

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 6 Nollaig 2018

Thursday, 6 December 2018

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Bobby Aylward,	Deputy Marc MacSharry,
Deputy Peter Burke,	Deputy Catherine Murphy,
Deputy Catherine Connolly,	Deputy Kate O'Connell.
Deputy David Cullinane,	

DEPUTY SEAN FLEMING IN THE CHAIR.

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

Business of Committee

Chairman: We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, as a permanent witness to the committee. He is accompanied by Ms Maureen Mulligan, deputy director of audit. Apologies have been received from Deputy Farrell.

The first item on the agenda is minutes. We are dealing with minutes from a number of previous meetings that have been circulated. I refer to the minutes of the meetings on 11, 18 and 25 October and on 15 and 22 November. There is one slight change of wording to be made to the minutes of the meeting on 8 November, as circulated. I will ask the clerk to the committee to make that one change and re-circulate. I propose we note the minutes. Is that agreed? Agreed. The next item is matters arising from the minutes. If members have matters arising out of the minutes, they might hold them over until next week as they will have an opportunity to go through them.

The next item on the agenda is correspondence. There are three categories of correspondence, the first of which is briefing documents and opening statements for today's meeting. The two items, correspondence Nos. 1771 A and 1772 A, dated 4 November, from the Department of Communications, Climate Action and Environment, provide briefing material and an opening statement for today's meeting. I propose we note and publish those documents. Is that agreed? Agreed. We also have No. 1777 A, dated 5 November, from the same Department, providing further briefing material for today's meeting. We have been asked not to publish No. 1777 A and I propose we agree to that request, at least for the moment. I propose we note No. 1777 A. It has been circulated to the committee. Inevitably, it will be discussed here today. On the question of publication of that document, it may contain confidential, commercially sensitive information. We can come back to it. For now, I propose we note, but not publish, it.

Deputy Catherine Murphy: It seems daft that we can raise anything in a document that we are then not going to publish.

Chairman: We will discuss with the Department what particular aspect it has an issue with publishing. For now, we will abide by the Department's request. We will not publish it at this stage.

The next item of correspondence is in category B - correspondence from Accounting Officers and-or Ministers and follow-up to previous Committee of Public Accounts meetings. There is one item, No. 1703 B, held over from the previous meeting. It is from the CEO of the Local Government Management Agency, dated 2 November 2018, in relation to a request from the committee for a copy of its report arising from the value for money review of Irish Public Bodies. The report is subject to a non-disclosure agreement between LGMA, Irish public bodies and PricewaterhouseCoopers dated 2 September 2015. The CEO has written to Irish Public Bodies, IPB, and PricewaterhouseCoopers, PWC, to request their consent for LGMA to release the report to the committee and is awaiting a response. We will keep the committee updated on that. For now, I propose we note and publish that response. Is that agreed? Agreed.

Correspondence No. 1753 B from Mr. Ray Mitchell, assistant national director of the HSE, provides an information note requested by the committee on former Console staff. This is an

important piece of correspondence that we want to deal with, if we can call it up on the screens. Essentially, we had asked that compensation be made available on an *ex-gratia* basis to staff who were not re-employed. We included it as a recommendation in a previous periodic report. We also asked the Minister to examine the matter. The response is good and I want to put it on the public record. The HSE states that it understands from Pieta House there were 55 pre-existing employees of Console in 2016. The HSE confirmed that it offered 52 contracts to staff previously employed by Console. This comprised ten employees of Console and 42 persons, mainly counsellors, on contracts for services or sessional work with Console. Pieta House did not offer contracts to three former Console employees, who included the former CEO and two others who decided to seek employment elsewhere. Of the 52 contracts that were offered by Pieta House, 47 contracts were accepted comprising ten employees and 37 contracts for service sessional work. Effectively, Pieta House has done as much as the committee was looking for on this. A couple of people who did not work there, and, obviously, the CEO, were not offered contracts. They offered contracts to everybody else, most of whom took them up. As for those who chose to work elsewhere, that is their own affair. It took a long time to get to that point. We have been following this for quite a long time. I acknowledge that it is good to receive that information at this time.

Deputy Catherine Connolly: Can I clarify one point?

Chairman: I think I am right.

Deputy Catherine Connolly: The Chairman probably is right. We understand, from Pieta House, that there were 55 pre-existing employees. It looks good that it offered 52 contracts, but these were to ten employees of Console and 42 persons on contracts for service. The Chairman is taking it that they are all included.

Chairman: I take the ten and the 42 together are the 52.

Deputy Catherine Connolly: They were called “employees” in the first sentence and then in the next sentence-----

Chairman: It is not exact. They were on contract.

Deputy Catherine Connolly: I do not mind that all. They are clearly calling them “employees” in the first sentence and in the second sentence they are not. There were only ten employees.

Chairman: Does Deputy Connolly want us to get that clarified?

Deputy Catherine Connolly: Yes.

Chairman: We will write back.

Deputy Catherine Connolly: I am delighted, if that is the position. It is merely to clarify.

Chairman: I accept the Deputy’s point.

Deputy Catherine Connolly: Maybe it is nothing. I do not mind. I am only asking the Chairman to clarify it as well.

Chairman: I do not know. Deputy Connolly has pointed out an obvious issue. We will ask for clarification on that point. If it is as it appears, that is great. If there is a subtle distinction in

the letter that the Deputy has spotted, we need to know about it. We will ask for confirmation of that particular point.

The next item of correspondence is No. 1754 B from Mr. John McCarthy, Secretary General, Department of Housing, Planning and Local Government, dated 27 November 2018, providing information notes requested by the committee on a variety of points that we raised with him at the previous meeting. We will have a second meeting on the housing issue in the new year. Mr. McCarthy follows up on a number of issues. These are the new regulations for short-term lettings; transfer of funds; the prevention of emergency accommodation being used for families; differential rents which accrued to local authorities; findings of the Dublin Region Homeless Executive; funding of family hub accommodation; breakdown of housing expenditure in 2017 and 2018; regeneration programme details; projected number of homes that could be accommodated on local authority housing lands and the extent of loans attached; children in emergency accommodation; annual assessment of social housing applications received by each local authority and the targets set; different organisations and capital loan schemes in the context of the amounts outstanding, capital advance leasing facilities etc. and where there is an overlap of functions of agencies; credit policy governing loan approval, with reference to separated couples; and lending arrangements in place for approved housing bodies. That will be useful feeding into our meeting and report on housing in the new year. We will certainly note and publish the correspondence for now. We will hold the matter over for discussion on that day.

There is, however, one issue that is wholly unsatisfactory. I specifically tabled parliamentary questions asking about the credit policy used by local authorities to determine whether a person is eligible for a loan under the Rebuilding Ireland home loan scheme. We all know that approximately 50% of people who apply do not get it. Many Deputies have raised the matter. I raised the matter as a Topical Issue and through parliamentary questions. I was told the matter was confidential and commercially sensitive. I was told the requested information could not be released and so on. When the Secretary General was before the committee we asked him for a copy of the document. If it is the basis on which taxpayers' money is being advanced to people who are purchasing loans, then we are entitled to see the nature of it.

The Secretary General has given us a document. The reference number is 1754 and it is document number 4 in that group. I wish to put on record that this document is totally unsatisfactory and I want the public to know the response we got from the Department. Committee members can bring up the document on their screens. Pages 1 to 3 are fine. Then, we get to page 4. There are already redactions relating to fixed rate loans and variable rate loans. Two paragraphs are fully redacted. That is unacceptable from our point of view. Page 5 seems fine. Page 6 contains serious redaction and we do not know what it is about. Those responsible have blanked out page 7 in its entirety. Page 8 has serious redaction relating to the source of the applicant's equity. Page 9 has another serious redaction relating to the employed applicants. There is another serious redaction on page 9 relating to self-employed applicants. Page 10 seems okay. They have blanked out pages 11, 12 and 13 entirely. Page 14 seems okay. Pages 15, 16 and 17 are fine. Page 18 is blanked out in its entirety. Page 19 is substantially redacted and blanked out. Page 20 is blanked out in the section dealing with exceptions to policy. People would like to know what the exceptions are. There is an evaluation report at the end and explanatory notes as well.

Information was sought by the Committee of Public Accounts in the interests of the public from the Secretary General of the Department of Housing, Planning and Local Government relating to the credit policy for 2018, which is drawn up under SI 25 of 2018. The response is

wholly and totally unacceptable. We have been told that traditionally the Department does not give people access to credit policies and banks may not make such policy. However, in this situation what is at issue is public money. We are going back to ask the Department to reconsider the matter and provide more detail. We are going back to ask for the full unredacted copy to be supplied to us.

If the Secretary General has issues in that regard he should, in respect of each redaction, give the specific reason he has chosen to redact each sentence as well as the pages that are blank. Half of the document has been blanked out. It is no way for an Accounting Officer to treat the Committee of Public Accounts. I hope he gets that message. Is that agreed? Agreed.

I am amazed because this is my fourth attempt to see the document. People will know that, especially with 50% refusal, there is much in the blanked out document that is preventing the Rebuilding Ireland home loan scheme from achieving what we and the public believe it was meant to achieve in the first place. Anyway, I have made the point.

Deputy Catherine Murphy: I wish to make one point on the home loan scheme. I agree with all that you have said, Chairman, in respect of understanding the workings of the scheme. There are people who have gone through the whole system but still have not been allocated a loan, because the local authority has to negotiate with the Department. It seems that each local authority has to do it. We have found this in Kildare and perhaps you find the same in Laois, Chairman. We find that there many applications to buy coming from other counties. We might have more because of value or the price of houses. Anyway, some people have got through the whole system but the money is not available to allow the mortgage to go ahead. It is inhibiting a good scheme.

Chairman: I wish to make a broader point – I will conclude on this – on the concept of having a credit policy drafted by the Department to be implemented by 31 different local authorities, 31 different housing officers and all the staff under them. All those involved have varying levels of training on how to process applications. Some counties have small numbers while others have big numbers. The expertise within the local authorities cannot be consistent throughout the country, almost by definition. I am not calling for the administration to be centralised but we are guaranteed inconsistency in the delivery of the scheme if it is being farmed out to 31 local authorities. We all know it. The staff who are administering the scheme were probably in the motor tax office last year, in the planning department the year before and in water services the year before that. They may not have spent time in the housing or finance department, as the case may be. We do not necessarily have people with financial competence in the area of granting loans or dealing with applications in the various local authorities. Consistency is another issue. I am sorry but committee members can see that I am annoyed by this. This is my fourth attempt to see the document.

Deputy Catherine Connolly: I agree with you, Chairman, and I had the document earmarked. I do not understand why it is redacted. At the very least the Department should have explained it to us. It is a credit policy. I do not understand it. Maybe the Comptroller and Auditor General might help us on what might be sensitive in what is a document of general policy.

Chairman: It is.

Deputy Catherine Connolly: That is one point. I agree with you on that, Chairman.

I appreciate all the information the Department has given us. Thank you for following up

on it, Chairman. I want to make a point about the waiting list.

Chairman: What page are you on, Deputy Connolly?

Deputy Catherine Connolly: I have before me the executive summary key points. It is on page 5.

Chairman: That is correspondence number 1754(3).

Deputy Catherine Connolly: Yes. Committee members will see the net need figures. There is an inset with the information. The figures on the waiting list have reduced. The total number of qualified households in 2018 has reduced significantly from 2017. That should be a good news story but it is important to clarify this. Let us consider the criteria set out on the page. Who is left out of the assessment? Anyone receiving the housing assistance payment is left out of the assessment. We know the figures for HAP doubled last year and the allocation became €300 million. The figure for next year will be €431 million. Those in receipt are in the private market with no security of tenure. It is costing a fortune in taxpayers' money – that is why we are mentioning it. They are excluded completely and so are those in the rental accommodation scheme. It is the exclusion of people who are still in need. That is really what is difficult. They are on a waiting list but when they go into these schemes they are off the waiting list but they are put on a transfer list.

I know we abolished limbo, but limbo is alive and well somewhere in the Department of Housing, Planning and Local Government. We need to put this in context. When we see these figures reducing, it should be a good news story except that the figures are not reducing in any way. While the figures in the document are going down, other figures have gone up.

Chairman: We will ask for a breakdown of the number of people on housing assistance payment.

Deputy Catherine Connolly: We need to know the number of exclusions. I am referring to all those identified under the criteria.

Chairman: They are listed on page 5 of that document. We will ask for those figures.

Deputy Catherine Connolly: It was the same list last year.

Chairman: How many on the housing assistance payment are on the transfer list? Some might not be on the list.

Deputy Catherine Connolly: Reference is made in the document to the housing assistance payment and the rental accommodation scheme – they are all there.

Chairman: They are all there. We will seek a breakdown of those figures. In effect, they should be added to the figures.

Deputy Catherine Connolly: Absolutely, and the figures for any other schemes should be added too. Other schemes include the long-term leasing and short-term leasing schemes. We can get lost with all these schemes. We need to know the criteria and any other schemes the Department is not including.

Deputy David Cullinane: We are coming back to current expenditure on housing in January.

Chairman: It is not current expenditure. I want to clarify this. We will still be talking about capital expenditure. We have not completed capital expenditure.

Deputy David Cullinane: I understand that but I am saying we will come back to HAP and all those areas in January. During a meeting with officials from the Department of Employment Affairs and Social Protection the housing representatives attended. It was extraordinary that we were not able to get from the departmental officials information such as how many people were on HAP transfers. They said they did not have it; the local authorities have it. We are trying to get the local authority managers to come before the committee and they are refusing to do it. That all needs to be settled before we come back in January and deal with this in a more substantive way.

In fairness it was an assistant principal from the Department who might not have been in a position to answer all the questions we had anyway. Even at that, I found some of the responses from the Department extraordinary. This plays into it. Before we come back to this in January we need to look at the information we sought but did not get because they did not have it. We need to get some response from local authorities. It is not good enough for the Department to claim that the local authorities hold the information but it has not asked them for it. We have asked representatives of the local authorities but they will not appear before the committee. We are missing a big piece of the jigsaw.

Chairman: Absolutely.

Deputy Catherine Murphy: There have been calls for the Central Statistics Office to get involved in dissemination of information on housing and homelessness because of the unreliability of information. It is really important for us to identify the shortcomings in that process. If we cannot measure something, how can we deal with it competently from a policy point of view? It is important for us to get the figures and understand the totality of the issue for the meeting we will have in January.

Chairman: We will do that. We will ask the Department. It is the Department's responsibility if we cannot get the 31 chief executives here. It is the conduit to those. We will not accept any answer on that date suggesting it is a matter for the local authority. They are the Department of----

Deputy Catherine Connolly: Two CEOs are addressing the Joint Committee on Housing, Planning and Local Government as we speak.

Chairman: That is good.

Deputy Catherine Connolly: They might attend here in due course.

Chairman: They might attend. We need to get the breakdown by local authority.

On the credit policy, I am told it is historical. They never published it in the past. The tradition is alive and well. It may be a Victorian rule not to tell the people what is going on; I do not know.

Correspondence No. 1755 is from Mr. John McKeon, Secretary General, Department of Employment Affairs and Social Protection, providing information requested by the committee. It relates to our periodic report No. 2. He has come back with details of medical assessors and overpayments. I do not believe that relates specifically to last week's meeting, but to a previous

request for information. We note and publish that.

Correspondence No. 1756 is from Mr. Mark Griffin, Secretary General, Department of Communications, Climate Action and Environment, providing information on historic landfill remediation sites, moneys recouped in respect of these and the working group on greenhouse gas emissions. We note and publish this. Members can raise it with the Secretary General in public session today.

Correspondence No. 1757 is from the general manager of Tusla, stating that an item which we dealt with last week as correspondence No. 1738 is not complete and that we will get a full response shortly. We note this and publish that correspondence. We await the full response.

Correspondence No. 1758 is from the Secretary General, Department of Education and Skills, providing information requested by the committee on the decision-making process on the acquisition of the Harold's Cross Stadium site; how the final sum was agreed; and the circumstances which gave rise to the Department contacting the Valuation Office with reference to the protocols for transfer. We note and publish that. Obviously we will have a discussion on this.

Deputy David Cullinane: I do not believe the Department has given us the information we requested. That is my assessment. I get very frustrated with the Department of Education and Skills because that seems to be its *modus operandi*. The answer we got is not sufficient at any level. We asked the Department how the valuation was arrived at. The response we got was that was what the Valuation Office arrived at, but no rationale behind it. We know it arrived at that figure, but wanted to know the reason for it. We wanted to know how it arrived at the €23 million figure which seemed to coincide with the Irish Greyhound Board debt. As the reply is not sufficient, we should go back to him and say he is stating the obvious, but that is not what we asked.

Chairman: I agree with the Deputy that we have no information on how the final sum was agreed. It just refers to the protocol for transfer. We are writing to the Valuation Office. The Valuation Office came into the process because it is a transfer between two State bodies and the Valuation Office acts as an independent arbiter of what is in the overall interests of the taxpayer - not necessarily either Department. It could involve transferring IDA Ireland land to a local authority for housing. There are many factors.

We are writing to the Valuation Office asking for a list of each property it was asked to value in 2017 and 2018 to date involving the transfer from one State body to another. We want a summary of the number of hectares and value per hectare it set. If we see this €23 million is the norm for valuations of other transfers between State bodies, it is well and good. If it is an outlier, we will want further information on that.

Does the Comptroller and Auditor General know if there are many of these transactions every year? Would there be dozens or hundreds?

Mr. Seamus McCarthy: I would not know offhand, but I think there would be a difficulty in comparing one to another because obviously circumstances will differ. A valuation in Harold's Cross for X amount of land would certainly be very different from the same amount of land on the outskirts of the city or in a provincial town. The missing piece seems to be the basis of the valuation, as opposed to the-----

Deputy David Cullinane: A further problem here is different valuations were given at dif-

ferent stages. Some of it was from independent valuers.

Mr. Seamus McCarthy: From the private sector.

Deputy David Cullinane: When there are significant variations, we do not know the rationale for the Valuation Office arriving at the figure of €23 million. We were looking for that analysis and all we got from the Department was that the Valuation Office arrived at the figure. As we already knew that, the Department has not answered the question at all.

Mr. Seamus McCarthy: The analysis that the Chairman has suggested will probably be a diversion from getting to the core of the basis of the valuation. One would expect there would be reference sites in and around Harold's Cross or that part of the city. That is probably more relevant to the-----

Chairman: We will focus on the narrow question first - the specifics. Sometimes when asking a specific question, it might throw up a broader issue. We may come back to that if we are not satisfied with the response to this.

Deputy David Cullinane: Very good.

Deputy Catherine Murphy: The valuation was also dependent on the zoning.

Chairman: It was also dependent on the acquiescence of Dublin City Council agreeing a material contravention. That was all assumed in advance. As it was for a school, it may not be an invalid assumption that councillors would support a material contravention for a school site. We agree most councillors would. However, we need specifics and the comparisons used. I take the point that when we get that answer there may or may not be a broader issue at that stage. We will ask Valuation Office the basis of the valuation and the comparisons it used to come up with that valuation. We note and publish that. That letter will go to the Valuation Office.

Correspondence No. 1761 is from NAMA on Project Nantes giving a breakdown of the €24 billion in asset sales categorised by the jurisdiction of purchaser and the application of section 172 of the National Asset Management Agency Act. We will put that up on the screen. There was the issue of the €11 billion from loan sales and the €24 billion from asset sales. NAMA stands over the original information it gave on the jurisdiction and origins of the entities or persons that became the ultimate beneficial owners of assets. As of now we will accept that in good faith.

The detail it gives on section 172 of the National Asset Management Agency Act will be of interest to some people.

The second paragraph on page 2 states:

In summary, the legal analysis concludes that the acquisition of these loans by a company, of which the person concerned is one of five directors, was not a contravention of Section 172(3) of the NAMA Act, 2009. Neither was the transaction in any way "illegal" ...

We did not go there. Somebody else may have said that. Essentially it states the acquisition of these loans by a company, of which one of the persons concerned is a director, was not a contravention of the original definition of what was covered by section 172. Maybe that was always the original intention. I do not know. It states what it did was not a contravention.

Deputy David Cullinane: That may well be the case but I ask that we hold over this correspondence. I want to look at it in a bit more detail. I had seen it and I had the same interpretation as the Chairman but I want to give it a bit more attention. I asked the Comptroller and Auditor General about Project Nantes because a number of pieces of correspondence have come our way. I do not have the resources to be able to delve into a lot of what is coming our way. Much of it could be irrelevant. We do not know. The Comptroller and Auditor General said that in the course of auditing the NAMA accounts, Project Nantes will come across his desk anyway. Is it something of which he is aware?

Mr. Seamus McCarthy: Project Nantes is an historic transaction at this stage, as far as the financial statements go, but we have asked for information and received a considerable amount of information on it. I have not examined the papers yet but I will do so. When I have done it I will consider whether I need to move formally into an examination process or otherwise if I am satisfied.

Deputy David Cullinane: Would that mean a special report?

Mr. Seamus McCarthy: It could mean that.

Deputy David Cullinane: That would depend on what is in the information the Comptroller and Auditor General has received.

Mr. Seamus McCarthy: It would depend on what I find. If I feel there is sufficient there to warrant an examination and a report I will move to that. Obviously if I am satisfied there is not anything out of the ordinary then I may not proceed.

Deputy David Cullinane: The Comptroller and Auditor General has all of the information the committee received.

Mr. Seamus McCarthy: Yes, and more.

Deputy David Cullinane: That is fine. I am satisfied with that.

Deputy Catherine Murphy: My understanding of this section of the NAMA Act is the original intention was that the Department would define and set out protocols but this did not happen and NAMA set out the protocols itself. Is the Comptroller and Auditor General satisfied they were as robust as they should have been? Would it have been better if they had been set for NAMA to follow? Should there have been other oversight?

Mr. Seamus McCarthy: I do not think I should prejudge the answer to these questions without going through a process and putting points to NAMA. I do not necessarily disagree with the Deputy's interpretation of the legislation but I have not formed an opinion yet and I would not like to prejudge it.

Deputy Catherine Murphy: Is the Comptroller and Auditor General likely to form an opinion on some of this work?

Mr. Seamus McCarthy: When I see the file I will make a determination on it. It could form part of it.

Deputy Catherine Connolly: All of the questions have been asked but I have a query about the last paragraph on providing copies of the confirmations. Is the Comptroller and Auditor General receiving everything he needs?

Mr. Seamus McCarthy: Yes.

Chairman: The Comptroller and Auditor General does not propose to share them with us because they identify people and entities by name. The Comptroller and Auditor General has access to the information. What I propose is we note and publish this but hold it over for discussion at the next meeting.

Deputy David Cullinane: I am satisfied, given the response of the Comptroller and Auditor General.

Chairman: We have requested a note from the parliamentary legal adviser on this particular issue.

Mr. Seamus McCarthy: I am happy the Chairman will do this because I do not give legal interpretation of legislation. I can give the committee a working view on it but it is better that the committee takes its own legal advice on these matters.

Chairman: That is in train.

Correspondence No. 1765 B is from Ms Dee Forbes, director general of RTÉ, dated 30 November 2018, and provides an update requested by the committee on the Eversheds Sutherland report. I want to read this into the record so people who are listening will understand what is in the letter.

In keeping with the Eversheds Sutherland review, the detailed analysis continues on a case by case basis. To assist in completing the analysis phase, discussions will commence over the coming weeks with those concerned and this process will continue into the New Year. As you can appreciate each individual case has its own set of circumstances and full due diligence is required in reaching the appropriate determination as was communicated on publication of the review in June.

A policy has been developed which will take effect in January 2019 and is currently undergoing internal review. We will share with you once finalised.

Deputy David Cullinane: As the Chairman knows, I have been following this up for some time. I have to say I am not pleased with this letter. It raises more questions than answers. It does not answer the questions we asked. It does not state how many of the individual cases have been dealt with so far, which is the substantive question that was asked. A total of 157 cases need to be examined. We do not have any detailed analysis. The letter states ongoing detailed analysis is being done. What detailed analysis? How many cases have been done?

What is more important for me is that it seems to suggest this issue has to do with individuals, that it is being looking at on a case-by-case basis and there is a review of each individual case. Where is the review of management practices? Where is the review of HR practices? These 157 people found themselves on self-employed contracts. We had a hearing and we heard from RTÉ. Even one of the RTÉ presenters who had been speaking to staff said these people were not given a choice. They found themselves on these contracts and not because they wanted them. This is not about putting the responsibility back on the 157 individuals. The question is why were they put in that position. Was it a management practice by RTÉ? Are HR issues raised here?

It is disingenuous, to say the least, to try to suggest in the letter that the issue needs to be re-

solved by looking at it on an individual case-by-case basis. Potentially, it was a more systemic managerial issue that led to these people being on these contracts in the first place. The letter does not give us the information we sought, which is how many of the 157 cases have been dealt with and how many people have been spoken to. This needs to be done to determine whether they should now be on proper contracts. Where is the review of the management of RTÉ and its HR processes? We need to get this. If it means having Ms Forbes back before the Committee of Public Accounts then so be it. That is what needs to happen. I am not at all satisfied with this response.

Chairman: The response is clear. It does not provide any of the information.

Deputy David Cullinane: I was in contact with staff in RTÉ who are on these contracts. Some of them contacted me before today's hearing and told me they still have not been contacted. They are waiting to have their cases adjudicated upon. They have not yet had that opportunity. It is unfair. It is a long time since Ms Forbes came before the committee and it is a long time since the report was published. I do not know what the foot dragging is about or why it is taking so long.

Chairman: I understood in advance of today's meeting that we had a letter from Dee Forbes on the Eversheds review. I stated publicly yesterday we would have the report today. I was disappointed to learn subsequently it is only a letter stating we do not have the report today. To anybody who felt we were going to receive the report, I apologise. I inadvertently assumed we would have it today. In any event, we will write to the director general asking about the points raised by the Deputy. The last paragraph states, "A policy has been developed which will take effect in January 2019". Regardless of the specifics of individual cases RTÉ has looked at its policy and now has a new policy. We want to know what led to the change of policy. We are not looking at the individual cases. We want to know what was the previous policy, what are the changes, what policy is taking effect and why has there been a change. There are specific circumstances for individuals. RTÉ seems to accept that a new policy is required for January 2019. We want to know why it came to this conclusion and give us the details and a copy of the new policy.

Chairman: Given that, I do not see why we should not invite Ms Forbes to come before the committee again. Let us get the letter first and then we will decide. If we get all of our answers in the next letter, well and good.

Deputy David Cullinane: We have been looking for a while. We will see.

Chairman: I know but we are not letting it go. We will come back to this. A letter is going out on the issue on which we will follow up.

Correspondence No. 1767 B is from the clerk to the Committee on Procedure, dated 30 November 2018, forwarding a complaint on matters raised by the committee in advance of the recent presidential election. The complainant believes the committee raised the matter of presidential expenses in order that it would become an issue in the election and be used as a weapon to damage the chances of the incumbent being re-elected. As Chairman, I reject that entirely. We will note and publish the item. We have not been asked by the Committee on Procedure to respond to that letter, but we may choose next week to respond or to note and publish it. If it identifies the private citizen who has made the complaint about the Committee on Public Accounts we will ensure that his or her name, or any information that could identify him or her, is redacted but I think we should publish the substance of the complaint. We are big enough to

take complaints on the chin and we will not publish them. People often make remarks that we may or may not agree with. I will ask the secretariat to scrutinise the letter to ensure there is nothing therein which if published would identify the correspondent. I would like the substance of the complaint published even though it is not flattering from the committee's point of view. We may decide to respond or not, as the case may be, next week.

Deputy Catherine Connolly: When the secretariat has had an opportunity to review it we can come back to it.

Chairman: Yes, we will hold it over.

Deputy Catherine Connolly: The final paragraph of the letter does not make any sense.

Chairman: Exactly. We will discuss it further next week, following which, if agreed, we will publish it. We will not hide a letter just because it is critical of the committee but we will ensure the identity of the complainant is protected.

Correspondence 1768B is from Mr Ciarán Breen, director of the State Claims Agency providing further information requested by the committee regarding medical negligence, open disclosure and CervicalCheck-thalidomide-related litigation. If there are no issues arising, we will note and publish this correspondence.

Deputy Catherine Murphy: I understood the agency was to provide the committee with the date on which the slides were sought. We asked for very specific information. Have we received it yet?

Chairman: We asked the HSE for that information. I understand a letter has been received. We will deal with it next week.

Deputy Catherine Murphy: The agency has since clarified the matter and acknowledged that 18 women have been waiting, not 22 days as we were told previously, but since last April in some cases.

Chairman: Waiting for what?

Deputy Catherine Murphy: Their slides.

Chairman: To whom were slides to be sent?

Deputy Catherine Murphy: They were requested by the women's solicitors and they were to be provided by the laboratories to a laboratory in Ireland, through their solicitor. We were told previously that the women had to wait 22 days to get their slides. We were not told there was a dispute ongoing. The slides of 18, possibly 30, women are now acknowledged as delayed since last April. The committee was misled. I hope we will definitely be coming back to this matter.

Chairman: We will come back to it next week. I am told we have a letter on the issue, which will be dealt with at next week's meeting. If we are not satisfied with that we will take it up further next week. On the letter regarding open disclosure, we are coming back to the issue of medical negligence because we have not yet completed our work in that regard. We will hold this correspondence as part of our ongoing work on that issue. There is interesting information in this documentation regarding the processing of claims. We will note and publish this correspondence but it will form part of our future work.

Correspondence 1769B is from Mr. Seán Ó Foghlú, Secretary General, Department of Education and Skills providing information on the potential risk caused by the weaknesses in the accounting system following the transfer of the training centre accounting system from FÁS and the internal audit function for each of the education and training boards. We will note and publish this correspondence, which makes for detailed reading in regard to the ETBs. According to the correspondence, which I read yesterday, the ETBs were established in 2013 and they hope to commence phased implementation of the payroll shared service next year and to commence phased implementation of the financial shared services system in 2020. Seven years after these organisations were established they are only centralising these services. They accept that the number of people in the internal audit function, which is based in Cavan, is not sufficient and they had recruited a number of additional staff but three of them left because the amount of time spent travelling from Cavan to Waterford, Wexford and Cork and so on did not suit them. They now have a minimal staff complement, with three staff on contract from a consultancy company. They accept that they did not have adequate internal audit facilities available in 2017. It is a factual letter, setting out the position warts and all, acknowledging failures and the difficulties involved in terms of making improvements. They also acknowledge how long it has taken to get to this point since the establishment of the ETBs in 2013, which is a lesson we are learning for all new public bodies. There was a similar issue with the establishment of the Tax Appeals Commission. When a body is being established nobody comprehends there will be an increase in workload. This is a previous example that also is coming back to haunt us.

The ETBs have appeared before us previously. They have moved from only one having its accounts for audit within three months of the year-end to all now being on time. We met four of them recently, when we highlighted this issue extensively. The ETB network in Ireland has acknowledged the work of the Committee of Public Accounts in putting pressure on the Department of Education and Skills to provide additional resources and so on. We have achieved a lot in this sector.

Would Mr. McCarthy like to comment?

Mr. Seamus McCarthy: In regard to the 2017 accounts, a lot of the ETBs are drawing attention to the difficulties around the financial management systems and the inadequacy of internal audit resources. Looking at the compiled accounts, the scale of absence in regard to internal audit was way under what is required for a sector on that scale and with that level of complexity. As the Chairman said, it is good to have that type of information at a co-ordinated level. As can be noted from the financial statements, one of the ETBs has recently submitted for 2017, in which, again, it draws attention to the same points.

Chairman: They acknowledge the difficulties and they state that they have different systems that came in from FÁS and they have to manually create spreadsheets to transfer information and they must spend a lot of time checking at year-end. My view is they should be doing this throughout the year and not only at year end. They are aware of their problems, which our work has helped to highlight. Hopefully, they will be provided with the resources to resolve those problems.

Deputy Catherine Murphy: It is useful to get information. I acknowledge that the ETBs do very good work and that amalgamations are not easy. That said, we do not learn lessons. The committee's work is, in part, reviewing processes and process failures. These are not going to be the last amalgamations. It appears that in such processes, consideration is given to only a small number of issues rather than the broad sweep of issues arising. The Chairman mentioned

the Tax Appeals Commission. We heard from officials of the commission that its computers were bursting into flames. How do we ensure that in an amalgamations process, consideration is given to a broader range of issues by a range of Departments such that we do learn some lessons?

Chairman: Earlier this week, the Government announced the establishment of the Office of Corporation Enforcement. I anticipate that we will face the same problems in regard to this organisation as we faced with the Tax Appeals Commission. I suggest that when the legislation for the new body is being drafted it include a section devoted to how it is to be resourced and funded. Currently, legislation is being drafted to give organisations the statutory powers to establish a board and hire a chief executive, with no detail as to who is to do the job. Our interim report specifically referenced that the Department of Finance had failed in its planning in regard to the establishment of the Tax Appeals Commission on an independent statutory basis. The Department of Public Expenditure and Reform must learn from that lesson and draw up a plan in respect of any new such bodies. I am conscious that one was announced two days ago. There will be an opportunity for those organisations, especially Department of Public Expenditure and Reform, to learn in advance in respect of any new organisation. That is my observation of where we are at now.

Deputy Catherine Connolly: I want to make two points, one specific and a general one related to Deputy Murphy's comments. I welcome this from the Department. The education and training boards, ETBs, are saying openly that they have no staff. They are identifying the problems, so they are coming forward. The committee has a role in encouraging people in that regard. We cannot have good governance if they do not identify the gaps, inform us and then put pressure on the Department. If that is a process that has started, I welcome it. It is difficult to be on the ground and hearing about problems with computers and shared systems that should be sorted out but have not been sorted out, through no fault of the staff.

On the general point, we are about to amalgamate Galway city and county councils on no other basis than that bigger is better. We certainly are not learning-----

Deputy David Cullinane: We have been through that before.

Deputy Catherine Connolly: We are about to go through it again. The interim report which recommends the amalgamation included a condition precedent that we deal with staff and resources first. The report states that staff and resources should be dealt with and it would seem that the cost implications, depending on one's interpretation, will be greater for the amalgamation. The ETBs seem to be learning but are the powers above this committee also learning?

Chairman: That is a good point.

Mr. Seamus McCarthy: The technological universities is another area where we are seeing changes. The risks are certainly there and keeping a focus on the types of governance arrangements that are being put in place, and whether they are working, is vital.

Deputy David Cullinane: That is an important point. I know from a briefing I received on the merger of the Waterford and Carlow institutes of technology that the last big piece of the jigsaw being looked at is the change management strategy. It would be interesting for us to look at whether there is a separate change management strategy for each of the mergers, for example. They are all different because we are looking at corporate headquarters and so on, but

it is the governance model in which I am most interested. What is the relationship within the Higher Education Authority, HEA, and that process? Will the governance model be consistent because we have had inconsistencies across the board in the past? I know that is a separate issue but, in the same vein, it is something we need to be watching, as the committee was across the technological university process in terms of cost. Governance will be a critical piece that the technological universities will have to get right.

Chairman: The legislation on the technological universities is done. However, perhaps the Oireachtas should be more proactive in respect of some of the others that will be established in future.

Deputy Catherine Murphy: On that, there is supposed to be a regulatory impact assessment. Some of them only run to a page. If there was a regulatory impact template was in place, the Department of Public Expenditure and Reform could do a post mortem, as it were, on organisations that have been merged. We could then end up having issues placed on that template that would not otherwise have been thought of. As a country, we do not do this type of follow through.

Chairman: We do not.

Mr. Seamus McCarthy: I suggest that, after Christmas, when the committee turns to look at Kildare-Wicklow ETB, that process might be an opportunity. We are still trying to finish out the 2015 financial statements for them. There were issues that caused the delay. That would give the committee an opportunity to look at the operation of an ETB and the systems that are in place since the amalgamations have taken place. Taking that, with the Department, and looking at areas like internal audit and the development of financial management systems might be focus for a related meeting.

Chairman: Everybody is on a learning process and it is important that we share what we pick up here.

Next, we will deal with correspondence C from private individuals and other correspondence. No. 1728 is from persons referred to as B and C in University of Limerick, UL. They continue to have concerns about the current work environment and want to engage with the committee. We heard recently from the president of UL in respect of the implementation of the Thorn report and I propose we forward that to the individuals in question. We have also placed the two reports by the Comptroller and Auditor General on the University of Limerick and Sligo and Waterford Institute of Technology, respectively, on our work programme for the new year. We need to plan those engagements, which may involve meeting some of the individuals who have been affected by related matters. Can we agree to that?

Deputy Catherine Murphy: We agreed to that earlier in the year when we made a commitment to have them back when the reports were published. We should stick to that.

Chairman: Yes. I propose that next Thursday we agree a work programme for January and February. There will definitely be a meeting or two on the third level education sector. We can discuss next Thursday whether we should have separate meetings for some of the whistleblowers. That will form our work early in the new year.

No. 1770, which is related to the previous correspondence, is from an individual and it relates to University of Limerick. The person has requested a meeting with the committee. We will consider that request when we discuss our work programme next week.

