

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 11 Deireadh Fómhair 2018

Thursday, 11 October 2018

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Shane Cassells,	Deputy Marc MacSharry,
Deputy Catherine Connolly,	Deputy Catherine Murphy,
Deputy David Cullinane,	Deputy Jonathan O'Brien,
Deputy Alan Farrell,	Deputy Kate O'Connell.
Deputy Alan Kelly,	

DEPUTY SEAN FLEMING IN THE CHAIR.

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

Business of Committee

Chairman: As we have a quorum, the committee is now in public session. We are joined by the Comptroller and Auditor General, Seamus McCarthy, as a permanent witness to the committee and he is joined by Peter Kinsley, deputy director of audit.

Are the minutes of the meetings on 27 September and 4 October agreed? Agreed.

A couple of matters arise from the minutes which I want to move through quickly. Some are of particular interest to our work. In the minutes of the meeting of 27 September we referred to item of correspondence No. 1585 from the Minister for Finance, Public Expenditure and Reform, Deputy Donohoe, regarding the Tax Appeals Commission which is doing an independent review of staffing requirements and it was agreed that the Department keep the committee updated on the review. I do not think we have yet got a copy of the review. The Minister announced on budget day that it was published. It should be here by now and we want that urgently because the Department of Public Expenditure and Reform is coming in next week.

At that meeting we dealt with correspondence from Mr. Ó Foghlú, Secretary General of the Department of Education and Skills regarding the contribution of the religious congregations to the cost incurred by the State for residential institutional child abuse and he gave us an appendix in that letter, which we received on 23 July, about several properties and transactions that were to be completed by the end of quarter 3, 2018, which was the end of September. We expect to see the outcome of that by next Thursday and to see whether that the promise made in July has been fulfilled. We want that for next week because it should be completed. It is a question of sending us that summary.

In respect of correspondence No. 1507 from Mr. Watt, Secretary General of the Department of Public Expenditure and Reform regarding the general indemnity scheme that arose when we were talking about local authorities, he will be here next week to discuss the Office of Public Works, OPW. We want that report before he comes in. Nobody has any work to do on it. I do not know how long the report has been sitting there.

Mr. Seamus McCarthy: It is also the insurer of the Education and Training Boards, ETBs.

Chairman: We did say in the minutes that we would include the national broadband plan and the information and communications technology, ICT, programme for the Department in our work programme for that meeting. We want answers to every single item of correspondence we have sent to the Secretary General of the Department in recent months before he appears here next week. Maybe we have got all the replies but I would like that doublechecked.

The next item arising out of the minutes of the last meeting, on 4 October, is that we noted all the financial statements over the course of the summer. We noted with regard to No. 412, that the accounts of the Dublin Greyhound and Sports Association Limited were certified in June 2018 and were received in August 2018. It received a clear audit opinion and the Comptroller and Auditor General noted on the documents given to us last week that the committee ceased trading in February 2017 and the agreement was reached for the sale of the premises, Harold's Cross Stadium, for €23 million, which is sufficient to allow the company discharge its residential liability. I think that is a fair assessment of how the price was arrived at.

Arising from the minutes we want a detailed report from the Department of Education and Skills on how it felt it was appropriate to spend €23 million of the schools land acquisition budget to bail out the Irish Greyhound Board, IGB. It would have been far more transparent if the Department of Agriculture, Food and the Marine had wanted to bail out the IGB and clear its debts to put in a supplementary Estimate and do it that way. That might have been in breach of state aid rules but maybe it said if it put a value on the asset and got another Department to buy the asset for €23 million perhaps that would not breach state aid rules. I do not know if that was a factor. Bord na gCon was in here some time ago a day or two after this sale was announced but there was a lack of candour. It did not tell us that it had two in-house valuations discussed by its own board of €6 million and €12 million. That was not made known to the committee.

Deputy Shane Cassells: It was the methodology-----

Chairman: I am coming to that. I will call members to speak because I am not letting this issue pass. It specifically arises out of the minutes the last day when we noted the accounts. We want a detailed report from the Department of Education and Skills. It wrote the cheque. The IGB is the happy camper. It got its money. We want a detailed report on how it agreed to pay the €23 million and whether that was that included in its Estimates for that year.

Mr. Seamus McCarthy: It is a 2018 expenditure. The agreement was made in 2017 but the payment occurred only in 2018 and it was provided for or at least it had budgeted for it in 2018.

Chairman: It will talk about the Valuation Office. The Valuation Office is a State body and all State assets are a matter of concern to it, including the assets of Bord na gCon and the Department of Education and Skills. It was not working for the Department, it was working for the State. Whether that asset transferred for €2 million, €22 million or €42 million is a matter of indifference to the Valuation Office because the land was staying in State ownership, either with the Greyhound Board or the Department of Education and Skills. Its setting of a price is not the issue. The issue is why the Department agreed to proceed with the payment of €23 million. It is very coincidental. As the Comptroller and Auditor General remarked it was sufficient to allow the company, Dublin Greyhound Sports Association Limited discharge its residential liability.

I am suggesting that next Thursday, when the Department of Education and Skills is here with the Higher Education Authority, HEA, we must allocate a separate portion of the meeting, maybe before we bring in the HEA, whether it is 30 minutes or an hour, to discuss this payment out of its budget, if members are agreeable. It is fishy to say the least that the Department of Education and Skills came up with €23 million to solve the greyhound board's problem. This is arising strictly out of the minutes of last week's meeting.

Deputy Alan Kelly: There is a report today in *The Times*, Ireland edition, by Sean McCarthy who has done some good work on this through freedom of information. Under circular 11/15 Bord na gCon as the seller, being a State body, was obliged to go to the Valuation Office. It went to Savills, a private valuation company instead. It never went to the Valuation Office. My first question is why did it breach that circular. The purchaser, the Department of Education and Skills, then had the valuation done on a property which it did not own and is counter to the circular because it is the State body selling that goes to the Valuation Office. We now know the difference between the two prices which amounts to €11 million. We need to find out why the IGB did not go to the Valuation Office as it should have done and what prompted the Department of Education and Skills to go to the Valuation Office. Surely it is aware of this circular too. Would it not have found out that the IGB should have gone to it and if the IGB did not go to it and was aware of it did it not ask why? Did the Department of Education and Skills not

ask why it rather than the IGB was going to the Valuation Office, as per the protocol and the circular? A reason would have been needed for the Department to be informed that it had to take an action, that being, to get the valuations done. This brings me to the need to determine who knew what in the Departments of Agriculture, Food and the Marine and Education and Skills. There is no way that the latter could have gone to the Valuation Office, given that it would have been aware of the circular stating that the IGB should go to the Valuation Office. Who told it? How was the Department aware that it should go in breach of the circular? Were there discussions between the two Departments and between Bord na gCon, the Department of Agriculture, Food and the Marine and the Department of Education and Skills? We need to find out all of that. Ultimately, we need to find out why the Department of Education and Skills accepted the requirement to pay this amount of money, which I understand was €23 million of a total budget for land purchases of €28 million, or more than three quarters of its money for the year.

Chairman: A number of members have indicated. I will call Deputy Cassells, followed by Deputy Cullinane.

Deputy Shane Cassells: Deputy Kelly has encapsulated everything well. The Chairman made the point, but the IGB is not “out ‘ the gap” on this issue.

Chairman: Okay.

Deputy Shane Cassells: Recall the day when its delegates appeared before us. Their happy attitude, based on their understanding that this bailout was effectively coming anyway, raised questions about what it was that people understood was really happening. There was no transparency in the process.

What galls me is that the Department of Education and Skills wrote the cheque. Did the Department get value for money? We all have constituencies, and I have several schools on my books for which I am trying to get sites acquired. The Department has come back with reams of stuff to the effect that this or that site is not value for money, but those amounts pale into insignificance compared with Harold’s Cross. I would like to know how consistently the Department is applying its methodology if one deal can be justified as being value for money when the smaller projects that we are dealing with are not. It would shine a light on the situation.

Chairman: After Deputy Cullinane, I will call Deputies MacSharry and Connolly. I am not keeping an exact list.

Deputy David Cullinane: I agree with the previous speakers. I will be as brief as I can. Questions were asked of the Department and Bord na gCon when they were last before us. Casting my memory back to the exchanges, it was not a good showing from the board and its CEO. Their performance left much to be desired. The overall question related to whether a bailout had been given by a Department to an organisation audited by the Comptroller and Auditor General, namely, Bord na gCon, which is accountable to us, and whether the sale of the property was effectively that bailout. I was not aware of the two valuations and I am unsure as to whether the Comptroller and Auditor General was at the time. Maybe that information would not have come across his desk anyway.

Mr. Seamus McCarthy: I was aware that advice had been sought from Savills. My recollection is that it was not actually a formal valuation. It was not a red book valuation.

Deputy David Cullinane: What does that mean? Expand on that.

Mr. Seamus McCarthy: A methodology is used. It is called the “red book” valuation. My memory is that the point being made was that there was not a valuation.

Chairman: Then what was it if the board discussed these affairs?

Mr. Seamus McCarthy: It was strategy advice for going to the market.

Chairman: A public sale rather than-----

Deputy Marc MacSharry: The record of our previous meeting does not show that. According to the record, the question was whether the IGB had a valuation, and the answer was that it did. When asked who did it, the answer was “Savills”. We asked whether we could have it, but we were told “No”. When we asked why, we were told it was because the deal had not been closed and it was sensitive information. That is what is in the transcript.

Mr. Seamus McCarthy: I am sure the Deputy is right-----

Deputy David Cullinane: Is Mr. McCarthy saying that that in itself was not a formal property valuation in the normal context?

Mr. Seamus McCarthy: That is my understanding. It actually says that in the document.

Deputy David Cullinane: Was that the valuation that was over or under the odds?

Mr. Seamus McCarthy: Under.

Deputy David Cullinane: My concern in dealing with this on Thursday relates to-----

Chairman: The time.

Deputy David Cullinane: There are many issues that we want to put to the HEA and the Department of Education and Skills. We need to be focused in how we approach this. It may require more than one session. There are many issues involved. Before Thursday, can we separate out the issues that we know will be returning to us, given the forthcoming reports from the Comptroller and Auditor General and other reports that we still must reach, for example, the Thorn report, the Comptroller and Auditor General’s report into Limerick and the Waterford report? We could deal with them when they are before us. I want to have a sense of what it is exactly that we will be doing on Thursday. What are the issues that we want to put to the HEA?

Chairman: We will clarify that.

Deputy David Cullinane: Otherwise, our discussion will go all over the place and will not be constructive.

Chairman: That is a fair point.

Deputy Marc MacSharry: If this was banking, it would be called “kiting”. For example, if I owe €5,000 to Bank of Ireland and I have a €5,000 overdraft in Permanent TSB, I pay the cheque off that. When that is paid off, then I start paying off the Permanent TSB one and the money keeps going around in circles. If this was a bailout for Bord na gCon, it should be called that. Do not treat the people like fools and claim that this was worth €23 million. Pages 48 to 56 of the transcript of the meeting of 18 May 2017 contains the exchange on the valuation. Bord na gCon stated that it had received a valuation from Savills. Whether it was a red book valuation or one that was invoiced out at €10,000 plus VAT, companies like Savills are not

going to risk their reputations over a Mickey Mouse fee, which is what that amount would be to it, by valuing it at €12 million and not referring to it as a formal valuation. A valuation is a valuation. It might not have been accompanied by the 50 pages and background material that accompany a full valuation, but neither was it a verbal or informal valuation of €12 million that then became €23 million. In fact, it would not even become €12.1 million.

This is a disgrace. This is Departments clearing up the sloppiness of organisations' debts. Arguably, Dublin City Council is implicated. It voted down a rezoning for the private sector. I am not saying that was right or wrong, but everyone was at the party.

My next point probably feeds into some of the matters that we will discuss with the OPW, but no one is paying the price. Consider how this was structured. If it was a State bailout of Bord na gCon, that is fine. Was the Minister involved, did he know and did the Government sanction it? If so, fair enough. Alternatively, was this creative accounting by officials on the premise that a school was needed in that area - of course it is - and here was the money to pay for it? A figure of €23 million? Forget it. I valued it. I do not have the experience of Savills, but zoned as it was, I think it amounted to €750,000 per acre. If it had the appropriate institutional zoning, that could have increased to €1.5 million in cost to the Department of Education and Skills. The Savills valuation was slightly higher than that at €12 million. I said at our previous meeting that, once Bord na gCon was prepared to supply it to us, we would see that the Savills valuation would be substantially less than €23 million. Although the witnesses told us that it was sensitive information because the deal had not yet been closed, I asked them to provide it to us for our examination. I assume it did not come.

Chairman: No.

Deputy Marc MacSharry: That is all right. A freedom of information request from a journalist trumps the constitutional committee of the State once again.

Chairman: Correct.

Deputy Marc MacSharry: In addition to the €23 million paid for the school, the Department of Education and Skills is not providing access for children in Dublin 8 or Dublin 12. A sum of €23 million was divvied out for a site and a school will be built on it. A football could be kicked to Dublin 8 or Dublin 12 from the site in Harold's Cross, but the children in those areas will not be allowed to attend. That problem is in addition to dishing out €23 million of the taxpayers' money.

Deputy Catherine Connolly: Much has been said already. Like Deputy MacSharry, my memory is of a valuation being mentioned on the day.

Chairman: It was referred to.

Deputy Catherine Connolly: It is a bit flippant to say "barking mad" in respect of Bord na gCon, but it appeared before us twice in rapid succession.

Chairman: Yes.

Deputy Catherine Connolly: Its delegates clarified matters, for example, whether their wives owned hounds. A circus was at the back of the room watching. We were struggling in our questioning. We were informed that Harold's Cross was a going concern and that, while it and Shelbourne Park were doing great, they had debts that had to be cleared. There was a

budget on Tuesday. What increase in resources was given to the Office of the Comptroller and Auditor General?

Deputy David Cullinane: A sum of €700,000.

Deputy Catherine Connolly: What increase in resources was given to this committee?

Deputy David Cullinane: None.

Deputy Catherine Connolly: David and Goliath does not capture what we are trying to do and the burden we are putting all the time on the staff and indeed on ourselves. It has taken hours even to read a little bit for today, and then we are waylaid into something else. There is the issue of Bord na gCon and the Department of Education and Skills, and I definitely agree with Deputy Cassells that we need a separate session. We struggled to try to make this open and accountable and it certainly did not happen. If a freedom of information request is trumping a constitutional committee, we are in serious trouble. It has serious implications for all the other work on our desk. I asked from the very beginning about staff, and the Chairman was very supportive of the staff, but this is a big issue. If this is the committee to which the public is looking to try to bring some measure of accountability, we cannot continue like this. It is not possible. I for one cannot continue like this. That is a bit of an exaggeration, but it has taken a huge amount of work for all the Deputies-----

Chairman: Every one of us.

Deputy Catherine Connolly: Absolutely, and I am using myself as an example. Every single member who is turning up for these meetings is trying to keep up even with a small amount of work, not to mention the voluminous correspondence. That is also important.

Deputy Alan Kelly: It is a full-time job in its own right.

Deputy Catherine Connolly: Absolutely. There is Bord na gCon, the Office of Public Works today with another rental matter, etc. Maybe we can come back properly to this committee and discuss how we can work more effectively. I think we do a great job but we need help. I certainly want clarified what additional money the Office of the Comptroller and Auditor General got.

Chairman: I will let in Deputy Catherine Murphy briefly. We will wrap up the questions because I think we are getting a consensus as to where we need to go.

Deputy Catherine Murphy: I think we all have a memory of those meetings because they were pretty exceptional. It seems to me, however, that there are two streams of issues for us. One is certainly value for money, but the other is the process. It seems to me that we were presuming that there were two separate processes, but there is a question mark as to whether that was the case. It is perfectly valid for the State to have first call on a-----

Chairman: State property.

Deputy Catherine Murphy: -----piece of land if there is a need for something in an area, but it must be separated in terms of value for money. The €12 million valuation we hear about is now only €12 million if it was for housing. In fact, it was a lower valuation if it was for something else. I think I recall €6 million being talked about, so it is actually multiples of what the valuation was when one considers that if it had been a site for a school, the amount of the valuation would have been an issue. What is really getting to be more than infuriating is that

the word “candour” has been used in here and commercial sensitivity almost inhibits the candour we require of public bodies to hold them to account. They can come in here and validly say a matter is commercially sensitive and that they cannot tell us whether there is a valuation, and then it can end up in the newspaper. The whole issue of commercial sensitivity is therefore something we must find some way of defining or find a way through when we are trying to deal with an issue such as this. It feels to me like they bought something in Limerick, they ran into trouble, they were not getting the numbers in Limerick, they had to sell one of the assets, the asset that would get them out of trouble was Harold’s Cross, but Harold’s Cross would not get them out of trouble unless it was of a particular value, and it was not of that particular value if the valuation that appeared in the newspaper at the weekend was the true valuation. Can we go back and get a valuation on it, even at this stage?

Chairman: We will decide in a minute where we are going. Very briefly, Deputy Cullinane, and then we will try to get-----

Deputy David Cullinane: I was going to make the point, which An Teachta Murphy has made, that the valuation was based on the zoning and the use. The Accounting Officer for the Department, the Secretary General, when he was here, however, was absolutely adamant that they were paying at market value. It strikes me now that maybe they were not, given the information we have, which to me is serious. What was fishy, to use the Chairman’s word, at the time was that the valuation, or what was actually paid, almost hit the bulls eye in terms of the debts that were owed. That is what jumped out of the pages - why does the valuation pretty much come in at the amount in legacy debts the organisation had? It seems that our concerns and what was pretty obvious to many of us at the time have now come to pass. A separate session is therefore needed, to be fair, to get to the bottom of this. We need the Department and Bord na gCon in at the same time. To have them in separately would be wrong. Both need to be here at the same time for us to get to the bottom of this.

Deputy Alan Kelly: I wish to make a tiny point. I agree with what members are saying. I think it needs to be a separate session. This is a symbolic issue, however, given what is going on and what people are saying here and how we can actually do our job. There is the Department of Education and Skills, the Department of Agriculture, Food and the Marine, Bord na gCon, the Department of Housing, Planning and Local Government and the Valuation Office, which I think comes under the Department of Public Expenditure and Reform, does it not? I presume it does. Does it come under the Department of the Taoiseach?

Chairman: It recently moved to the Department of Justice and Equality as part of the property registration-----

Deputy Alan Kelly: Okay, but my point is-----

Chairman: Yes. The five State organisations.

Deputy Alan Kelly: -----we should do this separately but we need all five in some capacity to make this jigsaw come together.

Chairman: I will ask Mr. McCarthy to make one last quick comment and then I will try to summarise the matter.

Mr. Seamus McCarthy: I think the question was asked about what level of additional resources has been provided. The increase is €660,000.

Chairman: The office got an extra 5%.

Mr. Seamus McCarthy: Yes.

Deputy David Cullinane: From the local government Vote.

Mr. Seamus McCarthy: No.

Chairman: No, that was auditing and reporting for the full office, Vote A, for next year, based on what the Minister for Public Expenditure and Reform-----

Mr. Seamus McCarthy: Yes, it is a mixture of non-pay and pay. Regarding the pay element, we proposed to the Department of Public Expenditure and Reform that we get additional resources specifically for third-level education, so we are expecting to be able to build our presence in audits of universities and other third-level institutions.

Deputy David Cullinane: I would be very happy with that.

Deputy Marc MacSharry: Does the office have a property professional on its staff?

Mr. Seamus McCarthy: No.

Deputy Marc MacSharry: It might be worth-----

Mr. Seamus McCarthy: If we were to specialise in that way, we would then have to have sufficient work to keep someone like that employed.

Deputy Marc MacSharry: Does Mr. McCarthy not think €100 million in a rent roll would be enough?

Mr. Seamus McCarthy: There are other skill sets, and in a bigger organisation it could make more sense, but we are at around 170 staff. It would be difficult, I think. It is something we think about from time to time, whether it is worth bringing a quantity surveyor or-----

Deputy Marc MacSharry: A quantity survey is for building. I am thinking of the values side, that is, value on property management. Quantity surveying involves how many tiles one needs and how much they would cost.

Mr. Seamus McCarthy: Yes, but-----

Deputy Marc MacSharry: Architecture is design-----

Mr. Seamus McCarthy: Yes, but in terms of the capital projects-----

Deputy Marc MacSharry: -----and one of the flaws with the OPW, if you ask me, is the lack of property management. It is something Mr. McCarthy should look at because I am sure when it came to writing the report we are about to consider in a few minutes it might have helped in a level of understanding. It is not a criticism of Mr. McCarthy because he brought this good work to us, but I also understand-----

Mr. Seamus McCarthy: It is a difficulty for a small organisation, particularly in a small country, given the level of competition in the market for these kinds of services on a consultancy basis. If I had to choose whether I would be better off going for a doctor, a medical professional, because of health or somebody-----

Deputy Marc MacSharry: I am not saying the office does not need that, in fairness. It is not a case of either-or. I am suggesting, given the amount of money involved, the potential for deals like this and the fact that the OPW pays €96 million in rent every year and that there are property disposals and acquisitions, it would be prudent to have a small team of property professionals at Mr. McCarthy's disposal. I am not asking whether we should have a doctor instead. It is not a case of either-or. I have asked Mr. McCarthy before whether we value State assets as a matter of form. We do not. We just have a book value versus what it was booked at last year. I think that is remiss of us as a State, not a reflection on Mr. McCarthy, and it is something he should look at.

Deputy Catherine Connolly: On that, I would be unhappy with saying what the office needs or does not need. I think it should come from the office.

Chairman: Deputy MacSharry is making a suggestion.

Deputy Catherine Connolly: I am not disagreeing with him; I can see his point.

Deputy Marc MacSharry: I am making a recommendation.

Deputy Catherine Connolly: I think the Office of the Comptroller and Auditor General should come back to us on what it needs. Is it the case that the money will allow the Comptroller and Auditor General to work on the third level?

Mr. Seamus McCarthy: It will allow for additional work to be done on the third level.

Deputy Catherine Connolly: Does additional work need to be done on other matters?

Mr. Seamus McCarthy: Absolutely.

Deputy Catherine Connolly: We are here to achieve value for money and ensure accountability, but it is a case of David v. Goliath. What extra resources does Mr. McCarthy need?

Mr. Seamus McCarthy: Our proposal to the Department of Public Expenditure and Reform involved a bigger sum, but the decision was made. I do not deal with applications for additional resources as they are dealt with by the secretary and the director of audit who is the Accounting Officer. I am the auditor.

Deputy Catherine Connolly: I suggest we come back to how we can ensure greater accountability and the resources we need to do it.

Chairman: We will do so at the level of the committee.

Deputy Catherine Murphy: For how much did Mr. McCarthy's office look?

Mr. Seamus McCarthy: I do not have the figure to hand.

Deputy Catherine Murphy: Can we get it?

Mr. Seamus McCarthy: Certainly, yes.

Chairman: We will bring the discussion on the topic to a conclusion. We have to compliment the journalists and newspapers on the freedom of information requests, but it is sad when a freedom of information request trumps a constitutional committee.

Deputy Alan Kelly: What Deputy Marc MacSharry said was totally accurate. It is crazy.

Chairman: It is unacceptable and it is not the only incidence in recent times. There is consensus that it merits being the subject of a separate meeting, although there is enough to be done next Thursday. I will ask the secretariat to draw up a list of the people involved and questions. It can be circulated during the course of the week.

Deputy Alan Kelly: Can we make suggestions?

Chairman: We need to see the documentation and the minutes of meetings for the discussions in the Department of Education and Skills. I know that it looked at the site two years earlier and did not proceed with it, but it was on the radar. There have been a lot of emails and discussions. We need to know what happened between the two Departments, namely, the Department of Agriculture, Food and the Marine and the Department of Education and Skills. We also need to know what went on in Bord na gCon and put a structure on it.

Deputy Alan Kelly: The Valuation Office and the Department of Housing, Planning and Local Government are also involved.

Chairman: If we have skipped any aspect, I ask members to contact the secretariat. It is important, when we hold the special meeting, that we have all of the information in advance and that we do not lack important documentation, only to read it next January when another journalist publishes it.

Deputy Marc MacSharry: I suggest that on that day, perhaps separately, we invite one of the big five or six valuation houses to send a representative. It does not necessarily have to be Savills; it could be Colliers or DTZ, or whatever it is called. It could give us an insight into some useful information.

Chairman: We will take matter that into consideration. It might be a separate meeting from the one with the Accounting Officers. If we require a number of Accounting Officers on the day, they must all be present. We cannot have a liaison officer in place because that would mean we would continue to have a lack of transparency.

The next item is correspondence. There are three categories, the first of which is category A. The first item is Nos. 1621A and 1624, correspondence received from Ms Ann-Marie Walsh, Office of Public Works, enclosing the briefing document for today's meeting, including information requested by the committee. We will note and publish the correspondence. Is that agreed? Agreed.

No. 1632A is correspondence received from the Office of Public Works, enclosing the opening statement for today's meeting. We will note and publish the correspondence.

Category B is correspondence received from Accounting Officers and/or Ministers and follow-up to Committee of Public Accounts meetings and other items for publishing. We held over a number of items from last week's meeting. I propose that we continue to hold them over until we work them into our work programme. They include No. 1482B, correspondence received from Mr. Robert Watt; Nos. 1486 and 1566, correspondence received from Mr. Seán Ó Foghlú on Kildare Wicklow ETB; No. 1490, correspondence received from Mr. Stephen Blake, government accounting unit; No. 1502, correspondence received from Mr. Fergal Costello, Department of Rural and Community Development; and No. 1510B, correspondence, dated 9 August 2018, received from Mr. Robert Watt, Secretary General, Department of Public Expenditure and Reform, enclosing a minute from the previous meeting; No. 1513, correspondence received from Mr. Ciarán Breen of the State Claims Agency; and Nos. 1526, 1528 and 1530,

correspondence received from the HSE. They have all been published, but we are holding them over because the correspondence is so detailed. Some of it is very extensive.

Deputy David Cullinane: I have a question which is related to the HSE's report. It runs to hundreds of pages and contains a huge amount of interesting information which, in itself, would almost warrant a follow-up meeting with the HSE and the Department. For example, some of it deals with the expenditure of €176 million on private ambulances, which is an extraordinary sum. There are issues surrounding CervicalCheck and how the audit was carried out. That plays into what Dr. Scally said yesterday to the effect that, because the audit process had concentrated only on women who had cancer, it was not really a proper audit. It was never recorded in the risk register. There are issues at Mount Carmel with the private operator which is managing it. It was meant to be managed on a temporary basis, but it will now be long-term. The company is owned by Mr. Denis O'Brien, something which will raise concerns for some as he seems to have his finger in lots of pies. There are lots of other issues such as those surrounding the figure for private patient debt - €270 million - in acute hospitals. There is extraordinary stuff in the report.

Chairman: That is why we have held it over.

Deputy David Cullinane: A synopsis of the key issues needs to be made by the secretariat. We can then decide whether we should come back to it.

Chairman: One or two big reports are attached. We asked 40 questions. Fair play to it - it answered each of them in chronological order. The Deputy has only touched on what is contained in the report. We need to come back to it separately.

Deputy David Cullinane: It brings us back to the discussion about resources and capacity.

Chairman: We might have a further discussion in private session to see if the Oireachtas can assist us on the need for further research. The secretariat is overrun.

Deputy David Cullinane: My concern is that when we ask Accounting Officers questions, they should be able to answer on the day, but they do not. It is very easy for them to say they will send the correspondence afterwards. It is our job to hold them to account for money that is spent. There is no point in them giving us information afterwards because it is never put to the test or scrutinised. We receive a large volume of documents after a meeting which we should receive in advance. Is there a way we can be smarter about what we do, perhaps by requesting some information before they come to make sure they will have it available? There are 400 pages.

Chairman: It is phenomenal stuff. We have received documentation on public private partnerships for national transport services which runs to 600 pages and contains details of ten project reviews.

Deputy David Cullinane: We have sessions in which we are meant to scrutinise these issues, but Accounting Officers say they do not have the information to hand and have to get back to us. It is easy for them to do so. They go out through the door and we receive the stuff afterwards, but we do not follow up on it because we have too much to do and our staff are too busy. How efficient are we in that regard?

Chairman: In fairness, we are fairly thorough. If we are not happy, we do not let much go once we receive the information in writing. However, because of its sheer volume, it has us

snowed under. The point has been well made. We need to discuss it one of the days in private session.

The next item is No. 1538, correspondence received from Mr. Ray Mitchell, providing further information.

No. 1560 is correspondence received from Dr. Barry O'Connor, Cork Institute of Technology, which we have held over, but we will come back to it. We will also hold over No. 1561. There is nothing new in any of it. However, No. 1609 is new. It is correspondence, dated 2 October 2018, received from Mr. Derek Finnegan of the parliamentary affairs division of the Department of Health on a capacity review, providing information requested by the committee on the health service capacity review, including details of the audit of empty beds in public hospitals. We will note and publish the correspondence, to which we will come back.

No. 1614 is from Mr. Nick Reddy, private secretary to the Taoiseach, in response to our inquiry regarding data protection issues and commissions of investigation. This seems to be a copy; we dealt with the matter previously. The letter states that changing the terms of reference of a commission of investigation would not change the general law which applies to commissions of investigation and data protection. In other words, the Taoiseach was saying that they have powers of the High Court when carrying out their investigations. In the context of data protection, therefore, they can make their own orders regardless. We will publish that.

The next item is correspondence held over from the last meeting. There is correspondence from Mr. Mark Griffin, Secretary General, Department of Communications, Climate Action and Environment. We have noted it before and we hold it over.

No. 1572 is related to the previous item. We have noted it and held it over.

Nos. 1605 and 1616 relate to the remediation of a landfill site in County Wicklow. We will note and hold that over. At our meeting on 27 September, we agreed to send the response from the Department to the correspondent and last week we noted that the secretariat had done this. The individual has since responded to say that he believes the issues will be ventilated and resolved in due course. We note this correspondence.

Nos. 1611 and 1612, dated 4 October 2018, are from an individual regarding human resources, HR, practices in the HSE. We sent the individual a response received from the HSE which confirmed that all divisions of the organisation and the section 38 agencies were notified of the provisions of the agreement and of the necessity of advising those who had been unsuccessful in their applications for regularisation or who had otherwise not received any outcome to their applications. This further correspondence requests that committee make inquiries with the HSE regarding evidence that it circulated the circular to the relevant staff. I propose to forward the item to the HSE - in redacted form, if necessary - for a response to the questions raised. This is an ongoing issue. The HSE claims that it informed everybody about this matter regarding one of the pay agreements. People could apply for regularisation. Members of staff are saying that they never received notice and, as a result, we want the HSE to prove its statement that people were notified. If there was a breakdown in communication from the top level to the people on the ground, we need to know where it happened.

No. 1613 is correspondence, dated 29 September 2018, from an individual questioning the Department of Defence's spending on ships at a time when, according to the correspondent, wages and allowances are driving personnel out of the Naval Service. Essentially, this cor-

respondence states that we have eight naval ships but only enough staff for seven. The Naval Service is bringing a ninth ship into service. There might only be sufficient staff for six by the time that vessel comes into service. While this is a staffing issue, it is also a financial issue because what is the point in having nine vessels if we do not have the people to man them? We are writing to the Secretary General of the Department of Defence for a detailed response.

No. 1615 is from a co-ordinator in Chartered Accountants Voluntary Advice. We dealt with this at a previous meeting. The secretariat has already sent the transcript to the correspondent and communicated the decision of the committee which was that we considered the matter closed at our previous meeting. I think the correspondence essentially crossed in the post; that is all.

No. 1617 dated 5 October 2018 is from the whistleblowers who corresponded with the committee regarding issues at the University of Limerick. We had said that we would meet them and they are inquiring about where that stands. The Comptroller and Auditor General's report on handling of remuneration for certain senior staff in the University of Limerick and the Institute of Technology Sligo is related to this and is with the Minister. We expect to receive it shortly. I propose that we arrange a meeting following that to engage with the two whistleblowers mentioned. We will inform them accordingly. I ask the secretariat to set up the meeting with those people and to come back to us with a time for it.

No. 1623 is correspondence from Deputy David Cullinane providing radio clips relating to Waterford Institute of Technology and the McLoone report. Does the Deputy want to speak about this?

Deputy David Cullinane: I do

Chairman: The Deputy can summarise the point without-----

Deputy David Cullinane: I do indeed want to speak to it.

Chairman: The individual involved loves the Deputy.

Deputy David Cullinane: It is unhelpful that the Accounting Officer has sought to personalise this from his perspective. I listened on to the clips that were sent on to me by the local radio station.

Chairman: This explains about Waterford Institute-----

Deputy David Cullinane: To provide the background, last week I raised concerns about the fact that a report by the HEA into research and development, spin-out companies and process at the institute and which was supposed to be in September 2017 has still not been published. We are now in October of the following year and there is still no report.

The concerns I raised at our previous meeting were not necessarily directed at Waterford Institute of Technology, they were directed at the HEA and whether it had dotted the i's and crossed the t's with the terms of reference and, perhaps, overreached in the context of the scope of the report. Anything we put on the record is a matter of fact. We know, as a matter of fact, that strong legal letters were issued by a number of individuals, as is their right. They felt that the draft report might have been unfair to them. That is how it appears and that is what Dr. Love told us previously.

Obviously the HEA needs to protect itself. I have no difficulty with that. People are entitled

to due process. If people have concerns, they have a right to take legal action and that is what is happening. At no point did anyone ever undermine their right to do that. However, what the Accounting Officer and the president of the institute said is that I was trying to deconstruct 20 years' hard work by the institute, that I was being negative, that I was trying to do down Waterford and that my motivations were not to protect the staff at the institute. He suggested that there was an ulterior motive. I am dealing with facts. I have not responded publicly because he talked about due process. This is due process. The Committee of Public Accounts has a job to do. I will respond at the Committee of Public Accounts, which is part of the due process to which he refers.

We received a letter from the Teachers Union of Ireland, TUI, which represents the staff. Members of staff obviously approached the union and stated that, having come forward and been part of a process where the HEA was conducting a review, they are concerned that there is nothing at the end of it and that they feel isolated. That is their concern; it is not an invention of mine or an invention of any other member of the Committee of Public Accounts, it is real.

There a number of different issues arising. There is an attempt by the Accounting Officer - he used the words himself - that I should stop asking questions. I resent being told by an Accounting Officer that I should stop asking questions. Even by saying that, it makes it very difficult for me to raise these issues again. I will raise them in any event because I will not be deterred. We need to get information from the HEA as to whether the report will ever be published. Does it need to go back to the drawing board? Where is it? What is its status? It is reasonable that we get responses to those questions. It is very disingenuous and almost unprecedented for an Accounting Officer to attack, in my view, a member of the Committee of Public Accounts on his local radio station in that way and to suggest that I have an ulterior motive. I do not have to defend myself; I think my record speaks for itself. I represent the city and county of Waterford. I will always do that to the best of my ability. I have no ulterior motive other than to protect and defend staff who work at the institute and who have raised concerns separate from those articulated in the TUI report. I have received separate emails from individuals who go further and say they are concerned that they came forward. I have not put any of that into the public domain.

I seek the Chair's protection in the first instance. Accounting Officers - especially this Accounting Officer - should understand there would be no HEA review if it were not for the Committee of Public Accounts. That is due process. There would not have been any examination of this if the Committee of Public Accounts had not examined it. That is due process. It is perfectly reasonable for me or anybody else to ask questions about the status of a report that should have been published in September 2017. We can all be vulnerable. It happened to Deputy Kelly in the past, although that was political. It is a horse of a different colour when an Accounting Officer says, "I want to take on Cullinane and look forward to taking him on at the Committee of Public Accounts." That is a bit much; it is overstepping the mark. I am uncomfortable with his choice of language and with the way in which he has chosen to respond to issues.

