

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 12 Iúil 2018

Thursday, 12 July 2018

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Bobby Aylward,	Deputy Alan Kelly,
Deputy Peter Burke,	Deputy Catherine Murphy,
Deputy Shane Cassells,	Deputy Jonathan O'Brien,
Deputy Catherine Connolly,	Deputy Kate O'Connell.
Deputy David Cullinane,	

DEPUTY SEAN FLEMING IN THE CHAIR.

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

Business of Committee

Chairman: We will now commence in public session. We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness. He is joined by Paula O'Connor, senior auditor. Apologies have been received from Deputies Deering, MacSharry, Aylward and Cassells. Are the minutes of the meetings of 28 June and 5 July and the private meeting on 10 July agreed? We will not deal with matters arising because everything we could want to talk about-----

Deputy David Cullinane: There is always something.

Chairman: What does the Deputy wish to raise?

Deputy David Cullinane: I put questions to the Department and the HSE about the deployment of a modular catheterisation laboratory in University Hospital Waterford. I asked for a detailed breakdown of the process and the timeframes and I would like to receive that as quickly as possible.

Chairman: In the minutes, we record that we requested a note on the processes involved relating to the catheterisation laboratory regarding tendering, planning, project design work and construction and an update on the timeline expected for completion.

Deputy David Cullinane: I put down a shedload of parliamentary questions on all of that - breaking down all those processes and asking which Department or State agency was responsible for each of the processes and how long it would take. The response I got was two lines. I am hoping to get a little more from the Department and Minister so I have gone back to the Ceann Comhairle to say that questions have not been answered but, in any event, I hope we do not get the same here. Have we followed it up? Have we asked him-----

Chairman: The letter was only sent as a result of the meeting on the 5th so it is probably only gone ten days. On the day the HSE's representatives were here we wrote to them with 29 specific items and we wrote to the Department of Health with seven additional items.

Deputy David Cullinane: That is a lot.

Chairman: The list we sent after the last meeting was highly comprehensive. I checked it to make sure all our bits and pieces were included.

Deputy David Cullinane: Will all of that come back irrespective of the committee sitting?

Chairman: It will. Your question is about whether it will be circulated or when we will see it. Before the day is out we will see if there is a mechanism for distributing correspondence because there is a two month period.

Deputy David Cullinane: It is non-contentious.

Chairman: If a member has a specific request we will arrange to do it. However, we do not wish to issue all correspondence across the board until the next meeting of the committee and until we know what we are publishing.

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Deputy David Cullinane: It will be in the newspapers.

Chairman: It will. I am sure you will be able to arrange that when you get it.

Deputy David Cullinane: I will on that one.

Chairman: I mean that is part of your job, Deputy, outside the Committee of Public Accounts.

Deputy Catherine Connolly: I wish to raise the Pálás Cinema in Galway and the post-project review.

Chairman: What is that?

Deputy Catherine Connolly: The Department promised a post-project review and I wish to keep it on the agenda to ensure we are monitoring it.

Chairman: Is it the Galway cinema?

Deputy Catherine Connolly: Yes, the Pálás Cinema. I will not dwell on it but I just want to know the current position with the post-project review in the context of Galway 2020. Serious issues have arisen with regard to Galway 2020 and the use of public funds. The use of those funds is quite right, but there is also the monitoring and governance of that. I am just highlighting that it is something I will return to. I raised it on the day in terms of learning and how they were going to approach-----

Chairman: We will chase up on it. My understanding is that in the correspondence relating to the report we published yesterday they indicated it could be 2019 before they have all the information in for 2018.

Deputy Catherine Connolly: I did not see that.

Chairman: I think we might have it in the body of the report-----

Deputy Catherine Connolly: I read the report, but I did not see a date.

Chairman: You can double check with the secretariat afterwards but my recollection is there was a mention that all the costs are not in yet, it would be 2019 before they will all be in and the review will commence arising from that. I was conscious of that going to the meeting yesterday. The project started in 2006 but it will be 2019 before we can see its total cost. I did not specifically refer to it but I picked that up yesterday in preparing for yesterday's launch.

Deputy Catherine Connolly: I will outline my concern about it. We have been through it and there is no need to go into it. There has been an investigation by the Charities Regulator as well. What have they learned from it and how is that being implemented now with regard to the European Capital of Culture 2020? The same headlines and issues are recurring in Galway. I am proud and delighted we are getting the European Capital of Culture 2020 but my worry is about the same type of thing - let us not rock the boat and let us not question.

Chairman: Galway is the European Capital of Culture 2020. We all remember when it came to Limerick some years ago. There was mayhem and people were resigning. That is not to compare them.

Deputy Catherine Connolly: I will try to avoid those words. I might use them elsewhere

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but not at the committee. However, there are certainly issues in that regard. Somebody has already resigned. I will not go into the details. It is simply that I have concerns, given that I sit on this committee and I sat on the local council. I see the same type of mantra being repeated. That is the issue for us. That is what happens and we end up looking at it retrospectively. However, I know that the push is: "Do not say too much. This is very important so do not question too much." There was the same mantra with regard to the Pálás Cinema which led to it going up to over €8 million instead of just over €6 million.

Chairman: We need to write specifically to the Department arising from this discussion. In our report we did not have any reference to learning lessons in view of 2020-----

Deputy Catherine Connolly: I did raise it.

Chairman: Yes, but not in respect of 2020. We did not cover that aspect in our report so we will send a specific letter to the Department. Again, if there is a reply we will send it directly to the Deputy.

Deputy Catherine Connolly: Thank you.

Chairman: The next item is correspondence. There are three categories of correspondence and a number of items have been carried over from the last meeting. Members will have to bear with me because there is an amount of correspondence. We did not deal with quite as much on the last occasion and this is the last time we have an opportunity before we invite our witnesses in.

No. 1478A is from Mr. Conor O'Kelly, chief executive officer, CEO, of the National Treasury Management Agency, NTMA, providing a briefing and opening statement for today's meeting. We will note and publish that.

Deputy David Cullinane: Chairman, part of that briefing note was on the front page of the *Irish Examiner*, which is fair enough as obviously some member of the committee gave it to the newspaper. We cannot stop that. However, I was concerned about the headline. It has to be clarified for the public. I am not saying the headline is misleading but it can be interpreted in a number of ways. It comes from a briefing note for the Committee of Public Accounts so we have a responsibility to clarify it. The headline is "Cut-off for cancer payouts imposed" and it continues that the Committee of Public Accounts is to grill the State Claims Agency on the growing scale of the crisis. The article goes on to discuss the 40 cases which are before the courts. Further down it refers to the separate payment, the expenses, being given to these women. That was set up by the Taoiseach and the Minister for Health and covers approximately 2,500. The Taoiseach commented yesterday that there will be a cut-off for those payments. It is important for people to note that the cut-off in the headline is not referring to the court proceedings or any proceedings that might arise from court proceedings or the work of the State Claims Agency. That distinction must be made because that could be inferred from the headline. Given that it came from a committee briefing note - which it should not have but a member of the committee gave it to the reporter - that needs to be clarified.

Chairman: Okay, that is fair comment. As Chairman, every Wednesday I receive a telephone call to confirm what the committee will discuss in the Thursday meeting and various journalists are able to read for me verbatim from the information circulated to committee members, some of which I have not even had an opportunity to read at that stage. There is a serial leaker in the committee, full stop. I do not know who it is and I am not suggesting who it is,

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but there is one. There has not yet been a week that a journalist did not telephone me to read out correspondence that had not yet come before the committee. It is remarkable. Yesterday, another committee launched reports and I asked the various chairmen how they dealt with their reports and draft reports. They told me they had never had an issue with leaks in the other committees so it is germane to some members of the Committee of Public Accounts. I am just making that general observation.

Deputy Catherine Connolly: Sometimes I feel like I am back in school because usually the people who are present are not responsible for any of the leaks or what has happened, yet we are sitting here having to listen to it. I fully support you, but we are certainly not responsible for that, and we have read all our reports.

Chairman: Okay, we will move on. It is just a point to be aware of.

Deputy David Cullinane: The more important point is that whatever about somebody leaking, and that is not right, there are headlines in newspapers arising from documents being given to us, on which we have an obligation to put questions to witnesses to ventilate the issues, and if the headlines could be misinterpreted it is important for us to correct them.

Chairman: Okay. It is a recurring issue and we can come back to it.

The next correspondence is No. 1387 B, which is held over from the last meeting. It is from Mr. Seán Ó Foghlú, Secretary General, Department of Education and Skills, dated 12 June 2018 providing information requested by the committee at the meeting on 24 May 2018 regarding a protected disclosure to Cork Institute of Technology and a subsequent review which took place. The committee had raised concerns about how the terms of reference were set for this review. We dealt with this item in private on Tuesday and I just want to formally note and publish it. Is that agreed? Some concerns remain and it is a matter we may return to in our next periodic report. It was not just about who set the terms of reference to deal with the protected disclosure but arising from that an investigation was established and it was who set the terms of reference for that. We will note and publish it. We will return to the issue in the autumn.

Deputy Catherine Murphy: We will be returning to the education sector because there is going to be a report which we had hoped to have before the summer.

Chairman: Yes, the report is outstanding.

The next item is No. 1397 B from Mr. Robert Watt, Secretary General, Department of Public Expenditure and Reform, providing information requested by the committee on guidance provided by the Department to public bodies on the management of protected disclosures. We dealt with this item in private session on Tuesday. I wish to formally note and publish it.

The following three items are updates requested by the committee on sale of Bord Gáis. Correspondence 1430 B is from Mr. Robert Watt, Secretary General, Department of Public Expenditure and Reform, and provides information requested. Correspondence No. 1443 B was held over from the last meeting. It is from Mr. Michael Goodwin, energy security division, Department of Communications, Climate Action and the Environment. It provides information requested by the committee on how it was intended to use the proceeds of the sale of Bord Gáis. Correspondence No. 1445 B is from Mr. John McCarthy, Secretary General, Department of Housing, Planning and Local Government. It provides and notes information. We will note and publish these items. All three of these items are relevant to today's meeting with the National Treasury Management Agency because NewERA has a role relating to Bord Gáis. I have gone

through that myself. All those items are relevant to today's meeting and we can discuss them during the course of the meeting. We will note and publish them.

Correspondence No. 1433 B was held over from the last meeting. It is from the Honourable John D. Cooke, sole member, commission of investigation, enclosing the second interim report of the Cooke commission of investigation. Members may wish to note that the timeframe for the commission's final report has been extended to 31 December 2018. I suggest we note and publish it but not comment on the work of the sole member lest it be interpreted as in some way trying to influence or criticise.

Deputy Catherine Murphy: I wish to say one thing about this report. Obviously, the progress of the work depends on the material provided and the format of that material. This may be pertinent not only to this inquiry but to other inquiries in future. Page five of the statement refers to where NAMA has believed it has been unable to access and verify the completeness of relevant documentation. This could be pertinent to other inquiries. NAMA has taken the view that it has not been able to provide voluntary co-operation because of data protection and other considerations. This is relevant for statutory declarations to produce documents issued by the commission. This adds to the workload of the commission and it will be the same for others. This is something we need to consider if other commissions of investigation or tribunals are set up. There may be something to reconcile here.

Chairman: It is guaranteed to slow it down.

Deputy Catherine Murphy: I do not know what we can do.

Chairman: That is something we will bear in mind. The Taoiseach raised this exact issue yesterday on the slides for CervicalCheck and the question of why the examination had not yet commenced by the college in the UK. The college has raised the issue of data protection and consent from each person before the reviewers look at the slides. It may be that several thousand are gone and the reviewers have to wait for consent from thousands of people before they can complete the process. I simply do not know how long that will take. It has added months. I am being pragmatic about it. Getting consent from thousands of people is going to add months to the process.

Deputy Catherine Murphy: People should have their information protected. Data protection is in place for good reason. However, when it works against the common good or has the potential to work against the common good we need to consider it. If a process is not a public inquiry but rather a commission of investigation, we should question whether something needs to be looked at. There is a delay and potentially a value-for-money issue. Certainly, there is a process issue. I think we should note it and see what we can do about it. This should include a discussion with the Data Protection Commissioner on the process.

Chairman: Arising from the document and what the Taoiseach said yesterday, I suggest we write to the Taoiseach and outline these two issues on the Committee of Public Accounts agenda. We are now aware that this issue has arisen. These issues should have been addressed in the terms of reference. Everyone knew this was coming. Maybe people do not want to get around the existing legislative protection, but the issue should have been dealt with comprehensively one way or the other before the terms of reference were set. Now that the terms of reference have been set, we can see the practical problems arising on how they will work. This is an issue. I think we will send this to the Taoiseach, as Head of Government. The Department of the Taoiseach is normally where terms of reference emanate. We should ask that the matter

be considered. I am not suggesting what he should do but we need to highlight it.

Deputy Catherine Murphy: People have serious concerns about the costs of tribunals and inquiries, understandably. Anything that adds to those costs is of some concern to us.

Chairman: That is a valid point. As you said, Deputy Murphy, it is not specific to the Cooke commission.

Correspondence No. 1435 B is from Mr. Niall Cody of the Revenue Commissioners. It provides information requested by the committee on the nursing homes support scheme. We will note and publish it. He has given details of loans extended and collecting money in cases outstanding.

Correspondence No. 1436 B is from Ms Fiona Kenny, Nursing Homes Ireland. It provides information regarding the submission made by Nursing Homes Ireland in October 2016 on the National Treatment Purchase Fund and the agreement entered into by that organisation and the Competition and Consumer Protection Commission. We will note and publish that.

Deputy David Cullinane: I wish to come back to that for a moment. This was an issue. Are we coming back to this in our next periodic report?

Chairman: We are because we only went as far as the first week in May. That will be earlier.

Deputy David Cullinane: I recall we only dealt with this in private session in the past. However, since witnesses have been before the committee in public session I want to go back to something. The Competition and Consumer Protection Commission examined allegations of price fixing and the issues contained in the leaked copy of the minutes of the meeting attended by the chairperson of HIQA.

I had put to the head of Nursing Homes Ireland that the Competition and Consumer Protection Commission said in the report that nothing happened. The report did not say issues were not discussed. In fact, the agreement signed by both parties states that all the stuff in the leaked minutes should not happen in future. It did not state the matters were never discussed. It simply said they should not happen in future. That was the point I made to Nursing Homes Ireland.

The commission was unable to penalise or sanction Nursing Homes Ireland for something that did not happen. We never said it happened because the CCPC received strong legal advice at all stages to the effect that it was crossing a line and had to stop. That was my reading of it.

All I am saying is that when the head of Nursing Homes Ireland was before the committee I thought he was rather evasive in answering the questions, to be frank. He has an entitlement to be, but he was simply not answering the questions put by a number of us. He simply stonewalled us. That was his right but he basically kept coming back to the report which vindicated that the issue never happened and that the word “boycott” was never used and so on. He would not answer a question about that when it was put to him. All I am saying is that the signed agreement by both parties essentially stated that all the issues of contention and concern to the committee in the memorandum should not happen in future. That tells me some of those issues probably were discussed at the meeting.

Chairman: We will come to do a report when we come back. We will certainly discuss that in terms of what we can put into our report on the issue.

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Deputy Catherine Connolly: I wish to be clear. What he said was that he did not use the word “boycott”, but he would not clarify whether the word was ever used.

Chairman: He had an exact formula of words that he repeated.

Deputy David Cullinane: His line was that the Competition and Consumer Protection Commission essentially vindicated Nursing Homes Ireland. The position taken of “nothing to see here” was actually not accurate. The agreement contained a set of conditions, including that the organisation would not do any of the stuff that was discussed and that would be problematic. Those involved thought about doing it and talked about doing it, but did not do it and promised that they would not do it in future.

Chairman: He did not refer to “we” because he said he was not party to it. He said someone did it.

Deputy David Cullinane: Nursing Homes Ireland signed up to it. Therefore, Nursing Homes Ireland, as a corporate body, agreed with the Competition and Consumer Protection Commission that it would not do any of that stuff. It was never clarified whether it was said, but it is implicit in the agreement. The agreement outlines all the issues that the Competition and Consumer Protection Commission probably thought had been discussed but were never actioned and, therefore, no wrongdoing occurred. Let us ensure it does not happen in the future and lock it into an agreement.

Chairman: This topic will be covered in our next report so we can discuss it at that point.

Deputy David Cullinane: It is closed off now anyway.

Chairman: We will note and publish that correspondence.

No. 1437 B is from Mr. Ger Casey, CEO, Grangegorman Development Agency, dated 27 June, regarding the Grangegorman public private partnership, PPP, project. Mr. Casey confirms that the financial close was achieved. The letter is about the cost overruns as a result of the delay. For the benefit of people watching, the preferred tender of the Grangegorman project was Eriugena Group. The second ranked tenderer initiated court proceedings challenging the authority’s decision to appoint Eriugena as the preferred tenderer. The court case went on for some time and as a result of that, the matter is concluded. Section 4 of the reply deals with impact and costs. According to the CEO of the agency, that delay has added €45 million to the cost of the project. Work on the project has commenced but, according to Mr. Casey, final close of the project continues to represent value for money. We need clarification on that point. While a value for money exercise was done initially, we want to know if was it revisited as a result of the additional €45 million cost. That is the issue for this committee. We want to examine that process.

Deputy Catherine Murphy: The letter states that the original tender process for the Grangegorman PPP project was completed at a time of historically low construction costs. It also references building inflation, particularly in the Dublin region. As I understand if there was a tender process, a price was agreed. Where does inflation come into an agreed price to the extent that has happened in this instance? I can understand that there may be contingencies and so on. Perhaps Mr. McCarthy would elaborate.

Mr. Seamus McCarthy: Typically, in a situation like this the tender is submitted with a time limit but once one goes outside the time limit the clock starts ticking.

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Chairman: Inflation would have been built into the time limit. It should be borne in mind that this was only the preferred tender and that the tender document had not been signed.

Mr. Seamus McCarthy: Generally, the tender is valid for a particular period. After that it falls into a negotiated position.

Deputy Catherine Murphy: There is a different issue then that we potentially need to examine, namely, delays in the courts which have the potential to increase costs, which questions the robustness of the process to begin with. We have come across a few situations where the process around PPP projects was flawed. This may not be the case in this instance but we need to learn some lessons from this because it can end up costing us a lot of money.

Chairman: The court proceedings were initiated in 27 March 2015 and the judgment issued in October 2016 but a final close was not achieved until March 2018, which is a significant delay.

Deputy Catherine Murphy: It might be worth looking at the judgment.

Chairman: It says that it found fully in favour of the State and the process. The original tenderer was awarded the job. The issue is that there is nothing stopping a bidder who does not win a contract taking a legal challenge. The issue is whether this could have been resolved through mediation. I am vaguely conscious of a situation arising between tenderers for one of the major projects on the M1 who negotiated a conclusion to work together on a the project.

Mr. Seamus McCarthy: It is a judgment call as to whether that is the most expedient thing to do.

Deputy Catherine Murphy: It is interesting that the State is fully vindicated and it cost €45 million.

Chairman: Yes.

Deputy Catherine Murphy: That is €45 million in construction costs and there will probably be additional legal costs.

Mr. Seamus McCarthy: Mr. O’Kelly may be in a position to offer a view because the National Development Finance Agency, NDFFA, supports State bodies in PPP procurement.

Chairman: The NDFFA will be before us this afternoon so we will hold this correspondence until then.

Deputy Catherine Murphy: The letter references delayed receipt of sale proceeds of existing DIT buildings at Kevin Street, Cathal Brugha Street, Rathmines and Sackville Place. There are other DIT buildings that I presume are to be sold as well. The buildings at Mountjoy Square and Aungier Street come to mind. Are all DIT buildings being closed and sold?

Mr. Seamus McCarthy: I presume the new buildings will have to be place before they can decant from the old buildings and sell them. I presume the reference is to the valuation projections of what the cost impact would be, in other words, the loss the money for a period of time.

Chairman: Officials from the NDFFA, which forms part of the National Treasury Management Agency, will be before us this afternoon. We will put all of these questions to them then. The questions are valid for this afternoon’s session when the witnesses are here. We will note

and publish this letter in the interim. It is regrettable that a bill of €45 million must be paid by the taxpayer as a result of this delay.

Mr. Seamus McCarthy: It underscores the importance of a good procurement process. If there was something wrong with the process the State would have lost and had to pay compensation as well the extra cost and delay. This has occurred. A number of years ago there was a sizeable settlement with an underbidder regarding a road project. The State at least has the satisfaction of having won the case. It is a poor comfort.

Chairman: It is €45 million extra the taxpayer has to pay.

No. 1446 B is from Mr. Martin Fraser, Secretary General, Department of the Taoiseach, dated 28 June 2018, providing on Project Ireland 2040. We dealt with this as part of our periodic report. We will note and publish this correspondence.

No. 1450 B is from Ms Breda Rafter, Government accounting unit, Department of Public Expenditure and Reform, dated 29 June 2018, providing clarification and further information regarding government accounting arrangements. We will come back to this in the autumn as part of our review.

Mr. McCarthy might elaborate at this point on the two special reports he issued yesterday which we will deal within the autumn.

Mr. Seamus McCarthy: The Chairman is correct. One of the reports is a further update on the timeliness of submission of financial statements. We have looked at 2014, 2015 and 2016. The timeliness of financial reporting has improved.

The second report is a special report setting out a framework to be used by public sector bodies to assess their own financial management capacity. Its purpose is to provide some kind of structure and a framework that bodies and boards of public sector bodies can use in preparing a self-assessment to identify if there are things they need to do to improve their financial management.

Deputy Catherine Murphy: It sounds like summer reading.

Mr. Seamus McCarthy: Perhaps not.

Chairman: I have had only a quick look at it.

Mr. Seamus McCarthy: It is a technical report. We tested it with Enterprise Ireland, which found it a useful exercise. The danger is that an organisation will concentrate on what it is good at and not see the gaps in the structure. The report is to provide some sort of a benchmark in that regard. The Office of the Comptroller and Auditor General is proposing to use it in carrying out a review of a number of education and training boards and financial management capacity therein. We are setting out the standards that we will look to see demonstrated in ETBs but it will be some time next year before that happens. Correspondence No. 1456 is from Mr. Martin O'Brien, chief executive, Louth and Meath Education and Training Board, dated 3 July 2018 in response to concerns raised by the committee regarding invoice redirection fraud. Mr. O'Brien informs the committee that a Garda investigation is ongoing and states that he expects to recover a significant part of the amount while its insurance should cover the remainder. We will note and publish that and ask for a detailed report at the end of September. We wish to be kept updated on that issue.

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Correspondence No. 1463 is from Mr. John McCarthy, Secretary General, Department of Housing, Planning and Local Government, in response to a committee request for further details in relation to evictions from local authority and Approved Housing Body, AHB, dwellings, which we will note and publish.

Correspondence No. 1465 is from Ms Brenda McVeigh, secretary to the Commissioner, Tax Appeals Commission, dated 29 June 2018, providing follow up information requested by the committee at our meeting on 28 June 2018. To get a response in 24 hours must be a record. The information includes a supplementary briefing note for the committee that outlines the commission's request for resources and concerns it raised about the lack of resources in the period June 2017 to date and also an aged analysis of legacy appeals. We will note and publish this. It is clear from the response that the number of appeals going to the Tax Appeals Commission has gone from 174 in 2011 up to 400 in 2014 and 493 in 2015 and then 469. There has been a very significant rate of increase. It seems that those who provided the resources for this body did not anticipate that its very establishment would increase the number of appeals. It looks as though that was not taken into account.

Deputy Catherine Murphy: The Chairman is correct about the 24 hour turnaround. It is a minor miracle, especially considering how stretched this organisation is. We wrote to the Department of Finance about the resourcing issue but we have not had a reply.

Chairman: No, not yet. We will get that. Different views were expressed at the meeting and we wrote to the Minister.

Correspondence No. 1466 from Mr. Liam Sloyan, chief executive officer, National Treatment Purchase Fund, providing follow up information requested by the committee regarding expenditure and giving a breakdown of expenditure in particular categories. Ophthalmology was €10 million, orthopaedics was €8 million, general surgery was €2 million, cardiac was €3 million, ear, nose and throat was €3 million and smaller items in relation to urology, gynaecology, dental and non-cosmetic plastic surgery was €100,000, to total of almost €30 million in that area. We note and publish this. People will be interested in the breakdown of that funding.

Correspondence No. 1467 from Mr. Ray Mitchell, Health Service Executive, provides information to a the numbers of parliamentary questions dealt with by the Department of Health and HSE, which we noted and publish.

Correspondence No. 1468 from Ms Vivienne Flood, public affairs, RTÉ, enclosing a summary report requested by the committee from Eversheds Sutherland on the use of freelancers-contractors at RTÉ. RTÉ states it is committed to developing and implementing a new policy in relation to the engagement of freelancers-contractors. We note and publish that. We discussed this at length as part of the committee's report. RTÉ said it would complete this matter by the end of December. We will ask for a report in January on the implementation of the commitment given here.

Deputy David Cullinane: It is important that we acknowledge the work done by RTÉ both on this issue and on that of gender pay. I think that is the second report. We had robust exchanges with the Accounting Officer and the director of human resources when they were before the committee but they seem to have taken the issue seriously. We have reports and recommendations which they say they accept and hopefully that will lead to changes.

The National Union of Journalists, NUJ, has called for the sectoral committee, namely, the

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Joint Committee on Employment Affairs and Social Protection, to look at its wider implications because it is not just prevalent in RTÉ but is rampant across several sectors. That would not be an issue for the Committee of Public Accounts because it relates to private organisations. We have looked at it and have produced our own periodic report. Could we send that report to the committee, referencing the Eversheds report? It will be up to the committee, but it might be an issue that it could explore.

Chairman: We will write to the Joint Committee on Employment Affairs and Social Protection on that, enclosing a copy of our report and ask it to consider it -----

Deputy David Cullinane: It is up to that committee if it deals with it, it is not appropriate for us.

Chairman: ----- as part of its work programme. We will leave it to it.

Mr. Seamus McCarthy: There is one aspect that falls within the remit of the committee, namely, pay related social insurance, PRSI, because the contribution rates would be different to the extent that people are misclassified, which would be of significance to the committee.

Deputy David Cullinane: We will come back to that.

Chairman: We will return to that issue.

Deputy David Cullinane: There are 109, certainly more than 100 contracts that will have to be reviewed. That could be a cost to RTÉ and, as a consequence, to the Exchequer. We will not know until that work has been done but it is something that we would return to.

Chairman: Correspondence No. 1469 is from Mr. Ray Mitchell, Health Service Executive, dated 5 July 2018 enclosing the HSE protocol for release of patient slides which we note and publish. That is relevant to the discussion we have all had earlier. It is no harm that that protocol is now on the public record.

Correspondence No. 1471 from Ms Michelle O’Keeffe, Broadcasting Authority of Ireland, BAI, dated 6 July stating that to date BAI has not received a formal proposal regarding the establishment of RTE2+1 . We will note and publish that. We will come to the three or four items relating to this together. We have had success. They made an application the other day.

Deputy David Cullinane: The Chairman will launch this.

Chairman: I will be launching that station when it gets going.

Deputy David Cullinane: The Comptroller and Auditor General will not be able to watch it.

Chairman: Correspondence No. 1472 is from Mr. Maurice Quinn, Secretary General of the Department of Defence, date 5 July 2018 providing a note on UN reimbursements. Only €3.4 million was outstanding at the end of 2017. We note and publish that.

Correspondence No. 1473 is from Mr. Robert Watt, Secretary General of Department of Public Expenditure and Reform, dated 5 July 2018 outlining the process involved in the review of the Protected Disclosures Act 2014 and also providing a copy of the review. That review is too large to get into today. We will consider the issue of how the State is dealing with protected disclosure. The report is there. I have looked at it. It is lovely in that if one reads it, one would

almost think it was working well. I felt the report was missing testimonials from people who made protected disclosures. They seemed to have consulted with stakeholders but there is an absence of testimonials from the people who made the disclosures.

We will return to this issue in the autumn. We asked for one specific issue in our correspondence, namely, a list of people who made submissions. Chapter 5 of the review deals with the submissions. It gives an overview, the thematic issues raised and a consideration of those points. However, our first question was about who made submissions. That would normally be published. When someone makes a submission to a public body, the advertisement will say that the submission will be put on the website. I am shocked that we have not been given the names of that. We requested it at the previous meeting when protected disclosures arose. We had a letter telling us that this was under way. We were shocked to know it was under way as we did not seem to know about it. They say that Oireachtas Members were notified on the matter by email on 25 August 2017, and that there were advertisements in the newspaper in August 2017 and that the closing date for submission was 10 October. The submissions might be on their website.

Apart from discussion on this, I propose that we invite Transparency International Ireland, which sent us a report on this, before the committee, primarily because the Department's review relies heavily on Transparency International Ireland's own report. The Department's report includes several charts illustrating the finance of the survey which are reproduced with the permission of Transparency International Ireland. Since its report has had a significant input into that of the Department, it is important that we hear from it. We will have to organise the sequencing of the witnesses. It looks as though Transparency International Ireland got closer to the bone of the issue than the Department. Is it agreed that we include it? It would be in the autumn work programme.

Deputy Catherine Murphy: I wish to agree with the Chairman on stakeholders. There is a certain mindset about stakeholders but whistleblowers are stakeholders. Sometimes they are the real stakeholders in that they are looking after the public interest.

Chairman: When the list of people who have made submissions is received, I will ask that it be immediately circulated to members of the committee. That is a simple question and could be answered in a moment, I suspect.

Mr. Seamus McCarthy: There is a link in the document that takes one to another source. One has to be connected to the Internet for it to work. That list is published.

Chairman: We will ask for it to be circulated today or tomorrow. Normally the names of the people who make submissions are up on the website somewhere. We are coming back to that issue because we said in private session the last day that we would bring in somebody who is a whistleblower to test the process of the public service and how it is actually dealing with those issues.

Deputy Catherine Murphy: I wish to make one quick point. I have seen this over the years with different things. I note that that process was in August 2017. We are all human beings as well. It is a recess month. It is when people are likely to take holidays and maybe the scrutiny would not be there. I see controversial planning applications being submitted on the August bank holiday weekend and other stuff tied to the recess. It is not unfair for us to point out that the timing on these things is very important. Where the timing will exclude rather than include, the consultation process becomes less meaningful. That does not just relate to this

thing, but timing is important for genuine consultation.

Chairman: The Deputy is right. They say that they compiled the list of relevant stakeholders and contacted them directly by email about the review, including all Departments, prescribed bodies, local authorities and Oireachtas Members who were contacted on 25 August 2017. They knew well when they were doing that, smack bang in the middle of August. Somebody rushed this off before their holidays and said they would have responses when they came back. If they are not coming back, all the better. We have seen that in every walk of life in the public service. Maybe it happens in the private sector too.