No. 1762 dated 30 November 2018 is from an individual and relates to illegal records of legal visits. This is a copy of a letter sent to the Taoiseach's office asking that the committee address the matter. While the issue raised is potentially very serious, it does not fall within the remit of the committee. I believe this is the matter raised in the media last week about prison staff and the recording of what people understand to be legally privileged meetings and visits in prisons. We are scheduling for next week a meeting with the Prison Service before we break for Christmas. We will raise that with the Prison Service and the Department of Justice and Equality when their representatives are here in person shortly before Christmas.

No. 1766 dated 30 November 2018 is from an individual and concerns land zoning and planning in County Kerry. Planning matters or matters related to the possible losses to a local economy are not within the remit of the committee and I propose that we inform the individual accordingly. We will not get into planning matters. Is that agreed? Agreed. There have been parliamentary questions on the matter raised and any member is free to pursue it in that context.

That is the final batch of correspondence. We move on now to the statements of-----

Deputy Catherine Murphy: I suggested that we write to the Office of Public Works on the Pope's visit, specifically in respect of procurement. Have we received a reply?

Chairman: No, not yet. We will follow up on that tomorrow to make sure we receive it.

Deputy Catherine Murphy: I am going to keep after this one.

Chairman: There is no reason we should not have that information by next week. We requested a detailed breakdown in respect of the way various contracts were selected and the procurement process involved. We will follow up on that tomorrow.

The next item is statements and accounts received since the last meeting. There are five sets of accounts, the first of which is for St. James's Hospital and is a clear audited opinion. Attention is drawn to the significant level of non-compliant procurement on goods and services. That is in the Comptroller and Auditor General's statement of-----

Mr. Seamus McCarthy: I think the figure is around €6 million. The hospital accepts that it has a problem and it is working to fix it.

Chairman: It is publicly highlighted in its annual financial statement.

Mr. Seamus McCarthy: Yes.

Chairman: The next statement of accounts is for the Galway and Roscommon Education and Training Board for 2017. It is a clear audited opinion. Again, there is a material level of non-compliance with national procurement guidelines and concerns regarding the adequacy of internal audit. We will see that in the annual statements for many of the ETBs.

Deputy Catherine Connolly: Concerns regarding the adequacy of internal audit resources is a very serious matter.

Chairman: Yes, and that is confirmed in the letter from the Department in that it accepts there has been inadequate internal audit resources available. The Department recruited staff but three of them have since left because the amount of work involved in travelling throughout the country to do internal audits was very difficult for the small group of people involved. They were away five days a week.

Deputy Catherine Connolly: I understand that.

Chairman: There is a big issue here.

Deputy Catherine Connolly: There is a big issue, and we cannot expect people to work under those conditions. I am not saying that. However, it ends up costing more money with reports following reports. Something has to be done in terms of an employment package to attract people. That is not our area but it becomes our area because it ends up before us in the form of more and more reports. We had the Thorn report. We have a list of reports with which we could paper a wall. That is the message we have to try to send out. As we have seen everywhere - there is no point in repeating it - it costs more money and the taxpayer ends up paying.

Chairman: Correct.

Mr. Seamus McCarthy: The market in accounting and audit is very tight. We have the same problem in recruiting people and face the same challenge in travelling around the country to carry out audits. It is difficult to recruit and retain people.

Deputy Catherine Connolly: It is very important to identify that. It is very important for the Government to examine that. We cannot just say there is a problem and not deal with it because a greater problem arises-----

Chairman: Absolutely.

Deputy Catherine Connolly: -----and we end up reacting all the time.

Chairman: We are on a bit of a journey here. Two years ago, nobody was paying any to the non-submission or very late submission of ETB accounts. We have stepped it up and are getting them in. Now we have an internal audit problem. That is probably the next phase for us. The Department accepts that but I think it is involved in a new recruitment process.

Mr. Seamus McCarthy: I agree that persistent attention to these kind of challenges is the only way to make a change.

Chairman: The next one is Kilkenny-Carlow ETB, for which there is a clear audit opinion. Again, it proactively highlights the difficulties relating to internal audit and welcomes an expansion of that function. It is proactive in highlighting the issues so the message is beginning to get out there.

The next item is the Special EU Programmes Body. This is a North-South body which administers EU-funded grant schemes and is jointly audited between the Northern Ireland Audit Office and the Office of the Comptroller and Auditor General. There is a clear audit opinion.

The next item is the Defence Forces canteen board. This supervises and ensures financial control over bars, canteens and officers' and non-commissioned officers' and privates' messes. Turnover in 2017 was €1.8 million. There is a clear audit opinion. We probably wanted something like that in respect of the Garda Síochána College in Templemore over the years. The Army had separate accounts, separate funds and separate reporting whereas-----

Mr. Seamus McCarthy: It was done on a statutory basis. It has orders that require the Defence Forces canteen board to be managed.

Chairman: If something similar had existed in the context of the Garda Síochána College

in Templemore, some of the issues relating to the college would not arise over the decades. It is a learning point. We will keep moving.

Our work programme for the next meeting is on screen. We will be meeting representatives from the Department of Communications, Climate Action and Environment.

Next Thursday, we will deal with the special report on the provision of school transport - the Comptroller and Auditor General's special report No. 98. Representatives from the Department of Education and Skills will attend that meeting. When was the report published?

Mr. Seamus McCarthy: A year and a half ago.

Chairman: We will ask the Department to provide up-to-date information. We will not just deal with the report as originally prepared. The topic will be the provision of school transport and the special report but we will ask the Department to immediately ensure that we have up-to-date information to help us in our work on that. In other words, we want to discover what lessons has the Department learned from the report, which was completed over a year ago.

On Tuesday, 18 December, representatives from the Irish Prison Service will appear before us following the recent meeting with the whistleblower. We will also meet representatives from the Department of Justice, which is the Accounting Officer for the Irish Prison Service. This will involve Vote 21 - Prisons. The only time available during that week for a meeting is 9 a.m. on Tuesday, 18 December. Members wanted the meeting to happen before the end of the year. I am very pleased that the secretariat and the Department have agreed to facilitate our request to meet that week. The meeting will last until lunchtime at the maximum because the room is only available up until then. The issue of a quorum arises.

Deputy Catherine Murphy: Could the Chairman inform the members who are not present that we will be meeting on that day?

Chairman: We will have to text and circulate that information to people the evening before the meeting is due to take place.

I wish to go into private session in order to deal with a minor matter.

The committee went into private session at 10.14 a.m. and resumed in public session at 10.24 a.m.

2017 Annual Report of the Comptroller and Auditor General and Appropriation Accounts

Vote 29 - Department of Communications, Climate Action and Environment

Chapter 8 - Measures relating to Cyber Security

Chapter 9 - Energy Efficiency National Fund

Mr. Mark Griffin (*Secretary General, Department of Communications, Climate Action and Environment*) called and examined.

Chairman: We will examine the 2017 annual report of the Comptroller Auditor General and appropriation accounts: Vote 29 - Department of Communications, Climate Action and Environment; Chapter 8, which deals with matters relating to cybersecurity, and Chapter 9, which deals with the energy efficiency national fund. We will also cover matters related to the national broadband plan to date. In order to provide structure for today's meeting, we will take all matters relating to cybersecurity in the afternoon when we will be joined by representatives from An Garda Síochána and the Department of Defence, both of which have a role in this matter but may not be involved in the general discussion on the Vote.

We are joined from the Department of Communications, Climate Action and Environment by Mr. Mark Griffin, Secretary General, Mr. Ciarán Ó hÓbáin, Mr. Michael Manley, Ms Finola Rossi, Mr. Richard Browne, Ms Barbara Leeson, Ms Aoife Byrne and Ms Catherine McGinty. We are also joined from the Department of Public Expenditure and Reform by Ms Mary Austin.

I remind members, witnesses and those in the public gallery to switch off all mobile phones or place them in airplane mode as leaving them in silent mode can interfere with the recording system.

I advise the witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to this committee. If they are directed by the committee to cease giving evidence in relation to a particular matter and continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the provisions 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

While we expect witnesses to answer questions put by the committee clearly and with candour, they can and should expect to be treated fairly and with respect and consideration at all times, in accordance with the witness protocol.

We will take the Comptroller and Auditor General's opening statement first.

Mr. Seamus McCarthy: In light of the Chairman's suggestion that we leave over the cybersecurity matters, does he want me not to refer to that?

Chairman: We will hold that over until the second session.

Mr. Seamus McCarthy: I will introduce it in the afternoon.

Chairman: On the basis that we felt we might not complete our discussion on cybersecurity before lunch, we arranged for a second session to commence at 2 p.m. to conclude our deliberations. It is not necessary to have witnesses from the Garda Síochána and the Department of Defence present this morning when we are dealing with issues that are not relevant to them. I do not know how long we will take today but witnesses from both organisations are scheduled

to be here for 2 p.m. to deal with the national cybersecurity plan only.

Mr. Seamus McCarthy: I will introduce the Vote and the other chapter.

The appropriation account for Vote 29 - Communications, Climate Action and Environment had total gross expenditure of just over €500 million in 2017. This was distributed across six expenditure programmes of varying size. Figure 1, which will appear on screen, indicates how the expenditure under the Vote was divided between the programmes. Members may wish to note that, in addition, the Department is responsible for management of the environment fund, which is funded from levies on the landfill of waste and on plastic bag usage and accounted for separately from the Vote.

The largest expenditure programme was in relation to broadcasting, accounting for €254 million or more than half of the total spent in 2017. That programme was substantially funded by television licence fee receipts, which totalled just over €215 million in 2017. Most of the expenditure under the programme was in the form of grants of almost €185 million to RTÉ and €34 million to Teilifís na Gaeilge. A total of €14 million was paid into the broadcasting fund and just under €12 million was paid to An Post in respect of its costs for collecting television licence fees on behalf of the Department.

The Department spent €111 million on the energy programme in 2017, of which €90 million was expended on energy efficiency programmes promoted by the Sustainable Energy Authority of Ireland. This was a substantial increase from €66 million spent in 2016.

The Department spent over €50 million on the environment and waste management programme in 2017, more than half of which went to support the operations of the Environmental Protection Agency. In addition, the Department spent over €33 million on environmental projects and initiatives from the environment fund in 2017.

Expenditure on the communications programme in 2017 was €31.5 million. This included expenditure on the procurement process for the national broadband plan.

The Department spent just over €30 million under the inland fisheries programme, mainly in grant support for Inland Fisheries Ireland. Finally, almost €25 million was spent on a range of services covered by the natural resources programme. Nearly 60% of that expenditure related to the specialist functions and services of the Geological Survey of Ireland. The net expenditure on the Vote was around €32 million less than was provided for in the 2017 Estimate. The Department got the agreement of the Department of Public Expenditure and Reform to carry over €6 million in unspent capital funding to 2018. The balance of €26 million was due for surrender.

This brief outline of its 2017 expenditure illustrates that the Department funds and oversees a broad range of functions, public sector bodies or both, including major commercial State bodies which do not receive ongoing grant funding such as An Post, EirGrid, the ESB and Bord na Móna. Given the scope of the Department's remit, I have included for the committee's information a diagram which aims to summarise the public bodies within the Department's aegis, indicating those which I audit and those which are outside my remit.

A key feature of the Department's remit is the long-term nature of many of the issues for which it takes lead responsibility. The chapters for consideration today deal with aspects of two such issues, namely, cybersecurity and sustainable energy.

The energy efficiency national fund was established in 2014, using funds of €35 million from the carbon revenue levy, which had been discontinued. The fund is not accounted for separately but the Department presents a summary of the results for the fund in note 7.2 of the appropriation accounts. The objectives of the fund are to provide financing to support energy efficiency improvement programmes and measures, as well as to promote the development of a market for energy efficiency improvement measures.

Rather than investing directly in energy efficiency projects, the Department decided to establish a qualifying investor fund, QIF, managed by fund advisers. The QIF pooled this funding with private sector funds. The Department committed to investing up to the full fund amount of €35 million in the QIF. As of March 2018, private investors had committed up to €38.8 million. At the time of the finalisation of the chapter, the anticipated investment in energy efficiency projects had not been achieved.

It was originally envisaged the QIF would invest in projects from its establishment in May 2014 up to May 2017. The shareholder agreement made provision for this investment period to be extended to May 2018, of which this was availed. When the agreed investment period closed, the Department had transferred a total of €14 million to the QIF, including €10.8 million contributed only in May 2018, in anticipation of delivery of projects in planning.

The funds transferred are used to finance energy efficiency projects and to fund the fees and expenses of the QIF. Based on the State's percentage shareholding in the QIF, the examination estimated that around €2 million of the State's contribution was used to pay fees and expenses. The value of the State's investment into the future is not known.

The Department has stated there would be no further transfers from the fund to the QIF and that the balance of €21 million remaining in the fund will be transferred to the climate action fund.

Chairman: I thank Mr. McCarthy. I ask Mr. Mark Griffin to make his opening statement.

Mr. Mark Griffin: I am attending the committee to discuss the Department's 2017 audited accounts, the Comptroller and Auditor General's chapters on cybersecurity and the national energy efficiency fund, as well as to take questions from the committee across the breadth of the Department's portfolio.

The Department made significant progress in 2017 and progressed several critical policy measures, including those which aim to deliver two key national strategic outcomes in the national development plan, namely, strengthened rural economies and communities and the transition to a low-carbon and climate-resilient society.

In terms of the appropriation accounts, total gross expenditure under the Vote in 2017 amounted to €503 million, some 7%, or €37 million, below the budgetary allocation of €540 million, including capital carryover. The underspend related primarily to lower than expected expenditure on certain demand-led sustainable energy schemes, the delayed commencement of landfill remediation projects, the national broadband plan, as well as reduced broadcasting expenditure due to lower than forecasted TV licence receipts. In addition, expenditure of €33 million under the environment fund in 2017 supported further progress in the areas of environmental protection, sustainable development and waste management.

The Department has a key policy development and co-ordination role in Ireland's transition to a low-carbon and climate-resilient economy. Ireland's first statutory national mitigation

plan, published in July 2017, sets out a whole-of-Government approach to tackling greenhouse gas emissions in key sectors, including electricity generation, transport, agriculture and the built environment. Ireland's first national adaptation framework, approved by the Government in December 2017, sets out our strategy for adaptation measures to reduce the vulnerability of the State to the negative effects of climate change, and also to avail of any positive effects which may occur.

Using less energy, and using it more efficiently, is the most cost effective and accessible way to take action on climate change. The Department invested a total of €105 million under its energy programme area in 2017. Of this, capital expenditure of €80 million supported energy efficiency measures in more than 23,500 homes and 491 public, private and commercial buildings, while also supporting around 2,670 jobs across the country. In tandem with this, measures aimed at decarbonising electricity generation and promoting the electrification of heat and transport were progressed. Last year saw the approval of two key support schemes for renewable heat and renewable electricity, respectively, with the latter providing pathways and measures to ensure increased community and citizen participation. Over 900 new electric vehicles were grant-aided in 2017, as we move forward to ensure all new cars and vans sold will be zero emissions, or zero emissions capable by 2030.

The Comptroller and Auditor General has prepared a chapter with the 2017 appropriation accounts dealing with the national energy efficiency fund. The fund served to stimulate the market for large scale energy efficiency projects and leverage private investment in this area, at a time when such investment was not evident. The role of the fund should be seen in the broader context of Exchequer investment in energy efficiency over the past few years. The greater proportion of the €21 million remaining in this fund will now be diverted to stimulate innovative investments by public and private sector entities under the new climate action fund to further support the decarbonisation effort. Last week we had the first announcement of seven schemes to be supported by the fund.

Some €26 million of the Department's allocation was spent on communications, multimedia developments and the information society in 2017. Within this, expenditure to support digital entrepreneurship and to promote digital inclusion among small businesses and citizens under the national digital strategy amounted to €9.4 million.

During 2017, the Department continued to progress the procurement process under the national broadband plan, while commercial investment in high-speed broadband services continued to expand. Overall, 1.6 million of the 2.3 million premises in the country had access to quality services at year end. The overarching policy objective of the plan is to deliver this vital service to the homes, schools, farms and businesses for the 1.1 million people across rural Ireland who will not be provided this service by the commercial sector. It remains a key priority for the Department. We have now entered into the final assessment stage of the procurement, with a view to making a recommendation to the Government within the coming weeks.

In other sectorial areas covered by the Department, funding to support public service broadcasting amounted to €253 million in 2017. Investment of over €91 million was targeted at the sustainable management of our natural resources and inland fisheries, the protection of our natural environment and the transition to a resource-efficient circular economy.

I look forward to assisting the committee members with any questions they may have today.

Chairman: I thank Mr. Mark Griffin for his opening statement.

Deputy Catherine Murphy: As I have many questions this morning, I would like fairly short replies. The area on which I want to focus is broadband. There can be some confusion because there are a number of different contracts. The metropolitan area networks, MANs, which were established in 2004, were purchased by Granahan McCourt Capital in 2013. There were two concessionary contracts. One was to run to 2019 and the other was to run to 2024. In 2017 it was decided to extend those contracts to 2030. Obviously, they were not going to run out imminently so it was not necessary to do that in 2017, but it was done in March 2017. In July 2017 the Irish Infrastructure Fund bought 78% of Enet. That is one of the areas I wish to explore. First, who was the decision maker who decided to extend the contracts?

Mr. Mark Griffin: I will try to be brief in answering the question but there is an important piece of context that would be of benefit-----

Deputy Catherine Murphy: Do not overdo the context.

Mr. Mark Griffin: I will not overdo it but it would be of benefit to the committee and people who are watching the proceedings. As the Deputy correctly said, the first two management services entity, MSE, contracts were awarded to Enet. The first was for 28 MANs and the second was for 60 MANs in 66 different towns, so there was phase 1 and phase 2-----

Chairman: Mr. Griffin, will you explain MANs for the people who are watching the proceedings?

Mr. Mark Griffin: They are metropolitan area networks. They are fibre rings in towns around the State that provide services from co-location centres. They were State funded and State owned. They remain in State ownership, which is important.

Chairman: There are 88 urban areas.

Mr. Mark Griffin: Overall there are 88 spread across 94 towns. Of the 88, 85 of them have been lit or are in use.

To reply to the Deputy, it is the nature of decision making that we must plan well in advance for decisions that need to be taken. The Department initiated a review in 2014 to inform future policy direction. We undertook a detailed internal-----

Deputy Catherine Murphy: I asked Mr. Griffin who the decision maker was. He is giving me the context but I have a total of 20 minutes for questions and answers.

Mr. Mark Griffin: On the decision maker, a very detailed evaluation was undertaken internally in the Department at division level, informed on foot of that by a further detailed evaluation that was carried out by Norcontel. We also got some support from NewERA which is the shareholder executive for the State. A recommendation came up through the system regarding the benefits of one approach versus another, that is, extend versus re-tender. All the analysis showed that the extend option was the preferred one in financial terms, market terms and so forth. It would have come-----

Deputy Catherine Murphy: Is documentation for that available?

Mr. Mark Griffin: There is. We have published the Norcontel report and we sent some of the briefing to the committee in the last day or two. There is an internal administrative document which sets out the extent of the analysis that was undertaken. It has not been released yet but, subject to having a more detailed look at it, I think it is something we could release.

Deputy Catherine Murphy: Okay. Essentially, this analysis makes a recommendation to the Minister and the Minister makes the decision. Am I correct about that?

Mr. Mark Griffin: It comes up through the system.

Deputy Catherine Murphy: Yes, but am I right about that?

Mr. Mark Griffin: In fairness, the Minister concurred with the recommendation of the Department.

Deputy Catherine Murphy: We are extending these two concessionary contracts that were not due to expire until 2019 and 2023-----

Mr. Mark Griffin: it is 2020 and 2024.

Deputy Catherine Murphy: We were doing that at the same time as there was due diligence under way by the Irish Infrastructure Fund with regard to the purchase of what ended up as 78% of the contract. It was decided to extend it in March. Did the Department know that due diligence was being carried out by the Irish Infrastructure Fund regarding the purchase at that stage?

Mr. Mark Griffin: No. They were two separate processes.

Deputy Catherine Murphy: With regard to extending the concessionary contracts, if the contracts had stayed at 2019 and 2024 is it fair to say they would have been less valuable than contracts that were then extended to 2030?

Mr. Mark Griffin: I cannot comment one way or the other. Whatever value the IIF and AMP Capital put on it they did it on a market basis.

Deputy Catherine Murphy: Most people would assume that a longer contract would be worth more.

Mr. Mark Griffin: The only consideration for the Department, and I must be clear about this, is what is most advantageous for the Department and for the users of the service. That was the only consideration for us in financial terms, market terms, service delivery and so forth. What happened in the acquisition of Enet happened utterly independently of the Department.

Deputy Catherine Murphy: They were extended in March. In July the Irish Infrastructure Fund bought 78% of Enet.

Mr. Mark Griffin: That would appear to be the case.

Deputy Catherine Murphy: This year the remaining 22% was purchased.

Mr. Mark Griffin: That would appear to be the case.

Deputy Catherine Murphy: Okay.

Mr. Mark Griffin: To be clear, the Department-----

Deputy Catherine Murphy: Mr. Griffin does not know if they paid more than they might have paid-----

Mr. Mark Griffin: I have no idea.

Deputy Catherine Murphy: -----if the contract was not extended.

Mr. Mark Griffin: In fact, the important thing to bear in mind is that, as I understand it, IIF bought the Enet business in its entirety. Enet does a number of things but the only part we were interested in was its role in the management of the metropolitan area networks.

Chairman: What is the name of the IIF company?

Mr. Mark Griffin: The Irish Infrastructure Fund.

Chairman: Can you explain who it is?

Mr. Mark Griffin: To the best of my knowledge the Irish Infrastructure Fund is made up a number of investors and one of them is the Ireland Strategic Investment Fund.

Chairman: How much does it own?

Mr. Mark Griffin: I do not know.

Chairman: Are you telling me that the Department has given the contract to a business and it does not know the people who own the business?

Mr. Mark Griffin: We did not give the contract extension to anybody other than Enet.

Deputy Catherine Murphy: That was owned by Granahan McCourt Capital.

Mr. Mark Griffin: The Deputy is making the point that subsequent to the extension Enet was sold to a different entity.

Chairman: You mentioned ISIF too.

Mr. Mark Griffin: I understand that ISIF is one of the investors in the Irish Infrastructure Fund.

Chairman: People who are watching the proceedings might have mistook ISIF, which is a State body, for IIF. They are very similar-----

Mr. Mark Griffin: Yes, they sound very similar.

Chairman: Will you give the full title rather than the initials each time you have to mention one of them? I am already confused as to who is ISIF and who is IIF.

Mr. Mark Griffin: The IIF is the Irish Infrastructure Fund-----

Chairman: A private company.

Mr. Mark Griffin: It has a range of investors and one of them is the Ireland Strategic Investment Fund.

Chairman: Do you know how much of that fund it owns?

Mr. Mark Griffin: No, I do not know. That is part of the new acquisition. In many respects it is of no interest to me.

Chairman: It is of interest to us. That is part of the NTMA group so we will have to ask that group how much of the Irish Infrastructure Fund is owned by ISIF. That is an obvious question

for the committee.

Deputy Catherine Murphy: To fast forward, there is another tendering process at present under the national broadband plan. It was supposed to be a competitive tender but, unfortunately, two of the entities that were tendering have pulled out. We are told that competition will be important in driving down price. Would that not have also been the case with regard to this particular extension? For example, BT Ireland has said publicly that it had expressed an interest in tendering. If one does not tender one does not know what the competitive pressure will be in evaluating costs. Why did that not happen?

Mr. Mark Griffin: There was a provision in the concession agreement for both the MANs I and MANs II lots that they could be extended. The original agreements contained an extension provision.

Deputy Catherine Murphy: I know that there could be an extension, but there was no guarantee. There was a point when the Department could have re-tendered to see if better value was available or a better outcome was possible because there are also issues with the take-up of broadband.

Mr. Mark Griffin: These are judgment calls which we do not make in the absence of information. I do not want to give the impression that somebody in the Department suddenly took the decision that the contracts needed to be extended because that was not the decision; rather, it was to engage in a policy review of operations and demands, how the incumbent was doing and functioning and assess whether it would be more beneficial to extend or re-tender. A detailed assessment was made and it was supported by an additional analysis undertaken by Norcontel.

Deputy Catherine Murphy: Would the outcome have been known if the Department had not tendered?

Mr. Mark Griffin: Yes, but there would have to be a procurement process, which costs money. We made an assessment in which we examined the state of the market, anticipated what would happen in the future period and what the market would look like and what the likely benefits to the State would be in extending versus re-tendering. The clear assessment was that in all circumstances it would be more beneficial to the State to extend the contracts.

Deputy Catherine Murphy: What, if anything, did the Department get in return?

Mr. Mark Griffin: In the new arrangement we have secured as a minimum approximately €21 million or €22 million in cost savings between 2020 and 2030. That is at the lower end because the Norcontel analysis indicated that there were likely to be additional cost savings to the State in an extend versus re-tender option in all scenarios, from a low model to a high assumption.

Deputy Catherine Murphy: Was the Department aware of much criticism in the marketplace of the cost to the end consumer and non-viability in providing services?

Mr. Mark Griffin: We engaged in stakeholder consultation and are appearing before the committee. We interviewed 15 people whom we described at the time as “tier 1 users”, that is, high users of the system who were well known within the telecoms industry. The vast majority expressed satisfaction with the performance of the MSE in running both MANs. We committed to undertaking an analysis of the pricing of the MANs products and that review has just been completed. We are engaging with the MSE and, having spoken to colleagues, I expect us to be

in a position to publish the review before Christmas. I expect it to be published virtually in full, although there may be one or two matters we may have to redact. It will not, however, affect the overall findings and conclusions or the thrust of the report. As part of the development of the review, all of the issues with cost raised by a number of parties were fed into the process.

Deputy Catherine Murphy: On regulatory oversight, the name “MSE liaison committee” appeared in the Peter Smith report. Is it the *de facto* regulatory oversight group or what role does it play? Does Enet have any role to play with that body?

Mr. Mark Griffin: A liaison committee is in place and meets on a quarterly basis. As I understand it, it involves the Department, Enet-----

Deputy Catherine Murphy: Enet is involved.

Mr. Mark Griffin: Yes, but how could there be a liaison committee without the MSE?

Deputy Catherine Murphy: In that case, it is not regulatory oversight.

Mr. Mark Griffin: No, it is not.

Deputy Catherine Murphy: It could not be if Enet was regulating itself.

Mr. Mark Griffin: The purpose of the committee meetings is to determine whether Enet is compliant with the requirements of the project key performance indicators and so on. The committee also involves a chief executive officer from the local authorities.

Deputy Catherine Murphy: People may have mistakenly believed there was some regulatory oversight by an organisation such as ComReg, but that is not the case on price.

Mr. Mark Griffin: No, there is oversight by the Department.

Deputy Catherine Murphy: Why have we not seen a full copy of the Analysys Mason report?

Mr. Mark Griffin: It is a timing issue. Some aspects are still being worked through, but I will be happy to provide it for the committee in the next couple of weeks. As I said, I am keen to ensure it is as open as possible. I have been advised by colleagues that there may be one or two small redactions, but it will not affect the understanding, findings or conclusions.

Deputy Catherine Murphy: On the review of the MANs programme, was one carried out in 2016 and another in 2017?

Mr. Mark Griffin: There was an internal review by the Department over a prolonged period of time, but it was supplemented by a report. Therefore, there were not two reviews *per se*.

Deputy Catherine Murphy: There was some confusion in that regard. The briefing document the Department provided for the committee stated the report had been completed by the Department in 2016 and that the review established that the MANs programme had proved to be effective. In a reply to a parliamentary question in January 2017 the Department wrote that it had “recently finalised decisions relating to the management of the MANs to provide that the current Concession Agreements co-terminate in 2030”. It went on to state: “An independent evaluation of the operations of the MANs, including pricing of all MANs products and services to ensure that they are within market norms, is currently under way”. The report stated it had been done, but the parliamentary reply indicated otherwise a year later. I am, therefore,

confused.

Mr. Mark Griffin: I will try to explain it as briefly as I can. There was an internal review by the Department which was supported by the external analysis of Norcontel. It formed basis of the decision at the end of 2016 and the principle to proceed on the basis of an option to extend. Between the end of 2016 and March 2017 we entered detailed negotiations with the MSE on issues related to revenue share, claw-back and the management service fee in order that we would achieve an even better outcome for the State. The final part was completed in March 2017. We undertook to make the pricing analysis which Analysys Mason was procured to undertake.

Deputy Catherine Murphy: In this document, however, the Department gives the impression that it was done in 2016.

Mr. Mark Griffin: The internal review was carried out, but it was supplemented by a further analysis, with a view to obtaining a negotiated outcome that would be more beneficial to the State.

Deputy Catherine Murphy: On the release of information, I am aware that there is an ongoing appeal in a case that was lost in the High Court. The Information Commissioner and the court concluded that there was a public interest in providing information. Why is the case being contested if there is a public interest in the information being provided in a public forum?

Mr. Mark Griffin: I do not want to get into the details of the court case, but at the outset of the process we formed the view that releasing the totality of the contract could have a commercial impact not only on us but on other organisations in the State, or other organisations which deal with the State, which rightly want to have some of the information contained in contracts protected for commercial reasons. We used mechanisms within the Freedom of Information Act to give effect to it. They were mechanisms put in place by decision makers beyond my level. The advice subsequent to the case being lost in the High Court was that we should appeal. We concurred with that advice. I do not want to say any more than that because the issue is before the courts.

Deputy Catherine Murphy: That is fine. I want to move on to another item. An analysis was done by Mr. Colm McCarthy as consultancy work in November 2015 and was provided to the Department. One area on which it focused was the need, under the public spending code, for a cost-benefit analysis to be undertaken in order that all projects taken on by the State go through a rigorous process to determine which ultimately will be selected. Was the national broadband plan, or the metropolitan area networks, MANs, contract subject to cost-benefit analysis?

Mr. Mark Griffin: I can certainly say the national broadband plan was, without question. It has been updated on a number of occasions. In a reply to a parliamentary question, which Deputy Catherine Murphy may not have had an opportunity to read, the Minister stated that a cost-benefit analysis was done in 2002 by Peter Bacon and Associates on the proposed MANs. To the best of my recollection, I believe that report has been released. If it has not, we will do that.

Deputy Catherine Murphy: That was right back-----

Mr. Mark Griffin: -----at the outset.

Deputy Catherine Murphy: Was any further cost-benefit analysis done during the next generation of this project?

Mr. Mark Griffin: We did not do a cost-benefit analysis, *per se*, but we did do a value for money review in 2007. The Comptroller and Auditor General audited the effectiveness of the MANs in 2008, if memory serves me right. Part of the analysis we did in 2016 was a retrospective to see how effective the management service entity, MSE, had been in discharging its functions under the contract.

Deputy Catherine Murphy: Was one done prior to this current procurement process?

Mr. Mark Griffin: Is the Deputy referring to the MANs extension?

Deputy Catherine Murphy: Yes, that is correct.

Mr. Mark Griffin: A formal cost-benefit analysis was not done but a very detailed review was undertaken by the Department.

Deputy Catherine Murphy: Is that review available?

Mr. Mark Griffin: This is a 2016 document. I do not think we have made that available publically but I am not sure there is a good reason for us to not do that. Can I go back to the Department, check to see about providing that document and then respond to the Deputy?

Deputy Catherine Murphy: That is fine. I thank Mr. Griffin. There is a crossover in this project with the same entities such as Granahan McCourt Capital, which owned Enet up to 2017. That is the same entity leading the national broadband plan consortium. It is useful to see how the previous project rolled out in respect of the risks with non-take-up, construction etc.

Mr. Mark Griffin: I do not wish to interrupt, but I will mention one other indicator I did not share earlier. On the operation of the MANs, we have seen an additional investment of €31 million by Enet, as the management service entity, in upgrading the MANs infrastructure. That value resides with the State because it owns the MANs. The MANs network has also been extended by about 30% and, again, the value of that also resides with the State. We are seeing a significant-----

Chairman: Did the State pay for that?

Mr. Mark Griffin: We did not pay for that extension.

Chairman: I am sorry to cut across but why were the companies paying €31 million to then hand it over to the State?

Mr. Mark Griffin: They see value in providing services from that network but the actual asset itself is retained in the ownership of the State.

Chairman: Is the case even though those are new assets?

Mr. Mark Griffin: Absolutely.

Chairman: Control of those assets by those companies expires-----

Mr. Mark Griffin: Whenever those entities move out of-----

Chairman: Essentially, is it the case that these companies have until 2030 to make their

money back?

Mr. Mark Griffin: Exactly. On the extensions, there is an obligation in the contract for the companies to invest 10% of the gross revenue every year. We have benefitted, therefore-----

Chairman: It is not out of the goodness of their hearts that the companies did this?

Mr. Mark Griffin: No. It reflects, however, the due diligence we put in when the contract was originally started.

Deputy Catherine Murphy: If we look at some of Enet's accounts, we can see that dividends have been paid. I looked at the 2016 accounts and €6 million in dividends was paid to Granahan McCourt Capital. What is put in is one thing but what is taken out is another. I refer to what the companies make back. It is my understanding that we own the network.

Mr. Mark Griffin: Absolutely.

Deputy Catherine Murphy: The contractors then manage the network and providers such as Eir and Sky, using the network, sell services to the consumer. If providers such as Eir or Sky do not see it as something on which they can make money, the services which the network can provide do not get sold to the consumer. Then we have lots of fibre and insufficient take-up from that fibre. That is a fair reflection of what happens if the retail side of things is not competitive. We might roll out fibre right across the country but only 10% to 15% of people might take it up because it is not something they can afford. Is that correct?

Mr. Mark Griffin: I am trying to get my hands on the figures. What we have seen is a significant take-up on the MANs network by the retail operators in recent years and the selling on of those services. I will try to find the actual figures because I saw the information in the brief in recent days. Many of the businesses in the towns served by the MANs network are using fibre. I will give the example, often quoted, of Coca-Cola in Wexford. It uses the MANs network. I will get a list. If I cannot get my hands on it during the course of the meeting, I will forward it on to the committee later. There is, however, a very extensive take-up.

Deputy Catherine Murphy: This is not like the ESB network being rolled out, when every house in the country was to be connected to it. This is not an equivalent situation but one where it is down to retailers offering something people will buy.

Mr. Mark Griffin: It also reflects the fact that the MANs service is only available in 96 towns, many of which are smaller settlements. I will come back to that but I have the figures now to which I referred earlier. There are 63 service providers using the MANs infrastructure and 1 million individuals and businesses are benefitting from it, including industrial estates, multinationals, small and medium enterprises, State entities, local authorities and educational institutions. There is significant take-up of the services.

Deputy Catherine Murphy: I am aware of a library, not in my own constituency, that has not taken it up because it is too expensive. If we are going to invest money to make us connected and fit for purpose and to ensure rural Ireland can perform to the best it can, the services provided must be attractive for people to take it up. Otherwise, there is a question mark over that investment.

Mr. Mark Griffin: Absolutely. That is correct. We will be looking at what has arisen from the Analysys Mason report on pricing to see what needs to be done. On the specific issue of that

library, I would be happy if the Deputy could provide me with the details and I will follow up.

Deputy Catherine Murphy: I will. Given that it is the same entity, and the only remaining entity, involved in the current national broadband plan, the information from that report is incredibly important because this is a very expensive project. We do not know exactly how much it is going to cost, but amounts between €500 million and €3 billion have been mentioned. We know it is going to be tremendously expensive. At the very least, we should have information on the affordability, the take-up, the risks etc. Looking back at the forerunner of this project is probably the best thing to do to make sure this can be a successful project.

Mr. Mark Griffin: It is one of the things that may feature. The assurance I can give the Deputy on the evaluation of the national broadband plan is that there is massive due diligence ongoing. I refer to the capacity of the organisation, the subcontractors, the commercial plan, the business plan, the deployment, the deliverability, the affordability and value for money. All of that is part of our consideration at the moment.

Deputy Catherine Murphy: How long does it take to do a pre-qualification test?

Mr. Mark Griffin: In what sense?

Deputy Catherine Murphy: The tendering process for the national broadband plan is under way. It started out being Enet which is now a partner and Granahan McCourt is the main entity. Subcontractors are also included as part of the consortium. Every time that changes, does it have to go through pre-qualification test?

Mr. Mark Griffin: Absolutely.

Deputy Catherine Murphy: How long does it take to do a pre-qualification test?

Mr. Mark Griffin: I do not know the answer to that because I am not involved in that particular process.

Deputy Catherine Murphy: It is kind of like Lanigan's ball the way this particular consortium has changed.

Mr. Mark Griffin: It is kind of a which? How did the Deputy describe it?

Deputy Catherine Murphy: I said it was like Lanigan's ball, there have been that many changes.

Mr. Mark Griffin: Okay.

Deputy Catherine Murphy: Enet is now a partner as opposed to a main consortium. Was a second pre-qualification test required given that Enet was leading it before?

Mr. Mark Griffin: My understanding is that Enet was never leading. Granahan McCourt was always the lead part of the consortium. Where there are changes in consortium membership, there is an obligation as part of the procurement arrangements that a pre-qualification questionnaire must be redone. We have to look back at the technical, commercial and financial capacity of the party.

Deputy Catherine Murphy: I refer to the report prepared by Colm McCarthy. What happens when something like that comes in? It is a sizeable piece of work which obviously feeds into the information the Department has and must evaluate in the context of the broadband plan.

What would be done with that?