I will make a final point. Given that he was the vice president of research and development who oversaw the process that is being examined, to then attack me in this way is highly problematic and unusual. I am very concerned about it and have put my concerns on record. I will continue to ask questions without fear or favour. Whether issues impact locally, regionally or nationally, we are here to do a job and I will do my job.

Chairman: A couple of other people have indicated. Are the questions on this exact topic?

Deputy Catherine Connolly: Yes.

Deputy Catherine Murphy: Yes. That type of attack may well be counterproductive. There is an attitude within some of the third level sector - I do not say it is the entire sector - that this concerns their independence, that they have put in 20 years of hard work but that we are sticking our nose in. There are very valid issues in terms of spin-out companies, the funding of universities and all of the rest of it. It is welcome that the additional money allocated to the Comptroller and Auditor General is for this sector because it is the sector where issues keep on reoccurring.

What can we do? There is very little we can do except make sure to invite people in when that kind of an attack happens.

Chairman: Okay.

Deputy Catherine Murphy: An attack on one of us is an attack on all of us.

Chairman: On the case.

Deputy Catherine Murphy: It may well be that it could happen in different locations around the country that are about picking us off.

Deputy Marc MacSharry: There is a lot of tweeting going on about me from a previous witness and I look forward to hearing a defence from all of the members.

Chairman: Let us keep going. Deputy Connolly, on the points thing.

Deputy Catherine Connolly: I am a little bit uncomfortable. I fully support Deputy Cullinane's concerns.

Chairman: Yes.

Deputy Catherine Connolly: I am, however, a little concerned about where we will end up. We have a job to do regardless of what is said on local radio or in the newspapers.

Chairman: Yes.

Deputy Catherine Connolly: There is a difference in that it was the Accounting Officer and I fully support Deputy Cullinane on that. It is our job to ask questions, end of story, regardless of who says what on a radio or in a newspaper. I would not like it if we were obliged to deal with who said what in a radio broadcast. I do not mean Deputy Cullinane, who has raised a very serious issue to which I will return later.

The third level sector, no more than Bord na gCon and many other public bodies, did not distinguish themselves when they came before us. Serious questions must be asked about spin-off companies and research and development.

My main points are as follows. Where is the McLoone report? Can somebody update us precisely on what time span has elapsed, where the report is at and when we will get it?

Chairman: Dr. Graham Love from the HEA will be here next week.

Deputy Catherine Connolly: I ask that we be updated before then. Perhaps we should invite the president of Waterford Institute of Technology to return here. That might be a way to

deal with the matter. The other-----

Deputy David Cullinane: There is a report to be compiled by the Comptroller and Auditor General.

Deputy Catherine Connolly: We can wait for that first.

Chairman: The report by the Comptroller and Auditor General.

Deputy Catherine Connolly: I fully support him-----

Chairman: Yes.

Deputy Catherine Connolly: -----in terms of his concerns. A huge amount of work went into this and he was very fair about the spin-off companies. I have serious concerns about the unaccountability of spin-off companies. That is a whole new area for this committee that has only been touched on - a ripple on the water. Where is the report?

Chairman: We will come to that matter. I suggest that we allow the last speaker, Deputy Kelly, to comment and then Mr. McCarthy will comment. Deputy Kelly indicated a wish to comment.

Deputy Alan Kelly: Yes. I support the previous speakers. First, the obvious question is where is the report so let us find that out.

Second, I agree with the previous speaker that, potentially, we have to bring the individual back in here again. That could be a way of dealing with some issues.

Third, there is a more generic issue of principle. I have been down the road where issues were brought up inside here. Park the politics because given my constituency in particular, there was always going to be politics, as is the case in every constituency. When issues are brought up in here of a national importance that certainly have political consequences and direct political issues in a constituency, I have not seen people shy away inside here.

Chairman: Yes.

Deputy Alan Kelly: I have not seen anyone across any of the people who come here regularly, because I cannot account for the ones who do not come here. Maybe they are not turning up for different reasons but I have no idea. For those of us who are here regularly, I have not seen anyone shy away and that means we are doing our job.

Where there is a case in which Accounting Officers, dare I say it, or others who are in some way connected to Accounting Officers etc., are actually using processes to possibly influence - I use these words very loosely - intimidate or have some form of consequence on the potential direction of this committee because it would have a political consequence for a member in here, that is very dangerous territory. I do not know how we should deal with it, Chair. I have had to deal with this down in Tipperary in terms of the obvious issue at Templemore, where the discourse around Templemore was that I was inside here, talking about the Committee of Public Accounts, and it was having consequences for tendering and so on. I have had direct political hits, continuously up until last week and I have had other commentary from other people, all because I did my job in here. Now we have an Accounting Officer directly taking on what is going on here in the Committee of Public Accounts. We need to set some ground rules and while I will be guided by the Chairman, we need to do something as otherwise people who come in

here will do so, and I mean negative political value.

Chairman: Exactly. Can Mr. McCarthy briefly explain where we are with the reports?

Mr. Seamus McCarthy: I do not have any information on the status of the McLoone report. It is not something I have been involved in. However, I am doing, I think, what is a narrower scope report in relation to the disposal of FeedHenry intellectual property. I have been reviewing it. I am in the middle of the process of doing the final review. We have had an extended and very careful clearance process in relation to that but I would expect to be completing the report very shortly.

Chairman: Is that in the weeks ahead?

Mr. Seamus McCarthy: Certainly in the weeks ahead, yes.

Chairman: But then it has to go to the Minister.

Mr. Seamus McCarthy: Then it goes to the Minister.

Chairman: When will we have it, hopefully?

Mr. Seamus McCarthy: There is a three-month period within which the Minister has discretion as to the presentation of it.

Deputy David Cullinane: I thank the members for their comments. I agree with Deputies when they say that we cannot respond to every criticism levelled at members of the Committee of Public Accounts because we all get criticised-----

Chairman: Yes.

Deputy David Cullinane: -----and as a body we get criticised.

Deputy Alan Kelly: That is obvious.

Deputy David Cullinane: In this particular case, when the criticism is personalised and a member is singled out and then accused of doing down their own city and country because they have asked genuine questions about concerns that have been articulated by people in an institute, and we are just doing our job, that is serious. It does have implications for us and needs to be responded to. This is an Accounting Officer. This is somebody who has a responsibility to come and be held to account by the Committee of Public Accounts. He said there has been a breach in due process, called into question the motivations behind the questions being asked, and claimed that false information was being put into the public record which, in view, is not the case.

In general overall terms, in my view, and the words were used that the Deputy, which is me, - he did not refer to me by my first name or call me a Deputy but I will leave that aside - should stop asking questions and stop doing what he is doing. It is serious when an Accounting Officer says stop. It is not an Accounting Officer's job to tell us what we should or should not do. We, as members, have to follow through on all of the issues.

On the McLoone report, we had Dr. Love here to discuss this matter in private session. My understanding is that he sought to redraft some elements of it. The report, as with all of these reports, goes out into the institute. Obviously people then have an opportunity to respond, which they did. They then got a number of legal letters, which were with the legal unit of the

HEA. Dr. Love hoped that he would be able to resolve all of that and then produce a draft report very quickly. Unfortunately, six months have elapsed and we are nowhere closer to having the report.

The Comptroller and Auditor General is preparing a separate report, which is only one element. It is one company. We will have that report, which will give us an opportunity to invite the Accounting Officer to return here. I agree with my colleagues that we need to find out what issues are delaying the McLoone report because I think it would be unacceptable if we ended up with no report.

Chairman: On the McLoone report, we will contact the HEA and ask for an immediate response early in the week, not just next Wednesday night and we have discussed the response. We need to hear the current position early in the week.

In terms of the issue that Deputy Cullinane has raised, the Chairman of the Committee of Public Accounts has to stand four-square with any member who has been attacked by an Accounting Officer in public in respect of the work of the Committee of Public Accounts. I think the committee needs to write to that Accounting Officer and ask him to set out, the comments he made, in writing to this committee because it is to this committee he should be responding. When the committee gets his letter outlining his criticism of the committee, or individual members of the committee, we will consider that. He has to man up now and put in writing to the committee what he may have said locally. I propose that in the first instance. We need to do that at this stage. I thank the Deputy for raising that because it is a difficult issue.

The next item is No. 1625 from Deputy O'Connell requesting representatives from the approved housing bodies to be present at our meeting. That is agreed. We will work it into our work schedule. We will talk about the format of that meeting as part of our work programme.

Deputy Catherine Connolly: I did not agree with that, and I still do not.

Chairman: What does the Deputy not agree with?

Deputy Catherine Connolly: The committee bringing in the approved housing bodies.

Chairman: We will discuss it as part of-----

Deputy Catherine Connolly: I am sorry.

Chairman: We are coming to how we will do-----

Deputy Alan Kelly: There is no way we will get to it in October.

Chairman: We might not.

Deputy Catherine Connolly: We are coming back to discuss it.

Chairman: We will discuss it in a moment.

There is also No. 1626, a letter from Deputy Kelly requesting a copy of the resignation letter of Dr. Graham Love, chief executive officer of the HEA. We will ask the secretariat to follow up on this request. I have seen media reports but I have not seen his letter.

Deputy Alan Kelly: Graham Love will be in here next week. I look forward to it - I cannot wait - but the Department of Education and Skills genuinely cannot wait.

There has been a lot of media reports about his resignation letter and the reason for the resignation. Thankfully he will come in here before he leaves the role. A copy of that resignation letter is paramount to our discussions. The letter has been requested and refused under freedom of information for some media outlets but it is essential to our discussions next week and a copy of it should be supplied to the Committee of Public Accounts because next week's discussions relate to a range of issues that have been brought up before the committee. Furthermore, as we saw in the committee, the relationship between the Department and the HEA is of serious concern. According to reports, that is reflected in the contents of the letter. I would like to see the reasons for Mr. Love's resignation in order that we can go to it.

Chairman: Is Mr. Love an Accounting Officer?

Mr. Seamus McCarthy: He is an accountable person.

Chairman: In view of the fact he is an accountable person to this committee, the committee will write and ask for a copy of that because it is directly relevant to the work of the Committee of Public Accounts. We ask for the letter especially as he has a reporting function to the committee.

The next item is statements of account received from the last meeting and I have a short list. The first item is a clean audit opinion on the travellers' protection fund and travellers' rights and tour operators' bonds accounts.

The next item is the Irish Fiscal Advisory Council, which got a clear audit opinion, as one would hope.

The next item is a clear audit opinion on the Ireland-United States Commission for Educational Exchange.

The next item is a clear audit opinion on the Housing and Sustainable Communities Agency. Attention is drawn to the statement of internal control, which discloses a number of instances on non-compliance with public procurement guidelines. Those will be discussed as part of the committee's work programme as to the housing issue.

The next item is a qualified audit opinion on the National Tourism Development Authority, Bord Fáilte, or Fáilte Ireland as people know them. The financial statements give a true and fair view, except for non-compliance with accounting regulation FRS 102 in respect of recognition of retired benefit deferred funding assets. It has to do with the pension issue.

Deputy Alan Kelly: Can I declare something?

Chairman: Yes.

Deputy Alan Kelly: I used to work there.

Chairman: The Deputy should not worry; he will be paid.

Deputy Alan Kelly: I was once upon a time in Bord Fáilte and Fáilte Ireland.

Can Mr. McCarthy explain the non-compliance with FRS 102?

Mr. Seamus McCarthy: FRS 102 requires any entity that is using the standard to account for future pension liabilities that already have been accrued. Payments that will need to be made in the future must be recognised now and put on the balance sheet.

Pensions operate on a pay-as-you-go basis in the public service. Most State bodies recognise a matching funding asset so that the liabilities are on one hand but there is an expectation that the funding will be got in the future to meet the liability. One balances out the other. Fáilte Ireland has taken a different view.

Deputy Alan Kelly: Is this anything to do with Bord Fáilte? There would have been a previous scheme for Bord Fáilte before they changed over to Fáilte Ireland.

Mr. Seamus McCarthy: There are four pension schemes. One was a funded pension scheme and its assets were taken to the Exchequer in 2009 with a statutory guarantee that the liabilities would be met by the Exchequer in the future. There is another scheme that also has a statutory guarantee but there are two schemes it operates that do not have a statutory guarantee. That is similar to other State bodies which also do not have a statutory guarantee. On the basis that the establishment of the schemes is statutory, there is a well-established practice that pensions are funded on a pay-as-you-go basis.

There is also the fact that employee contributions are being taken. In effect, there is an existing contract with the employees that the pension benefits will be delivered in due course. It is not within the gift of the Department to say it makes that guarantee.

My opinion is that Fáilte Ireland should be recognising a matching asset in relation to those liabilities but it takes the view it should not. That is why I am drawing attention to it.

Chairman: Is Mr. McCarthy saying that because there are contributions and it is a managed fund, there is a fund of €113 million that they are not recording as an asset?

Mr. Seamus McCarthy: There is not a fund. There is a liability.

Deputy Alan Kelly: That is why I asked. There is a liability of which-----

Mr. Seamus McCarthy: There is a liability to the value of €113 million. Bord Fáilte is not recognising that the State has a de facto obligation to meet that liability, which is what most State bodies do.

Chairman: Mr. McCarthy used the word “asset” in relation to the €113 million. Could he explain that? He is saying it is a liability, but he used the word “asset”.

Mr. Seamus McCarthy: The staff who work in the organisation accrue pension benefits each year they work there.

Chairman: That is a liability.

Mr. Seamus McCarthy: The pension benefits will arise at the time they reach the pension payment age. From an accounting point of view, one must recognise that liability exists. It is a cost associated with the service that was delivered in the year. Every State body has this overhang, or liability to be met in the future. What most of them will do is recognise that the State, in the future, will fund them to that extent and so they recognise an equivalent liability. Effectively it neutralises the liability on the balance sheet so that one can see what is the underlying net asset position.

Chairman: That is a matter for future Governments to confirm.

Mr. Seamus McCarthy: Exactly.

Chairman: Fáilte Ireland could not possibly give a guarantee for the Government in its financial statements.

Deputy Alan Kelly: How is this going to be dealt with? Some future Government is going to have to match up?

Mr. Seamus McCarthy: Most State bodies recognise that, in the future, on a going concern basis, they will continue to be funded by the Exchequer, as they have been since they were established.

Chairman: The Estimate every year for Fáilte Ireland will include salaries and pensions due to be paid?

Mr. Seamus McCarthy: Funding to meet pensions, yes.

Chairman: Payable in the year?

Mr. Seamus McCarthy: That is correct.

Chairman: Did Mr. McCarthy say there were contribution in two schemes?

Mr. Seamus McCarthy: There was a contributory funded scheme.

Chairman: Are these separate? Is the €113 million separate?

Mr. Seamus McCarthy: Yes. There are four schemes in total.

Chairman: Mr. McCarthy might send a note.

Deputy Alan Kelly: That would be helpful.

Chairman: It would be helpful if Mr. McCarthy sends a note, especially as he says there are four different schemes.

Deputy Alan Kelly: There are legacy issues there because there was an organisation before Bord Fáilte, then there was Bord Fáilte, then the Council for Education, Recruitment and Training, CERT, merged with Bord Fáilte, which was called Fáilte Ireland and there are also new entrants in Fáilte Ireland.

Chairman: Is it fair to ask Mr. McCarthy these questions, or should we be asking Fáilte Ireland?

Mr. Seamus McCarthy: Much of the information is in the financial statements.

Chairman: Mr. McCarthy might summarise it.

Mr. Seamus McCarthy: It is in the financial statements. Perhaps the liaison officer might produce a note for the committee from them.

Chairman: We will ask the liaison officer for the Committee of Public Accounts to give us a detailed note on it. Is that agreed? Agreed. I thank Mr. McCarthy.

No. 4.6 is the North-South body Tourism Ireland which has been given a clear audit opinion.

Deputy Alan Kelly: I have a quick question. The staff of Fáilte Ireland or Bord Fáilte,

whichever way one looks at it, transferred to Tourism Ireland. Can the committee receive a quick note on the figure of €65 million for 2017? For the purposes of transparency for the public, it would be good if it could be outlined to the committee how the body is funded and the proportion of funding that comes from the State and Northern Ireland.

Chairman: Would that information be shown in the financial statements?

Mr. Seamus McCarthy: It is in the financial statements.

Chairman: As we did last week, we will ask the secretariat to circulate the full financial statements. Members can then review if they want to raise an issue.

No. 4.7 is the Foyle, Carlingford and Irish Lights Commission Loughs Agency which is also a North-South body. It has been given a clear audit opinion. It is noted.

I shall move on to discuss the work programme. The updated programme is on screen. As there will be no voting in the House today, we will have a three hour session, break for lunch and, if need be, return afterwards. It is not appropriate to move beyond that time period and expect witnesses to sit here for four hours. At the latest, there will be a break in three hours for lunch. We can come back afterwards, if required.

Deputy Catherine Connolly: Therefore, if we start at 10.30 a.m, we could finish at 1.30 p.m.

Chairman: We will then break for lunch because in fairness we have to have a timescale as people are entitled to a break.

On Thursday, 18 October, in the morning, there will be a wrap-up by the Department of Public Expenditure and Reform on its 2017 appropriation accounts, various chapters and accounts for previous years to which we did not get. If members have a particular issue to raise, they should contact the secretariat. The committee wants to receive an update on where the Department is in the review of public private partnerships, an issue that was mentioned early last year.

On Thursday, 18 October, in the afternoon we will have representatives from the Higher Education Authority, HEA, and the Department of Education and Skills before us. Notwithstanding the resignation of Dr. Graham Love, the meeting will not be personal to him; rather, it will be about the interaction of the HEA with the Department and the functioning of the HEA board. The chairman of the board will be coming. We will also discuss higher education matters. We will start with the HEA's 2017 financial statements. If members have particular issues to raise, I ask that they contact the secretariat.

Deputy David Cullinane: That is the way to do it. We sought the meeting to discuss the governance arrangements between the HEA and the Department. There were some media reports following Dr. Love's resignation that there was tension. Obviously, we want to understand what is happening. We have been looking for reforms and changes in governance in a lot of areas and if there is an impediment or block, we will want to know about it. There are other issues related to the Cork Institute of Technology, the University of Limerick and Waterford ETB, which is why I am trying to separate them out. Are we agreeing that they should all be separated and that we should have some sense as to when they will be brought back to the committee? I am aware that we discussed the Waterford Institute of Technology earlier and that we have a report from the Comptroller and Auditor General, but the less said about it the better because it is nearly finished and must be presented to the Minister. Is there not a separate

Comptroller and Auditor General report on the University of Limerick? It is with the Department and may be published at some point. We can come back to it, if it is separate. Is there agreement on this issue? I do not know what the position is on the Cork Institute of Technology because there is no-----

Chairman: It is a separate report. I will request the secretariat to send an information note to members in the next day or two. Not everyone will remember the status of all the colleges in that regard. The note will have a clear paragraph on the issue. It will indicate whether the report is with us, the Minister, the Comptroller and Auditor General or is still awaited. The reports that are not with the committee cannot be discussed, unless the discussion is about how soon we can expect to receive them. We will have the note circulated. Are members satisfied that the committee should discuss the matters mentioned in the afternoon? It will all hang on the financial statements, but we will be conscious that the reports that are not with the committee cannot be discussed.

The meeting to be held the following week, on Thursday, 25 October, will be about housing, in respect of which the secretariat has made a proposal. There are two issues to be dealt with. First, there is the housing supply issue which covers the building and provision of houses. Second, there is the issue of housing supports such as rent supplement, the housing assistance payment, HAP, and so on. It will take two meetings to consider them. There is so much to be discussed that we could not possibly cover every aspect in one meeting. I propose that we start with the Department of Housing, Planning and Local Government. The committee has received its 2017 accounts and we will deal with the issue of housing and the local government fund. Representatives of the Housing Agency will also be before the committee. As mentioned in the financial statements, it promotes the concept of sustainable communities. We will also discuss the issue of land use. Do we also need to speak to representatives from the Housing Finance Agency, the body that provides finance for local authorities for housing provision?

Mr. Seamus McCarthy: I do not audit the accounts of that agency.

Chairman: We could still invite them. I believe, however, that they are not available to attend that meeting. As the Irish Council for Social Housing had prearranged a meeting for next Thursday, its representatives also cannot be here. It will take a second meeting and we will have to divide the agenda. The meeting on 25 October will cover housing, the local government fund and the Housing Agency. I will also invite the chairman of the housing committee of the County and City Management Association to attend.

Deputy Shane Cassells: Who is the current chairman?

Chairman: I do not know, but he or she will be the chief executive of some local authority. It is done by rotation.

Deputy Shane Cassells: Is the Chairman going to invite the chairman of the CCMA or just the chairman of the sub-committee on housing? Is it the same person?

Chairman: No, they are different people, but we can ask both to attend. Two local authority chief executives will also be invited. It is also done by rotation. We will need to have a separate meeting to deal with the voluntary housing sector, including the approved housing bodies and the representative bodies, the agencies that, to be truthful, are delivering most of the housing. The meeting will also deal with supports such as the housing assistance payment and rent supplement. We would get lost and not get our work done if we were to try to do every-

thing in one meeting. Can we agree on that proposal?

Deputy David Cullinane: I do not think there is anything we can move. The committee has to get through all of these topics - housing, CervicalCheck, hepatitis C-----

Chairman: Yes, but we are just sticking to the agenda.

Deputy David Cullinane: My point is that all of the slots up to early December are taken. Given that earlier we discussed Bord na gCon and the Department of Education and Skills, is there a need to hold a meeting on a Tuesday or a Wednesday? If we do not, it will be next year before we get to these issues.

Chairman: Today we will clear the details of the housing issue. The following week, for definite, we will hear from Revenue. Perhaps the meeting with the Department of Education and Skills and Bord na gCon could be held later. We will come back to the work programme every week to see where meetings can be slotted in. We do not have to sign off on that matter today. The purpose of the discussion is to allow the secretariat to confirm the date for the meeting on housing and 1 November as the date of the meeting with the Revenue Commissioners which will be an important meeting. If the secretariat believes we will have to consider holding another meeting, we will have to discuss the issue.

Deputy David Cullinane: We held a separate meeting to discuss the President's Establishment.

Chairman: Pardon.

Deputy David Cullinane: We held a meeting on a Tuesday to discuss the President's Establishment.

Chairman: I have no problem with holding a meeting on a Tuesday.

Deputy Catherine Connolly: We are undermining ourselves in trying to do all of this.

Chairman: It does not all have to be done before Christmas. There is a gap. This part of the work programme will only take us up to November. There will be three more meetings after that.

Deputy David Cullinane: When we come back next week, there might be a gap.

Chairman: Yes, between now and Christmas.

Deputy Catherine Connolly: Is the Housing Agency also the body that deals with sustainable-----

Chairman: I believe it is the one agency. There was a change of name.

Mr. Seamus McCarthy: The Housing and Sustainable Communities Agency calls itself the Housing Agency.

Deputy Catherine Connolly: It calls itself-----

Chairman: It is the one body.

Mr. Seamus McCarthy: Yes, it is the same organisation.

Deputy Catherine Connolly: The Comptroller and Auditor General audits the accounts of the Housing Agency, but he does not audit the accounts of the Housing Finance Agency.

Mr. Seamus McCarthy: That is correct.

Deputy Catherine Connolly: Will the Chairman clarify why that is the case?

Chairman: Essentially, the Housing Finance Agency is a funding agency. It provides a certain amount of funding for start-up projects. It sources the majority of its funds in the private sector to be provided on a commercial basis for approved housing bodies.

Mr. Seamus McCarthy: It is regarded as being a commercial semi-State body.

Deputy Catherine Connolly: The majority of its funds are commercial.

Chairman: I am speaking on the basis of what I know. The Housing Finance Agency borrows funding commercially to gain value from the State being able to borrow at a good rate. It lends it on commercially to the approved housing bodies which pay back the loans over a period of time. I think some of the loans run forever. In many cases, the loans given out are interest-only. There are different schemes, which leads me to the next point. I want to receive a note from the Department early next week - well before the meeting - on what I call the different schemes. I am not referring to the housing assistance payment scheme but about the capital assistance plan and the long-term leasing schemes. We want to receive a note on each of these schemes. Otherwise, we will get lost as we use different names.

Deputy Catherine Connolly: I think an explanation was provided somewhere along the line.

Chairman: As we have requested it, it will come.

Deputy Catherine Connolly: The Housing Agency looked after the land aggregation scheme.

Chairman: Yes.

Deputy Catherine Connolly: We want to receive an update on that scheme.

Chairman: We have already asked for county by county details.

Deputy Catherine Connolly: Okay. Thank you, Chairman.

Chairman: As we have already asked for it, we expect to receive it. We have covered what is to be dealt with at the meeting on 25 October.

On 1 November we have scheduled a meeting with Revenue to discuss a couple of interesting chapters in the report, as well as its annual report. I am asking for a letter to be sent to the Department of Finance and Revenue seeking an explanation for the extra €700 million in tax that arrived from the multinational corporation sector. I have no problem with the money arriving and will explain why we need the note. We have been told that this money came to be paid because of changes in accounting rules. My view is that these changes in accounting rules were well known a year or two out. They did not happen during the course of the year. Regardless of whether the moneys relate to the accounts for the last accounting year, or even this accounting year, the rules were well known and established. When the Department was drawing up its estimates of corporation tax receipts for this year, it must have known that the rules had

changed. It did not happen this year. It was well known at least a year ago and possibly two. I want to know about the work done by Revenue and the Department in the knowledge that the accounting rules were going to change in a way that would affect corporation tax receipts. This has been known for quite some time. What work was done by Revenue and the Department to estimate how much in additional taxation the rule changes would bring in? Is it possible that there could have been a loss of corporation tax, depending on how it worked? I do not believe the Department did not know this was in the offing. I do not accept it. If I were to accept that it did not know about the rule changes, I would be saying it was utterly incompetent. We want to receive information notes from Revenue and the Department breaking down the details of this matter. They can work together to clear the relevant memos. If we were to ask just one of them to clear up this matter, it would tell us that the other one had the answers and *vice versa*. We are asking the question. We need to know these things. It was probably well known at the time of last year's estimates that there was a possibility that much more would be taken in. Perhaps it was decided to hold it in reserve. We need to be a little more transparent and accurate.

Deputy Catherine Connolly: Is it possible that other rule changes might lead to more windfalls?

Chairman: That is a good follow-through question. We should ask whether other changes in accounting rules might affect corporation tax receipts positively or negatively. It is good for Ireland that the changes have had a positive effect, but the opposite could also have been the case. We will ask whether there are other potential changes. We will also ask what Revenue and the Department of Finance are doing to estimate the impact of the changes on receipts. A few years ago, we used to have big debates here about the inadequacy of the estimates of receipts of taxation prepared by Revenue and the Department. I know that, depending on the economic cycle, it can be difficult to make such estimates, but Revenue and the Department should have known about this one. We will have representatives from the Revenue Commissioners before us on 1 November.

The following week - on 8 November - we will consider matters related to cervical cancer and thalidomide litigation. We will examine how the State Claims Agency is handling all of these cases. The thalidomide issue is long-standing.

On 15 November we will ask the Department of Health about the hepatitis C fund, which has cost €1.5 billion to date. We really need to know what lessons have been learned. If lessons had been learned in dealing with the hepatitis C issue, we would not be heading into what we are heading into in dealing with the cervical cancer issue, potentially at major cost to the Exchequer. I feel lessons are never learned.

Deputy Alan Kelly: I have two questions. First, can I be the main speaker when we are discussing the cervical cancer issue on Thursday, 8 November?

Chairman: Yes.

Deputy Alan Kelly: Second, the health committee had a long discussion with Dr. Scally yesterday. It lasted approximately three and a half hours. We had a detailed discussion on information coming out on this area and we should be concerned about it. It is important to have the correct lines of demarcation between the committees in order that we do not fall into issues in the way we did in the past. If there is a clear demarcation line, this committee will be responsible for looking at the contracts, the tendering process and the money spent on those matters. I ask the clerk to the committee to liaise with the clerk to the health committee. After I asked

questions yesterday, Dr. Scally revealed that he had received no documents for the tendering process. He has found that the HSE shredded them as soon as the time limits were up, which is the only example of efficiency on the part of the HSE that he has found. Now the HSE has to go to the laboratories to obtain copies of its own tender documents. The second extraordinary thing is that, even now, Dr. Scally cannot guarantee that the HSE has provided him with every version of every contract with every laboratory. The third extraordinary thing is that Dr. Scally does not know whether there were other examples of laboratory work being outsourced in the past ten years. He does not know where it begins and ends but thinks he has some of it. However, he cannot guarantee that there were no more examples. The demarcation line that applies to this committee relates to our responsibility to examine the spending of taxpayers' money. It is important for this committee to liaise with the health committee to hone in on these areas in advance of our meeting on 8 November.

Chairman: I totally agree. There should be no unnecessary duplication. Equally, nothing should fall between the cracks.

Deputy Kate O'Connell: I agree with Deputy Alan Kelly that all financial aspects of this matter, including tender documents and contracts, could be dealt with at this committee and that issues of governance and accountability could be dealt with through the health committee. Like Deputy Alan Kelly, I am a member of both committees. There are serious issues with the tender documents. As Deputy Alan Kelly said, they have been shredded. I am not sure we will receive them from laboratories that did not receive contracts. Why would they give them to us? In addition to the lack of contracts, there is the lack of a paper trail showing how things were done. That is the job of this committee rather than the health committee.

Deputy David Cullinane: I agree fully with what has been said about lines of demarcation. I advocated at our second last meeting that this issue be considered to be important. Has there been any interaction between the two clerks?

Chairman: We said we would wait until after the meeting yesterday. There has been no interaction since yesterday. We indicated in advance. It was agreed that the two clerks would be in contact after yesterday's meeting.

Deputy David Cullinane: That would definitely be a route for us to consider the issue of value for money. The auditing part is probably a matter for the health committee.

Chairman: I assume the Deputy is referring to the medical audits.

Deputy David Cullinane: We need to be clear on the line we will adopt.

Chairman: We will come back to that issue. We will finish this discussion for the moment.

We have indicated that on Thursday, 22 November, in the second half of the meeting we will hear from representatives from the Department of Social Protection and consider rent supplement and housing assistance payments. The housing bodies' association will also be represented.

Deputy Catherine Connolly: The housing assistance payment scheme is administered through the local authorities.

Chairman: It is. Their officials will be present on that day too.

Deputy Catherine Connolly: As well.

Chairman: Officials from the Department of Housing, Planning and Local Government will be present throughout the meeting.

Deputy Catherine Connolly: Yes.

Chairman: We want to bring in those who specifically deal with the payment of rent supplement.

Deputy Catherine Connolly: Fine. Thank you, Chairman.

Chairman: I understand there is another matter Deputy Alan Kelly would like to raise.

Deputy Alan Kelly: We have an outstanding commitment to a whistleblower in the Irish Prison Service. We were meant to meet him last week.

Chairman: Yes.

Deputy Alan Kelly: We need a specific date for that meeting. He has been in touch.

Chairman: Yes. I think it is a couple of weeks away. The secretariat has been in touch. I will ask it to let the Deputy know directly what the exact position is.

Deputy Alan Kelly: We cannot let it go on for much longer. If we do, we will be letting the individual down. The Chairman knows the person in question.

Chairman: I do.

Deputy Alan Kelly: I know him, too. His day to day life is being affected. This needs to be dealt with. We have made a commitment and a decision has been made by this committee. We need to honour it, and I stress we need to honour it, not in a few weeks but very soon.

Chairman: Okay. I will ask for the date for that meeting to be finalised with the person concerned early next week at the latest and for a memo to be sent to the committee members in order that they know when that will meeting will take place.

Deputy Marc MacSharry: I concur with that proposal. It was on my list of issues that this gentleman would be brought in.

Chairman: We will ask the secretariat to confirm the date in the coming days and to advise the members directly at that stage.

We have completed this aspect of the meeting. I propose we suspend until 10.50 a.m. to allow the witnesses from the Office of Public Works, OPW, take their seats.

Deputy Catherine Connolly: We will have questions.

Chairman: Yes. We will continue until 1.50 p.m. and then take a break. No voting has been scheduled today. We can sit for a maximum of three hours without taking a break. We will take a break and we can resume after lunch. We cannot continue for longer than three hours in any individual session. Therefore, we will adjourn until 10.50 a.m.

Sitting suspended at 10.41 a.m. and resumed at 10.52 a.m.

Vote 13 - Office of Public Works

Chapter 6: Lease of Offices at Miesian Plaza

Mr. Maurice Buckley (Chairman, Office of Public Works) *called and examined.*

Chairman: We are dealing today with Appropriation Accounts 2017, Vote 13 - Office of Public Works, and the Comptroller and Auditor General's report 2017, chapter 6, which concerns the lease of offices at Miesian Plaza in Baggot Street, Dublin, which people will know as the former headquarters of Bank of Ireland. If they want to identify the building we are talking about, that is the new name on the old building. We are joined from the Office of Public Works by the chairman, Mr. Maurice Buckley. He is very welcome. I understand it is his first meeting with the Committee of Public Accounts.

Mr. Maurice Buckley: Yes, thank you.

Chairman: He is joined by Mr. John McMahon, commissioner, and Mr. John Sydenham, commissioner. I understand Mr. McMahon has to catch an aeroplane in the afternoon. He deals with the heritage area.

Mr. John McMahon: Heritage, property maintenance and event management.

Chairman: We are here for three hours. As he has an aeroplane to catch in the afternoon, we will try to deal with any questions members have on that topic in the next three hours. I understand that Mr. McMahon has a commitment. We are also joined by Mr. Martin Bourke, assistant secretary, and Mr. Mick Long, director of corporate services.

I remind members, witnesses and those in the Public Gallery to turn off all mobile phones. That means switching them to aeroplane mode. Switching them to silent mode is not sufficient because they can still interfere with the recording system.

I advise the witnesses that by virtue of section 17(2)(I) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If a witness is directed by the committee to cease giving evidence in respect of a particular matter and he or she continues to so do, the witness is entitled thereafter only to a qualified privilege in respect of the evidence. Witnesses 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 nor make charges against any person, persons or entity, by name or in such a way as to make him, her or it identifiable. Members are reminded of the provisions within Standing Order 186 that the committee shall also 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. We expect witnesses to answer questions put by the committee clearly and with candour. We have not fully experienced that with other witnesses in the past and it is an issue we will be getting stronger on as a committee. If there is information and the witnesses are not specifically asked about it but they

know it is very relevant to the topic, we would ask them to share it with us. Witnesses can and should expect to be treated fairly and with respect and consideration at all times, in accordance with the witness protocol.

We will start by taking the Comptroller and Auditor General's opening statement.

Mr. Seamus McCarthy: Thank you. The 2017 appropriation account for Vote 13 - Office of Public Works records gross expenditure of just over €394 million. Appropriations-in-aid were almost €34 million, resulting in net voted expenditure of just over €360 million. The surplus for surrender at the year-end was €4.6 million. The appropriation account is presented under two programme headings: flood risk management, on which a total of €75 million was spent, and estate portfolio management, in respect of which the total expenditure was €319 million. The graphic that is shown on screen outlines the main areas of expenditure in 2017.

In addition to activities funded by the Vote, the OPW acts on an agency basis in the property management area, mainly managing capital works projects on behalf of other Departments and agencies and leasing accommodation for small State agencies. The associated expenditure is reflected in the accounts of the client Departments and agencies. Total expenditure handled by the OPW on an agency basis amounted to €84 million in 2017.

I issued a clear audit opinion in regard to the appropriation account but drew attention to procurement in 2017 to the value of €812,000 that was not compliant with public procurement rules. This is disclosed by the Accounting Officer in the statement on internal financial control.