The next item is correspondence from Ms Dee Forbes, director general of RTÉ dated 9 July 2018 about RTÉ's appearance before the committee and inaccuracies concerning RTÉ2+1. I think we have made the point about the obligation on public bodies appearing before the committee to provide clear and accurate information, and speak with candour. I will not read the entire letter. It states:

We very much welcome the supportive remarks that you made in terms of our plans on this issue on the day, and I am happy to confirm that as of 25 June 2018, consistent with the intentions set out in our 5-Year strategy, we submitted our formal application to the DC-CAE for RTÉ2+1 and an extension of the hours for RTÉ One+1 as required under ... the Broadcasting Act. Like you, we hope that the approval of our request will be forthcoming...

Therefore, it is done. We all look forward to watching that by the time the next World Cup comes around because it did not have the matches on RTÉ2+1 on this occasion.

Correspondence No. 1476 from Mr. Robert Watt, Secretary General of Department of Public Expenditure and Reform, dated 10 July 2018, provides a note on the reasons some accounts are exempt from the general requirement to present their financial statement for audit by the end of March. We note and publish that. We will deal with that when we are looking at a review of submission on public accounts in the autumn, and the Comptroller and Auditor General's report on the Department of Public Expenditure and Reform.

Correspondence No. 1477 from Mr. Niall Burgess, Secretary General of Department of Foreign Affairs and Trade, dated 9 July 2018, provides follow-up on a number of matters raised during its appearance before the committee. We note and publish that.

We come to correspondence in category C related to individuals and any other private organisations.

Correspondence Nos. 1342, 1355 (i) to (vi), and 1362 regarding wards of courts funds were held over from the last meeting. We agreed at our meeting on 28 June to request a recently published report on this matter from the Oireachtas Joint Committee on Justice and Equality. That committee has made a number of supportive recommendations. I propose that we write to the committee to keep us updated on the matter and for it to follow through on the recommendations. I propose we write to the individual to say that the Committee of Public Accounts cannot take up the matter separately given that the Oireachtas Joint Committee on Justice and Equality has produced a detailed report on the matter. Extensive documentation was supplied to that committee in preparing its very comprehensive report. Obviously, it would not be appropriate due to Oireachtas time to duplicate the work it has already done. We fully support that committee in its work. As the sectoral committee, it is best placed to deal with this matter at the moment.

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Correspondence No. 1350, which was held over, was received from an individual regarding a submission to the committee on the management of protected disclosures. The committee discussed this matter in private session and has agreed to meet the individual to inform itself of matters that can be brought to the attention of the Irish Prison Service. The secretariat will make the necessary arrangements for a meeting following the recess. We note the correspondence for now.

Correspondence No. 1386, which was held over, is an anonymous letter requesting the committee to make inquiries with the Department of Employment Affairs and Social Protection from an individual who has made a protected disclosure over alleged wrongdoing in St. Munchin's community centre, Kileely, County Limerick. We discussed this in private on Tuesday and agree to write to the Department for a response. We now formally note this.

Correspondence No. 1429, which was held over, was received from Deputy Catherine Murphy, dated 26 June 2018, regarding the examination of the spending by EirGrid on a controversial wind-hub substation in County Laois. This matter is outside the remit of the committee. Does the Deputy wish to speak on it?

Deputy Catherine Murphy: Generally, we need to look at the subsidies and the value for money. Some of it may come up in the context of this morning's discussion on green bonds. We all know we need to change over and there are costs in terms of potential fines for polluting where carbon is emitted. At the same time we need to ensure we get value for money for the clean energy that will replace it. I am not sure whether it should be done by this committee or the Joint Committee on Communications, Climate Action and Environment. We should not just gloss over it. There is the potential for a large amount of money being spent and then us doing a review after the fact rather than looking at it based on where we are at the moment.

Chairman: This organisation, Wind Aware Ireland, submitted a detailed report that it had produced challenging the costs and the reduction in carbon emissions as a result of the current proposal. It is a counterargument to the general thinking that it is all efficient and is reducing our CO2 emissions. The report contains useful information on the substation in County Laois. The ESB and EirGrid are not audited by this committee. The Office of the Comptroller and Auditor General sent me a note on that which we will circulate. They are not audited by us and so are not under our remit. They are subject to appear before the Joint Committee on Communications, Climate Action and Environment. That committee considered this matter previously and decided not to take up the issue because it felt it was substantially a planning issue relating to the particular site.

However, I wrote to the Sustainability Energy Authority of Ireland asking if it had a role in it. It replied that it had none. That is in private correspondence to me. I propose that we formally write to the CRU, the Commission for Regulation of Utilities in Ireland, which was formerly the Commission for Energy Regulation, with that report asking for a detailed observation on the report and its views on any role or function it has regarding that electricity substation in County Laois. As the regulator, the CRU may have a role as it approves funding for capital projects, how much of those capital costs can be passed on to the customer and the financing of it. It has to give regulatory approval. The regulator is our best option in this particular case, so we will do that and come back to the matter. It is mainly to the regulator we are writing, but we will also circulate the previous note prepared by the Comptroller and Auditor General's office regarding EirGrid and the ESB. It will be of benefit to the committee. We will come back to this.

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Deputy Catherine Murphy: I want to make it very clear that I fully appreciate the need to swap over to clean energy; my only interest here is the finances involved.

Chairman: Yes, exactly. That is going to the Commission for Energy Regulation, including the report it attached to that email to us.

Nos. 1440C and 1441C were held over from the previous meeting. They relate to HSE circulars not circulated or implemented and HSE employees who did not make the criteria in the first round of the regularisation process of the Haddington Road agreement. We noted both of these items last week. Shall we agree to advise the correspondent accordingly and send her a copy of the transcript? We discussed this matter in detail at our previous meeting. We will send a transcript and if the correspondent wants to follow up the matter, she can do so.

No. 1442C was also over from last week and relates to the lack of emergency cardiac services at University Hospital Waterford. We had a discussion on the matter last week and we will send a copy of the transcript to the person involved.

No. 1444C was held over from the previous meeting and relates to children's programming on RTÉ. This is a copy of an email sent to RTÉ. There is no specific request for the committee to deal with the matter. Besides, it does not fall not within the remit of the committee. I propose that we forward this to the Joint Committee on Communications, Climate Action and Environment in order to allow it to take whatever action it proposes as part of its work programme.

No. 1447C was held over from the previous meeting and concerns a previous decision on a request for the committee to investigate the transfer of corporate governance responsibilities arising from the Local Government Reform Act 2014. The matter does not fall within the remit of the committee because the changes referred to were the result of a policy decision and the implementation of the Local Government Reform Act 2014. The previous correspondent was advised accordingly. This current correspondence also asks the question, "Where did the funds held by the Association of Municipal Authorities go when it was dissolved?" In order to be helpful, the clerk has followed up this and it is understood that the funds mentioned, approximately €875,000, were transferred to the Association of Irish Local Government in 2014. The Association of Irish Local Government has provided a note to the clerk and I propose that we forward it to the individual. Is that agreed? Agreed.

No. 1455C, held over from Deputy Marc MacSharry, regarding the liquidation of the Irish Bank Resolution Corporation, IBRC. We had a discussion on this in private session at our meeting last Tuesday and we decided that we will write to the Department of Finance and the State Claims Agency regarding the status of a possible discontinuance of a High Court case regarding the matter. The issue of the High Court case prevented the committee from examining certain issues relating to IBRC when we met with its representatives last year, and we wish to ascertain whether these obstacles have been dealt with. We note this, but I again stress that the Committee of Public Accounts is in no way involved with any party in requesting any discontinuance of any court proceeding.

The next item, comprising No. 1461C(i) and (ii), is from Ms Moyagh Murdock, chief executive officer of the Road Safety Authority, RSA, and concerns issues raised regarding the business case for the public services card or any assessments that were undertaken for the project. Shall we note and publish the item? The RSA has requested that we not publish the business case because it contains sensitive commercial information, so we will publish the reply but not the business case. We can revisit this.

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Deputy Catherine Murphy: My concern was whether we got value for money in respect of the use of the public services card. I refer to the final page of the correspondence, on which it is stated, “Not all of these ... are now valid and for that reason we now propose to extend the NDLS Front Office contract for a further year up to February 2020. The €7 million annual cost reflects the approximate ... cost of the NDLS”-----

Chairman: The Deputy might help people watching proceedings and tell us what the issue concerns.

Deputy Catherine Murphy: The issue relates to the use of the public services card or the requirement for a public services card-----

Chairman: When applying for a driving licence.

Deputy Catherine Murphy: Yes. Essentially, €2 million was spent and now the RSA has reverted to a previous system because I do not think it had the power to use the public services card. Whether the €2 million was wasted is a matter at which, I believe, we like to look.

Chairman: Is Mr. McCarthy aware of this correspondence or has he-----

Mr. Seamus McCarthy: I am. I did not have an opportunity, though, to look at the report, the business case material, but I will do so.

Chairman: Is the RSA audited by the Office of the Comptroller and Auditor General?

Mr. Seamus McCarthy: Yes.

Chairman: We ask Mr. McCarthy to take this correspondence into consideration and, if he feels there is an issue, to come back to us in due course.

Deputy Catherine Connolly: This issue of the public services card and the special report that was done has been huge. I do not know whether it was a special report but I have lost track of the cost of it. Was it €60 million?

Mr. Seamus McCarthy: It was certainly a large amount.

Deputy Catherine Connolly: This seems to be done on an *ad hoc* basis and without discussion. Deputy Catherine Murphy has raised another aspect of it.

Deputy Catherine Murphy: Yes.

Deputy Catherine Connolly: It is difficult to watch. We are here looking at value for money, but there was certainly no value for money in the overall scheme. It was run on an *ad hoc* basis. Where are we regarding-----

Chairman: Perhaps Mr. McCarthy will respond. As part of his annual report, under which Department does the public services card come?

Deputy Catherine Connolly: The Department of Employment Affairs and Social Protection.

Mr. Seamus McCarthy: The public services card comes under the Department of Employment Affairs and Social Protection.

Chairman: The Office of the Comptroller and Auditor General has compiled a chapter on

this.

Mr. Seamus McCarthy: We did, yes.

Chairman: Perhaps Mr. McCarthy might write an updated paragraph, if feasible, or he can come back to it.

Mr. Seamus McCarthy: It is possibly a bit late to raise a new issue. If, however, the committee flags it to the Department, its representatives will inevitably be here and there may be an opportunity, if the committee so wishes, to put a number of questions to them asking for updates on issues raised previously .

Chairman: We will include a meeting with the Department in our work programme when we return in the autumn. We will flag that one of the items for that meeting will be the need to update this.

Deputy Catherine Murphy: The purpose of the card lies at the heart of this as well. It is a national identity card-----

Chairman: For public services. If one has no dealing with the public services, one does not have to have one-----

Deputy Catherine Murphy: However, there was a stated purpose in setting this up to begin with. It has gone beyond that stated purpose.

Mr. Seamus McCarthy: I think part of the issue here was whether the Department could use the information in the licensing system from the public services card, so it does relate to the use and application of it in the delivery of public services.

Deputy Catherine Connolly: That raises serious data protection issues. It is something we definitely should come back to.

Chairman: We will in the autumn with the Department of Employment Affairs and Social Protection. We will deal with that specific item on the day.

Mr. Seamus McCarthy: In addition, we will look at this material in the context of auditing of the RSA.

Chairman: Yes, and then we will also say we want an update on which public bodies do and do not have access. This issue could have arisen in other public bodies that are given money and get ready to use it and then find they have no statutory or data clearance to use it. The matter might not have been specific to this organisation, so we will try to get the fuller picture on it in the autumn.

No. 1470C is from Ms Oonagh McPhillips, acting Secretary General at the Department of Justice and Equality, and is dated 6 July 2018. We thank her for her work. She appeared before the committee as acting Secretary General and acting Accounting Officer. A new Secretary General has been appointed. We will not get into that controversial issue now. The matter was raised in the Chamber yesterday, I think. The correspondence concerns a report on the provision and operation of GoSafe for An Garda Síochána. We will note and publish this item of correspondence.

No. 1475C is from the Provost of Trinity College, Patrick Prendergast, dated 9 July 2018,

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providing further information on a cyberfraud relating to Trinity Foundation. I want to deal with this. As part of the financial statements we received, there was a reference to a loss to the foundation of €974,781. I refer to the circumstances that gave rise to this incident. There was another occurrence of cyber-fraud in the Louth-Meath area. I think something happened in Meath County Council a few years ago.

Mr. Seamus McCarthy: It is called a supplier fraud. This was more-----

Chairman: It involved hacking emails.

Mr. Seamus McCarthy: Hacking emails and payment-----

Chairman: Here are three examples of cyberfraud that we have spotted this year. That is an issue the Committee of Public Accounts certainly needs to come back to, because this is fraud targeting public expenditure, and represents a loss to the taxpayer. Cyberfraud and the associated public losses are another item for the work programme.

I refer to the circumstances that gave rise to this incident. I will not read all of the letter, but it states that in early 2017 unauthorised access by a third party to the email account of an employee of Trinity Foundation resulted in the authorisation of fraudulent payments to individuals unconnected to the Trinity College Dublin or Trinity Foundation. The letter goes on to say that the original amount defrauded was €217,000, which has since been recovered; that the remainder is subject to ongoing investigation inside and outside the State; and that the university is also pursuing the matter with its insurance providers. Moreover, at this stage, the loss, including the cost of investigation and other ancillary costs, amounts to €974,781.

The correspondence is to be noted and published. It states that Trinity College has now essentially transferred the processing of payments function from the Trinity Foundation to the university's financial services division. We will write to Trinity College seeking an update on this matter in the autumn. We will need an update. This issue and the resultant loss to the public is now starting to come before the Committee of Public Accounts. The loss in this instance was to the Trinity Foundation.

Mr. Seamus McCarthy: Actually, it was a loss to the college.

Chairman: A loss to the college.

Mr. Seamus McCarthy: Yes. In initiation, it was funds that were in the foundation, but the college was obliged to make good that loss to the foundation.

Chairman: As such, it was a straight loss to a third level institution.

Deputy Catherine Connolly: Can we just tease that out a little?

Chairman: Here we go again.

Deputy Catherine Connolly: We are told the foundations are completely private. However, the university had to make up the loss. The letter states Trinity College Dublin took it from its commercial revenue.

Mr. Seamus McCarthy: Trinity has fully consolidated its foundation.

Chairman: That is the difference.

Mr. Seamus McCarthy: It is the one college that has accepted that it controls its foundation. Even before this problem arose, this was accepted by Trinity. The university was fully consolidating the foundation in its financial statements. Usually in a situation where a foundation is operating, it receives moneys for specific purposes. It must deliver on those purposes because it has taken the money. The foundation had an obligation to protect that money until such time as it could be applied for the purposes. Therefore, the university has been obliged to find the funding from elsewhere in its resources to meet that loss.

Deputy Catherine Connolly: It came from the commercial revenue. That is what the university has said. That comes from income from student accommodation or whatever else the university does.

Mr. Seamus McCarthy: Yes.

Deputy Catherine Connolly: That needs to be teased out. The university obviously has a surplus. It has money with which it can make up for the loss. All sorts of interesting issues arise here given that the universities claim to be struggling.

Chairman: We have been pleading with the universities to consolidate the foundations they control, and when they take control if something goes wrong, they carry the can. This sequence of events is unfortunate.

Deputy Catherine Connolly: However, it is fortunate that they are in a position to do so.

Mr. Seamus McCarthy: The same kind of situation would have arisen if a different argument was used. If a foundation had lost the moneys, the project for which the moneys were contributed would still have to be delivered. There would be a reputational issue for a college if it did not meet the obligation. How would it approach another sponsor or donor having lost these funds?

Deputy David Cullinane: I definitely think we should come back to this after the recess. May I see the previous document on the screen again? We should write to Trinity College and request a breakdown of the €974,781 figure. The letter refers to the cost of investigation, which I assume is an internal investigation.

Chairman: It probably brought somebody in to do the investigation.

Deputy David Cullinane: It also mentions ancillary costs, whatever they are. It would be useful to get a breakdown of what all that means.

Mr. Seamus McCarthy: I think the university commissioned an outside firm to look at-----

Deputy David Cullinane: We need to know the costs of the outside firm, the ancillary costs and the amount that was stolen.

Deputy Catherine Murphy: As there is clearly a Garda investigation under way into this matter, the committee may well be limited in terms of what it can find out about the case until the investigation concludes. Irrespective of whether the foundation is consolidated, the same risk potentially applies to other universities. There is not much point in deriving some learning from this if we do not share it subsequently. Does the Higher Education Authority, HEA, assume that function? Who assumes the function of putting systems in place that are less likely to be attacked in the way this one was? The subject of this attack was one person, according to this letter. It was not a range of people. It seems as though there is a control issue here. I do

not know how we should address this matter. Perhaps it should be done by a sectoral committee or by writing to the HEA. How do we deal with this issue? Obviously, if one college has had an incident of this profile, others will have had the same.

Chairman: We will come back to this in our work programme. We need ask every Accounting Officer standard questions about cyberfraud in their organisation, specifically what measures they have in place and whether there have been any incidents of cyberfraud. Maybe there are incidents we do not hear about.

Mr. Seamus McCarthy: Generally, if there is an incident like this, we will draw it to the committee's attention, and we have done so over the years. In the case of the university, I think the first set of lessons that have to be learned are within the institution as to what specific control weaknesses could have occurred that created an opportunity for this. There is also an important systemic learning. For instance, supplier fraud is something that we have come across, and we have attempted to alert others. We have written to public sector organisations telling them to be aware that this is a risk, outlining what it looks like and the things they need to do in order to mitigate any such risk.

One of the things that was happening was that public sector organisations were being contacted using what looked like official headed notepaper. The message purported to be from a service provider which was changing its bank account. It gave the details of a new bank account and payments were processed without an additional check being done. That is how a fraud has occurred in a number of situations.

Deputy Bobby Aylward: I presume there will be prosecutions when the Garda have investigated?

Chairman: There is a Garda investigation.

Mr. Seamus McCarthy: It is difficult to actually catch the people involved. Very often they are outside the jurisdiction. Moneys can be caught. In several situations, banks have noted large transfers, perhaps transfers of round sums that look a little bit out of pattern. In fact, I think that is what happened in the Trinity College case. A bank in Scotland identified movements that seemed odd.

Chairman: There is a police investigation under way in Ireland, the UK and Germany. We will ask for a breakdown of the loss in the meantime. We will also put the issue on our agenda for the autumn.

No. 1480 is an anonymous item of correspondence regarding land in Ballsbridge which the correspondent states is owned by a particular developer in the National Asset Management Agency, NAMA. I have received a copy and I know some other members did. We have not circulated the correspondence electronically because it may be defamatory. However, it does raise several general questions that we should put to NAMA. The correspondence is to be noted, and the committee will write to NAMA concerning the issues raised, with anything potentially defamatory redacted. The same topic is addressed by an article on the front page of *The Irish Times* this morning.

Deputy David Cullinane: Do we have a serial leaker?

Chairman: I do not know which was the chicken and which was the egg. At this stage, I propose that we write to NAMA to seek a response to the issues raised. However, we will not

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get into any matter that has the potential to be defamatory or anything of that nature. We will write to NAMA but we do not want to send this letter to NAMA in case it is defamatory. As this is the last meeting, I do not want to hold this over but it only arrived yesterday.

Deputy David Cullinane: There is probably nothing we can do about it, and I raised it earlier in a different context, but if we are receiving correspondence that-----

Chairman: To be fair, there might not have been a link with the article in the newspaper.

Deputy David Cullinane: There may have been a link.

Chairman: There may be; I do not know.

Deputy David Cullinane: My point is that we need to be extra precious when it comes to correspondence that makes allegations against individuals that could be defamatory. If it ends up in the newspapers even before we get a chance to discuss it, it is not then accepted as Committee of Public Accounts correspondence. We had the dossier from Ms Skelly. Some of that ended up in the media. We need to be extra precious and cautious because it could land us in trouble at some point. I know there is nothing we can do about it but it is-----

Chairman: We will not circulate this letter to members, which they can see on the screen, but we will write to NAMA in the general context.

Deputy David Cullinane: It undermines us if we have to deal with it at some point. If, say, there are issues we cannot deal with it but others that we can deal with, members of the committee could compromise our work. I will leave it at that but it is happening now almost on a weekly basis.

Deputy Bobby Aylward: Some members got this letter.

Chairman: A few members got it.

Deputy Bobby Aylward: Some of us have it already.

Chairman: I got it yesterday and another member told me they got it yesterday also, and the clerk to the committee got it.

Interruptions.

Chairman: No. Say no more. The Deputy cannot draw a conclusion-----

Deputy Catherine Connolly: I say that in jest.

Chairman: I know. I think we are clear about what we are doing with this.

Deputy Catherine Murphy: We are due to have NAMA in, is that correct?

Chairman: Yes. That will be our first meeting. That is why I want this letter to go to NAMA. I am proposing that our first meeting in September will be with NAMA representatives. They have not been here since December 2016. It will be more than 20 months since they were before the committee.

Deputy Catherine Murphy: There will be a wide variety of issues-----

Chairman: They are long overdue a visit. One of the reasons I want to clear this, even

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though it came in to us at the last minute, is that we can send it to NAMA. We will then be able to deal with the general issues when NAMA comes in before us. I think we are agreed on that.

Deputy Catherine Murphy: We are not publishing this, is that right?

Chairman: No. We are not publishing it. We are not circulating it, even to the members, because if we circulate it, it may have parliamentary privilege. Members can see it now and if they want to know more about it, they can get *The Irish Times*. I say that in jest.

Deputy David Cullinane: Or read the Sunday newspaper.

Chairman: Exactly. That deals with the correspondence.

Statements and accounts received since the last meeting are being put on the screen now. We will move through this quickly. The first item is the National University of Ireland Maynooth audit opinion. Deferred pensions is referred to and non-compliance with procurement. We will come back to the non-compliance with procurement issue in the autumn.

We then have the accounts from the National Treasury Management Agency, NTMA, and its administration account, and accounts in respect of the national debt of Ireland, the Post Office Savings Banks, the State Claims Agency, Dormant Accounts Fund, Ireland Strategic Investment Fund, National Pensions Reserve Fund, all of which come under the NTMA, whose representatives are before us today.

Deputy Catherine Murphy: Those are for today.

Chairman: The National Treasury Management Agency; we were talking about NAMA a moment ago. All of those are the accounts of the NTMA, which we will deal with shortly. That is noted.

The next item is the Insolvency Service of Ireland, clear audit opinion. I think all of that is on today's list.

Deputy Catherine Murphy: The Insolvency Service of Ireland has a clear audit opinion.

Chairman: Yes, so the Deputy can read its financial report and see how it is doing.

On the last item, I want to have a brief discussion on the work programme for the autumn. We want to have meetings set up for the autumn. We are back on 20 September. I think the Dáil comes back on 18 September. On 20 September, the first day back, we have agreed already that we will have NAMA representatives before the committee. It is more than 20 months since they were here so they are long overdue a visit.

In terms of the following, we agreed last week that Ms Flannelly, the former clinical director of CervicalCheck, was not able to make the meeting last week. She has indicated she will come in at a suitable time. I think that because of her key role we should take up that offer and I suggest we have the meeting on that day. We will be dealing with CervicalCheck, the Health Service Executive, HSE, and the State Claims Agency, and we will probably have further information after the summer. Essentially, that will be at the end of September but all of that is to be confirmed.

In terms of the following week, 4 October, we did not bring in representatives of the Department of Public Expenditure and Reform, DPER, last year. I suggest we deal with that De-

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partment. The Comptroller and Auditor General's annual report will be out at that stage so we will deal with whatever chapter is in that report dealing with DPER. Two special reports were published yesterday. We will deal with all the DPER issues as best we can.

Mr. Seamus McCarthy: The Chairman is scheduling the 2016 report material but there will be similar 2017 material. I suggest the Chairman substitute the 2017 report material. There would be no point going back to the 2016 material.

Chairman: Exactly. The 2017 annual report is normally out at the end of September. DPER representatives should be well able to speak on their Vote the following week.

Mr. Seamus McCarthy: Yes.

Chairman: That will be the 2017 material. If there is anything to finalise in the 2016 material, well and good. We will be on the 2017 Appropriation Accounts principally and those other items.

On Thursday, 11 October, I suggest it is worth inviting in representatives of the Office of Public Works, which is a very interesting Department. They have not been before the committee in quite a while. That allows the secretariat to set up those meetings over the summer and ensures we do not come back without any meetings arranged.

We have many issues to go on the work programme. We mentioned cyber crime and procurement. Public private partnerships, PPPs, are on our work schedule for the autumn, as well as some of the education matters.

Deputy Catherine Murphy: We agreed that we would come back to deal with the housing assistance payment, HAP, but also housing, of which HAP is a part.

Chairman: Yes.

Deputy Catherine Murphy: It is a very big area and it is difficult to figure out the amount of money that has been announced and on what it has been spent. That entire area is embedded in that Department

Chairman: The Department of Housing, Planning and Local Government.

Deputy Catherine Murphy: -----and it is important for us to have it-----

Chairman: At this stage we might schedule in the Department of Housing, Planning and Local Government for the following week because housing is a big issue. We need exact figures now on actual construction by local authorities and approved housing bodies and approvals for money. We saw in a report yesterday that one third of the money allocated to approved housing bodies had not been utilised. There were planning issues. I refer to the number of houses built under the housing assistance payment, HAP, which are substantially transferred-----

Deputy Catherine Murphy: The cost of homelessness, apart from the human cost.

Chairman: And the cost, yes.

Deputy Catherine Murphy: There is a range of issues in that regard.

Chairman: We will deal with housing and if members want to raise specific topics, they should submit them to the secretariat so that the Department can get notification of them. I sug-

gest we deal with housing specifically on that particular day as it is such a big issue. We will not complicate other issues in the Department; we will deal with housing only. There might be more information in the public arena by then. We will deal with housing on 18 October. That means when we come back on 20 September, five meetings will be organised. We have a schedule set up for the autumn and we will discuss that again on our first day back.

If there are no other items, we will suspend to allow our witnesses from the NTMA take their seats.

Sitting suspended at 10.20 a.m. and resumed at 10.34 a.m.

2016 Annual Report of the Comptroller and Auditor General and Appropriation Accounts

Chapter 23: Accounts of the National Treasury Management Agency

National Treasury Management Agency: Financial Statements 2017

Mr. Conor O’Kelly (Chief Executive Officer, National Treasury Management Agency) and **Mr. Ciarán Breen** (Director, State Claims Agency) called and examined.

Chairman: This session will deal with chapter 23 of the Comptroller and Auditor General’s annual report. The chapter relates to the accounts of the National Treasury Management Agency, NTMA. We will also deal with the NTMA’s financial statements for 2017, which have been published recently. We are joined today by Mr. Conor O’Kelly, chief executive officer at the NTMA, Mr. Ian Black, chief financial and operating officer at the NTMA, and Mr. Ciarán Breen, director at the State Claims Agency. From the Department of Finance, we are joined by Mr. Eoin Dorgan and Ms Orlagh Collison.

I ask all present to turn off their mobile phones or put them on aeroplane mode. Merely placing phones in silent mode means that they can still interfere with the recording system.

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 their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter to only qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members 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 of the objectives of such policies.

While we expect witnesses to answer questions put to them by the committee clearly and with candour, they can and should expect to be treated fairly and with respect and consideration

at all times, in accordance with the witness protocol. I call Mr. McCarthy.

Mr. Seamus McCarthy: I thank the Chairman. As members are aware, the NTMA is a complex organisation with multiple functions that extend beyond its original and core role in managing Ireland's national debt. The structure of the NTMA, following a reorganisation in 2014, is outlined in the written submission. The sets of financial statements before the committee this morning reflect the various statutory obligations that the NTMA has in respect of its financial reporting.

The NTMA's primary function is to manage borrowing on behalf of the State. The results of that borrowing activity are reported in the national debt account. At the end of 2017, the gross national debt stood at just under €199 billion, marginally lower than the debt at the end of 2016. Total debt servicing costs in 2017 amounted to €6.2 billion. This was 9% less than in the previous year, reflecting the impact of refinancing of debt at prevailing low interest rates.

Other important functions and services of the NTMA include: management of compensation claims on behalf of certain State authorities, in its capacity as the State Claims Agency; the management of the Ireland Strategic Investment Fund, ISIF; and the provision of procurement and financial advice in respect of certain public private partnerships and other large capital projects in its capacity as the National Development Finance Agency, NDFA.

In mid-2017, €3.45 billion was realised from the sale of almost 29% of the shares in AIB held by the ISIF. The proceeds from the sale were transferred from the fund to the Exchequer in the year. The value of the State's remaining shareholding in AIB at end 2017 was estimated at €10.5 billion.

The NTMA assigns staff and provides certain other support services, on a reimbursement basis, to two independent bodies - the National Asset Management Agency, NAMA, and the Strategic Banking Corporation of Ireland, SBCI. These are governed by separate boards, and the NTMA is not accountable for their activities. The NTMA also provides staff on secondment for the Department of Finance's banking unit, with the costs in that case being carried by the NTMA. The NTMA's administration account shows gross expenditure on administration costs totalled €116.4 million in 2017, with 80% of the expenditure in respect of staff costs.

The audit report on the account draws attention to expenditure of €6.2 million in 2017 relating to contracts that were not publicly advertised. The NTMA's statement on internal control provides explanations for the procurement approach adopted in relation to those contracts. The audit report also draws attention to non-effective expenditure of €853,000 relating to the planned development of a treasury management IT system. The project was terminated by the NTMA in 2017 without completion of the planned system.

Section 12 of the National Treasury Management Agency Act 1990 requires me to report annually to Dáil Éireann with respect to the correctness of the sums brought to account by the NTMA. This is in addition to the audit certificates that I produce on each set of financial statements. Chapter 23 before the committee today is the report in respect of 2016 and it highlights key developments in the year. A similar report is being prepared for 2017 and will form part of the report on the accounts for the public services in 2017.

Chairman: I ask Mr. O'Kelly to make his opening statement. I apologise for the delay in starting. It is our last meeting of the season and we had much tidying up to do which took longer than normal.

Mr. Conor O’Kelly: Not at all. I understand.

I thank the Chairman and members of the committee for the invitation. With me are Mr. Ian Black, our chief operating officer and chief financial officer, and Mr. Ciarán Breen who the committee has got to know probably more than any of us had hoped as director of the State Claims Agency. I was not planning on reading my opening statement. I have supplied slides for reference. Their purpose is to illustrate some of the themes which inform our strategy and policy on the marketplace.

I will touch on a number of the businesses, starting with the primary original business, as the Comptroller and Auditor General described it, of managing the national debt. A theme at which we are looking is how late it is in the investment cycle and the changing interest rate cycle and environment. We see this in a number of ways, although the most obvious is the announcement of the withdrawal and ending of the quantitative easing programme and what that might do. The interest rate environment has been supportive and tranquil and had no surprises. That is the environment in which we have been for seven or eight years. It is supportive in that central banks have been buying bonds for quantitative easing in the European Central Bank’s case; tranquil in that “lower for longer” has been the mantra for central banks with regard to interest rates; while “no surprises” means that the forward guidance central banks have given us on interest rates has been quite specific. It is our view that all three of these pillars of policy to which we have got used in the past seven or eight years are likely to change. As we will have the withdrawal of quantitative easing, it will not be as supportive, while rates will not be lower for longer. The Federal Reserve System has already raised rates seven times in its changing interest rate cycle and it is likely that the ECB will start to change its approach to interest rates, even though it has issued statements stating it will continue to keep rates low well into 2019. However, the environment is likely to change. That means that we will have to be careful and cautious heading into the future, particularly since Ireland is still very indebted, as we regularly point out in our bulletins and discussions with investors. Investors remain concerned about Ireland’s very high levels of debt. Our debt-to-GDP ratio has traditionally been the metric used and it has moved in a more favourable direction, but investors are less interested in that metric these days because of the obvious difficulties we have had in Ireland with GDP as to whether it is an accurate measure of our ability to repay our debts. Investors look more at interest as a percentage of Government revenue and at total debt as a percentage of Government revenue. Ireland does not fare quite as well on these metrics as we do on others. We are still quite high up the league tables. I provided a chart to demonstrate this.

