Waters:** That is the case. When we got knowledge of the difficulties and the issues that had arisen we took action on foot of them.

**Deputy Bobby Aylward:** Is Mr. Waters shocked by what he has heard over the last four days of our evidence and by the carry on that was happening in Templemore?

**Mr. Noel Waters:** Yes.

**Deputy Bobby Aylward:** Is he shocked in hindsight?

**Mr. Noel Waters:** Yes.

**Deputy Bobby Aylward:** Are his two colleagues shocked? Are all the witnesses shocked that this was happening under their noses?

**Mr. Noel Waters:** It is important to say that the Commissioner is the Accounting Officer. She has specific statutory roles in respect of Templemore.

**Deputy Bobby Aylward:** So does the Department.

**Mr. Noel Waters:** We do not have such a role in respect of financial issues. We did previously.

**Deputy Bobby Aylward:** It has an oversight role.

**Mr. Noel Waters:** We do not in respect of financial issues however. I am the Accounting Officer for the Department of Justice and Equality's Vote and the Prison Service's Vote. I am not the Accounting Officer for the Garda Vote. I agree with the Deputy. We-----

**Deputy Bobby Aylward:** What about proper governance, leaving aside the financial dealings?

**Mr. Noel Waters:** We have put governance arrangements in place in respect of An Garda Síochána. Perhaps my colleague can speak about those. These are all relatively new things, however. In the late 1990s and early 2000s we were operating in a very different situation. I indicated already that we had four people, who were then inspectors, whose job was to go around Garda stations, courthouses and all the various prisons and report back to us on any issues that might have arisen that gave rise to concerns. There was no audit carried out prior to 2006 in respect of Templemore that we are aware of. We have no knowledge or records in respect of that.

**Deputy Bobby Aylward:** The only excuse then is that it was the culture of the day. It was happening and if that was the way things were done, so be it. That is basically what Mr. Waters is saying.

**Mr. Noel Waters:** I am not saying "so be it" at all. Far from it. As I said, we accept the findings of the audit report in which the auditor clearly said he could give no assurance. That is as serious as one can get in our business.

**Deputy Bobby Aylward:** Do either of Mr. Waters's colleagues have any comment on what I have asked?

**Mr. John O'Callaghan:** In respect of oversight and governance, we have put in place extensive oversight arrangements with An Garda Síochána which were not a feature of arrangements in the past. We have regular governance meetings with An Garda Síochána. We meet monthly in respect of oversight of financial and HR issues and so on. I would expect that a situation in which a report was prepared and the Department was not given sight of it at the time, as happened in 2008, would not arise now. We would have line of sight because we have these very regular and quite intense engagements. The other change in the landscape has, of course, been the establishment of the Policing Authority, which also has an oversight role. Things have

clearly changed in respect of governance and oversight but the arrangements we are talking about here are arrangements which were put in place many years ago. They date from before the Commissioner was the Accounting Officer, to a time when the Department had that role. There was a change along the way. Perhaps systems did not keep up with the change to one extent or another, or perhaps things were missed in the changeover. The governance arrangements are now in place and if something like this were to happen again I am reasonably confident that we have enough engagement to know about it and that we would be able to take action.

**Deputy Bobby Aylward:** As the Department responsible, the Department of Justice and Equality will be more closely scrutinising everything that is happening within An Garda Síochána in future. Under the new arrangements, nothing like this will happen in the future.

**Mr. Noel Waters:** If one lesson is to be learned from this whole saga, it is that we all need to up our game.

**Deputy Bobby Aylward:** I will ask Mr. Waters one last question personally. Does he think someone should pay the price for what happened? I asked the Commissioner this earlier this evening. I am asking for his personal opinion.