The OPW signed a new, 25 year lease in May 2017 in respect of large office premises at Miesian Plaza in Baggot Street, mainly to accommodate the Department of Health and the Department of Children and Youth Affairs. Even though lease payments were incurred from December 2016, the premises remained unoccupied until May 2018. Chapter 6 of my report examines the issues that gave rise to the delay in occupying the premises and a number of other matters related to the lease.

The Miesian Plaza lease represents a very significant commitment of public funds, with annual rent starting at €10 million and subject to five-year rent reviews in line with inflation over the 25 year period of the lease. The examination found little evidence of the key elements of a standard business case that should support the commitment of that level of public funds. In particular, there was little evidence of detailed evaluation of other options, no economic appraisal was carried out and the full costs and risks associated with the project were not documented and considered in advance.

In March 2016, the OPW board approved the lease on the basis of the terms negotiated by consultants on its behalf. At that stage, it was envisaged that, allowing for a fit-out period of eight to ten months, the premises would be ready for occupancy in the first quarter of 2017. As it turned out, the first occupancy was achieved only in May 2018 and full occupancy was achieved only in July 2018. We estimated that the delays that occurred from March 2017 resulted in ineffective expenditure on unoccupied premises of around €11 million.

There was extensive engagement between the OPW and the two main client Departments in seeking to achieve timely occupancy of the leased premises. The main issues that gave rise to delay were finalisation of the number of staff to be accommodated and agreement on the layout of the accommodation and on shared facilities. Currently, Miesian Plaza does not have capacity to accommodate all of the staff of the Department of Children and Youth Affairs and

the expected future staffing needs of both Departments. Currently, the OPW targets a space allocation of 12 sq. m per person. In Miesian Plaza the space allocation achieved is 15.3 sq. m per person, about 27% more than the target level. The report recommends that the OPW review its approach to agreeing accommodation needs with Departments and that it should establish standards for space allocation and fit-out that take account of the business needs of different categories of occupant. The examination also identified an issue with the area of the premises to which the agreed rental rate was applied. There are different standards for measuring property which result in different reported areas for a building. The rental rate agreed for Miesian Plaza was based on what is known as the net internal area. From 2016, a new international property measurement standard was introduced and measurement of Miesian Plaza on this basis resulted in a larger reported area. The rental rate agreed should have been adjusted *pro rata* to reflect the change in the basis of measurement. However, this did not happen and the signed lease applied the rate per square metre negotiated on the basis of the net internal area to the larger area, as measured by the new standard. We estimated that this error resulted in annual rent that was €344,000 higher than what was negotiated. After taking account of inflation, the projected additional cost to the Exchequer is of the order of €10 million over the 25-year term of the lease. At the time of finalisation of the report, the Office of Public Works stated that it had engaged with the landlord with a view to rectifying the matter.

The examination team reviewed a sample of 20 other live OPW leases with various start dates, and identified one other possible excess payment case in that sample. This involves a 20-year lease entered into in 2006 where confusion about measurement appears to have resulted in an excess annual payment of some €141,000. I understand the OPW is examining that case.

I thank the Chairman.

Chairman: I invite Mr. Buckley to make his opening statement.

Mr. Maurice Buckley: I thank the Chairman for introducing my colleagues. I am afraid we do not have gender balance at this particular meeting but we do in the organisation.

Deputy Catherine Connolly: We have got used to that.

Deputy Kate O'Connell: We would be more surprised if there was a gender balance.

Mr. Maurice Buckley: The previous time we were here, the chairman and one of the management board members were female, which was 25% of our representation. Temporarily at least, we have taken a step backwards but not in the whole organisation.

I thank the Chairman for the opportunity to present to the Committee of Public Accounts the expenditure and works of the Office of Public Works across its different areas of activity. The OPW is the lead body responsible for flood risk management and the stewardship of the nation's national monuments and historic properties. Through these activities, the OPW interacts with and supports communities and local authorities in every county in Ireland.

The third primary area of OPW activity is the management of the State's modern property estate, including accommodation for Government staff and numerous specialist facilities such as Garda stations, courthouses, laboratories, data centres and customs infrastructure, which has become topical again now in the context of Brexit. I provided an information briefing on Garda accommodation in advance of this meeting. Later in this statement, I will address the matters raised in Chapter 6 of the Comptroller and Auditor General's report titled, Lease of Offices at Miesian Plaza.

The OPW is responsible for a range of other important functions, including the State art collection, the day-to-day running of Áras an Uachtaráin and organising State visits and events. Recent examples of events include the May referendum, the visit of Pope Francis in August and the upcoming inauguration of the President.

As Members are aware, flooding is a natural phenomenon which can cause widespread damage and have a devastating effect on communities, property and infrastructure. We have to think only of the poor people in Spain who suffered a disaster of flash flooding in the past couple of days when ten people lost their lives. This risk is likely to increase in the future due to rising sea levels and other potential effects of climate change. The Government has recognised these risks and committed €1 billion of capital investment to flood risk management over the next decade.

The OPW has responsibility for leading and co-ordinating the implementation of the national flood risk policy, which involves the development of a planned programme of works. In 2017, the OPW completed the largest study of flood risk ever undertaken in the history of the State, the catchment flood risk assessment and management, CFRAM, programme. The CFRAM programme involved analysis of flood risk across 300 designated communities, including 90 coastal areas and the production of 29 flood risk management plans with a prioritisation of those measures that can manage the assessed flood risk nationwide. It includes building our capability to protect 95% of properties assessed to be at risk through 118 new flood relief schemes in addition to the 75 schemes that are complete or under way.

This capital programme was launched on the 3 May 2018 and we are now moving into the detailed development and implementation of these measures with the local authorities. During 2017, the OPW carried out capital works at a cost of more than €45 million, including the completion of major projects at Bray and Foynes; the substantial progression of construction on schemes at Bandon, Skibbereen, the River Dodder, Claregalway and Dunkellin River; the provision of more than €2 million to local authorities to carry out minor flood works; the commencement of new schemes in Athlone and Templemore; and the progression of design work on a large number of other major schemes to be implemented in the coming years. In addition, the OPW maintains all arterial drainage schemes completed by it under the Arterial Drainage Act 1945. This investment involves providing ongoing protection to 263,000 ha of agricultural land through the annual maintenance programme for 11,500 km of river channel, including 800 km of embankments.

My office manages a range of other measures to tackle flood risk, including the OPW minor flood mitigation and coastal protection scheme in partnership with local authorities. A total of 500 projects have been completed under this scheme protecting 6,500 properties, two thirds of which are outside the CFRAM study areas.

The OPW continues to support and co-ordinate sectoral led work on non-structural solutions to help protect and-or mitigate flood risk. Key to these solutions is the development by Met Éireann, in conjunction with the OPW, of a national flood forecasting service. Also, a new website, www.floodinfo.ie, has been developed by the OPW. This is an important resource in supporting emergency response planning by local authorities and empowering people and communities to plan and respond to their flood risk.

As caretakers of the built heritage estate, the OPW is responsible for the management, conservation, maintenance and presentation of some 780 national monuments and 70 OPW managed heritage sites. Responsibilities include the day-to-day management and presentation of 30

major historical properties, gardens, parks and arboreta.

The OPW has consistently been of the opinion that the importance of the State's national heritage cannot be overestimated, either in a cultural or economic sense. This is especially true in the context of rural regeneration and is borne out by the increase, year on year, of the number of visitors to these sites. The OPW enjoyed a very successful 2017 with a record total of 7.9 million visitors to OPW managed heritage sites. The leading visitor sites continue to do remarkably well, including Dublin Castle, Kilmainham Gaol, the Rock of Cashel and the Phoenix Park, the largest city park in Europe and an enormous green resource for the people of Dublin.

In addition, a strategic partnership with the Department of Culture, Heritage and the Gaeltacht and Fáilte Ireland has enabled the OPW to develop and enhance tourism investment possibilities within the cultural and heritage estate. The broad focus of this programme is to enhance the visitor experience at sites managed by the OPW, with particular reference to less visited sites so that a greater volume of increased footfall on a wider base can be sustained. This will ensure that we continue to increase tourism numbers and the generation of Exchequer revenue.

Efficient and modern accommodation is a key requirement for the successful delivery of many Government priorities. Estate management by the OPW is an all encompassing discipline of strategically aligning the use of State and leased property with Government priorities while ensuring value for money through the optimal use of resources. Estate management includes the acquisition and disposal of properties and leases, essential property maintenance, necessary development and retrofits and the provision of storage and mechanical and engineering works to more than 70 different client Departments and public bodies. In order to facilitate the management of that portfolio the OPW is developing a much needed estate management system which will shortly go live in the office. The system will provide centralised information to staff, which will allow for effective and efficient estate management planning in the commercial environment within which the office operates.

On climate change, members will be aware that the recent Citizens' Assembly recommended that the State take a leadership role in addressing this risk through mitigation measures, including retrofitting and renewables generation on public buildings. The OPW portfolio consists of more than 2,500 properties and the total investment was €319 million in 2017, which included the fit-out of several properties, including Miesian Plaza.

I will now turn to the Comptroller and Auditor General's chapter on the lease of offices at Miesian Plaza. The lease was part of the OPW accommodation strategy to move staff from Hawkins House, a large, end-of-life building, to a fourth generation energy-efficient building that could support almost 1,000 staff. Miesian Plaza, at approximately 15,000 sq. m, is the largest lease acquisition that the OPW has secured in recent years and has 936 workstations. The imperative of acquiring a new headquarters for the Department of Health arose from the deteriorating condition of Hawkins House which was constructed in the early 1960s. In addition, the lease on a property on Mespil Road which accommodated the Department of Children and Youth Affairs was due to expire and could no longer cater for the expanding requirements of that Department.

Following a review of the available properties in what was an exceptionally tight market, Miesian Plaza on Baggot Street was identified as the most suitable option for the Departments of Health and Children and Youth Affairs and certain units of the Departments of Finance and Public Expenditure and Reform. Central to its acceptance as a potential location was its proximity to the Houses of the Oireachtas. The OPW retained an independent professional negotia-

tion team to determine if a satisfactory commercial arrangement could be concluded. Following several months of engagement with the landlord, the negotiation team secured a 25-year lease at approximately 15% below the prevailing market rent. With the addition of five-year rent reviews linked only to the consumer price index, the deal effectively insulates the State against any significant or erratic market fluctuations in the medium term. In the context of the rising Dublin property market, which is related to Brexit, the OPW considers this index linking to be of significant benefit.

The large-scale permanent relocation of any group of staff is a challenging task. This was particularly complex in the Miesian Plaza project because of the physical and cultural challenges of moving almost 1,000 staff spread across four major Departments. It is a common misunderstanding that the identification of a building and securing of lease terms are effectively the end of the process and that people just move in. In fact, it is only at this stage that the fit-out process which transforms the building from a grey shell to a habitable modern office and takes up to ten months can commence. These issues were particularly intense in the Miesian Plaza project in light of the ground-breaking steps being taken relating to open plan work spaces and a dramatic reduction in the use of cellular offices. The project very quickly moved from one involving mere bricks and mortar to one encompassing human relationships and business process reform. In the OPW's experience, it is quite common that staff and business considerations trump those relating to the physical building in terms of complexity and the time needed to complete the project.

Reflecting on the project, I suspect that some aspects, including the change management process, were underestimated by all involved, including the OPW. The protracted discussions designed to ensure buy-in and to bring everybody along on a difficult journey undoubtedly caused delays. The cost of the delay is very much regretted by the OPW and, I am sure, all those associated with the project.

It is rare for major projects to progress without some problems. The Miesian Plaza project experienced problems, including the aforementioned programme overrun and an issue relating to the application of a new measurement standard. Although those issues serve to lessen the very significant value negotiated, the demonstrable benefits of the overall deal and ground-breaking business transformation outcomes significantly outweigh all other considerations. The building secured by the OPW will serve as a flagship for the State's property portfolio for the next 25 years while accommodating some of the most important Departments in a leadership in energy and environmental design, LEED, platinum-rated office accommodation.

I thank the Comptroller and Auditor General and his staff for their assistance and courtesy during the audit. I have no doubt that the committee and Chairman will have questions on the matters I have raised. I thank them for their attention and will attempt to answer any questions they may have.

Chairman: I thank Mr. Buckley. At this stage, there are two issues of relevance to the committee relating to the OPW with which I must deal before we move to the members who wish to discuss the matters raised. At a recent meeting, the committee discussed the letter from Mr. Alan Morgan, which was forwarded to the OPW along with a request to provide the committee with a copy of the 2014 report. We expected to receive the report in advance of this meeting but have not yet received it.

Mr. Maurice Buckley: I understood that the committee asked for the response to the 2014 report, which was submitted. Perhaps that was a misunderstanding on my part.

Chairman: The committee agreed to ask the OPW to provide a copy of the 2014 report referred to in the correspondence, as well as any correspondence between the OPW and the correspondent. The OPW submitted correspondence but not the report.

Mr. Maurice Buckley: The report is a lengthy document-----

Chairman: That is fine.

Mr. Maurice Buckley: -----which was sent to the Comptroller and Auditor General several months ago.

Chairman: I am asking in regard to the Committee of Public Accounts. Is the report 100 pages long? I have not seen it. How big is it?

Mr. Maurice Buckley: It is approximately 100 pages long.

Chairman: The committee will be in session until this afternoon. I suggest that the witnesses arrange to contact somebody in the OPW and have the report emailed here so that it can be copied for the 13 members of the committee, or arrange for it to be copied and brought here. We always ask witnesses to have arrangements in place for making contact with their offices. Is it feasible for that to be done? It may take an hour or two but the committee will be sitting in the afternoon.

Mr. Maurice Buckley: Yes.

Chairman: Does Mr. Buckley have an issue with us receiving the report?

Mr. Maurice Buckley: I have no problem with it in principle. Had I realised that the report was requested, I would have sought to submit it. Is there an issue in regard to the names of staff members and clients being mentioned?

Chairman: No. Last week, the committee, while dealing with correspondence, publicly mentioned the name of Mr. Alan Morgan several times. It is on the public record of the committee. Mr. Morgan wrote to the Committee of Public Accounts in a public manner. There may be other names which were not mentioned at the committee but Mr. Alan Morgan's name is on the public record of a previous meeting as the person involved. His name was mentioned and there is no reason for that not to have been done. However, the names of other persons involved have not and will not be mentioned in public.

Deputy Alan Kelly: I wish to clarify something because there are several documents relating to the OPW. The Chairman is referring to the 2014 report.

Chairman: Yes.

Deputy Alan Kelly: I will not mention any names. The Chairman is referring to the 2014 report.

Chairman: Yes.

Deputy Alan Kelly: That report was previously provided to the preceding Committee of Public Accounts.

Mr. Maurice Buckley: Yes, it was provided in 2015.

Deputy Alan Kelly: It was provided on 19 June 2014.

Mr. Maurice Buckley: Yes, by my predecessor, Ms Claire McGrath.

Chairman: I was unaware of that. That is fine.

Mr. Maurice Buckley: The committee should have it on file. That might be helpful.

Chairman: I was unaware that it is on file. I thank Deputy Kelly.

Deputy Alan Kelly: Was there a response from the OPW to the Committee of Public Accounts at that time?

Mr. Maurice Buckley: The then chairman of the OPW wrote to the committee in June 2015, as Deputy Kelly stated.

Deputy Alan Kelly: In 2014.

Mr. Maurice Buckley: It was 2015.

Deputy Alan Kelly: Sorry, it was 2015.

Mr. Maurice Buckley: I am not aware of any other dialogue or whether the report had already been reviewed by the committee at that point. I can check that. Several parliamentary questions on the report were tabled at that time. The original discussion regarding the 2014 report was fairly widely aired in this forum, the office of the Comptroller and Auditor General, in the Dáil through parliamentary questions and in public through the media.

Chairman: Do members require a copy of the report? It is a big report and I do not know when people will have time to look at it. It is on file with the committee. I thank Deputy Kelly for alerting me to that. We had asked for it last week.

Deputy Catherine Connolly: There is confusion and there should not be any confusion. Is there one report or two reports? Will Mr. Buckley clarify that for the committee? As Deputy Kelly stated, there are later dates and earlier dates. What I read in the letter was that a detailed surveyor's report was submitted to the OPW in November 2017 and forwarded by the OPW to the Comptroller and Auditor General in mid-2018. Is that the same report as the one we are discussing?

Mr. Maurice Buckley: No, I will attempt to clarify.

Deputy Catherine Connolly: We have limited time. We should have all of the relevant reports in order that we can ask relevant questions on value for money. There should be a list of them. To refer the previous Committee of Public Accounts committee is of little use to us because we were not members of that committee. We require a practical list of what reports have been done on various issues that will help us to ask appropriate questions to ascertain whether value for money has been achieved.

Chairman: I call Deputy Farrell.

Deputy Alan Farrell: To help move this along, we have established that the report is on file with this committee. It should have been provided to the secretariat and that should have been noted at the previous meeting. I am sure secretariat staff have left the meeting to source that report. This will provide the clarity that Deputy Connolly and others require. We should

now move on rather than go over this again.

Chairman: Mr. Buckley said he gave a response.

Deputy Alan Farrell: We should keep going as we have the response.

Chairman: The Deputy said we were given a response.

Deputy Alan Farrell: Yes, that is on file.

Deputy Catherine Connolly: I am as anxious as anyone else to move on. I attempted to get a copy of the report through the secretariat. It predates our access to records. Can we have a clear summary or list of the relevant reports that have been done, rather than having members trying to find out which report is which and reading through correspondence and submissions. We need a list with bullet points of the reports. We will then decide whether to examine them in detail.

Chairman: We will come back to that. Did Mr. Buckley indicate that he recently sent the committee a response to the letter?

Mr. Maurice Buckley: I sent a letter in response.

Chairman: When was it sent?

Mr. Maurice Buckley: It would have been in the last number of days. We only heard about this matter on Monday so we would have responded probably yesterday.

Chairman: We do not have that in our correspondence. We need that if that if it is Mr. Buckley's response.

Mr. Maurice Buckley: We can certainly check that. I can outline the timeline of events if that would be helpful.

Chairman: We will come to that in due course. If Mr. Buckley has written to us this week and we have not yet received it, we need it.

Mr. Maurice Buckley: It is not that we wrote to the committee but we gave the committee a copy of two letters that we had issued earlier in response to the November 2017 report submitted by the gentleman in question, Mr. Alan Morgan.

Chairman: When was that sent to us?

Mr. Maurice Buckley: Certainly this week, because this has all happened in the last two or three days but I do not know the exact time.

Chairman: For the avoidance of confusion, we went through our correspondence and neither I nor the members are aware of this having arrived. Will somebody in Mr. Buckley's office email it to the committee straightaway and we will arrange for the secretariat to have it circulated?

Deputy David Cullinane: We have been promised the two letters but were they in response to the surveyor's report?

Chairman: Of 2017, yes-----

Deputy David Cullinane: Mr. Buckley said two letters were sent to the committee in response to a 2017 report. Is that the position?

Mr. Maurice Buckley: Yes.

Deputy David Cullinane: Was that the surveyor's report?

Mr. Maurice Buckley: This was a surveyor's report issued by Mr. Alan Morgan, our staff member, and a colleague in November 2017.

Deputy David Cullinane: Those letters were sent to the committee and we do not have them.

Mr. Maurice Buckley: It is my understanding that they were. They are short letters comprising a response from the then director of corporate services to the report giving some outlines of the actions the OPW is taking. We can certainly get those very quickly and they are short letters, which are easily digested.

Chairman: We will ask those to be emailed to the committee straightaway and we will get them copied and circulated. They are presumably not too voluminous. Is a letter was sent this week, we need to have it here in front of us.

Deputy Alan Kelly: To be fair to the clerk here, we did not get these letters. I have to ask Mr. Buckley a direct question through the Chair. Were these letters sent to the committee or not? Can he ask his colleagues?

Mr. Maurice Buckley: I am doing that and it will be checked.

Chairman: Mr. Buckley's colleagues are checking by email and will be able to respond in the next few minutes. Within ten minutes we will need this sorted out either way. If it is an email, it should be sent to the committee and we will have it copied and circulated.

Deputy Catherine Connolly: We should have copies of the reports as well as the letters.

Chairman: That was the 2014 report.

Deputy Catherine Connolly: Yes, but it was presented in 2017. Rather than trying to tease out if there is more than one report, can we have copies of all of the reports? Is that too much to ask?

Chairman: The substantive report is the 2014 report.

Mr. Seamus McCarthy: The 2017 report is the substantive report. The origin of this whole series of correspondence, as I understand it, was a submission that was made to a Department of Public Expenditure and Reform consultation process on accountability. There were certain extracts from the report that was submitted by two staff members of OPW. Extracts were taken from that and sent to the committee because there were specific references to my function and to the Committee of Public Account's function. That kicked off a process which culminated in a substantive report in November 2017. The substantive piece of work that I believe Mr. Morgan is referring to is the 2017 report. I hope that is helpful.

Mr. Maurice Buckley: That is correct.

Chairman: Would it be possible to get a copy of that email to us today?

Mr. Maurice Buckley: The only concern I have on that is that it may contain, and I believe it does contain, references not alone to other staff members' names but to various contractors and buildings and it may need to be checked either by the OPW or by the committee. In principle, the content is very similar. We are talking about the same issues. There is no problem in principle. This all happened in the last couple of days. Certainly, as I understand it, the letter of response, which gives some indication of the content as well, should have gone to the committee. If it has not, it will be sent in now. It is a short letter. If we were asked for the 2017 report, I was not aware of that and I apologise. There might have been a slight confusion with the earlier submission to the Department of Public Expenditure and Reform.

Deputy Catherine Connolly: On a general point, this did not happen in the last few days. The report of the Comptroller and Auditor General includes a chapter on the specific issue of Miesian Plaza. The report should be with us. This letter that we presumably all received was sent to the Office of Public Works for comment following our previous meeting. There is a report, there are letters and there is the Office of Public Works response to this letter, at the very least. Can we get all of those documents?

Mr. Maurice Buckley: Absolutely.

Deputy Catherine Connolly: I thank Mr. Buckley.

Mr. Maurice Buckley: To clarify, the two items are not related to Miesian Plaza.

Deputy Catherine Connolly: Indirectly, they are related.

Mr. Maurice Buckley: Miesian Plaza is a file that was covered and prepared. We received first sight of that letter on Friday of last week.

Chairman: That is the first issue I wanted to raise before we our work gets under way. The second issue is also related to the Office of Public Works. The Committee of Public Accounts issued its periodic report on 23 January 2018 and one of the issues it dealt with was the reopening Garda stations. One of the recommendations of our report was that the cost implications of the review to reopen Garda stations should be considered in the context of the 2018 Estimates. This need not be written down. The report was published by the Committee of Public Account. We recently received a response to our recommendation from Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform, dated 18 July 2018. We sent a letter to his Department in January 2018 asking that the costs of reopening Stepside Garda station and some other Garda stations be considered in the context of the 2018 Estimates, bearing in mind that the decision was made in June 2017. We reported on that in January 2018.

Mr. Watt's reply states:

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Justice and Equality and An Garda Síochána that this recommendation is accepted in principle. The 2018 estimate provision for An Garda Síochána is long since complete. However, over recent months, An Garda Síochána and the Office of Public Works have been working to quantify the final projected costs to reopen all six stations. An Garda Síochána indicates that the estimated costings produced will be reviewed and discussed with the sanctioning authorities, the Departments of Justice and Equality and Public Expenditure and Reform, once concluded.

As Chairman of the Committee on Public Accounts, I find it totally unsatisfactory that the

Secretary General of the Department of Public Expenditure and Reform took seven months to reply to our recommendation. We wrote to Mr. Watt early in the year to give him plenty of advance notice for this matter to be raised in the Estimates in 2018. He wrote to us in July saying he was sorry but the Estimates were over. The matter should have been encompassed in the 2018 Estimate, as recommended by this committee. Mr. Watt states that while he agrees in principle with our recommendation, it is too late. That is an unsatisfactory response and delay and we want to ensure there is accountability. Given that it may not have happened in 2018, I will put a question on it to Mr. Buckley now because this follows directly from the report we published. If we are to do our business, we need to follow through on our recommendations. Mr. Buckley says in his briefing note today that in February 2018 he received the final brief in respect of Stepside. He said the OPW has to issue a notice to quit in respect of Stepside, that it considered a modular solution and is now renovating the existing building, which it hopes to have completed by the end of June 2019. I have seen the Estimates announced by the Minister on budget day. What figure for the reopening of Stepside Garda station is provided in the Estimates for 2019, given that none was provided in the 2018 Estimate?

Mr. Maurice Buckley: The cost of reopening Stepside and the other six Garda stations would be provided through the Department of Justice and Equality under the Garda Vote.

Chairman: To clarify, the public will be confused and Mr. Buckley will have to bear with me as I try to help the public. People think the OPW manages Garda stations and so on. In some cases it does absorb the full cost of some Departments, then some of the cost of the work it does is absorbed by the line Department, as in this case, by the Department of Justice and Equality. Is there anywhere that we can get a quantum of all the work carried out by the OPW through its own budget and, separately, the work it carries out, for which the costs are met by the Estimates of other Departments?

Mr. Seamus McCarthy: That was the point I made in my opening comments, that there was a total of €84 million of business undertaken by the OPW on an agency basis on behalf of other Departments and semi-State organisations.

Chairman: Is the OPW the contracting authority for this work and is it then reimbursed? Will Mr. Buckley explain how the procedure works?

Mr. Maurice Buckley: There is a mixture of funding models. The OPW would look after existing Garda stations and their maintenance through its own budget but for capital works of any significance the money is provided through the Department of Justice and Equality Vote and we are the contracting authority.

Chairman: The OPW is the contracting authority to carry out the work. Is the office reimbursed? How does the system work in layman's English?

Mr. Maurice Buckley: I will call in one of my colleagues to explain how the mechanics of it work.

Chairman: Who writes the cheque for the contractor?

Mr. Mick Long: The OPW writes the cheque and is reimbursed or recoups it from the client. They are allied services provided on a free-of-charge basis to other Departments, or an agency service.

Chairman: Is Mr. Buckley satisfied that the OPW can meet the June 2019 deadline to have

these Garda stations opened? Has the OPW gone to tender or finalised tender documents?

Mr. Maurice Buckley: The procurement process and the works process are being managed at the moment but we have been in discussion with the Department of Justice and Equality about an envelope of €2.5 million to fund the works and that is in train.

Chairman: Is that for Stepside?

Mr. Maurice Buckley: It is for the six Garda stations.

Chairman: The OPW must have an approximate breakdown of costs for the six stations. The only reason I ask is that the committee has done a special report on this issue and I am following through on that. Does Mr. Buckley have a breakdown of the €2.5 million, approximately, between the six stations?

Mr. Maurice Buckley: It would only be an estimate because as the Chairman mentioned-----

Chairman: Yes, is there an estimate of this? We are not tying Mr. Buckley to the nearest thousand euro. Does he have an idea?

Mr. Maurice Buckley: Maybe €1.5 million would be an estimate for the Stepside station. I did point out that we were considering a modular approach and in recent months the dialogue has changed to the possibility, which we welcome, of integrating the Garda requirement in the existing Stepside building. I have not seen the impact of that on the budget. It might be a little less. I do not think it will cost more but it is certainly in the long-term benefit of the State to be working on an existing building rather than on something outside that and €1.5 million would be a good ballpark figure there.

Chairman: I am not tying Mr. Buckley to that figure. We understand that it is only an estimate but at least we now have an approximate indication of the cost. Stepside Garda station is the biggest cost element of the six Garda stations.

Mr. Maurice Buckley: Yes, there is more work to be done on that Garda station than on the other ones.

Chairman: I raised this because we reported on this at the beginning of the year. Mr. Buckley is the first person to give a proper response to the committee's report issued last January and I thank him for that. It is a pity somebody else did not give us that information in the meantime. It is good to have it now.

At this stage I want to resume what should be our normal business for our lead speakers.

Deputy Jonathan O'Brien: I read some of the reports yesterday about Miesian Plaza and could not believe what I was reading, particularly about the business case that was required under the public spending code. Would Mr. Buckley not agree that there were some major omissions in that?

Mr. Maurice Buckley: Yes, I would agree that the process was not followed properly. The Comptroller and Auditor General has made a recommendation to that effect in the report which we have accepted.

Deputy Jonathan O'Brien: There is not being followed properly and there is making a complete hames of it. There is no evidence of a detailed consideration of other options and

no cost-effectiveness analysis. No economic appraisal was carried out. There was no consideration of the lease, buy or build options. There is no evidence that the full costs of leasing Miesian Plaza were identified and evaluated, specifically fit-out costs, furniture, maintenance costs, operating costs, value added tax, VAT, and the cost of OPW staff involved in the project. The risks associated with the project were not set out. Issues arose with regard to agreeing the client Departments' accommodation needs and the effect on a practical completion date. All these matters were missing from the business case.

Mr. Maurice Buckley: As I said, I agreed the documentation is not as it should be and we have taken steps to rectify that. The content, however, and the management of the project I would defend. We did consider alternative options for the building and other options completely, other than renting a building. It was a balance of all the criteria and, from what I have seen of the internal processes, that was done very thoroughly and professionally but what fell down was the proper documentation and recording of that in the way that it should be done. As a Civil Service body, we accept it should be done in compliance with the best practice of the Department of Public Expenditure and Reform.

Deputy Jonathan O'Brien: What alternatives were considered? I know the Comptroller and Auditor General identifies two alternatives.

Mr. Seamus McCarthy: The OPW explained to us that two had been considered.

Deputy Jonathan O'Brien: Were only two options considered or were there more that the Comptroller and Auditor General is not aware of?

Mr. Maurice Buckley: We certainly would have done a trawl of the marketplace more than once to see what properties were on the market but the two that were explored in some detail were the former Central Bank headquarters in Dame Street and a building on St. Stephen's Green. For different reasons, some of which are mentioned in the report, neither was feasible or as cost-effective or attractive as the option chosen.

Deputy Jonathan O'Brien: Was the OPW board made aware of those other options?

Mr. Maurice Buckley: I was not in the OPW at the time but my understanding is that they were discussed at management board level. I see my colleague nodding-----

Deputy Jonathan O'Brien: That is confirmed. The board was made aware. Were they included in the documentation sent to the Department of Public Expenditure and Reform prior to the lease being signed? Was the Department aware of the other options that were considered?

Mr. Maurice Buckley: In the departmental submission, it would certainly have been part of the discussions. I will have to check the situation with regard to the documented submission. I will be able to revert to the Deputy on that in a matter of minutes after my colleagues have checked.

Deputy Jonathan O'Brien: I would appreciate that. I want to know whether documentation was given to the Department. I presume that documentation on the other options that were considered was given to the board of the OPW and it was not simply a question of a discussion having taken place. I assume that a detailed, written report on why the alternatives were not runners was presented to the board.

Mr. Maurice Buckley: There would have been ongoing management board discussions at

that time.

Deputy Jonathan O'Brien: Yes, but apart from the discussions, is there a written, detailed report outlining the other options that were examined and the reasons they were not considered appropriate?

Mr. Maurice Buckley: I will check that with my colleagues, if I may.

Deputy Jonathan O'Brien: That is fine.

Mr. Maurice Buckley: I have in front of me a submission to the OPW board dated 26 January 2016 outlining the full basis of the decision and the basis of the proposal to-----

Deputy Jonathan O'Brien: That is in relation to-----

Mr. Maurice Buckley: This would have been submitted in advance of the proposal being sent to the Department.

Deputy Jonathan O'Brien: That is in relation to Miesian Plaza, but what about the other options that were considered?

Mr. Maurice Buckley: It is not jumping off the page at me here but my colleague tells me that the then chairman would have visited at least one of the other options and the Department-----

Deputy Jonathan O'Brien: I am very glad he visited and I am very glad that there were discussions about it, but I am asking if documentation was given to the OPW board relating to the other options that were looked at, with a business case outlined for not taking up those options. Is there any written documentation supporting that? What documentation was submitted to the Department? Surely there was more than a discussion on this? If other options were being looked at, surely the OPW outlined why they were not feasible and why Miesian Plaza was feasible. Mr. Buckley has said that there is documentation relating to Miesian Plaza and why that option was chosen. Is there documentation explaining why the OPW did not go with any of the other options?

Mr. Maurice Buckley: I will have to check and come back to the Deputy on that in terms of the detail of what documentation was there. The Deputy is asking very specifically for the documentation behind the discussions, so-----

Deputy Jonathan O'Brien: Yes, because without documentation, I cannot do my job. If Mr. Buckley could get that documentation for the committee, I am sure one of my colleagues will follow up on it before I get to come back in again.

The next area I want to look at relates to the identification by the Comptroller and Auditor General of at least one other case concerning leases. We know that in relation to Miesian Plaza, there was a difficulty with how the lease was calculated in terms of floor space and the State ended up paying €344,000 more than it should have. I will come back to that particular project shortly but the Comptroller and Auditor General also identifies at least one other case in Galway where something similar happened at a cost of €141,000. Are there any other cases of which Mr. Buckley is aware, of which the Comptroller and Auditor General and this committee is not aware, where the same thing has happened?

Mr. Maurice Buckley: No.

Deputy Jonathan O'Brien: Is that definite?

Mr. Maurice Buckley: That is definite.

Deputy Jonathan O'Brien: On the Miesian Plaza case and the €344,000, the Comptroller and Auditor General's report says that there are ongoing discussions with the landlord to try to rectify the situation. Will Mr. Buckley provide an update on those discussions and to outline the progress made?

Mr. Maurice Buckley: The discussions are at an early stage because of the sensitivity of the matter. The Comptroller and Auditor General was looking into this and published a report on it. The discussions are ongoing. There has been an exchange of correspondence with the landlord but we have not reached a conclusion yet.

Deputy Jonathan O'Brien: When does the OPW hope to reach a conclusion, because this is costing us money at the moment?

Mr. Maurice Buckley: It is very hard to predict these things. It depends on whether the parties accept that this is a simple discrepancy in the lease that needs to be rectified or whether they contest or dispute that. It is hard to give an exact timeline. We hope that it can be resolved very quickly and we intend to follow through on it-----

Deputy Jonathan O'Brien: Is there a possibility that it may not be resolved?

Mr. Maurice Buckley: I am conscious that I am speaking in a public forum. We are engaged with the landlord and believe that there is a discrepancy that can and should be resolved. I do not know the other party's disposition on the matter and do not want to predicate that dialogue by taking a firm position on it here. I hope the Deputy understands my position.

Deputy Jonathan O'Brien: Yes, but it was the OPW's mistake in the first place, was it not?

Mr. Maurice Buckley: It was an inconsistency in the lease, as presented to the OPW, that was based on a different measurement standard. The OPW fully recognises that it did not pick up on that inconsistency.

Deputy Jonathan O'Brien: It was the OPW's mistake in the first place. Is that correct?

Mr. Maurice Buckley: We should have picked up on that mistake but we did not do so.

Deputy Jonathan O'Brien: As a result, we are now paying €344,000 more than we should be paying.

Mr. Maurice Buckley: As a result, we are in a dialogue with the landlord retrospectively about a lease when obviously that should have been clarified on day one. I would have expected it to be clarified on day one and that would normally be the case. I would be hopeful that-----

Deputy Jonathan O'Brien: We are in negotiations with the landlord to fix the mistakes of the OPW. Is that right?

Mr. Maurice Buckley: It is a question of clarifications to fix the lease. The lease was different from what was agreed and from what was our understanding all through the negotiations, and that has to be clarified. I do not want to use the word "mistake" and I do not want attribute it to the landlord either. It was a very complex, once-off issue involving a change of measurement standard. When one looks back through the file, as I have done-----

Deputy Jonathan O'Brien: It is not a once-off issue. We know that there is another case in Galway where something similar has happened.