Mr. Mark Griffin: When one goes back to the initiation of the procurement process under the national broadband plan, we consulted very extensively with industry and the general public on how this should look, what the technical standards were and all of that kind of stuff. We did a cost-benefit analysis, or CBA, at the outset and updated it.

Deputy Catherine Murphy: I thought Mr. Griffin said the Department did not do a CBA but-----

Mr. Mark Griffin: I did not say that. We did a CBA absolutely for the national broadband plan at the outset and it has been updated on a number of occasions.

Chairman: To cut in for a moment, the Department sent us information on the MANs, phases 1 and 2. Can the schedule be explained to the committee? The different locations are listed but what does the reference to the number of operators using MANs mean?

Mr. Mark Griffin: It is the number of service providers using the MANs in any particular location. MANs involve a wholesale operation and retail service providers come on that to provide services.

Chairman: In some areas, there are none while in others there are 20. What kind of people are the 20?

Mr. Mark Griffin: They are retailers like Eir, Vodafone and some of the wireless operators.

Chairman: And there are 20 different ones in some towns. How many operators are out there?

Mr. Mark Griffin: In our response, we said we knew there were 63 service operators in total using MANs. Some of them can be quite small providing a small-scale wireless service within a particular area. There are three that are called "unlit". Members will see Belmullet in phase 1 and there are two in phase 2 which are Knock and Banagher.

Chairman: They are not up. There is no take-up yet.

Mr. Mark Griffin: They are not economic enough to function at this point in time.

Chairman: How many towns are covered by MANs?

Mr. Mark Griffin: There are 94.

Chairman: There are 94 active. How many houses are connected in those 94 to MANs?

Mr. Mark Griffin: It is primarily services to business. There are very few houses. However, it is not secret and the NBP consortium has made it clear in its press statement of 18 September that it sees the benefit of using the MANs operation with its fibre ring and connection to back hall as part of the technical solution to the rolling out of the national broadband plan.

Chairman: Who said that?

Mr. Mark Griffin: When they submitted their final tender - the national broadband plan final bid tender which we received on 18 September - the press release said part of this will involve using existing infrastructure in the State sector, namely, the metropolitan area networks.

Chairman: These are in the towns. Rural broadband is rural areas.

Mr. Mark Griffin: The network will be used to provide spurs to go out to rural areas.

Chairman: They will connect back to the MANs.

Mr. Mark Griffin: Yes, to the co-location centres.

Chairman: Are the MANs capable? They were designed for the urban areas in which they are located.

Mr. Mark Griffin: Absolutely. They will fibre back to the co-location service within the MAN.

Chairman: In the nearest town.

Mr. Mark Griffin: Absolutely.

Chairman: Out of the 94 towns that have MANs. How many houses in the 94 towns are connected to MANs?

Mr. Mark Griffin: Currently.

Chairman: Yes. Households and families.

Mr. Mark Griffin: It is primarily MANs supplying to business. It is not households *per se*.

Chairman: I understand. It is mainly businesses, Government Departments, big offices, hospitals and everything in the provincial towns that use MANs. Before we go to rural broadband, how many of the houses in those towns do not have access to quality broadband services?

Mr. Mark Griffin: What we are seeing now in urban areas served by MANs is growing competition from Eir and Siro. Eir and Siro are providing the services to households and in some circumstances, probably co-locating back to the MANs and using that infrastructure. I expect that once the national broadband plan is up and running, one will see a far greater level of usage of MANs to provide-----

Chairman: When were MANs started?

Mr. Mark Griffin: We started MANs in 2004, when the first contract was put in place. The second contract was in 2009.

Chairman: The Department is telling us now that it planned something in 2004 for metropolitan areas and that if rural broadband comes on, it might be one of the biggest users of a scheme designed for urban areas. That was never envisaged as a purpose. While it is great if it is possible, it shows the excess capacity that is there. What I do not understand is the following. We are here talking about the national broadband plan and the number houses it will serve yet here we have invested in State infrastructure to provide 94 towns with metropolitan area networks and the Department cannot tell us how many houses are connected to it. Mr. Griffin now tells me the ESB, Siro, Vodafone and others are in the process of starting to take connections from MANs to connect houses. Why would the MANs not be used in towns to connect houses when they are now deemed suitable to connect as source points for rural broadband? I do not understand why the houses in those towns are not connected. There might be certain big company offices or shops. I cannot understand all the focus on the costs of broadband for

the future to connect houses when we have a massive scheme covering 94 urban areas but the Department cannot tell us how many houses are connected to that. Surely, we should know what is connected to the metropolitan area network. There is an awful gap in information when the Department is asking us to make a jump to count houses in rural areas but it has not even counted the houses in the urban areas that are already accessible.

Mr. Mark Griffin: Certainly, we know the houses in rural areas which are provided with services by commercial operators. The primary purpose of the MANs was to generate competition around business access and to go into areas where there was a major market failure at the time to provide high-speed fibre services to business.

Chairman: Mr. Griffin is saying that 14 years on, Vodafone, ESB and Siro are now starting to connect houses.

Mr. Mark Griffin: Siro-----

Chairman: Does Mr. Griffin not think that someone at departmental level should know how many houses are connected to metropolitan areas before it starts talking about counting houses out in rural areas which do not yet have access to anything? We would like to know the percentage of the population in urban areas that is connected to MANs before we talk about what the percentage take-up might be in a rural area.

Mr. Mark Griffin: We can look at that.

Chairman: Does Mr. Griffin understand how one informs the other?

Mr. Mark Griffin: Yes, I understand what the Chairman is saying. There is another thing, and I was not clear, there are mobile telephony services provided off the MANs. That is an important factor. We are seeing now, as I said, that in all of the MANs' towns, the fact that MANs has existed has started to spur competition with Eir and SIRO-----

Chairman: When did that start?

Mr. Mark Griffin: -----that either have or will be providing high-speed broadband in those areas, and may or may not be using the MANs to do that.

Chairman: Mr. Griffin has now told me that he does not know whether the players will use MANs. The State has invested in putting fibre into 94 towns. Mr. Griffin has now told me that he does not know whether the figure will be used to connect to the houses.

Mr. Mark Griffin: We know-----

Chairman: Is Mr. Griffin saying he does not know?

Mr. Mark Griffin: That is a market decision that these players will make. What I did say was that 63 service providers provide retail services. The MANs is a wholesale open access so it cannot-----

Chairman: Would the regulator of utilities or whatever he is called now have the figure for the number of people who are connected? Who would have that information at Government level?

Mr. Mark Griffin: No, but we can see-----

Chairman: Let us say I am from rural Ireland and want to move to rural Ireland but Mr. Griffin cannot even tell me how the Department has got on in the past 14 years in terms of urban Ireland.

Mr. Mark Griffin: We can absolutely tell you exactly, for every single premises in urban Ireland, who has connection to a high-speed broadband service because we have mapped every single premises in Ireland.

Chairman: Can somebody email the map to us now?

Mr. Mark Griffin: We can. The map is on the Department's website but we will certainly email it.

Chairman: Can Mr. Griffin request somebody in his Department to email the map to the Committee of Public Accounts?

Mr. Mark Griffin: Totally, yes. Every single premises - 2.3 million premises - in Ireland have been mapped. We know whether they will be provided with a commercial service and, therefore, we know which ones will not be provided with a commercial service. That is how the figure of 542,000 premises----

Chairman: It depends.

Mr. Mark Griffin: -----that will not be provided. Sorry, if that was the question the Chairman asked then I did not pick up on it. We know, down to every single household, based on an Eircode, whether they have a commercial service or not, when they may be provided with a commercial service and the gap then, which is the 542,000 in rural Ireland.

Chairman: We will return to the matter later.

Deputy Catherine Murphy: Yes. There were lots of figures bandied about in the Dáil, including the claim that no one will be left behind and plenty of people see themselves in urban Ireland.

Mr. Mark Griffin: Can I address that point?

Deputy Catherine Murphy: Can I leave that as a comment?

Mr. Mark Griffin: We are mapping those, in the urban areas, who are left behind as well.

Deputy Catherine Murphy: Enet is wholesale. Is it appropriate that Enet should have a retail subsidiary called AirSpeed?

Mr. Mark Griffin: Enet, I presume, can have as many subsidiaries as it wants. It is a commercial company. The important thing is that if it is selling services it is selling services on an equal-----

Deputy Catherine Murphy: Competitively.

Mr. Mark Griffin: Exactly. On an equal and fair a basis as everyone else.

Deputy Catherine Murphy: Yes. Did Enet apply pressure in 2017? The contract was extended in March 2017, it was bought by the Irish Infrastructure Fund in July 2017 and due diligence was being done. Obviously Granaghan McCourt would have been aware that due

diligence was being done because the information would be needed to do that. Was pressure put on the Department? The first contract did not expire until 2019 and the second one until 2024. Was pressure put on the Department to extend the contract by Eir in advance of 2019?

Mr. Mark Griffin: No. One of the key considerations for us was to provide certainty to the market in its totality. I can assure the Deputy, irrespective of any pressure that may have been put on, and there was none in this case, our only objective was to ensure that whatever deal emerged from the decision around extend or re-tender was to the benefit of the State and nobody else.

Deputy Marc MacSharry: I welcome the witnesses. At the beginning of November *The Irish Times* printed figures that it obtained showing that 28,000 homes or as few as 14% of homes availed of Eir broadband out of a total of 200,000 homes. If the cost for the national broadband programme ranges between €1.5 billion and €3 billion then that suggests the cost of connecting each house would be at best €20,000 per house or, in a worst case scenario, €40,000 per home. Does Mr. Griffin believe, based on those figures, that the unit price per household represents good money for value for the taxpayer?

Mr. Mark Griffin: First of all, the report in *The Irish Times* is wrong. The number of premises passed by Eir is about 211,000. It has connected over 40,000, which is close to 20%. If one looks at any international comparator, and Eir's own projections on what it is it would have expected to achieve within that relatively short period of time, it would have been very happy with that level of take up. There is a lag between houses being passed, services being provided by the retail services, time to connect and all of that. In fact, when we saw those figures from Eir, and I do not think Eir will have any difficulty with us quoting them because I think they came out with a statement themselves around that time, we would be quite encouraged by the level of take up at this stage.

Deputy Marc MacSharry: Is that the Department's outlook? Are we saying we are happy if we get 20% take up for our investment of between €1.5 million and €3 billion?

Mr. Mark Griffin: Not at all. Absolutely not.

Deputy Marc MacSharry: The indicator at the moment for Eir is 20% instead of 14%.

Mr. Mark Griffin: The indicator is fair at the moment. We are looking at a roll-out that has been happening for about two years.

Deputy Marc MacSharry: Yes.

Mr. Mark Griffin: We are seeing now some of the big retail providers and marketing services. Members would have seen Vodafone with the Bannan ad and all of the rest. We know that Sky is getting into that space.

Deputy Marc MacSharry: Yes.

Mr. Mark Griffin: So we will see a lot more services starting to be offered by retail providers.

Deputy Marc MacSharry: What will be the uptake in percentage terms?

Mr. Mark Griffin: Does the Deputy mean the uptake that we will have under the national broadband plan, NBP?

Deputy Marc MacSharry: Yes.

Mr. Mark Griffin: I am in a difficult position, Deputy, because you are asking me now to get into stuff that is the subject of a procurement process. We would expect to see levels-----

Deputy Marc MacSharry: Let us just say my figure was a little bit out and the cost is €30,000 per unit. What kind of cost per unit are we broadly saying is value for money? As somebody who is based in rural Ireland I obviously want access for everybody to the greatest extent possible.

Let me move on to my next question. What analysis has been done on 5G and its provision rather than fibre? Around the world 5G technology seems to have overtaken fibre as a means of delivering high-speed broadband. From my uneducated spot, it seems to me that 5G must be cheaper if it could work.

Mr. Mark Griffin: The answer is 5G is not a substitute for fibre to the home.

Deputy Marc MacSharry: There must be an awful lot of publications peddling lies.

Mr. Mark Griffin: I would not say they are lies. I would say that they do not have a full command of the situation. There was a very good report published by ComReg last Friday and it is up on its website. In fairness, I suspect that members would not have had an opportunity to look at it. ComReg is very clear that 5G is a complementary technology to fibre to the home. Our own internal technical experts have told us that 5G is complementary to fibre to the home.

Deputy Marc MacSharry: What is meant by complementary?

Chairman: Please explain what is meant by the word “complementary”.

Mr. Mark Griffin: One is dealing with a different type of issue; 5G in mobile is effectively providing services to outside one’s front door. Fibre to the home is providing a fixed service to a premises that is capable of being scaled. So, effectively, with a fibre the-----

Deputy Marc MacSharry: Capable of what, sorry?

Mr. Mark Griffin: Capable of being scaled or future-proofed. Effectively one has unlimited capacity with fibre because the technology-----

Deputy Marc MacSharry: It is about capacity, speed-----

Mr. Mark Griffin: -----and scalability. If one looks at what is happening internationally-----

Deputy Marc MacSharry: To the ordinary Joe, myself included, 5G, if it is working well, means I can watch a movie on my phone. To me, fibre also means I can look at a movie on my phone. The latter potentially costs between €20,000 and €40,000 per unit while the former, theoretically, is a network of appropriate masts with sight lines. Is that not it?

Mr. Mark Griffin: If one looks at the ComReg report, it states that getting to 99.5% geographic coverage would require an additional 6,000 masts. One must remember all of the planning issues involved there, as well as the costs. ComReg called out a cost of €1.8 billion for ubiquitous 5G across Ireland. Certainly 5G will allow one to watch a movie on one’s phone but it will not allow an architectural business in rural Ireland, for example, to look at detailed drawings in order to finalise a design, prepare a bid and submit it to a client. It is also clear from the 5G versus fibre to the home debate that scalability of services with a fixed fibre network is far

more easily achieved. We have looked at this quite closely. We have taken-----

Deputy Marc MacSharry: Has the Department done a cost-benefit analysis, comparing one with other?

Mr. Mark Griffin: Yes, absolutely. We have done a cost-benefit analysis and-----

Deputy Marc MacSharry: Are we allowed to see that?

Mr. Mark Griffin: We will publish the bulk of the documentation relating to the national broadband plan after the pre-preferred bidder stage.

Deputy Marc MacSharry: I understand Mr. Griffin's point on scale and the fact that it might not be possible to send detailed CAD plans for a house or submarine with 5G as quickly as with fibre. I understand all of that but what is the percentage difference between the two? I am not expecting Mr. Griffin to give us the actual figures but is it 50% better to go with fibre or 20%?

Mr. Mark Griffin: In what sense? In terms of capacity or-----

Deputy Marc MacSharry: In terms of the Department's cost-benefit analysis. I am not looking for the actual money figures but-----

Mr. Mark Griffin: I would need to back and look at the original cost-benefit analysis. At that point, fixed wireless or 5G was not really on the radar but the analysis found that 4G would cost in excess of the cost model for the fibre-to-the-premises solution. The other point is that the cost that has been set out in the ComReg report is €1.8 billion.

Deputy Marc MacSharry: A cost of €1.8 billion for what?

Mr. Mark Griffin: A sum of €1.8 billion for ubiquitous 5G coverage around Ireland.

Deputy Marc MacSharry: That is ComReg's costing on that. The estimate is €1.8 billion and there also would be planning issues involved.

Chairman: Is that for the whole country?

Mr. Mark Griffin: No, for 99.5% coverage.

Chairman: That is €1,000 per house. If there are 1.6 million houses in the country and it costs €1.8 billion, that is approximately €1,000 per house which is very cheap compared with the other figures.

Deputy Marc MacSharry: Compared with my figure of €20,000 to €40,000 per household. The other issue-----

Mr. Mark Griffin: I did not say fibre would cost between €20,000 and €40,000.

Deputy Marc MacSharry: I know; I said that. Mr. Griffin said that the Eir figures are wrong. I said 14% and Mr. Griffin said that it is now closer to 20% and growing. It is still in there though, between €20,000 and €40,000, which is a lot more than €1,000. Mr. Griffin also said that the original analysis dealt with 4G but 5G is a very different animal.

Mr. Mark Griffin: Yes but we also have done the assessment on 5G. One is still constrained in terms of capacity with 5G. If one looks at fibre to the home-----

Deputy Marc MacSharry: What is the percentage of NASA engineers in rural Ireland who want to email detailed packages and plans or would the majority of people be happy enough to watch Netflix?

Mr. Mark Griffin: The risk we take as a country is to decide what is needed based on what we are seeing now rather than on how society will evolve over a 25-year period. If one looks back, one sees that the data demands today are multiples of the data demands of only a decade ago, for example. The nature of work in urban and rural Ireland, the jobs people will be doing and the demands for data will undergo transformational change over the next 25 years.

The data upload capacity on mobile technologies at the moment is around 15 Gbit per month - that is at the high end - but with fibre to the home or high-speed fixed broadband, one is talking about ten times that level.

Chairman: Can Mr. Griffin repeat those figures please?

Mr. Mark Griffin: The data capacity is around 15.6 Gbit on a mobile network compared with 154 Gbit per month and the latter is increasing the whole time. There is a real issue around capacity and scalability. When we set the threshold in 2015 in terms of what the scheme would provide, we set speeds of 30 Mbps to download and 6 Mbps to upload. The European Commission came out with a paper in 2016 stating that by 2025, all households must have a minimum of 100 Mbps and all businesses should be capable of 1 Gbps, if they so wish and that all households must be future-proofed to have 1 Gbps download speeds. We must make sure that whatever we put in now is future-proofed for the next 25 years at least.

Chairman: The briefing note supplied today says that one of the objectives of the national broadband plan is to deliver State intervention to ensure a national high-speed broadband network for Ireland with minimum download speeds of 30 Mbps and upload speeds of 6 Mbps.

Mr. Mark Griffin: Yes.

Chairman: This process commenced three years ago in December 2015, with the preparatory work on it beginning in 2013. Mr. Griffin is now saying that since the launch of the plan in 2015, those targets of 30 Mbps and 6 Mbps have changed because of European directions. What is the Department saying now?

Mr. Mark Griffin: When we set out the specification in 2015 we said that the solution had to be future-proofed.

Chairman: What did that mean then?

Mr. Mark Griffin: That meant there was no point in putting in a solution that could only provide 30 Mbps. Any solution needs to be capable of being scaled and interestingly, the three bidders that came to the table originally all proposed fibre to the home. If one looks right across Europe, the technology that is being deployed to ensure that any broadband network is future-proofed is fibre to the home.

Chairman: Does that include the existing Eir lines that are out there, going into peoples' homes or are they new and separate lines?

Mr. Mark Griffin: The ones that are being done under the rural-----

Chairman: No, I mean the ones that people have in their houses already.

Mr. Mark Griffin: The ones that are being done under the rural deployment are predominantly fibre to the home. Perhaps the committee could put the question to Eir representatives when they appear before it but my understanding is that the ones that are being done by Eir are a combination of fibre to the home and an enhancement of the copper network, which will give approximately 100 Mbps.

Chairman: Mr. Griffin knows well that the old Eir copper network, which is running from house to house in most of Ireland is not remotely capable of providing 1 Gbps.

Mr. Mark Griffin: Absolutely.

Chairman: We are being coddled here today

Mr. Mark Griffin: Coddled by whom?

Chairman: I will explain. As a person from rural Ireland, I believe rural Ireland is being coddled by this national broadband plan. I will take Portlaoise as an example, but every county is the same. At the moment, under the metropolitan area network, MAN, plan in Portlaoise, the operators to which we have referred, including Vodafone, Siro and the ESB, are offering a 1 Gbps service to households. That is 1,000 Mbps. What the Department is offering to the houses two miles out the road is only 3% of that or 30 Mbps.

Mr. Mark Griffin: No.

Chairman: That is what the Department started out-----

Mr. Mark Griffin: No.

Chairman: Let me finish. The broadband plan initially referred to a minimum download speed of 30 Mbps. Future-proofing could require a marginal increase but even if we went to 100 Mbps to which Mr. Griffin referred to as a target, the NBP is not, in its wildest dreams, really future-proofed. Europe has told the Department that the 30 Mbps target was way out of touch in the context of modern requirements. At best, even if it reaches a maximum of what is being offered, it will only be offering a service to the people of rural Ireland that is 10% of the speed of what is already available in urban Ireland.

Mr. Mark Griffin: Not at all.

Chairman: I am quoting the Department's figures.

Mr. Mark Griffin: Sorry, what the Chairman is quoting is a document that went out in 2015. Things have moved on.

Chairman: This is the document the Department gave to us last night.

Mr. Mark Griffin: Yes, and the question-----

Chairman: Mr. Griffin should be telling us what is in the broadband-----

Mr. Mark Griffin: That is what I am trying to do now.

Chairman: Why did he not put it in this document?

Mr. Mark Griffin: There are only certain things I can tell the committee about the broadband plan because we are still in a procurement process. What I said-----

Chairman: All we can go on is what the Department has provided us with.

Mr. Mark Griffin: And the questions that have been put to me during the course of the morning, which I am trying to answer.

The minimum specification we set out in 2015 was based on the state aid guidelines that were in place at that time. Every single bidder that came to the table offered fibre to the home. The solution that is still on the table with the final bidder is fibre to the home. Every single rural premises in Ireland, bar the most remote, which may account for 2%, will have a fibre-to-the-home solution. There will be no restriction. They will be no worse off than the cities. In fact, when we get this done, it may in many cases be better than what is being provided in the cities. It is a fibre-based service, with gigabit potential, that will be provided to the 542,000 premises.

Chairman: Except, a moment ago, Mr. Griffin said some of it will be based on the old Eircom copper network that will never-----

Mr. Mark Griffin: I did not.

Chairman: He said it would be a combination of the existing Eir copper lines going into people's houses.

Mr. Mark Griffin: No.

Chairman: Mr. Griffin said that a moment ago.

Mr. Mark Griffin: No, what I said referred to the urban areas, which was the question put by the Chairman. He asked me to talk about what Eir is doing. I tried to make a distinction between what it is doing in the 300,000 premises that are being provided with services under the commitment agreement with the Department. That is a predominantly fibre-to-the-home network. In urban areas, Eir is currently providing a mix of fibre to the home and an enhancement of its copper network - VDSL, I think it is called - which will give somewhere between 100 Mbps and 150 Mbps. I read in the media that the Eir operators have indicated their intention to fibre the urban areas. Therefore, nobody in rural Ireland will be any worse off than anybody in urban Ireland. In fact, for a period of time they are likely to be substantially better off.

Chairman: Okay. We will come back to it later. I have cut across Deputy MacSharry.

Deputy Marc MacSharry: I want to finish on the 5G issue. For absolute clarity, was the cost-benefit analysis that was done in regard to 4G or 5G?

Mr. Mark Griffin: As the cost-benefit analysis has been updated on a number of occasions, we have looked at 5G technology both on cost grounds and in terms of its ability to provide the service.

Deputy Marc MacSharry: Is there a cost-benefit analysis document?

Mr. Mark Griffin: Yes.

Deputy Marc MacSharry: Is it 4G or 5G?

Mr. Mark Griffin: The initial one was done on 4G-----

Deputy Marc MacSharry: That is out of date. Is there a new one?

Mr. Mark Griffin: We updated the cost-benefit analysis-----

Deputy Marc MacSharry: Therefore, we did not. We have a 4G analysis but we do not have a 5G analysis.

Mr. Mark Griffin: We updated the cost-benefit analysis to take account of changes as the process progressed. It looks at costs and benefits. It looks at the costs of the technology that is proposed as a solution relative to the benefits that will accrue.

Deputy Marc MacSharry: I know what a cost-benefit analysis is. What Mr. Griffin seems to be telling me is, “We did one on 4G and we kind of did a bit of a desktop update to turn it into a 5G.” No dedicated 5G cost-benefit analysis was done.

Mr. Mark Griffin: That is because the figures on 5G are only recently available but-----

Deputy Marc MacSharry: We have now established that a cost-benefit analysis was not done on 5G.

Mr. Mark Griffin: My point is that, in considering whether and how one might approach a 5G cost-benefit analysis, the first question is whether it is a technology that is proposed, next, is it a technology that will give the totality of the solution, which everybody one speaks to who is expert in this field says it does not, but that it is complementary to the provision of high-speed broadband and fibre to the home-----

Deputy Marc MacSharry: I am only an ordinary five-eight. What I respectfully suggest is that the Department does a detailed cost-benefit analysis on 5G before we go from potentially €1,000 per household, as the Chairman said, to somewhere between €20,000 and €40,000.

Mr. Mark Griffin: I do not know where the Deputy is getting the €20,000 to €40,000.

Deputy Marc MacSharry: I just told Mr. Griffin where I am getting it.

Mr. Mark Griffin: That is a top of the head, back of the envelope calculation. I can assure the Deputy-----

Deputy Marc MacSharry: No, it is not. I am quoting from a thing-----

Mr. Mark Griffin: I can assure the Deputy-----

Deputy Marc MacSharry: I said 28,000 people out of 200,000 was the take-up, and Mr. Griffin said it is actually more than that.

Mr. Mark Griffin: No.

Deputy Marc MacSharry: I said 14% and Mr. Griffin said it is actually over 20%. Will we do the sums to work it out?

Mr. Mark Griffin: That is the take-up now.

Deputy Marc MacSharry: That is the take-up now. Therefore, on the never-never, it is going to be 90% and Eir will be printing money. That is its business. That is commercial. I am only interested in the public’s money. We do not have a cost-benefit analysis on 5G, as we have established. The second thing is that, thus far, two years into it, there is only a percentage of take-up. I am just taking a wild guess that a lot of home users are not NASA engineers

designing the space shuttle and might be happy to access Netflix and use a little bit of Google. I am wondering, before we dish out somewhere between €1.5 billion and €3 billion, whether we should look at this. I am not an expert. I am just a simple taxpayer in here to ask questions on behalf of other taxpayers. Let us do a cost-benefit analysis on 5G, which, by Mr. Griffin's own admission, we have not done because the figures are newly available.

Mr. Mark Griffin: I assure the Deputy that the evaluation of the entire programme prior to a recommendation being made to Government will take account of where 5G-----

Deputy Marc MacSharry: Excellent. Can Mr. Griffin provide the information to the members of Committee of Public Accounts, either on a confidential basis or publicly? There is precedent for this in that the committee has received information in private session. I am sure the Comptroller and Auditor General would have an interest.

Mr. Mark Griffin: What we have said is that, post-preferred bidder, as the Minister said in the Oireachtas on-----

Deputy Marc MacSharry: Post-preferred bidder, the deal is done.

Mr. Mark Griffin: It is a matter for the Government to decide whether the deal is done or not.

Deputy Marc MacSharry: When we are spending the money, we can decide whether we spend it wisely. My suggestion is that we do a cost-benefit analysis on 5G, which we do not currently have. Why do we have to hide the truth from the people?

Mr. Mark Griffin: I am not hiding anything.

Deputy Marc MacSharry: I did not say Mr. Griffin was, but the system and the culture is, "Do you know what we will do? After we spend the money, we will have a good old sit-down and see did we spend it correctly." All I am saying is we have an opportunity now-----

Mr. Mark Griffin: That is a complete and utter misrepresentation of the approach we have taken in the Department, every single step of the way.

Deputy Marc MacSharry: That is not what I said.

Mr. Mark Griffin: It is. The Deputy said our approach is, "We will go through a process and, sure, that is just a process, and then we will have a look-back." What I am saying to the Deputy is-----

Deputy Marc MacSharry: I am going to get into the process shortly.

Mr. Mark Griffin: There is a detailed evaluation ongoing in the Department at the moment, which is looking at the commercials and the technical delivery-----

Deputy Marc MacSharry: I know that. I do not want to hold up Mr. Griffin. I have read all this stuff. I have heard umpteen parliamentary questions reeling out this stuff.

Mr. Mark Griffin: The role of 5G-----

Deputy Marc MacSharry: I want to use our time more effectively.

Mr. Mark Griffin: The Deputy has to allow me to answer the questions.

Deputy Marc MacSharry: I did not ask Mr. Griffin the question he is answering now. He is talking down the clock.

Mr. Mark Griffin: Then let me react to the Deputy's commentary. The role of 5G will be considered in all of that.

Deputy Marc MacSharry: That is great. Mr. Griffin is saying to me, "You can take it from me we will be getting value for money and we will be analysing 5G." What I, the Committee of Public Accounts and the State are asking is that we get a look at it. Let the Department get a cost-benefit analysis done on 5G and give us a look at it, and give the Comptroller and Auditor General a look at it.

Mr. Mark Griffin: What I have said is that we will provide all this information post-preferred bidder.

Deputy Marc MacSharry: After the money is gone.

Mr. Mark Griffin: Post-preferred bidder.

Deputy Marc MacSharry: Which is bananas.

Chairman: I will come next.

Deputy Marc MacSharry: I am nearly finished. Mr. Griffin mentioned that some of the Eir network is going to have to be used for delivery. At what stage are we in the negotiations with Eir for that?

Mr. Mark Griffin: As I understand it, the remaining bidder has been in extensive negotiations with Eir since February of this year on what is known as a make-ready programme. There is a lot of work to be done in terms of the condition of the Eir pole network, given we will be re-using about 1.2 million of them, and the Eir duct network in order that, when the contract is signed, the company can mobilise-----

Deputy Marc MacSharry: We are getting technical. Mr. Griffin is saying the preferred bidder has negotiations at an advanced stage and they are going well.

Mr. Mark Griffin: They are in discussions, yes.

Deputy Marc MacSharry: Did the Department ever do a cost-benefit analysis on repurchasing Eircom?

Mr. Mark Griffin: No.

Deputy Marc MacSharry: Why not?

Mr. Mark Griffin: I did not realise it was for sale.

Deputy Marc MacSharry: Everything is for sale.

Chairman: Mr. Griffin knows it has sold maybe four times since privatisation, so do not go there.

Mr. Mark Griffin: I was not aware of the most recent-----

Chairman: Nothing has been put up for sale more often. That is a different answer.

Mr. Mark Griffin: We have made an assessment of the likely cost.

Deputy Marc MacSharry: The Department has done an assessment of it.

Mr. Mark Griffin: Yes.

Deputy Marc MacSharry: As an ordinary five-eight member of the committee working on behalf of the taxpayer, I believe it is something we should scope-out and examine in terms of repurchasing the company or, at a minimum, the infrastructure, if the infrastructure was ever for sale on its own.

To return to the process, I wish to deal with the issue of governance. I am not casting any aspersions on the former Minister or anything like that, he is a decent hardworking man but I noted the various meetings that were held and that we have a report which states the process was not contaminated. How can we call it a tender process when there is one tenderer? Is that not just a negotiation?

Mr. Mark Griffin: The process was run as a competitive dialogue process, which is provided for in the Office of Government Procurement guidelines regarding how one would run a process of this nature where one is dealing with a very complex design and does not have a clear line of sight of what will be the technical solutions. That is absolutely provided for in the public procurement processes. We started a pre-qualification or an initial-----

Deputy Marc MacSharry: I do not mean to be rude but I do not need the whole process outlined. I know how tenders work. Was it put up, for example, like a normal tender, on the eTenders website?

Mr. Mark Griffin: Yes.

Deputy Marc MacSharry: We were left with one person and we were negotiating along that basis. In terms of these various meetings and the suggestion that there may have been contamination of the process, was the former Minister's diary secretary a civil servant or on the political staff?

Mr. Mark Griffin: The diary secretary is a civil servant.

Deputy Marc MacSharry: Did that diary secretary book any of these meetings or dinners, the formal or informal ones?

Mr. Mark Griffin: The formal meetings would have been booked. Yes.

Deputy Marc MacSharry: The dinner in New York, for example, and those sorts of ones.

Mr. Mark Griffin: Yes.

Deputy Marc MacSharry: What about any of the informal ones?

Mr. Mark Griffin: I do not know to which informal ones the Deputy is referring.

Deputy Marc MacSharry: The various meetings with the tenderer.

Mr. Mark Griffin: Yes.

Deputy Marc MacSharry: Some were formal and some were informal. Would they have been diared and were they part of the-----

Mr. Mark Griffin: There were a number of dinners that I understand were not diared.

Deputy Marc MacSharry: Okay. Mr. Smyth is the person who carried out the report, is that right?

Mr. Mark Griffin: Yes.

Deputy Marc MacSharry: Mr. Smyth is on a panel of consultants to which the Department refers and uses from time to time, is that correct?

Mr. Mark Griffin: No. Mr. Smyth was appointed at the start of this process through an independent procurement process as a process auditor.

Deputy Marc MacSharry: He was there all along; he was in-house, as it were.

Mr. Mark Griffin: No. He was not in-house, but he did attend meetings.

Deputy Marc MacSharry: Okay. He was part of the process then.

Mr. Mark Griffin: I do not know what the Deputy means by that.

Deputy Marc MacSharry: He was on the books to do with the national broadband plan, NBP.

Mr. Mark Griffin: He was being paid an amount of money to ensure the process was fully in compliance with the set of rules that surround-----

Deputy Marc MacSharry: Was he at any of the meetings the former Minister had with the tenderer?

Mr. Mark Griffin: I am not sure if the former Minister ever met Mr. Smyth.

Deputy Marc MacSharry: Did Mr. Smyth, as part of his investigation, interview, for example, the diary secretary?

Mr. Mark Griffin: I do not know. Whatever is in Mr. Smyth's report-----

Deputy Marc MacSharry: No. From a basic governance point of view, I am interested to know if Mr. Griffin would have advised a Minister to meet a tenderer for a contract?

Mr. Mark Griffin: Would I advise a Minister to meet a tenderer for a contract?

Deputy Marc MacSharry: Yes.

Mr. Mark Griffin: There were a number of meetings where the former Minister has met, and they are documented-----

Deputy Marc MacSharry: I understand that, but does Mr. Griffin consider that represents good governance?

Mr. Mark Griffin: I think the issues around the-----

Deputy Marc MacSharry: Did anybody say to the former Minister, "I must advise you - although it is entirely up to yourself, you make your own decisions - that it is not good governance to meet the bidders in the process"?

Mr. Mark Griffin: When one looks back through the Smyth report, what has been set out clearly is a range of meetings that Mr. Smyth has concluded fell within-----

Deputy Marc MacSharry: I did not ask Mr. Griffin about that. I asked him would he, as Secretary General of the Department, from time to time not say to a Minister:

I think it is unwise for you to take that course of action. I think it is unwise for you to take the other course of action. I think it is unwise for you to meet this person because they are tendering to provide a paper to the Department, broadband to the State or whatever.

Mr. Mark Griffin: That issue may arise from time to time and the normal course----

Deputy Marc MacSharry: Did it arise in this instance?

Mr. Mark Griffin: ----- is that the diary secretary would consult the division and say there was a-----

Deputy Marc MacSharry: Did the diary secretary consult the division or Mr. Griffin, as the Secretary General, and say, "the Minister is meeting the bidder here, what do you think?"

Mr. Mark Griffin: On a number of them which are not in the diary, we would not have been consulted.

Deputy Marc MacSharry: Okay, but some were in it. Would any advice have been given that this was unwise?

Mr. Mark Griffin: Specifically, where formal meetings were being conducted, we would not have had an issue with then Minister being accompanied by an official.

Deputy Marc MacSharry: Was there a point at any stage, that Mr. Griffin advised the then Minister that he should not-----

Mr. Mark Griffin: I do not recall that, no.

Deputy Marc MacSharry: Mr. Griffin does not recall that.

Mr. Mark Griffin: No.

Deputy Marc MacSharry: With the benefit of hindsight, would Mr. Griffin be advising him of that now?

Mr. Mark Griffin: I was not aware of a number of the private dinners.

Deputy Marc MacSharry: Does Mr. Griffin think, in the main, it is good governance to meet with bidders in a process?

Mr. Mark Griffin: I beg your pardon.

Deputy Marc MacSharry: Does Mr. Griffin think, in the main, it is good governance to meet with bidders in the process?

Mr. Mark Griffin: We have always met with bidders in the process. There have been a number of occasions-----

Deputy Marc MacSharry: We all know what we are talking about.

Mr. Mark Griffin: -----when the then Minister met bidders in the process.

Deputy Marc MacSharry: Right.

Mr. Mark Griffin: For example, on 26 June, which is one that springs to mind.

Deputy Marc MacSharry: The former Minister seems to have said on record that all these meetings were held in order to keep McCourt in the procurement process. Did we have to beg this guy to tender or nurse him along and have dinner with him to make sure he is kept sweet?

Mr. Mark Griffin: Again, I think a bit of context is important. The Deputy will recall when Eir withdrew from the process on 13 January, there was a lot of media coverage about whether the process could continue, how effective it might be and the difficulties around that.

Deputy Marc MacSharry: Why were there not dinners with other people to bring them in as well?

Mr. Mark Griffin: We did meet Eir a week before that and we made it very clear to Eir that we thought it was premature for them to withdraw from the process.

Deputy Marc MacSharry: When Mr. Griffin says “we” does he mean the Minister or officials?

Mr. Mark Griffin: On 23 January, we and officials met.

Deputy Marc MacSharry: Officials. Did the Minister have dinner with the chief executive officer, CEO, of Eir-----

Mr. Mark Griffin: I do not know.

Deputy Marc MacSharry: -----to see if they would come back to the table?

Mr. Mark Griffin: I do not believe there was a dinner but I cannot say that.

Deputy Marc MacSharry: It is just unusual. If we were anxious to keep bidders in the process, and it required dinner with some people but not with others, that is pretty selective.