There are concerns about the indebtedness of the country, despite the interest rate environment. The interest rate environment has meant that our interest bill, as the Comptroller and Auditor General says in his report on our accounts, was €6.2 billion in 2017, down from €7.5 billion at its highest. We think it is on its way towards €5 billion, notwithstanding the fact that the interest rate environment will change. The reason we have a high degree of confidence that the interest bill will continue to fall, despite the changing interest rate environment, is we have pre-emptively locked in interest rates by building up a significant amount of cash, repaying the International Monetary Fund and taking a number of other actions in buying back higher coupon bonds and locking in today’s lower rates. We have been able to buy insurance for taxpayers because of this pre-emptive action to lock the interest bill into today’s interest rate environment before it begins to turn. We can be confident that that will occur because between now and 2020 we will have a lot of debt maturing, much of which is high coupon debt. The averages of the maturing coupons are between 4.5% and 5.9% which we are replacing at today’s rates or the rates in the past 12 to 18 months. That differential is being locked in. What happened

this morning is a good example. As committee members have been sitting here, an auction has been taking place in the market in which Ireland has issued €1.25 billion, a ten-year note at a yield of approximately 0.81% to 0.82%, or just below 1%, and a 30-year bond at a rate closer to 1.6%. We are locking in that differential as these coupons mature. That means that we will produce some savings in the near term. That is what one would expect the National Treasury Management Agency to be doing in this environment and what quantitative easing is all about. It allows more indebted countries to make interest rate savings. We have been able to do this to some degree to buy some insurance, but it does not mean that the environment will not change.

A good example might be what recently happened with Italy, which is a reminder of how quickly things can change and spreads can move. The Italian ten-year spread moved by 100 basis points, or 1%, over a three month period, as there began to be uncertainty about Italy's future policies and concerns about instability of the Government there. If Ireland's credit spread was 100 basis points wider, since we have issued €50 billion since the beginning of 2015, having borrowed €50 billion in the marketplace-----

Chairman: Since when?

Mr. Conor O'Kelly: Since the beginning of 2015.

Chairman: Therefore, in three and a half years, we have refinanced €50 billion of our debt.

Mr. Conor O'Kelly: Correct.

Chairman: That is only about one quarter of our debt. We did not refinance three quarters of our debt when interest rates were at their best.

Mr. Conor O'Kelly: It is not capable of being refinanced until it matures, or pre-emptively.

Chairman: I know. It is just to put the matter in context. All of the work done has only resulted in one quarter of the national debt being refinanced in the past three and a half years.

Mr. Conor O'Kelly: Correct. If we had to pay 1% more on the debt over the period, we would be paying €500 million more per annum in interest.

Chairman: On the €50 billion the NTMA has refinanced.

Mr. Conor O'Kelly: Correct.

Chairman: The other three quarters, approximately €150 billion, has not changed.

Mr. Conor O'Kelly: Correct. That is why we are vulnerable to widening credit spreads. That is the interest rate outlook and things are going to change. They are becoming more volatile, as we are beginning to see. The cycle will change. In the near term it will not affect the direction of travel or trajectory of the interest bill.

Moving on to the Ireland Strategic Investment Fund, I will talk about our investment returns and the co-investment that has been attracted into the fund. I will also touch on responsible investment.

Chairman: For the benefit of people watching - many lay people are watching - to what do 100 basis points equate?

Mr. Conor O'Kelly: A figure of 1%.

Chairman: We get that, but many people might not. Mr. O’Kelly mentioned the ISIF. For the people watching, will he explain what the Ireland Strategic Investment Fund and the National Development Finance Agency do?

Mr. Conor O’Kelly: The Ireland Strategic Investment Fund came out of the National Pensions Reserve Fund. It is a fund of €8.9 billion. It has what we call a dual or double bottom line mandate. It is charged with investing in Ireland only and its investments must produce a commercial return and a beneficial economic impact for the country. That is what we describe as a double bottom line. The fund has invested €3.8 billion across the economy since its inception at the beginning of 2015, across all sectors and regions. Just under 50% is invested outside of Dublin. The returns so far on the fund have been reasonable. The annual return to date is 2.3%. The return last year, the year in question, was 4.3%. If we take the 2.3% annually, that has added €648 million to the size of the fund just because of the investment return. It has been a positive environment for the fund in that regard and it has been possible to add to the size of the fund through those returns.

One of the positive surprises for us in respect of the fund was the attraction of private capital. It was always envisaged that the ISIF would be a minority investor and would look to attract private capital to invest alongside it, or that it would invest alongside private capital. We thought originally that maybe for every €1 million the ISIF invested, it would attract €1 million from the private sector; that was the metric we were using in the initial studies. It has turned out that the multiple of investment and crowding in of private investment has been higher than that and is running at 1.7 times. This means the €3.8 billion of investment by the ISIF has resulted in €10.4 billion being invested in the Irish economy when we include the attraction of private capital. That is a very significant sum and a good bit higher than we originally envisaged.

The ISIF has a global portfolio. The €8.9 billion sits there and the bit that is not yet invested in the Irish economy is invested in the stock market and some conservative investments to wait for it to be drawn down, as it were, as the commitments come near. That portfolio sits in a variety of market vehicles that are reasonably conservative. It is managed actively by the team also.

In deference to Deputy Catherine Connolly, this time last year we had a discussion about responsible investing and I think it is fair to say that after that discussion we accelerated changes to our policy on responsible investing. Legislatively, we were only excluded from purchasing munitions stocks in the original legislation. We have expanded that policy to include the banning of tobacco stocks and have recently also included a list of the dirtier fossil fuel companies. Almost 16 stocks are now excluded from the portfolio. In accordance with what is really current best practice globally, we are still potentially investing in some older fuel companies provided they are making a transition to renewable and provided they have a proven decarbonisation strategy. They still attract investment from funds like ours. Those that are not are increasingly being excluded by the market and we have taken some steps to do that.

Chairman: If Mr. O’Kelly and the members will indulge me for one moment, the last time he was before the committee was in 2016, I think. At that stage I raised the issue of investment in tobacco and issued a strong press release asking the NTMA to divest itself of its investments in that area. I commenced working on a Private Members’ Bill that autumn, which was introduced in the Dáil, namely, the Ethical Public Investment (Tobacco) Bill 2017, a Bill entitled an Act to prohibit the investment of public moneys directly or indirectly in equities or debt securities issued by tobacco companies. Around that time - maybe it was a pure coincidence although I like to think it was more than that - the Minister announced that he was going to introduce similar provisions. I was very pleased to see that result. It was an issue that got well aired when

the NTMA was before the Committee of Public Accounts in 2016 and within six months it had divested itself of the tobacco investments.

Mr. Conor O’Kelly: Absolutely, and in fairness to the Chairman and the committee in general the point is that the fund should be mirroring what Members of the Oireachtas want or the actions they believe citizens want them to take. It would not be for us to lead in being the ethical or moral guardians of the portfolio but there should be a mirroring. That is appropriate and I acknowledge that we have indeed taken that path.

Chairman: I apologise for the minor interjection.

Mr. Conor O’Kelly: Not at all. Obviously the fossil fuels Bill is going through the Houses as we speak and we have been working closely with the various committees on that.

To touch on the National Development Finance Agency, it is involved in direct procurement, public private partnerships, PPPs, and advising Departments in terms of financial value for money. The PPP that people are probably most conscious of at the moment is what we call “schools bundle 5”, which has been affected by the Carillion collapse. That has been an extraordinary story for the UK with huge implications for jobs and a vast number of projects right across different sectors. Thankfully, in Ireland Carillion was only involved in one PPP in addition to a number of other smaller projects. The collapse did indeed cause very significant difficulties and complications for that PPP project. Ultimately, a number of the schools are likely to be completed, three of them hopefully by this school term, which was in doubt at various stages. Hopefully that looks likely to happen, which is a positive. The other schools will be delayed but works will start in the next couple of quarters.

As to what happened, what it means and what the lessons are, I think probably there are two things to take away. The first concerns the bundling of different projects to make a scale project suitable for a PPP. In PPPs generally, private capital wants a scale project. For example, we have bundled 14 primary care centres in a group, and we have also put a group of courthouses together to attract capital. Smaller projects will not attract that kind of capital, so we have bundled some. However, unbundling in the event of a failure of one of the counterparties proved to be very difficult. It has been managed, maybe just in time, but I think we will have to look at contracts involving bundled projects to ensure we have a better mechanism to separate them in the event of one of the counterparties failing.

The second consequence is potentially higher pricing in PPPs and procurement in general. There are still inquiries and lot of new reports coming out of the UK which we are watching closely. However, from the surface analysis, it seems that Carillion was serially underpricing contracts and the margin was too tight, which ultimately got it into trouble. There may be a recalibration in public procurement contracts of the price versus the strength of the counterparty and its ability to get the project done at the end of the day. I suspect that stronger counterparties and stronger balance sheets will prevail and will have an advantage. That may or may not be right. Ultimately, they will charge a price for their counterparty strength, which could mean prices rising in both direct and PPPs. That already seems to be happening in the UK.

The UK seems to have a specific exposure in aggregate to Carillion as a counterparty and that appears to be a big issue over there. I am wondering if Ireland has such an aggregated counterparty list. Should we have one? Are there companies to which the sovereign has a total counterparty risk - companies that are doing projects here, there and everywhere? Is there an aggregate list showing the top ten counterparties with which the sovereign currently has

contracts? Should there be a limit on the State's exposure to any one counterparty rather than another? I think that is proven in retrospect in the UK, which would probably say it was too exposed, as a state, to one single counterparty. That is something we might take a look at and take forward proactively. The other business that the NTMA is in charge of is NewERA, which is a corporate finance advisory business to commercial semi-State companies, and it produces its annual report which is about governance and shareholder value and having all of the State's shareholding in one place with the same metrics, governance structures, reporting and key performance indications, KPIs. I suppose a measure of confidence in the work that NewERA is doing is that it is getting a lot of additions to its portfolio and being asked to provide additional advice for various Departments. Recently all of the transport assets of the State were added to NewERA's portfolio as designated bodies and An Post has also been added. I can see NewERA developing as essentially a custodian - a single place where all of the State's assets and exposures are held in one place, analysed and subject to governance on behalf of the various Departments. That seems to be growing.

The Committee of Public Accounts is all too familiar with the business of the SCA. I am sure members will have questions for Mr. Ciarán Breen on the update. It is a big business now. It manages claims for 150 different agencies, and is dealing currently with 10,000 claims, 80% of which are non-clinical. The total contingent liability is substantial, somewhere between €2.5 billion and €3 billion. It is a significant business. The Houses of the Oireachtas are asking the agency, through the mandate it has given to us to walk that delicate line between watching out for taxpayer's money and being sensitive to the difficult and tragic circumstances that victims often find themselves in. It is a difficult balance and the staff of the agency walk it every day. It is a difficult mandate for somebody.

That covers my statement and I am happy to take questions.

Chairman: The first speaker will be Deputy Catherine Murphy, to be followed by Deputy Catherine Connolly and then either Deputies David Cullinane or Jonathan O'Brien.

Deputy Catherine Murphy: Good morning, gentlemen. There are no ladies present, which is something we tend to notice.

I will ask brief questions and I would like succinct replies because I am limited on time.

My question is addressed to the SCA. We had understood that the contingent liability was €2.6 billion, but the figure today is €2.7 billion and Mr. O'Kelly stated that it is between €2.5 billion and €3 billion while there have been 40 claims to date in respect of cervical screening process. Is that the most up-to-date figure?

On a previous occasion when the witnesses were before us, we were told that the agency only becomes aware of potential claims when there are pleadings or when the cases are escalated by the HSE and formally handed over.

Mr. Ciarán Breen: Yes, either a letter of claim or pleadings.

Deputy Catherine Murphy: We discovered during a previous engagement that the average legal cost per clinical claim is €40,000, which compares with €8,000 for general claims. We were trying to get to a position where there is monetary disclosure and mediated settlements in cases where people have been damaged by the State and have a legitimate claim in order that the State's costs State could be lowered by a reduction in the legal costs rather than going through the expensive process of going to court. In regard to CervicalCheck is there active

engagement other than pleadings or the formal letters of claim? Are measures being taken to make the process less problematic for the people while, at the same time, reducing the legal exposure?

Mr. Ciarán Breen: In all those cases as they arise, our preferred option is to go to mediation. In the three cases that have settled so far the first was a failed mediation, the second was a straightforward settlement where the other party decided not to go for mediation and in the third, the Emma Mhic Mhathúna case, which is the most recent one, we had mediation, which did not quite fail. The mediation broke up on a Sunday but during that week negotiations continued. Our aim is to ensure that all these cases, in so far as we can do them, go to mediation. We must remember that a plaintiff might decide that she does not want to do mediation.

Deputy Catherine Murphy: How many cases is the State Claims Agency handling currently?

Mr. Ciarán Breen: We are dealing with 40 cases.

Deputy Catherine Murphy: How many of those cases are being mediated?

Mr. Ciarán Breen: Our intention is to deal with each case as it arises. The court is case managing those cases where women are gravely ill and, therefore, they are falling into mediation immediately as a priority.

Deputy Catherine Murphy: The Taoiseach made a statement in the Dáil, and from what I understand there is another party to this and there is a liability beyond the State in regard to one of the laboratories. The Taoiseach had said that the mediation could be concluded and the State would then pursue the third party. Is that viable?

Mr. Ciarán Breen: Let me give the example of the settlement in the Emma Mhic Mhathúna case. The parties contributed to the settlement and the defendant parties, that is, the State and the laboratory, have decided is that they will take to one side the issues between them as to how liability is apportioned. The reason for that is not to involve the plaintiff in that kind of dispute between the two parties. That is working quite well. The laboratories have been co-operative and we have a system in place whereby we are mediating these cases and are arriving at settlements. It is functioning well as matters stand.

Deputy Catherine Murphy: Has Mr. Breen spoken to the HSE about cases that are likely to fall into the category where the laboratories are involved as a third party?

Mr. Ciarán Breen: Yes, the HSE is aware of the 40 cases that we have. When the HSE came before the committee last week, it indicated that it is aware of approximately 221 potential cases. Some 40 cases have come to us in the form of either-----

Deputy Catherine Murphy: What happens to the other cases outside of the 40 cases? Is it up to the individual to issue proceedings or will the HSE handle the cases by advising people of their rights and entitlements, and the supports that might be available to them?

Mr. Ciarán Breen: There are supports which are independent of the legal process in any event, of which the Deputy will be aware, but the individual must issue at least a letter of claim, because that is the formal engagement to say that the individual is looking for compensation. They must do that in the first instance.

Deputy Catherine Murphy: If people do not do that, they do not come to the attention of

the agency.

Mr. Ciarán Breen: We would not know about them.

Deputy Catherine Murphy: Some 87% of all the liabilities outstanding in 2016 were accounted for by Tusla and HSE. Some of the liabilities relate to catastrophic injuries at birth which account for a sizeable amount. If the SCA sees clusters or patterns where one hospital is subject to many claims, what does the agency do to get to the root of the problem?

Mr. Ciarán Breen: I will give the Deputy a recent example of that. We have a clinical risk management team which is made up of doctors, physiotherapists, nurses and other such staff and when incidents are reported in real time through our national incident management system, the team picks up on them in the first instance and analyses them and then it also looks at our closed claims. Recently, when we were looking at a particular hospital, we discovered that there may be a problem in a particular unit with a particular practitioner. What we did was a very in-depth analysis of our expert reports on the claims and we looked at other incidents. What we do then is we have an active engagement with the hospital. In the particular case, the hospital will carry out its own independent investigation when we provide it with information that would appear to indicate there is a very definite cluster associated with the particular practitioner.

Deputy Catherine Murphy: I want to move through some of the other areas, specifically, the National Development Finance Agency and Carillion. Carillion did not engage in building work but essentially contracted out the work. The opening statement refers to the transfer of risk, which is the purpose of public private partnerships. According to the agency, PPPs have been very effective and the risk has been transferred to the private sector. There have been many casualties in the case of Carillion, including the loss of 200 jobs and the impact on small suppliers and subcontractors. The risk has been transferred but, by and large, it has been carried by domestic suppliers and contractors and the fallout has been significant. School projects have been delayed. I am acutely aware of a project in my constituency where other accommodation had to be hired on an interim basis. There is a knock-on effect on the provision of subjects on the syllabus because of the lack of laboratory or other facilities. The cost is, therefore, much greater than only the financial cost.

There was a red flag over Carillion to begin with. Does the NTMA take into account such warnings when projects are being considered? I understand the need for economies of scale but that would be of value irrespective of whether it the project was undertaken by a public private partnership.

Mr. Conor O'Kelly: I do not for a moment dispute that. In our commentary we talk about PPPs and risk transfer. It is quite an academic point about the cost. I appreciate that the cost is very significant. The collapse of Carillion is a travesty and a very significant event and the knock-on effects for Sammon and others have been very difficult. Sammon went into examinership and ultimately liquidation and there are lots of consequences of that. The Department of Education and Skills was procuring directly with Sammon in lots of different ways so the collapse of Carillion has caused very significant damage. I am not underestimating that in any sense. I am just saying the financial structure of the PPP has meant that the schools were built by Carillion and Sammon. They were paid and the equity providers into that vehicle have lost 90% of the value of the money and the State has not yet paid any monthly payments. We do not pay until the school opens.

Deputy Catherine Murphy: I understand that.

Mr. Conor O’Kelly: From that point of view, the State would normally have paid out all the €90 million to build the schools to date and would still have all the problems that are there. In that particular element - the schools that are built to date - here is no financial obligation on the State for the schools that are built to date, and that risk has been borne, appropriately, because that is what the PPP is supposed to have done. Some of the questions in the past have been about risk transfer and whether a PPP really transfers risk and if the State is not on the hook anyway and how the State always has to pay for everything at the end of the day. This demonstrates for that particular piece that that is not the case. The risk has been borne by the PPP funders and the risk has not transferred back to the State. It has been owned by funders. They have lost the money and they are currently under value or under water on their equity and that is the way PPPs are set up. That does not mean we do not have to solve these other problems about the schools opening, but one would have to do that whether the construction was direct or indirect.

Deputy Catherine Murphy: The fallout has predominantly been domestic in terms of the liquidation of Sammon and the impact on subcontractors and jobs. The red flag that was connected with Carillion and the health of the company prior to the contract being awarded is a significant issue. People rely on the State to carry out due diligence. Smaller companies further down the food chain are not in a position to do the kind of forensic examination one would expect the State to do and it would be very unfair to expect them to do it. Does Mr. O’Kelly accept there have been failures in way in which this project has been handled?

Mr. Conor O’Kelly: Things happen, first of all, so none of us can predict the future and what is going to happen. Companies go out of business and they succeed and they fail and that happens in the construction business which is a particularly volatile business. It does not matter how one is building; nobody can predict the future and nobody has a crystal ball. The question is whether one has a mechanism set up which, in the event of something like that happening, allows one to get around it and have enough flexibility. When the contract was originally put out Carillion was a very robust publicly quoted company which had the confidence of shareholders and investors all over the world. In our counterparty analysis, it looked like a fine company at that point. By the way, it was a fine company at that point. In designing the contract with what is a good counterparty at that point, we build into the mechanism that, in the event of one of the parties failing, which happened in the case of Carillion, the other members of PPPCo can take over the running of the PPPCo and then start to instruct and make sure the schools get built. What we are concerned about is the schools being built.

Deputy Catherine Murphy: I understand that.

Mr. Conor O’Kelly: If one of the counterparties goes and that has collateral damage in the private sector, that happens every day and I am not sure the committee would want the NDFA to build in protections for everybody down the line. I do not think that would be possible.

Deputy Catherine Murphy: No, that is not the point I was making. Mr. O’Kelly spoke earlier about the very tight margins Carillion was working to, which probably created exposure. These were also picked up down the food chain, if one likes, in terms of the domestic fallout.

I will move on to another aspect of the accounts on non-effective expenditure, which relates to the IT system. A total of €853,000 was involved. It was for an IT system that was not delivered. What was the nature of the project? Could Mr. O’Kelly could give us some details on it? Was any of it used? Was there any retrieval on it? Was a proper business case done before

it was considered?

Mr. Conor O’Kelly: That is fair enough. I will ask Mr. Black to respond in a moment. In the case of the NTMA, a treasury management system is a very significant and critical bit of infrastructure. The system we have in place works extremely well and has worked well for many years. We were looking at upgrading it and adopting a new system because of the changes in technology, for the most part, and in terms of interaction with the market. We specced out very carefully and we appointed the company. I am not sure if we can mention the name but we might get to that. Our difficulty was that what it promised to deliver and what we needed it to deliver did not transpire and, ultimately, despite lots of negotiations along the way where it was promising to do so, nothing happened. The company was a very well-known public company.

Deputy Catherine Murphy: The NTMA planned to spend a pile of money - €853,000 - on a system that was not provided. I am not really concerned about whether the company has a reputation. This will certainly damage its reputation because it was contracted to do something and did not do it.

Mr. Conor O’Kelly: That is correct.

Deputy Catherine Murphy: There was a public cost from that.

Mr. Conor O’Kelly: That is correct.

Deputy Catherine Murphy: Was a business case prepared which indicated that a product would be delivered-----

Mr. Conor O’Kelly: Of course.

Deputy Catherine Murphy: -----but the product was not delivered?

Mr. Conor O’Kelly: Of course, a business case was prepared by a significant project team approved by our audit and risk committee and probably seen by the Comptroller and Auditor General, etc. However, the product was not delivered and we decided to abort the contract. Were that cost-----

Deputy Catherine Murphy: How much would the contract have been worth, in total, if it had been fully brought to fruition?

Mr. Ian Black: It was a no-due contract. Its total value, excluding VAT, was €5 million over its lifespan.

Deputy Catherine Connolly: How much was it worth?

Deputy Catherine Murphy: It was worth €5 million.

Mr. Ian Black: €5 million.

Deputy Catherine Murphy: What was the lifespan of the contract?

Mr. Ian Black: Ten years.

Deputy Catherine Murphy: It would have included servicing and upgrades and so on.

Mr. Ian Black: It would have included ongoing maintenance.

Deputy Catherine Murphy: Some €853,000 was paid before the contract was pulled. Was compensation obtained from the company or is it being pursued? Why was the company paid before the product was delivered?

Mr. Ian Black: We procured the contract in 2016. As part of the procurement and tender process, a percentage of the fee is normally paid on the vendor being appointed and signing the contract. The due amount was paid for the next phase, which was the planning stage. Thereafter, a design phase was gone through but our requirements were not met. We allowed the company a second attempt to resolve the issues but it failed to meet our requirements. Our decision to terminate the project was based on a lack of confidence in the performance of the vendor and, indeed, evidence that it had four project managers on the project but was failing to perform.

Deputy Catherine Murphy: Will it be possible to recoup some of the money paid?

Mr. Ian Black: Arrangements are ongoing to recoup the money. However, we made provision for the amounts paid. The payments were made in 2016 and the decision not to proceed was taken in 2017. We knew that we would not get value for it and have thus, in a sense, provided for that amount.

Deputy Catherine Murphy: Has the NTMA issued another tender or is it seeking to install another IT system?

Mr. Ian Black: As Mr O’Kelly stated, the existing treasury management system will be maintained for the next couple of years. Thereafter, we may consider installing another IT system but for the moment we will continue with what we have.

Deputy Catherine Murphy: Obviously, it is a large amount of money and the reputation of a particular company is at issue. In light of it not delivering on the contract, is there any reason for the committee not to be told its identity?

Mr. Ian Black: I am happy to identify it. The no due contract is published on the Internet. OpenLink is the name of the company.

Deputy Catherine Murphy: The witnesses referred to the very low interest rates on the enormous national debt. The Chair pointed out that the refinance demand relates to €50 billion, approximately one quarter of the national debt. Obviously, we are considering maturities and a potential increase in the cost of servicing the national debt. Have projections been made regarding the end of a low interest rate cycle? Could that be done?

Mr. Conor O’Kelly: Is the Deputy referring to our interest bill?

Deputy Catherine Murphy: Yes.

Mr. Conor O’Kelly: We have projected that out to 2020 it will continue on a downward trend towards €5 billion. Thereafter, it will begin to increase towards or above €6 billion, depending on the interest rate environment at that stage. We have detailed forecasts and predictions incorporating the market forecast in terms of budget predictions, etc. They are all built into that forecast.

Deputy Catherine Murphy: Many members believe that the State has been very short-changed by the IBRC although that is not the witnesses’ concern; they are there to manage the national debt rather than the politics of it. Did today’s auction relate to IBRC?

Mr. Conor O’Kelly: No.

Deputy Catherine Murphy: I refer to the bondholders who, as of 2017, were to be paid €933 million. In terms of the outstanding claims for IBRC-----

Mr. Conor O’Kelly: Is the Deputy referring to eligible liability claims, ELCs?

Deputy Catherine Murphy: Yes. Must the NTMA wait until the distressed assets and so on are sold? How is that managed?

Mr. Conor O’Kelly: We do not have to wait until that stage. We put in a claim to IBRC and the banks, as members are aware. That scheme, which was introduced in March 2013, ended in March 2018. Under the scheme, the NTMA, on behalf of the State, claimed the interest and was paid the interest due by the banks. That has been completed and the auditors of those banks are completing statements to confirm that everything due has been paid. There are some residual outstanding claims in regard to IBRC claims but NTMA ranks quite high up the chain of creditor priority and will not have to wait.

Deputy Catherine Murphy: What is the estimated worth of the distressed assets?

Mr. Conor O’Kelly: I do not know.

Deputy Catherine Murphy: The witnesses stated that the ISIF is worth approximately €8.9 billion.

Mr. Conor O’Kelly: That is correct.

Deputy Catherine Murphy: What was it worth at its height?

Mr. Conor O’Kelly: That is its highest value in its current form but I assume the Deputy is referring to-----

Deputy Catherine Murphy: Prior to its current form.

Mr. Conor O’Kelly: -----the National Pensions Reserve Fund, NPRF, which had a highest value of between €23.5 billion and €24 billion. Of course, that included bank shares. If one adds the value of the bank shares at current prices to the €8.9 billion and the proceeds from shares that have been sold, it comes very close to a total value as high as or possibly slightly higher than that of the NPRF at its peak.

Deputy Catherine Murphy: However, the €8.9 billion would have created income in the meantime.

Mr. Conor O’Kelly: It would not necessarily have created income but it would have been exposed to the stock market so might be worth more. It would have been invested in the market and might be worth more than €8.9 billion. My calculation did not take that into account. The Deputy is correct that the €8.9 billion would probably have increased.

Chairman: Deputy Catherine Murphy may ask a final question.

Deputy Catherine Murphy: Retention payments totalling €80,000 were made to two NTMA employees in 2017. Are there any outstanding employment contracts which were entered into prior to 2014 and have retention implications?

Mr. Conor O’Kelly: I do not believe so. The practice of offering people retention payments in the NTMA has ceased.

Deputy Catherine Connolly: The witnesses are very welcome. The lack of gender balance among them should be noted, although there is nothing they can do about it. Déanaim tagairt do chuile cruinniú.

I welcome the focus on climate change by the NTMA since its last appearance before the committee. Towards the end of the December report it is noted that the NTMA is obliged by legislation not to invest in cluster munitions, as was referred to, but that is not the case in the context of tobacco. The Chair single-handedly sorted out that issue, which made me crave a cigarette. Restrictions have also been placed on investment in coal and oil. I ask the witnesses to clarify what has been excluded and what changes have been made since the last time NTMA officials appeared before the committee.

Mr. Conor O’Kelly: We have specifically excluded all tobacco stocks and adopted a policy which excludes the dirtier fossil fuel stocks. We have looked to best practice in the global investment management business for guidance on how to categorise those fossil fuel stocks. There are currently 16 stocks on our excluded list.

Deputy Catherine Connolly: Some 16 stocks.

Mr. Conor O’Kelly: Yes, 16.

Deputy Catherine Connolly: Those 16 stocks have been excluded since the witnesses’ previous appearance before the committee.

Mr. Conor O’Kelly: That is correct.

Chairman: Has a list of the stocks in question been published?

Mr. Conor O’Kelly: It has not but I see no reason why we could not do so. There may be some sensitivity in that regard but I will make further inquiries and should be able to make it available to the committee.

Deputy Catherine Connolly: The sensitivity in terms of climate change is a far bigger issue.

Mr. Conor O’Kelly: That is a fair point.

Deputy Catherine Connolly: The subtleties must be appreciated. Since Mr. O’Kelly was here last, the NTMA has divested of investments in 16 entities.

Mr. Conor O’Kelly: Correct. That was in addition to the tobacco industry divestments.

Deputy Catherine Connolly: Is there a working programme to divest of more?

Mr. Conor O’Kelly: The fossil fuel Bill has a divestment element which we have been working through. We will execute divestment of additional stocks if we have to do so after publication of the Bill.

Deputy Catherine Connolly: Mr. O’Kelly has said the NTMA is looking at companies and that if they have transition plans, they are looked on favourably. Will he elaborate on that point?

Mr. Conor O’Kelly: That is the common protocol for all investment managers around the world because sustainable and responsible investing has become much more important and a much bigger driver of investment policy. If companies that traditionally would have been classified as fossil fuel stocks demonstrate to investors that they are decarbonising or transitioning to more environmentally friendly production methods, they will receive support from investors in general.

Deputy Catherine Connolly: I am speaking specifically about the NTMA and its strategy. How does it follow it? Does it have a team in place that looks at these companies?

Mr. Conor O’Kelly: Yes. We have a framework, a strategy and a team that works with investment managers, to whom we give the money to make sure the guidelines are being followed and monitored. Where we have questions, we receive information back the committee makes the decisions. The decision the committee has made to date is to exclude 16 stocks and not to exclude others but to actively monitor how the companies are performing through research and interaction with our fund managers.

Deputy Catherine Connolly: Balancing that, with what companies has the NTMA taken up that are aware of climate change and actively pursuing the development of policies?

Mr. Conor O’Kelly: The global portfolio is winding down. In five years there will not be any stocks left in it and the funds will be invested in Ireland. The Irish portfolio receives a lot more attention-----

Deputy Catherine Connolly: The NTMA’s investment programme is moving away from the world portfolio to the Irish portfolio.

Mr. Conor O’Kelly: Totally.

Deputy Catherine Connolly: There is a five-year limit.