Mr. Maurice Buckley: This particular issue is a one-off, involving a change in measurement standard for the buildings. I have gone through the correspondence myself and it is quite clear that there is a degree of confusion, if I may say so, among both parties at that time. That slipped into the lease. It could well be that the confusion was not picked up by either party, but I cannot get into the detail of that dialogue now because that would be unfair.

Deputy Jonathan O'Brien: This is the OPW. Nothing should be slipping into leases.

Mr. Maurice Buckley: Yes.

Deputy Jonathan O'Brien: Would Mr. Buckley accept that nothing should be slipping into leases without the OPW's knowledge?

Mr. Maurice Buckley: Yes, absolutely.

Deputy Jonathan O'Brien: The OPW is responsible for the State's infrastructure. Mr. Buckley is sitting at a meeting of the Committee of Public Accounts and is telling me that something slipped into a lease.

Mr. Maurice Buckley: Yes, I absolutely accept that, as do all of my colleagues. We can trace exactly what happened and how this was not spotted. One would expect the systems that are in place to pick up on such things. One can see quite clearly how the baseline data in our files became incorrect, and once that happened, all the checks and balances which we have in place as the largest property organisation in the State----

Deputy Jonathan O'Brien: The system failed-----

Mr. Maurice Buckley: -----failed to pick up on it.

Deputy Jonathan O'Brien: The system failed in this instance, for this particular project.

Mr. Maurice Buckley: At the tail end of recognising the difference in the measurement standard of the lease as presented at the end of the process, the system failed, yes.

Deputy Jonathan O'Brien: What steps has the OPW taken to ensure that nothing else slips into any future leases?

Mr. Maurice Buckley: We have made a whole series of changes to tighten the existing systems and to introduce new systems to ensure that this cannot happen again.

Deputy Jonathan O'Brien: When do those new systems come into effect?

Mr. Maurice Buckley: Most of them are in place already. We would have realised this point last year during our dialogue with the Comptroller and Auditor General and once the auditor started his work. We immediately assessed how this happened and looked at the checks and balances that we thought we had in place. Like any system, something happens to show a gap and that gap has been addressed. We now have an independent, final check of the lease package at the very end by someone who has not been involved. A lot of this is a case of not seeing the wood for the trees. One can see quite clearly that because of staff resources, because systems we had in place since before the recession had not changed, and because we were trying to cover the same systems with fewer staff, as I mentioned in terms of not seeing the wood

for the trees, a blind spot entered into the control process. Obviously, it should not have and we have put systems in place now so that cannot happen in the future.

Deputy Jonathan O'Brien: I will come back to that, but I want to pick up on something in Mr. Buckley's opening statement. He said:

The Miesian Plaza project experienced problems, including the aforementioned programme overrun [which we are discussing] and an issue relating to the application of a new measurement standard [which we are also discussing].

He then said:

Although these issues serve to lessen the very significant value negotiated, the demonstrable benefits of the overall deal and groundbreaking business transformation outcomes significantly outweigh all other considerations.

Mr. Buckley can correct me if I am wrong but my reading of that is that we made mistakes but the overall benefits outweigh the mistakes. Is that what Mr. Buckley is saying to us?

Mr. Maurice Buckley: I am saying the OPW team took on a big, complex project and in my opinion did a very good job on the project. It was not perfect. There are a number of issues which Deputy Jonathan O'Brien just identified which we would like to have been otherwise but the assessed imbalance-----

Deputy Jonathan O'Brien: Mr. Buckley says it was not perfect. I think it is far from perfect

Mr. Maurice Buckley: If I could just answer the question.

Deputy Jonathan O'Brien: I think it is far from perfect when the Comptroller and Auditor General talks about ineffective expenditure of around €11 million.

Mr. Maurice Buckley: I can come back and address the specific points in detail. I would welcome the opportunity to do so. With the overall project we were pushing on ten different fronts and it worked very well in almost all aspects. There were a number of very important issues, as Deputy Jonathan O'Brien has identified, but that still allows me to say overall-----

Deputy Jonathan O'Brien: Does Mr. Buckley accept the Comptroller and Auditor General's statement that there was ineffective use of €11 million?

Mr. Seamus McCarthy: That is what was used in relation to the period when the building was vacant, but the excess payment on the rent is an additional €10 million.

Deputy Jonathan O'Brien: An additional €10 million is also involved. Does Mr. Buckley know how many hospital beds that €10 million would have opened?

Mr. Maurice Buckley: Absolutely, and what it would have done in the OPW brief. It is €300,000 per year. I do not dismiss the fact that it amounts to €10 million over the 25 years of the term, but even €300,000 would do a lot in the OPW Vote on the heritage side and, as Deputy O'Brien said, in healthcare, education, and other areas. I accept that fully, but I still come back to the same point, namely, overall this was a very good deal and, looked at in the round, the State is better off for having done it and it is also better off financially.

Deputy Jonathan O'Brien: That is a matter of opinion. Is it correct that Miesian Plaza

cannot accommodate all of the staff from both Departments?

Mr. Maurice Buckley: Yes, both Departments have expanded since the project started and not all staff are contained there, but that is evidence in itself of the work that was done to try to organise the building to accommodate the maximum possible number of civil servants. That is part of an explanation which I will give when the time comes in terms of why it took so long. Deputy Jonathan O'Brien can see there was good reason to have that dialogue because we were coming out of a recession and the Departments involved were expanding.

Deputy Jonathan O'Brien: If we keep wasting €10 million, it will not be long before we go back into recession. How much time do I have, Chairman?

Chairman: The Deputy has four minutes left.

Deputy Jonathan O'Brien: On the lease itself, is it unusual that the OPW would not require a rent-free period?

Mr. Maurice Buckley: It varies from lease to lease. In this particular case I think it was a very good negotiation position not to require a rent-free period.

Deputy Jonathan O'Brien: Why?

Mr. Maurice Buckley: We had already agreed that the rent would be reviewed every five years based on the consumer price index, CPI, not on the basis of market rents, which means 1% or 2% depending on how the economy does. The total value of the project is going to be the same. In a good negotiation the developer is going to look for the total amount of money over the period of the project. If we were to take, for example, a one-year, rent-free period, it would mean the rent for the other 24 years would be correspondingly higher. In terms of the rent reviews based on the CPI, each time the index would be applied to a higher figure. We have done some internal calculations that show the State would have lost between €5 million and €6 million had we had a one-year, rent-free period on this lease. Our normal practice is to try to negotiate a rent-free period to allow for the fit-out and everything else, but in this case because of the CPI linkage, the circumstances surrounding the deal and the negotiation, what was beneficial for both parties and what was the best deal that could be obtained, we obtained a deal for roughly 15% below market rent. That was one of the factors in how we could do that.

Deputy Jonathan O'Brien: Is Mr. Buckley saying that roughly €5 million was saved over the lifetime of the lease?

Mr. Maurice Buckley: Yes, that counteracts to some extent some of the other points in terms of the excess costs that have been raised.

Deputy Jonathan O'Brien: We are still making a loss.

Mr. Maurice Buckley: The total cost of the project was around €300 million over the 25 years. At the rent rate we negotiated I would estimate that we saved between €40 million and €50 million to the State, or let us say, we would have saved-----

Deputy Jonathan O'Brien: That is-----

Mr. Maurice Buckley: If I could just explain, because it is a little bit complicated. Had nothing else happened, we would have saved €40 million to €50 million by negotiating a very competitive rent rate on the basis of the different points the Deputy raised. Unfortunately,

because of the measurement issue, which we hope to clarify, but let us say we cannot, that has eaten into that €45,000 saving. The delay in occupying the building, which I would argue was about five to six months, so it is part of the €11 million figure the Deputy mentioned, but it is not the full figure by any means, has also eaten into that saving, but there is still a significant saving.

Deputy Jonathan O'Brien: I appreciate that, but I have limited time. My final question relates to the external consultants employed by the OPW to negotiate the terms of the lease. Was that the case?

Mr. Maurice Buckley: Yes.

Deputy Jonathan O'Brien: Did they conclude that a rent-free period and a lease-break option could be traded for a lower rent? Was that the advice of the external consultants?

Mr. Maurice Buckley: As I understand it, yes. Presumably, it was the consultants, in conjunction with our property management team, which was looking after the project on behalf of the OPW.

Deputy Jonathan O'Brien: The difficulty I have is that we are also being told there was no economic appraisal carried out.

Mr. Maurice Buckley: Yes, that is correct. There was no formal economic appraisal.

Deputy Jonathan O'Brien: How did the OPW know at that time, therefore, or did those involved just take the word of the external consultants? Was documentation provided by the consultants? Did they outline what could happen if the OPW required a rent-free period? Did they provide information on the other options? Was an economic appraisal done and presented to the OPW?

Mr. Maurice Buckley: There is a report from the negotiating consultants outlining the pros and cons of the various options involved.

Deputy Jonathan O'Brien: Would the Committee of Public Accounts be allowed to have a copy of those reports?

Mr. Maurice Buckley: The Comptroller and Auditor General would certainly have seen the report as part of the audit. I would have to check what is in the report, in case there is anything that is commercially sensitive, but if not, I do not see why the report could not be provided to the committee.

Deputy Jonathan O'Brien: Perhaps I am getting the consultants mixed up but if I am sure Mr. Buckley will be quick to correct me. Are they the same consultants the OPW employed on a previous project and then it was decided to give them this project as well? I think they were doing work on the Hawkins House project.

Mr. Maurice Buckley: There is an interlinkage. From our point of view, as a property transaction the two projects are intrinsically linked. While we were moving the Department of Health because of the deteriorating condition of Hawkins House, it also opened up a major redevelopment opportunity to make more efficient use of that property on behalf of the State. The evaluation of one and the other at that time was interlinked.

Deputy Jonathan O'Brien: Is it correct that they were not initially employed to look at the Miesian Plaza project? Is it not correct that they were looking at Hawkins House? Is it also not

correct that the OPW then decided to extend it and give them the additional space and it did not look for any expertise but just decided to go with this particular consultant?

Mr. Maurice Buckley: I believe that to be correct. With the time that was involved and the fact that the projects were linked I believe that to be the sequence of events.

Deputy Jonathan O'Brien: Would the OPW do that differently now given the figure of €325 million over five years which is under discussion here?

Mr. Maurice Buckley: No. I have to say again that it was very innovative and good that unusually this particular deal was negotiated without a rent free period and a break clause which were in the State's interest. To use those to trade for an attractive rent term was a job well done. Unless there is a procurement issue I would not wish to change the negotiation of that lease. The issues we referred to earlier happened later in the project.

Deputy Jonathan O'Brien: On the procurement issues, can the Comptroller and Auditor General confirm whether it is okay in terms of procurement rules to hire an external consultant for one job and then tack on an additional one?

Mr. Seamus McCarthy: I do not have any particular difficulty with it given the scale of the expenditure there. Normally it would be expected that the OPW would have drawdown contracts to be able to commission those kind of exercises so from a procurement point of view it may not have cost any more had it been done another way.

Deputy Jonathan O'Brien: I thank the Chair. I will come back in on the second round.

Chairman: To follow up on one point, who spotted that the wrong measure was being used? The Comptroller and Auditor General mentioned-----

Mr. Seamus McCarthy: One of my staff members.

Chairman: I am looking at paragraph 6.21 of this report on page 67 and it reads as follows:

In finalising the lease, the issue of the different measurement bases was considered. When reviewing the lease, the Chief State Solicitor's Office (CSSO) requested OPW to confirm with its in-house valuer whether IPMS was the appropriate standard for measurement in this case.

After all of this, the Comptroller and Auditor General is telling me that the OPW never even spotted the problem. This report indicates that it might have been the Chief State Solicitor's Office and-----

Mr. Seamus McCarthy: It spotted it and the potential for a problem and it alerted the OPW.

Chairman: We are in a situation where the OPW are the people looking after the State's assets, leases and property and nobody in the organisation spotted this. It took the legal people who-----

(Interruptions).

Chairman: Just let me finish.

Deputy Marc MacSharry: This helps the Chair. On paragraph 6.21 of the report that has been given to us it states that the OPW then sought advice of the internal chartered surveyor who advised that it needed to be recalibrated. Internal people did advise the witnesses but they just did not act on that advice, is that correct?

Chairman: The witnesses were made aware of this internally. The OPW apparently then ignored that advice and then the Chief State Solicitor's Office said there was an issue. How many people have to tell the witnesses there is a problem before they accept it?

Mr. Maurice Buckley: I would not use the word "ignore" as that was not the case, but the issue was raised and questioned by several internal staff and the Chief State Solicitor's Office around the end of the summer or the beginning of the autumn of 2017. Questions were asked about the measurement standard used and they were answered-----

Chairman: This was after the lease was signed.

Mr. Maurice Buckley: The questions were asked and answered but the implications of the change of the measurement process were not captured in that series of questions and answers at that time. That is where the problem arose because once that was set in stone, a wrong understanding had crept into the file and that is why from that point on when the lease was being finalised it was missed by the checks because they were checking against wrong information.

Chairman: The Chief State Solicitor's Office requested that the OPW check it out.

Mr. Maurice Buckley: Yes.

Chairman: At what stage was that? Was that before the lease was signed or later on?

Mr. Maurice Buckley: That was around August or September of 2017 when the lease-----

Chairman: The lease had been signed already.

Mr. Maurice Buckley: No I am a year out it was August to September of 2016 so the lease was signed in January 2017-----

Chairman: Mr. Buckley is now telling us that this issue was well known for almost 12 months before the contract was signed. This issue was there from August 2016 and when was the lease signed?

Mr. Maurice Buckley: The lease was approved in January 2017 and it was finally legally sealed in-----

Chairman: This was well known for six months.

Deputy Jonathan O'Brien: The payments started in December.

Mr. Maurice Buckley: I was just about to say that we were aware of the issue right from the beginning. The committee will have to allow me to explain because it is a little bit complicated, but it is important that I explain it. In 2016, first of all the Royal Institution of Chartered Surveyors introduced the international property measurement standard 3, IPMS 3, standard and it was mandatory for its members in the UK and worldwide from January 2016. The corresponding adoption in Ireland by the Society of Chartered Surveyors Ireland was one month later and it was mandatory for chartered surveyors to use this new code from February 2016. It must be understood that the Miesian Plaza transaction was just in full swing at this stage. The terms

had been negotiated under the old system and there was a discussion and an agreement. The agreement is where the confusion arises. The agreement was that the final lease documentation should be based on floor area measured to the new IPMS 3 standard. Where the confusion arises is that what was not picked up on early enough were the implications that might have for the rent rate and the lease value. In the normal run of events-----

Chairman: That was obvious. The OPW should have changed the amount of square metres involved. The concept of saying the implications of changing the square metres of what was being rented was not realised is obvious.

Deputy Jonathan O'Brien: It crept or slipped in.

Mr. Maurice Buckley: If I may explain that - I refer to the relevant chapter in the report and paragraph 15, 6.15 - we started the process with an indicative area of 13,293 sq. m for the office accommodation. That was the figure in circulation at the time of the negotiation. That was based on marketing material and an assessment of the area based on drawings. This was a renovated building.

Deputy Alan Farrell: Did the OPW do due diligence on that?

Mr. Maurice Buckley: We did. This was a point I was trying to explain.

Deputy Alan Farrell: It clearly did not. It would have been spotted a year before the contract was signed if it had.

Mr. Maurice Buckley: If I can explain to answer the question.

Chairman: We are only interested in this one point because it appears to me that even though the OPW was aware of it, it carried on regardless and it took the CSSO really querying it to-----

Mr. Seamus McCarthy: They were doing the due diligence on the contract.

Chairman: These are people who are not property experts. They are the OPW's professional legal advisers and the Comptroller and Auditor General probably calculated the extra cost. In fact I do not know who calculated it. When was it calculated and by whom?

Mr. Seamus McCarthy: We calculated that.

Chairman: Why did the OPW not calculate it when it became aware of the situation? The onus should be on the OPW to calculate the correct-----

Mr. Maurice Buckley: We did and we engaged with the developer as soon as we were aware of the issue-----

Chairman: The Comptroller and Auditor General said that he calculated the potential extra cost to the Exchequer.

Mr. Maurice Buckley: In fairness that is the-----

Chairman: That is an independent office. The OPW cannot rely on the Comptroller and Auditor General to do the OPW's work.

Mr. Maurice Buckley: Once the issue was identified-----

Deputy Alan Farrell: What date was that identified?

Mr. Maurice Buckley: That would have been in conjunction with the audit-----

Mr. Seamus McCarthy: It was April this year.

Chairman: Mr. Buckley just said that these standards were in operation from February 2016. That was two years ago.

Mr. Maurice Buckley: Yes and believe it or not-----

Chairman: We do not believe it, Mr. Buckley can take it as a “not”. Go on.

Mr. Maurice Buckley: I will say it anyway because it is correct. Despite the efforts of the Society of Chartered Surveyors Ireland, the new standard is still not widely accepted and used in the Irish market. It takes a long time because long negotiations, long leases etc. are being dealt with. The OPW has the attitude of being once bitten twice shy and is very much on top of this issue but in the wider property market in Dublin and Ireland I would say that it is still causing confusion left, right and centre.

To finish the point I was making, I am not a property expert but my colleagues are and I would have thought that the square metres should be constant because a building is a building but it actually changes from what is measured in the drawing to what is finally measured on site. That measurement only took place in December 2016. All of this dialogue and querying between my staff and the CSSO had already happened and then the measurement took place and there was a difference between the physical measurement and the drawing measurement of about 3.5% in area, as happens sometimes, on the old standard. We are used to dealing with that standard and it was negotiated through. At the same time, the same measurement specialist measured the building under the international property measurement standard, IPMS 3. Normally, we would not expect a modern open-plan office block to be much different. Normally, it would be negligible but in this case because it was a renovated building it was actually quite significant. It was in the order of 3% to 4%. That is the point at which this went astray.

Chairman: The OPW measured it after the renovations. Is that correct?

Mr. Maurice Buckley: We measured it after the renovation. It can only be measured-----

Chairman: Who did the renovations? Was it the OPW?

Mr. Maurice Buckley: No, the landlord would have done that.

Chairman: What was the renovation? Was it to put in additional insulation and thus make every room smaller?

Mr. Maurice Buckley: No, it was quite extensive. The building was almost taken apart. The full façade was moved. The block was extended. There are three blocks.

Chairman: There was an extension to the building that we are hearing about now and it might have added to the increase. Is that accurate?

Mr. Maurice Buckley: The building was essentially, in layman’s terms, almost dismantled. It was extended to some extent and reduced in size and built again to the very highest standard.

Chairman: I am going to move on.

Deputy Alan Farrell: Was it extended or not? We need to know. I am not asking in layman's terms but in actual terms.

Chairman: One speaker at a time, please.

Deputy Alan Farrell: Sorry, it is a pertinent point. With respect to Mr. Buckley, the question is: "Was it extended or not?" It is not a layman's term.

Chairman: Mr. Buckley used the word "extension"

Mr. Maurice Buckley: Yes, I have.

Deputy Alan Farrell: It is not a layman's term. Either it was or it was not.

Mr. Maurice Buckley: The building was completely refurbished. I hope I am not wrong on this point, but the width of the building altered. As part of that refurbishment, those responsible extended the building by a couple of metres to make better use of space.

Deputy Alan Farrell: That is a material change to the fabric of the building and, therefore, the contract changes.

Mr. Maurice Buckley: No, sorry. This would all have been done and planned before the negotiation ever started. I am probably confusing everyone now. I am sorry about that.

Chairman: It appears to me that the only reason for the resolution or bringing this to a head was through the actions of the Chief State Solicitor's Office and the Comptroller and Auditor General.

Deputy Marc MacSharry: In fairness, we have it in writing. This is what I tried to say to Mr. Buckley. We have it in writing that, in February 2017, one of his own people advised him. That is what we have in writing. Is that the case or not? That is the question. The Chief State Solicitor's Office acted. The reason we are here today is that, in February 2017, Mr. Buckley was advised by one of his own people that the OPW were going to need to recalibrate this and OPW was about to make a mistake. Is that not the case?

Mr. Maurice Buckley: I think I have already explained-----

Deputy Marc MacSharry: With respect, I do not think Mr. Buckley has explained it. We have been half an hour talking about how Larry Goodman did up the building before he offered it to the OPW. We know that. Let us get underneath that. Mr. Buckley has said he is not a property expert and that his colleagues are.

Chairman: The point is made. I am probably eating into the time of Deputy Cassells and other members at this stage. I want to move on to the other members, in fairness.

Deputy Shane Cassells: I welcome the witnesses. I will start with chapter 6 of the report of the Comptroller and Auditor General on the Miesian Plaza offices for the Departments of Health and Children and Youth Affairs. The answers thus far have been insightful. These offices lay vacant for 18 months at a cost of €11 million. It was far from a good deal overall. That is not even with the basin point in the public sphere. I have one question. Can we have the €11 million back please? It is a simple straightforward question. Can we have the €11 million that the OPW squandered back?

Mr. Maurice Buckley: There is a delay. There is a period between December 2016, when

the rent payment started for the building, and the occupancy of the building, as set out in the report, in April or May of 2018. There was 15 months. That period needs to be understood properly and it has not been as of yet. No matter what tenants do in a new building, they have to take possession of the building before they can fit out that building for whatever reason they want to use it. We could not commence any work related to the OPW or client Department occupation of that building until we had possession of it.

Deputy Shane Cassells: We are going to get into that.

Mr. Maurice Buckley: It is important. I must explain it now. It was referenced in the introduction from the Comptroller and Auditor General and in my introduction. The fit-out of a building this complex takes in the region of ten months. There was always going to be a ten-month period with no one in the building when our builders were, as quickly and efficiently as possible, preparing the building for occupation. When we get it, it is a shell or core and it is basic. It is the same as anything else. There was a delay – I am not saying there was no delay – but we must put a perspective on this. We needed approval to start the contractor on the fit-out in January 2017 as soon as we had possession. We were not able to give the go-ahead to the developer until July 2017 because we did not have sufficient agreement between the OPW and the client Departments. That is a six-month delay. We are renting the building for €10 million per year, so that is €5 million gross, and, if we take away VAT that is €4 million. One could attribute €4 million to the delay.

Deputy Shane Cassells: That is Mr. Buckley’s claim. The constitutional officer of the State has said €11 million. The answer is “No”. The two words Mr. Buckley has used are “not compatible”. He also used the term, “quickly and efficiently”. Then in the following breath, he said there was a delay. They are not compatible. The answer to what Mr. Buckley has said is “No”.

That is my frustration with this situation and with so many other public bodies that come before the committee having squandered public money. The attitude is that they will hunker down, maybe say “Sorry” and get a rap on the knuckles. Then they are out the door until next year and life goes on. It goes on for the OPW but it does not go on as normal for thousands of our citizens because of OPW’s actions. We do not talk about this enough. More specifically, as the Comptroller and Auditor General pointed out, there was a lack of action and failure to act. I have a hostel in my home town of Navan, close to the OPW headquarters in Trim, that has vacant sites. I am repeatedly told there is no money to provide that. I can tell Mr. Buckley that €11 million would do a good deal for that. I have a Garda chief superintendent who is looking for a divisional headquarters in Meath but there is no progress on that or even a straight answer from the OPW in respect of the site acquisition for that. The impact of the people in the OPW flitting away €11 million has consequences for whether money being available for services that the public desperately need.

Mr. Buckley has come before the committee and his statement referred to how there was a difficult journey to bring everyone along and how it undoubtedly caused delays. It was a difficult journey. Mr. Buckley should note they were not carrying their crosses to Golgotha; they were going from Hawkins House to Baggot Street. The fact is that rows were documented in the report about open-plan space, who would have an office or whether the water cooler would go in a given corner. That resulted in €11 million of ineffective expenditure. It is a complete and utter scandal. The attempt to say before the committee that it was a good deal is inexcusable.

Since there is ineffective expenditure on a grand scale at this level, the culture seeps down throughout the organisation. We have seen it with other bodies here and it has happened here as well. I will ask Mr. Buckley one more time about this deal. Is he seriously saying that this is a good deal that he is prepared to stand over?

Mr. Maurice Buckley: As I have explained, in the round this is a good deal and I do stand over it. I have also explained that we accept that it was not possible to conclude the planning of the occupation of the building more quickly. I said in my opening statement that we regret it and I think everyone does. That delay or overrun has cost approximately €4 million and not €11 million; I dispute that assertion. Any delay or cost is unacceptable. It does not matter if the cost was €40,000; it would still be unacceptable.

We have to look at the time available for what is a major business process change. I do not accept that it is anything to do with the distance between the two buildings. It has a great deal to do with the nature of the buildings. We are comparing a 1962 building, Hawkins House, with old-fashioned modular offices and a Department that has learned to do a good job in those circumstances. The Department adapted all its business circumstances and processes accordingly. Miesian Plaza is a far more modern office, but it does not simply happen overnight. One cannot simply move from one to the other. Every detail has to be adjusted and adapted. There is a process in place and there is a time for it.

Deputy Shane Cassells: I want to discuss that process and what the Comptroller and Auditor General had to say. Page 2 of the report refers to a significant commitment of public funds. Why were there no documents detailing the risks associated with what Mr. Buckley has said was a significant project and a difficult journey? It is not the first time we have had bodies before the committee with no documentation corresponding to the claims made. At Christmas in 2016 we had NAMA in the same scenario. Can Mr. Buckley take me through why there is no documentation in respect of what was to be anticipated?

Mr. Maurice Buckley: I agree with the Deputy completely on the risk assessment for this and the other project. It needs to be made much more thoroughly and better documented. We have introduced systems since that time to do it in a more formal way. I put much value on that because it is the modern way of running businesses.

On the business case and the assessments made, they are also important. We followed the procedures of the Department of Public Expenditure and Reform. That is no excuse, but it is an explanation. The property market is dynamic at any one time. One does not have the ten or 15 options one might have in some other projects and has to move quickly. That is not an excuse, as we must still engage in the process. However, sometimes it has to be expedited to cover all of these matters.

Deputy Shane Cassells: Mr. Buckley referred to problems in the planning process. Will he take me through it?

Let us take the timeline in chapter 6.5 of the report of the Comptroller and Auditor General on the interaction between Mr. Buckley's office and the Secretary General in the Department of Health and the issues which arose from 2016 onwards. A red flag was raised in October 2016 when the Secretary General wrote to the chairman of the OPW stating that, based on the plans provided, the Department of Health could not at that stage proceed with the relocation. Chapter 6.46 of the report of the Comptroller and Auditor General states: "The main issues were in relation to the open plan working environment and the allocation of open plan workstations to

assistant principal officers, who at that time were accommodated in individual cellular offices in Hawkins House”. Will Mr. Buckley take me through the timeline of when all of these red flags were being raised in the build-up to the negotiations, the lease and so forth?

Mr. Maurice Buckley: During 2016 there was an intensive continual interaction between the OPW, the Department of Health and the Department of Children and Youth Affairs. The interaction revolved around the points mentioned. They were the critical building differences which would result in business process differences. In fairness to the Departments involved, they accepted early on that, in the nature of the building move, it would not be possible or correct to provide cellular offices for the same number of people or anything like it, as was the case in Hawkins House. The Departments agreed with the OPW that it was a big change and step forward for the public sector in general that a particular grade, the assistant principal officer grade, would be housed in open plan office space in Miesian Plaza. It was the first time it had been done on a large scale in the Civil Service or the public sector. It was at a time when we were recovering from a recession, dealing with a clawback under the Haddington Road agreement, while the Department of Health was dealing with issue after issue in managing the health service. We took on those issues, but it was difficult and took much negotiation during the year. I saw some difficult periods when people were trying to do their best in the public interest in representing different bodies. It was not just about staffing issues. It was also about management being sure its system could be run. We could not risk jeopardising the work of the Department of Health in the move. If it could not function properly for even one month, can one think of the devastation it would have caused?

Deputy Shane Cassells: I want to get into those issues. There were many issues at the time. People were losing their jobs and whether they were in a cellular or open plan office was not their concern. I acknowledge that in December 2016 Mr. Buckley initiated meetings to resolve the ongoing issues.

Chapter 6.41 of the report of the Comptroller and Auditor General states the “OPW has a directive power in relation to civil service office accommodation [but] it did not exercise that power in this case”. That is an important point that I would like Mr. Buckley to consider. The Comptroller and Auditor General stated the OPW did not exercise that power because it felt “far more effective when engaging with client Departments in relation to office relocations” and “that directive powers are useful in certain situations but are a ‘blunt instrument’ and ... would not have dealt with the complete culture change associated with a move from ‘cellular’ to open plan layouts”. In his opening statement Mr. Buckley stated: “In the OPW’s experience, it is quite common that staff ... considerations trump those relating to the physical building itself”. What stage does it have to reach for the protection of the take from the public purse to trump the feelings of the people discommoded by having to look at someone across a desk, rather than being in an office? That goes to the heart of what Mr. Buckley said in his statement and the fact that he had powers at his discretion to bypass all of this nonsense of whether guys’ feelings were out of check because they were moving from a cellular to an open plan office. Modern companies do this all of the time. It is extremely frustrating to think the public service cannot adapt in the same fashion and that the net result was a loss of €11 million. No private company would even countenance such a scenario. A private company would tell its employees that they would not have a job the following morning if they did not get over their feelings. At what stage does protection of the public purse trump the ineffective use of money?

Mr. Maurice Buckley: The public sector can adapt and is adapting.

Deputy Shane Cassells: Not from this evidence.

Mr. Maurice Buckley: As I mentioned in my opening statement, it is about staff and business processes. I have put the emphasis on business processes. They have to work right and do. Let us look at the evidence. The staff are now in the building. All four Departments are reporting that it is effective and that they are seeing improvements in the climate in which they can do their business. They believe that, in time, they will see definite benefits in productivity and efficiency. It takes time in both the private sector and the public sector. My background is in the private sector. I have made several moves and they are planned several years ahead. The technology and processes have to be put in place. I am not saying staff are not important, but they are part of it. A body like a Department is nothing else but the staff in it. They are the people who are writing the policies. However, the business process has to work. Some are paper-based but will be IT-based. Teamwork, collegiality, the use of meeting rooms and the way we interact with visitors are different in a different environment. It takes a little time. There was engagement over two years, but it could only become intense once we had clear visibility of the type of building into which we were moving. We have put steps in place to assist our clients and ourselves in managing it and in order that we can tackle these issues more quickly, but it is always going to take some time. The 18 months it took in this case was not a bad result.

Deputy Shane Cassells: In October 2016 the Secretary General wrote to the chairman of the OPW stating the Department of Health could not proceed. In the following March the Department had still not agreed the layout of common areas in offices. This goes to the heart of the matter. There was the wrong attitude. What is the situation pertaining to the fact that not all of the staff from the Department of Children and Youth affairs can be accommodated there?

Mr. Maurice Buckley: Any relocation project takes quite a while to complete from beginning to end. We must pick a number on which we plan the business. In this case, we worked with the Departments and the numbers of staff they had at the time the project started. We allowed for a certain degree of expansion, say, 5% or 10%. We are in the business of providing accommodation, not empty buildings. We were certainly concerned, but there was dialogue because, credibly, the two Departments foresaw their numbers growing. However, it is not our role to predict numbers in a Department. That is the job of Government. We dealt with the information available to us. It would be lovely if we had 100% of the two Departments in but 95% of both of them are in. There are certainly areas within both Departments where, at least on a temporary basis for a number of years, we can accommodate people at a second location but by and large, the core functions of both Departments are side by side in an efficient work structure. That is a success. I would be more worried if the Deputy asked me why there are 50 empty desks in that building.

Deputy Shane Cassells: I acknowledge that the OPW came to this process at the mid point but I find the whole thing disheartening. The Comptroller and Auditor General has spoken about the ineffective use of €11 million. Mr. Buckley has said that it was a good deal and is arguing the toss about whether it was €11 million or €4 million. It has real consequences for the lives of real people and that, ultimately, is what is so disheartening about this.

Deputy Catherine Connolly: Cuireann an easpa ban iontas orm i gcónaí.

Mr. Maurice Buckley: Go raibh maith agat.

Deputy Catherine Connolly: Níl a fhios agam an cheart “go raibh maith agat” a rá mar fhreagra ar an easpa ban, ach is rud eile é sin. I am looking at the spending review from the Department of Public Expenditure and Reform. It is a very good overview. I am not too sure about the conclusions. I wish I was here looking at the OPW in respect of the very important

work it carries out. It looks after over 2,000 buildings and flood prevention and relief, which are extremely important. I am going home tonight to a city threatened by a storm and possible flooding. I really wish we were doing that. I have always had the greatest respect for the OPW on the ground. It is an extremely important Department so I really regret that we are now mired in this. It is really putting forward the wrong view of the OPW whose role is essential in any functioning democracy. It is responsible for 2,000 buildings. I wish we were here looking at what the OPW feels or how it is implementing Government policy in respect of the colossal spend on rents - €96 million per year. I do not mean to be disrespectful in any way but the OPW should have as an addendum “the Office of Public Rents” because we are now in the market and are actively colluding with high rents in a market. These are just my general comments.

I return to the specifics and I hope I have a chance this afternoon to return to the many aspects I would like to address such as flood risk. In respect of the report, we are here today because the Comptroller and Auditor General produced this full document. Unfortunately, the OPW’s handling of the Miesian Plaza affair gets an entire chapter, which is very unusual. I have read the chapter and the comments on it. I have read everything at this point. One could have a sense of being overwhelmed. I will deal first with the problem relating to the extra €300,000 per year as a result of miscalculations. It reminds me of when NAMA came before us and the debate was pushed into what was the appropriate percentage to use, which is not really relevant. What has happened here is that there was a negotiated rent based on certain measurements - net internal space or something like that - and an agreement was reached. The OPW then had to use other measurements that were introduced in January 2016 that should have resulted in the rent being recalibrated.

Mr. Maurice Buckley: The same rent.

Deputy Catherine Connolly: No, recalibrated in terms of the new measurements. I will go to paragraph 21. It is not the way Mr. Buckley is telling it; it was actually brought to his attention. If we look at paragraph 6.21, we can see that it was clearly brought to Mr. Buckley’s attention. Paragraph 6.21 states that “in finalising the lease, the issue of the different measurement bases was considered.” It states that before the lease was finalised, the Chief State Solicitor’s Office requested the OPW to confirm with its in-house valuer whether the new measurement was the appropriate standard for measurement in this case. This is black and white. The paragraph goes on to state that the OPW then sought advice from one of its internal chartered surveyors who advised that if measurement under the new IPMS code resulted in a larger reported area, the OPW should ensure that the rate per m2 is recalibrated. Is that not right?

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: The OPW failed to do that.

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: Mr. Buckley has said that openly. Second, there is no confusion here with regard to extra space or the office being extended. No office was extended. It was the exact same building. It involved a different type of measurement but the overall area was the same.

Mr. Maurice Buckley: The building was the same.

Deputy Catherine Connolly: And the overall area was the same. It just involved a recalibration of how to do it per square metre or square foot. That is all. There was no extra space.

It was about whether the pillars were included or things like that. Is that not right?

Mr. Maurice Buckley: There were two steps.

Deputy Catherine Connolly: No message is to go out here that there was confusion over extra space. There was no extra space. It was the exact same building - just a different way of measuring. The OPW did not recalibrate. It was advised to do so but it did not do so. The OPW did not discover that; the Office of the Comptroller and Auditor General did. Is that not right? The OPW's internal processes did not discover that - yes or no?

Mr. Maurice Buckley: We did. My colleagues tell me that the initial point was discussed-----

Deputy Catherine Connolly: Which colleague will tell me when this was discovered before the Comptroller and Auditor General discovered it?

Mr. Martin Bourke: I commenced in the OPW in September 2017. There was a lot of talk about Miesian Plaza and the project - mainly in the media. At the end of 2017, I asked about it just to bring myself up to speed.