Mr. Mark Griffin: I am not going to comment on it over and above what was said.

Deputy Marc MacSharry: Mr. Griffin is the main man in the Department. From a basic governance point of view, inconsistencies seem to have been rife. On the one hand, we wanted to keep a person at the table, but we did not really care about the other person being kept at the table-----

Mr. Mark Griffin: That is not true.

Deputy Marc MacSharry: -----because we did not go for dinner with that person.

Mr. Mark Griffin: There was a long meeting with Eir on 23 January when the CEO came in. I am not breaking any confidences because I think this is on the record.

Deputy Marc MacSharry: It needs to be on the record and I would not worry about breaking any confidence at all. This is the people’s money.

Mr. Mark Griffin: He came in to meet the then Minister and officials were in attendance.

We made it very clear to him when he said they were looking at the company withdrawing from the process that we thought it was premature and that there was still far more discussion to be had.

Deputy Marc MacSharry: That is all right but, as somebody said, between formal and informal meetings, there were six or eight meetings with the last remaining person. If it was all about keeping people in the procurement process-----

Mr. Mark Griffin: I do not have the exact figures off the top of my head.

Deputy Marc MacSharry: -----it seems extraordinary efforts were-----

Mr. Mark Griffin: If one were to listen to Deputy Naughten's intervention in the Oireachtas on Monday, he set out very clearly the extent of engagement he would have had with both Eir and Siro while they were still in the process.

Deputy Marc MacSharry: Just no dinners.

Mr. Mark Griffin: I do not know whether there were dinners or not.

Deputy Marc MacSharry: As I said at the start of my contribution, I have the height of respect for Deputy Naughten. I have no doubt he was doing the right thing but, from the witnesses' perspective, as the senior civil servants who advise the Minister of the day, did nobody take him aside and say, "Minister, this is poor governance, you should not meet this person" in the same way as the Secretary General in the Department of the Taoiseach took the Taoiseach aside and said that the strategic communications unit does not look good for us, and now it is gone. That Secretary General was quite right. Did it not occur to the Mr. Griffin to say to the then Minister either to bring everyone for dinner or nobody for dinner?

Mr. Mark Griffin: We were not privy to the fact that-----

Deputy Marc MacSharry: No, but the Department was on some occasions because the diary secretary arranged it, as Mr. Griffin said.

Mr. Mark Griffin: No, I stated that the diary secretary arranges formal engagements-----

Deputy Marc MacSharry: Mr. Griffin stated that the diary secretary runs it by the division.

Mr. Mark Griffin: I do not know whether the four dinners referred to were in the diary.

Deputy Marc MacSharry: Did Mr. Smyth look into those issues?

Mr. Mark Griffin: As I understand it, Mr. Smyth considered all issues. I am accepting his report as set out. It is an independent report to the Taoiseach and the Minister

Deputy Marc MacSharry: What metrics are used to establish whether a process is contaminated?

Mr. Mark Griffin: As I understand it, there is a PIM, a PQQ and a document that sets out a range of-----

Deputy Marc MacSharry: What are PIM and PQQ? I ask the witnesses to refrain from using too many acronyms.

Mr. Mark Griffin: A PIM is a project initiation memorandum. A PQQ proposal is the pre-qualification document which sets out the basis for behaviour over the course of the procurement process. That was available to Mr. Smyth as was information in regard to canvassing and so on. He drew his conclusions-----

Deputy Marc MacSharry: He made his own judgment, subjective as it may be, as an individual-----

Mr. Mark Griffin: I do not think it is subjective because he-----

Deputy Marc MacSharry: Mr. Griffin did not let me finish. His judgment is subjective because there are no metrics to measure whether something is contaminated. All we know is that the former Minister went to what appear to be unusual lengths, including dinners, formal or informal, to keep a bidder in the process, but the same effort was not demonstrated in regard to other bidders. Is that a fair comment?

Mr. Mark Griffin: I would not necessarily accept that. We worked very closely with the two other bidders to ensure that we had an effective dialogue and procurement process. They made decisions, some of them commercial. That information is in the public domain. Siro made a decision on the basis of its ability to submit a competitive bid while Eir had concerns regarding some of the conditionality being imposed through the contract and some of the regulatory arrangements that are in place and it decided to withdraw, as is its right. These are questions that can be put to representatives of those companies when they appear before the committee.

Deputy Marc MacSharry: In reply to parliamentary questions, the Minister gave an excellent breakdown of the detail of the €22 million that has been spent so far. I wish those who appear before the committee provided the same level of detail in regard to figures. Approximately €9 million went to KPMG. Why was it paid €9 million? It is an accountancy firm.

Mr. Mark Griffin: I can address the services it provided or I can forward that information to the committee in writing, whichever members prefer.

Deputy Marc MacSharry: I ask Mr. Griffin to provide the Ladybird version and to forward the technical detail to the committee in writing.

Mr. Mark Griffin: KPMG provided financial and procurement advice, a budget model and reports on financial appraisal, funding, governance, project reappraisal-----

Deputy Marc MacSharry: It provided a governance report.

Mr. Mark Griffin: Yes, it did.

Deputy Marc MacSharry: Does the report refer to having dinner with a bidder?

Mr. Mark Griffin: I cannot recall.

Deputy Marc MacSharry: Would it be possible for the committee to see that report?

Mr. Mark Griffin: It was more in regard to governance of the contract than how the Department or Minister should interact with parties.

Deputy Marc MacSharry: Could we see that report?

Mr. Mark Griffin: KPMG provided advice throughout the procurement process. We can

provide that document post the-----

Deputy Marc MacSharry: After the money is spent.

Mr. Mark Griffin: No, after we appoint a preferred bidder and before a contract is signed.

Deputy Marc MacSharry: The committee may not have it before then.

Mr. Mark Griffin: It can be provided after we appoint a preferred bidder and before a contract is signed.

Deputy Marc MacSharry: I would be interested in reading that report. I ask Mr. Griffin to continue. I apologise for interrupting him. Is that everything? Those are the headline issues.

Mr. Mark Griffin: There is far more but if the Deputy-----

Deputy Marc MacSharry: I ask Mr. Griffin to give us a breakdown of what KPMG did for the €9 million, which is probably quite technical.

Mr. Mark Griffin: I am happy to provide my two-page briefing which covers all of the services provided.

Deputy Marc MacSharry: I thank Mr. Griffin.

Deputy Catherine Connolly: The witnesses are very welcome, as is the information they have provided. I will not address broadband in great detail because I only have ten minutes and there are other issues I wish to address. I note the twin aims in regard to climate change and regional development outlined in Mr Griffin's opening speech. All Deputies have received the documentation I have before me. A man I know in Indreabhán recently emailed me with an update on his broadband. The houses 100 m on either side of his house have fibre broadband but this man who is attempting to work from home has nothing in spite of attempting to obtain broadband. That is the reality on the ground.

Mr. Mark Griffin: The Deputy raised a case this time last year on which I followed up. I am happy to do so on this case also.

Deputy Catherine Connolly: Mr. Griffin followed up but the outcome was not good. I am referring to the same person and he is in exactly the same position as he was last year. I am not seeking a reply.

Mr. Mark Griffin: Okay.

Deputy Catherine Connolly: I raise this case to illustrate the reality of broadband provision. That person is attempting to work from home.

Mr. Mark Griffin: The broadband for the area was to be provided by Eir in its roll out to 300,000 rural homes and businesses. There are issues to be addressed in that regard.

Deputy Catherine Connolly: His neighbours on either side have been provided with broadband by Eir. It is very difficult for the person to understand.

Mr. Mark Griffin: It is totally frustrating.

Deputy Catherine Connolly: Mr. Griffin followed up on the case but the outcome was not satisfactory.

Mr. Mark Griffin: I could not give the Deputy an answer.

Deputy Catherine Connolly: I did not expect a satisfactory outcome, in reality. I am making a general point.

Broadband is very important but a wide range of matters come within the remit of the Department. Has it sufficient staff and expertise to cover that range of matters? It has taken me hours to read the documentation that has been provided. Issues such as land remediation, the Silvermines, Avoca and climate change have been addressed. At the recent climate change conference in Poland, the Secretary General of the United Nations stated that climate change action makes social and economic sense. Sir David Attenborough stated that we are at the point where climate change is threatening civilisation. Is there sufficient staff and expertise in the Department to deal with the significant range of challenges it faces? I am looking for a “Yes” or “No” answer.

Mr. Mark Griffin: Most areas are well served. Certain areas remain under some pressure but I am reluctant to identify them because every assistant secretary in my Department will remind me of what I stated at the Committee of Public Accounts. Overall, I am satisfied with the staffing level in the Department. We have grown the Department in recent years. On resources to tackle climate change, there are approximately 66 staff in the Department, 92 in the Sustainable Energy Authority of Ireland and 32 in the Environmental Protection Association. One must look at the full quantum of resources. Indeed, the local government system is now scaling up in terms of-----

Deputy Catherine Connolly: I am zoning in on climate change because we must do so. Obviously there are problems in regard to housing, health and broadband but climate change trumps it all - excuse my poor word choice.

Mr. Mark Griffin: On climate-----

Deputy Catherine Connolly: I have not finished. This documentation does not give the impression that the Department is on top of climate change action. I hope I am wrong but I do not get the sense that it realises the challenge and what it must do or that there is a very high-level team pushing this issue.

Mr. Mark Griffin: Of all Departments, we have the best understanding of the challenge. We have a role in terms of driving the agenda and co-ordinating across Government. I appeared before the Oireachtas Joint Committee on Climate Action on 26 September and set out clearly what we are doing. We cannot do it on our own-----

Deputy Catherine Connolly: That is true, but the Department must lead on this issue.

Mr. Mark Griffin: Absolutely, yes.

Deputy Catherine Connolly: On leadership, what is the Department doing? What has it done in light of the information contained in the latest report, bearing in mind that the Minister stated we are 95% off the targets set for 2020? Now we have-----

Mr. Mark Griffin: I could address the history in that regard but I see no point in doing so.

Deputy Catherine Connolly: There is no point in doing so. I have read the report. I am not an expert but I am listening. What urgent steps being taken by the Department to deal with Ireland being 95% off target?

Mr. Mark Griffin: We developed the national mitigation plan last year, which sets out over 100 measures-----

Deputy Catherine Connolly: Acting on that, please. All of this was set. We are not reaching our targets.

Mr. Mark Griffin: By 2020, no, we are not. We are not going to come anywhere near them.

Deputy Catherine Connolly: We will not reach them by 2030 either.

Mr. Mark Griffin: I think, if one listens to what the Taoiseach and the Minister for Communications, Climate Action and Environment, Deputy Bruton, have said, they do not accept that as a premise. They have made it very clear.

Deputy Catherine Connolly: I am not interested in what the Minister said. I am listening to experts on climate change. We set targets that we are not meeting. What is the Department doing about that? We set targets for 2020. When we are not meeting them, what is the reaction of the Department? What steps are being taken?

Mr. Mark Griffin: The Department's reaction is that we are very disappointed.

Deputy Catherine Connolly: Good.

Mr. Mark Griffin: There is a historical piece to that and, if one looks at every other target that has been set at EU level for the Department, whether that is air quality or waste management, we are meeting those. There are particular circumstances around the climate sector that have made it very difficult to achieve the 2020 targets. I am going to park that and stop making excuses.

The Minister has made it clear to the Department that he wants an all-of-Government plan by the end of February next year.

Deputy Catherine Connolly: What type of plan?

Mr. Mark Griffin: An all-of-Government plan which will dramatically step up the range of ambition right across Government.

Deputy Catherine Connolly: We committed to an all-Government, cross-departmental plan well before this announcement.

Mr. Mark Griffin: In fairness to the Minister, one of the first things he said when he came into the Department in the middle of October, well before the 24th session of the Conference of the Parties, COP24, was that his objective was to ensure that Ireland is a leader. He is driving us very hard in the level of ambition. He is looking at the whole area of spending and taxation.

Deputy Catherine Connolly: When will the all-Government plan be ready?

Mr. Mark Griffin: By the end of February next year.

Deputy Catherine Connolly: By the end of February next year, we will have an all-Government plan with specific targets.

Mr. Mark Griffin: Absolutely.

Deputy Catherine Connolly: Okay. Something that comes up all the time relates to the

appropriation accounts. The Department has done well to have a clear audit, but on procurement and compliance with relevant guidelines, we have a significant change. Can we deal quickly with page 3 of the accounts? We are up at 13 non-compliant contracts at a value of €2.283 million.

Mr. Mark Griffin: They are known colloquially known as the 40/02s. In truth, I was not happy when I saw the figure. The assurance I get is that all of these were signed off by the internal auditor in the Department. There were particular circumstances. For example, four of the contracts, amounting to just over €900,000, related to software licences for existing systems. Another four contracts, just short of €700,000-----

Deputy Catherine Connolly: I see it. I have read it. My question is why this is happening. Why has there been such a significant increase from the previous year?

Mr. Mark Griffin: The software licences came up for renewal in that year. We had to take one big one, in particular, relating to ArcGIS which amounted to €684,000 on its own. There were other IT projects which could only be provided by a particular entity.

To return to climate action, we had to go to particular companies which had the expertise on climate modelling. That work amounted to €560,000.

Deputy Catherine Connolly: Is that outlined in that paragraph?

Mr. Mark Griffin: It should be outlined in the schedule the Deputy has.

Deputy Catherine Connolly: That one is not highlighted in that paragraph where the 13 contracts are highlighted.

Mr. Mark Griffin: There is “Reason for not having a competitive process”; modelling of the implications for Ireland of the proposed 2030 climate and energy framework; ongoing development and application of energy systems modelling and support for the development of a national mitigation plan. There is a cohort of-----

Deputy Catherine Connolly: Look at page 3 of the appropriation account, “The Department ensures that there is an appropriate focus on good practice”, and there is reference to 13 contracts and software licences.

Mr. Mark Griffin: The committee members do not get the detailed list.

Deputy Catherine Connolly: Mr. Griffin is highlighting some of those 13 contracts in this paragraph.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: He is referring to another now relating to climate-----

Mr. Mark Griffin: They are all within that figure.

Deputy Catherine Connolly: They are all within the 13 contracts?

Mr. Mark Griffin: Yes. I have a sheet I can give the Deputy, if it is of any use.

Deputy Catherine Connolly: Lovely. Would Mr. Griffin expect that, by the time he is before us next year, this figure will have significantly reduced or gone back?

Mr. Mark Griffin: There are only three contracts this year, to a value of €257,000.

Deputy Catherine Connolly: That is significantly down.

Mr. Mark Griffin: Yes. This year was, I hope, a blip. We have a rigorous head of internal audit in the Department and getting 40/02s through her is very difficult.

Deputy Catherine Connolly: What is Mr. Griffin calling those?

Mr. Mark Griffin: Circular 40/02.

Deputy Catherine Connolly: Okay.

Mr. Mark Griffin: That is the shorthand.

Deputy Catherine Connolly: Chapter 9 is entitled “Energy Efficiency National Fund.”

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: What has the Department learned? Would “debacle” be too strong a word for this? If I used the word “debacle” about this fund and what went into it compared with the small amount that came out of it, would that be unfair?

Mr. Mark Griffin: I do not know what is going to come out of it yet because we know we will get back our capital plus whatever return might arise. We were in a particular situation when the fund was being established. We wanted to explore what models there might be to generate activity in the private sector. We were limited in the type of fund that could be put in place because we could not direct the activities of the fund. This was because doing so would have meant the money would have come onto the general Government balance sheet, which would have been problematic given the budgetary situation at the time. To comply with state aid rules, there was an obligation on the Department to be at arm’s length to an extent.

As to lessons learned-----

Deputy Catherine Connolly: Let us put this in perspective. A fund is set up and €35 million is allocated. Very little is drawn down.

Mr. Mark Griffin: I think about €50 million has been drawn down overall, but only €14 million of our funds. There is private sector involvement as well.

Deputy Catherine Connolly: Yes, I understand that. The major amount was drawn up at the last minute in May. It was extended. It was to run for a period of time and then it was extended for a year. At the end of that extension, there was a drawdown of €10.8 million at that point. Up until May 2018, there was very little drawdown on the fund.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: Okay. In the context of climate change, energy efficiency and €35 million being available, how can the Department stand over a fund of that amount, matched by private investors? I will not talk about the governance of it, as Mr. Griffin is telling me that state aid rules apply. Of that, €2 million is administration expenses, presumably to investors who gave advice.

Mr. Mark Griffin: Yes, a fund manager and so on.

Deputy Catherine Connolly: That is €2 million of €35 million.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: A small amount is drawn down and, at the last minute, €10 million plus is drawn down on the basis of commitments. Mr. Griffin might deal with who will monitor the commitments and how they will be assessed.

Mr. Mark Griffin: Again, there are standard criteria for how the money is to be invested. There was a period within which appropriate projects were identified. The fund, as the Deputy says, is administered by a fund manager who is in receipt of fees. It is important to say that, when we were looking at this, we got advice from NewERA, and it and the Department looked at the type of funds that would be appropriate for an investment of this nature. It is a widely used fund. I think there are 2,500 users in Ireland with investments of about €530 million. It is not an atypical fund. It was well understood and well known.

Deputy Catherine Connolly: Can I stop Mr. Griffin for just one second? I am not trying to catch him out or anything.

Mr. Mark Griffin: No.

Deputy Catherine Connolly: We are looking at a fund in the context of the urgency of climate change and we are looking at a fund where €35 million is put into an account and not used. I am asking Mr. Griffin, as Secretary General, to comment on that for me. The fund has been stopped and moved into the climate fund.

Mr. Mark Griffin: The full-----

Deputy Catherine Connolly: Did it work?

Mr. Mark Griffin: The full €35 million-----

Deputy Catherine Connolly: Did it work?

Mr. Mark Griffin: We will not know until the end of the investment term as to how-----

Deputy Catherine Connolly: The Department is taking €21 million out of it.

Mr. Mark Griffin: We made a decision at that stage because the scope of the fund was changing and there was a greater focus on well-advanced renewable energy projects. A view was formed that we might be in a position to make better use of the funds through, for example, the climate action fund and direct investment in energy efficiency. On the lessons learned with regard to the point the Deputy made, when looking at the challenge we face in reducing carbon emissions, we have to look at all sorts of tools that may be available to mobilise investment in the private sector.

Deputy Catherine Connolly: Wait just one second. A fund is set up.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: It is not used, €2 million is spent on administration, and €10.8 million is drawn down at the last minute for future commitments. Surely that is not a good way to operate. Surely it does not in any way reflect the urgency with which direct action must be taken on climate change.

Mr. Mark Griffin: If the Deputy looks at it in isolation, that is a fair point to make.

Deputy Catherine Connolly: Okay.

Mr. Mark Griffin: There is awful lot of other work going on in the Department in respect of energy efficiency, however. This is one tool that was trialled. With the benefit of hindsight, would we do it again and use this type of device? Probably not.

Deputy Catherine Connolly: How are the commitments given in respect of the €10.8 million drawn down at the last minute monitored? What are the arrangements for oversight?

Mr. Mark Griffin: We are on the investment advisory committee.

Deputy Catherine Connolly: A member of the Department is on the committee.

Mr. Mark Griffin: Yes. We also get an annual report on the energy efficiency fund and regular reports on progress in respect of-----

Deputy Catherine Connolly: What has happened since these funds were drawn down? What reports has the Department been given in respect of the use of these funds since May of this year? What projects have been initiated?

Mr. Mark Griffin: I do not know how much of this is in the public domain, but I do not think it is all that secret. It is marked "strictly private and confidential", but we have an update dated 6 November 2018. I will look to see whether the assistant secretary to my left who is over the energy area is gesticulating wildly in respect of confidentiality issues. One of the big proposals, which I know is in the public domain, is upgrading all of the lighting in the Mater Hospital. That is an investment of €10.5 million.

Deputy Catherine Connolly: Is that investment in the private hospital or the public hospital?

Mr. Mark Griffin: The public hospital. There is a range of other-----

Deputy Catherine Connolly: Will Mr. Griffin provide the Chair with a list of the projects? Could we see the details of the projects before May 2018 and afterwards with regard to the €10.8 million that was drawn down? It would save time.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: Will the Department be doing a post-project review?

Mr. Mark Griffin: Absolutely.

Deputy Catherine Connolly: When will that be done?

Mr. Mark Griffin: The Government decision provides for a review. We will start that now.

Deputy Catherine Connolly: The Department will start it now.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: Why was it not started before?

Mr. Mark Griffin: The people in that area are extraordinarily busy.

Deputy Catherine Connolly: That is the question with which I started out. I fully respect the staff. I am forever thinking that the staff here are under extraordinary pressure. I started out with that question. Beginning a post-project review quickly is essential.

Mr. Mark Griffin: I agree with the Deputy. In any division in any Department, people prioritise. If the Deputy were to ask me whether I have enough staff to do every single thing on the list of things to be done in the Department, I would say that we would probably need to double the size of it. We have to prioritise. This will happen.

Deputy Catherine Connolly: The Department prioritises but we see the result of failure to look at matters, failure to analyse, and lack of governance all of the time. It ends up costing more money. We made this point earlier today in a private session. Maybe it was public. I think I am coming to the end of my time.

Chairman: The Deputy is okay. She has another five minutes.

Deputy Catherine Connolly: Before I move on to Avoca and Silvermines, I have a question about page 16 of the appropriation accounts. Under subhead B7, what is “RTÉ spectrum”? It is under “Broadcasting”.

Mr. Mark Griffin: The thing that runs many of the mobile phone services throughout the European Union is a thing called spectrum. Spectrum is used by mobile phones services, broadcasting services and the emergency services. There is a particular band of spectrum that is used by broadcasting services, the 700 MHz spectrum. A decision has been taken at EU level that should now be used for wireless broadband services. There is a process by which RTÉ will migrate its broadcasting through that spectrum onto another platform. That requires capital investment. We provided the funding for that. There was a detailed service level agreement, a letter of entrustment and all the rest. It is carrying out the capital works on its network and we have reimbursed it for that.

Deputy Catherine Connolly: Is that a once-off payment?

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: It is fully vouched and all of that.

Mr. Mark Griffin: Absolutely.

Deputy Catherine Connolly: And there is a service level agreement in place.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: That will not happen again next year.

Mr. Mark Griffin: No.

Deputy Catherine Connolly: I will move on to Avoca, which is covered on page 13 of the Department’s accounts. The Department has inherited all of this but again the failure to manage landfill is costing the taxpayer millions. When things are not done right, as was the case at Avoca and Silvermines, it leaves a legacy that costs a fortune. Is that not right?

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: The taxpayer is left to pick up the pieces all the time.

Mr. Mark Griffin: That is the case with regard to historical stuff. We are in better shape in respect of modern mine sites such as Galmoy and Lisheen where there are-----

Deputy Catherine Connolly: I can think of Aughinish and many other places which might not-----

Mr. Mark Griffin: Even in the case of Aughinish we have bonds and financial commitments in place.

Deputy Catherine Connolly: I may come back to that separately. The Department has bonds and commitments in place in respect of Aughinish.

Mr. Mark Griffin: If the Deputy looks at Galmoy and Lusheen-----

Deputy Catherine Connolly: We will stay with Aughinish for a minute now that Mr. Griffin has mentioned the bonds and so forth. Does that mean we will not be in the position of having to use taxpayers' money to clean up?

Mr. Mark Griffin: As I understand it, in respect of activity of the organisation in Aughinish, the Environmental Protection Agency, EPA, requires a bond and account with money lodged in it - I do not know the money involved off the top of my head - to cover any clean-up costs.

Deputy Catherine Connolly: Does the Department have the details of that somewhere?

Mr. Mark Griffin: Probably. I do not know.

Deputy Catherine Connolly: Does the Department cover that?

Mr. Mark Griffin: The EPA does but we-----

Deputy Catherine Connolly: That is okay. I will come back on that separately.

Mr. Mark Griffin: We can dig up the information.

Chairman: Will the Department inform us of the arrangements that ensure the bond is kept in place? Companies put up the bond but they may stop paying. The bond is really an insurance policy. Some insurance company comes up with the money to pay for it. It is not all lodged in an account. That is only valid if the bond is paid for each year.

Mr. Mark Griffin: It may be helpful to the Deputy if we could give a general note on what is being done in the more modern mines in terms of clean-up obligations.

Deputy Catherine Connolly: I would be interested in that to see if we are learning anything. I would also welcome the detail in respect of Aughinish. I am now hearing that we need not worry that the State will have to pick up the tab for the clean-up. Am I wrong?

Mr. Mark Griffin: Is the Deputy referring to Aughinish?

Deputy Catherine Connolly: Yes.

Mr. Mark Griffin: The issue of clean-up does not arise at the moment but-----

Deputy Catherine Connolly: It did not arise----

Mr. Mark Griffin: Are we talking about Aughinish or Avoca?

Deputy Catherine Connolly: I am sorry. I got distracted because of the general theme of picking up all of the time because of the failure to do things properly. I do not mean to put Mr. Griffin on the spot.

Mr. Mark Griffin: The Deputy is not putting me on the spot.

Deputy Catherine Connolly: I am asking about Aughinish in particular.

Mr. Mark Griffin: We will come back to the Deputy on that. We will see what we can provide in terms of a briefing.

Deputy Catherine Connolly: My understanding at the moment is that the taxpayer will not be caught for the clean-up because there are sufficient protocols-----

Mr. Mark Griffin: Exactly.

Deputy Catherine Connolly: -----and procedures in place to ensure that. That is what Mr. Griffin is telling me, subject to clarification.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: I will finish up on Avoca and Silvermines. The Avoca mine site is mentioned on page 13 of the appropriation account. The last line of the first paragraphs states "It is now proposed to build on the original feasibility study and develop an overall remediation project plan for the site during 2018." Has that been done?

Mr. Mark Griffin: I do not know off the top of my head.

Deputy Catherine Connolly: Perhaps Mr. Griffin can come back and tell us if it has been done and, if so, the cost of the remediation plan and the time it will take.

Mr. Mark Griffin: It now looks as if the development of the remediation plan will move into 2019. The cost-----

Deputy Catherine Connolly: Why is it moving into 2019?

Mr. Mark Griffin: I surmise that other things arose during the course of the year. In fact, the individual involved would have been distracted for a substantial period over October and November due to the collapse of the site in Monaghan.

Deputy Catherine Connolly: Mr. Griffin will have to come back to me in this regard. There was to be a remediation plan in 2018. We relied on that. It is not happening now. When is it going to happen?

Mr. Mark Griffin: That will be the bigger issue. We have it pencilled in for 2019. The bigger issue for us is the budget. The figure we have for the full clean-up is €50 million.

Deputy Catherine Connolly: How much?

Mr. Mark Griffin: Some €50 million.

Deputy Catherine Connolly: That is the total cost of the clean-up of Avoca mines?

Mr. Mark Griffin: Yes. It is an earlier cost that may require substantial revision based on-----

Deputy Catherine Connolly: Up or down?

Mr. Mark Griffin: I do not know.

Deputy Catherine Connolly: It was €50 million for Avoca mines alone.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: For how long were the mines run?

Mr. Mark Griffin: As I understand it, mining at Avoca dates back to the 18th century. We have done a substantial amount of work with the €3 million available to us to make the site safe.

Deputy Catherine Connolly: Are there health implications arising from it?

Mr. Mark Griffin: No. We are satisfied that the health and safety works required to make the site safe have been done on foot of the €3 million investment we have made.

Deputy Catherine Connolly: The Department will come back with the details of the cost of €50 million.

Mr. Mark Griffin: We will come back on the remediation plan and the estimate.

Deputy Catherine Connolly: The Department was to acquire a site at the Silvermines.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: Has the it been acquired?

Mr. Mark Griffin: No. The negotiations are still ongoing. They are the works done at the Gortmore tailing facility. Negotiations have been ongoing with the landowner to try to come to an appropriate resolution that will work both for her and us, but-----

Deputy Catherine Connolly: When does the Department expect the negotiations to be concluded?

Mr. Mark Griffin: We had expected them to conclude on several occasions, but-----

Deputy Catherine Connolly: What are the implications of not concluding them?

Mr. Mark Griffin: There is a concern about the works undertaken. The tailing site was grassed over and there were horses grazing on it. The implications of material being kicked up and disturbed were a source of concern. We continue to monitor the position.

Deputy Catherine Connolly: What is the cost to date of the works done at the Silvermines?

Mr. Mark Griffin: They have cost just over €11 million.

Deputy David Cullinane: I welcome Mr. Griffin. I want to start with broadband provision. A number of my colleagues have raised issues and I have listened patiently to the responses. I imagine that the witnesses are aware of the perception, even if they do not agree with it, that it has turned into a bit of a mess. The matter is very complex and convoluted in terms of the companies involved in the various processes, but on the face of it, for some, it seems to be a bit of a mess. It was also the perception because a Minister had resigned. I am not saying whether that was right or wrong, but obviously it added to the complexity, problems and perception. There

was a perception that the process might have been contaminated. Of course, I am not saying that is the case or that the witnesses would agree with it because I am just talking about perceptions. There is a perception problem and it all seems to be a bit of a mess. Those for whom I have most concern are the people living in rural Ireland who want connectivity. I have heard my party leader ask time and again why it cannot be done. Why are we talking about this issue over and over again without delivery? There is real frustration in that regard.

I have very straightforward questions and want the witnesses to help me to understand the process and challenge me on the perception because, unfortunately, it is one I share partially. Perhaps they might help me as the meeting progresses and I put my questions. When was the national broadband plan first put in place and how many households was it envisaged would form part of it?

Mr. Mark Griffin: The tender process started in 2016. Assuming that the contract is awarded, it will go to a preferred bidder in the next few weeks. The intervention area covers 542,000 households.

Deputy David Cullinane: At one point was it greater than that figure and in the region of 800,000 households?

Mr. Mark Griffin: It was.

Deputy David Cullinane: That is what I asked. I am talking about the origins of the process and nothing else. The figure was 800,000, from which 300,000 households were taken as part of a separate solution. Will Mr. Griffin talk us through what happened

Mr. Mark Griffin: There was a commercial proposal. The State can only intervene where there is market failure and no commercial operator prepared to provide services. In 2016 the proposal was submitted to the Department by Eir that it would provide commercial services for an additional 300,000 households. The Department-----

Deputy David Cullinane: Were they the households that were more commercially viable?

Mr. Mark Griffin: If the Deputy looks at the map, he will see that effectively they were on spurs from roads from towns and villages and so on. Therefore, it is probably a reasonable description that they were the houses that were more commercially viable. A proposal was made to the Department by Eir to put the 300,000 households on the map, thus reducing the overall scale of the intervention area. We had extensive discussions with Eir on its commitment to do so and with the European Commission on the latitude available to the Government not to accept the 300,000 households as part of a separate deployment measure. The clear response we received from the European Commission was that under state aid rules, where there was a commitment agreement in place, with clear targets and deliverable outcomes and so on, the option was not available to the State to decline it.

Deputy David Cullinane: I might perhaps come at it from a different philosophical and ideological viewpoint in that I do not think the State should intervene only when the market fails. It could have intervened much more robustly. Perhaps it is because we left the market to deal with the issue for too long that we are in this mess. Notwithstanding that, arguably the 300,000 households that were more commercially viable were taken from the 800,000. Did that leave the tendering process for the remaining 542,000 households more complicated and less attractive?

Mr. Mark Griffin: To bidders.

Deputy David Cullinane: Yes.

Mr. Mark Griffin: That is something the Deputy might put to the bidders when they come before the committee-----

Deputy David Cullinane: I am putting it to Mr. Griffin as somebody who-----

Mr. Mark Griffin: -----but it is a reasonable conclusion to draw.

Chairman: I want to correct something. Mr. Griffin has referred to other potential bidders coming before the committee. We have not decided to invite them.

Mr. Mark Griffin: I am sorry; I read it in the newspaper.

Chairman: It has been mentioned, but we have not made a formal decision. Mr. Griffin is right to mention it, but I point this out in case anyone thinks we have a date set. We will probably decide next week.

Mr. Mark Griffin: I apologise. It is a reasonable conclusion to draw.

Deputy David Cullinane: I am not saying Mr. Griffin's responses are tetchy, but I am saying we have put these questions because the Department is writing a cheque on behalf taxpayers and we are here to make sure that in writing it, the right decisions are being made and that we are more focused on the process. When I am looking at it, I can see that we are left with a tendering process which is difficult and mired in controversy. The more valuable and lucrative households were taken from the figure, perhaps for genuine reasons, but it has made it all the more difficult. How many bidders are left in the process?

Mr. Mark Griffin: One.

Deputy David Cullinane: Exactly. How many times has that consortium changed its composition?

Mr. Mark Griffin: I do not have the answer to that question.

Deputy David Cullinane: Give us a little of the history because that is also part of the problem. The company has changed composition and ownership many times. It is almost unrecognisable from its original manifestation.

Mr. Mark Griffin: I will answer the question in general terms. I hope the Deputy will forgive me for not giving him a direct answer because we are still in the procurement process.

Deputy David Cullinane: In general terms will do.

Mr. Mark Griffin: The important part is that the lead in the consortium which has been with it from the start remains at this stage. There is a process that is gone through every time there is a proposal to change a consortium where it has to demonstrate the necessary economic and financial standing-----

Deputy David Cullinane: Was SSE not the main financial backer of the consortium?

Mr. Mark Griffin: No, not to the best of my knowledge. It was a member of the consortium at one point.

Deputy David Cullinane: Is it gone?

Mr. Mark Griffin: SSE is gone. I have no idea what equity it was putting into it.

Deputy David Cullinane: The Department would certainly accept that it has changed.

Mr. Mark Griffin: Absolutely.

Deputy David Cullinane: Is that a problem? Does Mr. Griffin see it as an issue?

Mr. Mark Griffin: No.

Deputy David Cullinane: Is Mr. Griffin concerned that we are left with only one bidder in the process?

Mr. Mark Griffin: It would always be preferable to have more than one bidder, but it is not unusual in large infrastructural projects. I cited the case of broadband roll-out in the United Kingdom where there was only one final bidder, the BT Group which was the incumbent. The last remaining bidder pulled out before submitting a final tender. We must be able to demonstrate that what comes out of this process stands up on technical grounds-----

Deputy David Cullinane: I understand all of that and I do not want to cut Mr. Griffin short.

Mr. Mark Griffin: -----and to be able to demonstrate value for money.

Deputy David Cullinane: I understand that but my point still holds. We have had to examine how the tender process works in respect of many different organisations. NAMA was a recent one where we looked at tendering processes for large projects. My point is that if there is insufficient competitive tension, it is not the ideal solution so having one bidder - one consortium - in the process is not healthy. Did we arrive at that position because of all of the other decisions that were made, including the taking out of the 300,000 homes and businesses from the original plan, which possibly made it less viable for other bidders? I am trying to understand the Department's perspective as to why we were left with only bidder. I appreciate that it is complex in terms of the companies that can do the job. Could Mr. Griffin enlighten me as to why we arrived at this point?

Mr. Mark Griffin: When SIRO withdrew, it was still very supportive of the Government's ambition. However, it could not develop a competitive business case to justify continued participation in the national broadband plan. I cannot say whether that was related to the 300,000 homes and businesses or other things. Eir withdrew in January 2017. It raised issues around the complexity of the procurement process for which I make no apologies because when we are talking about the State providing a very substantial subsidy, we must make sure our procurement process is robust and the things we are asking commercial companies to do stand up in terms of the obligation we are imposing on them over a 25-year period. Eir indicated at the time that it would continue to support the national broadband plan. We are seeing this in practice in terms of the engagement with the final bidder in terms of the make ready programme. The question that arises for us in developing a recommendation one way or the other for the Minister and Government is whether it has the technical capacity, whether the business plan stands up, whether it is commercial and whether the bidder will live up to all the contractual obligations that will be imposed.

Regarding competitive tension, it is probably worth mentioning that part of the competitive dialogue process is what it is called the ISDAS phase, which is the invitation to submit detailed

submissions. At that point, we had received two submissions - one from Eir and one from the Granahan McCourt consortium - so we had both of those to benchmark as part of the assessment of value for money. We must then do a full detailed assessment of value for money. Many of the costs are regulated such as Eir duct and pole rentals.

Deputy David Cullinane: Can I stop Mr. Griffin there? All of that information is very enlightening but reading between the lines in terms of what Mr. Griffin has already said, the Department has some general idea as to why it was reduced down to one bidder. It is because the contract is huge and the company would need to have the expertise to do it. In addition, it is possible that taking out the 300,000 homes and businesses played a part in it but the Department does not fully know. What I am hearing from Mr. Griffin is that it is what it is, we are left with one bidder and we are getting on with it.

Mr. Mark Griffin: Absolutely.

Deputy David Cullinane: Mr. Griffin said that the European Commission ruled in terms of the 300,000 homes and businesses. Can he provide the committee with the-----

Mr. Mark Griffin: I will see what correspondence we can provide. There were several meetings involving the Commission, which made its view on that clear.

Deputy David Cullinane: What was the cost? When the national broadband plan was conceived, the figure was 800,000 homes and businesses. In 2016, the current tender process started for the 500,000 plus homes and businesses. What was the original cost for the 800,000 homes and businesses?

Mr. Mark Griffin: I do not think we published any cost estimates. Indicative figures given at an earlier stage before procurement had started were somewhere between €355 million and €512 million but they were only indicative figures.