Mr. Conor O’Kelly: That is the estimate. We have invested €3.8 billion. With the Minister’s new review, there is probably a total of €5.5 billion in the fund which has been moving reasonably quickly. In the next few years the global portfolio will continue to decline. The Irish portfolio is specifically focused on Ireland’s decarbonisation agenda. We have backed a number of renewable energy companies. We have backed a solar power company and made significant investments in the alternative energy space.

Deputy Catherine Connolly: The review mentioned was due to take place 18 months after the Ireland Strategic Investment Fund was set up. Is that right?

Mr. Conor O’Kelly: Correct.

Deputy Catherine Connolly: We are well past those 18 months. Is it a Government, rather than an NTMA, problem? Was it specifically laid down in the legislation that there would be a review after 18 months?

Mr. Conor O’Kelly: It was.

Deputy Catherine Connolly: When was it set up?

Mr. Conor O’Kelly: At the beginning of 2015.

Deputy Catherine Connolly: By the middle of 2016 the review should have been started.

Mr. Conor O’Kelly: It started at the beginning of 2017 when all the results for the portfolio were in. We started to engage with the Department at that point and it has been an iterative process. In fairness to the Department, the final conclusions were published by the Minister who asked us to focus on areas of market failure, particularly in the regions, Brexit and housing. He has asked us, officially and formally, to focus on these areas. Both he and the Department were aware that we were already moving the strategy in that direction towards areas where capital did not flow as freely and which were part of the original strategy.

Deputy Catherine Connolly: Connacht, the region I am from, has done very badly. As Mr. O’Kelly mentioned the regions, I refer to page 24 of the NTMA’s annual report.

Mr. Conor O’Kelly: That is a relative term. I am guessing that it is relative to its percentage of GDP. That is how we measure whether it is in line.

Deputy Catherine Connolly: It is something to which I might come back. My train of thought is focused on this issue. Is the review ongoing or will there be a report on it?

Mr. Conor O’Kelly: The review has been completed. The Minister made an announcement a couple of weeks ago.

Deputy Catherine Connolly: The review is available.

Mr. Eoin Dorgan: The Minister has signalled his intentions. He will be writing to the chief executive in the coming weeks. He will write the section 40 letter with the complete review.

Deputy Catherine Connolly: Will the review be made available?

Mr. Eoin Dorgan: That will be a matter for the Minister to decide, but I imagine that it will.

Deputy Catherine Connolly: I am a little lost. The fund was set up under the Act which states there should be a review. Who carried it out?

Mr. Eoin Dorgan: The review was carried out-----

Deputy Catherine Connolly: Internally.

Mr. Eoin Dorgan: The ISIF conducted it and the Department carried out a complementary review. The ISIF could review its own mandate within its statutory mandate, whereas the Department conducted a broader review of the economic context in which the State found itself and the challenges and risks facing the State. The Minister considered both reviews and came to his final decision.

Deputy Catherine Connolly: Mr. Dorgan does not know if the review will be available to us. It is something we will take up with the Minister.

Mr. Eoin Dorgan: It is a decision for the Minister to make.

Deputy Catherine Connolly: I will go back to the IT issue into which Deputy Catherine Murphy went. Will the witnesses try to explain to me how it happened that €746,000 was written off in 2017 and a further €107,000 was incurred in 2016 and 2017? We are talking about a figure of €853,000. How could the NTMA make a business case, go to tender and get a company to do a specific job which it did not do, yet the company does not lose the money but the NTMA? Will someone, please, tell me when the NTMA became aware of it and how? Did it get someone in to carry out a review?

COMMITTEE OF PUBLIC ACCOUNTS

Mr. Ian Black: Given the size of the contract, it went through a public procurement process.

Deputy Catherine Connolly: I heard that part.

Mr. Ian Black: The contract was awarded in May 2016. As part of it, there was a payment. It is normal for contractual payments to be spread over----

Deputy Catherine Connolly: How much was paid at that point?

Mr. Ian Black: At that point €500,000, including VAT, was paid.

Deputy Catherine Connolly: A sum of €500,000 was paid upfront.

Mr. Ian Black: Yes. Again, it would have gone through a public procurement process-----

Deputy Catherine Connolly: I am more concerned with the NTMA's process that allowed this to happen. The company was appointed.

Mr. Ian Black: There were payment milestones. We went through a planning phase to produce a project plan to ensure functionality would be delivered. It went through an internal audit, an in-flight review, which it passed and a further payment of €250,000 was made in November 2016. The project ran into difficulties in January 2017, at which stage it was escalated to the vendor's senior management and a new project manager was appointed. It was the third project manager. We engaged heavily with the company until July, at which point the project was supposed to pass through to the next stage, the design phase, but it did not do so. It remained "red" - if we could call it that - for that period of time and a decision was taken based on a review not to proceed with that vendor.

Deputy Catherine Connolly: Who carried out that review?

Mr. Conor O'Kelly: The vendor had teams of people in the NTMA, in Treasury Building, building these systems and working with us to build this new system throughout this period and they were getting paid along the way as they hit various milestones. At some stage, we became uncomfortable with the standards that were being achieved and we felt it was not going to be good enough for what we needed. It is such a critical system for us we could not afford to take any risk with it. It was not meeting the standards. We gave the company a couple of opportunities to come back and deliver the kind of standards we wanted. We had paid the bill to date and that ultimately had to be written off because the system-----

Deputy Catherine Connolly: Those facts have been laid out to me by the Comptroller and Auditor General. I am aware of those facts. It had to be written off. What I am not aware of is how it happened. The NTMA has a huge portfolio of management of moneys. I have the greatest respect for the agency. The witnesses have given us tremendous information. Here is an example of utter failure-----

Mr. Conor O'Kelly: Sometimes-----

Deputy Catherine Connolly: -----the NTMA is now doing without the IT system, which is extraordinary. It is now managing well without it.

Mr. Conor O'Kelly: We have had some learning from that.

Deputy Catherine Connolly: Let us hear about the learning so.

Mr. Conor O’Kelly: We have had tremendous learning because we have learned what works and what does not work.

Deputy Catherine Connolly: The NTMA has spent almost €1 million - more than €800,000 - to learn this was not necessary.

Mr. Conor O’Kelly: We did not spend it to learn. We spent it to get a system that ultimately was not delivered to the standard that we wanted and that is very disappointing. Obviously, that is something we have to be very careful not to repeat.

Deputy Catherine Connolly: The NTMA is doing without the system now, so it does not need it.

Mr. Conor O’Kelly: It was replacing an in-house system. We continue to use the in-house system, which we have upgraded through the learnings along the way.

Deputy Catherine Connolly: Could the decision not have been to upgrade the system rather than replace it?

Mr. Ian Black: We did look at that at the time but it was decided that the appropriate course was to buy a system rather than build or further develop the existing system. Again, that was the decision at the time.

Deputy Catherine Connolly: In regard to those decisions, I have said repeatedly - the HSE is doing this too - that it is getting harder for us to determine value for money when it comes to IT.

Mr. Conor O’Kelly: We will not get every decision right.

Deputy Catherine Connolly: I do not accept that. I am not asking that the agency get every decision right. We are all human and I do not mind mistakes as long as we learn from them. I see a particular theme emerging with information technology and expertise that is worrying for me.

Mr. Conor O’Kelly: I think that is unfair because the complexity of the IT in the NTMA is extraordinary. There are approximately 70 people working full time building software to allow this amount of money to go through the system with as little leakage or risk as possible. It is extraordinarily complex. A lot of the technology works extremely well. This particular piece did not work to our standards so we cut it. Obviously, there is a cost to that.

Deputy Catherine Connolly: Is there a cost to come as well? Is there still costs outstanding?

Mr. Ian Black: That is the amount that we have paid. We have made no provision for further amounts because we do not believe there are further amounts due.

Deputy Catherine Connolly: Is there legal action?

Mr. Ian Black: Discussions are ongoing between us.

Deputy Catherine Connolly: There is a possibility of legal action.

Mr. Ian Black: Yes.

COMMITTEE OF PUBLIC ACCOUNTS

Deputy Catherine Connolly: On the Ireland Strategic Investment Fund, there are two parts to it, namely, discretionary investment and directed investment by the Minister. Is that correct?

Mr. Ian Black: Yes.

Deputy Catherine Connolly: Am I correct that the directed investments are mostly outside of Ireland?

Mr. Ian Black: The directed is AIB and Bank of Ireland.

Mr. Conor O'Kelly: On the €8.9 million, there is a global portfolio which is mostly outside of Ireland.

Deputy Catherine Connolly: That investment is outside of Ireland.

Mr. Conor O'Kelly: Not necessarily, but mostly.

Deputy Catherine Connolly: That is the investment that the NTMA will be redirecting back to Ireland in the next five years.

Mr. Conor O'Kelly: Correct. That is transitioning now.

Deputy Catherine Connolly: The €8.9 million mentioned is within the discretionary fund.

Mr. Conor O'Kelly: The €8.9 million figure is the total. The €3.8 million that we have committed to the Strategic Investment Fund plus what is in the global portfolio makes up the total of €8.9 million.

Deputy Catherine Connolly: The NTMA is looking at investments in Ireland in wind, solar and housing. Am I correct that it is investing in private companies that are building houses and apartments?

Mr. Conor O'Kelly: In some cases.

Deputy Catherine Connolly: Is Avestus Capital Partners one of those companies?

Mr. Conor O'Kelly: Yes.

Deputy Catherine Connolly: I read recently that the NTMA has put €29 million into that company. Am I correct that Avestus was formerly Quinlan?

Mr. Conor O'Kelly: I do not know the company's background.

Deputy Catherine Connolly: I ask that question because the same names keep turning up but I will take this up with elsewhere. Avestus proposes to build apartments and houses and the NTMA has invested €29 million in that development. Is that right?

Mr. Conor O'Kelly: Correct.

Deputy Catherine Connolly: With the possibility of another €29 million.

Mr. Conor O'Kelly: Correct.

Deputy Catherine Connolly: Mr. O'Kelly believes that is a good investment because there is a need for rental accommodation.

Mr. Conor O’Kelly: Yes.

Deputy Catherine Connolly: The article on Avestus references that the rental market has gone off the deep end. It has risen 80%. As of the first quarter of this year rents had surged by 87% in Dublin and 68% in other Irish cities from the low point during the Celtic tiger era. Would Mr. O’Kelly accept that the rental market is totally unsustainable?

Mr. Conor O’Kelly: There is a need for more supply.

Deputy Catherine Connolly: Would Mr. O’Kelly accept that rents are unsustainable given the average industrial wage?

Mr. Conor O’Kelly: Yes, I agree.

Deputy Catherine Connolly: Mr. O’Kelly earns his salary, which is a decent salary. I earn my salary. I would not like to be earning the average industrial wage and trying to pay for rented accommodation in Dublin or even earning €50,000 or €70,000 and trying to pay for it.

We now have a Government policy through the NTMA of putting more money into specific private companies.

Mr. Conor O’Kelly: We are trying to alleviate rental costs because the more houses that are built the better. The supply dynamic is skewed and we need more supply and we need it urgently. People can build houses and apartments to sell or they can build them specifically for the rental market. More people than has been previously been the case want to rent. This is the demographic shift across the world, including in Ireland. Ireland traditionally has not built residential units specifically for the rental market, which is one of the reasons rents are rising and there is tension in the market.

Deputy Catherine Connolly: I disagree with that analysis because the State has pulled out of building houses, which was bad and has led to a crisis. In addition, the message from Government is private rented accommodation is very good and there is any amount of public money for it. However, that is a discussion for another day. How much money has the NTMA invested in social and co-operative housing?

Mr. Conor O’Kelly: We have looked very carefully at this area.

Deputy Catherine Connolly: What is the level of investment in co-operative and social housing in comparison with the investment in private companies?

Mr. Conor O’Kelly: The one pilot scheme that we have backed is a scheme called Bancroft which involved the purchase of apartment block in Tallaght comprising 130 units. We helped to develop it. We put in €8 million or €9 million originally to a €25 million project. The development is now been fully occupied by people in receipt of the housing assistance payment.

Deputy Catherine Connolly: Is the investment in a private company?

Mr. Conor O’Kelly: Yes.

Deputy Catherine Connolly: A private company is not social housing. What Mr. O’Kelly has described is investment by the NTMA in a private company and tenants being provided with accommodation in a building owned by the company by way of the housing assistance payment scheme.

Mr. Conor O’Kelly: Yes.

Deputy Catherine Connolly: I ask Mr. O’Kelly to note the circularity of what we are doing. Public money is being provided to help the developers. Public money is paid to the tenants and rents are sky rocketing. My question is what money has the NTMA invested in social housing and co-operative housing?

Mr. Conor O’Kelly: To be clear, that is not necessarily our role. The Ireland Strategic Investment Fund, ISIF, is an off balance sheet vehicle. Where the Government wishes to on balance sheet invest in housing, that is not a mandate of the NTMA. We are not involved in that.

Deputy Catherine Connolly: The NTMA has been given a mandate to invest in the economy and to ensure equality within that sustainability yet the organisation sees fit to invest in private companies, developers, to help them make serious profits. Surely, it has a remit to look at public housing provision?

Mr. Conor O’Kelly: We do not.

Deputy Catherine Connolly: None at all.

Mr. Eoin Dorgan: The ISIF has to make a commercial return. The purpose of that is to ensure it remains off-balance sheet because ISIF was spending in such a way that its expenditure was on balance sheet it would reduce the amount that could be spent as part of the wider voted expenditure.

Deputy Catherine Connolly: The witnesses are saying that vast amounts of public monies are being channelled through the NTMA into private companies. They are justifying the NTMA’s investments, which are causing serious problems in terms of the market.

Mr. Conor O’Kelly: I will clarify the investments made so far by the NTMA. Some €730 million has been invested by the ISIF in the residential housing space.

Deputy Catherine Connolly: Some €730 million in private companies.

Mr. Conor O’Kelly: Everything we invest in is a private company.

Deputy Catherine Connolly: Lovely. That is okay. I just wanted clarification on the matter.

Mr. Conor O’Kelly: The €730 million has been invested in about seven or eight different platforms.

Deputy Catherine Connolly: Yes.

Mr. Conor O’Kelly: They will add 15,000 residential units by 2021. It is an area of market failure. We have been charged by the Minister specifically to look at the housing area. As I said, we have put €730 million into this area and it has been matched by private sector capital. This will add to the supply which hopefully will take the pressure of rents and house prices.

Deputy Catherine Connolly: The market has utterly failed to supply and now we are actively supporting it. I will move on. My last question is in regard to rented buildings. I will come back on other issues later to the State Claims Agency. On rent, what is the NTMA paying in rent; why is it moving and what are the implications of that move?

Mr. Conor O’Kelly: We are moving for economic reasons and because we think it is a good use of the State covenant, if one likes. It will be about cost neutral. Our lease was ending in the Treasury Building. It is an interesting part of town. It was developed from-----

Deputy Catherine Connolly: What rent is the NTMA paying now? Why does it have to leave? What is the cost of that, if any? What is the new rent?

Mr. Ian Black: We have been in Treasury Building from day one, but all of the leases have different end dates. We started on the fifth floor. Each floor is roughly 20,000 sq. ft at €50 per square foot excluding service charges. It is roughly €1 million per floor. Again all of the leases have different end dates. We took a decision whether to stay or go. Had we stayed, the landlord indicated that over the next period of time there was a likelihood that that building would be refurbished and as they do up one floor, the staff would be constantly moving over a two-year period. That was not very attractive from that point of view. We also then looked at other buildings and felt this one on both financial and non-financial grounds made sense. It was a decision that went to the agency board and was approved by the board.

Mr. Conor O’Kelly: It will be effectively cost neutral for us staying versus going.

Deputy Catherine Connolly: Perhaps we might get a note on the rent of €1 million per floor.

Chairman: The witnesses could forward it to us.

Deputy Catherine Connolly: How many floors are involved?

Deputy David Cullinane: Not too many, I hope.

Mr. Conor O’Kelly: We have five floors, now four floors. We are going to move to a different part of the city which will be down beside the Central Bank and about cost neutral versus where we are now. We think it is a better position for us.

Deputy Catherine Connolly: I have no problem. I am just trying to establish facts; that is all. It is €1 million per floor and there are five floors.

Mr. Ian Black: Our sister organisation, NAMA, has two of those floors. In a sense we only have leases for two floors - the fifth floor and the ground floor. NAMA has the leases for the first and third.

Deputy Catherine Connolly: Is NAMA paying €1 million as well?

Mr. Ian Black: It is similar rent. They are slightly different because depending on how high one goes up, the rents are slightly different.

Deputy Catherine Connolly: I ask Mr. Black to come back with a note on what the NTMA is paying and what it will be paying.

Mr. Ian Black: Yes.

Deputy Catherine Connolly: Was a business case made for purchasing a building?

Mr. Conor O’Kelly: Government policy does not encourage purchasing buildings. Today the policy is to rent. We did look at buying a building.

Deputy Catherine Connolly: The NTMA looked at buying a building. Did it prepare a business case on that?

Mr. Conor O’Kelly: We were told it was Government policy for State agencies not to purchase buildings.

Deputy David Cullinane: I welcome Mr. O’Kelly and his team. I ask him to give us an overview of the strategic investment fund, its purpose and what it does or should do. That is under the NTMA’s remit, is it not?

Mr. Conor O’Kelly: Yes. The strategic investment fund was set up and given what we call a double-bottom-line mandate. So it has to invest to produce a commercial return and it must invest to achieve economic impact. It must meet both of those criteria. It can invest in Ireland only. It is expected to be largely a minority investor and look to attract in private capital into projects, particularly in areas where capital is not flowing freely.

Deputy David Cullinane: What is the mix or blend of finance? There is some private capital; from where does the rest of the money come?

Mr. Conor O’Kelly: The money all came from the NPRF. The residual of the NPRF was transferred over to the ISIF.

Deputy David Cullinane: What is the NPRF?

Mr. Conor O’Kelly: The National Pensions Reserve Fund. Originally that was used to recapitalise the banks.

Deputy David Cullinane: I am not even at that stage. At the moment from where does the money come? There are multiple income streams for this fund. Some of it is private sector and some is State investment. It was a savings fund. It was the National Pensions Reserve Fund, was it not?

Mr. Conor O’Kelly: Yes, it was the National Pensions Reserve Fund. It was what was left in the National Pensions Reserve Fund which was invested in overseas assets. It was a pension reserve fund investing in various assets and holding them.

Deputy David Cullinane: That is historical. Is additional funding going into it?

Mr. Conor O’Kelly: No. The NPRF was used to recapitalise the banks and what was left at the end became the Irish Strategic Investment Fund. It was not as much as €8.9 billion, which it is today. It was closer to €5 billion at its original set up. Dividends from the banks go into the ISIF and the investment returns that the ISIF have made to date, which is as I pointed out earlier around 640-----

Deputy David Cullinane: Therefore it is not envisaged that any additional funding would go into that fund.

Mr. Conor O’Kelly: Not currently. Actually it is the opposite. I believe that in terms of the rainy day fund or the setting up of House Building Finance Ireland, HBFI. That money would transfer out to various other projects.

Deputy David Cullinane: That is what I want to get to. Mr. O’Kelly mentioned the National Pensions Reserve Fund. That was set up essentially as a rainy day fund, was it not? That

was the logic of that at the time it was set up.

Mr. Conor O’Kelly: Yes, I believe so.

Deputy David Cullinane: What was it used for? When it rained what was it used for?

Mr. Conor O’Kelly: I was not around for the-----

Deputy David Cullinane: I know Mr. O’Kelly was not around, but I imagine he lived in the country.

Mr. Conor O’Kelly: Actually I did not, but that is okay.

Deputy David Cullinane: I imagine Mr. O’Kelly knows the answer to the question: it went to the banks to recapitalise them.

Mr. Conor O’Kelly: Yes, I did.

Chairman: Can the Deputy repeat question?

Deputy David Cullinane: Where did the money go from the National Pensions Reserve Fund? It was a rainy day fund and it rained.

Chairman: Generally the first €18 billion of it went as the first tranche of the bailout. The first tranche of the bailout came from that and the balance of that came from the troika. A lot of the rest of it went into the banks.

Deputy David Cullinane: My point is we had a rainy day fund before. That rainy day fund was meant to ensure that if there was an economic downturn or if there was any economic turbulence we would have some money to invest or even to tap into to be able to pay for day-to-day spending if there was a shortfall, but certainly it was more of an investment. That did not happen. It did rain. The economy crashed and the money went to recapitalise the banks.

Chairman: Someone can correct me if I am wrong. I understand that was called the National Pensions Reserve Fund. It was not for any of the things the Deputy mentioned at all. It was to pay for pensions when people retire in the long term.

Mr. Seamus McCarthy: Yes. It was a very long-term investment.

Chairman: It was never a rainy day fund. It was specifically to provide for pensions, but then it became used for the first element of the bailout and then to buy the bank shares. It was never an investment like this portfolio. It was for pensions only.

Deputy David Cullinane: Okay. The money that was left in that fund went into this ISIF. Some of that money will now be put into what is being called a rainy day fund, will it not?

Mr. Conor O’Kelly: Yes.

Deputy David Cullinane: How much?

Mr. Conor O’Kelly: I think the Minister has said €1.5 billion.

Deputy David Cullinane: A total of €1.5 billion from the ISIF will go into this rainy day fund.

Mr. Eoin Dorgan: The draft heads of the Bill were sent to the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach.

Deputy David Cullinane: If that money was not put into a rainy day fund - let us say a decision was made not to transfer it in - what would that money be spent on?

Mr. Conor O’Kelly: It would continue to be used for the purposes of the rest of the fund, which is to invest in Ireland under that double-bottom-line mandate.

Deputy David Cullinane: In what types of areas would it be invested?

Mr. Conor O’Kelly: All sectors of the economy where there are felt to be areas of market failure. It is across the regions and across different sectors.

Deputy David Cullinane: That is what I am trying to establish. It is accepted by almost all the economists, think tanks, expert groups and even the European Commission that there is a serious lack of capital investment in this State. There are huge challenges in social infrastructure, health and housing, as well as in transport in respect of roads, rail and ports. There are huge challenges in investment generally. Even though the economy is recovering we are still not keeping up with capital spend even compared with European Union averages and yet we have to make up for lost time where a huge capital spend was stopped because of the crash. Why is it wise to take €1.5 billion out of what is an investment fund to put into a rainy day fund at a time when there is an absolute need to invest? Is that essentially a Government decision and if so, what opinion if any was sought by the NTMA in respect of the wisdom of doing that? Would the NTMA have had any input? Would its opinion have been sought?

Mr. Eoin Dorgan: That would have been a Government decision as part of budget 2018.

Deputy David Cullinane: I know it is a Government decision. Who administers the fund? Who decides where the money should go and how it is spent?

Mr. Eoin Dorgan: The Ireland Strategic Investment Fund, ISIF, was established under the National Treasury Management Agency (Amendment) Act 2014 and comprises €8.9 billion.

Deputy David Cullinane: Who decides how that money is spent?

Mr. Conor O’Kelly: It is a matter for the team, the investment committee and the board.

Deputy David Cullinane: My point is that the money is taken from the NTMA and is put somewhere else. Is it asked its opinion? Was it a Government decision and the NTMA was not asked whether it was a good or bad development?

Mr. Conor O’Kelly: There was a review scheduled 18 months after the ISIF was set up. One of the key questions of that review process was about what amount of money would be needed to be in the fund to execute and deliver successfully on the mandate of the double bottom line for an economy like Ireland. It was agreed that the €8.9 billion which sat in the fund had an excess which would not be needed in order for the fund to still continue its mandate. In that regard, those reserves were identified by the ISIF and the NTMA in our first submission to the Government, namely, that there would be significant excess, maybe several billions of euro, which could be used for other purposes.

Deputy David Cullinane: Government policy is a matter for the Government. I am not asking Mr. O’Kelly to account for what the Government does. It can account for itself. What

message are we sending out, however, that we have money in a fund that can be used for investment in areas where it is needed? What message are we sending out by taking that money out of that investment fund and putting it into a rainy day fund which may or may not be used in the future? We must bear in mind we had a similar type of fund before that was used for different purposes. Where is the wisdom in doing that when there is a need for investment now?

Mr. Conor O’Kelly: Again, it is a policy decision. An economy like Ireland’s can probably only take a certain amount of investment at any given time. It is quite a small economy. The commitment of €3.8 billion has been matched by private capital, making a total of €10.5 billion invested so far through the ISIF mechanism over the past three years. That is a lot of money and projects for this economy. Whether the pipeline or the capacity would be there for the entire €8.9 billion is very questionable. We identified and believed that there were excess reserves which could be used for other purposes. I suppose it is a matter for the Government as to what those other purposes might be.

Deputy David Cullinane: Is Mr. O’Kelly saying that the NTMA had not done its homework and that there were not enough projects in the pipeline on which to spend the money? That does not really tally with where the majority of the experts are at. Economists and think tanks are saying there is a dire need for increased capital investment across the economy. The NTMA, on the other hand, is saying that while that might be the case, it cannot be done too quickly. Essentially the NTMA is saying we are spending enough at the moment and we do not need to spend any more in some of these areas because we should not spend too much too quickly. That does not really sit with what the experts are saying.

Mr. Conor O’Kelly: I am not necessarily saying that. Government capital expenditure in general is a separate business. The ISIF has been asked to do a specific thing, namely, to match private capital off balance sheet and to find opportunities for investment that will meet our double bottom line. We have invested-----

Deputy David Cullinane: The NTMA has not identified enough projects, however.

Mr. Conor O’Kelly: We have done between €600 million and €700 million a year.

Deputy David Cullinane: I know that. However, Mr. O’Kelly is saying there is a surplus of money which the NTMA may not be able to spend because there are not enough projects. Whatever about the rights and wrongs of it, I am not saying the NTMA is wrong. The factual position is that we have X amount of money to spend and we will spend as much as we can. It is dependent, however, on having pipeline projects in place which can enable the NTMA to spend the money within a period. As it cannot spend the overall figure, there is a surplus which will now be used for something else. Is that what Mr. Conor O’Kelly is telling me?

Mr. Conor O’Kelly: First of all, we are not spending money, we are investing it. We expect to get our money back and make a return on it.

Deputy David Cullinane: When it is invested, it means it is spent.

Mr. Conor O’Kelly: Spending and investing are not the same things. Spending is where one does not get the money back. It is expenditure. Investing is where one gets the capital back and one gets a return.

Deputy David Cullinane: That is semantics. There are questions about the wisdom of it. However, we are not going to agree on that.

We did put some questions to the HSE and the Department in respect of several court cases regarding the cervical cancer scandal, a number of which were settled recently. Are there 40 cases before the courts?

Mr. Ciarán Breen: There are 40 cases before the courts. Of that, 35 have letters of claim or proceedings. There are three cases which are now finalised, except for issues about legal costs. There are two potential claims.

Deputy David Cullinane: The first claim we became aware of in the public domain was Vicky Phelan's. The majority of that claim, as was presented to the committee by the Secretary General of the Department of Health, came from the lab involved but €20,000 was paid for by the HSE.

Mr. Ciarán Breen: It was €25,000.

Deputy David Cullinane: We know in the case of Emma Mhic Mhathúna that she got a €7.5 million settlement. We were told that there was an acceptance of liability by the HSE in respect of non-disclosure. Obviously, the main liability was with the lab. Is it still the case that the breakdown of who is responsible for what has not been worked out?

Mr. Ciarán Breen: That is the case

Deputy David Cullinane: Was the acceptance of liability in Emma Mhic Mhathúna's case the first time in any of the court cases that the HSE accepted liability in respect of non-disclosure?

Mr. Ciarán Breen: No. In the three settled cases, the HSE has accepted liability in respect of the non-disclosure issue.

Deputy David Cullinane: If it was €25,000 in the first case, will that be the benchmark for all other cases?

Mr. Ciarán Breen: No. When I presented originally to the Oireachtas finance committee, the first committee meeting after the Vicky Phelan case, there was a discussion about how that settlement was arrived at. The Deputy may recall that. I was asked if there was a contribution by the HSE. I said a contribution was made by the State Claims Agency, on behalf of the HSE, of €25,000. The reason we made that contribution in that particular case was that we were told by the laboratory involved that it was going to go to an additional day of court hearings if we did not make some contribution to that case. We did not want Vicky Phelan to have to spend another day in court. We then decided to make a contribution of €25,000.

Deputy David Cullinane: Was that the same logic used in Emma Mhic Mhathúna's settlement?

Mr. Ciarán Breen: I hope the Deputy will not feel I am evading any answer but the Emma Mhic Mhathúna case is very sensitive on an intra defendant basis. Given that the matter could ultimately end in terms of a court apportioning that liability, I cannot talk in public about how that is being worked out.

Deputy David Cullinane: I am not asking Mr. Breen to do that because it would be unfair. In process terms, is it up to the court to decide who pays what share of the €7.5 million settlement?

Mr. Ciarán Breen: Ultimately, yes. However, the Deputy will understand there will be ongoing negotiations between the laboratory and ourselves as to how this will be broken down.

Deputy David Cullinane: There are three cases in which the HSE accepted liability for non-disclosure. Is it correct that there are monetary payments associated with these?

Mr. Ciarán Breen: That is correct.

Deputy David Cullinane: How many women were not informed in total?

Mr. Ciarán Breen: When the HSE presented to the committee last week, it spoke about a figure of 221 women.

Deputy David Cullinane: Three of these women have been somewhat compensated because they took court cases for non-disclosure. What about the rest of the women in question who have not been compensated yet, given we do not have class actions in this State? Is it the case that each of these women will have no choice but to take a court case to be compensated financially for what is now an acceptance of liability? If the HSE has accepted liability in these three cases for non-disclosure, logic dictates that it will have to accept liability in all other instances in which there was non-disclosure. There are 40 cases, of which 35 are active before the courts. It may be that there will be an acceptance of liability in all 35 and an associated monetary contribution and a cost to the State. What will happen then to all of the others who have not yet taken a court case?

Mr. Ciarán Breen: Each case is unique and the periods will differ.

Deputy David Cullinane: Leaving aside the uniqueness, the principle has been established that the HSE accepts liability in three court cases for non-disclosure. There are 35 active court cases and I imagine the principle will hold in all 35. There may be nuances, differences and complexities associated with each because of issues such as length of time, which is fine. That will determine the level of compensation to be paid. However, the principle of liability and compensation has been established in three cases, while there are 35 active cases. Is it fair to say the same principle will apply to the 35 cases and that, most likely, there will be monetary compensation associated with accepted liability on the part of the HSE? Is that, at least, a fair assessment?

Mr. Ciarán Breen: Yes. If one fails to disclose something, as a matter of law one has to concede liability that there was a failure. By the way, that is a concession we make on behalf of the HSE having regard to our delegated function. I will make one point about why women have to go to court, as opposed to being dragged into it, the phrase the media sometimes use. There are very good reasons a lawyer acting on behalf of any of the cervical cancer women would want to commence pleadings in court. Sometimes there are child dependents who, in some cases, may ultimately need to be made wards of court or in respect of whom the courts may have to ensure they will be looked after by way of certain orders. There is another factor, that the lawyers must protect themselves against the Statute of Limitations. An additional factor is that serving pleadings allows someone to set out their case in the best way possible for the defendant to meet.