Deputy Catherine Connolly: What is Mr. Bourke's role?

Mr. Martin Bourke: I am head of estate management. I asked that an internal review would commence on the project - mainly to bring me up to speed.

Deputy Catherine Connolly: When did Mr. Bourke ask for that?

Mr. Martin Bourke: In November 2017.

Deputy Catherine Connolly: What alerted him to look for an internal review?

Mr. Martin Bourke: There was a lot of talk, particularly in the media, about Miesian Plaza and delays.

Deputy Catherine Connolly: Where or how did the Comptroller and Auditor General become aware of this?

Mr. Seamus McCarthy: In examining the documentation around Miesian Plaza.

Deputy Catherine Connolly: When was that?

Mr. Seamus McCarthy: It was around April of this year.

Mr. Martin Bourke: Around that time, in May 2018, there was a first draft of the-----

Deputy Catherine Connolly: Mr. Bourke came in as a new person?

Mr. Martin Bourke: Yes.

Deputy Catherine Connolly: As head of estate management.

Mr. Martin Bourke: A new role.

Deputy Catherine Connolly: It was the media that alerted him to something being wrong.

Mr. Martin Bourke: There was a lot of talk.

Deputy Catherine Connolly: So it was the media that alerted him. It was not the OPW's internal controls that alerted him. It was the media.

Mr. Martin Bourke: And in-house discussions.

Deputy Catherine Connolly: The OPW's internal controls did not alert him that something was wrong and that a mistake had been made?

Mr. Martin Bourke: On the specific issue of measurement, the answer is "No".

Deputy Catherine Connolly: Mr. Buckley spoke about this being a flagship building. I disagree with him and think that he should not have included that in his statement. What I would like have to seen in his statement were the issues outlined by the Comptroller and Auditor General - certainly the major issues with the figures being one of them. It would have been very easy for Mr. Buckley to do that rather than telling us it was a flagship building. It is not relevant in terms of the mistakes that were made and the cost to the taxpayer of €11 million and an ongoing €300,000 or something like it per year.

The next issue concerns the internal controls. The Comptroller and Auditor General looked at 20 samples. Of those 20 samples, he discovered a building in Galway. Is Mr. Buckley at liberty to name that building?

Mr. Maurice Buckley: It is an office building in Eyre Square in Galway.

Deputy Catherine Connolly: Which one?

Mr. Maurice Buckley: Fairgreen.

Deputy Catherine Connolly: Is it the Intreo office?

Mr. Maurice Buckley: It is a Revenue building. Revenue is occupying it.

Deputy Catherine Connolly: Is that the Department of Social Protection and Revenue or is it just Revenue around the corner? Mr. Buckley does not know. I might come back with specific questions separate from that. It is interesting because that building remained empty for a very long time. It was to be a flagship building in Galway with new modern hubs but it remained empty. Suddenly it was rescued by State rents over a process. State rents have rescued a building in Galway. Social welfare is at one end and Revenue is at the other. It is a story for another day because it should have become a public building. It is now privately rented. This is what I would love to be discussing today but I have run out of time. We are now renting a building that should have been publicly acquired because there should have been a return to the taxpayer in Galway. Again, there was a problem. It was not a recalibration problem and it was not a measurement problem. What was the problem here?

Mr. Maurice Buckley: Again, that is being checked by my colleagues. As I understand it, from the report, the lease was closed on the basis of a gross internal area whereas the files referenced a net internal area. There is a very incomplete record as to which was correct.

Deputy Catherine Connolly: So it was a matter of net and gross.

Mr. Maurice Buckley: Net and gross comprise a different matter.

Deputy Catherine Connolly: Just one second. It was not a matter of two different measurements, but internal measurements – net and gross. As a result, extra money was also paid

out on the rent. Is that it?

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: Was that discovered by the Office of the Comptroller and Auditor General?

Mr. Maurice Buckley: No, we were aware of that ourselves internally.

Deputy Catherine Connolly: I think that arose from a sample of 20 cases that the Comptroller and Auditor General looked at. Did it not?

Mr. Seamus McCarthy: We certainly did a piece of work and identified that as a problem in that case.

Deputy Catherine Connolly: Was the Office of the Comptroller and Auditor General alerted to that by the OPW or did it discover it in the course of its work?

Mr. Maurice Buckley: We were aware of that already.

Deputy Catherine Connolly: My question is to the Comptroller and Auditor General.

Mr. Seamus McCarthy: We found an OPW document that had a reference to it.

Deputy Catherine Connolly: What does “reference” mean?

Mr. Seamus McCarthy: It referenced the incorrect measurement having been applied.

Deputy Catherine Connolly: Then the Comptroller and Auditor General identified the extent of that mistake.

Mr. Seamus McCarthy: No. The figure was actually calculated by the OPW.

Deputy Catherine Connolly: How did the OPW discover it?

Mr. Maurice Buckley: We picked up on it ourselves. The Comptroller and Auditor General would have seen records in the file in which it will have been seen that the issue was already queried internally.

Deputy Catherine Connolly: How did that happen? What process brought it up?

Mr. Maurice Buckley: It relates back to 2003. I do not have the actual chronology of the events.

Deputy Catherine Connolly: Could I have a chronology of what exactly happened in respect of the building in terms of the mistake made?

Mr. Maurice Buckley: Yes. I have asked for that already.

Deputy Catherine Connolly: Has the OPW commissioned an independent review?

Mr. Maurice Buckley: An independent review of what?

Deputy Catherine Connolly: I do not know. That is what I am asking. Has the OPW commissioned an independent review into what happened?

Mr. Maurice Buckley: We commissioned, as Mr. Bourke explained, an independent review of the Miesian Plaza project.

Deputy Catherine Connolly: What is the current position?

Mr. Maurice Buckley: That is well advanced. It is looking at all aspects-----

Deputy Catherine Connolly: No, tell me. When will it be published? Who did it? I saw somewhere that it was to be published in September. This is October.

Mr. Maurice Buckley: To be finished in September.

Mr. Martin Bourke: It is very close to completion. I would hope that by the end of this month-----

Deputy Catherine Connolly: Do not mind hope, now. What terms were set when the independent review was commissioned?

Mr. Martin Bourke: It was to look at the facts of the case and to report back.

Deputy Catherine Connolly: Who is doing that?

Mr. Martin Bourke: It is a combination of an external person and an internal person. We have set up, as part of our new procedures, a governance structure, involving a governance person who has responsibility for looking at all aspects of governance in the OPW and monitoring adherence to the likes of the public service spending code, etc.

Deputy Catherine Connolly: Please. Bearing in mind that there is to be an external review, an independent review, it is not quite independent.

Mr. Martin Bourke: There is an external person. There are two people - a governance person from inside and an independent person from outside who-----

Deputy Catherine Connolly: Who is the independent person?

Mr. Martin Bourke: He is a consultant who is a quantity surveyor, barrister and trained conciliator.

Deputy Catherine Connolly: A quantity surveyor?

Mr. Martin Bourke: A quantity surveyor, barrister and conciliator. Therefore, he is familiar with-----

Deputy Catherine Connolly: What is being called an independent review is not really independent. It has an external person but it is actually an internal review.

Mr. Martin Bourke: It is an internal review being conducted-----

Mr. Maurice Buckley: It is possibly not in the language of the Committee of Public Accounts-----

Deputy Catherine Connolly: I am using the OPW's language. It indicated one of the steps it was taking was to carry out an independent review. I saw somewhere it was to be published in September. I am asking about the independent review. It was not published in September and it is not independent.

Mr. Martin Bourke: I suppose it is independent from my property management people who were involved in the Miesian Plaza project.

Deputy Catherine Connolly: I will come back to it because I am watching my time.

My last question, on the appropriation accounts, concerns a special note in regard to rent controls. Reference is made to Mr. Maurice Buckley, Accounting Officer, 17 September 2018, and to rents receivable. It is stated an internal review into rent collection controls was carried out in 2017. The review identified that there are weaknesses in controls, due largely to the scale and diverse nature of the portfolio. I accept not the weaknesses but the diverse nature of the portfolio. Also identified is the lack of a central register of all lease agreements. Who carried out that review internally? Why did it happen? Was it as a result of the activity of the Comptroller and Auditor General?

Mr. Maurice Buckley: No, we have a-----

Deputy Catherine Connolly: Has the OPW carried out other internal reviews in regard to a lack of a register?

Mr. Maurice Buckley: We have a very active internal audit function in the organisation.

Deputy Catherine Connolly: Did the internal audit function highlight this? Was it the internal audit committee?

Mr. Maurice Buckley: No.

Deputy Catherine Connolly: Did it not highlight that there was no register of property?

Mr. Maurice Buckley: The lack of a sophisticated register of contracts, beyond property but including property, is the subject of a well-known action that the OPW needs to take. This has been the case for some time. The management board, in addressing that, is now at the point of completing that piece of work and putting in a contracts register. We are also, as I mentioned in my opening statement, putting in an entire estate management system, which is a very sophisticated piece of software that involves the approval of the Office of the Government Chief Information Officer and all that. Those items have been well known among OPW management for many years. We are coming to a conclusion now. They would have been highlighted by the internal auditor.

Deputy Catherine Connolly: Lovely. I believe the analysis of OPW spending arose as a result of this committee highlighting rents repeatedly. In any event, a property asset management unit was established six years ago, in 2012. A steering group was set up. It finished its work in 2016. A property asset management delivery plan was set up in 2013.

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: Are there reports from all these bodies?

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: I presume there are recommendations highlighting difficulties that should be dealt with.

Mr. Maurice Buckley: Yes, and-----

Deputy Catherine Connolly: It is now 2018, five years from 2013. Only now is there an internal review and only now a register. Am I misreading it? Am I being unfair?

Mr. Maurice Buckley: With respect, yes. We are talking about two different points. The property asset management delivery plan, PAMDP, relates to the full public sector property remit, which the OPW was asked to lead in 2013. That is a project with work items. To confuse matters further, there is a register of all public property owned by the OPW, local authorities and other bodies which has been created through that and will now be integrated into the new Land Development Agency as it comes on stream. That is one piece of work. The contracts register, about which I was speaking, was an OPW internal register dealing with OPW contracts. I refer to the OPW only, or to managing our own business.

Deputy Catherine Connolly: In terms of rent and rent controls, and what is going out and coming in.

Mr. Mick Long: The second report is in terms of rents receivable. It is rents receivable rather than rents payable.

Deputy Catherine Connolly: The rents receivable are much less than the rents going out.

Mr. Mick Long: Exactly. There was an internal review initiated in 2017. It is a combination of the Integra financial system whereby a sales ledger is being rolled out to different parts of the office in terms of issuing invoices and looking for inward payments in receipt. That is the rents receivable part of the office.

Deputy Catherine Connolly: I asked for the report today, and so did the other Deputies. I refer to the report related to the subject of the letter we received. It would have been very helpful to have had that. We should have had it. One can take any side here but issues were raised way back. It seems that if those issues had been dealt with, we would not be receiving a special chapter from the Comptroller and Auditor General. This is a matter I will return during the afternoon.

Chairman: There will be a second round after lunch.

Deputy Alan Kelly: I would say the Comptroller and Auditor General will have a bigger chapter the next time round. I thank the witnesses for their attendance. I must run through many questions and I suggest a quick back and forth.

I presume Mr. Buckley feels there are not enough resources in the organisation to deal with what is going on. I presume resources is an issue. The competition for two grade 1 OPW valuer posts has concluded. When will they be filled?

Mr. Maurice Buckley: That I would have to check. I do not have that information to hand.

Deputy Alan Kelly: Can Mr. Buckley write back to us?

Mr. Maurice Buckley: Certainly.

Chairman: Would any of Mr. Buckley's colleagues know? Who would know?

Mr. Martin Bourke: We have recently filled a number of posts at grade 1 and grade 2. What we have to do is look at the provisions now made in the Estimates for subhead A1 and what that will cover in the context of other demands, for instance, on the flood side, and, indeed,

issues that are-----

Deputy Alan Kelly: That is fine. I am sorry, I have only a limited amount of time. The OPW has interviewed for these posts. The OPW has the funding for the posts because it has already interviewed.

Mr. Martin Bourke: We have already filled a number of posts.

Deputy Alan Kelly: Have these two grade 1 OPW valuer posts been filled? I understand they have not.

Mr. Martin Bourke: We have two existing grade 1 staff. We constantly review our staff.

Deputy Alan Kelly: Can the OPW write back in by next week and let me know if they have been filled, and if not, when they will be filled? That is all.

Mr. Martin Bourke: Yes.

Deputy Alan Kelly: I want to go through the chronology of what has happened here. As Mr. Buckley will be aware, Mr. Morgan wrote to us.

In March 2014, we had the submission by Mr. Morgan and a colleague in relation to the accountability board in the Department of Public Expenditure and Reform. On 19 June 2014, the OPW Chairman had a meeting with Mr. Morgan on the matter of the submission to the Department of Public Expenditure and Reform and five high-value cases were provided. In March 2015, the OPW surveyors made a submission that was distributed to the Committee of Public Accounts. On 25 May 2015, the Comptroller and Auditor General requested a response from the OPW to the Committee of Public Accounts inquiry. In July 2015, the OPW requested the surveyors who wrote this to directly investigate the previously identified five sample cases with a particular emphasis on certain areas. On 1 December, the OPW surveyors provided a detailed report on the same five cases for the OPW and that was brought forward.

The following is what I want to find out. In December last, these two individuals provided a detailed report on five cases of concern that they had been asked to investigate by the OPW and I want to know what has happened since. This report, of 1 December 2017, a copy of which I have to hand, is an extremely comprehensive report on five expenditure concerns. I refer to numerous occasions, I have the letters, on which Mr. Morgan wrote. On 8 March, he wrote to the Chairman asking where this was at. On 12 March, the Chairman's private secretary wrote back acknowledging the letter, and on 30 April, wrote back stating it was being looked at. On 8 May, Mr. Morgan wrote again to Mr. Buckley asking where this was at. On 7 June, he wrote again, stating he was concerned about the lack of information coming back. On 14 June, the OPW director of corporate services wrote back to Mr. Morgan stating basically there had been changes etc. I have read the letter, which does not really say much. On 2 July 2018, Mr. Morgan wrote to Mr. Buckley, as Chairman, again outlining his concerns and wondering why they had not been addressed, and stating he was willing to come in and speak. On 4 July, that was acknowledged. Then, on 2 August, Mr. Morgan wrote again, basically offering to assist and stating that the replies to date have been anodyne in nature and non-specific in their content. On 9 August, this was acknowledged and then, on 26 August, Mr. Morgan wrote again to the director of corporate services. There is the chronology, which I have read into the record, more or less.

I want to know, since 1 December 2017, after this report was published to OPW by two

individuals one of whom has written to this committee, what Mr. Buckley has done about it. It has been the guts of a year. There are serious concerns raised in this report. To some of the members here on the committee, the letter that was written by Mr. Alan Morgan is one of the most extraordinary letters we have ever received. I want to know what Mr. Buckley has done.

Mr. Maurice Buckley: The dialogue with Mr. Morgan has been in train for a number of years. The first time these were mentioned was going back to 1999, well before 2014. As Deputy Kelly quite rightly points out - the Deputy's chronology is correct - the matters escalated in 2014 when they were formally raised with the Department of Public Expenditure and Reform as part of the review. At that stage, they were thoroughly investigated by the OPW, by my predecessor, Ms Clare McGrath. It was very thoroughly done. A good action, I think, was to involve the person, two members of staff, actually, at the time in the process. They are very experienced valuers. These are senior people. These are people who we would really respect and whose views we would take very seriously. I, personally, certainly would be concerned at the issues raised and want them addressed, and that was done in-depth during 2014-2015. Various conversations took place. Various reports and various interim feedback took place. As Deputy Kelly correctly states, in November-December 2017, a full report was issued. That report dealt with the same issues.

Deputy Alan Kelly: I know.

Mr. Maurice Buckley: On an initial evaluation, neither I nor my colleagues could see new issues raised and we felt that we had addressed the issues raised many times over. It is a very different organisation in 2017 and 2018 than what it was ten years previously.

The director of corporate services undertook to go through that report in forensic detail, and did so. It took some time. He pulled in expertise, as required-----

Deputy Alan Kelly: Okay.

Mr. Maurice Buckley: -----and we replied. I should just explain these issues have been addressed for a long time. The Comptroller and Auditor General had been kept informed of the dialogue. A meeting was arranged in 2017. I think in July 2017, a meeting was facilitated by the OPW with the Comptroller and Auditor General and the two individuals concerned. We felt it was an ongoing process and very fully aired, and did not identify anything new. The November report was passed on to the Comptroller and Auditor General at the Comptroller and Auditor General's request in June of this year and that is where matters stand.

Deputy Alan Kelly: Let me provide an executive summary for those who are watching and colleagues. Essentially, the report that was done in November 2017 identified the five completed OPW property acquisitions to identify accountability vulnerabilities in the context of non-optimal outcomes. From that date until now, is there anything new to be concerned about in what happened in those five projects or anything that would result in a change in the manner in which the OPW does its business?

Mr. Maurice Buckley: Of course, I am concerned that a member of staff or a former member of staff should feel it necessary to raise these items again in the manner done with the Committee of Public Accounts. Of course, I am, as the Accounting Officer and as a leader of this body. I am not dismissing any points whatsoever. We will look at every aspect of any case or any other instance of misuse of public funds raised.

Deputy Alan Kelly: Is there anything in this document that concerns Mr. Buckley? If

there is, I ask that he please tell us now. Mr. Buckley has not corresponded with him in any substantial way. By extension, I presume he feels there that is nothing to be concerned about. Will Mr. Buckley say, once and for all, in respect of this report, that the OPW, and Mr. Buckley as chairman, has no concerns about any of these issues and that we will not be sitting here in a year's time with a report on what is in here from the Comptroller and Auditor General?

Mr. Maurice Buckley: I am concerned about all of the issues in the report-----

Deputy Alan Kelly: Why is Mr. Buckley not responding to him so?

Mr. Maurice Buckley: That is the point. I feel the issues have been aired and addressed and measures have been put in place to make sure that-----

Deputy Alan Kelly: That is fine.

Mr. Maurice Buckley: First of all, there are circumstances pertaining and where improvements in processes were necessary, that has been done-----

Deputy Alan Kelly: I am sorry-----

Mr. Maurice Buckley: Perhaps we should have kept in closer dialogue with the individuals concerned-----

Deputy Alan Kelly: -----I need the Chair's help. This is a riddle at this stage. We have this report. It went through a process-----

Chairman: Deputy Kelly has the report. We do not.

Deputy Alan Kelly: I am sorry. I thought everyone had it. What I mean is that there is this report.

Deputy Catherine Connolly: We asked for it this morning. I want to be clear.

Deputy Alan Kelly: I cannot guarantee it is the same version, but otherwise the committee can have it.

Chairman: Is the report that Deputy Kelly has 2014 or 2017?

Deputy Alan Kelly: It is the 2017 one.

Chairman: That is fine.

Deputy Catherine Connolly: Have we got it?

Deputy Alan Kelly: The committee is welcome to have it. I just thought that-----

Deputy Catherine Connolly: No, I just want to clarify-----

Deputy Alan Kelly: I do not know if this is the full-----

Deputy Catherine Connolly: I want to clarify it officially.

Chairman: Have we got it?

Mr. Maurice Buckley: No. To be clear, in 2014, the same individual wrote to the Department of Public Expenditure and Reform as part of a review.

Deputy Catherine Connolly: That is the submission.

Mr. Maurice Buckley: That document is with the committee from that time.

Deputy Catherine Connolly: I understand that.

Mr. Maurice Buckley: I think it has been found and made available.

Deputy Catherine Connolly: That is the submission but we sorted all of this out this morning. We want a copy of the report.

Mr. Maurice Buckley: That has not been provided. As I said earlier, I have no problem, in principle, providing it. It is with the Comptroller and Auditor General in the meantime.

Chairman: That is no good to us.

Mr. Maurice Buckley: I appreciate that. The only issues I raise relate to commercial sensitivity and sensitivity in regard to the mention of other staff members. A process would need to be carried out, by the OPW or by this committee, to make sure the report was appropriately redacted.

Chairman: We can help Mr. Buckley now. It can be sent to us in confidence. We can look at it here but we do not have to publish it. I want to be clear on that. The members get it but we do not publish every document we get. We got various documents from the Health Service Executive, HSE, that we chose to read internally and to not publish them or give them any parliamentary privilege. That option is available.

Mr. Maurice Buckley: With those assurances, I would be more than happy to share the report with the committee.

Deputy Alan Kelly: That is fine.

Deputy Catherine Connolly: That is fine.

Chairman: There is a timing issue. When a 100 page report comes in, somebody needs to go through it-----

Deputy Alan Kelly: We will not get through it-----

Chairman: We will not get that done.

Deputy Catherine Connolly: I do not mind. I would like to clarify. When are we going to get the report?

Chairman: It will be before the day is out.

Mr. Maurice Buckley: We can arrange that.

Deputy Catherine Connolly: That is lovely.

Chairman: We will discuss it the next day.

Deputy Alan Kelly: I will leave that. Can we stop the clock?

Mr. Maurice Buckley: I am told that it is 75 pages, before we state too often it is 100 pages.

It is a large report.

Deputy Alan Kelly: It is a very large report. I have it here. I want to get back to the issue because this is turning into a bit of a riddle. We all know what happened with the Comptroller and Auditor General, this committee and the report that was done in 2014 and all of that. The OPW, subsequently, asked for this report to be done. Is that correct?

Mr. Maurice Buckley: That is correct.

Deputy Alan Kelly: That report was done in November 2017 by two individuals. One of those individuals is retired, at the moment, and the other is still working there. Is that correct?

Mr. Maurice Buckley: That is correct.

Deputy Alan Kelly: That report was then sent to the OPW. Following the OPW's request for it to be done in the first place, the report has since been sent to the Comptroller and Auditor General and he will do what he does best. I look forward to his report. I genuinely do. I want to know the following, however. There was a process in place and a request from the OPW to have this report done. The report comments seriously on five projects. How can Mr. Buckley come in here and not substantiate, in real terms, what has been done with this report? What has been done to guarantee to this committee that there was not a significant loss to taxpayers? What has been done to change processes in the OPW to ensure situations like this do not happen again? From what Mr. Buckley has said today, I have seen nothing that addresses those two issues.

Mr. Maurice Buckley: The issues were raised, as Deputy Alan Kelly said, in March 2014. We are now talking about it four and a half years later. It was not as if nothing was happening during those four and a half years. There was constant dialogue and multiple discussions with the individual involved and interim documents were reviewed on *ad hoc* basis before the formal submission came together. We were talking about matters that relate to a long time previously. Some are related to decentralisation, the purchase of the Thornton Hall site-----

Deputy Alan Kelly: That is all irrelevant.

Mr. Maurice Buckley: It is not irrelevant because these matters-----

Deputy Alan Kelly: It is irrelevant in respect of the response.

Mr. Maurice Buckley: That may be so, but these matters have been aired publicly and actions have been taken in public forums, initiated by public forms such as this committee. I also refer to the work of the Comptroller and Auditor General.

Deputy Alan Kelly: I disagree fundamentally with Mr. Buckley. Some of these matters have been aired.

Mr. Maurice Buckley: I accept that some of them have.

Deputy Alan Kelly: The issue of Thornton Hall has been aired quite a bit. We all know the taxpayer lost out massively. Some of the details of the others, however, have not been aired and certainly not with the knowledge in this report. This is down to a level of detail that has never been seen before. I am completely dissatisfied with the manner of the response being given here. I came in here to give Mr. Buckley a chance to respond. I have no confidence that the issues and the level of detail in this report have been addressed. I also have no confidence

that the taxpayer has been protected and will be protected into the future as a consequence of the changes that have been made as a result of this. Equally, I have seen no correspondence to demonstrate that. I say this in advance. This report has gone to the Comptroller and Auditor General. I bet I will be proven right in saying that we will be discussing the issues in this report - I am not prejudicing anything that will happen - in a future report from the Comptroller and Auditor General. It would probably have been done this time around except that the issue of the new home for the HSE took up so much time and space. I expect the Comptroller and Auditor General will be doing the same thing for all of these cases as well. I also expect that will happen, dare I say it, with future cases as well. I am referring to the children's exploration station, the laboratory for the Department of Agriculture, the opera house in Limerick, the Revenue headquarters in Cork and a number of others as well on top of this. I am saying this today. Here is an opportunity in advance for Mr. Buckley to tell me what actions have been taken to ensure that lessons have been learned from this and there has been acknowledgement that mistakes were made.

Mr. Maurice Buckley: As I said to the Deputy, we have responded completely and openly with the individual concerned and with various public bodies, as we outlined, over the last four and half years about these historic issues. I agree some of them are public knowledge and some less so. It is hard to go through this without tackling each item individually. I do not think that would be fair because the committee does not have the information yet. I do not know how I can go through it. I will certainly address any questions the Comptroller and Auditor General might have-----

Deputy Alan Kelly: I was interrupted earlier. I have one last question I want to ask on Miesian Plaza and then I will come back to this. The change in the measurement protocol slipped in or fell in, or whatever phrase Mr. Buckley used earlier in an unfortunate choice of words that I will not hang him on. Is there any documentation that warned that the change in the measurement protocol was going to cause an increased rent and, as a consequence, care needed to be taken? Is there any internal documentation that shows that and, if so, why was it not dealt with? If there is documentation, will Mr. Buckley provide it to the committee?

Mr. Maurice Buckley: I have already said there are several instances where, internally, different members of staff involved in the process raised questions on this issue. There was also one case triggered externally by the Office of the Chief State Solicitor.

Deputy Alan Kelly: Was there a warning?

Mr. Maurice Buckley: Some of them are quite specific. In retrospect, there is no doubt at all. I said that openly. I am not trying to defend this. In retrospect, it is clear that this should have been picked up at the time. It was not. It should have been picked up at the final review of the lease. Unfortunately, it was not, but it is being addressed now with the developer and will be followed through. It has to do with the timing, with the measurements and with the lack of experience at that stage anywhere in the market of the implications of this measurement change.

Deputy Alan Kelly: In regard to this documentation, with respect, I find Mr. Buckley's answers to be deeply concerning. As far as I am concerned, on the issues raised here, the lessons have not been learned to the level I would have expected. I cannot be guaranteed the internal changes have happened in the OPW. By extension, I do not have any confidence as a result of what I have seen in this documentation with regard to responding to the author. Despite the deep concerns the author expressed to the OPW, it has not responded. Second, I predict that the projects and the purchases outlined here will have to be looked at in the future by the Comp-

troller and Auditor General, just as the newly purchased headquarters of the HSE were looked at. The fact Mr. Buckley is not getting into the detail of this, and the fact he is not willing to go through the loss of money to the taxpayer to the level that is required, and to respond to the author, for me, is deeply worrying.

Chairman: There will be a further opportunity to come back in the afternoon. Before I call Deputy Cullinane, it would be helpful to the Committee of Public Accounts and the public at large to see the documentation Mr. Buckley has just referred to from various people in the organisation on the various aspects of this issue. What we really want to know about is governance. Somebody at a more senior level must have decided either to disagree with it, or perhaps it was an uncomfortable truth they did not want to deal with at the time. They may have said, “If it goes one way or the other way, it is the toss of a coin, and if it works out at a higher cost, so be it. It is still good value for money”, which Mr. Buckley seems to say the whole thing is anyway. They might have thought perhaps it was not a big deal if they got it wrong as they still were getting a great deal anyway. It would be helpful for us to see why the process was not followed through. At what level did somebody say he or she saw all of that and heard what was being said but that they were not going there? Does Mr. Buckley understand what I am asking?

Mr. Maurice Buckley: I do.

Chairman: It would be helpful to you, as the new Chairman, to know about the blockages and why information does not always flow up the system. That is what people worry about in bureaucracies, where, the higher up you go, the information gets filtered. Maybe someone at a very senior level just decided to discount that. We do not know and it would be helpful to find out. Can you work on it and send on-----

Mr. Maurice Buckley: I certainly do not think it is the latter, namely, that the information was deliberately suppressed in any way, shape or form. We will put that together and send it in to you.

Chairman: You can send that on next week. I call Deputy Cullinane.

Deputy David Cullinane: I welcome Mr. Buckley and his staff. An awful lot of this has been made very complex, unnecessarily so, in my view. I just want to simplify and contextualise some of it, if I can. In terms of the documentation, we do not have the correspondence the Committee of Public Accounts received previously on what is before us. Just so I am clear, and the Chairman or the Comptroller and Auditor General might be able to clarify this, the Comptroller and Auditor General’s special report deals with the Miesian Plaza and the failures in process that his office identified. That is fair enough and we will deal with them. The correspondence we have now got, which is PAC correspondence from a Mr. John Dowds and Mr. Alan Morgan, is from 2014, and there was a separate report at some point in 2017 that we will get. Certainly, the 2014 letter talks about multiple property transactions and then potential issues such as mistaken, superficial judgments by the surveyor, hidden but legitimate considerations, ignorance of the market by the negotiating body or person, poor negotiating skills, compromised negotiating positions and corrupt actions. We should say there is no evidence whatsoever of any corruption but that is what was said. Am I right in saying the concerns in the 2014 letter and the 2017 report were not in regard to the building that is subject to the Comptroller and Auditor General’s report and it was a more general concern that these two individuals had? Is that correct?

Mr. Seamus McCarthy: That is my understanding.

Mr. Maurice Buckley: General concerns and the five specific cases mentioned. The individuals, who were at a senior level in the organisation, felt things could have been done better.

Deputy David Cullinane: When Mr. Buckley says senior-----

Mr. Maurice Buckley: That is good; it is healthy. All OPW staff want things done very well, as we do.

Deputy David Cullinane: It is only healthy if we learn lessons. Mr. Morgan was a managing valuer before he retired. Is that correct?

Mr. Maurice Buckley: A valuer, grade 1.

Deputy David Cullinane: The issue is that a lot of the issues he raised in his 2014 letter are actually what transpired in 2017 and 2018 in respect of the subject matter of the Comptroller and Auditor General's report. Does that not concern Mr. Buckley?

Mr. Maurice Buckley: I do not believe they are the same issues.

Deputy David Cullinane: Mr. Buckley does not believe they are the same issues. I am referring to the mistaken, superficial judgments by surveyors, hidden but legitimate considerations, ignorance of the market by the negotiating body or person, poor negotiating skills and compromised negotiating positions. Mr. Buckley does not feel any of those could be attributed to the subject of the special report.

Mr. Maurice Buckley: As we already discussed, we had expert negotiators involved in this deal. I think that, despite everything said, it stands up to scrutiny as being a very good property deal.

Deputy David Cullinane: Let me unpick that, which is why we are here. Mr. Buckley has a job to do and we have a job to do, and the Comptroller and Auditor General has a job to do. I want to go back to some of the issues that were raised earlier because I was far from satisfied with Mr. Buckley's response. The first one is in regard to the reports which would have been submitted to the board when it was making a decision. Two alternative accommodation options were considered, namely, the former Central Bank premises on Dame Street and premises on St. Stephen's Green. In response to another Teachta, Mr. Buckley said those alternative options were presented to the board.

Mr. Maurice Buckley: That is my understanding, yes.

Deputy David Cullinane: Was it Mr. Bourke or Mr. Buckley who stated that? I think it was Mr. Bourke, who was helping Mr. Buckley answer the question.

Mr. Martin Bourke: Yes. It was certainly before my time. I am looking at a submission to the board, which talks about Hawkins House, it speaks to the benefits of the Miesian building and of a rent review issue. There is then commentary on the marketplace-----

Deputy David Cullinane: I will stop Mr. Bourke there. Although I do not know who gave him the information, Mr. Buckley said earlier there was consideration at board level of the two alternative sites. In what Mr. Bourke is reading out, there is no reference to St. Stephen's Green and no reference to the former Central Bank premises on Dame Street. I ask Mr. Buckley again: at what board meeting were the two alternative options discussed and in what context? Was documentation supplied to the board? Was it done in an oral fashion? Are there minutes of any

meeting to show they were discussed?

Mr. Maurice Buckley: I have already explained the general context and the fact the previous Chairman visited one of those buildings in that context. To get the actual documentation, as Deputy Jonathan O'Brien asked, I will have to do a trawl of the meetings of the board at that time. It is two years ago but we can do that.

Deputy David Cullinane: Visiting a building is not what I asked about. It is a very specific question. Section 6.12 of the Comptroller and Auditor General's report states "These [two alternative] options were noted in internal correspondence in August 2015 but were not formally documented in the submission to the Board in March 2016." They were not formally submitted to the board, and "formally" is the appropriate word here. What I want Mr. Buckley to do is come back to me with actual facts in regard to what and how these two alternative options were presented to the board. I would imagine the Office of the Comptroller and Auditor General asked for this information in the course of its examination and was not satisfied, which is why we have section 6.12.

Mr. Maurice Buckley: Yes, I will do that. I will find out what documentation is there.

Deputy David Cullinane: This is part of the process failure. The primary role of the OPW is to procure office accommodation and then to allocate that accommodation. Is that correct?

Mr. Maurice Buckley: Correct.

Deputy David Cullinane: How many staff has the OPW?

Mr. Maurice Buckley: In total, 1,700.

Deputy David Cullinane: It has 1,700 staff yet it has to employ consultants to do carry out some of this role. How is it possible that an organisation with 1,700 staff needs a consultant company to oversee the lease negotiations?

Mr. Maurice Buckley: Using best practice at all times and using independent advisers at all times improves the up-to-date knowledge available. We have expert staff, but it improves the up-to-date knowledge available. It gives a degree of transparency and a degree of control in the process

Deputy David Cullinane: However, in terms of process-----

Mr. Maurice Buckley: One thing I would watch is that we do not overuse consultants, but-----

Deputy David Cullinane: In terms of process, the OPW is allocated money which it spends by purchasing or renting sites and overseeing that process. It is important to have follow-through on the processes in place to protect the OPW, its staff and taxpayers' money being spent and also to allow the Comptroller and Auditor General do his job and for the Committee of Public Accounts to do our job.

I mentioned the alternative sites earlier. If a proper business case was formally presented for both of those, the Comptroller and Auditor General would have had that information and been able to make a better assessment as to whether the Miesian Plaza was the better option. We would be in a better position, but we are not in a position to do it. By not doing that, by not following due process, by not giving the board the information it needs, and by not having the

business cases and the formal processes correct, the Comptroller and Auditor General could not do his job in making a proper determination. Does Mr. McCarthy believe that is fair?

Mr. Seamus McCarthy: I think that is correct.

Deputy David Cullinane: That is the Comptroller and Auditor General saying that. Surely that is a fundamental failure in process. The OPW is the organisation responsible for ensuring there is compliance and no difficulties.

Mr. Maurice Buckley: I accept fully that the process should have been better documented and that the path and the different steps should have been more fully in place so that it would be easier to trace and easier to look back on. I have acknowledged that.

Deputy David Cullinane: Okay. In-----

Mr. Maurice Buckley: There are recommendations in the Comptroller and Auditor General's report in that respect. There are actions we have taken in response and-----

Deputy David Cullinane: Here is my concern. This comes up over and over again. We saw it with NAMA and different organisations. Sometimes I believe it is deliberate and intentional not to put these benchmarks in place because then organisations can do what they want to do or maybe it is easier for them. I believe it goes back to some of the correspondence provided in 2014. Mr. Bourke seems perplexed by my contribution. It is bizarre that the board would not have been given the information on the alternatives it should have been given. That is not some sort of minor oversight. It is fundamental to the Comptroller and Auditor General doing his job and for us to adjudicate as to whether we got value for money.