**Mr. Noel Waters:** It is quite clear that if wrongdoing is found in the ultimate, when all this is bottomed out-----

**Deputy Bobby Aylward:** Does he accept that there was wrongdoing?

**Mr. Noel Waters:** If criminal wrongdoing is found, the person responsible will have to face the full rigour of the law. If people have committed disciplinary offences and have breached the Garda code, the Commissioner has clearly indicated that she will deal with that herself. I cannot put myself in a situation where I would be telling the Commissioner what she should do. I have no doubt whatsoever that, in the event of wrongdoing being found, the Commissioner will take appropriate action on foot of it.

**Deputy Bobby Aylward:** With regard to the Policing Authority, its new set-up and role and so on, does Ms Feehily feel the authority has enough powers? I know it is only starting out and has only been established for 12 months. Does Ms Feehily feel that the authority has enough powers to scrutinise what happened and that it will have a role in the future?

**Ms Josephine Feehily:** It is a long-standing tradition that we do not comment on policy. We have the powers that we were given by the Oireachtas and we are using them to the best of our ability. There is a really nice provision in our Act that obliges us, at the end of two years, to express a view about our functions and powers. It is interesting. It is not an option. We will be expressing a view about the functions and powers towards the back-end of the year. We have to consider how that overlaps with the commission on the future of policing, because there is no point in doing two jobs. I can tell the Deputy that we are already aware of some awkwardness in the legislation that could be streamlined, that is for certain. The Secretary General will not be surprised to hear me say that I believe we should have a stronger role in respect of resources. That is something we have discussed already. Those are just some general indications but we will take a view as an authority at the end of the year, in accordance with the Act.

**Deputy Bobby Aylward:** I will ask a hypothetical question. If the Policing Authority had been around during the turmoil years, or whatever one would like to call them, does Ms Feehily think the authority would have spotted and stopped what went on in the situation at hand? I know it is a hypothetical question.

**Ms Josephine Feehily:** I understand that and I understand the question. It comes back to whether anybody would have told us. While we have a relationship with the audit committee, if it did not know, and it did not for quite a while, then that would have been problematic. It comes back to culture and governance in An Garda Síochána, which are topics about which the authority has already expressed concern. We are looking forward to a culture audit, which is about to be carried out, to see what it will tell us about the culture on an evidential basis. The answer is, I suppose, that I do not know. One can have all the powers in the world - and we do have a power to ask for documents in the Commissioner's possession - but if one asks for general documents, and does not know that something is there, one may never be given it. Therefore, I could not give the Deputy a categorical assurance that we would have spotted it either.

**Deputy Bobby Aylward:** My last comment is that, with all the scrutinising that will be going on in An Garda Síochána from now on, we should have everything worked out right.

**Chairman:** Ms Feehily stated earlier that Mr. Howard had briefly mentioned these issues to her at some point. I accept she does not have a date but will she give an indication of when that occurred?

**Ms Josephine Feehily:** In early 2016, I became aware of the issues informally from chatter. I contacted Mr. Howard and told him what I had heard by way of this informal chatter and I asked him if there was something I needed to worry about. He told me the audit committee was seized of the matter and that an internal audit was under way, and he undertook to keep me advised.

**Chairman:** I thank Ms Feehily. To assist the committee in producing its report I ask that the Policing Authority and the Department of Justice and Equality forward to the committee a concise written submission on its oversight role in respect of An Garda Síochána, with specific reference to the Templemore issue. If the committee is to detail the functions of the Policing Authority and the Department in its report, we will need that information.

**Deputy Catherine Murphy:** As the position in terms of the Accounting Officer changed in 2006 we will need information pre and post the change.

**Chairman:** Yes. The witnesses might provide a breakdown in the information to take account of the change in Accounting Officer.

**Mr. Noel Waters:** Yes.

**Chairman:** I thank the witnesses from the Department of Justice and Equality and the Policing Authority. I also thank the Comptroller and Auditor General for being here today. The next meeting will take place at 9 a.m. on Thursday, 22 June 2017, when we will be re-engaging with some of the third level colleges on matters arising at recent meetings.

*The witnesses withdrew.*

The committee adjourned at 9.55 p.m. until 9 a.m. on Thursday, 22 June 2017.