Deputy David Cullinane: I accept that, but I stop Mr. Breen there because there are a number of elements to each claim. In each claim being brought the vast majority of any award relates to the failure of the laboratory.

Mr. Ciarán Breen: Correct.

Deputy David Cullinane: We all accept that, but what I am saying is that in the HSE's case, there is now an accepted liability for a failure to disclose information to the women concerned.

Mr. Ciarán Breen: Yes.

Deputy David Cullinane: In that circumstance is there anything stopping the State from stating it will compensate each of the women concerned? Notwithstanding whether they take cases, there is an established and accepted failure. Rather than wait for them to go through the courts which they are entitled to do and separate from the fact that they can take the laboratory to court, there is an established acceptance of failure on the part of the HSE and the State and it can now compensate the women concerned.

Mr. Ciarán Breen: On the aggregation of compensation which would come from the different factors in a case, including the failure to materially disclose something and negligence, if there is negligence in the reading of a test result, no lawyer will want separate compensation amounts to be paid. It would be a much better and simpler approach to take each case as it came and then to aggregate the compensation in order that a woman would receive full and final compensation. When she has been through that process, she knows that she has dealt with all of the defendants.

Deputy David Cullinane: There are 35 active cases and I imagine some compensation will be paid to the women involved for non-disclosure. The outstanding cases involve the difference between the 40 and the 221 women who were not informed. Some of them may have passed away, but if those who are still alive do not take court cases, they will never be compensated for the accepted liability or failure of the HSE. Is that the bottom line?

Mr. Ciarán Breen: There would be no engagement with us in that case. If someone does not make a claim, we do not get involved. We only get involved when someone triggers a claim.

Deputy David Cullinane: As such, they have to take cases.

Mr. Ciarán Breen: Yes.

Chairman: As a last point, it does not prevent the Government from establishing a redress scheme as a separate matter. That was mentioned on day one. The State Claims Agency is the current legal mechanism, but the Government could establish a redress system without having to go through the agency and have a redress board to deal with it. I do not want the public to think that if people do not take a legal case, they will get nothing.

Deputy David Cullinane: The Chairman cannot just come in and throw that comment in at the end. With respect, my line of questioning-----

Chairman: It was for this organisation.

Deputy David Cullinane: Please bear with me. My line of questioning was to ask if the only option available to the women concerned was to take court cases. Everything Mr. Breen said in that regard indicated that the answer was yes, that was the only option. The redress scheme is completely different. My understanding of redress is that one looks at all of the other issues surrounding expenses and the provision of supports. I am not sure whether one looks at liability for non-disclosure. While one could and we can argue that one should, it would equally be unfair to put it out that it will be looked at. Perhaps, Mr. Breen might answer that question

because it was the logic behind my series of questions.

Chairman: The Deputy is quite right that today that is the only avenue.

Deputy David Cullinane: There are two options.

Chairman: The redress scheme has not been established. It is only compensation. It may or may not, but it might.

Deputy David Cullinane: There are three options. Option 1 is that we allow all of the women concerned to take cases. Option 2 is that the HSE could decide to compensate all of the women concerned, irrespective of what redress scheme is put in place. The third option is establishing a redress scheme. Perhaps Mr. Breen might answer the question. Is it possible that a redress scheme established by the Government would be a way to compensate all of the other women who may not take court cases arising from the HSE's failure to disclose?

Mr. Ciarán Breen: One would have to look at an individual redress scheme. There has been a number of schemes during the years, including, for example, the scheme for Our Lady of Lourdes Hospital in Drogheda. One would have to look at the terms of reference of the scheme.

Deputy David Cullinane: Is it possible?

Mr. Ciarán Breen: Broadly, a redress scheme would look at all kinds of factor. Anything is a possibility in a redress scheme. It is about how one designs it and what it is meant to do.

Deputy David Cullinane: The question then is whether it is likely. The Chairman is saying it is.

Mr. Ciarán Breen: I cannot answer the question of whether it is likely. That is a matter for the designers of such a scheme.

Chairman: speaking genuinely, I do not want women with claims to feel they may never have any other option. They may do, but it has not yet been provided for. I did not want them to be upset unnecessarily thinking that if they did not sue the State, they would get nothing. Most agree with having a redress scheme.

Deputy David Cullinane: However, that is the current position.

Chairman: As we sit here, that is absolutely right.

Deputy Jonathan O'Brien: Of the 221 women involved, as of last week, how many have taken proceedings, not necessarily against the laboratories but generally in connection with their smear test results, a failure to inform or a failure to address their circumstances in a timely fashion? According to the figures, three cases have been settled. What are we up to?

Mr. Ciarán Breen: Let me take the committee through it again. We say there are 40 cases, of which two are potential cases and three have been settled, leaving a balance of 35.

Deputy Jonathan O'Brien: Outside those 40 cases, there are another 181 women. Has any of them taken a case?

Mr. Ciarán Breen: The figure is very dynamic on a weekly basis. When I appeared before this committee and the finance committee the first time, there were 11 cases around the time of

the Vicky Phelan case. That has now grown to 40 cases. Cases come in on a weekly basis as solicitors' firms are going on record for the women.

Deputy Jonathan O'Brien: I will rephrase the question. Before the Vicky Phelan case, had any of the 221 women that we now know of taken cases?

Deputy Alan Kelly: Before Vicky Phelan.

Mr. Ciarán Breen: Looking at the total number, as it was at that time, we presume some of those were women who were in that group of 11.

Deputy Jonathan O'Brien: Was there a case settled in March 2017?

Mr. Ciarán Breen: The Deputy mentioned this also at the last meeting with the HSE, and gave the name of that person.

Deputy Jonathan O'Brien: Yes, with her permission.

Mr. Ciarán Breen: That is not a cervical screening case from CervicalCheck. It was a case which involved on the one hand a general practitioner and on the other hand a hospital in the HSE group. It was about a misdiagnosis or a failure to diagnose. It is not in the CervicalCheck complement.

Deputy Jonathan O'Brien: But she is one of the 221 women.

Mr. Ciarán Breen: As far as I know, she is not because-----

Deputy Jonathan O'Brien: She has met Dr. Scally.

Mr. Ciarán Breen: I appreciate that, but my understanding is that, based on the name the Deputy provided, and having looked it up and examined that file, she is not. That is my understanding from the file. This was a different case which did not come from CervicalCheck. I do not want to go into too much detail about it because I do not want to identify somebody. It was a case which initially involved a GP and a referral to the hospital. The referral was not dealt with expeditiously. The diagnosis was subsequently made and the allegation, which was properly made against the hospital that delayed-----

Deputy Jonathan O'Brien: Is Mr. Breen saying that not all the 221 women's misdiagnoses are related to CervicalCheck and the laboratories?

Mr. Ciarán Breen: No. There are two classes of claims we deal with. There are the cervical cancer cases which come from CervicalCheck's screening process. There are also non-screening cervical cancer claims that arise from colposcopy units in hospitals which are made against hospitals-----

Deputy Jonathan O'Brien: And both of those together-----

Mr. Ciarán Breen: No, they are quite separate, and that is the point.

Deputy Jonathan O'Brien: Are the 221 women all CervicalCheck?

Mr. Ciarán Breen: Correct.

Deputy Jonathan O'Brien: Is Mr. Breen saying that this particular woman is not part of the 221?

Mr. Ciarán Breen: That is right. I checked it out when the Deputy gave the name.

Deputy Alan Kelly: It means that there are more than 221 women. There are other issues.

Mr. Ciarán Breen: I would like to clarify that misdiagnosis happens in hospitals and then within the CervicalCheck screening.

Deputy Jonathan O'Brien: Is Dr. Scally meeting not only people affected by the misdiagnosis of CervicalCheck, but also people who may have been misdiagnosed through non-screening services?

Mr. Ciarán Breen: I do not know. Perhaps, but I do not factually know that.

Deputy Jonathan O'Brien: It is my understanding this woman has met Dr. Scally. I have the date she met him.

Mr. Ciarán Breen: That could be. I am only explaining what I know from the file.

Deputy Jonathan O'Brien: I appreciate that.

Chairman: Does Mr. Breen have a figure of other claims about cervical cancer which are not part of the 221?

Mr. Ciarán Breen: Yes, I do.

Chairman: What is that figure?

Deputy Alan Kelly: Good question. We might get to the nub of it.

Chairman: We have not heard this issue aired before.

Deputy Alan Kelly: It is a wonder it was not volunteered beforehand. It is like pulling teeth.

Chairman: This is approximately the tenth Oireachtas committee meeting between HSE and the State Claims Agency and the Committee of Public Accounts and the health and finance committees. I know that question may not have been asked, but sometimes it is great if people volunteer the full figure.

Deputy Alan Kelly: Absolutely. I could not agree more. It will get worse.

Deputy Jonathan O'Brien: There is a public perception, whether it is intentional or accidental, that all the misdiagnoses of cervical cancer were as a result of failures by the labs and the screening. We are now told there is a whole cohort of other women, some of whom have taken cases. They were misdiagnoses from non-screening services. Is that an accurate and fair assessment?

Mr. Ciarán Breen: When I appeared here previously, I gave these figures for misdiagnoses of cervical cancer arising from both the screening service and the non-screening service.

Deputy Alan Kelly: For clarification, I was in the Chair and Mr. Breen gave figures. However, whether it is clear that they were broken down in the manner in which the Deputy asked is the real issue.

Mr. Ciarán Breen: There was never any misunderstanding on our part. We gave these

figures-----

Deputy Alan Kelly: We will clear it up now.

Chairman: I accept Mr. Breen's point. I may not have been here.

Mr. Ciarán Breen: There are 12 active claims around cervical cancer misdiagnosis from non-screening services, four closed claims and one potential claim, which is a total of 17.

Deputy Jonathan O'Brien: Now we need to get an answer, and obviously Mr. Breen cannot answer this, to whether Dr. Scally is meeting those women as well as the 221 women about the screening service. That is now the question which needs to be answered. Is Dr. Scally looking only at those misdiagnoses through the screening services, or is he looking also at those women who have had misdiagnoses through the non-screening services? It is a question which cannot be answered in this room.

Mr. Ciarán Breen: I cannot answer that.

Deputy Jonathan O'Brien: I appreciate that. Mr. Breen can understand where I was coming from. I know this particular woman has met Dr. Scally, and there was the impression put out that he was only meeting those involved in the screening service, which is why there was a bit of confusion about this woman. She was informed on 10 May this year that she was one of the 221.

Mr. Seamus McCarthy: My recollection is that the audits carried out were not just of cervical screening. It was all testing and diagnosis of cervical cancer, where the individuals were diagnosed. It may be that it is not just laboratory-related cases. There are other-----

Deputy Jonathan O'Brien: It is anyone who was diagnosed and put on the registry. Some of them would have come through non-screening services, while some of them would have come through screening services. As I said, that is the question that now needs to be asked. Is he meeting both?

On procurement, which was touched on earlier, is it fair to say there is too much weighting put on the lowest tender, and that is causing some of the issues? Most countries which use PPP go with the medium, or in-between. There is not so much focus put on the lowest tender. We have now seen the consequences of focus being put on the lowest tender. I know it is a policy decision. The National Development Finance Agency, NDFA, was given a statutory mandate under the 2007 amendment. Will Mr. O'Kelly talk us through that? Is it down to the Department of Finance or is it through the legislation that more weight is given to the lowest tender?

Mr. Conor O'Kelly: There are EU procurement guidelines, weightings and much academic research on what is the right weighting to give. There are seven different categories normally, and pricing tends to get approximately 40% of most tenders. One of the factors that looks like it will come out of the UK analysis and the reports that have been done to date since Carillion is the question of whether price is given too great a weighting and whether it is possible to win a tender just by putting in the lowest price, with the other criteria being given insufficient weighting. I am speculating that there may have to be a recalibration of weighting and that is something we will have to monitor.

Deputy Jonathan O'Brien: Who does that recalibration? Is it done at an EU level, is it a Government decision or who does this?

Mr. Conor O’Kelly: We would generally adopt EU guidelines there but there can be flexibility in individual jurisdictions and on individual projects. We can consider it.

Deputy Jonathan O’Brien: Is it correct that the assessment remains the responsibility of each Department and Minister? The National Development Finance Agency, NDFA, advises but must a Department follow its assessment? Will Mr. O’Kelly talk me through the process?

Mr. Conor O’Kelly: On direct procurement, we give an opinion on value for money. We often give opinion on the procurement process or counter-party risk, if asked. On public private partnerships, PPPs, we have full responsibility for the procurement process ourselves.

Deputy Jonathan O’Brien: The Minister takes over the responsibility for the operation after completion then?

Mr. Conor O’Kelly: That is correct. In the case of a PPP, it is not even post completion because it returns to the Department after 25 years, at the completion of the PPP programme.

Deputy Kate O’Connell: I had intended starting with the opening statement, however I first turn to CervicalCheck, following the information highlighted by Mr. Breen. I understand that previously, he was clear in acknowledging that there were potentially other cases. However, from what has been highlighted here this morning, I understand there may be further deficiencies in our testing system and there may be issues with where the colposcopy tests are going. I do not believe we were aware of this before now.

There is drip-feeding of information. Here we are, on another Thursday afternoon, learning of possible further difficulties for women, which further erodes confidence in the system. I am not blaming the witnesses but we have been in this process for months. Each time someone comes in, there is another wallop to the system and damage to the testing process and screening system will mean that people will die in the future.

On the standard payment for non-disclosure, it seems obvious that women who have been affected should be afforded a payment as soon as they apply. There should be a very simple process in order that they do not have to go through the indignity of a complex process when their health is in a precarious state. What is the view of the witnesses on this? Would it not be easier to give a standard payment to those affected? As someone might be wasting €1 million on an IT system that does not work, surely it would not be too difficult to give €25,000 to women who have been affected by this. From the perspective of sums, would it not be easier to just write the cheque?

Mr. Ciarán Breen: I do not think so. If one takes an average case, which can run to a figure in excess of €7 million, as it did in Emma Mhic Mhathúna’s case -----

Deputy Kate O’Connell: I am not talking about compensation or the whole package; I am talking about the non-disclosure element and the State’s liability.

Mr. Ciarán Breen: That is the point that I am trying to make. As I said to Deputy Cullinane, it is so much easier when the case is up and being mediated that one takes care of all aspects of the case between the two defendants at that point and settle the case for the women once and for all in respect of all aspects. It is a much simpler, functional way to do things.

Deputy Kate O’Connell: In Mr. Breen’s view.

Mr. Ciarán Breen: In my view.

Deputy Kate O’Connell: Has Mr. Breen asked the patients affected what they would like? What would their preferred method be?

Mr. Ciarán Breen: I can only say in relation to the ones we have done -----

Deputy Kate O’Connell: I want a “Yes” or “No” answer. In Mr. Breen’s view this would be easier. Has he asked the families and patients what would be easier?

Mr. Ciarán Breen: I am answering the Deputy’s question.

Deputy Kate O’Connell: Just a “Yes” or “No”. It is a very simple question.

Mr. Ciarán Breen: I am answering the question.

Deputy Kate O’Connell: “Yes” or “No”.

Mr. Ciarán Breen: In relation to the three women with whom we settled, yes, that was the way they wanted it done. I do not know about the other women. I have not gone out to all the other cases because they are at such different stages.

Deputy Kate O’Connell: My personal view would be that if someone is going through the treatment and has led a life without any litigation, that the easiest thing to do would be to fill in a form. To me, it would be €25,000 for peace of mind, not to drag people through the indignity of this. However, I am not in their position and neither is Mr. Breen. It seems obvious that might be easier for them. It seems we have created another problem this morning with the drip feed of information.

I return to the opening statement. It refers to the divestment of all global exposures and the focus on a low-carbon, climate-resilient and sustainable economy with the Ireland Strategic Investment Fund, ISIF. While I am all for that, are we not at risk of putting all our eggs in one basket again? If we are divesting all into Ireland and if something extraordinary happened, are we not, yet again, exposing the people of Ireland to another crash? It focuses on the low-carbon and green agenda - which I am all for - but it needs new technologies. If the NTMA cannot get the IT system right, maybe it will not get this right. It seems irresponsible to put all of the eggs in one basket so soon. Would the witnesses agree with that or not? Perhaps Mr. O’Kelly could answer that.

Mr. Conor O’Kelly: The legislative mandate is to invest in Ireland only.

Deputy Kate O’Connell: Does Mr. Kelly agree with that or is he not allowed make a call on policy?

Mr. Conor O’Kelly: That is a matter of policy. The Minister agrees with the Deputy to a degree, as the purpose of the rainy day fund and the excess being moved into other investment vehicles is to access a counter-cyclical buffer in the event of something happening, such as the Deputy described.

Deputy Kate O’Connell: It is €500 million.

Mr. Conor O’Kelly: It is €1.5 billion.

Deputy Kate O’Connell: It is €1.5 billion, but in the scale of what the NTMA spends it is not exactly a good insurance policy.

Mr. Conor O’Kelly: We spend €3.8 billion and then €1.5 billion into a rainy day fund.

Deputy Kate O’Connell: Therefore it is one third. As someone who is not an expert, it seems obvious to me that we might be exposing the Irish people yet again if something goes wrong.

On investment in private companies for the delivery of housing, whether social or private, it is clear to a non-expert that there are strong yields in the rental market. Does the NTMA’s remit have any element of social conscience? The purpose of investing is to make money. I acknowledge that interest rates are very low and therefore putting money in bank accounts does not result in good returns. Is it not morally wrong that State funds are put into a private company where the return is based on the acceleration of rents? Would Mr. O’Kelly agree that this is contradictory? It follows on from Deputy Connolly’s question earlier.

Mr. Conor O’Kelly: I take the opposite view. Our investments are exclusively designed to increase supply. An increase in supply is very likely to mitigate against higher prices and rent in absolute terms.

Deputy Kate O’Connell: That is where I was going. Mr. O’Kelly mentioned that earlier and expressed his hope that adding supply will deal with demand. It is not definite.

Mr. Conor O’Kelly: None of us can predict what is going to happen. There is clearly a supply-and-demand imbalance in regard to housing in this country. For a long period we did not build many houses.

Deputy Kate O’Connell: We know all that.

Mr. Conor O’Kelly: Therefore, one of the solutions is to build more. The Ireland Strategic Investment Fund has been charged with looking for vehicles, off balance sheet, that could allow for the faster building of residential units. We have backed seven different platforms. Some €730 million has been invested-----

Deputy Kate O’Connell: I get all that but the fund is investing money in companies whose profits will rise based on rents accelerating. Then it goes back into the kitty.

Mr. Conor O’Kelly: The fund does not need rents to rise in order to be profitable at these levels.

Deputy Kate O’Connell: I understand that it would be preferable if, when investing money, the rents were to rise.

Mr. Conor O’Kelly: We are hoping that we invest money-----

Deputy Kate O’Connell: Could I have a “Yes” or “No” answer to the question of whether it would be preferable when making the investment if rents accelerated from a return point of view?

Mr. Conor O’Kelly: No.

Deputy Kate O’Connell: So the agency does not like making money.

Mr. Conor O’Kelly: We are not trying to maximise profit. We have to make a commercial return. We will take a return that is modest by free market standards. We are not looking to maximise-----

Deputy Kate O'Connell: So is that the social conscience element?

Mr. Conor O'Kelly: Yes, it needs to be a satisfactory return, which, for taxpayers, means-----

Deputy Kate O'Connell: Who makes that decision?

Mr. Conor O'Kelly: If we do not make money in excess of the average cost of our debt, then it is a net loss to the taxpayer. So we are all-----

Deputy Kate O'Connell: It is just simple stuff. The crux of it is that the agency is investing Irish taxpayers' money in private or social housing and is supposed to be managing assets and, therefore, getting a better return for the taxpayer. It is crucial to the agency's model that rents rise, therefore.

Mr. Conor O'Kelly: No, it is not. We want a sustainable commercial return that is reasonable and above the cost of debt, which is currently around 3%. A blended return on the portfolio does not have to maximise profit. It has to produce a commercial return. What we want to do is invest taxpayers' money, get it back, make a modest return and make an impact on the economy. That is the design of the fund. If we build 15,000 houses, invest €730 million, we get our money back, plus a modest return and build 15,000 houses, that is a good outcome. It will probably have the effect of-----

Deputy Kate O'Connell: Surely if 30,000 were got back, there would be a better balance sheet at the end of the year.

Mr. Conor O'Kelly: It is a taxpayers' balance sheet. We are more interested in the sustainability than in making money. It is not a private company.

Deputy Kate O'Connell: In the case of the companies picked to do the housing, I am assuming that we will not be back here in five years - if the people re-elect us - discovering all sorts of shenanigans going on regarding due diligence, conflicts of interest and all the decisions. Can Mr. O'Kelly assure us due diligence is done on these companies?

Mr. Conor O'Kelly: I take umbrage at the use of "shenanigans".

Deputy Kate O'Connell: Well, whatever. Is there potential that we could be back here in five years? Is the due diligence being done correctly on these private companies that are being used companies? Bancroft was mentioned. Can Mr. O'Kelly assure us we will not be here in five years' time looking into the "carry-on" - I cannot think of another word - of these companies? Does Mr. O'Kelly take umbrage with that?

Mr. Conor O'Kelly: We have a professional internal team. We have our own NTMA control function. The NTMA has been around for a long time. Bearing in mind the areas of compliance and risk, we have an independent board, chaired by Willie Walsh and with some excellent non-executive directors, which we have been fortunate to have. We have our own audit and risk committee. The Comptroller and Auditor General audits the accounts.

Deputy Kate O'Connell: So Mr. O'Kelly is happy that due diligence is correct.

Mr. Conor O'Kelly: Separate due diligence is done on all the individual investments in addition.

Deputy Kate O'Connell: Good. In the case of the building with the view, the rent, at €1

million per floor, is very high. Why does the agency need to be in Dublin city centre? Could it be down in Thurles or somewhere?

Deputy Alan Kelly: Fair play to the Deputy.

Deputy Kate O'Connell: Surely when the agency is the body with the money, they should be coming to the agency. I refer to an alternative to being in the city of Dublin. My understanding is that there is no expiry date on the organisation until national debt is ended. Why did it not just buy a building?

Deputy Alan Kelly: I can think of loads of them in Thurles.

Deputy Kate O'Connell: I would imagine there are plenty of buildings in Thurles. Why did the agency, which had such insight into the market when managing assets, not buy a building when they were going for nothing back in the day? The current rate is €1 million per floor.

Mr. O'Kelly referred to the price going up and down. Does it go up on higher floors? Is it the view, the lift or the air quality that the agency is paying for? Have we a figure for the cost of the fitting out of the building? Mr. O'Kelly used the phrase "cost neutral". Was he just referring to rent? We had an issue here before with a building that was fitted out for an extortionate amount. What was the cost of the fit-out? Is the fit out period rent-free? Is the planning correct for the new building? This arose here before. Why not Thurles? Could Mr. O'Kelly answer those questions for me?

Mr. Conor O'Kelly: First of all, I wish to clarify a couple of points. The total rent the NTMA pays for its 500 employees is €1.8 million per annum. That we have five floors-----

Deputy Kate O'Connell: It is not for the employees; it is for the building.

Mr. Conor O'Kelly: Currently.

Deputy Kate O'Connell: Yes.

Deputy Catherine Connolly: Is that for the agency's section of the building?

Mr. Conor O'Kelly: Correct.

Deputy Kate O'Connell: How many floors? Is it 1.5?

Mr. Conor O'Kelly: Just under two.

Mr. Ian Black: There are different floor rates. There are two different buildings.

Deputy Kate O'Connell: Is the rent dearer on a higher floor?

Mr. Ian Black: In the Dublin Landings, the rent is the same, other than on the lower ground level, where the rent is lower.

Deputy Kate O'Connell: No view, no air quality.

Mr. Conor O'Kelly: The reason we moved to Dublin Landings, down beside the Central Bank, was to use our covenant in terms of the NTMA and the State covenant to help build an emerging new financial sector and hub in that part of the city and that part of Dublin. It was felt that we had more value to add by doing that than where we were, in what is now-----

Deputy Kate O’Connell: Is that value being realised? Has it been assessed? Does it matter?

Mr. Conor O’Kelly: I think the area looks good and there are----

Deputy Kate O’Connell: It would want to look good for €1.5 million.

Mr. Conor O’Kelly: Fifty euro per square foot is the Dublin commercial rent.

Deputy Kate O’Connell: It is not; I looked it up. It is very expensive. It would be different if there were an expiry date and it was concluded it was not worthwhile buying a building. Why did the agency not buy a building? It could probably have bought one that size for €2 million.

Chairman: I want to let Deputy Alan Kelly in before we go to the vote.

Mr. Conor O’Kelly: Government policy is that the State agencies do not purchase the buildings themselves.

Deputy Kate O’Connell: It seems very short-sighted and very irresponsible. It seems to be very clear that where it is taxpayers’ money, it is a case of easy come, easy go.

Deputy Alan Kelly: I have three questions, two on CervicalCheck and one on the Ireland Strategic Investment Fund. One is a follow-up to that of Deputy O’Brien, whose questioning was very revealing. Deputy O’Connell and I are on the health committee and the Committee of Public Accounts and we have gone through this intricately for months. I have probably attended eight to ten committee meetings on the subject. I have probably been at every committee meeting, between everything, yet it is a drip-feed. I am seriously worried, now that the Houses of the Oireachtas are about to go into recess, that the greatest form of transparency emerging in this actually transpires in these rooms. The Houses are to be closed for the next couple of months.

With regard to what Deputy O’Brien teased out, I do not want to wrong Mr. Breen; he did give figures before. Maybe we could have gone further in the way we teased it out so I do not want to wrong Mr. Breen. I must ask him, however, on having taken down his figures, whether he can break down the categories of claims of the 12, four and one, or 17 cases, in other words. We know we have 221 cases and that there are 17 in the “others” category. It would be revealing, informative and educational to know what types of cases the 17 cases are. We know of one because in fairness, Deputy O’Brien has raised it on a number of occasions. What are they? I am meeting the Minister for Health later on today and I would like to know whether these 17 cases are part of the Scally review. I doubt he even knows. I am sure some of his people are watching this. I would like to be able to ask. Is there any way Mr. Breen can break that down for us today? If not, I would be surprised because I think he should be able to do so.

If one teases it out, this case is pre-Vicky Phelan. If Vicky Phelan had not come out and blown the lid off all of this, what would have happened? Are there issues here relating to non-disclosure preceding Vicky Phelan that we do not know about? Why were we not aware of cases like this? Are there issues relating to the laboratories that are involved in these 17 cases that are outside the 221 cases that we need to know about?

The third question is a catchall. Mr. Breen has been before us a number of times. On occasion, through our own fault, we might not have probed things to the level they should have been

probed. I think we often do but perhaps we do not. I say this with the greatest will in the world and am putting this out there because of what the Chairman said. Is there anything Mr. Breen needs to tell us or members of the public who are watching about this issue; is there anything we need to know? There are three parts to the first question. I have two more questions.

Mr. Ciarán Breen: I will deal with them in the order in which they were asked. Deputy Kelly will understand that I came with the figures relating to the 17 cases. The actual breakdown of those would involve going to each of those files and looking at them but I can tell the Deputy that-----

Deputy Alan Kelly: Can Mr. Breen come back to us-----

Mr. Ciarán Breen: I can tell the Deputy that, as I look at them, generically, they are claims one would find in a hospital environment, for example, a colposcopy that was not properly reported on where there was a delay in diagnosis of cervical cancer or something like that.

Deputy Alan Kelly: Did any of them involve laboratories?

Mr. Ciarán Breen: It may be a hospital laboratory - not that I know of any other. I would have to look at each one individually.

Deputy Alan Kelly: First, could Mr. Breen come back to the committee within a week and break down what they are? Second, could he come back to us and clarify - because Deputy O'Brien's probing is important here - whether any of these involve any of the CervicalCheck laboratories? That is the way in which we will ask for them to be broken down.

Chairman: Mr. Breen can send the information back-----

Mr. Ciarán Breen: A week is a very short period of time to give us to do that.

Deputy Alan Kelly: Two weeks so.

Mr. Ciarán Breen: This is a fairly big analysis. We would want at least three weeks to do this job properly. It means going to every individual file and analysing all its individual parts to see what was involved.

Deputy Alan Kelly: We will give the agency three weeks if it wants them but I find it offensive and wrong to say it would take three weeks to just go and look at 17 files and say "this is in this category...". There are people and families watching this who would find it bizarre and wrong that it would take three weeks for a public servant to go through 17 files and say "this gets into this category." There are probably only three or four categories.

Mr. Ciarán Breen: It is not as simple as that. I deal with these cases on a daily basis. It is not as simple as looking at the file and having the appropriate answer within 20 minutes.

Deputy Alan Kelly: We will give the agency three weeks. I do not agree with Mr. Breen but we will give the agency three weeks. Mr. Breen might continue with the answers to my questions.

Mr. Ciarán Breen: I presume the Deputy is asking whether there had been material non-disclosure pre-Vicky Phelan in respect of non-CervicalCheck cases. Because the cases have been disclosed, I do not see non-disclosure. All of those cases are cases where claims have been made and, therefore, there was a disclosure. The person had to know that something was

wrong.

Deputy Alan Kelly: Were there any confidentiality agreements?

Mr. Ciarán Breen: Not that I am aware of.

Deputy Alan Kelly: Will Mr. Breen come back to us and confirm that?

Mr. Ciarán Breen: I will. Again, I will look at that in the context of the look-back at all the files. Finally, the Deputy asked me whether there was anything people need to know that-----

Deputy Alan Kelly: The public is watching.

Mr. Ciarán Breen: Every time I have appeared before this committee, and I think the Chairman will agree, I have been completely upfront about all the statistics. I have given them all the time-----

Deputy Alan Kelly: I am just giving Mr. Breen the opportunity. That is all I am doing.

Mr. Ciarán Breen: I have given them appropriately and on time. I think the Chairman would agree that we have always given a reply to this committee within a very short period of time.

Deputy Alan Kelly: So there is nothing-----

Mr. Ciarán Breen: Nothing. When I talk about three weeks, it is not a case of me being difficult or not wanting to get that to the committee sooner. If we can do it sooner than three weeks, we will do so.

Deputy Alan Kelly: I will take that.

Deputy Jonathan O'Brien: In respect of the additional information, could I request one other thing? If Mr. Breen does not have this, could the committee get it? How many of the 221 women came from the registry through missed diagnosis through CervicalCheck and how many of them came through hospitals and GPs in terms of missed diagnosis?

Mr. Ciarán Breen: That would be a question for the HSE. It has all that information. We do not have it.

Deputy Alan Kelly: The clerk will write to the HSE and ask that question.

Chairman: If the Deputy wants to give the wording of precisely what he is looking for, the committee will write to the HSE.

Deputy Alan Kelly: I support that. I have two other questions. Does the NTMA come under FOI?

Mr. Ciarán Breen: Yes.

Deputy Alan Kelly: We all know about GDPR. If I looked under FOI or submitted a data protection request for all the information the NTMA and its subsidiaries or related agencies had relating to me, I presume the NTMA would comply and give me everything.