Mr. Maurice Buckley: The board of OPW comprises eight people who work together day in, day out. These alternative sites would have been thoroughly discussed and evaluated. The board members and all the expertise in that board would have been fully involved. I am confident of that. What we are talking about is a formal documentation of that process. I have said that I will check the records of the management board to see if documents were produced evaluating the two alternatives and if they were, I will make them available to the committee. We are talking about the documentation around the process. We are not talking about the evaluation itself. It is important to state that. That has not been called into question and I would not like it called into question. A thorough evaluation of alternatives did take place, but the Deputy is correct to say it was not documented in a way that makes it easy for the Comptroller and Auditor General and for the committee to follow.

Deputy David Cullinane: If a thorough examination of the alternatives was carried out, I am sure the Comptroller and Auditor General would have reported that. He has not reported that a thorough examination was done. He said a lack of documentation was given.

Mr. Seamus McCarthy: It is more than just identifying the alternative office locations. There is the whole question of whether it is better to buy or to rent, and then the whole identification of the benefits, the performance parameters and so on.

Deputy David Cullinane: And whether it is fit for purpose for staff numbers.

Mr. Seamus McCarthy: I am not looking for a perfect document that conforms to some sort of rigid standard. It is where the organisation encapsulates its thinking, assessment and expectation for these projects.

The requirement set out in the public spending code is there for a reason. On numerous occasions here, I have raised the importance of a business case for significant public expenditure. I am fully on board with the point the Deputy is making.

Deputy David Cullinane: I accept that and I thank Mr. McCarthy. Those processes are in place to protect Mr. Buckley so that he does not have to appear before the committee to answer difficult questions, and then - I am not saying he is doing this - try to defend the indefensible. It is indefensible that the Comptroller and Auditor General feels the processes that should have been in place were not. In many ways, Mr. Buckley is obliged to do it. It also allows us and the Comptroller and Auditor General to do our jobs.

I refer to the lease and the difference between the lease terms negotiated and those agreed.

Chairman: The Deputy has only a few moments left.

Deputy David Cullinane: Mr. Buckley made an extraordinary statement earlier when he said that the mistake in the difference in measurements slipped into the lease. In fact, it was not a slip at all. People were aware of this. Section 6.21 of the Comptroller and Auditor General's report states:

In finalising the lease, the issue of the different measurement bases was considered. When reviewing the lease, the Chief State Solicitor's Office (CSSO) requested OPW to confirm with its in-house valuer whether IPMS was the appropriate standard ... OPW then sought advice from one of its internal chartered surveyors...

Section 6.22 states:

The reason for not reducing the rent per m2 proportionately as a result of including the IPMS measurements in the lease is not clear.

My reading of this is that the Comptroller and Auditor General was not given a satisfactory answer by the OPW as to why that was not picked up and why that happened in the first place. Would that be-----

Mr. Seamus McCarthy: What I would say is that it was picked up. There was an issue here,-----

Deputy David Cullinane: I should have said it was not acted upon.

Mr. Seamus McCarthy: ----- but it was not acted upon.

Deputy David Cullinane: It was picked up but not acted upon and the Comptroller and Auditor General was not given a credible reason.

Mr. Seamus McCarthy: I could not take it any further. I had no evidence of anything further beyond the fact that it was picked up.

Deputy David Cullinane: How was it picked up and not acted upon with no credible reason given to the chief auditor of the State? How is that possible?

Mr. Maurice Buckley: The issue of the two different measurement standards arose during the year between the negotiation of the lease, which was at the tail end of 2015 and based on the internal net area standard current at the time, and the signing of the lease or the approval of the lease in January 2017, 14 months later. During that time the SCSI had brought in a new method

based on IPMS 3 and had mandated its chartered members to use that from February 2015.

Deputy David Cullinane: We know all that. I have one final question.

Mr. Maurice Buckley: It is critical to understanding how it happened.

Deputy David Cullinane: We understand that; it is all in the documentation. The critical point is that it was picked up but not acted upon. When the Comptroller and Auditor General was doing his job examining this, he was not given a credible reason as to why it was not acted upon. Certainly if a credible reason was given, it is not in his report, which is unacceptable.

I have one final question and I will come back in on the second round. Mr. Bourke made an interesting observation earlier when he said that he was concerned about this in September 2017 when he took over his role and he sought an internal review in November 2017. I think he was just about to say that in May 2018 a first draft of that review was available. Is that correct?

Mr. Martin Bourke: That is right.

Deputy David Cullinane: Why did it take from November to May for a first draft to appear?

Mr. Martin Bourke: There is a complexity in it. We had to retain somebody from outside. There was a process to go through there in terms of agreeing fees, etc. Then there is extensive documentation. I appreciate there is a failing in an amount of critical documentation, but volumes of files had to be trawled through.

Deputy David Cullinane: Was that draft given to the Office of the Comptroller and Auditor General?

Mr. Martin Bourke: No, it was not because it was not finalised. It would be unfair on the people who were -----

Deputy David Cullinane: Therefore, it is still not finalised.

Mr. Martin Bourke: It is still not finalised and-----

Deputy David Cullinane: This is October.

Mr. Martin Bourke: ----- as I was saying to the previous Deputy, we hope it will be finalised quickly.

Deputy David Cullinane: In November 2017, Mr. Bourke sought an internal review but, in October 2018, there is still no final-----

Mr. Martin Bourke: If I recollect, the review started I think in January. After Christmas it started when we had retained the correct person to do it.

Deputy David Cullinane: There is something fundamentally wrong in the OPW if Mr. Bourke can request an internal review in November 2017 and it does not start until early 2018. He had a draft that he cannot give to anybody in May 2018 but we are in October now and we still do not have it. In April 2018, the Comptroller and Auditor General's office started looking into this and examining it. Is it a coincidence that his office began examining this in April 2018?

Mr. Seamus McCarthy: I think April 2018 was when we raised the specific issue about the-----

Deputy David Cullinane: That was April and then a month later a draft of Mr. Bourke's report appears. Is that coincidental?

Mr. Martin Bourke: No. That is the timeline. In fact, the review and audit were running in parallel for quite a while, so both people were looking at the same documentation.

Mr. Maurice Buckley: If I may, my colleague is being responsible. He was appointed to the new role in September 2017. He saw that a major project was running through the office at Miesian Plaza with all the complexities that have been identified and took it upon himself to initiate a review so that we could understand the lesson to be learned.

Deputy David Cullinane: I am going to make one final contribution because we had this previously with An Garda Síochána and Templemore. When issues come to anybody's attention that may be of relevance to the Comptroller and Auditor General's office, it should be informed, whether in draft form or otherwise. The OPW had a responsibility in this regard. If it had concerns and sought a report, it ought to have at least notified the Comptroller and Auditor General's office that an internal report had been requested, that it may take some time to do, and when and if that report is complete, it would be given to the office. Did that ever happen? Was Mr. McCarthy ever informed that an internal review was carried out?

Mr. Seamus McCarthy: No. I think it was only June of this year that we learned from the OPW that it was doing that review.

Deputy David Cullinane: Would it be appropriate for the Comptroller and Auditor General's office to be informed?

Mr. Seamus McCarthy: Yes, we would welcome that kind of information and to be aware of examinations of that nature.

Deputy David Cullinane: Why was the Comptroller and Auditor General's office not informed?

Mr. Martin Bourke: The purpose of the review was to inform me as to what was going on. People can comment a lot on one case or another, but I need to know the facts of the case. The purpose of the review was that someone would independently go through the documentation and the copious files, and there is no doubt that the initial draft in May, for instance, started indicating the measurement issue. That was the first time I became aware of that issue. Parallel to that, the Comptroller and Auditor General was proceeding with his inquiries.

Deputy David Cullinane: I will pick up on that later.

Chairman: The Deputy can pick up on that in the afternoon. I call on Deputy MacSharry.

Deputy Marc MacSharry: The most recent speaker took 25 minutes, as opposed to ten.

I thank the witnesses for coming. My questioning is sometimes provocative.

Chairman: The most recent speaker took 17 minutes.

Deputy Marc MacSharry: The clock up there must be wrong.

Chairman: I am going by my-----

Deputy Marc MacSharry: The Chairman is eating in to my time.

Sometimes my questioning is provocative. It is nothing personal. We are all doing a job. I respect the witnesses have a job to do and I also have a job to do. Sometimes it might appear unnecessarily adversarial; please do not read anything into it.

The structure of the OPW is that there are three commissioners and Mr. Buckley is the chairman, and then there is a board beneath them comprising six more people. Is that the case?

Mr. Maurice Buckley: There is a board of eight, so five more.

Deputy Marc MacSharry: In the Houses of the Oireachtas, we are used to phrases like assistant secretary, Secretary General and principal officer. To try and give us an analogy we might understand, how are people graded?

Mr. Maurice Buckley: The management board is at the grade of assistant secretary/director.

Deputy Marc MacSharry: Are the three commissioners at Secretary General level? Is the chairman the equivalent of Secretary General?

Mr. Maurice Buckley: The chairman is the equivalent of Secretary General.

Deputy Marc MacSharry: Is everyone else the equivalent of assistant secretary?

Mr. Martin Bourke: Yes, two.

Deputy Marc MacSharry: There are eight in total?

Mr. Maurice Buckley: There is one other office in the organisation at the deputy secretary level.

Deputy Marc MacSharry: What office is that?

Mr. John McMahon: State architect.

Deputy Marc MacSharry: Is that Mr. McMahon?

Mr. John McMahon: No. He is not here.

Deputy Marc MacSharry: Mr. Buckley mentioned that he is not a property expert but his colleagues are. What property qualifications have any of the eight board members?

Mr. Maurice Buckley: I have to check the qualifications.

Deputy Marc MacSharry: Is the answer "None"?

Mr. Maurice Buckley: No. They are the most experienced people in property in the country.

Deputy Marc MacSharry: I did not ask about experience.

Mr. Maurice Buckley: I will have to check qualifications.

Deputy Marc MacSharry: There may be people who challenge that claim about their being the most experienced in the country. Has Mr. Buckley a property qualification?

Mr. Maurice Buckley: I do not.

Deputy Marc MacSharry: Has Mr. Bourke?

Mr. Martin Bourke: I studied property elements as part of a master's in business.

Deputy Marc MacSharry: Mr. Bourke did a master's in business and there was a module on property.

Mr. Martin Bourke: I have also studied with the SCSI as well.

Deputy Marc MacSharry: What is the SCSI?

Mr. Martin Bourke: The Society of Chartered Surveyors Ireland. We brought in-----

Deputy Marc MacSharry: Mr. Bourke, therefore, has no qualifications specific to property or property management.

Mr. Martin Bourke: Not specific to property, but in business I do.

Deputy Marc MacSharry: Of course. All the witnesses have qualifications in their own fields. This is not personal. I am trying to get a picture. Of the assistant secretaries, is there anybody with a property qualification?

Mr. Maurice Buckley: I am not sure what the Deputy means by a "property qualification".

Deputy Marc MacSharry: A property qualification would typically mean valuer, surveyor, auctioneer, member of the Irish Auctioneers and Valuers Institute, IAVI, member of the chartered institute of surveyors in England, member of the SCSI. Has anybody on the board a qualification of that kind?

Mr. Maurice Buckley: The Deputy is focusing on the one element of surveying and valuing.

Deputy Marc MacSharry: It is the one element that is critical to the point we are discussing today. That is property management, sales, procurement, renting, letting, valuations and measuring.

Mr. Maurice Buckley: We have an office with any number of architects-----

Deputy Marc MacSharry: I am talking about at the senior level.

Mr. Maurice Buckley: I am trying to answer the Deputy's question.

Deputy Marc MacSharry: There is eight people at the senior level, as we established. Do any of those eight have those qualifications?

Mr. Maurice Buckley: The OPW has any number of architects, engineers and different, relevant-----

Deputy Marc MacSharry: Mr. Buckley is misunderstanding me again. I am talking about the eight people at assistant secretary level, apart from the State architect's office, but the people

who are on the management board to which Mr. Buckley referred.

Mr. Maurice Buckley: If the Deputy asking me specifically about the qualification of valuer, the answer is “No”.

Deputy Marc MacSharry: I said property-related.

Mr. Maurice Buckley: I would imagine the State architect would feel that-----

Deputy Marc MacSharry: I specifically excluded the State architect. I am sure he is the man to design the building. He is probably not the man to value, or measure, or to determine what comparisons are best to be judged against. I am talking about the rest of the board of management. Has anybody got a qualification?

Mr. Maurice Buckley: The Deputy is talking about a chartered surveyor qualification. No member of the management board is a chartered surveyor.

Deputy Marc MacSharry: There are no property qualifications at the level of management in the OPW.

Mr. Maurice Buckley: At the level of the management board.

Deputy Marc MacSharry: Exactly, and that is an important point.

Mr. Maurice Buckley: That is eight people in an organisation of 1,700 people.

Deputy Marc MacSharry: I understand. There are 1,700 people involved in property and we know that the eight at the top have no property qualifications.

Last year, the OPW advertised for a head of planning and estate management. Was that post filled?

Mr. Maurice Buckley: It was. That was the famous Mr. Bourke, beside me on my left.

Deputy Marc MacSharry: Mr. Bourke got that post. Where did he come from?

Mr. Martin Bourke: I fulfilled a previous role in the OPW. Prior to that, I was deputy director in the national procurement service. Prior to that-----

Deputy Marc MacSharry: What did Mr. Bourke do in the OPW previously?

Mr. Martin Bourke: I was in a number of roles. I was involved in procurement and project management on the building side.

Deputy Marc MacSharry: On the building side?

Mr. Martin Bourke: Yes, capital construction projects.

Deputy Marc MacSharry: How long was Mr. Bourke doing that?

Mr. Martin Bourke: Two and a half or three years.

Deputy Marc MacSharry: What did Mr. Bourke do in the Public Appointments Service?

Mr. Martin Bourke: I was director of corporate services.

Deputy Marc MacSharry: What did that involve?

Mr. Martin Bourke: Finance, HR, senior management recruitment and that sort of thing.

Deputy Marc MacSharry: Would that have been open for anyone to apply, under the new rules, external as well as internal?

Mr. Martin Bourke: Yes. It was international.

Deputy Marc MacSharry: I do not doubt Mr. Bourke's credentials. He got through that process and is the head of planning and estate management but he has no property management qualification, as we established earlier. Is that correct?

Mr. Martin Bourke: Yes, the job has a wide remit.

Deputy Marc MacSharry: I have no doubt about that. Mr. Bourke might be doing the job better than anybody could possibly do it. I am establishing that he was recruited to do this job and he does not have specific qualifications. I am pointing that out as a fact.

Mr. Martin Bourke: To be clear on that point, I had specific qualifications. I had all the qualifications required for the job. That was not set by me.

Deputy Marc MacSharry: Who did the job specification?

Mr. Maurice Buckley: I did.

Deputy Marc MacSharry: What expertise has Mr. Buckley in setting a job specification for a State management position?

Mr. Maurice Buckley: I have expertise in managing the organisation so I pulled in the expertise-----

Deputy Marc MacSharry: Would Mr. Buckley have thought, if he was looking for a head of estate management and property management-----

Mr. Maurice Buckley: Could I finish my answer?

Deputy Marc MacSharry: -----and valuing that he might like to get somebody who was a management valuer elsewhere in the private sector or the public sector of another country?

Mr. Maurice Buckley: It is good the Deputy has raised this example. As part of the process, I went through the CVs of more than 50 applicants, some from the public sector but most from the private sector.

Deputy Marc MacSharry: Yes.

Mr. Maurice Buckley: Some were senior people in large well-known organisations in the private sector.

Deputy Marc MacSharry: And Mr. Buckley decided against them.

Mr. Maurice Buckley: Hold on. Some had chartered surveyor qualifications but an awful lot did not.

Deputy Marc MacSharry: Right.

Mr. Maurice Buckley: The property sector is different to architecture or engineering. There is not one simple clear black and white qualification that means one can be involved in property without-----

Deputy Marc MacSharry: According-----

Mr. Maurice Buckley: There are many relevant qualifications.

Deputy Marc MacSharry: This is according to the specifications Mr. Buckley himself wrote, as a person self-proclaimed not to have an expertise in the area. That is what Mr. Buckley said earlier. We also established he does not have a qualification. I want to move on from this. The message is-----

Mr. Maurice Buckley: I have just recruited an accountant without being an accountant.

Deputy Marc MacSharry: The message is we have eight people in charge, none whom has a property qualification.

Mr. Maurice Buckley: None of whom is a chartered surveyor.

Deputy Marc MacSharry: None of whom has a property qualification. They are not valuers either. Are any of them members of the IAVI?

Mr. Maurice Buckley: I do not believe so.

Deputy Marc MacSharry: Would any qualify for a licence under the Property Services Regulatory Authority, PRSA, criteria if the OPW were to apply for one?

Mr. Maurice Buckley: No, but that is not the job they are doing.

Deputy Marc MacSharry: Exactly, because that is what we do in Ireland. We set regulatory standards for everybody else except the people at the top. Mr. Buckley understands the point I am making. I agree he may have a team with access to the largest payable rent roll in the country, and who have access to the most square footage, at 800,000 sq.m or 900,000 sq. m, for civil servants, but we have chosen not to make it an essential prerequisite for officials to have qualifications. The point is made and I want to move on.

The difference between the international property measurement standard, IPMS 3, and net lettable area, which Mr. Buckley refers to as net internal area, is not rocket science. It would have taken basic common sense and not a degree to know that the OPW or its agents negotiated a lease based on net lettable area. That is measurement to the walls, which does not include service cores such as elevators and stairs, or pillars.

Mr. Maurice Buckley: Correct.

Deputy Marc MacSharry: Crudely, IPMS3 does not include service cores but does include the pillars and is measured to the window. This accounts for the 3% or 4%. The OPW negotiates a price, directly or through its agents, with the owner or landlord based on net lettable area, effectively divided by the number of square feet, to come up with a per square foot area, and then multiplies this by the bigger area, which is IPMS3, thus giving a higher rent. Is this correct? Is that what happened?

Mr. Maurice Buckley: I have explained that three measurements are involved. The negotiation was done on the indicative area provided by the landlord at the time based on the draw-

ings.

Deputy Marc MacSharry: Yes, but then typically there is a joint measurement. This was done by Hollis. Is this correct?

Mr. Maurice Buckley: Yes. It was done in December 2017.

Deputy Marc MacSharry: Is that the basis of what the OPW agreed to pay? Did it agree to pay based on the joint measurement? That is typically what happens.

Mr. Maurice Buckley: That is the particular point in question. There is a measurement-----

Deputy Marc MacSharry: It is not in question. The OPW signed a lease. Did Mr. Buckley sign the lease? Is it the chairman who does so?

Mr. Maurice Buckley: The lease is approved by the board of commissioners.

Deputy Marc MacSharry: Yes, but who signs it?

Mr. Maurice Buckley: There is a sealing process. I do not think I signed that particular lease.

Deputy Marc MacSharry: Mr. Buckley is not sure whether it was him. Is it normally-----

Mr. Maurice Buckley: There is a legal sealing process.

Deputy Marc MacSharry: I appreciate that but who signs it on behalf of the people?

Mr. Maurice Buckley: If I could just answer. The board of commissioners, which is the three of us, John McMahon, John Sydenham and myself, met and approved the lease in January 2017. Then there was a legal technical process-----

Deputy Marc MacSharry: A legal technical process, yes I-----

Mr. Maurice Buckley: -----in sealing the document. That took place in April. I do not have to hand exactly who signed it.

Deputy Marc MacSharry: Mr. Buckley does not know whether it was he who signed it.

Mr. Maurice Buckley: I can check in five minutes.

Deputy Marc MacSharry: That would be useful. I am interested in knowing whether officials sign documents without reading them. This was not just, as Mr. Buckley said in his opening statement, one of the biggest lease deals ever done by the OPW. It was probably the biggest in the given year in all of Ireland. It is worth reading something before it is signed. I would not have the expertise of the big valuer firms but I know the difference between the two measurements and I know how they are done. Someone is responsible for this mistake. Some individual needed to have responsibility for making sure this was right. We have seen documentary evidence to prove to us this was advised from lower down to the top and was not acted on. What disciplinary process will follow?

Mr. Maurice Buckley: I accept the Deputy's point fully on responsibility at all steps in the process. I accept an element of responsibility myself in this because the Deputy is right. I chaired a meeting of the board of commissioners where we had a lease document and I asked questions so I could be satisfied it had been checked and was correct. In retrospect, I wish I had

asked more questions and-----

Deputy Marc MacSharry: Who advised Mr. Buckley on this? Surely he knows whether it was the responsibility of John, Mary or whoever to advise him but that person did not. He should ring HR, get the person up there and start a disciplinary process immediately.

Mr. Maurice Buckley: Unfortunately it is not as simple as one person. We are speaking about a large lease negotiated over one year. There were quite a few people involved.

Deputy Marc MacSharry: Here we are again. This is what we consistently see here. It is the culture of systemic failure with no individual responsible. We are talking about €10 million. So far it has cost us €17 million because of the delay, and I appreciate Mr. Buckley is saying the OPW had to do the fit-out, and then there will be a payment of €344,000 per year after that. So far, nobody is responsible but we have established that nobody at the top is qualified in terms of academic qualifications.

Mr. Buckley said net lettable area and IPMS3 is a complex issue but it is not. It is basic banana maths except we are dealing with millions of euro of the public's money. A five year old with 20 cent in a sweet shop would not make the mistakes we are making as a nation with millions of euro. There is nothing specialist about the maths 101 mistake that was made in this deal, which cost people a fortune.

We can only judge what is provided to us in writing. We have it in writing that the OPW was told this in February 2017. With the best of respect to Mr. Burke and the experience he has in the OPW, the entire assistant secretary level in the OPW has no property qualification. I am the only licensed property professional in the room and I am on the Committee of Public Accounts. I have my licence from the PSRA. I am a member of the Institute of Professional Auctioneers and Valuers, IPAV. None of the witnesses is but they have significant experience, more experience than anybody else here in property. One thing is certain, if the person who made banana maths mistake that cost €1 million was working for Jones Lang LaSalle, he or she would not have made it to the end of that week. That person would be gone. People would be identified. As is the norm here, we take refuge in words such as "culture", "systemic failure" and "review". Deputy Connolly ascertained that there was internal review. An external reviewer has been brought in who will get a brief from the OPW and who will be able to give it some credibility through the fact there will be an outcome that states the OPW has new processes and procedures in place. Mr. Buckley mentioned this. What new processes and procedures have been put in place to prevent this happening again?

Mr. Maurice Buckley: There is a whole range. We have-----

Deputy Marc MacSharry: I do not want to hear the whole range. Will Mr. Buckley give us a breakdown? Can it be emailed to us today? I am sure somebody in the OPW has it.

Mr. Maurice Buckley: Deputy MacSharry can refer to the report of the Comptroller and Auditor General. It is there in my response to recommendation 1.1.

Deputy Marc MacSharry: No, I want to see what are the internal documents. If it is down the field where all of these professionals or somebody made a mistake, who made the mistake? What procedure now exists in the OPW to deal with the difference between IPMS 3 and net lettable area being X so it will not sign leases unless all of these things are calibrated.

Mr. Maurice Buckley: Those procedures are in place.

Deputy Marc MacSharry: Okay.

Mr. Maurice Buckley: They are listed.

Deputy Marc MacSharry: Can we look forward as State and as a Committee of Public Accounts to a disciplinary process that realises tangible sanction against an individual or individuals responsible for costing the people money because of a basic maths mistake, which is not as complex as Mr. Buckley has outlined?

Mr. Maurice Buckley: I spent 30 years of my career managing in the private sector and the public sector and now I am managing in the Civil Service. I have never shirked from disciplinary measures when necessary. I have had to release umpteen people from their work at various times for various reasons.

Deputy Marc MacSharry: I would say that was in the private sector somehow because I have never seen that happen in 17 years in the Oireachtas.

Mr. Maurice Buckley: On another day I will explain it to the Deputy. Yes, it was in the private sector but also in the public sector.

Deputy Marc MacSharry: Can we look forward here to-----

Mr. Maurice Buckley: In this particular case, my colleagues and I looked at the circumstances involved and they did not merit disciplinary action. I know that is frustrating for the Deputy but they do not merit individual disciplinary action, for the reasons I have explained.

Deputy Marc MacSharry: This is okay.

Deputy Jonathan O'Brien: How do we know that?

Deputy Marc MacSharry: Is Mr. Buckley saying that this does not warrant disciplinary action? Is that the case?

Mr. Maurice Buckley: Yes.

Deputy Marc MacSharry: This is what is wrong and I hope the media are picking up on this, although I acknowledge there are many other stories today with tribunal reports and everything. Mr. Buckley, as the head of the OPW, is telling me that this basic mistake does not warrant disciplinary action. That is shocking. I can tell Mr. Buckley if that was still his attitude and he was still in the private sector, he would be gone out of business.

Did the experts that the OPW secured to help with the procurement of the Miesian Plaza come to the organisation with a suggestion for a building that might work for it, or did the OPW go to them saying that this is a building it was interested in and ask them to negotiate on its behalf?

Mr. Maurice Buckley: I am not sure.

Deputy Marc MacSharry: Does anybody know?

Mr. Maurice Buckley: Do any of my colleagues know?

Deputy Marc MacSharry: Does anybody know?

Mr. John Sydenham: I can update the Deputy on that. The normal way we would do it-----

Deputy Marc MacSharry: I am only interested in this specific deal, not the normal way.

Mr. John Sydenham: Specifically on this one, we would identify a building that is coming on the market, then we would engage the appropriate expertise.

Deputy Marc MacSharry: Who identified this one?

Mr. John Sydenham: Who identified the building or the consultants?

Deputy Marc MacSharry: Who identified the building?

Mr. John Sydenham: It was brought to the attention of our property people who have responsibility for-----

Deputy Marc MacSharry: Who brought it to their attention? Did somebody at board level see on *daft.ie* that Larry Goodman had a building to rent that looked good and say, "Let us inquire about that"? Did the board asks its valuers at a lower level to look for a 120,000 sq ft building and see what they could procure from the market. Does it flow inwards and upwards like that, or does it come in from the top, and a deal is retro-engineered from the ground up?

Mr. John Sydenham: It is more akin to the Deputy's former scenario which is that there are various contacts. Our valuers will be aware what is happening in the market. Our property specialists monitor the market to see what is under development and consideration.

Deputy Marc MacSharry: At what level is that?

Mr. John Sydenham: There would be various levels, including assistant principal on the administrative side.

Deputy Marc MacSharry: I am interested in how this deal came about.

Mr. John Sydenham: It would have been brought to the attention of a specific individual who picked up that this was being developed, the identity of whom I am not aware. There is a constant monitoring of the market to see what is coming in the short, medium and long term.

Deputy Marc MacSharry: Is the answer that OPW does not know?

Mr. John Sydenham: It is not that we do not know; it is that this would have come to the attention of an individual. If the Deputy is asking me whose attention it came to originally, I cannot say for definite at the moment. The normal course is -----

Deputy Marc MacSharry: No, Mr. Sydenham must see-----

Mr. John Sydenham: Please bear with me. The normal course is given the scale of what we do and the scale of our operations, we are constantly looking at who is planning to develop-----

Deputy Marc MacSharry: I get that, and I do not want to be disrespectful. I am sorry.

Mr. John Sydenham: Go ahead.

Deputy Marc MacSharry: This is the biggest deal. I want to know did it come from the board down or did it come from the ground up?

Mr. John Sydenham: It came from the ground up.

Deputy Marc MacSharry: Was that valuers?

Mr. John Sydenham: That is normal. It could come from either. In this instance, I am reasonably sure it came from our property section.

Deputy Marc MacSharry: It came from the OPW property section. Was TWM engaged to advise?

Mr. John Sydenham: Correct.

Deputy Marc MacSharry: Was that after OPW had selected this property, or did they play a role in selecting the property for OPW?

Mr. John Sydenham: As mentioned earlier, a number of options were looked at. Two other buildings were assessed as being candidate buildings.

Deputy Marc MacSharry: Were they assessed internally?

Mr. John Sydenham: Yes.

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

Mr. John Sydenham: They were brought on board to deal specifically with-----

Deputy Marc MacSharry: Was it to deal with that one building?

Mr. John Sydenham: To deal with that one building.

Deputy Marc MacSharry: Is there a property services agreement with them in line with the regulatory obligations?

Mr. John Sydenham: I cannot say for definite.

Deputy Marc MacSharry: Can anybody tell me that?

Mr. Maurice Buckley: Not offhand.

Deputy Marc MacSharry: Can we check it there is a property services agreement-----

Chairman: The witnesses will be able to find that out over lunch and tell us in the afternoon.

Deputy Marc MacSharry: I will need to know then if there is a property services agreement signed with TWM in respect of their work on behalf of OPW relating to that building.

Chairman: I am going to bring in Deputy Murphy in now.

Deputy Marc MacSharry: I am just winding up. Under their own professional obligations, TWM has to get OPW to sign such an agreement and I am interested in getting a copy of that agreement for the committee. Can the witnesses ascertain if one exists at lunch time? If so, can we see it? Before the answer is given to us that many witnesses try to give about commercial sensitivities, OPW can redact their fees. We are interested in everything else beyond that. I have more questions.

Chairman: The Deputy will come back after lunch. I call Deputy Murphy. When she concludes, we will break for lunch.

Deputy Catherine Murphy: I want to pick up on the issue of this building and others being brought to the attention of OPW. Are buildings of this magnitude for sale brought to the attention of OPW or is OPW typically constrained in respect of purchasing? Was that considered as part of the business case?

Mr. Maurice Buckley: There are always three options for consideration: lease, buy or build. We track the market at all times in those three respects.

For example, we are building on sites that we purchased or owned several developments that are intended for Government accommodation. There is one in Leeson Lane, one in Beggars' Bush-----

Deputy Catherine Murphy: Why would OPW have not have considered the purchase or build option as the primary option, given that the Department of Health will still be here in 25 years? There is nothing transient about it.

Mr. Maurice Buckley: We would have considered the purchase option at the time. It is a combination of what is available on the market. At that time in Dublin - it is still is the case - most office buildings being built are pre-let. One would need to start with the developer almost before the developer starts the project. At the time, no such opportunity seemed to be presenting itself.

Even if it had, it is always a balance of what available funding is there. It is a difficult debate-----

Deputy Catherine Murphy: What is the constraint on the OPW with respect to that funding? Does it go to the Department or is its funding finite in a particular year and decisions have to be made on that basis? Is it just a matter of being lucky as to the year one?

Mr. Maurice Buckley: We have an allocated Vote, as explained earlier, which deals with smaller projects. When something of this scale emerges, we go to the Departments of Finance and the Public Expenditure and Reform and seek the finance. If we felt it was prudent to purchase a building, we would see whether the finance was available to do so.

Deputy Catherine Murphy: Did OPW do so with this project?

Mr. Maurice Buckley: In this particular instance, there was not a suitable object on the market to purchase at that time so the issue did not arise.

Deputy Catherine Murphy: Typically, if one is looking for tenders, one looks for three. There are three buildings here in play. There was the former Central Bank, about which we are told that there are serious potential costs for full refurbishment. The second one is on St. Stephen's Green where a tenant was seeking a substantial contribution to recoup its fit-out costs. There were impediments with the other two options. In fact, therefore, only one building was seriously in play. Would that be fair to say?

Mr. Maurice Buckley: It is probably fair to say that one building outshone the other options available at the time, if I may put it that way.

Deputy Catherine Murphy: There was no choice.

Mr. Maurice Buckley: The Central Bank building, for example, was in serious contention. It is an old building, however, and there were a lot of structural and technical issues and it was

considered not to be a good choice. It is not that one could say in advance that there is only one option, but, as the Deputy rightly pointed out, there were not many options available at the time. Five or ten years earlier in the middle of the downturn, there would have been options aplenty to review and evaluate. At that time, there were three reasonable and credible options, but one clearly emerged as the preference among them.

Deputy Catherine Murphy: It is not just a question then of renting this building. There are other issues, including a full repairing and insuring lease.

Mr. Maurice Buckley: Yes.

Deputy Catherine Murphy: According to paragraph 6.31, the CSSO advised the OPW that the arrangement regarding relation to the maintenance to be carried out by the landlord was highly unusual and that the OPW would still retain responsibility for repairs and maintenance, even though it would be dependent on the landlord to carry out some of the work. The CSSO further pointed out that issues could arise where the landlord sold the premises, if the repairs and maintenance were not carried out satisfactorily, or if the landlord went into receivership or liquidation. It is then stated that there is a side agreement in addition to the lease. Can Mr. Buckley decipher that side agreement? My understanding is that the OPW also has maintenance obligations. The organisation was advised of a potential problem with the landlord carrying out the work. What additional costs does the side agreement relating to this building entail?

Mr. Maurice Buckley: It is complex. It is to do with the maintenance and the split the Deputy has referred to. I do not have the exact breakdown. I do not know if any of my colleagues are in a position to respond.

Mr. Martin Bourke: I can help on that. The Deputy is quite right. The Chief State Solicitor's Office pointed out that despite the fact that we have full repair and maintenance obligations in respect of the building, an agreement was entered into whereby the landlord would carry out certain work. That is not unusual at all. I will outline the first reason it was deemed appropriate that the landlord would do it and there was no real need for an agreement.

Deputy Catherine Murphy: I ask Mr. Bourke to put it briefly.

Mr. Martin Bourke: One can take the example of the cleaning of the outside of the building. The landlord has the equipment to do that on the roof. Rather than bring somebody else in, the most logical thing to do is get the landlord to do it. The landlord would have to produce an invoice just as anybody else would, so there is a complete governance-----

Deputy Catherine Murphy: How much does this side agreement cost? Do we have that information? Are those costs factored in?

Mr. Maurice Buckley: They are factored into the maintenance costs.

Mr. Maurice Buckley: However, if the landlord does not do it, another window cleaner does and the invoice is presented. If it is a valid invoice, they get paid; if it is not, they do not.

Deputy Catherine Murphy: Essentially the OPW gets the building in this condition, it carries out the refurbishment to suit the people who are going to occupy it and then carries out the maintenance. The OPW has paid the rent for the duration of the lease and it maintains the building for that time. The landlord gets the building back in pristine condition to renew a lease over whatever period. Is that what we are talking about?

Mr. Maurice Buckley: That is correct.

Deputy Catherine Murphy: That reinforces the point about purchase as opposed to rent, but I will not say anything further on that. During the process of negotiation of the lease, was the floor space different? I ask for my own understanding. Was the floor space then different from what it was when the lease was finalised?

Mr. Maurice Buckley: Yes. I will be forever grateful to the Deputy, because I have been trying to get that figure in since the beginning of the session. In paragraph 6.15, the initial indicative area on which the ease was negotiated is listed as 13,293 sq. m of office space and 305 sq. m of storage. At that time, when multiplied by the figure agreed, that equalled an anticipated rent of €9,267,000.

Deputy Catherine Murphy: What was it afterwards?

Mr. Maurice Buckley: When the measurement was done in December 2016 on the same basis of the net internal area, the result was 13,817 sq. m. This is outlined in paragraph 6.18. As the Deputy will see, there is quite a difference there, some 500 sq. m.

Deputy Catherine Murphy: There is quite a difference there. The OPW negotiated something.

Mr. Maurice Buckley: Yes.

Deputy Catherine Murphy: When OPW officials agree to something like this, they draw up a lease agreement, or legal people do it.

Mr. Maurice Buckley: We seek funding. We went to the Department of Public Expenditure and Reform for funding on the basis of that indicative figure.

Deputy Catherine Murphy: Did the witnesses not notice the difference between the numbers?

Mr. Maurice Buckley: Of course we did. There is always a difference in those figures. That is quite a sizeable difference, amounting to 3.9%, but there is always a difference. When a developer is marketing a building, he lists a-----

Deputy Catherine Murphy: I cannot get my head around one aspect of this. According to paragraph 6.15, the OPW agreed 13,293 sq. m of office space. The agency negotiated and signed off on that. Who draws up the lease in these cases? Is it the people who are leasing it, the Chief State Solicitor or the OPW's own solicitor?