Deputy David Cullinane: Why were they only indicative figures at that point?

Mr. Mark Griffin: It was because it was an estimate.

Deputy David Cullinane: So that was for the full 800,000 homes and businesses at that time. When the Department was looking at the 500,000 plus homes and businesses and the current tender in 2016, what was the estimated cost of that at the time?

Mr. Mark Griffin: I do not think we published any estimated costs at that stage.

Deputy David Cullinane: Why not? So the Department had no idea how much it was going to cost.

Mr. Mark Griffin: I did not say we had no idea. I said we do not publish estimated costs.

Deputy David Cullinane: Is that because of commercial sensitivity?

Mr. Mark Griffin: From our perspective, I do not think it would have been prudent to put a cost on-----

Deputy David Cullinane: So the Department would have had a cost.

Mr. Mark Griffin: We would have a cost-----

Deputy David Cullinane: Does the Department know how much it will cost at the moment.

Mr. Mark Griffin: I do not have the final figures.

Deputy David Cullinane: The Department does not yet have the final figures.

Mr. Mark Griffin: I do not have them.

Deputy David Cullinane: Mr. Griffin does not have them.

Mr. Mark Griffin: I do not have them. I did not receive the tender.

Deputy David Cullinane: Even at this point when-----

Mr. Mark Griffin: The evaluation has not yet come to me.

Deputy David Cullinane: That makes it very difficult for us. I can understand why Mr. Griffin might not be able to share it with us but for him to not have it at this point strikes me as odd.

Mr. Mark Griffin: I have a good understanding of the range but-----

Deputy David Cullinane: Is the figure of €3 billion that is being floated-----

Mr. Mark Griffin: I am not going to comment one way or the other on costs.

Deputy David Cullinane: Mr. Griffin cannot comment on costs. It goes back to what was said earlier about 5G - that there will be post-project reviews. I imagine that we will come back here at some point and evaluate this. I hope we will not be dealing with a special report from the Comptroller and Auditor General and we are taken back to this exchange when we asked about the costs at that time and were told we could not have that information. The Department has it. It has some indication of what it might be but we have no idea how much it will cost in the long run even though it is taxpayers' money. Mr. Griffin is nodding his head but I am frustrated as a taxpayer and as somebody who represents taxpayers because it is not an ideal situation for this committee to find itself in.

Mr. Mark Griffin: I understand that fully.

Deputy David Cullinane: I do not get that from Mr. Griffin's response but I will accept it nonetheless. He was asked earlier about the meetings that took place between the former Minister and Mr. McCourt. It would be unfair of me or anybody else to expect Mr. Griffin to speak for the former Minister because he cannot do so but Mr. Griffin is the person who signs the cheque for all of this. There is a perception, and I stress that it is only a perception, that the process is contaminated and that the report into this is a whitewash. Leaving aside this public perception and media or political commentary, many meetings took place between the former Minister and Mr. McCourt. It was put to Mr. Griffin earlier by Deputy MacSharry that it is reasonable for members of this committee to ask him as the person who ultimately signs the cheque, and he does not know or least we do not know how much he will sign for, whether it was appropriate for the former Minister to have had that level of contact with somebody so closely associated with the only bidder in the game, about which we spoke earlier. I put this question again to Mr. Griffin because I was not satisfied with the response. This committee deserves a response to that question. Mr. Griffin is the Secretary General and the buck stops with

him. Surely when he saw the number of meetings that took place between the former Minister and Mr. McCourt, he would have formed an opinion. I am asking him to share that opinion with members of this committee.

Mr. Mark Griffin: There were four dinners that were referenced in the report. In my view, it would have been preferable if the former Minister had been accompanied by an official. I do not accept Deputy Cullinane's view that this was a whitewash-----

Deputy David Cullinane: I did not say that was my view. Again, I do not want to put words in Mr. Griffin's mouth so I ask him not to put words in mine. I ask Mr. Griffin to bear with me for a moment because he has been a bit tetchy in some of his responses. We are putting questions genuinely. This is not funny.

Mr. Mark Griffin: I have not been tetchy. The Deputy has not seen me when I am tetchy.

Deputy David Cullinane: I could be wrong but I am giving Mr. Griffin my opinion. I have watched him interact with other members of the committee. We are putting reasonable questions and we expect reasonable responses. Mr. Griffin said it would have been preferable if the former Minister had been accompanied by officials but he was not accompanied by them. Can I surmise from this that Mr. Griffin believes it was wrong of the former Minister to meet Mr. McCourt four times without an official being present?

Mr. Mark Griffin: It would have been better if the dinners had not happened.

Deputy David Cullinane: Did it contaminate the process?

Mr. Mark Griffin: No. Again, I am relying on what the independent process auditor has said, which is very clear on pages 16 and 18 of his report. Those views have been accepted by the Minister and the Government. The record is unambiguous as to what he is saying. I am not going to deviate from that. I do not have a different opinion from what is set out in the report.

Deputy David Cullinane: There is a problem with the perception of either conflicts of interest or that we have a process now that people feel is a bit of a mess. We have a single bidder for whatever reason. We have already talked through that and ended up in that situation. A former Minister had several engagements and meetings with somebody closely associated with this single bidder that was left in the race. Notwithstanding whatever independent report gives its analysis, it is not just a perception here. It would have been preferable if the meetings not taken place. They did take place. It is reasonable for us to ask Mr. Griffin questions, which he has answered. It is reasonable even to go a step further and ask how he can say that the process has not been contaminated if we have had a large number of meetings - meeting after meeting without officials present, which Mr. Griffin says is not appropriate - between the former Minister, who ultimately would make the decision here, and somebody associated with the only bid. How can he say that the process was not in any way contaminated? How can we be assured that this is a genuine reflection on his part?

Mr. Mark Griffin: I am assured by what is said in the Smyth report, the conclusions that he has drawn and the detailed analysis he has undertaken of the meetings. In the case of many the meetings, the Minister was accompanied and there were official records. Mr. Smyth stated - I will not repeat the report because the Deputy has read it - at the end of the report: "I am satisfied that neither the former Minister nor Mr. McCourt had the opportunity to influence the conduct of the tender process in favour of Granahan McCourt or otherwise."

Deputy David Cullinane: This is based on what?

Mr. Mark Griffin: This is based on the detailed analysis that he has undertaken-----

Deputy David Cullinane: Yes, but based on what? Am I to take it that this is based on evidence from the Minister and Mr. McCourt?

Mr. Mark Griffin: That is a discussion that someone will have with Mr. Smyth and I gather the joint Oireachtas committee will be having that conversation during the course of the afternoon.

Deputy David Cullinane: We will have to leave that issue there for the moment. Mr. Griffin has given his opinion, in fairness, which I accept. On-----

Mr. Mark Griffin: Can I come back to the statement that the former Minister, Deputy Naughten, made in the Oireachtas the other night. He has been quite clear, and my experience of the man over the two and a half years I worked with him, is, he is straight as a die. He has said that the national broadband plan was not discussed at any of those dinners, nor was there any canvassing. I, on the basis of a very close working relationship with him over two and half years, would accept his word.

Deputy David Cullinane: The problem with that is - I am not saying that I in any way disbelieve the former Minister, that is not the point - as Mr. Griffin very well knows, that when one puts oneself in a position where one has several engagements, several dinners and meetings with a bidder, when there is a live process under way, it is the perception that is the problem. We will never know what was or was not discussed. What we do know is that the perception is not good and not having officials present that can verify what was raised or not is the problem. We have had this before in other areas. Lessons should be learned, that is for sure. I am not in any way calling into question the character of the former Minister. I share Mr. Griffin's overall view of the former Minister; I have no problem with that whatsoever. I am thankful for Mr. Griffin's response and for his clarifying that point. I agree with his perception.

Mr. Mark Griffin: I will make a final point on that which, again, is self-explanatory. The Minister is removed from the final evaluation process. As the former Minister said in his statement the other night, that evaluation process is being undertaken by the team in the Department. A recommendation will then go the Minister, Deputy Bruton.

Deputy David Cullinane: He is removed from the process because the Taoiseach made it impossible for him to stay in the process. Let us be frank about it.

Mr. Mark Griffin: The Deputy is talking politics now and I am not prepared to do that.

Deputy David Cullinane: I am talking reality.

My final question is on Enet. Mr. Griffin spoke earlier about the Irish Infrastructure Fund, IIF, having a share in Enet. Does it own it completely or what is the composition?

Mr. Mark Griffin: The initial acquisition is a 78% share but it is moving to 100%, as I understand it. We are not party to the-----

Deputy David Cullinane: That is 100% shareholding.

Mr. Mark Griffin: As I understand it.

Deputy David Cullinane: I will come back later as others may want to come in and I have another set of questions on RTÉ and on a few other areas which I will come back to. I ask the Chairman to put me on the list and I thank Mr. Griffin for his responses.

Chairman: At this point only Deputy Aylward had indicated his intention to speak. At the end of his contribution, we will break not for a vote but for lunch, as we will have gone over three hours. We will have a second round immediately after lunch. We cannot go much longer than three hours, as it is not fair to people to be here for that duration.

Deputy Bobby Aylward: My apologies as I was in the Dáil.

Chairman: If Deputy Aylward finishes at 1.15 p.m., what time do the members wish to resume at? Is 2.15 p.m. okay for those who need the hour? Is that agreed? Agreed. We will resume at 2.15 p.m.

Deputy Bobby Aylward: I will start with broadband. Being a rural Deputy, broadband is of crucial importance to us. The last phone call I received before I came in here was from a businessman on the Carlow-Kilkenny border who has problems with his Internet and has no broadband. He got Eir to install broadband for him and it stopped working. He has been in touch with Eir for over three months and is waiting. I am aware it is not Mr. Griffin's responsibility but I am just raising the importance of broadband and its roll-out to rural Ireland. There are 550,000 people out there waiting for broadband. I have a kind of half system of broadband at home that is not fast or good enough. This is the future of Ireland and we are at a big disadvantage in rural Ireland by not having broadband to compete with Dublin and other urban areas. I have people constantly contacting me to ask if they will have broadband if they come to live in Kilkenny. If they work from home, it is just not available. We are losing out badly in small villages and towns in rural Ireland. This is an opening comment to let Mr. Griffin know how serious the situation is.

Mr. Mark Griffin: We understand that fully, Deputy. We want to move forward to a situation where something is put to Government that it is in a position to accept. If it is accepted, the next focus then is the roll-out and the deployment. Part of the bid process by the final bidder is setting a detailed deployment plan. We will share that. It is really important. I have family who live in rural Ireland as well. It is important that we can get boots on the ground, get this mobilised and delivered as quickly as we possibly can. I accept-----

Deputy Bobby Aylward: This is as important as the electricity roll-out in the 1950s and 1960s was.

Mr. Mark Griffin: I agree with the Deputy.

Deputy Bobby Aylward: It is that important to the business sector of rural Ireland.

How did this whole roll-out system start, where four to five consortia were bidding in the beginning and it all ended up with one? What happened, in Mr. Griffin's own words, that the companies like Eir etc. pulled out during the process and we ended up with just one? Can I get an explanation as a layperson as to why that happened? Where there is no competition I do not believe there is proper business acumen. One needs opposition and bidders against one another to get proper pricing and to make a proper contract award to the consortium, whenever it is handed out.

Mr. Mark Griffin: We started out with a very open procurement process. Three organisa-

tions were shortlisted. SIRO - the Vodafone-ESB consortium, Eir and the Granahan McCourt-led consortium. As the dialogue progressed, in September 2017, SIRO wrote to the Department formally and said that it found it difficult to develop a competitive business case.

Deputy Cullinane effectively queried if that was linked to the Eir 300,000 being taken off the map. It may well have been but I cannot say that with absolute certainty. Eir decided in January 2017 to withdraw from the process. It was in the process-----

Deputy Bobby Aylward: Did any of those companies give a reason?

Mr. Mark Griffin: SIRO said that following a comprehensive review, it could not develop a competitive business case to justify continued participation in the national broadband plan bid process and therefore had decided to withdraw. That was the formal letter submitted to the Department at that point.

Eir withdrew in January 2017. At that stage, it was in the middle of a takeover process. It said its decision to exit the NBP process was driven by a range of commercial, regulatory and governance issues. It referred to the complexity of the tender process. We make no apology for a complex tender process and complex document where there is so much State money to be invested. It had some other broader concerns about the regulatory and pricing regime that existed outside the NBP. We met with Eir on 23 January and asked it to reflect on its position. It wrote back to us again on 30 January setting that out. That is effectively the rationale that both of those entities put forward to us.

Deputy Bobby Aylward: What was the problem with the regulatory and governance issue? Was it complicated? Were there too many criteria for people to come in?

Mr. Mark Griffin: No. Some of the regulatory and governance issues they raised were broad issues outside the NBP process. We had extensive governance and delivery processes set out in our contract documentation. If we are providing a large amount of taxpayers' money to provide a scheme, we have to be absolutely sure they are capable of delivering, that they have the funding set aside to make the investment, that they meet all the deployment milestones, for example, the milestones for connection of premises, that there are demand stimulation mechanisms set out therein, arrangements for reporting to the Department and open book accounting. The list in our request is as long as my arm but we are absolutely determined that they were the right requirements to impose on any entity that would ultimately win the contract to do this.

Deputy Bobby Aylward: Both of those bidders are indigenous, we know of them, they are big companies and they are always rolling out their business. Why would they not be capable of taking on this? Now we have enet, an American company, coming into Ireland to roll out the same project. Does it not beg questions that only one bidder is left? Is there something wrong that there is only one bidder?

Mr. Mark Griffin: I do not have a problem with the process in which we have engaged and I will stand over that.

Deputy Bobby Aylward: Does Mr. Griffin think one bidder is the right thing, the right start for the business?

Mr. Mark Griffin: We would have preferred to have more than one bidder at the table at the final stage. It is not unusual in the case of some large infrastructure projects to have only one bidder at the table. For example, when the equivalent of our high speed broadband project was

rolled out in the UK there was only one bidder at the table at the end, the incumbent, BT. At an earlier stage in the process, the invitation to make detailed submissions, we got two outline bids, one from Eir and one from the Granahan McCourt-led consortium. That indicates the ball park they were in. We will have to ensure when the process is being concluded that we are in a position to demonstrate the technical capacity, the business plan, the commercial health, financial standing and the ability of the company to roll out the network and to comply with the contractual provisions the State will put in place.

Deputy Bobby Aylward: That is why I asked about the financial plan and the cost efficiency. That is the important point. If there is only one bidder how will the Department be so sure? All sorts of figures are being bandied around. We heard first that it would cost the taxpayer €1 billion, now €3 billion or a higher figure is being mentioned. There is a big difference between €1 billion and €3 billion or maybe €4 billion. Are these just figures that are being thrown about, and the taxpayer will pay the bill? Will we have the witnesses in here next year or in two years' time talking about a waste of taxpayers' money on the cost? How can Mr. Griffin give us a guarantee that this will be cost efficient?

Mr. Mark Griffin: As part of the process, before we submit anything to the Minister or the Government we have to clearly set out our assessment of how this represents value for money and to demonstrate that. There will be a range of contractual obligations inserted. There will be post-contract governance. We will have local and international benchmarks. Many of the costs that arise are regulated by ComReg, such as the Eir pole and duct costs. We will have an overview of the procurement processes that the lead bidder will be undertaking for some of the sub-contracted work.

There is open book accounting so that we can look at the accounts of the final bidder. We know there is a high level design in place. We will be able to look at the deeper design on a deployment area basis, which represents approximately 5,000 premises, and see the costs arising there. There are clawback mechanisms, what is in place, all that kind of stuff. The Deputy can rest assured that we are doing the absolute level of due diligence that will be required, not just of us but expected by the Minister and the Government before they get any proposals put to them.

Deputy Bobby Aylward: As a businessman myself, a farmer, I know that the best way to contract out a job is to put two or three bidders up there and get the best value for money for me, by putting it out to the market.

The Department has one consortium and it has given me assurances that it is considering it, but there is only one bidder, knowing there are no others against it, that the Department has no alternative, and it can get on with it and cream it if it wants to. I am not saying that will happen but these things can happen.

Mr. Mark Griffin: We did seek bids and we got three bids. That is a fact. We did not go into the process to speak to only one entity. People dropped out of the process. We have to be able to demonstrate that the mechanisms available to us to show value for money in a single bidder situation stand up. That will be scrutinised very carefully as the process moves to conclusion.

Deputy Bobby Aylward: Can Mr. Griffin comment on what I said about the newspaper reports that it is going from €1 billion to €3 billion? What kind of ballpark are we looking at here? I know Mr. Griffin cannot say it out straight but will it be €1 billion, €2 billion or €3 billion to roll out this scheme?

Mr. Mark Griffin: I know it is frustrating but I cannot comment on it at this stage.

Deputy Bobby Aylward: It is a lot of money, €1 billion is a lot, not to mention €2 billion or €3 billion. Is Mr. Griffin happy in his skin in respect of contamination after the former Minister resigned – I will not go over that ground again because it has been already covered – that contamination has been covered properly, that the taxpayer can be assured that everything is being done with propriety, properly and above board and that there is no question mark about which we should know? Is Mr. Griffin happy to stand over that?

Mr. Mark Griffin: I am absolutely happy to stand over that. We have an excellent team of people working in the Department on this, on the public and private sectors. There has been very strong governance within the Department. The Smyth report says what it says and that reassures me that the process is in a good place.

Deputy Bobby Aylward: Is Mr. Griffin happy with enet and that the structure of the consortium is above board? We hear different rumours from America. I said rumour, not facts.

Mr. Mark Griffin: It has to go through a set of hoops all the way through as part of a pre-qualification process to demonstrate its technical and financial standing and all of that. Changes to consortia are not unusual and if there is a change in the make-up of a consortium it has to go through a process that is independent of me, of the Minister and come out the other side with a clean bill of health in terms of the criteria that were assessed.

Deputy Bobby Aylward: I will leave it at that.

Silvermines and Avoca are close to me, over the border in Tipperary, and I know about them. What is the problem with the Silvermines? That has been going on a long time and there seems to be many costs. There are questions marked here from the Comptroller and Auditor General and others. What is the situation with the Silvermines and Avoca?

Mr. Mark Griffin: We have spent approximately €3 million capital moneys primarily in making safe the site at Avoca.

Deputy Bobby Aylward: Who owns the site?

Mr. Mark Griffin: The State owns the site.

Deputy Bobby Aylward: Who owns the Silvermines site?

Mr. Mark Griffin: The State owns the Silvermines site other than Gortmore, I think. I need to check that. We spent approximately €3 million at Avoca where we have made safe the biggest risks. An updated plan is to be prepared. We hope to have it done by the end of the year. It will be completed during 2019. We will then need to look at the overall cost of remediation.

Deputy Bobby Aylward: Mr. Griffin refers to making the site safe. What works are being carried out?

Mr. Mark Griffin: There is a spoil heap at a place called Tigroney that has been addressed. Approximately 850 adits have been covered. There was a risk to the Dublin-Rosslare railway line which has been made safe in conjunction with Irish Rail. They are the preliminary safety works which have been done. The bigger plan will be in preparation for 2019 and we will then need to look at the cost estimate. The figure that has been mooted, although it is somewhat historical, is approximately €50 million, but I do not know what the cost will be. We spent ap-

proximately €11 million at the Silvermines. All of the work has been done, except for the work to be done at Garryard tailings facility.

Deputy Bobby Aylward: Is it safe now? Contamination was a big issue for local farmers.

Mr. Mark Griffin: I understand the concern of local farmers which was related primarily to the Gortmore tailings facility. Work was done to cover the spoil. Horses had been put on it and left to graze there. There was concern that it would disturb the land and lead to dust blowing. Through the Office of the Chief State Solicitor, CSSO, we are in discussions with the landowners on a suitable arrangement. We have asked them to take the horses off the land. We are discussing an appropriate arrangement for the management or ownership of the land, but the discussions have not progressed as quickly as we would have hoped. We are having difficulty in seeking regular engagement and a final conclusion.

Deputy Bobby Aylward: What long-term plans does the Department have for Silvermines and Avoca sites? What does it hope to end up with when it is all contained and rectified?

Mr. Mark Griffin: I do not know. The plan for Avoca will cover that aspect. I know that there has been speculation about historical mine sites and making them into tourist attractions, but there is a lot of contamination which needs to be dealt with. With regard to the Silvermines, the first priority is to make all of the sites safe.

Deputy Bobby Aylward: What acreage is involved?

Mr. Mark Griffin: I do not know.

Chairman: Please provide us with a note on both sites to give an idea of their scale. We do not know if we are talking about 10 ha or 500 ha.

Deputy Bobby Aylward: I was going to ask. Is it a big site?

Chairman: Mr. Griffin can send us a note on the matter.

Deputy Bobby Aylward: I come from an area in which there are three rivers which contain salmon, in particular. I see a cost of €29 million under the heading of natural resources for Inland Fisheries Ireland. To what does that money go? Is it for the preservation of salmon?

Mr. Mark Griffin: A big chunk of it will go on pay. There are over 300 staff in Inland Fisheries Ireland. Another chunk of the money will go on capital works. In the last couple of years Inland Fisheries Ireland published a national strategy for angling development, for which we are committing funding. There are also pension costs and non-pay expenses related to consultancy work Inland Fisheries Ireland may need to do. That accounts for the the bulk of the money.

Deputy Bobby Aylward: How much of the €29 million will go towards conservation?

Mr. Mark Griffin: That figure does not include Inland Fisheries Ireland's own resources. A significant amount of money from its own resources is used. I will come back to the Deputy about the matter. There is good material available, albeit very long, on what it is doing in the area of conservation. Some €3 million is for capital works under the national strategy for angling development. Inland Fisheries Ireland spends a lot of money in carrying out inspections and on monitoring from a combination of the money we provide and its own resources. I will come back to the committee with a more detailed note.

Deputy Bobby Aylward: On environmental waste, I was a county councillor perhaps for 20 years. All local authorities had landfill sites, or dumps, as we used to call them. How safe are the landfill sites that were previously available in every county? At one time almost every municipal area had them. Are they being monitored years after being filled in? What security is provided to ensure there is no contamination from them if they were not done to perfection? They exist because we did not know enough about the environment at the time and in many cases local authorities were not up to scratch.

Mr. Mark Griffin: A lot of work has been done in the past few years following the closure of historical landfill sites. There are only four or five operational landfill sites in the State now. There was a case at the European Court of Justice, known as Case C-494, which resulted in the State being required to remediate many historical landfill sites, on which we spent approximately €160 million. We wrote to the committee at the end of November, setting out where we were on what are called priority 1 sites. Many such sites are going through various layers of assessment, using a methodology agreed between the Environmental Protection Agency and the local authorities.

Deputy Bobby Aylward: Are they to be found in every county or only in certain counties?

Mr. Mark Griffin: They are spread across the country. I am checking to see if there is any in County Kilkenny.

Deputy Bobby Aylward: I am sure there are a few.

Mr. Mark Griffin: I am sure there are, but they are not among the 22 being advanced. The risk is categorised as A, B or C. Assessments are then made by the local authorities, with the main focus being on category A landfill sites. The programme of works emerges from the assessments. In most cases, we fund them from the centre. In 2018 we had €11 million set aside and will spend close to €10 million. The figure was lower last year, at approximately €5.5 million. We have a very good programme in place, with resources assigned to the Environmental Protection Agency. Resources will be assigned before the end of the year in the regional waste authorities. We have had training programmes for local authority staff. There is a comprehensive and complex programme of works to be rolled out.

Deputy Bobby Aylward: What remedial works are involved? Category A is obviously the most dangerous.

Mr. Mark Griffin: Some of it may be as simple as taking away the most contaminated waste, making sure it is treated properly and putting in a soil berm or a plastic underlay and landscaping it. The treatment required is defined by a comprehensive assessment process that has been agreed to by the Environmental Protection Agency. If extensive works are required, they will be done. No corners will be cut.

Deputy Bobby Aylward: Would it mean removing some of the rubbish and incinerating it, for example, in Dublin? Is that involved?

Mr. Mark Griffin: I cannot say for definite, but I could not rule it out as an option. When one is in the business of removing waste, costs ramp up considerably. One of the biggest costs in waste disposal is transport. The specific issue about which the Deputy is concerned is being addressed. What is required to be done will be funded. The State will make good the historical landfill sites that need attention.

Deputy Bobby Aylward: I am going over time.

Chairman: We have a few seconds left. I thank the Deputy for mentioning Inland Fisheries Ireland. It does good work on the River Nore and in the village in which I live. Is it a commercial or a non-commercial State body?

Mr. Seamus McCarthy: As I audit it-----

Chairman: It is non-commercial. Mr. Griffin has mentioned that it has its own sources of income, in addition to the sum of €30 million.

Mr. Mark Griffin: From permits, licences and so on.

Chairman: They cannot be major.

Mr. Mark Griffin: They are not major and they are declining.

Chairman: Therefore, most of its income comes from-----

Mr. Seamus McCarthy: A State grant.

Mr. Mark Griffin: It was approximately €3 million in 2017. We have seen a downward trend.

Chairman: Therefore, 90% of its income comes from a grant. I ask Mr. Griffin to send a briefing or information note to the committee.

Mr. Mark Griffin: Absolutely.

Chairman: This is an important grouping.

Mr. Mark Griffin: Other matters such as the eel support scheme may be of interest the committee. I will be happy to provide the information.

Sitting suspended at 1.20 p.m. and resumed at 2.25 p.m.

Chairman: We are continuing our discussion with the officials from the Department of Communications, Climate Action and Environment. The first round of speakers made their contributions before the break and I have a few other questions to ask. We are joined for the afternoon session by Mr. James Ryan from the Department of Defence and from An Garda Síochána by Mr. Michael O'Sullivan, assistant commissioner, security and intelligence, and Mr. Michael Gubbins, Garda National Cyber Crime Bureau. We will be dealing with the issue of cyber security during the course of the meeting, although not yet. I advise the new witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable. While we expect witnesses to answer questions put by members of the committee clearly and with candour, they can and should expect to be treated fairly and with respect and consideration at all times in accordance with the witness protocol.

To return to Mr. Griffin, there are a few issues I wish to raise. I will return to broadband provision, given that it is the topic of the moment, even though there are other issues arising from the full Vote before us. I have three questions about the appropriation account for the purposes of clarification. Before the break, we touched on inland fisheries which are dealt with on page 6. Page 13 has a heading which refers to contingent liabilities. It states there is potential for financial liabilities to arise in 2018 and subsequent years, depending on the outcome of current pending and possible future EU and other legal actions. What current cases are referred to? Is there a list or schedule? Obviously, Mr. Griffin cannot talk about future cases that have not yet arisen, but perhaps he might tell the committee about current and pending cases.

Mr. Mark Griffin: Unfortunately, the Department has to deal with a range of court cases at any particular time in which it is either a defendant or a notice party. Many of them fall into the category of judicial reviews of various decisions made and in certain circumstances could lead to a liability on the State. We do not have EU infringement cases likely to give rise to a penalty in the short term, but given the level of activity on issues being negotiated at EU level and agreed, directives or regulations which fall to be transposed on certain occasions and EU measures to be implemented, it is something on which we always have to keep a close eye. We do this as part of the work of the management board and aim to deliver on the objectives of the directive or regulations in transposition or implementation. We aim to ensure risks do not materialise. It is a standard provision in the appropriation account, but there is nothing pending in terms of an immediate threat for the Department.

Chairman: Mr. McCarthy, is that paragraph included in every appropriation account?

Mr. Seamus McCarthy: It might be more explicit in certain circumstances, but it is a typical presentation.

Chairman: Mr. McCarthy is saying it is precautionary.

Mr. Seamus McCarthy: Exactly. You will recall that there is a Note 6 in most Votes in which details of settlements made in a year are given. However, there are no expenses recorded in this account in Vote 29.

Chairman: Page 27 touches on broadband. I will come back to the issue separately, but it is mentioned in the appropriation account. It states the Minister has a beneficial interest in the metropolitan area networks, the construction of which was funded jointly with certain local authorities and the European Regional Development Fund. Mr. Griffin referred to a beneficial interest. What is the extent of that?

Mr. Mark Griffin: He is the beneficial owner of the metropolitan area networks.

Chairman: So he is the full 100%.

Mr. Mark Griffin: Yes.

Chairman: That is the question I wanted answered. When I saw “a beneficial interest”, I wondered whether somebody else had another beneficial interest.

We have considered the Department of Communications, Climate Action and Environment’s annual report for 2017. There are a few issues in the report that I want to touch on. It is in the briefing note. The witness mentioned the emergency call answering service, ECAS. It covers the Garda, the National Ambulance Service and the Coast Guard.

Mr. Mark Griffin: Yes.

Chairman: Does it cover Dublin as well as the regions?

Mr. Mark Griffin: Yes.

Chairman: Does it cover Dublin Fire Brigade?

Mr. Mark Griffin: Yes.

Chairman: What are the problems that Mr. Griffin is aware of? I am not highlighting anything. What would be an issue of concern that Mr. Griffin might have?

Mr. Mark Griffin: If one looks at the ECAS and the performance indicators that are set down for it in terms of availability of time, contingency systems and response times to calls, one notes it is hitting all of them, and it is hitting all of them very well. We re-tendered the contract in the last couple of years. BT, which was the provider of the service prior to the re-tender, won the re-tender, so that is now being put in place. We have introduced a number of innovations. eCall is a new service provided where there is an accident in a car. If an individual is capable of contacting the emergency services, he or she can make a call himself or herself or the car can do it. That technology exists. We have also introduced an automatic location service, AML---

Chairman: Let us go step by step, starting with the cars. We are into cyber-security and everything else. Could Mr. Griffin tell me about the car making the phone call? Obviously, it involves new cars.

Mr. Mark Griffin: A lot of the car manufacturers now have eCall. If there is an accident, the individual concerned transmits a message to the emergency call answering service or the car can automatically do it. That service has been introduced in the past couple of years. There is a separate service called AML

Chairman: How many cars in Ireland would have eCall?

Mr. Mark Griffin: I would not know the number off the top of my head but I believe we can get it for the Chairman.

Chairman: It is a new service. Could we be sent the models of cars with the service?

Mr. Mark Griffin: AML is another automatic location service provided for on Android and Apple phones. If an individual is incapacitated, a message can go from the system-----

Chairman: From the handset.

Mr. Mark Griffin: -----which will give the GPS location. In fact, we had the emergency services in speaking to the Department yesterday. Fifty-five percent of the calls to ambulances last weekend were generated through the AML technology. It is really beneficial.

Chairman: Could Mr. Griffin talk us through that? When somebody in a house who is not well makes a call-----

Mr. Mark Griffin: The geolocations-----

Chairman: The emergency call service, through geolocation, can know where the person is.

Mr. Mark Griffin: Absolutely.

Chairman: Is there a data protection issue or privacy issue?

Mr. Mark Griffin: I do not know. I would imagine all that would have been resolved as part of the implementation. I can check that.

Chairman: If a person calls, it is assumed he or she is giving consent to the emergency services to come out and find them.

Mr. Mark Griffin: Exactly.

Chairman: An easy answer to that one.

Mr. Mark Griffin: The third piece in terms of making the service more functional is the integration of Eircode postcodes. That is done already in the National Ambulance Service and is now being rolled out to the Garda for when it is updating its command and control systems over the next couple of years.

Chairman: In other words, a call goes in and, since the location of the phone will be known, the ambulance can be given the postcode.

Mr. Mark Griffin: They can give the postcode themselves. We understand that is being used quite extensively in rural areas.

Chairman: How does that service compare with that in the UK or other states?

Mr. Mark Griffin: It is far ahead, from our understanding.

Chairman: Whose bright idea was all this?

Mr. Mark Griffin: The postcodes-----

Chairman: I know about the postcodes; I am referring to the phone recognition.

Mr. Mark Griffin: I actually do not know about the AML technology. eCall is an EU initiative, as I understand it. The AML-----

Chairman: We will ask the Department to send us an information note. Obviously, it is a big issue. There was a meeting on it last week. It means the Garda can almost know where everybody is in the country if they are linked into the system, just by virtue of having a mobile phone.

Mr. Mark Griffin: It has been used for emergency services purposes, not for other purposes.

Chairman: A small step. That is another day's work.

Mr. Mark Griffin: A positive step.

Chairman: I did not know the system was in place.

Mr. Mark Griffin: While we are on the subject of the ECAS, a number of issues were raised in the report of the Comptroller and Auditor General a couple of years back on the need to publish an annual report, the need to make sure the liaison committee and emergency service

groups meet regularly and all of that. That is being done. We have delivered on all the obligations in the Comptroller and Auditor General's report.

Chairman: Is it the Department that funds the system? Who funds the implementation of the software for this new system?

Mr. Mark Griffin: For every call that is made to the emergency call handling system, there is a call-handling fee, and that funds the service.

Chairman: Is that paid by the operators?

Mr. Mark Griffin: Absolutely.

Chairman: It is part of the licence agreement that they will contribute to the emergency service.

Mr. Mark Griffin: And that price is regulated by ComReg.

Chairman: By ComReg. People in a car accident are often asked when they make a call whether they want an ambulance, the gardaí or the Coast Guard. Sometimes a person might want two. What actually happens? One might want the Garda if there is a pile-up. One might want an ambulance if somebody is hurt. The service is trained not to help one answer that question. It asks the caller to tell it.

Mr. Mark Griffin: The service will reroute the call. There is a brief conversation. The time taken to reroute to the appropriate service is very good. I refer to all the KPIs. A judgment call is made by the receiver on whether the Garda or National Ambulance Service should be contacted, or whether an additional service is required to go to the scene.

Chairman: I ask that we be sent a note. That is very positive. Not everything here is always positive. On the other side, sometimes it is positive information that Departments can put out.

The report refers to the high-level objectives on the environment. Illegal dumping, household waste and collection compliance are mentioned, in addition to the matter of brown bin roll-out. What is the position on rolling out brown bins?

Mr. Mark Griffin: I will come back to the Chairman on that.

Chairman: Mr. Griffin will send us a note on that. What is the position on paying by weight? I am just asking for information.

Mr. Mark Griffin: On the pay by weight issue, we had indicated that, in the 12-month period between autumn 2017 and autumn 2018, the incentivised pricing, because it is not all pay by weight, would be rolled out. That has happened.

Chairman: Where? How many locations?

Mr. Mark Griffin: Right across the country.

Chairman: Is it incentivised? I have not heard about it and I pay-----

Mr. Mark Griffin: It can be pay by weight, pay by lift or a combination of different systems.

Chairman: I have an annual fee.

Mr. Mark Griffin: An annual fee plus-----

Chairman: No. Maybe it will expire next year.

Mr. Mark Griffin: I will make a note of that. It depends on when the Chairman's contract is up.

Chairman: Next July.

Mr. Mark Griffin: Some people may be caught. All the contracts that-----

Chairman: I am with AES, which is part of Bord na Móna. It is one of the biggest outfits.

Mr. Mark Griffin: Absolutely. All the contracts for renewal between August 2017 and August 2018 should have moved on to the incentivised pricing. I will make a note of that.

Chairman: Could Mr. Griffin talk to me about recycling? Where does everything go that goes into what we call a blue bin, or what others call the recycling bin? Do we recycle all the material in Ireland?

Mr. Mark Griffin: Yes, we are hitting all our targets.

Chairman: A lot of the material used to be exported.

Mr. Mark Griffin: Sorry, a lot is still being exported. Export markets are an important part of the overall resource available for recycling. That is still happening. There is still significant exportation for the purpose of recycling.

Chairman: Other than the specialist items that might have to be exported, such as asbestos, why is Ireland not self-sufficient when it comes to our own recycling?

Mr. Mark Griffin: We need to start moving into that space. It would be preferable if capacity was developed within the State because, while it is not inevitable, one sees what is happening internationally, especially the intention last year by the Chinese market to shut down and not take in any more waste, and significant problems are being presented. There are recycling facilities on the EU mainland but it is something we probably need to look at closely. We have given a commitment to review our waste policy during 2019. While there are a number of waste recycling facilities around the State the availability of waste recycling capacity, the new obligations that arise from the circular economy package, which put very significant additional requirements onto member states with regard to packaging targets that have to be met, and the abolition of single use plastics will all have to be factored into the new and very detailed waste management policy. We are hitting all of the current targets for recycling and reuse, be it plastic, batteries or electronic waste.

Chairman: We are meeting those targets. Mr. Griffin said the Department will introduce a new or updated policy in 2019.

Mr. Mark Griffin: This was something we had intended to do anyway. A review was undertaken by the Competition and Consumer Protection Commission on foot of a Dáil motion. That has been completed. The review said that, in due course, regulation of the sector will probably be required. They reinforced to us the need to build the data capacity within the system and the need for the Department to undertake a fundamental review of its 2012 waste policy. This review will be done in 2019 and it will inform a lot of the thinking around regulation and

where we need to go in terms of more recycling.

Chairman: If that review is to be published next year work must be well under way or is it to be just a desktop exercise?

Mr. Mark Griffin: No, we will consult widely, as we do in all of our policy development.

Chairman: Had Mr. Griffin mentioned earlier that there are only four landfills in the State currently?

Mr. Mark Griffin: There are four or five.

Chairman: Where are they and what is their capacity and the life expectancy?

Mr. Mark Griffin: One is Drehid, one is in Ballynagran-----

Chairman: Please run them by me slowly. Where is that one?