Mr. Conor O'Kelly: Yes.

Deputy Alan Kelly: Is that correct? Do all the witnesses agree? Does anyone across the way have anything alternative to say to that? Does anyone disagree with the contention that the NTMA would give over that information?

Mr. Ciarán Breen: There are certain carve-outs under FOI, which is recognised in the Act, concerning the State Claims Agency's core function. I am talking about a person who would seek an FOI request about a particular file we handled or a particular set of files. There would be certain carve-outs for reasons of sensitivity and data protection. By the way, these are legislative carve outs. They are not things we are simply refusing-----

Deputy Alan Kelly: I know Mr. Breen knows where I am going with this. I have been contacted by the solicitor of a family of one of the women who, unfortunately, passed away and who was one of the group of 221 women. I am sorry to have to read this off my phone but I did not get a chance to print it out because I came in here straightaway. They submitted an FOI request to the NTMA, which was really to the State Claims Agency, for the immediate release of all documents of any nature held by the State Claims Agency, its servants and agents regarding the late Ms X - obviously, I will not say the name. The request was refused. I might remind Mr. Breen what the Taoiseach said in the Dáil regarding non-co-operation and I hope there are civil servants watching this who will relay it back to the Taoiseach wherever he is in Ireland or the world. How in the name of God when the family of one of the women who, unfortunately, passed away because of this scandal, looks for all their information from a State agency, which is handling the claims, can that agency say it will not give over the information it has on that woman but still say it is co-operating fully with all family requests and all requests for information? I am shocked by this. That is why I raised concerns earlier regarding getting transparency when the Dáil and the committees are closed down for the summer. It is beyond my comprehension how the head of freedom of information in the NTMA, through the State Claims Agency, can turn down this request for documents from the family of a woman who is deceased as a result of this scandal.

Mr. Breen and his colleagues may hide behind FOI legislation, etc. That is fine but I imagine that, somewhere along the line, a person went up the line - through the NTMA and all the way to the Department - and said that the organisation had a moral duty to supply this information. I am sure Mr. Breen will tell me he did that. I am sure he will not tell me that he hid behind the fact that, possibly, under a technicality relating to the provisions of the FOI legislation, the agency does not have to give out the information.

That would run counter to everything the Taoiseach told Mr. Breen and everyone else involved to do. It would also run counter to the fact that we have the State Claims Agency saying that all cases will be mediated and dealt with as quickly as possible and in the best way the organisation can manage. I take Mr. Breen at his word on that. To be fair, when he is before the committee, he provides good information, although sometimes we have to ask the questions. In any event, not giving out this information runs counter to all of that. It runs counter to the morality of the situation in the sense that these people are entitled to it. The entire country is watching. The Taoiseach and the Minister for Health have said that all this information should be provided and that there will be a serious problem for anyone who does not co-operate. Why has this family not been given this information to which it is entitled?

Mr. Ciarán Breen: I am at a complete disadvantage in that I do not know. I do not have the details.

Deputy Alan Kelly: Mr. Breen has corresponded with the representatives of the family on

this issue.

Mr. Ciarán Breen: Is the question whether I have done so personally?

Deputy Alan Kelly: I am referring to the organisation. Mr. Breen is before the committee representing his organisation.

Mr. Ciarán Breen: I am, but we should remember that FOI falls under a separate function within the organisation.

Deputy Alan Kelly: I am sorry - that is rubbish.

Mr. Ciarán Breen: The point I am making is that I am at a disadvantage in that I do not know the particular case. If Deputy Kelly wishes to give me the particular details, I will definitely come back to him.

Deputy Alan Kelly: I find this extraordinary.

Chairman: If Deputy Kelly gives Mr. Breen the details, then by the time we return from the vote in the Dáil, he might have made a telephone call. I am trying to be helpful.

Deputy Alan Kelly: I will do the following: I will give Mr. Breen the details, confidentially. Let me say this on the public record: I think what is happening is wrong and disgraceful. In a scenario such as this, there is a real moral duty to give over the information to families when they request it. The State Claims Agency should facilitate that and I am requesting that it do so within the next 24 hours.

Chairman: When we suspend proceedings in a few moments, I will ask Deputy Kelly to give the names to the officials. We will be back afterwards.

Deputy Alan Kelly: I have a final question. Mr. Breen can take a break because it is not a question for him. It relates to ISIF. I want to get this question on the record. ISIF and what it is used for are important. Some investments relate to various energy projects and a range of other potential investments. When it comes to investments and working with State bodies, does the NTMA believe that such bodies actually put forward projects in which the agency could and should invest? I understand and appreciate that the terms of reference of the agency are defined. Indeed, I acknowledge it. Perhaps they are a little too rigid but the agency has to work within its position. I have no issue with that. In any event, are projects ever put forward in respect of which the NTMA takes the view that it would be good to invest in them but where the State bodies involved effectively do not co-operate or put forward the projects in a way that would make it possible for ISIF to invest? Have there ever been such cases? I am not asking Mr. O'Kelly to outline the cases. Has there ever been a situation whereby projects have been put forward by State bodies but where ISIF was not in a position to invest purely because the bodies involved have not put forward those projects in way that is accessible in the context of how ISIF invests?

Mr. Conor O'Kelly: No, I do not think so. State bodies can sometimes move slowly and perhaps not see opportunities as clearly or as commercially as may be necessary to meet our criteria. If, however, we believe there is an opportunity or the bones of something, then we would generally work carefully with the appropriate state authority. In Kilkenny, we are working with Kilkenny County Council. We are working in Cork with the Port of Cork. We are working with Coillte and Bord na Móna. I do not believe there is anything systemic in that regard.

Deputy Alan Kelly: It is a "Yes" or "No" answer. All I want to know is whether there

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has ever been a situation for ISIF in which Mr. O’Kelly believes that a State body has not put forward a project in a way in which ISIF can invest.

Mr. Conor O’Kelly: No.

Deputy Alan Kelly: That is all I wanted to know for the record and for the future.

Chairman: We will suspend because the voting will take place presently. We will resume at 2.30 p.m. We have a voting situation and we want a little time for a break. No doubt we will finish. I do not imagine it will be too long into the afternoon.

The witnesses withdrew.

Sitting suspended at 1.05 p.m. and resumed at 2.40 p.m.

Business of Committee (Resumed)

Chairman: We will resume in public session. Before we return to the the subject of the NTMA accounts, I will deal with one bit of housekeeping. It concerns our work programme for meetings in the autumn. I omitted something in the work programme. On the first day back on 20 September, we will deal with NAMA. That is agreed. On 27 September, we will hear from the former clinical director of CervicalCheck, Dr. Gráinne Flannelly. Obviously, members might be back for an update on 27 September. Dr. Flannelly has indicated her willingness to attend. We could not make the meeting last week so we will do it on our return. On 4 October, we will hear from the Department of Public Expenditure and Reform. The Office of Public Works is down for the meeting on 11 October . We gave a commitment earlier in our correspondence with regard to a protected disclosure from a person in the Irish Prison Service. We discussed this matter in private session. It was agreed to meet the individual who has made the protected disclosure so that the committee could inform itself of matters. We can then deal directly with the Irish Prison Service. The secretariat will make the necessary arrangements with the individual concerned to meet us - probably in private session if that is the wish of the individual. I am proposing-----

Deputy Alan Kelly: A special sitting?

Chairman: It will be Thursday, 11 October. The Office of Public Works is appearing before us on that day so it is a question of whether we do it first or last but it will be 11 October. On 18 October-----

Deputy Alan Kelly: Can we provisionally say 11 October and I will request that at the first meeting back, we re-check and reconsider it? We may need to bring it forward as a special sitting. We will leave it at 11 October but-----

Chairman: That is a definite for now. If needs be and we have to deal with-----

Deputy Alan Kelly: If there are developments, we may need to bring it forward.

Chairman: If we have to deal with it sooner, the committee can deal with that. The meeting on 18 October will deal specifically with housing. The Thorn report on the University of Limerick was sent to us some time ago. What is the expected timeline of the report the Comptroller and Auditor General is doing?

COMMITTEE OF PUBLIC ACCOUNTS

Mr. Seamus McCarthy: I expect to complete that in August.

Chairman: We might have it here then.

Mr. Seamus McCarthy: Yes. I would not expect the Department to hold it for longer.

Chairman: By the end of September-----

Mr. Seamus McCarthy: It should be. I expect to have the Waterford Institute of Technology report.

Chairman: By the end of August?

Mr. Seamus McCarthy: Maybe September for that one.

Chairman: We can expect to see the reports on Limerick and Waterford early in the next term. I think Dr. Richard Thorn is dealing with the Kildare and Wicklow Education and Training Board, ETB.

(Interruptions).

Chairman: His University of Limerick report is in. We have that already. The Comptroller and Auditor General is doing a separate report on Limerick which we will hopefully have around the end of September. He will have his report on the Waterford Institute of Technology but the report by the Higher Education Authority, HEA, does not seem to be at the stage of being ready for the committee yet.

We are doing this in public because people are watching and asking. Dr. Thorn is doing a report on the Kildare and Wicklow ETB. We will ask the secretariat to get an approximate timeline for that and circulate it to the committee. I am sure it is passably complete but we will get an update on when that is expected.

Mr. Seamus McCarthy: We are pressing ahead to finish the 2015 financial statements.

Chairman: Which?

Mr. Seamus McCarthy: For Kildare and Wicklow ETB.

Chairman: Despite the difficulties there.

Mr. Seamus McCarthy: We will try to draw that to a close so we can move on to the 2016 and 2017-----

Chairman: They can be done quickly afterwards if we get to 2015.

Mr. Seamus McCarthy: I expect to include a supplementary report with that relating to the matters that have delayed the completion of the 2015 audit.

Chairman: That is fine. I wanted to put all that on the public record because some people are interested in the work programme.

counts (Resumed)

Chapter 23: Accounts of the National Treasury Management Agency (Resumed)

National Treasury Management Agency: Financial Statements 2017 (Resumed)

Mr. Conor O’Kelly (Chief Executive Officer, National Treasury Management Agency) and **Mr. Ciarán Breen** (Director, State Claims Agency) called and examined.

Chairman: We will return to the National Treasury Management Agency. Did Mr. Breen want to comment?

Mr. Ciarán Breen: I wanted to provide clarification for the committee. I know Deputy Jonathan O’Brien is not here but I want to put on record for the committee that I was informed over the lunch break about the case we were referring to. Although the file that I examined had no indication that the person had any contact with CervicalCheck, since her claim was made against a general practitioner, GP, and a hospital, arising from a colposcopy issue, I can clarify that she is one of the 221 women. She had been to CervicalCheck to get her smear tests done but her claim did not relate to that at all.

Chairman: The original claim?

Mr. Ciarán Breen: Yes. That is to clarify the matter for Deputy O’Brien.

Chairman: I appreciate that. When the meeting is over, I will ask the secretariat to convey that directly to Deputy O’Brien in the event that he does not hear it, so that he is aware of that. Deputy Kelly asked a question. Mr. Breen knows not to mention any names in public. I do not have to remind him of that.

Mr. Ciarán Breen: Of course. Deputy Kelly kindly gave me the name so I made inquiries over the lunch period. Although the title of the letter which looked for the record indicated the name of the person, when we carried out a search, having received that letter, we had no record whatsoever of anything about cervical cancer with regard to the particular person. We did not retain any record about that and there is no notification of an incident or a claim.

Deputy Alan Kelly: I understand that in an item of Mr. Breen’s correspondence, he says he has a record.

Mr. Ciarán Breen: Not relating to cervical cancer. It was a record about a completely unrelated issue.

Deputy Alan Kelly: The point still stands. Why is Mr. Breen not giving this information to the family?

Mr. Ciarán Breen: It was not relevant to the particular inquiry in the letter, which was simply an inquiry about cervical cancer.

Deputy Alan Kelly: Mr. Breen is wrong. I have it here in front of me. I also have all of

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Mr. Breen's correspondence which he signed himself. It refers to the immediate release of all documents of any nature whatsoever held by the State Claims Agency, its servants and agents regarding the late individual. It does not say CervicalCheck.

Mr. Ciarán Breen: There were two pieces of correspondence.

Deputy Alan Kelly: Mr. Breen wrote back to the family solicitor on 22 May.

Mr. Ciarán Breen: Yes. The other record was not even a record relating to-----

Deputy Alan Kelly: It states that having undertaken searches, one record was located.

Mr. Ciarán Breen: Yes. That is the record I am talking about. It was a trivial incident, unrelated to cervical cancer.

Deputy Alan Kelly: Okay. Can I get back to the principal point? This causes concern and worry. Why is Mr. Breen not releasing the information to the family? The family of the deceased woman looking for information are entitled to it. Why is Mr. Breen not giving it to them?

Mr. Ciarán Breen: We will release the particular record-----

Deputy Alan Kelly: The State Claims Agency is going to charge them €30 to appeal it.

Mr. Ciarán Breen: We will release the record. It is a trivial record.

Deputy Alan Kelly: Why did the State Claims Agency not provide it? Why did I have to raise this in the Committee of Public Accounts to force the State Claims Agency to release a record tomorrow when the decision maker, who I will not name, said that the agency will not release the record? Why was this information-----

Mr. Ciarán Breen: We sometimes take a line on things like this because we get parties who are not, for example, families or affected parties-----

Deputy Alan Kelly: This is obviously the whole family.

Mr. Ciarán Breen: I understand that. We assumed at the time that it related to a cervical cancer issue. We did not retain any record relating to that.

Deputy Alan Kelly: Mr. Breen is telling me that the agency will release the information.

Mr. Ciarán Breen: We will release the record to the family or to the solicitor.

Deputy Alan Kelly: I suggest that Mr. Breen looks at the agency's freedom of information processes. It should not take a family contacting me through their solicitor to raise it in the Committee of Public Accounts for the State Claims Agency to release documents which it should have released in the first place.

Chairman: The point is well made and Mr. Breen is going to release it. Deputies Catherine Murphy, Catherine Connolly and Kate O'Connell had indicated. I will have some questions myself. I will let members in for a second round and I will be working with a set of financial statements.

Deputy Catherine Murphy: I will come back to something I touched on this morning relating to contingent liability. There was a Supreme Court case in 2017. The court ruled, with

regard to the 1%, that claims for future loss should be calculated at a real rate of return of 1.5%. This results in a higher net percentage value being placed on projected future cashflows. There has been an increase as a consequence of that. Is that a real cash increase? Does it have an immediate impact? How does it play out into the future?

Mr. Conor O’Kelly: There is a real increase. I will let Mr. Breen take the question. It is a fundamental question about the rate of return that is assumed and used with regard to lump sum payments, in particular, and to calculate what that lump sum should be, one has to have an implied future rate of return that could be earned on what is called a risk free or low risk rate. That rate has been set higher and therefore any lump sum payment would be made higher. Even in retrospect, as I know Mr. Breen will refer to, there were many cases which were settled with potential adjustment to any future change in the rate of return.

Deputy Catherine Murphy: If somebody was made a ward of court and a payment went into a fund for investment, is this in addition to that or is it how amounts are projected into the future?

Mr. Ciarán Breen: It is how one projects the amounts into the future. It had immediate effect. When that case was decided, pending the case going to the Court of Appeal, we agreed with families that we would pay them the difference between the old rate of 3% and the 1% and 1.5% in the event that the Court of Appeal decided that was the appropriate rate. In 2017, therefore, we paid out €25 million in what we refer to as “catch-up payments”. That was the difference between what we settled at, 3%, and the new rate of 1% and 1.5%.

Deputy Catherine Murphy: Is there a further catch-up or is that it, following which the projection involves new claims on the 2.7% estimated to be contingent?

Mr. Ciarán Breen: We had 45 catch-up cases. At this stage approximately 70% of catch-up cases are agreed with plaintiffs’ lawyers. There are some ongoing negotiations between actuaries for some of the plaintiffs and us to decide the balance.

Deputy Catherine Murphy: Does it have an impact on the projected contingent liability? I presume that is why it has gone up.

Mr. Ciarán Breen: It does.

Deputy Catherine Murphy: I turn to a particular aspect of the investment in housing. A reason has been given, but we had been expecting €400 million of the proceeds of the sale of Bord Gáis to be placed in an off-balance sheet entity and applied to housing. However, that did not happen. We were told that it did not prove possible to devise a model which would be capable of utilising the €400 million on an off-balance sheet basis. I understand it probably had to be used in that way. It was a very small amount, given the amount realised. It was almost a political sweetener to indicate that some money would be used in that way. Why was it not possible to make that off-balance sheet arrangement, given that we have tier 3 housing associations? There are mechanisms which do not directly involve local authority housing whereby guarantor arrangements could have been made, for example. Why did it not prove possible to do this?

Mr. Conor O’Kelly: I do not know the answer. I am guessing it is a matter for the Department of Housing, Planning and Local Government.

Deputy Catherine Murphy: The NTMA was not managing it.

Mr. Conor O’Kelly: No.

Deputy Catherine Murphy: Irish Water features in the loans. There is a loan of €450 million. Initially, it was €300 million and then €150 million. The only income Irish Water has apart from commercial water charges is from the Exchequer. Is it really a loan facility in that case? It does not appear that Irish Water has an income from which it can discharge loan repayments. It has been extended for one year. What, if anything, is the intention for the loan?

Mr. Eoin Dorgan: I am not sure of the exact time involved. Following on from the Oireachtas committee on the future of water policy, the Government decided that the commercial loans would be refinanced through Exchequer debt. The ISIF is one element of it and there is a further €800 million in commercial loans, on which work is ongoing. Within the coming six to nine months we are working on refinancing it through State debt for which the NTMA will provide. Irish Water will then be borrowing from State sources, rather than from commercial lenders and the ISIF.

Deputy Catherine Murphy: I presume it will be at a favourable rate.

Mr. Eoin Dorgan: Yes.

Deputy Catherine Murphy: Responsibility for an additional 17 section 38 organisations and others was taken over by the State Claims Agency. There was an 18% increase in settlements in 2017, resulting in a figure of €218 million. Was that exclusively because of the additional agencies or was the profile of claims different?

Mr. Ciarán Breen: No. The portfolio is growing all the time, depending on the number of cases we settle in any one year and the higher values associated with some of them. For example, every year our projections for what we will spend normally go up because we settle a greater number of cases and cases of greater complexity. It is related to value, the number of cases and their maturity.

Deputy Catherine Murphy: We know that there is a difference in the cost of settling cases when there is a clinical issue involved. How do we compare with other countries where the agency’s counterparts settle claims in terms of the profile and extent of claims?

Mr. Ciarán Breen: The nearest comparator in a common law jurisdiction is NH Resolution which used to be known as the NHS Litigation Authority. Its volumes of clinical claims and claims generally are so much higher that it is not a perfect comparator. On the non-clinical side, the level of damages in the United Kingdom is lower than here. The personal injuries commission is looking at this issue as a result of the work of the working group on the cost of insurance. Non-clinical claims for whiplash are being looked at, for example, because damages in the United Kingdom are so much lower than here.

Deputy Catherine Murphy: Does the agency have a way to measure clinical cases?

Mr. Ciarán Breen: Clinical cases tend to be very serious. In the United Kingdom damages for catastrophic injuries are, in fact, somewhat higher than here. For example, I had a meeting yesterday with a reinsurer who told me that he had seen £30 million paid out on a catastrophic injuries claim in the United Kingdom, while in another case the figure was £35 million. The highest we have paid out in a catastrophic injuries case is approximately €19 million.

Deputy Catherine Murphy: I am not talking about individual cases but numbers. I am

trying to get to a question I asked Mr. Breen earlier about looking at causes and which he answered.

Mr. Ciarán Breen: Perhaps I might help the Deputy by saying the following. We have asked our actuaries, for the purposes of our strategy committee in the agency, to carry out the kind of examination for which the Deputy has just asked, to look at the cost of claims here relative to the cost in the United Kingdom in both clinical and non-clinical cases. Certainly, the value is lower here for clinical claims than in the United Kingdom. The rate of claims is proportionate both here and there.

Deputy Catherine Murphy: I wish to follow on from what Deputy Catherine Connolly asked this morning about the investment in housing within the private sector. There is ethical investment in other areas. Would the NTMA fund the construction of developments wholly run by REITS? They may well be foreign investors that are subject only to withholding tax. Does the NTMA look at for whom buildings are likely to be built?

Mr. Conor O'Kelly: We would be happy to look at them. We would look at any proposal in the REITS space if it made sense.

Deputy Catherine Murphy: That is what I am worried about. Not only are they able to achieve very high rents, they also pay very little tax. To understate it, it would be very undesirable to invest public funds to build where such an advantage would accrue to the investors.

Mr. Conor O'Kelly: We would be happy to invest in that kind of structure, but we have not, as yet, seen a proposal with which we would be happy.

Deputy Catherine Murphy: The pensions reserve fund stands at €8.9 billion.

Mr. Conor O'Kelly: The Ireland Strategic Investment Fund, yes.

Deputy Catherine Murphy: The one which was not called the pensions reserve fund. We used most of it, around €19 billion to bail out the banks at the time, or it was not quite a bailout. That was initiated a long time back and was building up. There is a real pensions time bomb. The fund is now a portion of what it was almost eight or ten years ago. Has the NTMA done projections about what the requirements will be? I presume that fund is being invested to try to get the maximum return. Is that something for the NTMA or is it at policy level?

Mr. Conor O'Kelly: It would be a policy issue in respect of pensions. I know there is a lot of discussion around pension reform, auto-enrolment and areas like that. As of now, no policy has been finalised that would come to us for potential participation or assistance in terms of execution. To go back to the Deputy's earlier point, if we put back in the value of the shareholdings in the banks plus the €8.9 billion, we are getting back up to €23 billion or €24 billion, close to where it was at its height, notwithstanding that it could have been invested in the meantime.

Deputy Catherine Murphy: Considering that there was €5 billion to invest and it is now €8.9 billion, that is potentially a sizeable difference if things had remained as they were and there was no further money invested into it. When we talk about the pensions time bomb and the adequacy of the provisions, is that something the NTMA projects or is it done at departmental level?

Mr. Conor O'Kelly: That is done by the Departments.

Mr. Eoin Dorgan: It is between the Departments of Finance, Public Expenditure and Re-

form, and Employment Affairs and Social Protection. They are involved in those projections.

Deputy Catherine Murphy: Is this money there to be used for that sole purpose?

Mr. Eoin Dorgan: The Government's decision in 2011 was to refocus the remainder of what at the time was the National Pensions Reserve Fund into the ISIF to be invested in Ireland, in adherence with the double bottom line in terms of commercial return and economic impact. At present, the entirety of the National Pensions Reserve Fund is either in the directed portfolio, which is effectively the bank shares, or the discretionary portfolio, which is the €8.9 billion that is being transitioned into investment in Ireland.

Deputy Catherine Murphy: Right. On the pensions time bomb and the ageing population, while I wish we could hold the time back, when are we getting into serious trouble in terms of funding pensions?

Mr. Seamus McCarthy: The Department of Public Expenditure and Reform is best placed to answer that and it will be before the committee in October. Separately, the Department of Employment Affairs and Social Protection just last year completed a projection of what State pension costs will be into the future. The figures certainly are very concerning. When it presents the Social Insurance Fund accounts for 2017, it will be referencing that and the document will be available to the committee for examination.

Deputy Catherine Murphy: I thank the Comptroller and Auditor General. The NTMA said it would issue so-called green bonds. I believe Poland and Belgium have done so. How does that work? Is it separate money and a separate process? Does it require a policy initiative or can the NTMA itself initiate it?

Mr. Conor O'Kelly: It is something we are talking to the Department about right now. Essentially, it is fungible with the other debt so it is segregated. Investors will invest in so-called green bonds, provided the money is being used for sustainable investment processes. It could be new electric trains, water upgrading systems or any environmentally friendly projects the Government has on its books, and the Government has many. Once the projects are earmarked and it is decided the money will be spent and is ring-fenced for that purpose, a different pool of capital can be accessed, which is quite good news for us. Whatever money we then raise is used to finance those programmes. They get reported on every year. Investors will look for an independent report every year to see that money is being spent on that basis so it has been very successful. It is a growing pool of capital and, for Ireland diversifying, from a selfish NTMA point of view in terms of debt, getting access to new pools of capital is very attractive. It also provides a dedicated pool for investment in green projects that has to be fulfilled.

Deputy Catherine Murphy: Is this all private money or is there some Government money associated with it?

Mr. Conor O'Kelly: No, this is all Government money. We are borrowing on behalf of the Government and the Government commits to invest in €4 billion of green projects, which we pre-identify to investors.

Deputy Catherine Murphy: How does that work with the general government debt?

Mr. Conor O'Kelly: It is totally fungible. It is essentially the same but whatever-----

Deputy Catherine Murphy: It is just using the money differently.

Mr. Conor O’Kelly: Correct, and whatever is committed to, I suppose the sovereign has some reputational risk. Ultimately, if it tells investors it will invest in those projects, it has some reputational risk in respect making sure that commitment is fulfilled.

Deputy Catherine Connolly: Am I right that about €19 billion of the national debt is savings?

Mr. Conor O’Kelly: Retail savings, correct.

Deputy Catherine Connolly: Is the figure for savings rising over the years?

Mr. Conor O’Kelly: It has risen, but interestingly, it has remained at about 10% of total debt. Our debt has gone up fourfold from €47 billion to more than €200 billion. The figure for retail savings was €4.7 billion or 10% back in 2007. It has stayed very steady at about 10% of the total national debt. Retail savings comprise State savings, prize bonds, and the post office savings, all done through An Post.

Deputy Catherine Connolly: What was the national debt just before the crisis started?

Mr. Conor O’Kelly: It was €47 billion.

Deputy Catherine Connolly: Is it €200 billion now?

Mr. Conor O’Kelly: It is €214 billion.

Deputy Catherine Connolly: I am not going to dwell on this but I am right that there is an investment committee that advises on investments?

Mr. Conor O’Kelly: For the Ireland Strategic Investment Fund?

Deputy Catherine Connolly: Yes.

Mr. Conor O’Kelly: We have a portfolio management committee internally which proposes investments to an investment committee-----

Deputy Catherine Connolly: Does that investment committee have external members?

Mr. Conor O’Kelly: Yes, it has two non-executives of the board plus three additional external members.

Deputy Catherine Connolly: I am reading in the document that one of them is Ms Julie Sinnamon, CEO of Enterprise Ireland. Then we have Mr. Mark Ryan, company director and former manager-----

Chairman: To what page are you referring?

Deputy Catherine Connolly: It is on page 56 of the annual report. Mr. Ryan is former managing director of Accenture Ireland. That is not the same company - perhaps the Chair can correct me - that came up in respect of IT, is it? I do not want to get a company’s name wrong. I may have mixed this company up with the company for the IT for the Garda station. It is a different company, is it?

Mr. Conor O’Kelly: The person the Deputy mentioned who is a member of the investment committee is a non-executive member and the former managing partner of Accenture.

Deputy Catherine Connolly: Is that spelled A-C-C-E-N-T-U-R-E?

Mr. Conor O'Kelly: Yes.

Deputy Catherine Connolly: Is that one and the same company about which questions have been raised in respect of IT and the Garda Síochána?

Mr. Seamus McCarthy: Yes, it was about the procurement process. It was about how they were procuring in An Garda Síochána.

Deputy Catherine Connolly: That was the responsibility of the Garda Síochána in respect of procurement, but did it happen to be the company that benefited and got the roll-on contracts without procurement?

Chairman: The contract was not renewed in accordance with compliance. That is the company.

Mr. Seamus McCarthy: Exactly.

Deputy Catherine Connolly: That is the same company. Okay. I just wanted to clarify that. Then we have a member of the investment committee connected with Grant Thornton. Who chooses the external members?

Mr. Conor O'Kelly: They are approved by the Department, by the board and by the-----

Deputy Catherine Connolly: Who chooses them initially?

Mr. Conor O'Kelly: I think the-----

Chairman: Who comes up with the names to send to the Minister?

Mr. Eoin Dorgan: I think it is a combination between the agency and ourselves and the Minister is consulted on the appointment. The agency, I think, proposes. If I am wrong, I will correct that. The agency proposes and the Minister is consulted and agrees on appointments to the investment committee.

Deputy Catherine Connolly: I got distracted because I am due to speak in the Dáil. I apologise. Will the Chair allow me to defer the rest of my time until after I come back?

Chairman: I am sure we will be here for at least half an hour. I said "at least".

Deputy Kate O'Connell: Following on from that, in the context of borrowing money to invest in sustainable projects on behalf of the State, we have historically low interest rates at present. Perhaps this question was asked in my absence earlier. I would expect an increase in interest rates. I assume there is contingency built in to deal with that so that these projects can continue if we get a rapid rise in interest rates. Has that been factored in?

Mr. Conor O'Kelly: If one raises the money, one is locked in at the rate attaching so we would only go to the market and raise the money if the rates were attractive versus a conventional bond. Once one has raised the money at that rate, then it is a fixed rate.

Deputy Kate O'Connell: What happens if more money is needed in order to continue a project? Does the NTMA borrow all the money to see the project to the end?

Mr. Conor O'Kelly: Yes.

Deputy Kate O'Connell: Okay, it does. What would happen if extra money was needed unexpectedly because something happened?

Mr. Conor O'Kelly: We would have to go back to the market and do it again or we could probably fund it through the normal borrowing process.

Deputy Kate O'Connell: On the NAMA surplus, is the approach to crystallise it and to have a once-off gain?

Mr. Seamus McCarthy: Is Deputy O'Connell talking about the eventual NAMA surplus?

Deputy Kate O'Connell: Yes.

Chairman: Could the witness from the Department of Finance respond because it is not part of the NTMA?

Mr. Eoin Dorgan: To be honest, that would be a decision for the Minister and the Government.

Deputy Kate O'Connell: Is Mr. Dorgan allowed to have a view on whether it is a good idea to crystallise it in a once-off move or to split it and hedge one's bets?

Mr. Eoin Dorgan: The division that deals with NAMA is a separate division and it will be talking to the Minister and the Government on that.

Deputy Kate O'Connell: We will have representatives from the Department of Finance before the committee in September.

Chairman: For the benefit of the Deputy, when we had the Department of Finance in some time ago, we asked that specific question on the ultimate surplus. The representatives from the Department stated it had not made any decision or proposals on the matter. We asked then what were the EU rules in respect of this because the Government's general position is that any money recovered from financial assets goes towards the reduction of debt. That is the general position on the sale of bank shares, for example. Some people in the Department of Finance indicate that the surplus might be used to reduce the national debt.

Deputy Kate O'Connell: It is €200 billion. Would we pay down some of that?

Chairman: Yes. The next question we asked is whether the use of the NAMA surplus would require EU clearance because it would have to be done within EUROSTAT rules and we were told that no discussions had taken place with Europe yet. We asked what Europe's position was expected to be. The Department said that there is no other NAMA or anything like it in Europe so it does not believe Europe has even addressed the issue yet. I suppose the bottom line is that discussion has yet to take place. I am giving the Deputy the benefit of information obtained at a previous meeting.

Deputy Kate O'Connell: I thank the Chairman very much.

Mr. Seamus McCarthy: The committee will also have NAMA in to discuss the section 226 report.