Mr. Maurice Buckley: The developer's agents usually draw up the first draft of the lease. It then swings back and forth between the legal teams on both sides.

Deputy Catherine Murphy: The OPW knew what the figures were.

Mr. Maurice Buckley: No.

Deputy Catherine Murphy: Well, its agents knew the floor space was 13,293 sq. m when they negotiated it.

Mr. Maurice Buckley: Yes. That is why it is called the "indicative area". We knew it was in the ballpark of 13, 293 sq. m and we had a ballpark estimate of the money involved.

Deputy Catherine Murphy: That is what the OPW agreed in negotiations.

Mr. Maurice Buckley: That is correct.

Mr. Martin Bourke: That was subject to remeasurement. Our valuers and property professionals will attest that measurement is one of the biggest issues in every deal on a lease. There is always a clause providing that the agreement is subject to remeasurement. Both sides of the table know that. It is a complicated issue in the profession but it is standard practice.

Mr. Maurice Buckley: I thank Mr. Bourke. I should have made that clearer.

Deputy Catherine Murphy: It certainly was not clear to me. I could not figure out how one figure could be so substantially different from the other.

Mr. Maurice Buckley: There is a third measurement. To show how confusing it is, the measurement was made in December 2017. The lease negotiation was well advanced, the lawyers had been all over it and we still did not have an accurate measurement. Only when the building was fully ready, just before the lease is finalised, can an accurate measurement be made.

Deputy Catherine Murphy: When the OPW was negotiating the lease, were the measurement criteria different, or were they the same as when the lease was drafted?

Mr. Maurice Buckley: This is the point. At the time it was negotiated, the lease was clearly based on net internal area in our opinion. Due to the SCSI guidelines moving to IPMS 3, by the time we closed the lease it was clearly based on IPMS 3. That much was understood and clear. What was not clear was the agreement to readjust the rent so that the total sum remained the same. That is where the issue we discussed this morning arose.

Deputy Catherine Murphy: Is that provided for anywhere in the negotiated lease or the paperwork or was it just agreed with a handshake?

Mr. Maurice Buckley: As I have pointed out, we are in dialogue with the developer to rectify this point. As the documentation drawn up along the way is part of that dialogue negotiation, I should not get into the detail of it in a public forum.

Deputy Catherine Murphy: Do the witnesses have documentation?

Mr. Maurice Buckley: Yes.

Deputy Catherine Murphy: There is documentation to support that the expectation was subject to the remeasurement. The amount would not change.

Mr. Maurice Buckley: Yes.

Deputy Catherine Murphy: Very well. The witnesses said this is a good deal overall. We are all aware of what Hawkins House looks like, what an awful building it is and the opportunity for redevelopment of that whole area. Some of it has started. However paragraph 6.35 refers to the delay in getting into the building, which added to the costs. The OPW disputed the quantum of the cost, given the refit and the other things that happened. Paragraph 6.35 shows that costs were involved in staying in Hawkins House. Was that accounted for in the amount the witnesses mentioned earlier? One cannot pick one and not pick the other.

Mr. Maurice Buckley: I know. We picked the higher cost. The higher cost is the Miesian

Plaza building. One could say it was not costing anything to keep the civil servants in Hawkins House apart from the small maintenance costs, but there was an opportunity cost. The whole point was to take advantage of the new building and the new work environment. We took the higher cost. The Comptroller and Auditor General will agree we have not argued that the alternative had no rent associated with it.

Deputy Catherine Murphy: What was the monetary cost? Costs of €331,000 were incurred between July 2017 and May 2018.

Mr. Maurice Buckley: Yes

Deputy Catherine Murphy: That was the period between July 2017 and May 2018.

Mr. Maurice Buckley: Yes.

Mr. Seamus McCarthy: That is just ongoing maintenance costs. There were other costs.

Deputy Catherine Murphy: What were the other costs?

Mr. Seamus McCarthy: We were unable to identify what those were. We knew that there were classes of costs. In addition, the Department of Health has stated that considerable work was needed to maintain the telephone system in Hawkins House. ICT capacity was also severely limited. It had ongoing additional expense as opposed to working with new telephone and ICT systems.

Deputy Catherine Murphy: Was anything purchased that could be reused or was it just ongoing maintenance or upgrades?

Mr. Maurice Buckley: The Department of Health at the time was making a determined effort to avoid any purchases. That is the point about the telephone system. The Department tried to keep the telephone system going rather than spending too much money on it knowing that it would be moving to the new premises.

Deputy Catherine Murphy: Okay.

Mr. Seamus McCarthy: With regard to DCYA, there was an extension of its rental, but obviously it was getting something for that. It had the occupancy of the premises. It would not be fair to regard that as nugatory or ineffective because it got something. The opportunity cost was that there was a good building somewhere else that was not being used. That is where the loss was.

Chairman: We will take a break for an hour. There are three issues to be dealt with. During the lunch break, it might be possible for somebody in the office to get the name of who signed the lease. Second, Deputy MacSharry asked about a service level agreement. Perhaps Mr. Buckley could get that even if he have to redact some financial details.

Mr. Maurice Buckley: The property services agreement.

Chairman: That is the lease agreement, but Deputy MacSharry mentioned the name of the other company that was working with the OPW. The third matter is paragraph 6.12 with regard to the other options the OPW examined. It says, referring to the Central Bank and St. Stephen's Green, that these options were noted in internal correspondence in August 2015 but were not formally documented in the submission to the board in March 2016. Can Mr. Buckley get

somebody to email some of that so we can see what level of assessment was carried out on that?

Mr. Maurice Buckley: I will not be able to do that over lunch, as it will involve trawling back through the management records of two years ago.

Chairman: Okay, but I am formally asking Mr. Buckley to send it to us as soon as practicable.

Deputy Catherine Connolly: Are we getting a report on all of this?

Chairman: The 2017 report?

Mr. Maurice Buckley: There is a flurry of activity behind me. I do not know where we are with that.

Deputy Catherine Connolly: Are we getting the report? The Chairman mentioned four issues. There is a problem with correspondence and I understand that.

Chairman: Is the report coming to us?

Mr. Mick Long: The committee will get the report.

Chairman: Is it the 2014 or 2017 report?

Deputy Catherine Connolly: The 2017 report.

Mr. Mick Long: It has been sent twice this morning.

Chairman: Then the secretariat will have it so we can circulate it.

Deputy Catherine Connolly: That is great if it is there.

Chairman: Okay. We will suspend the sitting for an hour.

Sitting suspended at 2.15 p.m. and resumed at 3.20 p.m.

Chairman: As we are resuming in public session, I remind everyone to please turn off their mobile phones. The public is being very attentive to the proceedings of this committee this morning. My constituency office received several phone calls from people saying that they could not follow all of the debate because some people in this room are clicking their pens or affecting the microphones in some way. Those who are listening and watching attentively have not been able to hear the audio properly because individuals in this room are not aware of this. The phones calls to which I refer show that people are watching everything. Some of us are clicking our pens too loudly. I ask that people refrain from doing so in future.

Mr. Maurice Buckley: They can hear me grinding my teeth.

Chairman: Exactly.

I wish to clarify the position regarding one item of correspondence we discussed earlier. There was confusion this morning about whether we had received the documentation for 2017. It was received during the week. The request relating to it was sent from the Committee of Public Accounts email account but the response came back to a different email address and it was not picked up. We did not receive the 2014 report originally - probably due to the size of the document or some other technical issue - but we have it now. We have everything we need and

copies have been made for members. I must inform members that the document we received is not for publication. We can discuss it at a subsequent meeting or decide whether to publish it all or to publish a redacted version. As of now, it is a confidential document for members only. It is not for publication.

Mr. Maurice Buckley: Before we start, may I correct the record slightly from this morning? We were talking about the job description or job profile for the head of planning and estate management. I contributed loosely to outlining the job specification. The actual specification was written by the Top Level Appointments Committee, the Public Appointments Service and our HR department. It goes through all of that process. I am sure, however, that was understood.

Chairman: That is fine. I am sure Mr. Buckley did not do it from scratch. Deputy Farrell has just texted me and has forfeited his slot. We will start with Deputy Connolly and then move to Deputy O'Brien.

Deputy Catherine Connolly: I am actually under pressure because of the storm and the situation in Galway. I have a few practical queries. During this morning's discussion reference was made to the Galway building but I am a little confused about that. To which building in Galway was Mr. Bourke referring?

Mr. Martin Bourke: It is known as the Revenue Commissioner's building. I will find out for definite for the Deputy.

Deputy Catherine Connolly: That is okay. The committee has already agreed to obtain a list showing a chronology of what happened regarding the extra rent being paid.

Mr. Maurice Buckley: We said it is under investigation. We will try to put that together. That is what the investigation is about.

Deputy Catherine Connolly: Will Mr. Buckley clarify who is investigating?

Mr. Maurice Buckley: Internally. We are looking at it internally. It was-----

Deputy Catherine Connolly: When did the investigation start?

Mr. Maurice Buckley: When the Comptroller and Auditor General published this in the chapter of the report.

Deputy Catherine Connolly: I ask the Chairman that we come back to this. There is an internal review being carried out. When did it start? When will it be completed? Who is doing it? Is that clear? I do this through the Chair.

Mr. Maurice Buckley: Yes.

Mr. Seamus McCarthy: For information purposes, this is one of the five cases covered in the report.

Deputy Catherine Connolly: I have not read the report. This is why it is difficult.

Mr. Maurice Buckley: I appreciate that.

Deputy Catherine Connolly: Our guests will come back to the committee on that issue.

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: Okay. I have already touched on building and renting. Deputy Catherine Murphy also commented on this to some extent. It will cost more than €300 million - besides any mistakes made and the implications of those mistakes in the context of the new health building.

Mr. Maurice Buckley: Correct.

Deputy Catherine Connolly: At what level has this matter been discussed in the context of purchasing buildings and value for money?

Mr. Maurice Buckley: The OPW does not have a specific written policy on purchase versus lease. I am not sure-----

Deputy Catherine Connolly: So the OPW just follows Government policy, if it is Government policy.

Mr. Maurice Buckley: Government policy on this is really tied in with the state of Government finances at any given time and the availability of funding. The Government, no more than a business or anybody else, has limited funding available and must prioritise whether the funding is used for property in the areas of health or education.

Deputy Catherine Connolly: If the OPW has no say, that is fine.

Mr. Martin Bourke: There is no policy in place. I understand that previously another person at this committee had referred to a policy. There actually is no policy, at least we are not aware of a policy. The decision-making relating to build, buy or lease is very much considered at the time the accommodation is required, but it is heavily driven by public finances.

Deputy Catherine Connolly: It is heavily driven by the market. We are heavily driven by the market and there is no evidence of value for money in the context of this policy. I am not blaming the OPW for this policy-----

Mr. Martin Bourke: I understand that.

Deputy Catherine Connolly: -----but there is no evidence. The OPW spending review by the Department of Public Expenditure and Reform looked at spending by the OPW on State rents. The report says that consideration should be given to “analysis of the effectiveness of the current model in meeting accommodation requirements, and, assessing if value for money is being obtained”. An analysis of the effectiveness has not been done and we need further research on it. In a sense, the OPW is a symptom of policy in this regard, yet Mr. Buckley states that there is no policy.

Mr. Maurice Buckley: It is something the Government is examining and trying to formulate policy on. We will fit into that-----

Deputy Catherine Connolly: No. The report, Analysis of OPW Spending on State Rents, is from July 2018. It was produced under pressure in response to the frequency with which the issue of rent paid for buildings is raised at this committee and, possibly, others. We are actively colluding with the market to make the rents higher. The OPW thinks that €300 million is good value for money. We have been through that and I will not go back into it.

Mr. Martin Bourke: If I, as the head of the estate, had access to capital to purchase, then I would purchase, especially in the city.

Deputy Catherine Connolly: Does Mr. Bourke believe it would be better value for money?

Mr. Martin Bourke: In the long term, it would. It could, however, cost in the region of €100 million to €130 million to purchase some of these buildings. In the long run, over 30 years it would possibly be better value for money. It would be, but it is also about the availability, the budgetary process and whether the Department of Public Expenditure and Reform has the money to give it out now.

Deputy Catherine Connolly: What is happening with the building that has been vacated?

Mr. Maurice Buckley: Is the Deputy referring to Hawkins House?

Deputy Catherine Connolly: Yes.

Mr. Maurice Buckley: We have received planning permission to redevelop the Hawkins House site. That is currently-----

Deputy Catherine Connolly: What will it be redeveloped as?

Mr. Maurice Buckley: As a combination of offices for public servants and retail. It would be consistent with-----

Deputy Catherine Connolly: Will the current building be demolished and a new building erected?

Mr. Maurice Buckley: Yes.

Deputy Catherine Connolly: Will it be publicly owned?

Mr. Maurice Buckley: Yes, it will be publicly owned. It is Government policy now that we prepare the way for redevelopment with planning permission. The planning permission is sympathetic to that granted in respect of other buildings on that square. It is subject to funding and a final decision by Government. The next step is to utilise that. It feeds into the general discussion the Deputy raised.

Deputy Catherine Connolly: The public spending code has been in place for some years. Under that code one has to have a business case.

Mr. Maurice Buckley: The Deputy is correct.

Deputy Catherine Connolly: Would the witness accept that the business case for the new health building was totally inadequate?

Mr. Maurice Buckley: The initial business case should have been much more complete. There should be a business case for any project worth over €20 million.

Deputy Catherine Connolly: It has been detailed, and I am not going to go back into it. The witness has read the chapter and the inadequacies of the case have been outlined by other Deputies.

Mr. Maurice Buckley: We have accepted the recommendations of the Comptroller and Auditor General in that respect and improved our procedures already.

Deputy Catherine Connolly: How many other examples are there of situations where there is no business case or where there is an inadequate business case which does not comply with the public spending code?

Mr. Maurice Buckley: I can only speak about our current work. My colleagues would confirm that any project we have that is worth over €20 million has a very thorough business case. We have introduced changes since that time. We have a very formal project procedure now through a mechanism called the project oversight group, which has very strict rules, not only covering the internal approval of projects but also the assignment of those projects to the different teams in the Office of Public Works, OPW, or externally. As a result of this report and our work over the last number of years - including a full competency and capability review since 2013 - many good new systems have been added within the OPW. I am confident that the current situation is very strong.

Deputy Catherine Connolly: I am caught for time and have to go, but I want to say that being confident is one thing, but seeing the process on the ground being complied with is another. I do not believe that any public service should be demonised in any way, but I do believe they should be held to account. The lack of process here does not help. I do not believe the private sector is any better in this regard; in fact, I believe it is worse, but it is not subjected to the same scrutiny. To put my comments in context, the private sector has not served us well in Ireland. Fortunately there is a higher standard for our public service. I do not believe that it is correct to say that going private would be better. In my experience, it is not. However, serious process difficulties have been highlighted here.

I was a councillor for a long time and was there when the OPW was doing great work on the ground analysing the flooding situation. The big challenge was the plan to do something about it and to find the money required. Can the witness update us on that?

Mr. Maurice Buckley: As part of Project Ireland 2040, the national development plan, we have been given an allocation of just under €1 billion for the next ten years.

Deputy Catherine Connolly: Can the witness put that in context for us? I am going home to a city that may be partially flooded tonight, according to predictions, and where people cannot get insurance.

Mr. Maurice Buckley: The money is to be used for 118 individual flood protection schemes all over the country which have been identified by the catchment flood risk assessment and management, CFRAM, programme. Some 50 of those schemes have been prioritised and will get going straight away. Mechanisms are in place to ensure we can work with local authorities, and we are working to increase our capacity to deliver those schemes. Each situation is being addressed, and very detailed information is available on *floodinfo.ie*. The Deputy can visit that site and look up County Galway, Galway city or any other area she is interested in and view a list of all of the schemes in place, where they are and what is involved.

Deputy Catherine Connolly: Are the 50 projects prioritised under this scheme under way?

Mr. Maurice Buckley: The projects are under way but they are at the design phase.

Deputy Catherine Connolly: I appreciate the availability of the website and I know that it is clear. Can I have clarification, through the Chair, on the 50 projects? I would like to know the breakdown of them, the money allocated to them, when are they going to start and when it is anticipated they will be finished, if possible.

Mr. Maurice Buckley: My colleague, Mr. Sydenham, might comment on that.

Mr. John Sydenham: We looked at the 118 schemes and we prioritised the top 50 based on a criteria of the maximum number of properties protected. Those schemes are progressing, because under CFRAM the preliminary design of these schemes has been completed. A body of work has already been done, and they will be moving forward to detailed designed stage-----

Deputy Catherine Connolly: Can the witness provide that in writing for me? I have a particular interest in it, and people will be asking me about it in Galway. We have lived through flooding, and know that there is huge work to be done, with huge cost. I want to know about those prioritised schemes.

Mr. John Sydenham: They are all prioritised.

Deputy Catherine Connolly: I would like to know about the timescales involved and how much each will cost.

Deputy Marc MacSharry: I thank the witnesses for providing the services agreement. Was a brief provided to TWM?

Mr. Maurice Buckley: I am sure there was a brief, but I do not know how formal it was.

Mr. Martin Bourke: Is the Deputy asking whether there was a written document?

Deputy Marc MacSharry: Yes.

Mr. Martin Bourke: I can check that for him. There was obviously a verbal briefing given to TWM, but I am not sure if there was a written briefing.

Deputy Marc MacSharry: The concern is that it would be foolish to take a negotiating position in which the landlord knows that the brief is to negotiate the best terms on one building, rather than knowing that the clients are looking at five different options. In this case, it might have looked at the redevelopment of Hawkins House, various blocks on the quays, the old Central Bank building and other possibilities. If TWM were sent out to negotiate the best terms it could, but the vendor or landlord knows that he or she is the only show in town, he or she will clean it out.

Mr. Martin Bourke: I am very familiar with the process. We are going through the exact same process in the city centre at the moment with another major building. The issue is that there must be tension in the market to ensure there is a drive on the price. The same thing is happening right now on another major building.

Deputy Marc MacSharry: Is the witness saying that it did not happen on this occasion?

Mr. Martin Bourke: I did not say that, but the Deputy has asked a fair question about it.

Deputy Marc MacSharry: This occurred in November 2015. The previous Chairman visited one of the properties. When did that take place? The witness knows the point I am making.

Mr. Martin Bourke: I understand the intentions.

Deputy Marc MacSharry: The witness might have just been in his post, and perhaps the Chairman was not in his post. I know I have a very adversarial way of asking questions, but it looks a bit like negotiating class 101.

Mr. Martin Bourke: TWM is very professional and they carried out the negotiation.

Deputy Marc MacSharry: Yes, TWM is.

Mr. Martin Bourke: It is top class.

Mr. Maurice Buckley: The OPW team managing-----

Deputy Marc MacSharry: I am not questioning its expertise. They are all former DTZ people, and I know of them, but they are only as good as the brief they get.

Mr. Martin Bourke: I understand the point the Deputy is making, but I do not believe-----

Deputy Marc MacSharry: It seems that its brief was to come back with the best terms it could get on one property. I would prefer if it was sent to three different properties, but it seems that the property had been selected internally. We can question the absence of certain expertise at the time, but the brief seems to have been to go and do a deal on that particular property. We were never going to have the benefit of their brilliance if the search was narrowed to just one building.

Mr. Martin Bourke: I understand the point the Deputy is making. The proof is in the pudding in terms of what was negotiated and where it now sits compared with the market then and now. We might be talking about 20% off the going rate in the market.

Deputy Marc MacSharry: Not necessarily. I can provide some comparisons with some large-scale high profile buildings in the city which managed to provide rents that, when the incentives absent from this scheme are taken into consideration, cost well below €50 per square foot. They have achieved €46, €48 and €47.50 per square foot, with break clauses.

Mr. Martin Bourke: I would love to see the detail of those deals. If the Deputy is suggesting that a building of the quality of Miesian Plaza could be retained for under €50 per square foot, or €44 per square foot-----

Deputy Marc MacSharry: We are talking about shell and core. I have been in Miesian Plaza since, and there is no question but that the fit-out is superb.

Mr. Martin Bourke: A property is about to go on the market on St. Stephen's Green, which I believe will be seeking €70 per square foot. I know that is just an advertised price. I am not saying that price will be achieved, but if there is a suggestion that if Miesian Plaza was on the market now it would-----

Deputy Marc MacSharry: It is not a case of now. I am thinking of all of the deals done and people *in situ*.

Mr. Martin Bourke: Yes, absolutely, but it is about the quality of the deal. If we were sitting here trying to defend why we paid €80 per square foot or something like it, it would be game over, but that is not the case.

Deputy Marc MacSharry: I appreciate that it is not the case; it is a case of we will never know because we only sent the OPW managing team to negotiate on one property.

Mr. Martin Bourke: I am prepared to accept that point - the Deputy is a professional in the area - but what I am saying is-----

Deputy Marc MacSharry: I am not particularly renowned or anything; I just know some of the basics.

Mr. Martin Bourke: The Deputy is renowned. In fairness, what we are talking about is a €49 per square foot deal. What we are asking is the equivalent in the marketplace now. I know that it is a crude measure, but we are not talking about a figure of €50 or €51 but north of €60.

Deputy Marc MacSharry: We are almost in 2019.

Mr. Martin Bourke: I totally accept that, but what we are talking about potentially is a 20% gain in the current market.

Deputy Marc MacSharry: Mr. Bourke wanted some examples. I will give him a few. One is 1GQ on George's Quay in Dublin 2. The cost is €48 per square foot and includes car parking spaces. There is a break clause and one year's free rent. There is another 50,000 sq. ft unit at 1GQ and the cost includes car parking spaces. It is a 20-year lease, with a break clause after 15 years. There is 12 months' free rent. These are two examples. I have about ten examples-----

Mr. Martin Bourke: Yes. What I would be happy to do, with the luxury of having my phone turned on, is to come back with other properties that we would see as comparable with our deal to see how they would actually square up in the market. A specific question I asked of TWM, in anticipation of such an exchange, was where it would see the market going. It stated it was certainly moving towards a figure of €60 or in excess of it for an equivalent deal.

Deputy Marc MacSharry: We are not going to solve it now. The bottom line is that it was poor practice not to go in. Whether the OPW decided off the record, privately and internally that the Central Bank or George's Quay, for example, was not appropriate, in its brief TWM ought to have listed the five options it was looking to have. We are all human and TWM is only as good as the target set for it. What I am suggesting to the witnesses is that we set the bar pretty low. Who determined that the offices had to be located close to Leinster House?

Mr. Maurice Buckley: That would be part of the specification of the client Department.

Deputy Marc MacSharry: It was the client Department.

Mr. Maurice Buckley: Yes.

Deputy Marc MacSharry: Does it have plenipotentiary status? Is it its call to say to the commissioners, "We want 100,000 sq. ft or 50,000 sq. ft and we want it on Baggot Street"? Is the OPW in a position to state, "Hold on one second, lads. How much space do you need based on 12 sq. ft per person?" On average, we are at a figure of about 16 sq. ft?

Mr. Martin Bourke: We are at a figure of 15.3 sq. ft.

Mr. Seamus McCarthy: In Miesian Plaza.

Deputy Marc MacSharry: In Miesian Plaza, but the figure for the Civil Service nationally is higher, is it not? We are at a figure of about 25 sq. ft or something like it.

Mr. Martin Bourke: The figure is significantly lower in Miesian.

Deputy Marc MacSharry: But it is still not where we want to get to, that is, 12 sq. ft?

Mr. Martin Bourke: That is a target.

Mr. Seamus McCarthy: We are operating at a figure of less than 12 sq. ft.

Deputy Marc MacSharry: In the Office of the Comptroller and Auditor General?

Mr. Seamus McCarthy: Yes.

Deputy Marc MacSharry: That is great. We will have to get the Comptroller and Auditor General bigger offices for the value his office is achieving, as I suggested.

Mr. Seamus McCarthy: When we moved in 2015, that was the standard that was negotiated.

Deputy Marc MacSharry: Okay, but if someone comes to the OPW and says, “Hawkins House is being closed and we want 120,000 sq. ft.” Is the OPW entitled to state, “Hold on a second. How many people do you have? Give us your general requirements”? Is it entitled to state, “To be honest, we have an option here for you and it will do you”?

Mr. Maurice Buckley: Absolutely. That is the negotiation - the discussion - that takes place. Very often we end up accommodating a unit of government at a different location, a different class of location, than what was requested initially.

Deputy Marc MacSharry: Because of availability and the OPW might sometimes have property.

Mr. Maurice Buckley: Yes, absolutely. It is always a balance between different criteria. We are talking about two full Departments. The Department of Health has a senior Minister and three Ministers of State.

Deputy Marc MacSharry: Why do they need to be beside Leinster House?

Mr. Maurice Buckley: The Deputy would need to talk to the Department of Health about that matter. All Ministers, Heads of Department, are within a reasonable distance-----

Deputy Marc MacSharry: All Ministers have offices here too.

Mr. Martin Bourke: I think the significant thing about the Departments, particularly the Department of Health, is that they would be considered very much to be policy Departments. As I understand it, there is a Minister and two or three Ministers of State in that Department alone. I know from another life that it handles about 11,000 or 12,000 parliamentary questions a year, which is a phenomenal number. That shows how closely associated it is with the Dáil and the Houses of the Oireachtas. There is, therefore, a choice: do you go farther out of the city and have rafts of officials in taxis and particularly on overtime, constantly coming to and out of the Dáil, or do you take a prudent decision and decide that it is more sensible that they be closer to the Dáil with maybe someone else who is not in the Dáil as often being slightly further out? That is the balance to be struck. For instance, one would not locate a warehouse in the city centre; one would locate it out towards the M50 or farther out in the countryside. It is about the nature of the Department; the Department of Health, although there are others, is particularly policy-driven.

Deputy Marc MacSharry: Parliamentary questions are not answered in that way. If one asks the Department of Employment Affairs and Social Protection a parliamentary question related to pensions, it is answered from Sligo. If one asks something to do with the Saolta hospital group, it will probably be answered from Galway. Telecommunication is instantaneous.

Mr. Martin Bourke: I understand that, but what I am saying is that it is symptomatic of the nature of the work Departments do, which requires officials, particularly those who service a Minister and three Ministers of State - there is also the Department of Children and Youth Affairs with another Minister - to attend to the work of Dáil Éireann.

Deputy Marc MacSharry: We will agree to disagree but just on that aspect.

Mr. Maurice Buckley: The Deputy has to look back at decentralisation which followed that logic to its extreme in moving outside the city completely to large units. Rightly or wrongly, that policy has had to be largely reversed. As property people, we would always-----

Deputy Marc MacSharry: Where was it reversed?

Chairman: Nobody left the new offices in Portlaoise. I do not know what-----

Mr. Maurice Buckley: No, but Heads of Department, Ministers, Secretaries General-----

Chairman: They never moved.

Mr. Maurice Buckley: Okay.

Deputy Marc MacSharry: The policy of decentralisation has not been reversed.

Mr. Maurice Buckley: I appreciate the correction-----

Chairman: The OPW moved to Trim.

Mr. Maurice Buckley: -----but in a perfect world-----

Chairman: Am I right? Did the OPW move to Trim?

Mr. Maurice Buckley: We moved to Trim at that stage.

Chairman: The OPW is about the only one that moved.

Mr. Maurice Buckley: The line Deputy Marc MacSharry is taking is very interesting because many of our professional valuers would take the same line, that purely from a property perspective, yes, of course, the further away we are from the very expensive city centre area, the better. The trouble, however, is that one has to balance this with the requirements of government. It is an international debate. Every country in Europe is trying to get the balance right between who has to be in the central government district and who can be a little outside it.

Deputy Marc MacSharry: The rumour around the campfire is that the OPW is going to sell Hawkins House. Is that the case?

Mr. Maurice Buckley: As I said, we have planning permission to redevelop Hawkins House. If it can be funded and the Government agrees, that is our first port of call.

Deputy Marc MacSharry: It is about 160,000 sq. ft.

Mr. John Sydenham: We are planning for use of 140,000.

Chairman: Square metres.

Deputy Marc MacSharry: Apollo House-----

Chairman: I am sorry, but will Mr. Sydenham repeat the figure? I missed it.

Mr. John Sydenham: It is 140,000 sq. ft.

Deputy Marc MacSharry: In planning for the replacement of-----

Chairman: Is it 14,000 sq. m?

Deputy Marc MacSharry: It is a little less.

Chairman: It is about the same size as the property on Baggot Street into which the OPW moved. Is it going to mean more space than in the current building or-----

Deputy Marc MacSharry: I am on a line that connects-----

Chairman: I am sorry.

Deputy Marc MacSharry: Apollo House is next door. Is that right?

Mr. Martin Bourke: Yes.

Deputy Marc MacSharry: It is for sale at the moment.

Mr. Martin Bourke: That is correct.

Deputy Marc MacSharry: What is the asking price?

Mr. Martin Bourke: Did I hear a figure of €37 million or-----

Deputy Marc MacSharry: Yes, €40 million. Therefore, it is planning for use of about half of what the OPW has available, more or less, on that site. Let us say Hawkins House is worth €50 million or €55 million. If the OPW was to sell it, it would have to surrender half of the proceeds to the Exchequer. Is that right?

Mr. Martin Bourke: Yes.

Deputy Marc MacSharry: That would leaves us-----

Mr. Martin Bourke: If we could reinvest it in the one year, we could actually retain all of the proceeds.

Deputy Marc MacSharry: Okay, but-----

Mr. Martin Bourke: It would be difficult.

Deputy Marc MacSharry: -----it will come looking for it, will it not?

Mr. Martin Bourke: Certainly.

Deputy Marc MacSharry: The OPW would then be left with €27 million, or less than three years' rent at Miesian. Is that right?

Mr. Martin Bourke: Yes. I realise this is not necessarily the OPW's decision but if the Department of Public Expenditure and Reform was here we would be telling it that, in terms of value for money, in comparison with three years' rent, the 60-year lifespan of 120,000 or 140,000 sq. ft that we would own at the end - we would not be leasing it or paying a mortgage

on it - is far better.

Mr. Maurice Buckley: I suppose that is down to the toing and froing of the property market-----

Deputy Marc MacSharry: Who takes that decision?

Mr. Maurice Buckley: -----and the development decisions that are taken.

Deputy Marc MacSharry: Who takes that decision?

Mr. Maurice Buckley: We would take part in determining the pros and cons and evaluating the business cases of the different options.

Deputy Marc MacSharry: Who calls it? Who makes the decision?

Mr. Maurice Buckley: The Department of Public Expenditure and Reform would certainly come into it very strongly in respect of the availability of funding.

Deputy Marc MacSharry: Right.

Mr. Maurice Buckley: With regard to a project of that size, how to proceed could well be a Government decision or it may be within the scope of the Department of Public Expenditure and Reform.

Deputy Marc MacSharry: Taking construction costs and everything else into account, it would probably come to approximately €30 per square foot. Would Mr. Buckley agree with that?

Mr. Maurice Buckley: I do not have that information to hand.

Mr. John Sydenham: It would be fairly low, yes.

Deputy Marc MacSharry: Would it not? It is a no-brainer really, is it not?

Mr. John Sydenham: I would have to agree, subject to funding being available.

Deputy Marc MacSharry: Good. As the Committee of Public Accounts, this is the kind of thing we need to be recommending. I am sure the Comptroller and Auditor General agrees. I want to move over to Harcourt Square for a second, where we have the ongoing debacle with An Garda Síochána. We had an issue with the lease some years ago. We had to try to get an extension to the lease and it was changing hands for approximately €40 million or €45 million. NAMA was involved. I believe Hibernia REIT has it now. The site has the potential to provide 360,000 sq. ft. Why did we not try to buy that? Was a case made to the Department of Public Expenditure and Reform to approach NAMA and say that this site could be bought for €40 million? The Garda does not need 360,000 sq. ft so it could have more than covered its needs and perhaps have provided for others. Was any case made?

Mr. John Sydenham: On one level, it is tied up in the availability of capital but the key issue with Harcourt Square in terms of a facility for An Garda is that it is coming to the end of its life. It has to be completely retrofitted.

Deputy Marc MacSharry: It is a redevelopment site.

Mr. John Sydenham: It is a redevelopment site.

Deputy Marc MacSharry: I agree with that too.

Mr. John Sydenham: We are faced with the challenge of relocating what are probably the most sensitive elements of An Garda Síochána. Its key units, including the drugs squad, the Criminal Assets Bureau, and the emergency response units, operate out of Harcourt Square. It is probably one of the most sensitive policing installations in the country. People are familiar with the ongoing change and transition in An Garda Síochána. It is in a constant state of flux. It is something at which we have looked. The opportunity to restructure the leases was mentioned previously. The strategy we have now developed is to leave An Garda there. We looked at temporarily moving it but the price we calculated was prohibitive. The strategy is to build a brand new building on Military Road, tailored to An Garda Síochána's unique accommodation requirements, so we extended the lease.

Deputy Marc MacSharry: An Garda picked that road, did it not?

Mr. John Sydenham: The process we went through is interesting. We went through a formal evaluation of a number of sites. Some of them would have been on the perimeter of the M50. We were even looking at a major redevelopment of An Garda headquarters in the Phoenix Park. Looking at all the criteria, which include economic benefit, key elements within the assessment were operational requirements, particularly for elements like the emergency response unit. Out of all the assessments, that site was the one that came out on top. It had the added advantage of being in State ownership.

Deputy Marc MacSharry: We then have the problems with costs, €80 million versus €105 million; with floors coming off; and with the site not being able to cater for the total needs.

Mr. John Sydenham: Again, there is a common theme emerging. If we had access to substantial capital, we could build a bigger building. The decision on whether we put an extra floor on it or drop the floor is a function of affordability. Once we capped spending at €80 million we were limited in terms of the height, so we had to drop a floor of the preliminary design.

Deputy Marc MacSharry: Why do we not look to the Department of Public Expenditure and Reform if we are going to be back here in a couple of years' time saying that the Garda has to move again because it cannot incorporate everything and that it is looking for another building, or asking if there is any place in Miesian plaza in which the drugs unit could be placed because it cannot fit on Military Road? Should that not be in the public domain? If it needs to be €105 million then that is what is required because we need to go up two floors to have this capability.

Mr. John Sydenham: One has to have sympathy for the Department of Public Expenditure and Reform. We are one sector of umpteen sectors competing for the same limited supply of capital.

Deputy Marc MacSharry: That is somebody else's problem. In fairness-----

Mr. John Sydenham: I hear what the Deputy is saying but we do have to-----

Deputy Marc MacSharry: -----the Office of Public Works wants to provide for the need.

Mr. John Sydenham: We do, and we will always make a case. In terms of the Estimates process, we will ask for substantially more than is actually given to us but even in the justice sector there is a huge number of developments including a new forensic science laboratory and

other major developments. There is €100 million gone on three major regional Garda centres - Kevin Street, Wexford and Galway. There is huge investment, but it is a finite pool. Anyone of us would say that if we could get money - and this also relates to the previous Deputy's questioning - it would colour our decisions on whether to lease or construct new facilities. The key issue with Military Road is that while, yes, we can meet the demands of An Garda Síochána, we are capped at €80 million.

Deputy Marc MacSharry: Why does Mr. Sydenham not go to Hibernia REIT and say that it can have Hawkins House if it builds us 100,000 sq. ft of accommodation, or 200,000 sq. ft or whatever is required?

Mr. John Sydenham: It is a possibility.

Deputy Marc MacSharry: The OPW should look at those possibilities-----

Mr. John Sydenham: We do.