Mr. Mark Griffin: Drehid is in Kildare.

Deputy Catherine Murphy: Kildare.

Chairman: I should know that. Does Mr. Griffin have the capacity and life expectancy for these four or five sites?

Mr. Mark Griffin: Drehid in Kildare-----

Chairman: What is the capacity and the life expectancy of that site?

Mr. Mark Griffin: I do not have that off the top of my head but I will get it for the committee. There is one in Knockharley in Meath and one in Ballynagran in Wicklow.

Chairman: That is three.

Mr. Mark Griffin: There is also a site at Kilconnell in Galway.

Chairman: Is there no landfill in Munster?

Mr. Mark Griffin: There is no open landfill in Munster.

Chairman: Those four sites take the landfill. Has Mr. Griffin any idea of the volume or tonnage that goes to those sites? If Mr. Griffin does not have the information today he can forward it on the committee.

Mr. Mark Griffin: I will send it on. In addition to those sites we have the incinerator at Poolbeg, which takes in some 600,000 tonnes per year.

Chairman: Right. I am coming to that. Can Mr. Griffin give the breakdown between recycling, landfill and incineration? What are the current figures for this year? Mr. Griffin must know, approximately, where we will be this year. What is the percentage of landfill, recycling and incineration? When we were on local authority councils these targets were drummed into us as part of regional plans.

Mr. Mark Griffin: I do not have those figures available but I will get them for the members.

Chairman: Is there nobody here with Mr. Griffin who can give these figures? I am looking

at the annual report and the high level targets. Is nobody from that section here?

Mr. Mark Griffin: They are in the other committee.

Chairman: Fine. I acknowledged that before we started, so that is fair enough. Mr. Griffin will forward those figures on to us.

Mr. Mark Griffin: Absolutely.

Chairman: Given that there are only four open and active landfill sites in the State, is there any need for regional waste plans? I was in one in the midlands, and I am sure there is one for the west. Are they still there or are they meaningless? If there is a national policy what is the point of people in the Munster group of local authorities having a regional plan if there is no incineration or landfill facilities in their region? We are really talking about one national policy at this stage. Are these plans still going through local authorities?

Mr. Mark Griffin: Yes. The plans are still there and they serve a purpose in setting out what is the existing situation in each regional area, at what stage is the regional progress towards targets and the consideration of available infrastructure-----

Chairman: Could the Environmental Protection Agency not take on that role instead of 31 local authorities employing all the consultants to sell the same plan to different local authorities?

Mr. Mark Griffin: That would be a national plan.

Chairman: Yes. People might not agree with me. Years ago each region had all of the facilities, but now it is just the one national incinerator currently.

Mr. Mark Griffin: We have Poolbeg and the four other landfill sites, but that is not to say that at some stage these landfill sites will not reach the end of their natural lives-----

Chairman: Fine, and that is a national issue.

Mr. Mark Griffin: There may be a need for capacity in other areas. I take the Chairman's point. When one considers the scale of the market and the level of landfill capacity that is there and what is needed, by 2030 - if I have the figure right - we will only be allowed to divert 10% of our municipal solid waste to landfill. We need to focus much more on reuse and recycling.

Chairman: And of course we need a breakdown by local authority base, but there is no region in the State that is sustainable in-----

Mr. Mark Griffin: In its own right,

Chairman: In its own region, because none of them has access to what is required. That is what I am coming at. Some 20 years ago everybody spoke about incinerators, landfills and recycling.

Mr. Mark Griffin: We have gone from more than 80 landfills down to four.

Chairman: From the era when regional plans started, time has passed them out. The island of Ireland, or whatever way one wants to call it, still exports some of its recyclable materials. Even as a State we are not fully sustainable. The first objective should be to get the State into a fully sustainable capacity when it comes to waste, and then - possibly - to break it down by

region. It is probably more of a personal view but Mr. Griffin follows my logic.

Mr. Mark Griffin: It is certainly a view we are considering in the context of the review to be undertaken. We want to hear all the voices on this issue.

Chairman: Send the committee a note when the consultations are happening and we might reply at that stage.

A letter came in from the Department for this meeting which is an update on the historic landfill remedial sites. Progress to date is reported on 15 category A sites. I will not go through it in detail but perhaps Mr. Griffin will talk members through that correspondence because the issues around landfill remediation sites have cropped up at this committee a couple of times previously.

Mr. Mark Griffin: At a committee meeting last year we discussed where we were in dealing with the legacy landfills in the State. I believe the issue was raised by Deputy Connolly. At the time I said that right across the regional waste management plans there were some 71 sites that were identified as category A, which are high risk sites. The correspondence for this meeting sets out where we are with the sites that have progressed through a process. The sites are categorised as A, B and C. A is high risk and B and C are lower risk. The process that is needed to determine what is required for the remediation of the sites is set out in a tiered hierarchy. The basic tier one investigation may conclude that minimal or no further work is required and that the site is not a high risk. Once we have gone through a tier one investigation and the conclusion is for a more a more detailed analysis, then a tier two and tier three assessment is done. The output of that process is certification of authorisation from the EPA and this sets out a work programme that is to be undertaken in each of the sites. That work programme is funded by the State. The committee will see from Table 1-----

Chairman: It looks as if next year the Department will be undertaking a tier 2 or tier 3 assessment. No work will be carried out there next year.

Mr. Mark Griffin: Not on those 15 because it takes time. The committee will see others that are further progressed, on the second page, where they have moved beyond the tier 2 and tier 3 and now are in the process of having the certification of authorisation being assessed by the EPA. Once that is approved, one can move to works. The committee will see, in Table 2, a smaller number of sites where the certification of authorisation, COA, is under consideration by the EPA with remediation works programme for 2019. Then the committee will see, in Table 3, a number where the COA has issued and the works are planned or have commenced and then another suite of them, in Table 4, where works have been undertaken and a spend of €17.8 million made on them. That is the process.

We have a distance to go in terms of dealing with all of them. We are more comfortable than we would have been this time last year when I came before the committee because at that stage, we had not fully scoped out the tools that would be required to do that work. We have a resource now, in the EPA. We are just finalising the appointment of a resource in the three regional waste authorities which will be focused exclusively on dealing with this particular issue. We have trained up local authority staff. We have moved to a situation now where, of the €11 million budgeted in 2018 for landfill remediation, we will spend somewhere between €9.6 million and €10 million. It is good progress relative to 2017.

For the benefit of Deputy Connolly, one site which we spoke about last year was South Park.

It had been classed as a high-risk site, category A, which, I think, caught the Deputy by surprise, but, in fact, the local authority has revisited that site, done a further assessment and is now seeking EPA approval to have that reclassified as a category C site - a low-risk site.

Chairman: In what year will all that be done? Will it take a decade?

Mr. Mark Griffin: I would not like to hazard a guess. What the committee can see now relative to the position we were in last year is we have a very clear methodology for dealing with this in terms of the investigation and analysis process. We have money that we are committing to it.

Chairman: What is Mr. Griffin's estimate for 2019?

Mr. Mark Griffin: I can say, in money terms, it is approximately €9 million to €10 million on landfill remediation.

Chairman: That is in line with this year's expenditure.

Mr. Mark Griffin: In 2019, yes.

Chairman: There is quite a bit to go yet.

Mr. Mark Griffin: Quite a bit to go.

Chairman: It will take several years.

Mr. Mark Griffin: Absolutely.

Chairman: It will be on our agenda.

Mr. Mark Griffin: I look forward to dealing with it next year.

Chairman: Whether Mr. Griffin or any of us is here, the issue will be here for a while.

I have a slightly different question before I go on to two other topics. In May, we had an exchange with Ms Dee Forbes on RTÉ 2 and I asked when will we see RTÉ 2 plus one. There was quite an exchange of correspondence. The impression was given that RTÉ had applied for it. The Department came back and stated it had not been asked to approve it before it goes to the regulator. RTÉ responded stating that it was mentioned in its five year plan and it took that to mean it was a request. I did not read it that way. Has RTÉ 2 sought ministerial approval?

Mr. Mark Griffin: Yes.

Chairman: Where is it?

Mr. Mark Griffin: It is with the Minister.

Chairman: How recent is that?

Ms Barbara Leeson: It has recently gone up to him. I am not sure on what date.

Chairman: In recent weeks?

Mr. Mark Griffin: Yes.

Chairman: From there, to whom does it go?

Ms Barbara Leeson: It is through the Broadcasting Authority of Ireland, BAI.

Mr. Mark Griffin: It has been through the BAI and the final stage in the approval process is the Minister.

Chairman: Has Mr. Griffin any idea? Can somebody, between the Department and RTÉ, send us a note next week on when we can see RTÉ 2 plus one? I keep insisting RTÉ is losing revenue by not having the station. That is one of the reasons I raised it. They voiced much complaint about television licence evasion and here is an opportunity to raise money themselves. In my view, somebody was slow off the mark on it.

Before I return to broadband, what of mobile phone coverage? There are wonderful maps of plans of 100% mobile phone coverage. I do not have mobile phone coverage in my office. Nobody in my village has proper mobile phone coverage. I have tabled PQs all year. I have looked at the Department's reports. The Department is engaging with local authorities on a pilot basis to identify black spots. That job would take approximately one hour in every county. If one sat down at a public meeting of the local authority, there is no councillor who could not list them to Mr. Griffin off the top of his or her head. That job should have taken a day to complete. It could have been done as an agenda item on every local authority meeting to list the black spots but the Department set up a lengthy process. The Department appointed officers and they are conducting a pilot study identifying the black spots in 17 local authorities. That will inform the future plan to identify more black spots, and how one does it scientifically. All I will say is doing the job this way is not doing the public service any good. Who is the regulator for the mobile phones?

Mr. Mark Griffin: ComReg.

Chairman: The problem stems from ComReg specifying in some of its mobile phone licences quite a low level of coverage, nowhere near 100% of population or geographical area, and the operators are all meeting their licences. In terms of the main operators out there, 25 years after we started with mobile phones a large proportion of the country still contains many black spots. If the system cannot deliver mobile phone signals after a 25-year period, I have serious doubts about the same operators handling the delivery of broadband to all of rural Ireland. Where are we on mobile phone coverage?

The reason I refer to this is the Department devotes a page and a half of its annual report to the issue and it must be something with which Mr. Griffin is familiar. What is the Department doing? The position has not improved a millimetre because of the licences issued by ComReg. What can Mr. Griffin tell those who do not have a mobile phone signal?

Mr. Mark Griffin: I might ask Ciarán Ó hÓbáin, the assistant secretary over the communications area, to talk about the work of the taskforce but also things we are doing around 5G connectivity strategy etc.

Mr. Ciarán Ó hÓbáin: First, the Chairman finished up his comment and question by referencing broadband. The issue with broadband is that there is a recognition by the State that left to the market, one will not have it and there will be large numbers of people left behind. What one has there is a recognition by the State that there has to be a subsidy to fill that gap.

In terms of the mobile phone market it is commercial players, through a licensing system, that are providing services. The frustration of people, particularly those in rural Ireland, with mobile coverage is something that both we and, obviously, every Member of the House, are

familiar with.

The mobile phone and broadband taskforce has resulted in some positive initiatives but its impact is really something that one will see over a longer period of time. It has brought together the operators with the local authorities, the State bodies and the regulator. That, of itself, has been of real benefit in terms of removing some of the barriers that are there, in speeding up the roll-out of infrastructure by commercial players and in providing a greater level of consistency.

I hear what the Chairman says on the mapping of black spots. Certainly people such as the Chairman, who are in touch within a particular geographical area, could probably contribute a lot but what we took was a structured approach through the broadband officers through the local authorities to do that mapping exercise. Then there is a separate exercise.

Chairman: Is that completed?

Mr. Ciarán Ó hÓbáin: Yes.

Chairman: Has the Department the 31 local authority maps?

Mr. Ciarán Ó hÓbáin: That has been completed.

Chairman: If Mr. Ó hÓbáin has that information he must know the percentage of coverage across the country?

Mr. Ciarán Ó hÓbáin: The percentage varies across networks.

Chairman: I am asking for the national percentage by operator, for example.

Mr. Ciarán Ó hÓbáin: I can come back to the committee on the percentage by operator in terms of their licences. The licences that ComReg provide have minimum thresholds in terms of what they have to deliver. Commercial providers can go beyond that. There is only one commercial provider that would claim to be over and above 90% in terms of population coverage, which is different to geographic coverage. The work on the black spots, and a separate piece of work which was done to help in decision making going forward to determine where coverage should be prioritised, was about more than where people live. It was also about where people gather and where they need mobile coverage. This work has been completed and it will feed into the work of ComReg going forward.

Separately, the Department is working to develop a 5G strategy in the context of a connectivity strategy. Earlier, we had a conversation around 4G-5G versus fibre and broadband. I am not an engineer, but in terms of my brief, I engage with industry, the communications regulator, the telecommunications companies and the people advising on the broadband plan. The point was made earlier, and referenced recently by the head of Vodafone Ireland during its recent 5G trial, about 5G being complementary to high speed broadband. This is about connectivity not only within one's house or place of work but outside one's door. The engineers will probably be upset with how I am explaining this but as I see it 5G and fibre are very fast but in terms of any expected roll-out of 5G the capacity and the amount of data are not comparable. 5G can expand out but this would require investment at a level that no commercial player would consider sensible - with more electronics en masse. The Secretary General mentioned earlier that in the recently published ComReg estimates it would cost €1.8 billion to achieve 99% plus population coverage with 5G. This would provide a level of service such that a person could watch Netflix, but not if all of his or her neighbours chose to watch Netflix at the same time. That is the differ-

ence between 5G and fibre. With fibre, one has a dedicated signal. The two can work together.

Chairman: Let us park broadband for now. Mobile phones have been around for 25 years. This conversation about black spots could and should have been had by the Department 15 years ago. Some of the black spots identified ten years ago are still black spots today. I would contend that the principal cause of the problem in regard to mobile phone coverage is the State in allowing companies granted licences to provide less than optimal levels of cover. If a licence specifies 75% cover, it is not the fault of the company if it only meets that requirement, rather it is the fault of the State for setting the coverage requirement at that level. If a licence granted today requires an operator to provide only 75% coverage then in 15 years' time there will be lots of people complaining about not having a service. The reason we do not have the coverage is because the licence does not require it. If the licence required 100% coverage, that is what we would get.

I would like information from the Department on the operators, their licensing arrangements and the percentage of coverage by population and geographically over the lifetime of their renewals. I believe that when these operators were first granted these licences the percentage of coverage required was higher than is the case in the more recently issued licences. It could have been 90% but was reduced in new iterations to 80%, 78% and so on. This enables operators to cherry pick areas geographically. This was not only aided and abetted by the State but forced on the people by the State by not holding operators to a higher standard from day one. I accept that the Department is on a learning curve as a result of this failure and that it does not want to be caught with the same problem with broadband but we will come to that in a minute. Twenty-five years on, there are far too many black spots. I ask that the Department send to the committee data on the percentage of the population geographically in black spots. It is all very fine to talk about plans, communications and understanding the problem. The dogs in the street could have done that a decade ago.

Mr. Mark Griffin: As part of the process, we are working with the local authorities to identify infrastructure that can be used to site masts and repeaters. The purpose of the ComReg report published last Friday was to try to tease out some of these issues. In the move from 75% or 90% population coverage to almost 99.5% geographic coverage there are big trade-offs in terms of cost. The decisions that need to be made in terms of the next licensing round include the conditions to be required through a round. In other words, is it a population focus or a geographic focus and what are the costs involved?

Chairman: I understand that. The point I am making is that there is a big difference between 75% coverage and 99.9% coverage, the latter being the ideal. We need to increase coverage from 75% to 85% or 90%. It is not okay to say just because we cannot meet 100% we cannot have a discussion on the issue. We need to increase the level of coverage. I ask that the Department forward to the committee data on the renewals. ComReg is supposed to audit a random number of the masts annually to ensure the level of coverage promised is being met. The Department might also send us the most recent audit reports in that regard.

Mr. Ciarán Ó hÓbáin: We will take the Chairman's request to ComReg.

Chairman: Is that data not published?

Mr. Ciarán Ó hÓbáin: It is published by ComReg.

Chairman: I ask Mr. Ó hÓbáin to arrange for the most recent report to be sent to the com-

mittee.

Reference was made to a repeater, which enables a signal transmitted to a house to be repeated, and the recent licensing of repeaters. How many households have repeaters?

Mr. Mark Griffin: I do not know.

Chairman: Perhaps the witnesses will get that information for the committee. I read in the documentation provided this morning that licences for repeaters have been issued. I would like to know how many repeaters have been installed. I tried to get one from one of the biggest operators in the country but I was refused it.

Mr. Mark Griffin: We will check it out.

Chairman: I am sure the witnesses are sensing a level of frustration from rural Deputies in regard to mobile phone coverage. Given the less than satisfactory delivery of mobile phone coverage and the fact that the same institutions are involved in the delivery of both, I am sure they understand our scepticism when it comes to the national broadband plan. When it comes to negotiating tenders and contracts, who sits at the table on behalf of the public? What is the level of financial and technical expertise of that group? Are they an equivalent match to those on the other side of the table?

Mr. Mark Griffin: Our principal commercial adviser is KPMG at senior partner level. They have been involved in the process from day one, providing us with detailed financial and commercial advice. The Chairman also asked if they are as good as the people on the opposite side. On the basis of what I have seen, I would say absolutely yes.

Chairman: Very well. That is the first thing. I would like a clarification. I am reading a sentence in a reply to a parliamentary question I asked, dated 7 September 2018. The question reference number is 35974/18. There is a paragraph describing all the wonderful initiatives mapping the black spots. The reply states:

In addition to its work on handset testing, following a consultation process, ComReg has also developed a licensing scheme [I do not know if this is operating] which will enable households and businesses to use mobile phone repeaters to boost signals into their premises and bring immediate improvements in mobile coverage.

That is from the Minister's reply to a parliamentary question. Can somebody give me a detailed note on whether any of that has actually happened, and the numbers? I have provided the reference number to that parliamentary question.

I would like to move back to the subject of broadband. I will take it in steps. These are questions requiring straight "Yes" or "No" answers. This is a system where the State is investing and the private sector is putting in money. It might not meet the legal definition, but it is essentially a public private partnership, PPP. Is that fair to say? It does not meet the legal definition.

Mr. Mark Griffin: Yes, in inverted commas.

Chairman: The State and the private sector are putting money in. It is a public private partnership of a type. I would like to clarify this. This infrastructure is not a design and build programme. Is that correct? I am comparing it to other PPPs with which people are familiar. To use the usual terms, it is not a design and build programme; it is not a design, build and oper-

ate programme; and it is not a design, build operate and finance programme. The Department is going to identify a preferred bidder. The preferred bidder will contribute X and the State will contribute Y. Is that the type of structure we are talking about?

Mr. Mark Griffin: It is effectively a programme to design, build, operate and maintain. It is a gap-funded model. Effectively, the bidder puts in equity and the State puts in a subsidy to meet the gap. That is paid over a 25-year period. The design, build, operation and maintenance are carried out by the company.

Chairman: So there are no upfront costs to the State from this broadband plan.

Mr. Mark Griffin: No. As expenditure is incurred, it is assessed and evaluated. Is it carried out in accordance with a contract and a payment is made.

Chairman: What do we want to know in advance? We have spoken this morning about the State pre-paying for services that may not ultimately be delivered. This is a rolling situation. In the case of the school projects held by Carillion the State had not paid up. The PPP company was carrying the cost until such time as it handed it over, and then the State was to pay an annual leasing. The State made no prior payment and was not caught if something went wrong. Is this proposal a proposal for the State to pay up from year one on an ongoing basis? At what stage does the taxpayer start putting money into this programme, or does that happen from day one?

Mr. Mark Griffin: I will let Mr. Ó hÓbáin take that question, but there are some caveats about what we can and cannot say at this point.

Mr. Ciarán Ó hÓbáin: Without going into the detail of the procurement of the contract, it is clear that the payment from the State would follow capital investment and building. It will be linked to work that has been done.

Chairman: Surely some of these details were referenced when the Department put out the document outlining what it was looking to tender. I hope that information was in there. I presume the Department put this information on eTenders or wherever the process started. Surely there had to be information to give people who might want to express an interest an idea of what they were talking about. That cannot be confidential if it is on eTenders. I want to get a feel of what this contract is. Mr. Griffin knows what I am getting at.

Mr. Mark Griffin: I do.

Chairman: This has been called a gap measure. The Government announced it was adopting a gap-funding model to procure the infrastructure. In that model, the infrastructure is designed, built and operated by the operator and the Government puts in the shortfall. Without disclosing it, is there a figure above which the Department will not go on behalf of the taxpayer?

Mr. Mark Griffin: Absolutely.

Chairman: In previous PPPs, it has often been the case that a preferred bidder is identified but it is never brought to conclusion. Up to that point, are all costs to date being worn by the consortium that is putting in the bid? Is the State caught for any costs up to the signing of the contract? Are we paying for the bidders to put in their tender?

Mr. Seamus McCarthy: There are advisory costs.

Chairman: I mean in relation to the other side.

Mr. Seamus McCarthy: In regard to the provision of the service, a site acquisition cost arises in a classic PPP. Other than that, there are no expenses.

Chairman: The cost to the State of professional fees has been €23 million to date. That is fine. I want to establish that when the preferred bidder is identified, there is still no contract in place. I ask the witnesses to talk us through the process. Once the preferred bidder is identified, what is the process by which the contract gets signed? Talk me through the process between those two steps.

Mr. Ciarán Ó hÓbáin: When we get to-----

Chairman: Would it be helpful if we had the senior KPMG person advising on this before the Committee on Public Accounts? Mr. Ó hÓbáin said he is not an engineer. I do not know if he is an accountant. It is a somewhat left-field question. We did not suggest that. The witnesses can understand where we are coming from and why I ask the question. I have made the point. We will move on. Mr. Ó hÓbáin need not respond if he does not want to. That is all I will say

Mr. Ciarán Ó hÓbáin: After the preferred bidder has been identified the next stage is the award of the contract, but very significant work remains to be done. There is a 1,500 page contract, and that contract has to be closed out. There are approximately 40 contracts, subcontracts and direct agreements that have to be closed out by a preferred bidder to the satisfaction of the Department before the contract with the Minister can be signed. That is the significant piece of work that has to be concluded after determining the preferred bidder. In its tender, the bidder identifies its solution to the deployment plan, subcontractors, how it will build this network and how it will operate it. The bidder identifies parties that will deliver on that work for it. In the period after identifying the preferred bidder and before a contract is concluded, the bidder must follow through on those commitments and put those contracts in place. That is the significant piece of work that will have to be done.

Chairman: Is that months' of work?

Mr. Ciarán Ó hÓbáin: As with a PPP, it will take three to four months for that type of-----

Chairman: As such, there is essentially no contract with the State until the contract is signed?

Mr. Ciarán Ó hÓbáin: Correct.

Chairman: So in theory, even after the preferred bidder stage, if the bidder feels that the State is being too onerous in the contract negotiations it can walk. In theory, if the State is not satisfied that the preferred bidder is doing what it wants, its representatives could decide the process is not working out.

Mr. Ciarán Ó hÓbáin: I think it is fair-----

Chairman: Can that happen?

Mr. Ciarán Ó hÓbáin: It is absolutely the case that until there is a contract, there is no contract. When the preferred bidder has been identified we very clearly identify all the conditions precedent on which they have to deliver. There is clarity at that point as to what steps need to be discharged over the period between identifying the preferred bidder and signing the contract. Until there is a contract, there is no contract.

Chairman: Tell me about the communication. ComReg is involved. Will that body be the regulator of the service, as it is for mobile telephone services? What will ComReg's role be after the process?

Mr. Ciarán Ó hÓbáin: ComReg has no direct role at the point of the awarding of a contract. The operator of the network is the operator of an open-access wholesale network. That operator sells services to retail providers like Sky, Vodafone, Virgin Media and Eir. It will operate in the telecoms market in Ireland and as with any other operator in that market, it will fall into a market in which ComReg has powers. ComReg's powers remain the same. No direct role is envisaged as of today.

Chairman: That is, at the point of awarding the contract.

Mr. Ciarán Ó hÓbáin: At the point of contract, yes.

Chairman: Mr. Ó hÓbáin was likening the mobile phone system to the broadband network, noting the similarities, etc. If the regulator has a role concerning the mobile phone signal in a location, will it not have a role in regard to the provision of broadband service? Would that not be a logical extension?

Mr. Ciarán Ó hÓbáin: The regulator has a role where it licenses or regulates an individual company.

Chairman: Will a licence be required in this case?

Mr. Ciarán Ó hÓbáin: Licences could be required if part of the broadband operator's solution was wireless and licence spectrum was being used. The regulator could have a role in the broadband operator accessing, for example, the Eir network, which is core to this-----

Chairman: Or the MANs, which the Department mentioned.

Mr. Ciarán Ó hÓbáin: Yes, but ComReg does not regulate the MANs.

Chairman: Why not?

Mr. Ciarán Ó hÓbáin: It regulates networks which it has designated as having significant market power, but the MANs have not been so designated.

Chairman: The Department was telling us how brilliant the MANs are in the 94 urban areas but Mr. Ó hÓbáin is now saying they do not have very much power and do not require regulation.

Mr. Ciarán Ó hÓbáin: I did not say "very much". A high bar must be passed to be deemed to be in that dominant position.

Chairman: Let us return to learning from the mistakes made in the issuing of the licences for the mobile phone companies, which has given us a bad service in many areas. One of the reasons was that the licence did not specify a high enough target, although I am not suggesting the target should have been 99%. As time went on, the regulator went easier on the companies. Will the percentage of target be specified in the contract or will it be in the licence? Who will oversee the implementation of this? Two or three years into the process, if the company is found to be unable to do it anymore for a variety of reasons, or if it is just dragging its feet, does the Department have a process by which it can remove the contractor? That would be normal

in a large contract like this. It cannot be that the State is locked in and has to pay €2 million to get the contractor off the pitch. How will the Department protect the State in the event of the contract not being developed?

Mr. Ciarán Ó hÓbáin: That question was already asked but I did not have the opportunity to answer it properly because I was answering a question on ComReg's role in this regard. The 1,500-page contract, which was mentioned, seeks to impose a strict and clear regulatory regime on this contract.

Chairman: Mr. Ó hÓbáin mentioned a regulatory regime, but who will the regulator be?

Mr. Ciarán Ó hÓbáin: It is the Department's contract, the Minister's contract, so the State would be regulating the contract.

Chairman: A party to the contract is a regulator of the contract.

Mr. Ciarán Ó hÓbáin: It is the enforcer of the contract. "Enforcer" is the word I would use. The contract is very strong on the issues the Chairman raised. For example, it sets out in considerable detail what the winning bidder has to do. It will have put forward a technical solution and deployment plan and will have to deliver on them. It will have to upgrade that technology over time to keep it consistent with what is available in other parts of the country. It will have established the cost for delivery. There will be payment milestones which are absolutely linked to the roll-out and there will be clawback around those. There will be oversight of the tendering process for subcontractors and the price of materials. There is a very strong regulatory oversight through the contract because the contract calls out the regulation.

Chairman: When a dispute arises, what will be in the contract to protect the taxpayer? Will every dispute go to court? What is the dispute resolution mechanism? These are billion euro contracts and there is no point in finding out in four years' time that something was not covered in the contract. What provisions, not specific to whoever gets the contract, will be in the contract in this regard?

Mr. Ciarán Ó hÓbáin: At the more practical level, the approach that has been adopted is to be as explicit as possible. Part of the reason the dialogue of this contract has been so extensive is to ensure that one has limited, to the extent one possibly can, the possibility of a dispute arising over the interpretation of what clauses in the contract mean. Once one is into resolving disputes, one has a problem. The focus of the contract, therefore, has been to be detailed and explicit so there is no scope, or limited scope, for such disputes.

Chairman: There are disputes with many public contracts, and issues arise with contractors. Is there an arbitration mechanism? What mechanism should have a contract like this have in it?

Mr. Ciarán Ó hÓbáin: I am starting to drill down into the detail of the contract to a greater level than I should. Suffice to say, these issues are anticipated and, at the point when a decision about whether to appoint a preferred bidder is made, the intention is that we will publish a significant amount of information with significant detail about the controls in place in the contract, including, to answer the Chairman's question, how disputes are managed. I probably cannot go further than that today.

Chairman: Planning for this contract started in 2013. As was noted earlier, the document provided to the committee said the Department launched a procurement process in December

2015 and, at that time, a speed of 30 Mbps was specified. Will a speed of 1 Gbps be specified, or what figure will be specified? Future-proofing can mean anything to anybody but taxpayers need to know what speed of fibre broadband will be provided in their homes per the contract. Will an upload and download speed be specified in the contract?

Mr. Mark Griffin: Fibre provides speeds of 1 Gbps plus. It will be predominantly fibre in homes and we expect the bidder to make a minimum offer of 150 Mbps to additional consumers from the start of the process.

Chairman: Will Mr. Griffin repeat those figures?

Mr. Mark Griffin: As it will be predominantly fibre in homes, there is no effective limitation on speed. It will be gigabit.

Chairman: The Department mentioned earlier, and Mr. Griffin has just done so again, that the regulator can take action if the contractor has to take a connection from the existing Eir network, leaving aside the MANs because they are high speed. The Department also said it will use some of the Eir lines and poles, and that the person who is still in the tender contract is in discussion with Eir.

Mr. Mark Griffin: Not the copper.

Chairman: It will be new wires on old poles.

Mr. Mark Griffin: Yes.

Chairman: Mr. Griffin should say that because when people hear the word “poles”, they think of the old copper wire that is not fit for purpose.

Mr. Mark Griffin: There will be new wires on old poles and, in many cases, there will be new wires on new poles.

Chairman: The regulator normally takes action if there is a dispute between the person who gets the contract and Eir, the owner of the existing network, over what the latter is charging. Disputes will arise as years go on and the regulator normally has a function in that context.

Mr. Mark Griffin: It sets the price.

Chairman: There is a role for the regulator in this project.

Mr. Mark Griffin: Absolutely.

Chairman: The Department gave the impression there is no role for the regulator.

Mr. Mark Griffin: Mr. Ó hÓbáin said for the Eir network, where there are 1.2 million poles or 15,000 km of ducts, it will all be a regulated price which the regulator will determine.

Chairman: What percentage will the contract specify? Is it in the region of 99%? All the publicity claims it will be every house.

Mr. Mark Griffin: It will be every house.

Chairman: Does every house want broadband?

Mr. Mark Griffin: We will consider each individual deployment area. I do not know what

the exact figure is but each deployment area contains approximately 5,000 premises. We and the contractor will do a low-level design of each of the 5,000 premises to see what makes sense in the type of infrastructure to be provided. Fibre may not make sense in all cases and it may not be economical to do so. It is safe to say, however, that for the vast majority of the 542,000 premises-----

Chairman: There will be 90%-plus.

Mr. Mark Griffin: Yes, I would say more than 90%.

Chairman: Mr. Griffin referred to areas with 5,000 premises. Are they all identified in the pre-contract stage or are they subject to negotiation after that?

Mr. Mark Griffin: At a high level, the deployment areas are identified and a lower level design is then prepared by the bidder but approved by us.

Chairman: Would that be approved before the contract is signed, rather than being worked out as one proceeds over the next number of years?.

Mr. Ciarán Ó hÓbáin: The low level design would happen after a contract award. The low level design is effectively when one is in the build stage. In the proposal the proposer sets out how it would roll out a fibre network for all of Ireland. The low level design is getting onto the ground in a relatively small area to do so.

Chairman: Let us say an area is completed and a couple of new houses are then built there. What happens the new houses?

Mr. Ciarán Ó hÓbáin: It recognises that there will be new houses.

Chairman: Who sets the fee for that? Previously, the local authority used to do it for water. Irish Water does that now and it charges what it wishes. Will we be in the hands of the private sector or will the regulator have a say in setting that price?

Mr. Ciarán Ó hÓbáin: The contract addresses how that is dealt with. I will make two points about the contract. One is that it is the ambition, and the contract was written for this, to ensure that the service that is provided in rural Ireland is at least on a par with the one that is available in urban areas. Part of that is cost. The contract addresses the manner in which the owner of the network can charge the retailers who come on the network, such as Vodafone, Sky and so forth. It sets a standard charge for that.

To return to the point on the 30 Mbps, there are-----

Chairman: We are really hung up on that.

Mr. Ciarán Ó hÓbáin: It is a very important point. The world has moved on. The three bidders in the process said fibre, which meant it would never be 30 Mbps but always 100 Mbps and more. However, one must think about who will be selling services on the network. It will be the big retail players such as Sky, Vodafone, Eir and so forth. They will not be differentiating. Dermot Bannon is doing the advertisement for Vodafone now. After the news on a Sunday evening he is selling the same service whether one is living in the middle of Dublin city, north County Dublin or south Mayo.

Chairman: It is a universal price.

Mr. Ciarán Ó hÓbáin: The companies will provide the same service. It is a matter for them to decide if they want to differentiate on price but it is difficult to conceive that they would want to.

Chairman: We are all familiar with the amber area of the map you referred to earlier. If some of the commercial operators want to and consider it commercial to do some work in this amber area, can they do that tomorrow morning?

Mr. Ciarán Ó hÓbáin: The short answer is that the map is dynamic until such time as there is a contract award. The European Commission will say that if a commercial roll-out has happened or is proposed one cannot put State money into going into the same place. I am paraphrasing it somewhat simplistically. If there was new commercial roll-out one would have to take that into account.

Chairman: Who will redraw that map at the point of the contract next spring?

Mr. Ciarán Ó hÓbáin: The map has been-----

Chairman: At present what is happening with some of the bigger providers is that if there are three or even 23 houses on a road they say they cannot touch them because they are in the amber area. They are giving the impression that they are not allowed in there. Can they go into the amber area and pick houses where it might be viable for them to provide it? Is that happening at present?

Mr. Ciarán Ó hÓbáin: I am sure that as a public representative you are receiving some communications because we see many of them in the Department. I will not refer to a particular operator but these are about people whose houses are very close to a roll-out by an operator. Usually the issue is that another 100 m would include one house or a few more houses. The Department cannot control that. It cannot require an operator to include premises. However, there is no barrier to commercial operators rolling out infrastructure in Ireland.

Chairman: Or into the amber area today.

Mr. Ciarán Ó hÓbáin: Anywhere in Ireland.

Chairman: That is what is being said by providers. Perhaps they do not wish to go there so they quote the national broadband plan and say they cannot go into the amber area. The amber area is being used to possibly prevent some people getting broadband at present.

Mr. Ciarán Ó hÓbáin: It is one of the complexities.

Chairman: Do you understand my point? They are using that reason. You referred earlier to the reinvestment in the metropolitan area networks and the money invested. Who will own the network of fibre to each home when it is completed?

Mr. Ciarán Ó hÓbáin: The national broadband plan network is gap funded, which means that the bidder would own the infrastructure the bidder builds. However, as outlined earlier, the bidder is proposing to build this predominantly by using eir's network and the MANs. The MANs are owned by the State and will continue to be owned by the State. The eir network will continue to be owned by eir. The fibre that would be built on the eir network or any new poles could be owned by the broadband company.

Chairman: This is a different funding model. The Minister owns 100% of the MANs infra-

structure. In this case, even though the State is going to put in whatever amount, and only God knows what the figure is at this stage, it will not own even 1% of the structure. The cable will run from the eir network or the MANs in the town to the houses five or ten miles away and even though the State will have paid a significant amount of the cost of providing it to the houses it will have zero ownership of it when it is complete.

Mr. Ciarán Ó hÓbáin: All the poles and the ducts it is on will be owned by the existing poles and ducts in the eir network but the fibre would be owned-----

Chairman: What is the State getting for its investment?

Mr. Ciarán Ó hÓbáin: For 25 years there will be infrastructure in place that could deliver a high speed broadband service to all the people in that catchment area.

Chairman: What happens at the end of 25 years?

Mr. Ciarán Ó hÓbáin: The first question at the end of the 25 years is what the value of the 25 year old fibre would be. It could be fibre that would have to be replaced at that point. As it is a gap funded model, under the contract the assets are owned by the bidder. I am not going too far into the contract by saying that it provides that at year 25 the bidder can continue to use those assets, if it would be obliged to, for a further ten years to continue to provide services to all the people connected to that network or the business could revert to the State.

Mr. Mark Griffin: The State also gets the economic activities generated in the area which simply would not happen in the absence of it.

Deputy Catherine Connolly: I missed the point about where it reverts to the State.

Chairman: Will Mr. Ó hÓbáin refer to this again because I have a follow-up question about it?

Mr. Ciarán Ó hÓbáin: If at the end of 25 years the bidder sees the business works and is prepared to continue, it would commit through the contract to continue to provide the service to all the people connected to the network for a further ten years, effectively making the contract a 35 year contract. In the event that the bidder did not wish to proceed the business would revert to the State. The cost at which that would happen-----

Chairman: What do you mean by that? You said the bidder is the owner.

Mr. Ciarán Ó hÓbáin: A company will be established to operate this business and if that business does not continue it will revert to the State. There will be a cost to the State and that is provided for in the contract. When the details of the contract can be made available that will be more explicit.

Chairman: If the private company or the consortium owns the fibre that is going to everybody's front door, I do not understand how the State will own the business of providing the broadband.