Chairman: NAMA will be before the committee on the first occasion on which we meet after the recess.

Deputy Kate O'Connell: Does Mr. Dorgan have a view on the disposal of bank shares? Does he think it is a good or a bad idea at this point? Although it was necessary at the time, I do not think it ideal for the State to have any involvement.

Mr. Eoin Dorgan: The programme for Government commitment is that the maximum sale of shares in any institution is 25% and that has been reached with the AIB transaction. The Department, the Irish Fiscal Advisory Council, IFAC, the European Commission and the NTMA in particular have all highlighted the high debt levels. Share sales will very much have to be a decision for the Minister in due course.

Deputy Kate O'Connell: With regard to the previous session of questions, do any of the witnesses know if the State has purchased any buildings recently? I was told before lunch that it is not Government policy to buy buildings. Perhaps it is not appropriate for me to ask it here and we can get the answers somewhere else. I was trying to look into that but I cannot see such information.

Mr. Seamus McCarthy: It is an OPW policy area. The OPW is scheduled to come before the committee at the beginning of October. I am aware that it has taken leases on a significant number of buildings. It would be reasonable to expect that there is a value for money evaluation underpinning that policy. That is a question for the OPW.

Deputy Kate O'Connell: Before lunch, I was trying to ask a question about the €1 million per floor per year. The fee for facility management and maintenance is more than €500,000. It just seems like a great deal of money per year to service a building. Is it the job of Mr. McCarthy to respond about value for money?

Mr. Seamus McCarthy: No, the obligation is on the Department that owns the policy and that takes out the leases to be able to demonstrate that it is delivering value for money.

Deputy Kate O'Connell: So is it the Department of Finance again?

Mr. Seamus McCarthy: It is the OPW. It takes leases on buildings for most Departments and many State agencies. It drives the policy and it owns the obligation to answer for value for money in respect of that.

Deputy Kate O'Connell: Has the Department of Finance been in contact or has the Comptroller and Auditor General spoken to the OPW to see about the €1 million per floor plus the maintenance fee? Do we know if that was ever considered?

Mr. Eoin Dorgan: This is a decision for the agency. However, in order to be of assistance, in terms of the purchase of buildings, people must remember that, under EU fiscal rules, this would impact on one's expenditure benchmark so it does have a very sizeable impact if one is looking at one-off expenditure in terms of how much is available for ongoing current day-to-day expenditure. That may have informed that policy decision in terms of purchasing. In terms of the NTMA premises, that would be a decision for it.

Mr. Seamus McCarthy: Going back to Deputy O'Connell's point about why we are buying in the centre of Dublin as opposed to more low-cost locations, they are policy questions that are and should be amenable to analysis. It should be possible for the OPW to demonstrate that there is something underpinning its decision.

Deputy Kate O'Connell: Financial logic.

Mr. Seamus McCarthy: Yes, the economic logic.

Deputy Kate O'Connell: I look forward to meeting representatives from the OPW after the recess.

Chairman: I will ask a few questions myself. I use the word "few" lightly.

I will start with the national debt. I have the report in front of me. I will ask Mr. McCarthy to confirm some information that is out there and we can comment on it. I want to give the people who are watching a full and clear picture. They get bits and pieces from different questions but I like to give the overall view.

The gross national debt at the end of 2017 was €198.7 billion, almost €200 billion. That is on page 7 of the accounts. I thank Mr. O'Kelly for the extra briefing information supplied. Essentially, we have one big problem when one looks at the chart on page 12 of the accounts where it is indicated that the percentage of our debt to GNP is quite low, at 68%, which is moving towards the EU fiscal rules target of 60%. However, everybody knows - and we have discussed it with the Department of Finance - that this is not a real measure of what happens in Ireland at all because it is totally distorted by the presence of multinationals. It is not really income to the country. We have moved on to gross national income, GNI, and now we have GNI*, which Mr. O'Kelly referenced. The gross Government debt to GNI* ratio is probably a far better indication in reality. Mr. McCarthy mentions that in the document and he shows that chart. From that perspective, there is still a worryingly high level of debt. Even allowing for the fact that the agency uses GNI* as a measure, although it is helpful to use both such measures, the national debt is still at a very worrying level. Is that a fair comment?

Mr. Conor O'Kelly: Yes, it is a fair comment.

Chairman: Moving on to page 13, the debt, cash balances and gross debt are shown. I note the cash balances the agency is holding seem to have declined in recent years. In 2012, there was €50 billion in cash balances. All the figures are not given on that page, but I note from the chart the cash balances now held are only half of that amount. It would probably cost the agency to hold cash reserves but it would give a little more flexibility. Why have the agency's cash reserves declined in recent years?

Mr. Conor O'Kelly: During the crisis there was a question mark over our access to the markets and now we are talking about the price we pay when we access the markets. They are two different things. If we have a question mark over our access to the markets and are not able to fund such moneys, we would need to have very high cash buffers because we would need to be able to fund the State. Given Ireland's improving credit rating, we are now talking about the price of the credit we can access. There is not an issue about Ireland's capabilities of accessing the markets. Thankfully, that is behind us. The question now is about the price. When we decide what cash buffers to have, we make an implied view on interest rates also and whether this is a good time to lock in those rates, and that determines it. We have some very big maturities coming up.

Chairman: I will come to those.

Mr. Conor O'Kelly: That is one of the reasons we have the levels of cash we currently have. The figure of €10 billion is probably the more normalised level of cash we would like to have and right now we have-----

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Chairman: That is 5% of the agency's debt?

Mr. Conor O'Kelly: We have about €23 billion at the moment.

Chairman: When we had a difficulty accessing the market, essentially during the three years when the troika were here, 2011 to 2013, we were sitting on in excess of €50 billion in cash reserves. The agency thought we needed to have that because we might not have been able to raise such funds down the road. The troika came for a three-year period. Mr. O'Kelly might tell me if I am right in my reading of that.

Mr. Conor O'Kelly: The cash balances-----

Mr. Seamus McCarthy: The cash balances were never €50 billion.

Chairman: Cash balances or other assets.

Mr. Seamus McCarthy: They were never €50 billion.

Chairman: What are the "other assets" referenced in page 13? The light green segment of the chart states "cash balances or other assets". Does that refer to bank shares?

Mr. Eoin Dorgan: Banks shares-----

Chairman: This is an NTMA document. The witnesses must be able to tell me to what that chart is referring.

Mr. Conor O'Kelly: Banks shares and additional other liquid assets are included-----

Chairman: The bank shares would have been worth very little. What does Mr. O'Kelly mean by liquid assets other than cash? This is the agency's chart. There seems to quite an amount shown in the green segment of it during 2012 and 2013.

Mr. Seamus McCarthy: It may have had something to do with the promissory notes and the categorisation of them.

Chairman: The agency needs to come back to us on this. This is its annual report. The witnesses should know these charts off by heart given that they have inserted them in it. I ask that they send us a detailed note explaining that. If a member of the public's reading of this report was similar to my reading of it, they would take from that chart that we were awash with cash all during the troika period.

Mr. Seamus McCarthy: From my recollection of chapters we produced over the years, the maximum cash and other liquid assets would have been around €22 billion to €23 billion. I have no recollection of a figure of-----

Chairman: I am reading-----

Mr. Seamus McCarthy: Certainly the graphic is showing that.

Chairman: From 2012 the figures go from €150 billion up to €200 billion. There is at least €50 billion in debt in that. We had the National Pensions Reserve Fund, NPRF, at that time. Will Mr. O'Kelly come back to us on this and explain that? On the face of it, it looks as if we had far more cash when we all thought we were broke.

Mr. Conor O'Kelly: No. I am sure that includes the NPRF but I will come back to the

Chairman on that.

Chairman: I have turned over the page and in respect of funding and maturities, it looks as if approximately €50 billion in funds are due to mature in the period from 2018 to 2020 and €10 billion has been included there. Is Mr. O’Kelly comfortable the agency can meet that? There is quite an amount in maturities coming up in 2019 and 2020.

Mr. Conor O’Kelly: Yes.

Chairman: Mr. O’Kelly spoke about rising interest rates.

Mr. Conor O’Kelly: We are comfortable and that is the reason we have those significant cash balances. We have €24 billion. We have a big maturity coming up in October we have a big number of big maturities coming up in 2019 and 2020, and we are very comfortable with that position.

Chairman: Okay. Is that the current cash balance? I know this annual report covers up to the end of December last year. Has the agency’s cash balance gone up a lot this year?

Mr. Conor O’Kelly: Yes.

Chairman: Mr. O’Kelly needs to send us a chart in respect of the period of the chart on page 13 of the annual report showing us the cash balances then and the current cash balances.

Mr. Conor O’Kelly: Yes.

Chairman: Mr. O’Kelly said the agency’s cash balance has increased quite an amount in the past six months.

Mr. Conor O’Kelly: It has.

Chairman: Mr. O’Kelly might send us that information in order that we would have a reasonable understanding of it.

I read an article carrying the headline “Gordon MRM keeps €480k PR deal with NTMA”. It states “Gordon MRM has beaten away competition to retain the prestigious public relations account with the National Treasury Management Agency”. What does it do for that €480,000? That probably covers a five-year period. The journalist who wrote that article probably indicated that amount covers a number of years.

Mr. Conor O’Kelly: The contract is nothing like that amount. That firm has a contract with the NTMA and it has an additional contract it won with the National Asset Management Agency, NAMA. It could be the two of those combined, but we will come back to the Chairman with the value of that contract.

Chairman: I saw that newspaper article written by a reputable journalist recently. I note it states “The contract represents a impressive double win ... earlier this year the firm retained ... [the NAMA] ... contract”. It probably covers a few years.

Mr. Conor O’Kelly: Perhaps a three-year period.

Chairman: Probably. Mr. O’Kelly might forward us the information on that.

Mr. Conor O’Kelly: I will forward that.

Chairman: I am not suggesting it is the annual fee. That is the headline. I want a breakdown of that. The firm is doing a good job for the agency. The witnesses appear before this committee every year and every time they do or they talk or give a press conference, they give the a good impression of the agency to most people in terms of how much it is has refinanced and that the interest it has on new loans it is taking out, that is replacing old debt, is less than 1%. If people were to listen to the agency, they would assume it had most of this under control, but it transpires this morning that Mr. O’Kelly said that in the past three and a half years the agency has only replaced €50 billion, which is 25% of the debt, a quarter of it. If only €50 billion was replaced during those years, that amounts to €15 billion per annum, which is only about 7% of the agency’s total debt. The agency does a good deal of selling information on how much it is replacing the old debt, but when we examine what the agency does and break it down, that accounts for only 7% of the agency’s debt in any one year, on average. We only hear about 7% of its debt. The witnesses never tell us about the other 93% of it. They sell a good story. If one were to believe the information they put out, one would think we nearly had all the financing of our debt down at 1% or 2% at this stage. That is the only story we hear from them, but it transpires it is only 7% of the debt that benefits from such announcements. Does Mr. O’Kelly get my point?

Mr. Conor O’Kelly: I am not sure that I do. We do not sell anything. We tell the story; we do not sell the story, with all due respect. Also, in refinancing debt, we have to refinance it as it comes due, as it matures. None of the debt that Ireland has is callable.

Chairman: Is there any mechanism, internationally, to offer some incentive to bring forward debt that is not due to mature for some time?

Mr. Conor O’Kelly: We would have to pay for it. The economics would be such it would offset the difference between debt-----

Chairman: Does the agency look at that?

Mr. Conor O’Kelly: Of course, we do.

Chairman: Every day?

Mr. Conor O’Kelly: Yes, of course. We make savings where we can. That is why we refinanced the IMF debt, which was callable and refinanceable, but most of the debt is fixed-term debt that is locked-in.

Chairman: That is the chart I would have loved to have seen in the annual report. Will Mr. O’Kelly give us the €200 billion debt broken down in terms of how much of it is being financed at under 1%, now that some of it is under 1%, how much of it is being financed at between 1% and 2%, how much of it is being financed at between 2% and 3%, and all the way up? Is there much of the older debt on which we are paying interest at over 6%?

Mr. Conor O’Kelly: No.

Chairman: So there is nothing out there that is more than 6%.

Mr. Conor O’Kelly: I believe that 5.9% is the largest coupon coming due in 2019-2020.

Chairman: In 2019-2020. Will you send us on that chart because-----

Mr. Seamus McCarthy: Further down that page, the table shows some of the coupons.

Chairman: Many of them are at 4% and 5%, and then they drop down to 1.7% and 2%. Perhaps Mr. O’Kelly could give us the full breakdown of the 200. That is a good indicator. That is the only information I am looking for in that regard.

I will move on to the Ireland Strategic Investment Fund. A figure of €526 million for residential housing is referred to on page 17 of the financial statement. The statement says that at the end of 2017 the Ireland Strategic Investment Fund had committed €526 million to residential housing investments in response to the national housing crisis. Can Mr. O’Kelly tell the committee how many houses were built by the fund at the end of 2017? I note all the commitments and so on but how many houses were actually built with the €526 million? How many actual houses can be counted, that is, there are 50 there or 300 there? At 31 December 2017, how many houses were built from that €526 million?

Mr. Conor O’Kelly: I cannot give the exact figure for that date, but as of today, it is 1,400 houses.

Chairman: That is for units built. Will Mr. O’Kelly try to get us the figure for the end of December 2017 to which that €526 million relates? We hear the big figure and for €526 million, we have 1,000 houses so far, and I know there are a lot to come. We are here to talk about delivery but has not happened in spite of the amount of money provided. Perhaps Mr. O’Kelly could give the committee an estimate for how many houses it expects to complete this year, next year and the following year from that €526 million. This is a reasonable question. People are now talking about delivery.

I will go through the annual report systematically. In regard to the global portfolio managers, was there a change of those managers during 2017 and what criteria are there for rolling over the contracts? What are the procurement arrangements? Do they get the contract for a two year or three year period? Talk to me about the general nature of the contract for companies such as Goldman Sachs Asset Management, J.P. Morgan Asset Management, Irish Life Investment Managers, Amundi Asset Management, Blackrock Investment Management, Deutsche Asset Management and so on? What is the typical arrangement the NTMA has with these companies and how does it procure the services?

Mr. Conor O’Kelly: We have a panel of investment managers that we can use. We have the panel system and then we tender as we need them. We monitor their performance. No fund manager has been removed or changed in 2017, but sometimes we may add or subtract to the number of fund managers and between different managers, depending on the performance of the manager and on the strategy that may be pursued at the time.

Chairman: If one has 20 fund managers on the panel, inevitably there would be five, six, seven or eight who are very good while some of them are okay. There must be some managers who are not as good as others. What does the NTMA do about dropping those? Why would one use the bottom third performers if one knew there were others who are consistently doing better? I am aware that the NTMA can probably reduce the amounts that are placed with them.

Mr. Conor O’Kelly: That is generally what we would do.

Chairman: Is there much movement in that regard? Consider the market value of the investment of the six. Perhaps the witness can take the market value figure under the management of each of those companies for 2017, which is on page eight of the financial statement, and take it back two years to the same figure for 2015, with an explanation for why there is a

significant change. We want to get a feel for this because these people are looking after the investment portfolio of taxpayers' money worth €6.5 billion. Will the NTMA give the committee an indication of why those figures moved, rather than going back just one year?

In one of the documents supplied to us by the NTMA it shows there are some 146 public bodies - correct me if I am wrong-----

Mr. Conor O'Kelly: Is that under State Claims Agency remit?

Chairman: Yes, under the State Claims Agency; not under the NTMA. Will Mr. Breen from the State Claims Agency please forward to the committee a list of the 146 bodies, and what significant bodies do not come under the remit of the State Claims Agency? Do the local authorities come under the State Claims Agency?

Mr. Ciarán Breen: No.

Chairman: Okay, that is one. What other big organisations are covered? Are third level colleges included?

Mr. Ciarán Breen: The larger bodies are the HSE - with regard to its clinical and non-clinical exposures - and after that the main bodies are those such as the Irish Prison Service, the Department of Defence, An Garda Síochána and so on.

Chairman: Does the State Claims Agency deal with the section 38 agencies?

Mr. Ciarán Breen: Yes, some of those-----

Chairman: Have they all agreed?

Mr. Ciarán Breen: Yes. Most of the agencies that have come into the scheme are from the disability sector.

Chairman: Will Mr. Breen explain why this is and why some of the services are in the scheme and not others?

Mr. Ciarán Breen: Most of them were originally covered under conventional insurance policies and their premiums were going up, as members will be aware through the costs of insurance working group, which had been dealing with the issue. Many of the agencies transferred to the pay-as-you-go system for their public and employer liability exposures.

Chairman: Did the section 38s transfer to pay-as-you-go?

Mr. Ciarán Breen: Yes, the State----

Chairman: Was the HSE happy that these organisations were paying out €4 billion per annum because they did not have insurance and were on a pay-as-you-go system?

Mr. Ciarán Breen: A value for money exercise was carried out on premiums versus a pay-as-you-go system. It was very clear that the insurance profile of the premiums was going on an upwards trajectory.

Chairman: Who carried that out exercise?

Mr. Ciarán Breen: The State Claims Agency and the HSE, with its procurement section.

Chairman: How long ago was this?

Mr. Ciarán Breen: It was about two years ago.

Chairman: I ask that this report is forwarded to the committee. I am aware that some of it might be confidential but please forward what is possible.

Mr. Ciarán Breen: I will look at our documentation and see what I can send.

Chairman: It is news to me, but obviously not news to others, that these organisations did not have insurance and were in a pay-as-you-go situation-----

Mr. Ciarán Breen: I am sorry, Chairman, the organisations did have insurance, and they have come into the pay-as-you-go system now. They were conventionally insured.

Chairman: That issue has never crossed the desk of the Committee of Public Accounts before now. It is interesting.

Mr. Seamus McCarthy: I recall that there was some discussion on the issue with regard to local authorities, and some hospitals were also involved in the same insurance system.

Chairman: The local authorities have a separate insurance system, the name of which escapes me just now. I believe it is mutual insurance under the Irish Public Bodies, IPB, insurance company. Has the State Claims Agency ever thought of doing an exercise for it on the same basis or is it on a pay-as-you-go basis also?

Mr. Ciarán Breen: They are conventionally insured now with IPB mutual insurance. Some have more complex arrangements with some having layers of self insurance and a layer of insurance over that with IPB.

Chairman: If the section 38 agencies, which get at least €3 billion per annum, believed it was better to come into a scheme with the State Claims Agency on a pay-as-you-go basis, and if the entire budget for the local authority is also in that bracket of €4 million - and one could include capital expenditure of €5 billion or €6 billion - they would be a similar sized group of organisations in terms of turnover. If it is valid for section 38 agencies to come into the State insurance scheme, then somebody should run the numbers to see if it would be valid for local authorities to come in on the same basis. Maybe the claim profile of the local authorities is completely different but it would be interesting to see. There appears to be two agencies handling insurance claims - one for local authorities and one for all the organisations under the State Claims Agency. Can we talk with the Department of Public Expenditure and Reform about this? Somebody needs to look at it. I am not suggesting there should be a change but if it has worked with others, and the State Claims Agency has come to this conclusion regarding section 38 agencies, then the same exercise could be examined for local authorities, given that it is all taxpayers' money and savings could be made.

Mr. Seamus McCarthy: Going in that direction, from insurance companies to State cover in the form of pay-as-you-go, does give an immediate cash benefit because one is not meeting claims for a number of years. This distortion and impact is evident immediately but it is-----

Chairman: As a result of today's meeting, the committee will write to the Department of Public Expenditure and Reform separately. I am not asking that an investigation be done but that the matter be considered and the Department's thoughts given to us. We will come back to it because at €2.6 billion on the SCA's balance sheet for claims, or closer to €3 billion, I have

no idea what is out there against the local authority.

I am moving on to page 36 and NewERA. Why did the VHI come in? I can understand NewERA started in the energy market and now some new organisations have come in. Is this the full list of the new organisations - An Post, Córas Iompair Éireann, CIÉ, the Irish Aviation Authority, IAA, the Dublin Airport Authority, DAA, and the VHI?

Mr. Conor O’Kelly: They are assignments. We act like a corporate finance adviser and get asked to do assignments but they are not necessarily designated bodies.

Chairman: That is fine.

Mr. Conor O’Kelly: An Post and the transport assets are the new designated bodies. That was only confirmed in 2018.

Chairman: The NTMA might send us a note on the new designated bodies under its wing and how that came about.

Mr. Conor O’Kelly: Yes, we will do that. We get asked to do *ad hoc* advisory work on behalf of the Department as well.

Chairman: It might be helpful for us to have a list of those organisations done in the last 18 months so that we know what is happening. I am moving on to those on page 38. These are the portfolio companies.

Mr. Conor O’Kelly: That is correct.

Chairman: I have to note the contrast between the two debates happening in the Oireachtas today. The Fossil Fuel Divestment Bill passing in the Chamber is asking the NTMA’s Ireland Strategic Investment Fund not to hold any shares in fossil fuel companies while the NTMA is also the principal adviser to the Minister who has shares in the ESB. Moneypoint must be the biggest CO2 emitter in Europe perhaps but certainly in Ireland. How do the two sides of the house sit together in the NTMA? One arm is saying let us keep bringing in millions of tonnes of coal from Colombia on each ship that comes in every month. The other arm then is saying that we should not be investing or holding shares in fossil fuel companies. There is a dichotomy that Mr. O’Kelly might explain to me or perhaps we created that?

Mr. Conor O’Kelly: There is a dichotomy in Irish life and society. It is more for the committee’s side of the house than it is for mine.

Chairman: I could not avoid noting the contrast between the two debates.

Mr. Eoin Dorgan: We should say that all State-owned assets are engaged in a transition to the low carbon economy which is in line now with the amendment being put in the House by Deputy Thomas Pringle.

Chairman: Is Moneypoint safe?

Mr. Eoin Dorgan: The ESB is transitioning to-----

Chairman: We will let someone else talk to Mr. Dorgan about that. I am moving on to the State Claims Agency legal costs on page 41. I have often raised this before. This is the “good public relations” that is done. On legal costs, “in 2017, the SCA settled 440 bills of costs received from third parties for €55.2 million - a reduction of 48% on the €106.9 million claimed”.

One would be forgiven for thinking that great work had been done in reducing the payments on legal fees but when we turn over the page we see that is an artificial figure being compared. It is comparable to saying someone sent in a bill but I did not pay it and so saved money. We will look at the details on page 44 of what actually happened beyond that headline.

I am looking on page 44 where the cost of claims resolved from 2013 to 2017 are detailed on a chart. I refer to the average cost per claim. The clinical claims are dealt with first. I am referring to the legal fees for the State Claims Agency and the plaintiff, to the average cost per claim set out in the second column down. The average cost per claim for the SCA for clinical claims is stated to be €23,000 and the legal fees for the plaintiff were €41,000. That means that €62,000 on average was paid per claim. Mr. Breen is reading the same chart. The award was €130,000. In other words, legal costs in respect of awards in 2017 were 49% of the legal awards. For every €100 of settlement to the individual there was an additional 49% in legal costs. Is that correct? That is correct.

I will go back to 2004 and I could go back to other years. In 2004, €48 million was paid out in legal fees on settlements. A sum of €48,000 was the average legal fee on the average settlement of €93,000, which is 48%. There has been no real reduction in legal fees. The SCA's percentage of legal fees, as long as I am sitting here, is running at approximately 50% of the settlements. If I look at the previous page of the report, it is stated that there was a 48% reduction in legal fees. Misleading is the most generous word I would put on that. The SCA has not reduced anything. These are the SCA's own figures.

I will go down then to the general claims, the column below the previous one. It is the same situation. I will not read the figures out loud. I have looked at the money for 2017. The legal fees paid out were €13.6 million which is 55% of the award of €24.7 million. That is 55% and that was the rate the previous year and in 2014. In respect of the payments, and we have been told about the payments increasing, the percentage of the legal fees is fairly static at in or around 50% for years. Yet the SCA is telling us, and the public would believe it if the details were not looked into, that legal costs have been reduced by 48%. That is the SCA's big chart on page 41. It does not gel. Does Mr. Breen get what I am saying? That is not a real headline, it is a public relations job.

Mr. Ciarán Breen: No, with respect, those are two different things. We have a legal costs unit which was established in 2013 within the State Claims Agency. It handles tribunals' bills of costs arising from third parties appearing before those tribunals. What we are showing on page 41, and the big figure we are indicating we are saving, are actual bills of costs sent in by third parties that we examined. In order that the Chair will know, we go out to the solicitor firms. The Comptroller and Auditor General might comment on this as well. If it is one of the big firms representing a third party, we go out and we look at all of their boxed files. We examine them and then we begin to negotiate by saying we are not allowing this, that and so on and that we are reducing them. It can be seen that we have had really good reductions in the order of more than 40% over the years. That is on one side and those are actual savings made on the bills of costs.

Then if we look at what is happening on the tables the Chair has just been through, which is the other part of our business-----

Chairman: Which is the bigger end of it?

Mr. Ciarán Breen: The tribunals are much higher in respect of the numbers. The only part

of what we are looking at that we can control is our own costs. The taxation of costs system controls what plaintiff's lawyers can charge and that is ultimately where we go with these.

Chairman: Then perhaps a page or a chart on the tribunals could be put in the report.

Mr. Seamus McCarthy: It is there at the end of page 46.

Chairman: It is on page 46.

Mr. Seamus McCarthy: The table has SCA clinical, SCA general and then the various tribunals.

Chairman: That is fine and good for the tribunals but the main point I was raising was on the settlements and compensation, where the legal fees are consistently running above 50%.

Mr. Ciarán Breen: That profile is slightly lower for us than a conventional insurer dealing with these types of claims. We actually do better and the reason for that is because we control our own costs better. We procured, for example, our barristers and solicitors and we imposed caps on them. We do all that we possibly can.

Chairman: I appreciate that but the public will find it a little hard to take that for €1,000 paid out the solicitors are getting €500 on top of that, yet the SCA is saying it is doing great internationally. That is what I am being told. It does not feel great.

Mr. Ciarán Breen: There is a significant litigation cost in our society here in Ireland. We do everything to bring that cost down to the lowest.

Chairman: The State Claims Agency has no control over it.

Mr. Ciarán Breen: Yes.

Chairman: We understand that.

The next page deals with mass actions. According to the annual report at the end of 2017 there were 34 active thalidomide related cases, 70 narcolepsy related cases and 92 active Shine abuse cases, none of them settled during the year. There are also 1,636 active in-cell sanitation cases relating to the prisons at the end of the year, only one of which was settled.

Mr. Ciarán Breen: Yes.

Chairman: Without disclosing the agency's hand, why is the process so slow?

Mr. Ciarán Breen: There are groups of cases where there are significant liability of causation at law type issues or statute of limitation issues involved, for example, with the exception of the in-cell sanitation which the Chairman spoke about. In regard to in-cell sanitation, there was a lead case. The lead case went to the High Court. The High Court did not award any damages, as it happened. It did find that there was a breach of privacy and that is now on a leapfrog appeal, which was only recently accepted by the Supreme Court. Until such time as we get a determination in that particular case, the other cases simply back up and wait their place.

Chairman: Is the appeal in respect of the breach of privacy?

Mr. Ciarán Breen: No, the appeal is in respect of everything.

Chairman: The whole case.

Mr. Ciarán Breen: Yes.

Chairman: There are effectively 1,635 cases waiting to be dealt with.

Mr. Ciarán Breen: They are awaiting a determination of the Supreme Court.

Chairman: Mr. Breen has no idea what the outcome will be. I take it the State Claims Agency has made provision in its accounts in this regard.

Mr. Ciarán Breen: Yes.

Chairman: We will not ask Mr. Breen to disclose that for obvious reasons.

I will move on now to page 52. There are nine staff in the organisation on salaries of over €300,000. Are the witnesses worth it?

Mr. Conor O'Kelly: I hope the Chairman does not expect me to answer that question.

Chairman: I do not want to get prurient on the issue but it was important to make the point.

I am moving on now to the NTMA's financial statement, page 92 which deals with the income and expenditure for the National Treasury Management Agency. Staff cost is €94 million and operating expenses is €21 million, which means the organisation costs about €116 million per annum.

Mr. Ian Black: To be clear, that is on a gross basis because it also includes the staff cost for the National Asset Management Agency, NAMA, and the Strategic Banking Corporation of Ireland, SBCI.

Chairman: What is the level of expenditure for the NTMA and is it set out in the accounts?

Mr. Ian Black: It is.

Chairman: On what page?

Mr. Ian Black: Operating income is at the top of page 92. We recover €58 million from NAMA and SBCI and others. It is in note 5.

Chairman: Mr. Black is saying that the NTMA's operating cost is approximately €50 million.

Mr. Conor O'Kelly: It is a little bit higher at €55 million.

Mr. Ian Black: The breakdown is at the top of page 100. It is broken down by what we call business units. It shows the breakdown for the State Claims Agency-----

Chairman: -----the National Development Finance Agency, the Ireland Strategic Investment Fund and the NewERA. That is good.

I am moving on now to page 147. Perhaps Mr. Black would explain the difference between the discretionary portfolio and the directed portfolio. I think the directed portfolio are investments directed by the Minister, which are related in the main to bank shares. I ask Mr. Black to explain it for the viewers.

Mr. Ian Black: These are investments where we act under the direction of the Minister for

Finance. There are only two investments, the State's shareholding in Allied Irish Banks, plc, and its shareholding in Bank of Ireland. Directed investment is made under the instruction or direction of the Minister.

Chairman: The NTMA sold the 25% of the State's shareholding in AIB.

Mr. Ian Black: Under instruction.

Chairman: That is fine. The Minister for Finance is the shareholder. Page 211 sets out the breakdown of the State's shareholding. The AIB shareholding is valued at €10.4 billion and the Bank of Ireland shareholding is valued at just over €1 billion. What is the percentage shareholding in each of those institutions?

Mr. Conor O'Kelly: It is 14% in Bank of Ireland and just over 70% in AIB.

Chairman: Given that the job of the NTMA is to manage the debt and part of the debt has been incurred by acquiring those shares, from Mr. O'Kelly's point of view - I am not talking about policy - is it economically advantageous to continue to sell those shares? I am not talking about the politics of doing so. People will have views on that. I agree with Deputy Kate O'Connell that the State should not be in this business any more but Deputy Catherine Connolly might have a different view. We will stay out of the politics. The job of the NTMA is to advise on the management of the debt. We have incurred a debt in acquiring the bank shares. From a professional financial advice point of view, should we continue to hold those shares or should we continue to sell them?

Mr. Conor O'Kelly: We have made our position clear. It is less our position than the position of investors who lend us the money. Our debt is very substantial. Their preference is that the State would, within the right timeframe, sell the shares and use the proceeds to pay down the debt which is still very substantial. We do not have very many opportunities to pay down the actual amount of debt. Our debt is four times what it was in 2007. That is a legacy of the crisis. There are very few opportunities to reduce that debt. Selling any liquid assets such as bank shares is one such opportunity.

Chairman: What is the value of the AIB shares today versus the per share price when they were sold last year?

Mr. Conor O'Kelly: It was a little bit higher. There was probably about a 12% difference from where it was originally.