Deputy Marc MacSharry: -----or talk to NAMA about doing a site assembly between Apollo House and Hawkins House before Hawkins House is sold for €40 million. Then there would be even better potential for the OPW to go to Hibernia REIT or some other such company to say-----

Mr. John Sydenham: We have and we do. As I say, it is unfortunate that we are before the committee on a number of issues but, as an organisation, we do have these conversations. We had intensive negotiations with various entities. We actually engaged in a partnership with the owners of Apollo House. We used the same design team and went through the same planning process in order to defray costs. The designs of both buildings were in sync with each other so we got way above what we would have gotten if we had gone ahead on our own. We have had conversations with other developers who would be interested in doing an equity swap or developing an asset for us elsewhere, although not for a Garda facility which is highly specialised building. Once we tease through those possibilities, I do not think they are viable options. Apropos of the Deputy's previous conversation, Government Departments insist on being in the centre of the city - whether it is right, wrong or indifferent of them to do so - given their interaction with Government. That is essential.

Deputy Marc MacSharry: The Garda also turned down Thornton Hall.

Mr. John Sydenham: It was too far out.

Deputy Marc MacSharry: For operational reasons it was too far out.

Mr. John Sydenham: That is correct.

Deputy Marc MacSharry: Operational reasons make for a good old excuse, do they not?

Mr. John Sydenham: With respect, I cannot comment on the Garda's view of operational requirements.

Deputy Marc MacSharry: The Garda stations came up earlier on. I was focusing my own mind on other things. Mr. Buckley mentioned that six stations had been approved for reopening. Was that it?

Mr. Maurice Buckley: That is correct.

Deputy Marc MacSharry: Did he mention €1.5 million for Stepside? Did that come out earlier on?

Mr. Maurice Buckley: Yes.

Deputy Marc MacSharry: It was to be €2.5 million for all six, is that not right?

Mr. Maurice Buckley: That is the envelope, yes.

Deputy Marc MacSharry: That means there is €1 million left for the other five.

Mr. Maurice Buckley: There is up to €1 million left.

Deputy Marc MacSharry: Up to €1 million. How much will it cost to reopen Fitzgibbon Street Garda station?

Mr. John Sydenham: Fitzgibbon Street is not part of that six.

Deputy Marc MacSharry: Well then what will it cost to open the other five? Will it be possible to open them for less than the €1 million that is available?

Mr. Maurice Buckley: Yes, I think so. There is a programme there and there are tentative costings for each of those. They will now be firmed up. Some are proceeding. Some are relatively easy to reopen. None of them is approaching the scale or cost of the Stepside station.

Deputy Marc MacSharry: Stepside is the most expensive.

Mr. Maurice Buckley: It is the largest and most expensive, yes.

Deputy Marc MacSharry: Of course the Garda told us here that it was not a priority for it. We have had that debate with the Garda here before. I presume the OPW just gets the order in from the Garda saying that it wants this done.

Mr. Maurice Buckley: We get a brief from the Garda and-----

Deputy Marc MacSharry: When is it opening? Is it there?

Mr. Maurice Buckley: A plan is now being effected under which the target is June 2019.

Deputy Marc MacSharry: Okay, June 2019. That is next June. Then there was a pack of three Garda stations-----

Chairman: "Bundle" is the word.

Mr. Maurice Buckley: It includes Sligo, Clonmel, and Cork.

Deputy Marc MacSharry: The Cork station is in Macroom, is it?

Mr. Maurice Buckley: Yes.

Deputy Marc MacSharry: Did we buy the site in Sligo yet? That was holding the others up.

Mr. Maurice Buckley: It is interesting that the Deputy talks about financing property. That is a public private partnership, PPP, bundling, which is another mechanism for finance. The Deputy is right that for that to start, we needed the three sites and police report. We have the

site in Sligo now. I know that will be of particular concern to the Deputy.

Deputy Marc MacSharry: What happens next? Is there a tender?

Mr. Maurice Buckley: The three sites are now in place. The public private partnership process will be under way. I do not know the exact steps in that. We provide the sites then the Garda Síochána, Department of Justice and Equality and National Development Finance Agency, NDFA, will take over in the project management of the PPP process and provide input as required.

Deputy Marc MacSharry: I appreciate that Mr. Buckley will not have all the answers because he does not have control of the entire process. From the experience of the board, when can Macroom, Clonmel and Sligo look forward to completion?

Mr. Maurice Buckley: I do not think I have a date for the intended completion.

Mr. Martin Bourke: The NDFA will drive it from now. The input of the Office of Public Works, OPW, is to acquire the site.

Deputy Marc MacSharry: That is what I am saying. Generally speaking, what do the witnesses think?

Mr. Maurice Buckley: The NDFA would have to answer that. We do not have that information to hand and they have not given us an estimate yet.

Deputy Marc MacSharry: Would that involve Government prioritisation and such too?

Mr. Martin Bourke: I understand that this bundle is prioritised.

Deputy Marc MacSharry: It probably will proceed in the short term.

Mr. Martin Bourke: That is our understanding. Other than that, we would ask where we have been asked to acquire the site.

Mr. Mick Long: A funding envelope is available to the Department of Justice and Equality for PPP projects. It depends on where it sits in the priorities. One would imagine that if Wexford, Galway and Kevin Street Garda stations are now finished, the Department of Justice and Equality would be prioritising where it will allocate its PPP funding.

Mr. Maurice Buckley: We have been prioritising trying to get the site in Sligo. As the Deputy knows, the condition of the Garda station there is very poor. There is also pressure from the Department of Justice and Equality and the PPP organisations to get started. Hopefully that will move forward quickly.

Deputy Marc MacSharry: I do not know much about this but I was asked to raise it. Is anyone familiar with Durrow Abbey?

Mr. Martin Bourke: Yes.

Deputy Marc MacSharry: What activity is in that building?

Mr. Martin Bourke: Very little is happening in it right now.

Deputy Marc MacSharry: Does that mean nothing?

Mr. Martin Bourke: Somebody is holding a lease there. As the Deputy is probably aware, there is an ongoing legal situation. It is quite a problematic case which is going through a process.

Deputy Marc MacSharry: What is the dispute with Durrow Abbey, between the OPW and the charity involved?

Mr. Martin Bourke: A charity is involved, exactly. It is an issue of the people who hold the lease, the charity, claiming that they require funding in order to make it viable. That would not be the view taken by the OPW. There is a 99 year lease which needs to perform. Papers have been served on this in the courts. I would be a little wary of saying anything else from a legal point of view.

Deputy Marc MacSharry: Is there a pathway to get it sorted? It is a charity and we are the State.

Mr. Martin Bourke: I was personally involved in this. A lot of effort has been made but unfortunately it has not come to a resolution.

Deputy Marc MacSharry: Can this committee be of help instead of costly litigation?

Mr. Martin Bourke: Another chairman of a different committee has been very helpful in this area but I am afraid it did not come to anything despite his and everybody's best efforts. It is one of these unfortunate disputes that can arise in situations involving property.

Deputy Marc MacSharry: I am not sufficiently up to speed on it to ask any more questions. I could probably have the witnesses in for a week with all that I would love to ask. I thank them. Do not read into the adversarial approach because it is nothing personal.

Chairman: I will put a few final questions myself. Two speakers who had indicated, Deputies Alan Farrell and David Cullinane, are not here. Why did the OPW spend €6 million less on flood management in 2017 than in 2016? The whole country would think the OPW should be going in the opposite direction.

Mr. Maurice Buckley: It is surprising that there is a dip as the programme is expanding. It is due to the cycle of capital funding and the stages that different projects are at. Some periods are very intense in capital and others are less so. There was a slight dip this year but the tendency is definitely for it to go upwards.

Chairman: Mr. Buckley will have to send us more information. That is very vague.

Mr. Mick Long: There was a capital carry forward from 2016 to 2017.

Chairman: Of how much?

Mr. Mick Long: Sorry, into 2016.

Chairman: From 2015 into 2016?

Mr. Maurice Buckley: So 2016 was particularly high as a result.

Chairman: So 2016 was higher than normal. The witnesses have different answers.

Mr. Maurice Buckley: Both apply.

Mr. Mick Long: There is inconsistency across the years with regard to the amount spent on capital-----

Chairman: On projects. Tell me the two or three biggest ones that are under way as we speak.

Mr. Seamus McCarthy: The biggest ones are listed in the Appropriation Account under major capital projects on page 13. Maybe the Chairman would like to speak to that. It gives an idea of some of the really big ones where commitments are in place.

Chairman: It includes the Dodder, Bray, Ennis-----

Mr. John Sydenham: The Dodder, Bray, and Ennis lower are the big ones.

Chairman: Bandon and Skibbereen.

Mr. John Sydenham: Bandon and Skibbereen are two very substantial projects.

Chairman: That is fine. I wanted to put them on the record more than anything else. Why was a surplus of €5 million surrendered to the Exchequer at the end of 2017, with all the demands?

Mr. Mick Long: There was a surrender on the net Vote. The Chairman will see that the appropriations-in-aid was significantly higher than the allocation or estimate, which was from buoyancy in the heritage receipts.

Chairman: In other words, far more people visited Kilmainham, Castletown House, Kilkenny Castle and various other places and the OPW got so much money that it did not know what to do with it and handed it back. Is that what the witnesses are saying?

Mr. Mick Long: We were obliged to hand it back. It relates to the net Vote.

Chairman: This is extraordinary.

Mr. Seamus McCarthy: The Chairman can see the figures in the Appropriations Account. There is a big increase in item 6 on page 18.

Chairman: The receipts have gone up from €32 million to €33 million. That does not explain it.

Mr. Maurice Buckley: If the Chairman looks at line 6, there are admissions charges to national monuments and historical properties. The estimate for 2017 was €6.5 million and the return was €10.2 million.

Chairman: What is 2018 looking like?

Mr. Maurice Buckley: 2018 is looking good. We may be slightly behind the total for 2017 which was exceptional for a number of reasons but we will be very close to it.

Chairman: What was the number of reasons? When Mr. Buckley makes a statement, he is guaranteed it will be picked up on. What was the number of reasons?

Mr. Maurice Buckley: I might come back to the Chairman on it. I know I said it and I have something in the back of my mind but there were a number of programmes.

Chairman: I am happy if Mr. Buckley sends it in writing to the committee but the bottom line is that the OPW took in more money at these events than it could handle and handed it over. It is fantastic. With all the money required for flood risk management etc., it is extraordinary that more than €4.5 million was handed back.

Mr. Seamus McCarthy: There is an explanation for item 6 at the bottom of that page.

Chairman: Which page?

Mr. Seamus McCarthy: The page on appropriations. It gives an increase of €3.694 million relative to what was provided for in appropriations-in-aid. It was mainly due to an increase of admissions at Kilmainham Gaol, amounting to €662,000, and other sites, amounting to €953,000. In addition, tour operator receipts increased by €924,000 in the year.

Chairman: I also mentioned Kilmainham Gaol at the beginning. That is fine. People will be disappointed to hear that the OPW spent less last year, whatever the reason, whether it was the result of cycles of capital investment or 2016 being an exceptional year. People would expect more, although projects are ongoing.

I have more questions. On page 22 of the appropriation accounts it states, "Expenditure in 2017 includes payments of €4.880 million ... made to contractors and others to cover costs as a result of conciliation and arbitration proceedings." What were the four cases that cost €4.88 million in arbitration and conciliation? Why are we in this situation? What type of disputes are happening that they would go to arbitration and conciliation?

Mr. Maurice Buckley: In general terms ----

Chairman: No, I refer only to the four cases mentioned in the accounts. That is all I am asking about. Do our guests have the information relating to those cases?

Mr. Mick Long: No, we do not have the detail.

Chairman: I am saying this to every Accounting Officer watching these proceedings. When there is something in the appropriation account, we expect representatives to bring the details with them when they come before this committee. The appropriation account lists four things and what those four things were is an obvious, stand-out question. The OPW will send the information to us but our guests will understand my point. If other people were here, they would give out to our guests twice as much as I am. It is included in the accounts and we would expect answers in respect of it.

The OPW is owed €14.2 million by various different Departments and agencies for work carried out. Can we have a breakdown and age analysis in respect of that? What does the OPW do to collect that? It has increased by €4 million over the year. Who are the biggest offenders for not paying their bills to the OPW for all its good work?

Mr. Mick Long: The Garda is our biggest client for the agency services that we supply. The closing balance is €14 million credit, but we are not actually owed €14 million by Departments and agencies.

Chairman: Okay, what is it?

Mr. Mick Long: It is a credit. They are the balances that we hold on behalf of Departments and agencies.

Chairman: Some are paying upfront?

Mr. Mick Long: They are advances.

Chairman: Well done.

I refer to the annual report for 2016. I have not yet seen the 2017 report. Why has that not been published yet?

Mr. Maurice Buckley: It is about to be published.

Chairman: Will it will be published by Christmas? It is almost mid-October. I have before me a document of only 15 pages summarising the OPW's activities for 2016. How is it taking close to 11 months to produce the report for 2017?

Mr. Maurice Buckley: I compliment my colleague sitting on my right, Mr. Long, who was appointed in the past few months and who looked at the text document for 2017, the draft annual report, and said that we could do it better in an infographic, making it more visible and easier to read. I said that was great and we should graph that up. It is almost ready to go.

Chairman: How soon can we expect to see that on the OPW's website?

Mr. Mick Long: We will have it there in the next few weeks.

Chairman: I accept that it is just heavy text. I understand that. I can read it but it is not attractive.

Mr. Maurice Buckley: It is not user-friendly.

Chairman: I understand. However, the point I am making is that it has taken almost 11 months to produce a relatively short report.

I refer to the move from Hawkins House. The OPW seems to want to lease rather than build property for the State. In circumstances where the OPW is moving out of a building it owns, namely, Hawkins House, to a building on which the State has a 25-year lease, is this illustrative of a policy on the part of the State to get out of owning property that it knows will be required *ad infinitum*? Why is-----

Mr. Maurice Buckley: No -----

Chairman: I will pose a simple question. The landlord of the former Bank of Ireland headquarters on Baggot Street bought the site for €50 million. Is there any conception of what he spent to bring it to standard before the OPW came along?

Mr. Maurice Buckley: We would not have that information.

Chairman: No, the OPW would not have that information but it must be published. In our guests' experience, would he have spent another €50 million?

Mr. John Sydenham: It was way more than that. He spent €100 million.

Chairman: He has, therefore, invested €150 million and the State is paying him €300 million over so many years.

Mr. Seamus McCarthy: Is it just for one block or just on this building?

Mr. John Sydenham: No, on our block he spent €100 million.

Chairman: How many blocks are there? It is important to explain this for anyone who might be driving down Baggot Street listening to these proceedings. That is, if he or she is not listening to events in the Dáil. In which building is the Department of Health located?

Mr. Martin Bourke: It is in Block 1. There are two buildings-----

Chairman: There are two parts at the front.

Mr. Martin Bourke: There are two buildings at the side. The Bank of Ireland has retained some space and there are also other occupants.

Chairman: What percentage of the overall site is leased by the OPW?

Mr. John Sydenham: As a rough rule of thumb, the two front blocks are the equivalent of the integrated rear block, which was extended. We probably have over half the site.

Chairman: The developer spent €25 million to purchase the site and €100 million on refurbishing and kitting it out. There was also a small extension. There was some confusion when I referred to that earlier, but some extending work was done before it came to the OPW. The developer is doing very well out of this. What kind of yields will his contract with the OPW give him? How does that compare with other premises that the OPW rents?

Mr. Maurice Buckley: We would have to work that out.

Chairman: If the OPW knows what it is paying him for the next 25 years, it should know the value of the building based on rent over the next 25 years. There must be a ratio between rent, the value and the yield. What value does the OPW put on that building? Our guests should be able to run those numbers.

Mr. John Sydenham: We can supply those to the Chairman but we just do not have them to hand.

Chairman: That would be good because we have a situation where there is an old wreck of a building in the centre of town, a fabulous location, and it is State property. It looks as though we are going to just move and start renting down the road at something that is far less advantageous in the long term for the taxpayer. I have a simple question. During the negotiations, why did the OPW not just offer to buy the building? Would that not be far better in the long term.

Mr. Martin Bourke: It is not for sale.

Chairman: Did the OPW not seriously ask about buying it?

Mr. Maurice Buckley: My understanding is that it was made very clear upfront that it was not for sale. It was never contemplated as anything other than a leasing opportunity.

Deputy Marc MacSharry: I do not think that man sells things.

Chairman: We understand. I know that. I am asking whether the OPW pursued the matter.

Mr. Maurice Buckley: There was just no capital.

Mr. Mick Long: They did not have the funding to buy it.

Chairman: But the OPW is vacating a building that is worth a lot of money.

Deputy Marc MacSharry: To be honest, if they were going to do that, they would be mad not to build on Hawkins House, which they could have done for half the price.

Chairman: However, they had to move somewhere in the intervening years.

Mr. Martin Bourke: That is correct, there was a decant.

Mr. Maurice Buckley: I will make a point relating to the Chairman's remarks on building or buying. It should not be misunderstood that we are just leasing property. We are involved in several large office-building projects in Dublin. One is on Leeson Lane off St. Stephens Green.

Chairman: What is Leeson Lane for?

Mr. Maurice Buckley: It is for office accommodation for Government offices.

Chairman: That was the OPW's storage yard years ago?

Deputy Marc MacSharry: Is that where the Department of the Marine was once?

Mr. Maurice Buckley: It is beside that location. We are looking at who will go in it. There is also Beggars Bush in Ballsbridge. There are several sites. There is a mix and at any one time we try to keep a portfolio with a balance of owned property and leased property. My colleagues have said that our preference is for owned property. However, one must consider that when a recession hits, as unfortunately it did in 2008, and we greatly reduced the State footprint, it was by releasing lease property, which gave us a flexibility.

Chairman: I will ask for a report on the portfolio going back over the past ten or 20 years, with the percentages of owned versus leased for each year. I would like to see a graph or chart going back over 20 years to see when our ownership was at a peak and dip. The witnesses should send the committee those figures because they would be instructive.

Mr. Martin Bourke: There is a 60-40 split now - 60% owned and 40% leased.

Chairman: There was a time when it was the other way around.

Mr. Maurice Buckley: Yes, it was the other way around.

Mr. John Sydenham: Fifteen years ago it was the reverse of that.

Chairman: That is interesting. I ask the OPW to send us the long term figures or whatever they have.

Deputy Marc MacSharry: I still have three minor questions that I forgot to ask earlier. Would it be possible, as part of that report, to supply the committee with a schedule of what the State owns and the properties in respect of which there are lease or contract arrangements, and which are vacant?

Mr. Maurice Buckley: There would be very little.

Deputy Marc MacSharry: That is great news.

Mr. Maurice Buckley: In fact, internationally we are at the bottom of the chart on that. In terms of office accommodation, we are at about 1%, which is not actually a healthy position.

As the Chairman has said, we would actually need a decant building, that is, an empty building so that we could move people out from one to the other, allowing us to refurbish and so on. We are at about 1%, which is really stretching it.

Deputy Marc MacSharry: I appreciate that but I was just interested to know if we had any property that was sitting vacant for which we could find a use.

I have two or three other quick questions. I forgot to ask a question when we were discussing Harcourt Square. The fifth progress report on the implementation of the Changing Policing in Ireland report refers to the end of the lease on that property being imminent and points out that if we do not vacate on time, Harcourt Square will trigger multimillion euro penalty clauses. Is that true?

Mr. John Sydenham: Yes, that is correct.

Deputy Marc MacSharry: Multimillion means a large amount. It could be €2 million or €52 million. Will Mr. Sydenham give us an indication of what is involved?

Mr. John Sydenham: The nature of it is that the developer, Hibernia REIT, would suffer if it did not avail of the upturn in the market at the end of the lease term. It could suffer substantial losses in the market which it would look to recoup from the State.

Deputy Marc MacSharry: Are the penalties not defined as an amount?

Mr. John Sydenham: No, not in the negotiations but it would seek to recover an amount from us.

Deputy Marc MacSharry: On the basis of our chat about Military Road, how close to target are we in terms of being able to vacate Harcourt Square?

Mr. John Sydenham: We are on programme in terms of the project so at the moment, we are okay.

Deputy Marc MacSharry: At the moment, we will be out on time. Mr. Sydenham might not want to put it on the record but I would be interested to know the kind of numbers we are dealing with if we are not out on time. That could act as appropriate leverage with the Department of Public Expenditure and Reform in terms of getting us over the line quicker, particularly if there is a commercial entity clause involved.

Do other Departments call the OPW from time to time seeking advice on the purchase of sites?

Mr. John Sydenham: No.

Deputy Marc MacSharry: So the Departments of Education and Skills or Agriculture, Food and the Marine, or Bord na gCon would not have made contact with the OPW about the purchase and sale of a site. Is that correct?

Mr. Martin Bourke: Some people can ring up and ask us to help them with this or that and obviously, as colleagues, we will try to help people. However, bodies or organisations that have their own property divisions, such as the Department of Education and Skills which has a very active property section, would pretty much do their own thing. Under the stewardship of the OPW there is a very active intra-State sharing and transferring of properties. For instance, we

would have transferred properties under a protocol to the likes of the Department of Education and Skills, the HSE-----

Deputy Marc MacSharry: Yes, there is a circular in place covering how it is to be done.

Mr. Martin Bourke: Yes. We are the most active participants in that.

Deputy Marc MacSharry: The OPW had nothing to do with the Harold's Cross site. Is that right?

Mr. Martin Bourke: No. I am aware of the Bord na gGon-----

Deputy Marc MacSharry: I suggest to the OPW and the valuers that while comparison is normally a very legitimate way to value, when buying one should not use the comparative value of €23 million but when selling, use it by all means.

Chairman: We had representatives of the Tax Appeals Commission before us recently and they were very uncomplimentary in their remarks about the way they were shoved out of their building. The OPW sent us a copy of the letter it sent to the commission setting out the record from its point of view. Has the OPW had any response to that letter?

Mr. Maurice Buckley: I have spoken to Mark O'Mahony, the Tax Appeals Commissioner, and he is very satisfied with the new accommodation. He accepts the points made. It was a hectic period.

Chairman: I do not have to do any refereeing at this stage. Is that right?

Mr. Maurice Buckley: No, I do not think we need a referee on the pitch.

Chairman: That is fine.

I ask for a written note providing details on the courthouse site in Portlaoise.

Mr. Martin Bourke: I understand a note was sent to the Chairman's office last night. We have provided professional services to the Courts Service in identifying a site and helping it to acquire it. It is then up to the Courts Service to build the courthouse, the programme, etc.

Chairman: The OPW does not do the building.

Mr. Martin Bourke: No, we do not do it.

Chairman: The Courts Service will oversee the project. Is that it?

Mr. Martin Bourke: Yes, absolutely.

Chairman: Has the site been purchased yet? Does Mr. Bourke know the answer to that question?

Mr. Martin Bourke: I know it was identified but I will have to double-check that. It is my understanding that the note sent to the Chairman covers that.

Chairman: I ask the OPW to get back to me tomorrow on that.

Mr. Martin Bourke: I think something went to the Chairman last night on that.

Chairman: That is fine. I have not seen that yet. I want to know if the site has been purchased. We all know the site to which we are referring but I want to know if it has been bought yet. I am seeking information on the most up-to-date position.

My last question is on the national children's science centre. I do not know too much about it but I have discussed it with a few people and read an article about it in *The Times*, Ireland Edition on 4 October. The OPW worked on this and can explain what is involved. Essentially, it is a new planetarium and science centre for children with plans for more than 200 exhibits at the back of Earlsfort Terrace, close to Iveagh Gardens. There are planning issues involving trees, tennis courts and so on and the application has gone to An Bord Pleanála. Who has borne the costs of getting the project to this point?

Mr. Maurice Buckley: This is an extraordinary situation and one about which I am extremely concerned in terms of the possible exposure to the public purse. The building for the science museum, as the Chairman has said, is to be developed by the OPW at Earlsfort Terrace. The project has been pursued by 13 very eminent individuals for the last 25 to 30 years who have been supported by three Government Departments.

Chairman: Which three Departments?

Mr. Maurice Buckley: They are the Departments of Education and Skills, Business, Enterprise and Innovation and Culture, Heritage and the Gaeltacht. The OPW has supported it in kind by providing architectural designs for the building. The history of this dates from the beginning of the century. A project was developed back in 2003 for Heuston Gate. The OPW had a huge development planned there and it proved possible, at the behest of the then Taoiseach, Mr. Bertie Ahern, and Tánaiste, Ms Mary Harney, to include this science centre. It is a very worthy project, which links into our STEM education promotion and so on. The idea was that it would not cost the State any money and the building could be provided as part of the total development. So far, so good but unfortunately, when the recession hit, like so many Celtic tiger projects, the museum got blown out the window and could not go ahead. At that time, the OPW had umpteen projects in the heritage and cultural areas that had to be paused or stopped. All of the different promoters went back to the drawing board, reassembled their teams, rebuilt their business case as well as the public and political support to go ahead with the project. For reasons best explained by themselves, the promoters of the national children's science centre chose a different route and pursued a legal angle in that they determined that they had a binding legal commitment from the State, through the OPW, and that seemed to be the case. The OPW then had to enter into a follow-on agreement in 2013 to provide a premises. We did that very carefully and located a premises in Earlsfort Terrace so that at least the building would be on a very important historical property owned, long term, by the State. There is a commitment to provide that building free of charge to the promoters of the centre. I have correspondence-----

Chairman: Will this be a State organisation? Will this national children's science centre be owned by the State or will it be private?

Mr. Maurice Buckley: It is a private charity organisation involving 13 very eminent individuals.

Chairman: So the State is on the hook to provide this fantastic new national interactive science centre to a private company. Is that right? Does the company pay for this?

Mr. Maurice Buckley: No, that is the point and this is my concern. They have agreed-----

Chairman: The taxpayer is the charity here, paying for all of this and then ultimately handing it over to others.

Mr. Maurice Buckley: That project has never gone through the requirements of the spending code. I am not aware that it has gone through a cost-benefit analysis in its totality. I have written to the promoters on a number of occasions telling them that I believe they need to step back from their current course and go through those processes. If the project is worthy-----

Chairman: Why would it need to meet the public expenditure guidelines if it is a private entity?

Mr. Seamus McCarthy: It is the State bodies that would be extending the grant funding.

Chairman: It is the State who has to do it, not them.

Mr. Seamus McCarthy: It is the State bodies-----

Chairman: Is philanthropic funding expected as part of this process?

Mr. Maurice Buckley: Yes, so the-----

Chairman: How much were they going to put up out of the project costs? What is the estimate? What would the cost be to build out what the OPW has got planning for in the last couple of years? Is it €10 million or €50 million?

Mr. Maurice Buckley: The initial estimate of that cost is €30 million. In the current market, with construction inflation, we are talking closer to €40 million for the building project. Then it requires a €15 million fit-out for the exhibition space.

Chairman: So we are at €55 million.

Mr. Maurice Buckley: The promoters believe they can fund two thirds of that, €10 million or €12 million, through philanthropy.

Chairman: That is €10 million out of the €55 million.

Mr. Maurice Buckley: Yes, the €55 million. These centres are all over Europe. Ireland would be one of the-----

Chairman: The note I am reading from *The Times* on 4 October says "Ireland is the only country in the EU without a dedicated, interactive science centre for children."

Mr. Maurice Buckley: That could be.

Chairman: I accept that.

Mr. Maurice Buckley: The funding model is the same throughout Europe and America. It requires something like a 50% State subsidy to run. We are looking at-----

Chairman: Here it is 80%. The State is due to put up €45 million of the €55 million.

Mr. Maurice Buckley: The funding costs then after that would be in the order of €4 million a year. For ten years that will be €40 million.

Chairman: Is there any other similar type of arrangement out there - perhaps the Comptrol-

ler and Auditor General knows - where the State is on the hook to provide 80% of the funding for a project of a private charitable organisation, which will come up with a small balance and the State does all the work?

Mr. Maurice Buckley: There is certainly nothing similar in the OPW remit. The developers have said that as soon as the project is in place they intend handing it over to the State. It is not a private company with a profit motivation or anything like that. These are people who wish to do this for the State.

Chairman: Which is the line Department for this? There must be a line Department.

Mr. Maurice Buckley: It would have to be assigned.

Chairman: Pardon?

Mr. Maurice Buckley: A decision would have to be made about which the line Department is. An argument might be that because it is Earlsfort Terrace where we have the National Concert Hall, which is part of Project Ireland 2040, that it would make sense to link the two projects together if I can persuade the promoters to agree to delaying their project a little bit in order for the National Concert Hall to catch up and then operating them together under the auspices of the Department of Culture, Heritage and the Gaeltacht.

Chairman: The reason I ask is I have gone through the published diary of the Secretary General of the Department of Culture, Heritage and the Gaeltacht. On 1 February 2018 the Secretary General of that Department had a meeting with the Minister and the Taoiseach about the national children's science museum in the Department of the Taoiseach. That was earlier this year. I googled it last night. Somebody is talking about it somewhere.

Mr. Maurice Buckley: Absolutely.

Chairman: Is Mr. Buckley aware of that meeting?

Mr. Maurice Buckley: I am not aware of the exact meeting but I am certainly aware of general conversation. The National Concert Hall will be developed-----

Chairman: I have just read the report. I do not see a contingent liability in the report for being on the hook for this.

Mr. Seamus McCarthy: There is a contingent liability note there but it is very general. This case was not listed as one of the cases.

Chairman: Is the Comptroller and Auditor General aware of this?

Mr. Seamus McCarthy: Since Monday.

Chairman: Okay.

Mr. Seamus McCarthy: Going back to the point I was making earlier about the public spending code and the need to do an assessment, one of the key principles of that is that one does the evaluation before any proposal gets off the ground and before any commitment is made.

Chairman: What made Mr. Buckley go back through the planning process and Dublin City Council and An Bord Pleanála in the past couple of years if he did not have some confidence

the project was going to happen somewhere?

Mr. Maurice Buckley: We have the legal obligation to provide the building. As we are constantly reminded, we are already behind in doing that.

Chairman: Suppose the OPW does not honour that commitment, what happens then? Mr. Buckley is saying they have the OPW by the hook. He would not have done this unless he was legally advised that he had to do it.

Mr. Maurice Buckley: Correct. We certainly would have liked to see it go through the same process as every other cultural or educational development, that it goes through the public spending code, the cost-benefit analysis and is integrated into the Project Ireland 2040 programme and so on.

Chairman: It is not in there.

Mr. Maurice Buckley: It is certainly not specifically listed in there. We are already behind. We have a commitment to have the building built at this stage. There is already delay due to planning and An Bord Pleanála etc. We had planning for Heuston Gate but because it is a different building and a different size it had to go for planning again.

Chairman: I note a parliamentary question was asked on 23 November 2017 by Deputy Eamon Ryan on this issue. The reply of the Minister of State was to the effect that the information sought by the Deputy is currently being addressed. A detailed response will issue to the Deputy directly. I have not been able to get the response in the Official Report because the reply was given by way of correspondence. Will Mr. Buckley send us a copy of that letter that went out in response to that parliamentary question?

Mr. Maurice Buckley: Yes.

Chairman: I refer to Questions Nos. 87 to 89, inclusive, of 23 November 2017. Mr. Buckley must have the reply.

Mr. Maurice Buckley: Yes. I remember it. We will get that for the committee.

Chairman: From recollection, what did it say, if that is not to push Mr. Buckley too hard?

Mr. Maurice Buckley: I do not recollect what was in it. I imagine it was some summary of the discussion we have just had or the status of the project. I will have to check that.

Chairman: Has Mr. Buckley spoken to the Secretary General of the Department of Culture, Heritage and the Gaeltacht?

Mr. Maurice Buckley: Yes.

Chairman: What is the Secretary General saying? She is the Accounting Officer. Has she any plans for this?

Mr. Maurice Buckley: She has the same view as me. She is very concerned about the development of that site. Think of the business disruption to the National Concert Hall if we are developing a science centre on the north end of the building complex and it will hardly be open before we start the development of the concert hall on the other end.

Chairman: To where will the concert hall decamp when all of this is being done?

Mr. Maurice Buckley: That is being worked out with the concert hall, whether it would need to go off-site and for what period. The main concert auditorium will be closed for a period. There are discussions going on about that. The concert hall development is being planned and scheduled by the Department. We are working closely with it on that.

Chairman: Given it is so vague and there seems to be a legal commitment with some people because Mr. Buckley would not have gone through the planning process unless he felt it was necessary to do so. The Comptroller and Auditor General does not seem to have heard too much about it. The project is a bit of an orphan at the moment. Is there anything the Committee of Public Accounts can do? Is there anything Mr. McCarthy can do to follow up to get some bit of clarity?

Mr. Seamus McCarthy: I will certainly follow up on it. I would like to have more information about it.

Chairman: Of course.

Mr. Maurice Buckley: I have written to the promoters asking them to step back from the legal context and to put the project more in a general Project Ireland 2040 context. It is very hard. Even if we do a cost-benefit analysis, it is very hard to do it in an objective way if, hanging over that process, is a commitment to build a building for €40 million. The project is a very good project. I am sure it should stand on its own merits. I am sure the promoters believe that. If that is the case, I am sure the Government will back it and it does not need a legal contract. I cannot imagine that people of that eminence who are good, solid citizens, would wish to pursue the project if it did not pass muster with the cost-benefit analysis and public spending code.

Chairman: That will depend on the level of philanthropic contributions. It would alter that completely. If more can be funded by that, the cost to the Exchequer would be less and it would be easier, I am sure, from their perspective.

Mr. Maurice Buckley: The Exchequer would have to take a view on that philanthropic contribution.

Chairman: I am sure from their perspective, they feel if they get off the pitch, it will be dead. It seems to me they are the only ones pushing it. They pushed the OPW to get planning. They pushed it to An Bord Pleanála. It looks as though if they were not on the pitch, we would not even be talking about it.

Mr. Maurice Buckley: The funny thing is, I believe there are several other players in the tourism industry, the education industry and the cultural space who would love to get involved. There is a wide body of support out there and if it is pitched in the right direction it will come on board.

Chairman: I wanted to raise the issue because I saw the article recently in the paper and it was a bit of a mystery. I even tried to google this national children's science centre and the company behind it but I cannot find much about it.

Mr. Maurice Buckley: Irish Children's Museum Limited, ICML, is the name of the company behind it.

Chairman: Mr. Buckley is familiar with who he is dealing with on that point. I want to thank the witnesses from the OPW and the Comptroller and Auditor General for their atten-

dance today and for the material provided. There was a little bit of a mix-up about information but we have it now. It shows the value of being able to check back with the office during the course of a long meeting and getting the information to us. We are not publishing that document at this stage. We will not do anything without consulting the witnesses and we may not even go there at all with the document. We asked for some items of information and they will be sent in writing to the secretariat. I thank the Comptroller and Auditor General and his staff.

Before we adjourn, I note that the report of the Charleton tribunal gives glowing praise to Mr. Maurice McCabe, who met members of the Committee of Public Accounts and spoke to the Comptroller and Auditor General about speeding fines and the loss to the Exchequer. Much time was spent following up on the matter. It was mentioned earlier that the committee was heavily criticised for examining matters such as speeding fines but we knew the job we were doing and we were right to do it. Mr. McCabe was right to do what he did. Mr. Justice Charleton gave him a glowing report in saying he always put the interests of the State above all other issues, including his loyalty to his day job. He put the State first and came out with some good praise. We acknowledge the fact that the Committee of Public Accounts and the Comptroller and Auditor General helped to get the matter to the Charleton tribunal. I know examination of the issues is not yet complete but it is important to note the findings. At our next meeting we will meet representatives of the Department of Public Expenditure and Reform in the morning before meeting representatives of the Department of Education and Skills and the Higher Education Authority in the afternoon.

The witnesses withdrew.

The committee adjourned at 4.41 p.m. until 9 a.m. on Thursday, 18 October 2018.