Mr. Ciarán Ó hÓbáin: It is committing that at year 25 it would either continue and extend the contract for a further ten years, delivering to those-----

Chairman: Or walk away.

Mr. Ciarán Ó hÓbáin: Or walk away.

Chairman: In other words, the contract includes a buy back at the valuation of the fibre network at the end of 25 years. That is the impression I am getting. If the company continues it further, it continues to own it for another ten years. If it chooses not to do that, you are saying the State buys back the product. This leads to my follow-up question. In public private partnerships, PPPs, the funding model for the motorways, at the end of what we will call the concession period of 25 years it is up to the company that builds the motorway to give the road back to the State in the same condition it was on the first day. It must maintain the road to the highest standard to the last day and give it back in full working order at the end of the 25 years. That does not appear to be happening here. The PPP model of funding is very close to what we are talking about here in that the State put in significant money and the private sector put in some money. They got the money from the toll or the usage charge, exactly as whoever is the bidder here will get the usage charges. It is identical in many ways to one or two of the motorway schemes that are run on a concession basis with a condition that, at the end of the concessionary period, they would hand it back to the State in the same condition as it was in on day one. Is that happening here? I am looking at lessons learned in other areas. I am sorry to be getting into this but it concerns the specifics of the contract. If I do not ask, our successors will be here arguing and asking did we not do our work.

Mr. Ciarán Ó hÓbáin: It speaks to the timing of this conversation at a point at which we could signal the intention. A time when we could have this conversation on a more equal basis would probably be when a decision is taken by Government to take a course of action and when significant detail is published around what the contract would be.

Chairman: It would be too late then. The contract will not be published. They never publish a PPP contract around here. “Commercial sensitivity” is the most common phrase. I would be stunned if officials did not quote that back to us.

Mr. Mark Griffin: We can explain the operation, the mechanics and the basis on which a gap funded model was chosen over a concession agreement. We have reviewed it on a number of occasions during the process, and the view was still that gap funded was the most appropriate model in these circumstances. We can come back at a later stage and do a little bit of a deeper dive, so to speak, on the rationale for that with the committee.

Chairman: I want to let the other members in. They must be tired listening to me.

Deputy Bobby Aylward: We are not.

Chairman: I have one last question. There was mention of the metropolitan area network system, MANS, in the urban areas, and reinvestment by the company. I said they were not doing it out of the goodness of their hearts and I think Mr. Griffin said it was based on 10% of the gross revenue. Is that correct?

Mr. Mark Griffin: I think so, yes.

Chairman: It is something like that. Somebody mentioned 10%, I think it was Mr. Griffin.

Mr. Mark Griffin: I did.

Chairman: The reinvestment was required to keep it maintained and up to speed. My question is whether there is going to be an equivalent here to maintain the broadband. Mr. Griffin need not specify a figure, but in respect of what has been done in the MANS to ensure the system continues to be maintained, namely, a percentage of revenue going to maintenance and

upkeep, is something similar going to be provided here? What mechanism is in place to verify the gross receipts or the gross turnover in MANS, as I speak, and in this new proposal? How does the Department know it is getting its 10% reinvested in MANS? What is its measurement, verification and audit mechanism in that regard?

Mr. Mark Griffin: In the MANS, the 10% is stitched into the contract. We spoke earlier about the quarterly review mechanisms, the KPIs, and the measurement of how they are compliant with the terms of the contract. They are also audited and also produce an annual report, so we have a line of sight-----

Chairman: What verification does the Department do on behalf of the taxpayer to make sure that 10% of gross proceeds are reinvested? Who does that audit?

Mr. Mark Griffin: That is done within the division in the Department. The audit was done a couple of years back using our own internal audit unit. We have a financial adviser on contract who was part of the process as well.

Chairman: The MANS contract provides the Department with the right to access to financial information in respect of the company. Something similar - I am not saying it is the same - is happening-----

Mr. Mark Griffin: In the national broadband plan, NBP, it is open-book accounting that we are looking for. We will have full sight of the accounts of the organisation and how the money is being spent. Every single claim that comes in through the Department will go through a very rigorous process to make sure expenditure has been duly incurred - mature liabilities, the whole lot.

Chairman: We will be into the beginning of 2019, at least, before a contract will be signed because it is going to take a few months to get to that stage. Given that this all started in 2013, six years will have elapsed between the date the original specifications were drawn up and launched and the signing of the contract. Technology has moved phenomenally in the meantime. If the officials were starting on 1 January 2019, would they be starting from where they did with this contract? One could not possibly think they would. Has the passage of time made the contract almost past its sell-by date before the first hole in the ground is even dug? We are looking at a long-term contract and it is such a long time.

Mr. Mark Griffin: We started the procurement process in December 2016 and set the basic benchmark of 30 Mbps. If we had started a little bit later, we would have set the benchmark higher, but we are getting it anyway through what all the bidders came forward with, which is fibre to the home. Every other single member state, I think I can say with certainty, right across Europe, is behind us and they are all going for a fibre to the home solution complemented by 5G. Some of the member states that got a little bit ahead of us are now redoing what they did because they did not pitch the level of technology sufficiently high. Fibre to the home is the solution and would be the solution if we went to the market today.

Chairman: I will open the floor to other members now. Deputy Catherine Murphy is first. We will take the same sequence as this morning.

Deputy David Cullinane: Can we have an hour and a half?

Chairman: You can have as long as you want once the questions are on topic.

Deputy Catherine Murphy: I want to come back and clarify a number of things from this morning. Will Mr. Griffin reconfirm that Enet never led the current bid for the national broadband plan?

Mr. Mark Griffin: Yes, it was part of a consortium, and while I do not want to stray too far, it was never an equity investor. I think that is a fair comment to make. The lead was Granahan McCourt, start to finish.

Deputy Catherine Murphy: Does prequalification extend to the subcontractors as well or is it the ones named in the consortium?

Mr. Mark Griffin: No, I do not believe so. I will ask Mr. Ó hÓbáin to correct me if I am wrong. The PQQ extends to the top of the pile, as it were.

Deputy Catherine Murphy: Where there is equity.

Mr. Mark Griffin: I think so.

Mr. Ciarán Ó hÓbáin: It includes subcontractors to a limited degree but not all subcontractors.

Deputy Catherine Murphy: What would be the case for some subcontractors?

Mr. Ciarán Ó hÓbáin: When I say “not all”, the reason is that they could have a great many people to assist them, more than the bare minimum needed, but what they have to do to get through the gate to come into the process on day one, and the same test is applied if there is a change in the bidder make-up at year 2 or at the end, is to see whether that party could have come through the gate on year 1 from a technical, commercial point of view. They have to have-----

Deputy Catherine Murphy: They have to have the range of skills, for example, the skill to put it on the poles and roll it out, in addition to having the money. That would be the case. The ones that would fall into that category are the ones-----

Mr. Ciarán Ó hÓbáin: Correct. I think the Deputy has paraphrased it generally.

Deputy Catherine Murphy: The officials said the Department had done some stakeholder analysis. Often we can learn more from losing a football match than from winning it, as has been said. The ones who are not happy are the ones the Department needs to be talking to. BT was quite forthright in its comments. It said it was seeking fair competition and that Enet should be fully compliant with the rules of state aid approval. It questioned whether state aid approval allows Enet to sell to itself since it is stated specifically that Enet cannot act as retail service provider. I asked earlier about AirSpeed, which is also owned by Enet, so it is selling to a retail entity that it itself owns. Is that not unfair competition?

Mr. Mark Griffin: I actually do not know the owners. I am not familiar with the detail of the ownership structure.

Deputy Catherine Murphy: Will Mr. Griffin check this out and come back to me?

Mr. Mark Griffin: Absolutely.

To come back to the earlier point on the work done by Analysys Mason, all concerns raised by any company on pricing or transparency were provided, with the agreement of the company,

to Analysys Mason to feed into the report.

Deputy Catherine Murphy: We will see it in the next while.

Mr. Mark Griffin: Yes.

Deputy Catherine Murphy: Westnet did price comparisons on similar municipal networks and stated ours is the most expensive state-owned metropolitan fibre in Europe. Does Mr. Griffin concur with this? Has this analysis been done?

Mr. Mark Griffin: I am not familiar with the report but I imagine Analysys Mason looked across the full spectrum of issues affecting price.

Deputy Catherine Murphy: It is pretty important if we are going to go with the same entity for the national broadband plan that we have a very expensive entity to begin with in terms of wholesale price. We need to know. We need to hear more on this and on the price comparison with other countries. I know not all things are the same because there could be a city that has the same population as lives on this island.

Mr. Mark Griffin: Yes.

Deputy Catherine Murphy: I understand that but it should still be possible to get a comparator.

The State does not have a stake in Enet. It is the Irish Infrastructure Fund, IIF, that has the stake.

Mr. Mark Griffin: I understand the Irish Strategic Infrastructure Fund, ISIF, is one of the investors, with IIF and others.

Deputy Catherine Murphy: It is not-----

Mr. Mark Griffin: It is a wing of the NTMA. It has a pot of money and it invests in communications and energy.

Deputy Catherine Murphy: We are probably wandering.

Chairman: We should be able to get that information. We will write to the NTMA and ISIF for its shareholding and cost. The NTMA has investments in all sorts of industries and appendices of all of its investments at the back of its book every year.

Mr. Mark Griffin: Yes.

Chairman: It removed its tobacco, munitions and non-ethical investments recently. It publishes a list. It is a very simple point with regard to ISIF.

Mr. Seamus McCarthy: It may be just as easy as getting its annual report as it contains a lot of details.

Chairman: It might even be in it. We will ask the secretariat to make immediate contact with ISIF for this information. We hear something is State backed but we have no idea whether that is a 1% shareholding or a 31% shareholding and I would love to know.

Deputy Catherine Murphy: It is a happy coincidence for Granahan McCourt that it got an extension on its concession contracts to 2030 when they were to expire in 2019 and then it sold

three months later. The State could be at a loss if there is a significant holding from the IIF as opposed to private investors.

Was a counter-factual analysis done or embedded in the cost-benefit analysis for the national broadband plan?

Mr. Mark Griffin: Yes, to the best of my knowledge.

Deputy Catherine Murphy: A figure, for example, €500 million, is used in the cost-benefit analysis, including to see whether doing nothing is an option.

Mr. Mark Griffin: Yes.

Deputy Catherine Murphy: What if it is multiples of the €500 million? What happens to the cost-benefit analysis? Let us not even talk about this contract. What happens in a scenario where it is multiples of the cost-benefit analysis? Is it repeated in advance of a contract?

Mr. Mark Griffin: I will not say anything about price but I can say the cost-benefit analysis has been updated on a number of occasions to take account of changing circumstances.

Deputy Catherine Murphy: Including the counterfactual aspect?

Mr. Mark Griffin: The full cost-benefit analysis was updated.

Deputy Catherine Murphy: Will we see it in any of the documents?

Mr. Mark Griffin: I do not see any reason it could not be published as part of the suite of documents we propose to publish after the preferred bidder stage.

Deputy Catherine Murphy: That will be after the cheque and contract are signed.

Mr. Mark Griffin: Not the cheque. It will be after the preferred bidder stage and before the contract.

Deputy Catherine Murphy: In December 2016, the former Minister told the Dáil that as Minister he was threatened with legal action on two or three occasions with regard to the national broadband plan. Is there anything current with regard to legal action?

Mr. Mark Griffin: No.

Deputy Catherine Murphy: Nothing materialised on that.

I will now move on to waste and Drehid. If we are looking at the EPA and waste being dealt with on a national basis, people could be in a very unfortunate position geographically if they happen to be in the area where the dump will be.

Mr. Mark Griffin: The possessor of the landfill.

Deputy Catherine Murphy: Or the incinerator that needs to process a certain quantity or it will be paid a State subsidy to make up the difference. There are huge implications. Any day of the week I could go to Sallins and stand on the bridge and watch trucks coming from Kerry and Cork where they collected the rubbish in the morning before driving to Kildare and dumping the rubbish in Drehed. It is not a terribly good way to design a waste policy.

Mr. Mark Griffin: It is not ideal. One of the principles of environmental policy is the prox-

imity principle, which means treating environmental degradation as close as possible to where it arises. It probably forces the argument more in the direction of a regional-based approach with appropriate capacity in the various regions.

Deputy Catherine Murphy: If the Department is looking at repeating the regional plans I presume it will insist on this.

Mr. Mark Griffin: I have had two very good stakeholder inputs during the course of today's session.

Deputy Catherine Murphy: Kerdiffstown is not on the list. This is the site that went on fire in Kildare and cost €20 million to remediate.

Mr. Mark Griffin: We continue to spend money on the remediation of Kerdiffstown.

Deputy Catherine Murphy: It is not closed.

Mr. Mark Griffin: Absolutely not.

Deputy Catherine Murphy: How much is left to do?

Mr. Mark Griffin: We spent €3.7 million but I do not know whether this is the figure for 2017 on its own. We spent €3.7 million in 2017 and an estimated €3.7 million again in 2018. We continue to invest in it. It remains one of the top priority sites for the State.

Deputy Catherine Murphy: Is the Department likely to get any of this back from the operator that built this mountain without anyone intervening?

Mr. Mark Griffin: In this case the proceedings are ongoing. In all of these cases where it makes sense financially we will pursue the individual or organisation that has caused the waste and environmental degradation in the area.

Deputy Catherine Connolly: I will begin with broadband. Mr. Peter Smyth was part of the process the whole way along prior to doing the independent review. What was his title?

Mr. Mark Griffin: He was the process auditor.

Deputy Catherine Connolly: He was very much there the whole way through the project.

Mr. Mark Griffin: He saw the management of the process the whole way through.

Deputy Catherine Connolly: I just wanted to clarify that. The contract is for design, build, operate, maintain and own.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: We are giving a subsidy towards it but we do not know how much that is yet.

Mr. Mark Griffin: It is a gap funded model. The subsidy will emerge from the-----

Deputy Catherine Connolly: I understand that. I could pick a figure out of the sky but I will not do so and Mr. Griffin will not tell me at this point. We will hand over quite a substantial amount of money for the consortium to own it.

Mr. Mark Griffin: Over a 25 year period.

Deputy Catherine Connolly: The 25-year with an option to renew for ten years-----

Mr. Mark Griffin: Does the Deputy wish to elaborate?

Deputy Catherine Connolly: He then said to buy back, give back or revert back to the State. Would that be for no money, as the schools are handed back after 25-----

Mr. Ciarán Ó hÓbáin: That is why I said it is difficult without-----

Deputy Catherine Connolly: No. Do not-----

Mr. Ciarán Ó hÓbáin: No, at a cost-----

Deputy Catherine Connolly: I am not asking for details even though I do not accept the officials cannot give them. I understand what they are telling me.

Mr. Ciarán Ó hÓbáin: There can be - would be - a cost.

Deputy Catherine Connolly: There will be a cost.

Mr. Ciarán Ó hÓbáin: There would be a cost.

Deputy Catherine Connolly: Mr. Ó hÓbáin is not able to give us the cost. It is not a bit like a PPP at all; it is a different model. It is what Mr. Griffin called a gap-funded model where we give a substantial amount of money and at the end we buy it back.

Mr. Ciarán Ó hÓbáin: It is not a concession. It is gap funded.

Deputy Catherine Connolly: I ask Mr. Ó hÓbáin to use simple language because I have read so much complex language. Particularly with climate change it has become a whole new language. At the end of the day we know we are not meeting our targets. Similarly here I try to reduce it to its essence. This is an essential service. We will give a substantial subsidy. It will operate for 25 years with an option for another ten and then we get the dubious privilege of buying it back. Is that right?

Chairman: Earlier Mr. Ó hÓbáin said at the end of 25 years if they walk off the pitch, it will be valued and we will buy it back at the value of the product or they can roll it on.

Mr. Mark Griffin: No, what I said was it can revert back and there could be a cost. I cannot go into the detail of the mechanism for that.

Deputy Catherine Connolly: Mr. Griffin can see why it is difficult for the ordinary person listening to that, particularly after spending 2.5 years here, which is a small amount of time compared with the Chair or former members. It seems like a sentence every Thursday. Every Thursday we are faced with something. This is the first time we are looking forward a tiny bit. Mr. Ó hÓbáin can tell me if I am wrong with my interpretation and it is too simplistic. We give a subsidy to this entity to design, build, operate, maintain and own for 25 years with an option to extend for ten years. Built into the contract is that we will buy it back if they do not want to keep going. Am I wrong? Which part of that is wrong?

Mr. Ciarán Ó hÓbáin: As one moves through the contract, there are places in the contract where to protect the fact that at the outset there is so much risk, uncertainty and unknowns, there

are reviews. There are opportunities for the State to actually get a payback from the contract to claw back subsidy. At year 25 if the contract went well and this business is a profitable business, there would actually be a cheque coming back to the State. In circumstances where the business is not deemed to be profitable and they do not take the option of continuing with the business for ten more years and serving people, the business would revert to the State. What I am saying is there could be a cost to that transaction.

Deputy Catherine Connolly: What does Mr. Ó hÓbáin mean in saying it could revert and there could be a cost?

Mr. Ciarán Ó hÓbáin: What I am saying is the State might not want to take it back.

Deputy Catherine Connolly: I see. There is provision for it to revert back but at a cost.

Mr. Ciarán Ó hÓbáin: If this goes really well, if the take up is very good, if this is a very profitable business, then the State would be getting money back over the life - in the second half in particular - of the contract. At year 25, there will be a checkpoint there where the State would fall to receive a cheque if it goes very well.

Deputy Catherine Connolly: At that point, is it?

Mr. Ciarán Ó hÓbáin: There would be a cheque coming to the State if it went well. If it went badly, there could be a business available there for the State to take back. In the event that the State took that option to take it back, there could be a cost involved in that.

Deputy Catherine Connolly: When does the first payment become available? Is it at the 25 years?

Mr. Ciarán Ó hÓbáin: No, there are earlier points. What one would really like-----

Chairman: There is no need to give it by year but Mr. Ó hÓbáin could set it out generally.

Mr. Ciarán Ó hÓbáin: There are a number of checkpoints through the course of the contract where the economics of this are tested because we do not want to get to a point in the contract - we discussed earlier what happens if one is in dispute - where we find this is actually not working and the bidder is failing to deliver and to fix it. There are checkpoints the whole way along in terms of payments, payments being withheld, financial penalties and controls. That is on the downside. On the upside, there are checks in there and they happen every number of years as one moves into the contract to the point where it could be profitable. There is an exercise carried out and the State could be due a payback of subsidy already paid if it turns out this is more profitable than the bid anticipates it to be. Both sides are protected.

Deputy Catherine Connolly: How many poles will be built?

Mr. Ciarán Ó hÓbáin: My understanding is that the network will be using approximately 1.2 million poles belonging to the Eir network and may build somewhere in the region of 200,000 additional poles. That will obviously depend, when one gets down to the local deployment.

Deputy Catherine Connolly: That is okay. Roughly 1.2 million are available subject to negotiation with Eir.

Mr. Ciarán Ó hÓbáin: One would rent.

Deputy Catherine Connolly: It is subject to negotiation with it. There would then be up to 200,000 new poles.

Mr. Ciarán Ó hÓbáin: Additional poles, yes.

Deputy Catherine Connolly: KPMG was mentioned. What was the process for selecting KPMG?

Mr. Mark Griffin: Public procurement. All the four main consultants were by public procurement.

Deputy Catherine Connolly: I am not sure if the landfill question was dealt with when I stepped out. I thank the officials for the information. However, it is not the total information; it is only the information on certain landfill sites that have been classified.

Mr. Mark Griffin: It is only 22 of the 71 category A sites.

Deputy Catherine Connolly: These 71 category A sites are the high-risk ones.

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: How many other sites are involved?

Mr. Mark Griffin: From memory I think in the regional waste management plans - we referred to this last year - there are about 500 in total. They are category B and C. I suspect a lot of recategorisations may emerge as the more detailed evaluation is done.

Deputy Catherine Connolly: We have been left with a legacy of 71 serious landfill sites at category A and another 500 at category B and C.

Mr. Mark Griffin: Yes. They are a mix of private and municipal.

Deputy Catherine Connolly: Are the vast majority of them municipal?

Mr. Mark Griffin: I believe so. Yes.

Deputy Catherine Connolly: I have one last question on recycling. I am boring myself in saying this. In Galway we have come full circle. I hear the Department is looking at the ambassador scheme which was not fully drawn down. When I look at that, it is difficult not to despair. We had a pilot recycling scheme in Galway and achieved 70%. If the Department of Communications, Climate Action and Environment were to learn anything, it might look at what Galway achieved against the engineers' advice and that of others. They told us 45%. There were definitely serious questions about where it was going. However, it showed that people wanted to recycle and they led the way. The official response was to privatise.

I am reading about an ambassador scheme that is struggling. Nobody is drawing down the funding. The local authority had an education liaison officer who worked with the people. All of this was there. Here we are in 2018, certainly 15 or 16 years later and the officials are telling us about recycling when we already did it. A public composting facility was sold off or leased off. I will not dwell on it, but it is difficult to listen to, especially when the people have led us and shown us what was possible. If the Department was in any way wise it might go back and look at what happened then.

My final question is on the geological survey to map the country. I forget what it is called.

Mr. Mark Griffin: Tellus.

Deputy Catherine Connolly: It is very good. The country has been mapped giving full information on rock formation, soil, mining and what is there. Has that been made available to private companies?

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: Is that at a cost?

Mr. Mark Griffin: I do not believe so.

Mr. Michael Manley: The Government made a decision many years ago that all Geological Survey Ireland information such as Tellus is made available for free.

Deputy Catherine Connolly: What is the cost of us doing that? What is the cost of Tellus and the mapping exercise?

Mr. Mark Griffin: The Tellus programme will involve spending of €3 million a year.

Mr. Michael Manley: I think it started from 2011.

Mr. Mark Griffin: I think it is a ten-year programme.

Mr. Michael Manley: It started out in the six Southern Border counties and the Government has progressively expanded it to include other blocks of counties throughout the country.

Deputy Catherine Connolly: We have very significant information, gathered at the cost of very significant public funds, which we make available to private for-profit companies.

Mr. Michael Manley: It is available to everybody.

Deputy Catherine Connolly: For nothing.

Mr. Michael Manley: Yes.

Mr. Mark Griffin: It goes to research companies and everybody else. If private companies use it to engage in an exploration programme, we will get some of the income back through fees and so on.

Deputy David Cullinane: I wish to come back to the broadband issue and the tendering process. The Chairman took a lot of time and asked many questions that I was going to ask. Some of the responses were helpful. I had a copy of the KPMG analysis which I imagine informed the decision to go with the gap funding model. Was it KPMG alone who undertook it or were there other analyses undertaken? Were there other considerations that led the Department to adopt the model?

Mr. Mark Griffin: No. We did our own work internally. We did not take the report as a given as a range of options were put on the table. There was a gap funded concession agreement and variations within it. I cannot recall the full details of the report, but we undertook our own internal analysis.

Deputy David Cullinane: Does Mr. Griffin have this analysis in document form? In other words, were people asked to do a job of work, at the end of which there was a report?

Mr. Mark Griffin: We took it as an input and teased out various issues. It would have been submitted up the line in due course for consideration and a Government decision.

Deputy David Cullinane: There is documentation that went to the Minister.

Mr. Mark Griffin: Yes.

Deputy David Cullinane: Can that documentation be forwarded to the committee?

Mr. Mark Griffin: Probably in due course.

Deputy David Cullinane: But not at the moment.

Mr. Mark Griffin: Let me see what is there and what we can make available.

Deputy David Cullinane: When was the KPMG report produced?

Mr. Mark Griffin: I cannot recall.

Deputy David Cullinane: What year would it have been produced?

Mr. Mark Griffin: It would have been produced prior to the decision of the Government in 2016 on the model to progress the project.

Deputy David Cullinane: That is what I thought. We have, with the Comptroller and Auditor General, looked at procurement or tendering processes in lots of areas, whether they involved a Department or a board, and best practice is always where decision makers have all of the information at their disposal.

Mr. Mark Griffin: Yes.

Deputy David Cullinane: All of the options are on the table and as much analysis as possible is undertaken. Then people make a decision. That was done in, or even prior to, 2016, but if KPMG was to produce its report now, would it come up with the same answer?

Mr. Mark Griffin: We completed a project reappraisal in March this year, subsequent to Eir withdrawing in what was a single bidder process. It re-examined the analysis KPMG had undertaken and came down in favour of a view of how we needed to progress.

Deputy David Cullinane: Was this before or after the 300,000 households were taken out?

Mr. Mark Griffin: It was after it and after Eir had withdrawn.

Deputy David Cullinane: Section 8 of the KPMG report includes a summary of preferred ownership options. Option 1 is private sector build, finance, own, operate with obligations, which is the option the Department went for. Is that right?

Mr. Mark Griffin: There was a suite of options, but it sounds quite close.

Deputy David Cullinane: Of the options I looked at, this seemed to be the one that was taken. It then looks at the advantages, the disadvantages and the risks. Among the advantages was that it would provide contractual, financial and commercial incentives for the private sector to perform to standards. It states that it would maximise the use of the private sector, thereby increasing competition and reducing the level of public subsidy required. Given that we are down to one bidder, it has not really increased the level of competition, has it?

Mr. Mark Griffin: The 2015 document was prepared in a particular set of circumstances. With KPMG, we redid the analysis in March 2018 having regard to the fact that two bidders had dropped out and that the Eir 300k no longer-----

Deputy David Cullinane: Who undertook the appraisal?

Mr. Mark Griffin: KPMG and we evaluated it.

Deputy David Cullinane: If KPMG appraised a document it produced, is it likely to state it got it wrong?

Mr. Mark Griffin: No. That is not the way it operates. We press it very hard on this issue.

Deputy David Cullinane: It states one of the advantages is that it would increase competition in the private sector and reduce costs. As that did not happen, I do not know how Mr. Griffin can then say it was the best option.

Mr. Mark Griffin: The analysis was reviewed in March 2018.

Deputy David Cullinane: By the same company that undertook the initial one.

Mr. Mark Griffin: We do not take what is provided for us at face value, but undertake our own analysis. We have good people working in the Department on this issue. The reviewed document was queried and interrogated-----

Deputy David Cullinane: It is two and a half years later and we still do not have any contract signed. Therefore, we have to make a decision on whether the good people about whom Mr. Griffin spoke - I am sure they are good people - arrived at the right decision. In my opening remarks I said there was a perception that the entire project had become a bit of a mess. That is the backdrop to this conversation. We are looking at the different ownership, funding and contractual options, at which KPMG looked, one of which was the private sector build, finance, own, operate with obligations option. The advantages were clearly stated as being that this option would reduce costs through increased competition. Two and a half years later, however, we have ended up with a process in which there is one bidder left. That does not chime with the advantages set out for the option. Will Mr. Griffin at least acknowledge that that is the case? We have not ended up with more bidders and competition.

Mr. Mark Griffin: The Deputy is focusing on one of about ten bullet points. In the other eight or nine there is a string of advantages not related to the one quoted by the Deputy. Circumstances change during the course of a procurement process, some of which are outside our control. At all stages we re-evaluated where we were at and what the implications of a change in circumstances would be for the contract. The stocktaking process led to decisions being taken and we are now in a position to finalise the procurement process. Whatever will emerge will go to the Minister and the Government which will make the necessary decisions in the interests of the taxpayer, in both urban and rural Ireland.

Deputy David Cullinane: There is a tendering process with one bidder left. I take it Mr. Griffin cannot give us the cost at this point in time. When will we know what the estimated liability for the State will be? Let us imagine that at some point next year a contract will be assigned-----

Mr. Mark Griffin: There will be a subsidy cost. Mr. Ó hÓbáin referred to it.

Deputy David Cullinane: Mr. Ó hÓbáin spoke earlier in some detail about the nature of the contract, which I will get to in a second. The witnesses might not be in a position to tell us the cost now. There have been several newspaper articles, such as the one in The Irish Times, which estimated the cost at between €1.5 billion and €3 billion. It could be less or it could be more; we do not know. The witnesses are not going to comment on it. At what point, as taxpayers, will we know how much the State liability is? Can we be told when the contracts are signed?

Mr. Ciarán Ó hÓbáin: What I would expect is that at preferred bidder stage significant information would be available on the potential cost of the national broadband plan contract.

Deputy David Cullinane: So we will know then. I have just one more question. It says on the screen under disadvantages that the State will receive no stake in the ownership of the infrastructure at the end of the contract, despite having contributed significant sums of money towards its construction. Mr. Ó hÓbáin dealt with this earlier. The second last speaker talked about what would happen after the 25 or 30 years. Could the successful bidder sell on the infrastructure? Is it hardware?

Mr. Ciarán Ó hÓbáin: The party that enters into a contract would have a duty to deliver on all of the requirements of the contract. It will be a company that will own that contract so the company-----

Deputy David Cullinane: Could Mr. Ó hÓbáin stop for one second? Perhaps I am wrong in my analysis of the advantages and disadvantages but it is stated that the State will receive no stake in the ownership of the infrastructure at the end of the contract. Is that the case with this contract?

Mr. Ciarán Ó hÓbáin: I was trying to answer Deputy Cullinane's question to be as fair and open as I can and to give him information. In a gap-funded model, the norm and the expectation would be that the State would never own the business or the assets held by that business. What I outlined earlier is that there are circumstances in this case where protections are built into the contract to deal with scenarios where there would be-----

Deputy David Cullinane: Let us just say that everything works out and the contract is up in 25 years. Is it the company then that owns the infrastructure, and at that point can it sell it?

Mr. Ciarán Ó hÓbáin: It can sell the business, and whoever owns the business has the same duty under the contract as the person that signs it on day one, so the contract would flow.

Deputy David Cullinane: We spoke earlier about the metropolitan area networks, MANs, contracts and the options that were on the table to extend or retender. I think extend was the chosen option. What happens in this situation? Would there be a possibility at any point to renegotiate or retender the contract in terms of costs, given that there is only one bidder who would potentially have the State over a barrel in that respect? If that is the case, is there a risk to the State given that we have only one bidder in the race?

Mr. Ciarán Ó hÓbáin: The contract means that one is signing up to the conditions for 25 years, so it is not a question of revisiting it during the period. Significant protections are built into the contract and those protections are needed whether there are one, two or three bidders in play at this point in time. They are obviously of greater importance now in order to give confidence to the public in terms of a single bidder situation. There is oversight in terms of the spend and there is clawback both in terms of the expenditure part of the programme and if this

is a profitable business.

Deputy David Cullinane: I am asking if there is any possibility that at some point over the 25 years the company could try to renegotiate elements of the contract.

Mr. Ciarán Ó hÓbáin: The contract is written on the basis that the subsidy that is sought on day one is the subsidy to which one is entitled. If the bidder came looking for additional subsidy the State would have rights to take back the business. It is very much set on the basis of a 25 year contract being entered into and at the outset one sets down the maximum cost to the State for the contract. As one moves through it, there are protections for the State to ensure there is clawback to the State in appropriate circumstances.

Deputy David Cullinane: Mr. Ó hÓbáin gave a glimpse earlier of the considerable detail of the contracts. He referred to technical solutions, updating technology, payment milestones, clawback mechanisms, oversight and importantly he said the contract itself could act as a form of regulation; that in effect it would be almost like a regulator. Could he explain that to me again?

Mr. Ciarán Ó hÓbáin: On the last point, we would see the contract as being similar to very strong regulation because it stipulates in great detail what has to be done and how the network will be managed going forward, and the provisions around people being connected to it, timescales and quality of service. It is written in a way to give the State confidence that the citizens of rural Ireland who will be depending on this network will have a quality high-speed broadband service into the future, that it will be comparable to the type of service that will be available in any other part of Ireland, especially in major urban areas and that the level of service in terms of how quickly they get connected, downtime and other such issues would be similar also. It is written in a very heavy-handed way because this party effectively will be operating for many years, or potentially forever, the only high-speed broadband network for many of the areas.

Deputy David Cullinane: At what point would Mr. Griffin, as an Accounting Officer, come before the Committee of Public Accounts and perhaps answer more detailed questions as to the full extent of the contract? The Chairman put the question earlier. We have asked for the contracts before and it is unlikely that we will ever get a copy of the contract although perhaps we will sometime in the future. At what point will Mr. Griffin be able to come and answer some of the deeper questions we have in relation to the contractual obligations to which the State has signed up?

Mr. Mark Griffin: That will depend on the timing of decisions being taken by the Minister and the Government, but I would be happy to schedule a time with the secretariat that works, depending on the evolution of the process. We can go through this in a lot more detail. I understand the frustration of Deputies at our inability to communicate more fully on what are very important issues.

Deputy David Cullinane: It would be useful for us because, given what a previous speaker said, what we have tended to do in lots of these areas is to look back. Here is probably one of the first opportunities we have had to look at a project of this scale. How many other contracts based on a gap-funding model has the Department overseen in the past?

Mr. Mark Griffin: The national broadband scheme was one, back in 2008.

Deputy David Cullinane: Did the Department get learnings from it?

Mr. Mark Griffin: Absolutely. In fact, we had a session with the people who led on the national broadband scheme very early on when were engaging on this process.

Deputy David Cullinane: I do not believe everything I read in the newspapers, but that is the reason the witnesses are here to put the stories to the test to see if they are true. On 9 November, The Irish Times quotes the overall cost of the national broadband plan as being somewhere between €1.5 billion and €3 billion. Mr. Griffin is not going to respond to that. It stated the uptake for Eir's fibre-to-home initiative was only 28,000 out of a total of 200,000 homes. Is that the case?

Mr. Mark Griffin: No, it is not.

Deputy David Cullinane: What is the figure?

Mr. Mark Griffin: The figure is about 40,000 on something like 211,000 premises. From Eir's perspective it was-----

Deputy David Cullinane: Is it about 20%.

Mr. Mark Griffin: Eir commented itself on the media reports and said that was the general ballpark it expected to be in, and it would see that as quite a good level of take-up, given that there is a lag time between premises passed and premises connected. That is just the nature of it. As Mr. Ó hÓbáin said earlier, we see the retail providers being far more active in that space in recent months so we would expect it to pick up again.

Deputy David Cullinane: As the target is 20% for Eir's fibre to the home initiative, what is the uptake target in the national broadband plan?

Mr. Ciarán Ó hÓbáin: That is not Eir's target.

Mr. Mark Griffin: Yes, and it is a fair point. That is not Eir's target. That is the target as of now.

Deputy David Cullinane: Yes. I am not saying that target is real. Based on the 20% uptake, which seems quite low, what are the uptake targets in the national broadband plan? Earlier there was a conversation on total cost, the uptake and how much broadband would cost per household. What uptake target is envisaged by the Department?

Mr. Ciarán Ó hÓbáin: Both the Department and the bidder would have their models. I will not give a number but it is very significantly above that, which is what one would expect. We are building infrastructure to be in play for five, ten and 25 years from now. People will be slow to come on it who may have a level of service that they are happy with. It is very, very significantly above 20%.

Deputy David Cullinane: I thank the witnesses for their responses. I appreciate the reasons Mr. Griffin cannot give us all of the information that we seek. We all appreciate that. This discussion has been a useful exercise. I thank him for giving a commitment to come back here again and, hopefully, he will be in a position to give us more information.

I want to now ask questions about RTÉ. I am not sure whether the Secretary General was here on the last occasion we had a discussion on the service level agreement, or the lack of one.

Mr. Mark Griffin: I was.

Deputy David Cullinane: We had the pleasure of RTÉ's company as well.

Mr. Mark Griffin: That is right.

Deputy David Cullinane: We got responses from them. Earlier questions were asked about RTÉ and Spectrum.

Mr. Mark Griffin: Yes.

Deputy David Cullinane: Was the cost €8 million?

Mr. Mark Griffin: Yes.

Deputy David Cullinane: I did not hear the answer as I had to step outside of the meeting room to take a call.

Mr. Mark Griffin: Spectrum is what provides mobile phone or broadcasting services or, indeed, the services that are required by the emergency services. There is a commitment, at EU level, to migrate broadcasting services from what they call the 700 MHz band. That requires a capital investment by RTÉ. The 700 MHz band is particularly useful for wireless mobile broadband services. RTÉ is migrating its infrastructure and that comes at a cost of €8 million. We are providing that once-off cost, with the service level agreement, SLA, in place and all of that.

Deputy David Cullinane: Very good. The Department does not have a service level agreement with RTÉ but it has something else.

Mr. Mark Griffin: We do.

Deputy David Cullinane: What is it called?

Mr. Mark Griffin: Since we spoke last, we have an oversight agreement in place. An oversight agreement, under the code of practice for the governance of State bodies, is effectively what they recommend where you have an agency that is either independent - so we have them in place for our three regulators, the Commission for Energy Regulation, Commission for Communications Regulation, ComReg, and Broadcasting Authority of Ireland, BAI - or where there are very clear performance requirements set out in legislation. That is why we have an oversight agreement in place for RTÉ rather than an SLA. As we mentioned last year, they are also subject to regulatory review by the Broadcasting Authority of Ireland. That oversight agreement, after the committee helpfully brought it to my attention last year, has been in place with RTÉ since the end of 2017.

Deputy David Cullinane: Can we record that as a win for the Committee of Public Accounts?

Mr. Mark Griffin: Yes.

Deputy David Cullinane: We do not get too many.

Chairman: I still did not get my proposal of a plus one channel for RTÉ 2 accepted yet.

Mr. Mark Griffin: It is coming.