Chairman: It was a little bit better, even if the NTMA was to sell some more this year.

Mr. Conor O'Kelly: No. It was a little bit better then where they were sold as compared with the original IPO.

Chairman: Mr. O'Kelly is saying in retrospect we did well to get what we got at the time compared to current value.

Mr. Conor O'Kelly: I think so.

Chairman: Mr. O'Kelly should say that because some people probably think we sold short. Would Deputy O'Connell like to comment?

Deputy Kate O'Connell: Yes.

Chairman: I have a few wrap-up questions to ask but I can ask them later if there are members who would like to come in at this point.

Deputy Kate O'Connell: I am fascinated by Mr. O'Kelly's answer in regard to the shares, which I was not afforded to the same extent as the Chairman has been.

Chairman: Pardon?

Deputy Kate O'Connell: The Chairman got a far more comprehensive answer on the view on the sale of the bank shares than I did when I asked the question but perhaps I am just-----

Deputy Catherine Connolly: We will have to leave the questions to the Chairman.

Deputy Kate O'Connell: Yes, if we want answers.

Chairman: I waited to ask my questions when everyone else had had an opportunity to speak.

Deputy Kate O'Connell: The Chairman asked the same question but the approach to the answer was quite different. Maybe I just got out of the wrong side of the bed this morning.

Chairman: Okay.

Deputy Kate O'Connell: There appears to be a difference in how the witnesses are answering the Chairman's questions.

Chairman: Does Deputy Connolly want to come in?

Deputy Catherine Connolly: I was in the middle of-----

Deputy Kate O'Connell: I thought the Chairman was not finished.

Chairman: I am not finished but I will pull back and allow in anyone who wants to speak. I will allow Deputy O'Connell now followed by Deputy Connolly.

Deputy Kate O'Connell: Page 101 deals with wages and records Mr. O'Kelly's salary at €480,000. Table 7.3, sets out his performance-related pay. Is Mr. O'Kelly afforded performance-related pay in addition to his net salary?

Mr. Conor O'Kelly: There is a note at the bottom of the page which shows that I do not receive any performance-related pay.

Deputy Kate O'Connell: That is okay. By the looks of things, the NTMA does a good job in terms of returns on investments. Arguably, it is handy enough to do a good job when everything is in upward trajectory, the challenge being when things are in a downward trajectory. Earlier, Mr. O'Kelly mentioned 500 staff. Will he briefly outline the portion of staff in employment in the NTMA that are on the average industrial wage? Is there anybody in the NTMA earning €37,500 per annum?

Mr. Conor O'Kelly: Yes.

Deputy Kate O'Connell: How many?

Mr. Conor O'Kelly: I cannot give the Deputy the exact number.

Deputy Kate O'Connell: Can Mr. O'Kelly tell me the number of people on more than €200,000 per annum?

Mr. Conor O'Kelly: There is a table on salary categories on page 52.

Deputy Kate O'Connell: There is no breakdown for those earning under €50,000.

Mr. Conor O'Kelly: We only included those earning in excess of €50,000.

Deputy Kate O'Connell: How many women in the NTMA's operations are earning in excess of €100,000?

Mr. Conor O'Kelly: I will have to come back to the Deputy on that. The female-male breakdown is 50:50 at the bottom of the pyramid. As we go up, there are fewer women in each management category which is quite traditional, unfortunately.

At the top in the management team of nine, we have four women. Three of them are currently in place and the other, the new head of the NDFA will join us in the middle of August. We are working hard to address imbalances when they occur. We will go public with our pay gaps in next year's accounts.

Deputy Kate O'Connell: Can the NTMA show us its plan to address this imbalance?

Mr. Conor O'Kelly: We will do a full review of our gender pay gaps and we will publish it.

Deputy Kate O'Connell: Will the NTMA do it in the next year?

Mr. Conor O'Kelly: Our 2018 annual report will include disclosure on gender pay.

Deputy Kate O'Connell: When a position becomes vacant in the organisation, are there any issues with filling posts? There are issues in the HSE, for example, with hiring staff. Are there positions which the NTMA cannot fill for long periods?

Mr. Conor O'Kelly: Not necessarily. The labour market has tightened considerably, as one might expect in line with economic strengthening. It can be more difficult for certain specialist personnel. In general, however, we have not found it difficult to attract staff.

Deputy Kate O'Connell: That is not surprising when the wages are quite generous.

Is the reason the NTMA is moving its headquarters from Dublin 2 to Dublin 1 due to the fact the Dublin 2 building is not energy efficient? Is there another reason?

Mr. Conor O'Kelly: The lease was up. We would have had to recommit for another 15 to 25 years. We assessed whether we should stay or move. We got an independent assessment done.

Deputy Kate O'Connell: By whom?

Mr. Conor O'Kelly: It came up with four or five different alternatives.

Deputy Kate O'Connell: Who did the assessment?

Mr. Conor O'Kelly: Savills did the original assessment for us and gave us several different options. A public tender process was undertaken. Our current landlord also retendered to get us to stay. Economically, it was a neutral play for us to move.

Deputy Kate O'Connell: That was mentioned earlier on. How long has the NTMA been in the building in Dublin 2?

Mr. Conor O'Kelly: We have been there for 25 years. We have been there since 1991, as long as the NTMA has been around.

Deputy Kate O'Connell: Has it been refitted a few times?

Mr. Conor O'Kelly: Energy efficiency is a big factor.

Deputy Kate O'Connell: I am not saying it is not but it is a factor.

Mr. Conor O'Kelly: Yes, it is a factor.

Deputy Kate O'Connell: What is the figure for the fit-out cost for the new building?

Mr. Ian Black: We took a credit for the category A fit-out from the landlord and we are doing it ourselves. Again, it was done through a public procurement. The total value of the contract is €24 million.

Deputy Kate O'Connell: Is this for 500 staff?

Mr. Ian Black: We took the building to allow for flexibility if agencies go up or down. We can sublet the additional space if it becomes available. We did not want the building to be full on day one. It has approximately 145,000 sq. ft.

Deputy Kate O'Connell: Was the NTMA paying €1 million per 20,000 sq. ft. in the old building?

Mr. Ian Black: Yes. We had two floors in the Treasury Building.

Deputy Kate O'Connell: That comes to 40,000 sq. ft.

Mr. Ian Black: We are operating on a third floor which is partly occupied by NAMA. It is a shared floor but it is physically divided.

Deputy Kate O'Connell: Why does the NTMA need so much more space?

Mr. Ian Black: We took a decision to lease the full building on the basis we can sublet it to third parties or to other Government bodies.

Mr. Conor O'Kelly: It is about capacity. We will sign a lease for 25 years. We probably only need half of that space while another 20% of it will be made available to NAMA, the Strategic Banking Corporation of Ireland, SBCI, and other agencies. There is talk about the NTMA being given different mandates. Accordingly, we left ourselves some flexibility. We can sublet those other floors and get some rent back to offset the costs.

Deputy Kate O'Connell: The NTMA is getting into the business itself. I do not see the logic in this. I can understand having flexibility but not to that degree. Is the NTMA sure it will be able to sublet this additional space?

Mr. Conor O'Kelly: We are sure.

Deputy Kate O'Connell: Has somebody done their sums on this?

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Mr. Conor O’Kelly: It is a very attractive space. We are confident we will be able to sublet the space.

Deputy Kate O’Connell: Would Thurles have done?

(Interruptions).

Deputy Kate O’Connell: I am deadly serious. After looking over it at lunchtime, the site in Dublin 1 appears to be the most expensive place in Ireland.

Mr. Conor O’Kelly: That part of the docklands, the north docks which we are trying to rejuvenate, is one of the cheapest parts of Dublin right now. The State owns much of the property around there. Hopefully, the value might improve.

Deputy Kate O’Connell: Can we have the specification that was put out for the tender?

Mr. Ian Black: The tender documents are publicly available. We are happy to send them to the Deputy.

Deputy Kate O’Connell: The committee should visit the new headquarters sometime.

Mr. Conor O’Kelly: The committee would be welcome to do so.

Deputy Catherine Connolly: I refer back to the State Claims Agency. I raised the issue of rents this morning and I asked for a note on it. I am not blaming the witnesses as it is Government policy.

Mr. Eoin Dorgan: To clarify, there are two appointed members from the agency board. They are appointed by the Minister.

Deputy Catherine Connolly: I will come back to that. I want to stick to the rent first, then the investment committee and then the SCA.

Is it Government policy that the NTMA must rent its headquarters?

Mr. Conor O’Kelly: The Government’s policy is to discourage State agencies from buying their own property because of the fact that it is immediately added to the Government’s balance sheet. It also eats into expenditure targets which could be used elsewhere.

Deputy Catherine Connolly: I am failing to grasp this. I do not blame the witnesses. However, every week I sit here looking at rents for, say, Caranua at the Department of Education and Skills. Foras na Gaeilge did a business case which pointed out it was cheaper to buy a building and have a mortgage. There is something seriously wrong with the Government’s policy in this regard. It is actively colluding in keeping market rents at the deep end. It is now put in language where it is adding to the new financial area in the city. Language is being used in a way to conceal. I do not expect the witnesses to answer this. However, I despair of the Government’s policy on this at a time Galway city has a major housing crisis. Galway has been waiting since 2002 for a public housing programme. I agree with Deputy O’Connell. There is no reason other areas in the country cannot be looked at for locating headquarters. On the investment committee-----

Mr. Eoin Dorgan: Under the 2014 Act-----

Deputy Catherine Connolly: Yes, up to five external people can be appointed. Only three external people have been appointed. Who appoints them? I was interrupted.

Mr. Conor O’Kelly: The board appoints them.

Deputy Catherine Connolly: They are appointed by the board of the NTMA.

Mr. Conor O’Kelly: Yes.

Deputy Catherine Connolly: Those appointments are subject to approval by the Minister.

Mr. Conor O’Kelly: That is correct.

Deputy Catherine Connolly: What criteria are used for appointments?

Mr. Conor O’Kelly: It depends on what we are looking for, on the pipeline of investments and on the skill set that is already there. We look to have a blend of different experiences from different types of sectors on the investment committee based on the investment portfolio we have.

Deputy Catherine Connolly: I do not see a range of experience. I immediately think of the map of regional economic impact on page 24 of the annual report. Mr. O’Kelly had a reason for that. If we look at Connacht, 4% of the jobs created by ISIF were there, 6% of ISIF capital was deployed there and 4% of gross value added was in the region. It stands out as being very low in comparison with the other regions. Dublin’s percentages for the same values were 50%, 56% and 43%, respectively. I look at this with my limited knowledge of finance and ask who is advising and what is going on. Údarás na Gaeltachta is not represented on this advisory board, nor is the co-operative movement. There is no range of people outside the same people who were there at the time of the crisis. There is the same type of skill set and the same type of consensus mentality. Why are the co-operative movement and Údarás na Gaeltachta not represented on this committee given their key roles in investment in the Gaeltacht? Is that a question for Mr. O’Kelly? I do not mean to put him on the spot. Should it be a question for the Minister or for the board of the NTMA?

Mr. Conor O’Kelly: It is a reasonable question. There is only a certain number of people one can have around any one table making investment decisions so one must cut one’s cloth to a certain degree. Julie Sinnamon has wide experience as CEO of Enterprise Ireland. To categorise her in that way is not really fair to her. Richard Leonard of Grant Thornton is from Limerick and his regional expertise has been extremely valuable.

Deputy Catherine Connolly: I will take my comment back if I was personalising anything. I will stick with Údarás na Gaeltachta. It has a serious remit, among others, in respect of the Irish language and economic development of the Gaeltacht areas. It is nowhere to be seen.

Mr. Conor O’Kelly: I encourage the Deputy and Údarás na Gaeltachta to share any proposals for which they seek the investment of ISIF funds. We are very anxious to invest in the regions. In his recent ISIF review the Minister asked us to renew our focus on the regions and we are happy to do so, but we need investment opportunities to be brought to us in order to invest. We do have the capability to invest in the regions.

Deputy Catherine Connolly: The NTMA has the capability, the capacity and the money.

Mr. Conor O’Kelly: We also have the desire.

Deputy Catherine Connolly: In the meantime, the Gaeltachts are seriously under pressure. There is serious unemployment and serious black spots which are creating major problems and has serious implications for Galway because people are moving to the city. This is because of an unbalanced approach to investment. Mr. O'Kelly is saying he is wide open to change on that.

Mr. Conor O'Kelly: I would be delighted to see proposals from the region.

Deputy Catherine Connolly: Okay, that is lovely. On the State Claims Agency, the SCA - and I want to stay general on this matter - I thank the witnesses for the information. With regard to the cervical smear testing, the lessons the SCA learned, when it became aware of the issue and how it will avoid similar issues in the future, how did it happen that the matter did not go on the risk register sooner?

Mr. Ciarán Breen: We only take the cases as they arise. That is really a matter for the HSE. It is the owner of the problem, so to speak. We are, it is to be hoped, part of the solution to the problem.

Deputy Catherine Connolly: The SCA has a role in feeding information back, however. It has a serious role in pointing out risky areas. That is the role on which I want to focus. Let me say that I found Mr. Breen very open. He gave the facts and I welcome that. I am not interested in personalising it. He has come forward, bona fide, and given us as much information as we have asked for.

Mr. Ciarán Breen: I thank the Deputy. She is right, the SCA has a clinical risk management role with all of the services and hospitals. This issue was not known to us. How could we have found out about it? We did visit the CervicalCheck screening service at the time. I indicated that it was in March 2017. The problem with notifying women did not come up. We only got to know about this for the first time after the Vicky Phelan case, as I told the committee previously. To give the Deputy some reassurance, in the meantime we have visited all of the screening services to pick up all of these topics about disclosure and about notifying matters to us and making sure that these things are being put up on the national incident management system, NIMS. That was one of the issues we had with CervicalCheck. It was not putting the incidents up at the time. I assure the Deputy that we have addressed these issues with the screening services, most recently in the last two months, and we will continue to do so. That is one of the lessons learned.

Deputy Catherine Connolly: NIMS is being rolled out. What is its full name again?

Mr. Ciarán Breen: The national incident management system.

Deputy Catherine Connolly: That is still being rolled out. Is that not right? It has not been rolled out completely.

Mr. Ciarán Breen: It is pretty much rolled out at this stage. The phase we are at right now is about making sure that everybody is notifying in real time and not doing it retrospectively.

Deputy Catherine Connolly: Page 45 of the annual report is most interesting to read. It lists the range of abuse cases and other cases which reflect failures of governance and systems failures. These are the mass actions. We have the in-cell sanitation cases. There are 1,635 active claims under that heading. Is that right?

Mr. Ciarán Breen: Yes.

Deputy Catherine Connolly: There are 146 claims relating to school abuse following the Louise O’Keeffe judgment.

Mr. Ciarán Breen: Yes.

Deputy Catherine Connolly: I will come back to ask about the status of that. We then have the cases relating the abuse by Michael Shine at Our Lady of Lourdes Hospital, of which there are 92. I presume they are all women, are they?

Mr. Ciarán Breen: No.

Deputy Catherine Connolly: Is there a mixture.

Mr. Ciarán Breen: No. In fact I am pretty sure that the claims were made by males.

Deputy Catherine Connolly: They were made by males.

Mr. Ciarán Breen: Yes.

Deputy Catherine Connolly: There are 92 such cases.

Mr. Ciarán Breen: Yes.

Deputy Catherine Connolly: We have the narcolepsy-----

Mr. Ciarán Breen: I am sorry; I do not mean to interrupt the Deputy but on the Shine abuse cases, I have to tell the committee that there is an insurer that was the insurer of the Medical Missionaries of Mary, which had ownership of that hospital at the time. Therefore, the State is not the only actor in that regard.

Deputy Catherine Connolly: Liability will be somewhat shared.

Mr. Ciarán Breen: Perhaps not shared. We might say that it is the insurer’s liability and not the State’s. One of the reasons we exist is to make sure that we do not take on liabilities which should fall on someone else.

Deputy Catherine Connolly: I will not go through them all. There are 47 cases relating to Lariam and 35 relating to symphysiotomy. There are also the thalidomide cases. The thalidomide cases are still ongoing.

Mr. Ciarán Breen: They are. There has been ongoing mediation in that regard. In fact, the mediation is very unusual in that it has gone on for a number of years.

Deputy Catherine Connolly: Why is that?

Mr. Ciarán Breen: They are complex cases. The thalidomide survivors also have complex needs. As part of the mediation process, the State paid for experts to examine the thalidomide survivors. For example, they were looked at by cardiologists, orthopaedic surgeons and vocational rehabilitation consultants. It takes a long time to get all of these reports together.

Chairman: In what age group are these people now?

Mr. Ciarán Breen: They were all born between 1958 and 1962, so they are in their-----

Chairman: They are no older than 60.

Mr. Ciarán Breen: Yes.

Chairman: It has taken all this time. Is there any statute of limitations involved in this?

Mr. Ciarán Breen: There is a statute of limitations issue.

Chairman: We have to wait until people are 65 to tell them that. Are many of the claims not proceeding due to all these medical assessments saying that it cannot be proved that thalidomide is the cause?

Mr. Ciarán Breen: I do not know if the Chair is aware of this but, following a report I did a number of years on the thalidomide issue, there was a scheme whereby the State offered all of the survivors a sum of approximately €62,500. A number of the thalidomide survivors took that. Other thalidomide survivors decided that was not what they wanted to do. They wanted to go to court with their cases.

Deputy Catherine Connolly: Have those involved the 34 active cases already received some payments?

Mr. Ciarán Breen: No.

Deputy Catherine Connolly: They have received nothing.

Mr. Ciarán Breen: Sorry. The State makes payments to them under a scheme that it has-----

Deputy Catherine Connolly: That is separate. In the context of the case they are bringing-----

Mr. Ciarán Breen: -----and Grünenthal, which is the original manufacturer. The Deputy is probably aware that Grünenthal and that particular scheme in Germany brought in a particular proviso whereby it increased the amount of money it was paying on a monthly basis but in order to join it up with every other place, it had a similar arrangement. It said that for a country making payments to it, those payments would be offset against any payments Grünenthal would pay at the much higher rate. That was a German law that came in, I believe, a couple of years ago.

Deputy Catherine Connolly: What about the 34 cases that are still active? Under those proceedings, those involved have received no payment. Those proceedings have not come to fruition.

Mr. Ciarán Breen: As I said, they get other payments from the State-----

Deputy Catherine Connolly: Under a separate scheme, yes.

Mr. Ciarán Breen: -----but in terms of the litigation, no. They had a choice to opt for the payment. Some did and some did not.

Deputy Catherine Connolly: When will the 34 cases that are active be resolved?

Mr. Ciarán Breen: I would guess that they will certainly not be resolved this year. It will definitely be into next year.

Deputy Catherine Connolly: Does Mr. Breen envisage that they will be resolved?

Mr. Ciarán Breen: I think there will be a preliminary issue on the Statute of Limitations, which is being brought by Grünenthal, in any event. That will be a preliminary issue to be tried.

Chairman: The NTMA is not covered by that.

Mr. Ciarán Breen: No.

Chairman: An action by a German company should not decide-----

Mr. Ciarán Breen: No. Obviously, in a statutory defence like the Statute of Limitations, we will have to plead as well.

Chairman: Is it in the NTMA's interest-----

Deputy Catherine Connolly: It seems to be brought against the German company that produced the drug and the State.

Mr. Ciarán Breen: Yes.

Chairman: Mr. Breen is telling us that the German company will be walking off the pitch quite soon.

Mr. Ciarán Breen: It has brought a motion in respect of the Statute of Limitations.

Chairman: If the NTMA does not get it solved soon, we will end up paying it all rather than getting a share of the-----

Mr. Ciarán Breen: No-----

Deputy Catherine Connolly: If both are tried together-----

Mr. Ciarán Breen: -----not necessarily. As I said, we have a Statute of Limitations defence also.

Deputy Catherine Connolly: That they brought their cases too late.

Mr. Ciarán Breen: Yes.

Chairman: Where is that case in the courts? Is it before the High Court or the Supreme Court?

Mr. Ciarán Breen: It is before the High Court. It is being case managed by a judge of the High Court.

Chairman: It could possibly go to the Supreme Court.

Mr. Ciarán Breen: Possibly, yes.

Chairman: While the Deputy was out, we asked about the cases relating to in-cell sanitation in prisons. Mr. Breen indicated that there is one case before the Supreme Court and that this will be a key element. When that is dealt with by the Supreme Court, the 1,635 can then be dealt with one way or the other.

Mr. Ciarán Breen: Yes.

Chairman: Sometimes we have to wait for just one case to come through the system.

Deputy Catherine Connolly: I refer to the Louise O’Keeffe case.

Mr. Ciarán Breen: Yes.

Deputy Catherine Connolly: There are a number of active cases following on specifically from that case. They are interpreting the judgment. Presumably, the State is interpreting it in a different way.

Mr. Ciarán Breen: The Department is probably aware that the Department of Education and Skills has set up an *ex gratia* scheme which the State Claims Agency is managing. That has a judge of the High Court who sits, effectively, as a point of appeal. There were 49 applications to the scheme. We made determinations in 44 and we are awaiting further information on an additional five. Following our 44 determinations, we understand there are 21 appeals to the retired judge of the High Court.

Deputy Catherine Connolly: That is separate from the 146 active cases that are here.

Mr. Ciarán Breen: Yes. The 146 active cases are day school abuse cases that are on the books.

Deputy Catherine Connolly: Finally, the contingent liability is astronomical. When I read the Comptroller and Auditor General’s chapter, I discovered that the amount for 2016 was €2.2 billion. Mr. O’Kelly said that it is nearly €3 billion now.

Mr. Conor O’Kelly: It is €2.7 billion and-----

Deputy Catherine Connolly: Rising.

Mr. Conor O’Kelly: -----being revised all the time.

Mr. Ciarán Breen: It will probably not come as a surprise to Deputy Connolly that €1.47 billion of that relates to obstetric-maternity related issues. If she wants to identify the problem, so to speak, that is where it lies.

Mr. Ian Black: To be clear, that figure represents the number of claims made. It does not represent those incurred but not reported. In terms of a child born with a catastrophic injury, that case will not be claimed against for quite a number of years. It is an estimate of the liability in respect of claims made, not in respect of claims that have incurred but about which we have not been notified.

Chairman: I have some final questions. I refer to page 12 of the information notes the witnesses submitted. Representatives from the Department of Finance were before the committee a while ago. People think the country is fine - and it is - but we forget about the debt. It does not cross people’s kitchen table, so to speak, and they do not think about it. However, as a person from the Department of Finance stated, people in Ireland are the most heavily indebted people in the world, next to Japan, when the State debt and the personal debt are added. That is nothing to do with the witnesses but to go back to the topic I mentioned earlier, looking at the chart on page 12, which is headed “FUNDING AND DEBT MANAGEMENT”, the figure for gross Government debt to gross Government revenue, and Mr. O’Kelly signalled this at the outset, is 264.2%. It is the fourth highest next to Greece, Portugal and Italy. We are the fourth highest in that category, which he said is a worrying figure. He also mentioned the figure on the right of the chart for gross Government interest to gross Government revenue and 7.6% of total revenue goes on paying interest. That figure is only below those for Portugal, Italy and Cyprus.

Mr. Conor O’Kelly: Correct.

Chairman: Those are four countries we thought we had separated from financially but when we drill into the figures for Government debt to Government revenue, we are not far away from that group. In terms of a percentage of our total income going on interest every year, we are the fourth highest in the European Union on both of those charts. That has to be a worrying trend.

Mr. Conor O’Kelly: Absolutely. That is a concern.

Chairman: I presume that, from a professional perspective, if there is a sale of bank shares or something like that, Mr. O’Kelly would like us to start reducing that type of figure.

Mr. Conor O’Kelly: Investors are still concerned about our elevated levels of debt. That is a factor. Whatever we can do to assuage those concerns makes it less likely that we will have difficulties borrowing at the price at which we need to borrow in the future.

Chairman: Finally, I was very pleased to see an advertisement from the State Claims Agency in all the newspapers about two weeks ago. The advertisement in question requests submissions to the expert group to consider alternative mechanisms to the core process of resolving clinical negligence claims. That is fantastic. Item No. B in the advertisement refers to considering whether there may be alternative mechanisms to the court process to resolve clinical negligence claims. Did it take the CervicalCheck issue for the State Claims Agency to come to a position it should have come to years ago?

Mr. Ciarán Breen: That is not our committee. That is the committee established by the Departments of Health and Justice and Equality. A High Court judge is chairing it.

Chairman: Yes, Mr. Justice Charles Meenan.

Mr. Ciarán Breen: We have been invited to participate on it but it is not our committee.

Chairman: I was giving the witnesses credit for the advertisement. I see it is the Departments of Health and Justice and Equality, but this is fundamental to the work they do.

Mr. Ciarán Breen: Yes.

Chairman: They seem to be doing work on alternative mechanisms, mediation and the cervical cancer issue because of the time issues involved in some of the cases, but why have they not moved to deal with more of that on the other cases?

Mr. Ciarán Breen: Our rate of mediation in medical negligence cases has got better every year-----

Chairman: Okay. Give us the figures so that the public can appreciate what Mr. Breen is saying.

Mr. Ciarán Breen: -----and we are continuing to do it. I have some figures.

Chairman: It would be helpful for people to hear this.

Mr. Ciarán Breen: For example, between 2014 and now we have had 122 mediations.

Chairman: Does Mr. Breen have a figure? What was the quantum of money relating to

those? Was it a lot or a small amount?

Mr. Ciarán Breen: Most of them are medical negligence cases, which would involve significant sums of money.

Chairman: Would it have been €1 billion?

Mr. Ciarán Breen: No. I could do some calculation-----

Chairman: Mr. Breen might send us something on that because the 122 is a small number in respect of the 10,000 but it might be big when it comes to money.

Mr. Ciarán Breen: It would be wrong to leave the public with an impression that we have just done mediation as a reaction to the cervical cancer cases. It is our stated practice in respect of medical negligence cases in particular. We also do it in other cases. For example, bullying and harassment cases are very amenable to mediation. It is our preferred way to go. Sometimes we find the obstruction comes from plaintiffs' lawyers who do not like the mediation process because of a cost issue.

Chairman: We mentioned the 50% legal fees already. We all understand that. Who are the mediators the State Claims Agency uses? Are they State Claims Agency staff or is there a group of arbitrators? Tell me about the mediators.

Mr. Ciarán Breen: They are independent mediators. Many of them are retired judges, existing members of the Law Library, solicitors or people independent of that who are mediators and do not necessarily have a law degree. There is a wide range of-----

Chairman: There is a qualification in mediation.

Mr. Ciarán Breen: Yes.

Chairman: They are not all qualified mediators.

Mr. Ciarán Breen: All the people we use as mediators are qualified mediators. They are completely independent in their function. When we talked about this very briefly the last day when we talked about confidentiality I said one area where there is confidentiality in the process is within mediation. It is a confidentiality imposed by the mediator. The reason for that is he wants people to be able to freely put things through the mediation and in the event the mediation fails, people will not be faced with a situation where things can be relied on in a later trial or whatever. They follow a very definite process.

Chairman: How many mediators does the State Claims Agency have? Does it have a panel? Will Mr. Breen explain the process? How does one become a mediator? Is the position advertised?

Mr. Ciarán Breen: The Chairman or I could become a mediator by doing any of the recognised mediator courses. One gets certified. One body that certifies a lot of mediators in Ireland is a group from England called CEDR. A lot of people qualify as mediators and then become known by virtue of that qualification and how good they are.

Chairman: I have two very small questions. If Mr. Breen does not know the answer off the top of his head, he can come back with a note. It is an unusual question. A number of years ago, a number of raised bogs in natural heritage areas were designated. As a result, people could not

cut turf and lost turf-cutting rights. They asked the State to buy them out. Some people did not get through that system. I have a parliamentary question from 26 September 2017. There are 14,061 ha of land now being de-designated out of that process. The people are now being told they can cut their turf again. There was a buy-out scheme when the designation was first made and people were not able to cut their turf during that period. People who lost money during the period of designation are being told the designation has been lifted and they can cut turf again. They have lost quite a bit of money. Has the State Claims Agency had any claim from any of those concerned?

Mr. Ciarán Breen: No, our mandate is very particular. It is with regard to personal-----

Chairman: This is the Minister for Culture, Heritage and the Gaeltacht.

Mr. Ciarán Breen: -----injury or property damage. We only handle cases involving personal injury or property damage arising out of negligence. We would never have those claims if they were made.

Chairman: What types of claims does the State Claims Agency handle? The cases I mentioned would involve compensation claims against the State.

Mr. Ciarán Breen: Sure.

Chairman: I thought the State Claims Agency would handle those. What does the State Claims Agency handle then?

Mr. Ciarán Breen: We handle any case-----

Chairman: I thought the State Claims Agency did everything.

Mr. Ciarán Breen: We handle any case where, for example, someone suffers a personal injury. We handle cases where there is property damage. For example, if a Garda Síochána car collided with something or someone collided with it, we would look after the property damage elements of it.

Chairman: If somebody falls on a State property or State land.

Mr. Ciarán Breen: Yes, or medical negligence.

Chairman: Mr. Breen mentioned bullying. That means there is injury-----

Mr. Ciarán Breen: Mental trauma.

Chairman: That is how bullying cases get to the State Claims Agency.

Mr. Ciarán Breen: Exactly.

Chairman: In a case like the one I mentioned, a person would have to sue the Minister directly.

Mr. Ciarán Breen: Yes.

Chairman: Mr. O'Kelly mentioned Carillion. We have reported here regularly on the total number of PPPs and the commitments under all of them. Some of the projects are under construction and some are well into operation. With regard to the key companies involved, is there an overexposure to any one organisation? Maybe nobody thought of doing the sums. If

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somebody has too much on hand, maybe the State is increasing its risk. Mr. O'Kelly flagged that issue, which I was conscious of. In the schools sector, I can list two or three companies that seem to build every school in Ireland. It seems to be a very limited market. Even Sammon, which was the subcontractor for Carillion, is a major school builder in its own right and it was working on its own projects. As a result of Carillion going bust, Sammon had to go into liquidation and not just on the sites it was working on for Carillion. Its liquidation affected myriad other schools. The pool is too small. What are Mr. O'Kelly's thoughts on who will look at this? The National Development Finance Agency should examine the issue.

Mr. Conor O'Kelly: We will take a lead and we will work with the Department of Public Expenditure and Reform in particular to try to do some sort of an aggregation of exposures and see how we might be able to be a bit more transparent and careful about it.

Chairman: We will raise the matter with the Department of Public Expenditure and Reform again in the autumn to make sure somebody works on it. We do not want the ripple effect. I have given an example. Mr. O'Kelly understands the issue as much as I do. I thank the witnesses for their time. It has been a long day. The NTMA is a very important organisation which is why we wanted to go through all of those issues. Some of them are very topical and current. Aside from that, there is important business to be dealt with by the witnesses every time we see their financial statements.

I thank the representatives of the NTMA, the officials from the Department of Finance and the Comptroller and Auditor General. I thank the secretariat and the committee members for all their work during the course of the year.

The witnesses withdrew.

The committee adjourned at 4.37 p.m. *sine die*.