Deputy David Cullinane: RTÉ would want to provide that.

Mr. Mark Griffin: It is coming.

Chairman: Is the channel on its way? When will we get to ring the bell?

Deputy David Cullinane: I want to ask a question on an issue that we have queried with RTÉ. We dealt with the matter when we discussed correspondence this morning before the witnesses were invited in to the meeting. I refer to the Eversheds report on the possibility of bogus self-employment practices within RTÉ and the fact that 128 contracts have been reviewed. Is the Secretary General aware of the matter?

Mr. Mark Griffin: The Deputy mentioned it at the committee last year and colleagues were in attendance when the Deputy raised it with RTÉ.

Deputy David Cullinane: I raised the matter because RTÉ receives about 45% of its funding from the Department.

Mr. Mark Griffin: Yes.

Deputy David Cullinane: We had the Secretary General of the Department of Social Protection before the committee and he, helpfully, reminded me that bogus self-employment is illegal. At what point did the Department of Communications, Climate Action and Environment or has the Department ever become aware about the potential for illegal or bogus self-employment contracts in RTÉ?

Mr. Mark Griffin: Let me put it this way. I would expect that RTÉ, in terms of the management of its contractual arrangements with the various people who are employed on whatever terms within the organisation, would carry that out effectively and with the appropriate level of diligence. I understand that a considerable amount of work has been done through the Eversheds process. They are not there yet and I am not sure when they expect to be finished.

Deputy David Cullinane: When one has either service level or oversight agreements in place then one must make sure that there is a level of oversight above the organisation, and in this case, it is RTÉ. Given that we had a report, which identified that there may be a problem, and given that we know that it is illegal to operate bogus self-employment, there would be an obligation on Accounting Officers and people who have responsibility for governance to, at the very least, report that to Revenue. Has the Department of Communications, Climate Action and Environment ever reported RTÉ to Revenue, because we do not know how many as all of the contracts have to be worked through, the potential of bogus self-employment contracts?

Mr. Mark Griffin: I do not believe we have, no.

Deputy David Cullinane: Why not? I was taken to task by the Secretary General of the other Department who said that it was illegal, and if any official was aware of bogus self-employment then he or she would be obliged to report as it is an illegal practice.

Mr. Mark Griffin: Yes. Has it been established?

Deputy David Cullinane: Has the Department of Communications, Climate Action and Environment sought to establish that?

Mr. Mark Griffin: I think there is a process ongoing where this is being examined and I think I would wait to see the outcome of that process before-----

Deputy David Cullinane: There has been an outcome as Eversheds has produced a report. I am trying to establish what kind of relationship exists between the Department of Communi-

cations, Climate Action and Environment, and RTÉ in terms of this matter. Mr. Griffin seems to be saying that it is up to RTÉ to deal with the matter and he does not envisage his Department playing a role, which might be the case.

Mr. Mark Griffin: Yes.

Deputy David Cullinane: That is fair enough. I am unsatisfied with the responses made by RTÉ and we will go back to it again. RTÉ was to meet all of the workers affected by this matter. Some of the workers have contacted me, and perhaps they have contacted other members of the committee. If bogus self-employment is an illegal practice then it is illegal. As to the question of whether that has been established or not, we cannot simply say that it is for RTÉ to decide when RTÉ has received a substantial amount of taxpayers' money. If the Secretary General writes the cheque that gives a substantial amount of funding to RTÉ and oversight agreements are in place, then what do the oversight agreements cover? Do they exclude practices by human relations or HR?

Mr. Mark Griffin: It covers the performance of its functions under the Act. I ask Ms Leeson to say a small bit more about what the oversight agreement actually covers.

Ms Barbara Leeson: The oversight agreement essentially sets out the relationship between the Department and RTÉ and the governance functions under the Act. As the committee is aware, back in May this issue arose at this committee and RTÉ had the Eversheds report. RTÉ is now engaging in a process ongoing from that report. We expect to get feedback in the new year on that. It is at that point, when we have the full facts in front of us, that we will make a determination.

Deputy David Cullinane: That is fair enough. I shall ask fairer questions. Did the Department seek a copy of that report or was the report given to the Department by RTÉ? Is there a relationship?

Ms Barbara Leeson: There is a relationship. We meet them quarterly. It is on the agenda quarterly and we seek updates on a regular basis. They have committed to coming back to us as soon as that process is concluded, and we will be following up on that.

Deputy David Cullinane: I thank the witnesses for their replies.

Deputy Bobby Aylward: It is late in the evening so I shall ask a few quick questions. As the Secretary General has said, technology is improving and modernising all the time. A few reports have claimed that fibre optic technology might be obsolete in a few years time and we should consider satellite technology, wireless technology or some other technology. Earlier the Secretary General spoke, in response to questions asked by my colleagues, about how much it will cost to roll out the scheme. He mentioned the cost associated with renting 1.1 million poles, the extra cost for the additional 200,000 poles that will need to be erected, plus the cost of wiring all of them. Has he considered whether the technology is future proofed? Will satellite technology be the answer in five years time? Would other technologies be cheaper in five years time?

Mr. Mark Griffin: Every single technology that is deployable has been looked at. Every company that came forward, as part of the procurement process, proposed fibre to the home. Every single member state across the EU which has looked at how to deal with the technology infrastructure deficit in rural parts of their countries has opted for fibre to the home, fixed wireless in some small parts of the overall outlay, and 4G and 5G as complementary technologies.

We have one of the best companies in the world helping us on the technology aspect of this and it is crystal clear that fibre to the home is the solution. Our own regulator, ComReg, last week indicated that 5G could only be a complementary technology to fibre to the home and that fibre to the home provides far greater benefits in terms of speed, scalability and future-proofing.

Deputy Bobby Aylward: As a layman, can I ask whether 5G is provided by satellite?

Mr. Mark Griffin: No, 5G is a new mobile technology. What the Deputy would have on his mobile phone is 4G. The next step up will be 5G.

Deputy Bobby Aylward: I would not understand the technology. I want to ask about the broadband scheme which was already rolled out. I believe Eir got the contract, or most of it. Am I right in that?

Mr. Mark Griffin: Yes.

Deputy Bobby Aylward: That scheme covered lucrative parts. Was it wrong for Eir to then walk away from the roll-out to rural and more costly areas? It took the lucrative part, the cream, and then walked away from the rest. The reason I am asking is that I am leading up to another question, but I would like Mr. Griffin to comment on this question first.

Mr. Mark Griffin: The only circumstances under which the State can intervene is where there is a market failure - when there is no commercial entity prepared to deliver. Eir came forward with a proposition to cover another 300,000 premises itself. Those 300,000 premises would have effectively been withdrawn from the map. Under state aid rules, as there was a binding agreement in place - and we stitched in, very clearly, a specific set of requirements for Eir to meet in terms of the roll-out time, delivery, the number of premises and so on - we had no entitlement to keep the 300,000 on the map. We had absolutely no basis to maintain the number of premises at 800,000 plus. It is unfortunate that Eir walked away after that, because we would have much preferred to have competitive tension in the process right the way through. I outlined Eir's motivations for withdrawing from the process earlier, but that is where we are. Under EU state aid rules, there was no choice available to us.

Deputy Bobby Aylward: That leads me on to the next couple of questions. Most of these are local issues with which I have dealt personally. I have raised the case of a man who lives in County Kilkenny, two or three miles outside New Ross town, before. He has nine children. There are 11 people in the house. He is looking for broadband. He lives in a semi-rural area. There are three houses to either side of his house, left and right. All three on the right have broadband, as do all three on the left, but he cannot get it. Again as a lay person, for the life of me I cannot understand why this man in the middle, only three miles outside of New Ross, cannot get broadband. I have fought two or three elections in the time this has been going on and he still comes out with the same thing every time I go and knock on his door. He is still not getting answers. He is after writing to everyone including ComReg and all of the providers and no one will give him a service. Why?

Mr. Mark Griffin: ComReg will say that it is operating in a fully liberalised market and cannot lean on Eir or anybody else to provide a service to a particular area or particular house.

Deputy Bobby Aylward: This is a house.

Mr. Mark Griffin: I know, but the companies make their own decisions. That conversation has to be with Eir. We have absolutely no power or authority to impose a particular require-

ment in respect of a house which does not form part of the rural broadband scheme, nor does ComReg. That is the real reason we need to deliver the national broadband plan.

Deputy Bobby Aylward: That leads me on to the next question. This week alone I have got three complaints. Eir has this contract. In another area, not far from the one I have mentioned, this week a grandson took over an old house. His grandparents are dead. The house had a phone but it has been cut off for years. The house is down a little lane. This man has done it up and moved back in. It is a bad area for coverage. He wanted a landline and broadband for his business. Eir agreed and put up the poles and everything then, all of a sudden, it told him it would not give him a line in due to its cost analysis. The poles had been put up and it would not give him the wire, even though there was a phone in the house which had been cut off. He then went to ComReg which told him that it had no role to play. Who has a role to play? A contract to roll out the service will be given to Eir - and I could name two other companies but I will not name individual organisations-----

Mr. Mark Griffin: Eir was given a contract to roll out the service to a set of 300,000 premises that it had identified on a map. If those houses are not part of the 300,000 chosen for Eir's rural deployment programme we cannot do anything about it.

Deputy Bobby Aylward: Does it make sense to go to the expense of replacing two poles on this lane or boreen?

Mr. Mark Griffin: Who put up the poles?

Deputy Bobby Aylward: Eir did. Then, after putting up the poles, it said it would not give him a landline connection but it would give him something on the wall. I suppose it is a wire-less connection. He wants a landline connection for broadband and phone because the mobile phone coverage down there is bad. I can understand that. Another businessman in Carlow was on to me. I spoke about him earlier today. He has been on to Eir again. He paid for his broadband, got his service, and now there is something wrong with the service. Three modems have been sent to him and Eir will not come out and fix it for him. Taxpayers paid Eir and gave it this contract and yet it is not fulfilling it.

Mr. Mark Griffin: We did not pay Eir.

Deputy Bobby Aylward: Does ComReg have any role? Does anyone enforce or have oversight of this contract?

Mr. Mark Griffin: Eir is rolling service out to the 300,000 at its own expense. ComReg absolutely has a role in dealing with customer complaints.

Deputy Bobby Aylward: All of these people contacted ComReg and ComReg said it could not force Eir to do anything. That is what the individuals are telling me. They are told that ComReg cannot force Eir to fulfil its contract. Is anyone in charge?

Mr. Mark Griffin: ComReg is in charge in such circumstances.

Deputy Bobby Aylward: Can it put pressure on Eir to fulfil-----

Mr. Mark Griffin: Absolutely. If a complaint is made, ComReg's role is to follow up on it and to deal with it.

Deputy Bobby Aylward: Then I would like to have ComReg before the committee to ask

why it is not enforcing this. I am glad to hear that. I can quote that when I get back to ComReg. I will be doing that in the next two days. I have a last few questions. In respect of greenhouse gas emissions, what is the Department's view on incineration? Some people think it is the way forward for everything, including supplying energy. Does Mr. Griffin have any comment on that?

Mr. Mark Griffin: Incineration is at the peak of the waste hierarchy. It goes reduce, reuse, recycle, recovery and then disposal of the residue. Either landfill or incineration is needed to dispose of the residual municipal solid waste or whatever other waste exists. Our objective is and will be to increase the level of recycling and to reduce the amount going to landfill. The targets coming from the EU are making the obligations much more onerous. The operations at Poolbeg generate approximately 86 MW of energy, which goes onto the national grid. Mr. Manley's team has just completed the first round of allocations through the climate action fund. Part of that involves the development of a district heating system in Poolbeg. The waste heat coming out of Poolbeg will be used to heat homes within the area. It is a more sustainable model than simply burning the waste.

Deputy Bobby Aylward: Why does Mr. Griffin think the general public is so afraid? I know incidents have happened in places but modern technology has improved incineration. Should the Government and the Department be promoting it more?

Mr. Mark Griffin: Whatever about promoting it, what I would say to the public is that the licensing regime operated by the EPA for incinerators, landfills and so on is at the very highest standard. In the case of Poolbeg, for example, there is a piece of technology people can use through their PC or laptop which allows them to instantly check the emissions emanating from the Poolbeg incinerator. The emissions are monitored extremely closely by the company itself, Covanta, and by the EPA.

Deputy Bobby Aylward: I presume its standards are good.

Mr. Mark Griffin: Absolutely. When I was a councillor in my previous life we went around Europe looking at incinerators, which were being proposed at that time for every region.

Mr. Mark Griffin: A trip to Covanta in Poolbeg is well worth a visit. It is an extraordinary piece of infrastructure.

Deputy Bobby Aylward: I wish to refer to an issue I touched on this morning, namely, landfill. Did Mr. Griffin refer to 75 being in category A? There are also categories B and C. Are all category A landfills being monitored for leakage or effluent? Categories B and C are not as serious but who keeps an eye on them. Is it the EPA or the environment section of local authorities?

Mr. Mark Griffin: It is 71. What I will do is ensure the Deputy gets a note on that because I do not want to say who is responsible for the monitoring in landfill sites depending on whether it is category A, B or C.

Deputy Bobby Aylward: I thank all the witnesses for the information.

Chairman: We will come to cybersecurity in a moment. Broadband dominated today. It was said that the gap-funded model was used for the first broadband scheme. Could the witnesses refresh our memory on what scheme that was?

Ms Finola Rossi: The national broadband scheme was a contract delivered in December 2008 for a five-year term to deliver basic, affordable broadband services to rural areas. Much in the same way as the national broadband plan for the country was mapped and it was determined that approximately 240,000 premises had little or no access to basic broadband services. It is almost like a precursor to the national broadband plan. That was a gap-funded model. Three Ireland was the successful bidder on that occasion and it constructed something like 390 masts to deliver a mobile wireless service into these areas. It was a very basic broadband service. The minimum speed at that point was 1.2 Mbps download.

Chairman: What happened at the end of the five years? Did it work out?

Ms Finola Rossi: The infrastructure belonged to Three Ireland. The contract ceased after the 68 month operational period. The infrastructure remained with Three Ireland and it has since used that to roll out 4G across those particular sites.

Chairman: I might ask the Comptroller and Auditor General if any other Department used the gap-funded model on the same basis as we are talking about here where the infrastructure is in the ownership of the contractor as opposed to the State.

Mr. Seamus McCarthy: Not that I am aware of but I would point to the previous broadband scheme as being a similar one. I will reflect on the question and if I can think of anything else I will come back to the committee.

Chairman: Mr. McCarthy can come back to us if he finds anything. What if the contractor goes bust and walks away after two or three years? What is the fall-back for the State? Are there guarantees or bonds from the investors? I know we do not want to think about it but things do happen. We have seen it with Carillion so it is not impossible that something could go wrong.

Mr. Ciarán Ó hÓbáin: I cannot paraphrase what is in the contract because I do not have it with me here, but there is a significant level of protections in the contract to insure against that.

Chairman: Okay, that is fine. Mr. Griffin mentioned he looked at the cost of purchasing Eir's assets. Somebody asked if he looked at buying them back and he said he had a look at the value of them. The assets have changed hands four or five times in recent years. One would find out what the company is worth in a split second if one looked at the market capitalisation.

Mr. Mark Griffin: It might have been Deputy MacSharry who asked if we had looked at buying back Eir. Some very high-level numbers were looked at.

Chairman: Who did the Department get to do that?

Mr. Mark Griffin: We did it ourselves and NewERA possibly took a look.

Chairman: Who were the advisers?

Mr. Mark Griffin: Our own financial advisers.

Chairman: It was an internal desktop exercise.

Mr. Mark Griffin: Yes.

Chairman: Before we deal with cybersecurity, Mr. Griffin sent us a document last night, which we call No. 177A. He asked us not to publish it. It was part of the briefing material.

Mr. Mark Griffin: Is that the four or five pages on MANs and download speeds?

Chairman: Yes.

Mr. Mark Griffin: I asked internally why we were using that watermark. Could I have a look at it again and see what is involved?

Chairman: It is a 13-page document. This morning we decided we would note it and discuss it but not publish it, in deference to Mr. Griffin's request, but we asked him to reconsider it.

Mr. Mark Griffin: Absolutely.

Chairman: Mr. Griffin can come back and let us know, and if there is a particular sentence about a third party he does not want to include we can take that into account.

Mr. Mark Griffin: There is a lot of useful information in it.

Chairman: There is, and we have used it extensively today. It would be nice if we could publish it but we will not do it before Mr. Griffin comes back to us.

Mr. Mark Griffin: We will come back to the committee very quickly on that.

Chairman: Could Mr. Griffin also please send it without the watermark?

Mr. Mark Griffin: Absolutely.

Chairman: I apologise to the witnesses from An Garda Síochána and the Defence Forces. They might have learnt something that might be helpful in the course of cybersecurity here today, especially when it comes to rural broadband and metropolitan area networks.

Deputy Catherine Connolly: Are you risking-----

Chairman: No, but I am trying to make it sound good. Mr. McCarthy has an opening statement on this section, as does Mr. Griffin. There is a specific chapter in the Comptroller and Auditor General's annual report connected with this Department. We thought we would have finished with the discussion of broadband a little earlier and that is why we held off the cybersecurity section to the afternoon but we have strayed over into the time allocated to it. I do not think we will be too long but we want to cover the key points of the report. I invite Mr. McCarthy to make his opening statement.

Mr. Seamus McCarthy: Disruption to critical information infrastructure and networks has been recognised globally as a key strategic risk for all states. Critical systems and infrastructure at risk include those owned and managed by both public and private bodies.

The Department is responsible for the development of cybersecurity policy in Ireland, and for co-ordinating emergency responses to any national-level cybersecurity incidents. The national cybersecurity centre was established within the Department in 2011 to address those responsibilities. The examination was undertaken to review the progress made since the establishment of the centre.

The examination notes that the centre's level of resourcing in its first four years of operation was significantly less than envisaged when the Government was asked to approve the establishment of the centre. The overall cost attributed to cybersecurity functions is not reported separately in the Department's appropriation account. As a result, there is a lack of transparency

around the availability and use of resources.

In 2015, the Department published a national cybersecurity strategy covering the period 2015 to 2017. Not all of the measures in that strategy were achieved. There is no national cybersecurity strategic plan currently in place.

At the time the strategy was published, it was planned that the overarching governance structure of the centre would be a high-level interdepartmental steering group that would oversee its work. The Department stated during the examination that the steering group had not met since the strategy was published in 2015.

In July 2016, the European Union adopted the directive on security of network and information systems with a view to achieving a common high level of cybersecurity within the EU. Transposition of the directive into Irish law was achieved in September 2018. However, a requirement of the directive is to adopt a national strategy that contains elements such as a risk assessment plan, a listing of various stakeholders and a governance framework. In the absence of a strategy, the Department is not meeting its requirements under the directive.

A number of recommendations relating to resourcing, transparency of costs, governance and strategic direction were included in the chapter. All the recommendations were agreed by the Accounting Officer who will be able to give the committee an update on their implementation.

Chairman: Mr. Griffin held over a paragraph of his contribution this morning dealing with cybersecurity.

Mr. Mark Griffin: I am happy to have that put on the record rather than reading through it. Could we publish it as part of his statement?

Chairman: We will publish that as part of the opening statement. It is a short paragraph. Does Deputy Connolly have questions?

Deputy Catherine Connolly: I think I have run out of steam. What jumps out is the under-use of the fund and not enough staffing. The centre is based on the campus in UCD. What is the rent for that?

Mr. Mark Griffin: What I think I will do in the interests of time is allow the head of the national cybersecurity centre deal with a lot of this. He is the man at the coalface. I will try to get a figure for rent. We could speak about resourcing and the level of spend in recent years, where we are at in terms of-----

Deputy Catherine Connolly: Could we start with the rent? Every single group that appears before me is renting. The Department is in a public space in the UCD campus, so I am wondering why there is rent.

Mr. Richard Browne: It is relatively straightforward. We have a licence with UCD rather than a lease, so rather than it being rent, we are paying for the use of the space, given there is an opportunity cost for UCD.

Deputy Catherine Connolly: What is the cost?

Mr. Richard Browne: The cost has not been published but it is probably not commercially sensitive. It is of the order of €70,000 a year.

Mr. Mark Griffin: I will explain why it is being rented. Essentially, it is to have the cybersecurity unit in a self-contained premises. Our headquarters building at Adelaide Road is rented and our lease is up in 2022. We are going into a new building that is being constructed by the OPW for the entirety of the Department. The National Cyber Security Centre, NCSC, will join us at that point in a secure wing of the new building. Insofar as it arises over the next few years, the rental will no longer apply after that. We will get the Deputy a figure for the rent.

Deputy Catherine Connolly: This is good news about a new publicly-owned building. When will that happen?

Mr. Mark Griffin: Our lease is up in 2022. We are in detailed discussions with the OPW at the moment with a view to ensuring a smooth transition. We expect to be out broadly at the same time as the lease ends, which is mid-2022.

Deputy Catherine Connolly: At the moment the Department is paying €70,000 on the UCD campus for a public building.

Mr. Richard Browne: We have facilities in another departmental building as well, so the NCSC is split over two locations.

Deputy Catherine Connolly: Is there more rent for that?

Mr. Richard Browne: No, it is a public building owned by the Department.

Deputy Catherine Connolly: I do not see the necessity to pay rent on a campus. I presume this expertise is going to benefit the third level institution.

Mr. Mark Griffin: We are actually benefitting from its expertise.

Deputy Catherine Connolly: As it should be, given it is paid public funds. The national cybersecurity strategy 2015-2017 is finished. Has it been replaced?

Mr. Richard Browne: No, it has not.

Deputy Catherine Connolly: Why not? Is there a need to replace it? If so, when it will be replaced?

Mr. Richard Browne: It has not been replaced. There is a need to replace it. The work is ongoing.

Deputy Catherine Connolly: When will we have a strategy?

Mr. Richard Browne: The strategy work has been ongoing for about a year and we expect to have a strategy in place early next year. There has been a significant amount of development in the sector, which is very fluid. We have been deeply engaged both in incident response at an operational level and also particularly with regard to work around the network and information systems, NIS, directive, which frames our entire national response to the protection of critical national infrastructure in terms of obviating and dealing with cybersecurity risks. It is also worth pointing out that the Commission on the Future of Policing in Ireland makes a number of recommendations around the future of the NCSC and how that will relate back to the centre. Of course, the outcome of that and the implementation report from that, which will be agreed by Government at some point in the future, will obviously have an impact on the next national cybersecurity strategy. Realistically, we are only now at a natural inclination point where we

can actually make those decisions in any kind of formal way.

Deputy Catherine Connolly: There was a strategy. I presume there was a necessity for the strategy and there is a necessity for another strategy. Why is it not in place? What are the implications of it not being in place?

Mr. Richard Browne: In reality, the implications of it not being in place are very limited.

Deputy Catherine Connolly: Therefore, we do not need a strategy.

Mr. Richard Browne: That is not what I said.

Deputy Catherine Connolly: That is what I said.

Mr. Richard Browne: The 2015 strategy set out a baseline. It established what we needed to do and it was-----

Deputy Catherine Connolly: There was an implementation plan for that strategy and the targets set under that implementation plan were not reached. Is that correct?

Mr. Richard Browne: In most cases, the targets were substantially exceeded. This was done in 2015, four years into the life of the NCSC. At that point, as far as we were concerned, we had achieved enough expertise to make a national strategy. Very quickly after the 2015 piece, we had a series of very serious incidents, including WannaCry and NotPetya in 2017, which fundamentally changed the NCSC's and the global understanding of the cybersecurity sector. We also had the NIS directive, which we signed into law in 2016.

Deputy Catherine Connolly: I have read all that. The centre was set up in 2011. In 2014 it did a national risk assessment and in 2015 it did a strategy. The directive came in 2016 and it took up to September 2018 to implement the directive which was supposed to be implemented by May. This is what I am reading. The point I make is that there was a strategy. The witness said the strategy quickly went out of date but, at the same time, in another part of his response to the Comptroller and Auditor General, he said the NCSC was complying with the thrust of the strategy. One contradicted the other when I read it. The NCSC has a strategy that is out of the date but the witness then goes on to say it is complying with the thrust of the strategy.

Mr. Mark Griffin: The strategy was predicated on an understanding of what would be required in the network and information security directive which was being negotiated at EU level. Those requirements changed and we had to adapt accordingly. The basic questions the Deputy is posing are as follows. Will there be a new strategy? Do we need it and when will we have it? There will be a new strategy. We do need it. We will have it in the first quarter of 2019.

Deputy Catherine Connolly: Will there be an implementation plan?

Mr. Mark Griffin: Absolutely.

Deputy Catherine Connolly: The cost was another point highlighted, in particular the expenditure in regard to the NCSC. The Department has accepted six recommendations in all. When does it expect to be able to publish those figures?

Mr. Mark Griffin: With regard to showing separately the expenditure on cybersecurity, our caution around that is that it would not be typical that one would-----

Deputy Catherine Connolly: I understand the caution. When will the Department be able

to tell us this?

Mr. Mark Griffin: What we have said is that we will look at how this is best presented as part of the 2019 or 2020 Revised Estimates volume.

Deputy Catherine Connolly: We will be able to identify something within those accounts.

Mr. Mark Griffin: We can provide separately to the committee what the expenditure is, and we may already have done that.

Deputy Catherine Connolly: There are specific obligations under the directive in regard to reporting. Will the Department clarify what has to be reported?

Mr. Richard Browne: Is that what we have to report or what entities have to report?

Deputy Catherine Connolly: Either. I understand there is a reporting obligation and Mr. Browne can clarify that for me.

Mr. Richard Browne: There are multiple reporting obligations so this may take a while. Essentially, the directive establishes two separate systems for the security of different types of entities. One of those types of entities relates to operators of essential services, OES, which are critical national infrastructure.

Deputy Catherine Connolly: That would be health and education.

Mr. Richard Browne: It is across seven sectors, including health, education, transport, energy, financial services, banking and Internet infrastructure. For those seven sectors, what we are obliged to do, along with one other national competent authority, is to identify which entities we regard as being important. We then oblige those entities to meet security standards and to report serious incidents to the NCSC. That is the OES, or critical infrastructure, area. The other area is DSPs, or digital service providers. These are limited to three different sectors, namely, cloud computing, online sales platforms - that is, a platform that sells from A to B - and search engines. Those platforms have a different set of requirements. We are not obliged to designate those and, in fact, we cannot designate them. They are obliged to be self-designating and they are designated by definition in the directive and in our regulations. They are obliged to meet a set of security standards, not ours but ones that are set broadly in the EU implementing regulation. They are obliged to report incidents to us and the thresholds for reporting of those incidents are also set in parts 3 and 4 of that same EU implementing regulation.

Those are the requirements laid on those entities. We then have further requirements in terms of reporting to other EU member states and they to us in terms of incidents that are reported to us from both OES and DSPs. If, for example, an OES has operations in multiple member states and it is affected by an incident here that may have implications elsewhere, which could happen in this State given we have cross-border infrastructure in a number of sectors, we are then obliged to report to that other member state any outage or incident in that sector with regard to a specific OES. The same applies for DSPs. If for example, a DSP is based here at the European level and has an outage or incident of a given scale and it reports that incident to us, we are obliged to report to the single points of contact in every other member state which has a population that may be affected by that same incident. Other states have reporting obligations to us and we have reporting obligations to them. We also have reporting obligations to the Commission, as one would expect, in reporting collectively how many incidents we have seen. We have to report to the Commission on how many entities we are likely to designate in

the operators of essential services sector and so on.

Deputy Catherine Connolly: Is that information publicly available?

Mr. Richard Browne: Very little of the information is publicly available, unless we are or feel obliged to do so, given the nature of the incident.

Deputy Catherine Connolly: How many incidents have been reported to the Department and how many has it reported?

Mr. Richard Browne: We have not received any incident report from other member states. No member state has come to us to tell us that it has an incident that affects us. We received one incident report which was subsequently withdrawn because the entity found that it was not an incident. We are in discussions with several more digital services providers on potential incidents which they cannot yet confirm have happened. The issue in this sector is that there can often be a considerable period once a potential incident has been identified before an entity is able to state with certainty that it is actually an incident. The same issue arises in data protection.

Deputy Catherine Connolly: The Department has recruited more staff in the last two years. How many has it recruited and at what level has it recruited?

Mr. Richard Browne: This year and last year we ran two separate competitions each year at two separate grades, cybersecurity responder and cybersecurity specialist. The specialist grade is matched with an existing Civil Service grade and responder-----

Deputy Catherine Connolly: Take it a little slower.

Mr. Richard Browne: I am sorry; I do this a lot.

Deputy Catherine Connolly: I speak quickly myself. It is hard at this time of evening.

Mr. Richard Browne: There were two separate competitions in 2017 and two in 2018, building on previous competitions and general service recruitment. In 2017 we brought in five cybersecurity specialists and eight cybersecurity responders. The first recruits from the 2018 competitions will start to arrive on 18 December. Both competitions are complete and the staff are now joining us. As of today, we are at a figure of 22.

Deputy Catherine Connolly: What is the full complement required?

Mr. Richard Browne: I imagine the full complement is substantially more than that figure. We have sanction for a staffing level in the low 30s.

Deputy Catherine Connolly: Can Mr. Browne do less imagining and tell us what the complement is?

Mr. Richard Browne: Right now it is 22.

Deputy Catherine Connolly: What does Mr. Browne need to run an effective service and carry out his duties?

Mr. Richard Browne: We have sanction for 34 staff, but the network and information systems directive has been in place since 18 September. We have not yet had an elongated period in which to make a determination. Once it has been settled and established for a time, we will have some idea of the workload that is flowing from it and can then make another distinction in

staffing. That will tally nicely with the timing of the new strategy. The next decision on staffing will flow from the next strategy and/or the operational workload since September.

Mr. Mark Griffin: Picking up on the point about the numbers needed to be competent, I meet Mr. Browne and the team regularly and I am satisfied that the service provided by the National Cyber Security Centre, NCSC, even as we stand, is more than competent. We benchmark ourselves against similar-sized, high performing NCSCs within the European Union. We have approached staffing by building capacity, bringing in additional people and making sure they become embedded and fully integrated and understand the work they need to do. We then move on to the next tranche. It is a gradual, incremental increase in the overall cohort required in the NCSC and incident response teams. On quality, the computer security incident response team has international accreditation. We are very pleased-----

Deputy Catherine Connolly: I know that. I have read it. Congratulations on being accredited. I cannot do any better than what it is set out. A review of the resourcing of the National Cyber Security Centre is referred to. Mr. Griffin says he has undertaken a few reviews, but he has agreed to undertake another.

Mr. Mark Griffin: We review our workforce plan every year. It will be part of the work of the management board of the Department in early 2019.

Deputy Catherine Connolly: The overall strategic direction of the National Cyber Security Centre is not clear. There is no strategic plan in place. Not all objectives in the previous strategy were achieved. As a result, there is a recommendation. Mr. Griffin has told us that the strategy will be in place in the first quarter of the new year and that there will be an implementation plan.

The memorandum of understanding with An Garda Síochána remains outstanding. It was envisioned in the national cyber security strategy. What will happen with it?

Mr. Richard Browne: The strategy identified that we needed a memorandum of understanding and service level agreements with two separate entities, the Defence Forces and the Garda. We have an memorandum of understanding and service level agreement in place with the Department of Defence.

Deputy Catherine Connolly: A draft memorandum is missing. Mr. Browne has pointed out that it is missing, but it has not interfered with operations. I appreciate that, but there is a need for a memorandum of understanding, as Mr. Browne has agreed. He has confirmed that it was sent by the Department to An Garda Síochána in 2017. We are at the end of 2018. Where is the memorandum of understanding? When will it be in place?

Mr. Richard Browne: The Garda may wish to comment also. It has seen much internal change in the sector and done a lot of work, including the formal establishment of the Garda National Cyber Crime Bureau. We have been working with the Garda on it and have a very good working relationship.

Deputy Catherine Connolly: I understand and accept that. I have read it. The outstanding question is where is the memorandum of understanding. If there is no need for one, that is okay, but it has been identified as a need and the witnesses have so agreed. When will it be done?

Mr. Michael O'Sullivan: It will be done in line with the new strategy. We took that decision in the middle of 2017 because of the work of the Commission on the Future of Policing.

Cabinet committee F was set up at around that time and we seconded staff to the HSE. We want to learn what can be included in the memorandum of understanding from the secondment. It was decided at the time that we would form the memorandum of understanding in parallel with the new strategy.

Deputy Catherine Connolly: Mr. O’Sullivan communicated that information to the Department.

Mr. Michael O’Sullivan: Yes. It is also in line with decisions that will be made on 18 December on the implementation of the provisions made in the report of the commission.

Deputy Catherine Connolly: The memorandum of understanding will be in place when the strategy comes out in the first quarter.

Mr. Michael O’Sullivan: They should be completed in parallel.

Deputy Catherine Connolly: My last question is about the last recommendation made which I think we have already covered. It relates to what was not covered in the previous strategy, a risk assessment plan, a listing of various stakeholders and a governance framework, which is very important. The witnesses have said there is a governance framework in place in the Department, but the need for one has been highlighted specifically for the centre. Will a risk assessment plan be included in the new strategy?

Mr. Mark Griffin: We have a high level risk register in the Department which-----

Deputy Catherine Connolly: I know that. Will a risk assessment plan, a listing of the various stakeholders and a governance framework be covered in the first quarter of next year?

Mr. Mark Griffin: Yes.

Deputy Catherine Connolly: I thank Mr. Griffin.

Chairman: Will Mr. Ryan tell us what the role of the Department of Defence is?

Mr. James Ryan: The Department of Defence signed a memorandum of understanding with the Department of Communications, Climate Action and Environment in 2016 and an service level agreement in 2017 which provides the opportunity to second two personnel to the National Cyber Security Centre when operational requirements permit.

Chairman: Has the Department seconded those two personnel?

Mr. James Ryan: We have seconded five to date. We do not have any personnel seconded at this stage.

Chairman: Are they from the Department or the Defence Forces?

Mr. James Ryan: The Defence Forces.

Chairman: At what level of the Defence Forces are they?

Mr. James Ryan: There is one officer and one non-commissioned officer.

Chairman: Following the report of the Comptroller and Auditor General, the budget for 2017 was in the order of €2 million. It is included in the chart that has been published. What is the budget for the coming year, 2019? The budget allocations for the National Cyber Security

Centre from 2012 to 2017, inclusive, are included in the chart on page 97 of the report. The budget moved up a lot from 2015 to approximately €2 million. That information was given in response to a parliamentary question tabled for written reply.

Mr. Seamus McCarthy: It is not actually a published figure. One cannot see it in the Estimates or the appropriation account. It is included in one of the subheads.

Chairman: That is fine, but I am asking-----

Mr. Seamus McCarthy: The Chairman is asking about the figure for 2019.

Chairman: Yes. The figure for 2017 was published by way of a parliamentary question and it is in the Comptroller and Auditor General's report. I am aware that it is not separately identified in the Estimate document. That is not my question. What is the projected figure for the security centre for 2019?

Mr. Mark Griffin: It is approximately €1.8 million, not including pay.

Chairman: How does that compare to 2017? Is there much of an increase?

Mr. Mark Griffin: It should be a lower figure.

Chairman: An approximate figure will do.

Mr. Mark Griffin: The capital allocation was marginally less than in 2017, but the pay figure will be higher because of the level of recruitment.

Chairman: During the course of the summer the Department was finalising the report and the recommendations. The Comptroller and Auditor General, in his 2017 report, states that the Department indicated it expects to publish a new national cybersecurity strategy by the end of 2018. This is in writing. It is now nearing the end of 2018.

Mr. Mark Griffin: We have had other things on our mind recently.

Chairman: The Secretary General has been busy with broadband.

I note that there were to be meetings of an interdepartmental high level steering committee involving the national cybersecurity centre, the Department of the Taoiseach, an assistant commissioner from An Garda Síochána, a principal officer in the Department of Justice and Equality, a colonel from the Defence Forces and a counsellor from the Department of Foreign Affairs and Trade. That group does not seem to have met. It is referred to in the Comptroller and Auditor General's report.

Mr. Richard Browne: That is correct. It has not met.

Chairman: What is the function of that interdepartmental committee? Does it have a role or should it be disbanded?

Mr. Richard Browne: One could argue that it has been. This was not in the strategy itself but in the implementation report that was associated with the strategy. It was not actually part of the strategy. It was the steering group that created the strategy to begin with and it had existed since 2011. Its role was not necessarily governance. Its role was oversight around the operations of the NCSC to ensure that the Garda, the Defence Forces and the various different Departments had insight into what was going on and that there was transparency around what

our Department was doing essentially in the security realm. The steering committee was replaced fully in 2017 by committee F and the structures around that committee.

Chairman: This was which committee?

Mr. Richard Browne: The Cabinet committee F on security.

Mr. Mark Griffin: It was the Cabinet committee on security and there is a senior official group that feeds into that at assistant secretary and principal officer level.

Mr. Richard Browne: Exactly. To put this in very simple terms, cybersecurity was being treated as a peripheral issue, something that happened in its own space. In 2017, it became part of the central focus of security in the same way as other organs of the State that deal with security are.

Another aspect to keep in mind is that in the interim we found that having secondees in with us from the Garda and the Defence Forces dealt with oversight issues in a very efficient way on a daily operational level. In addition, bilateral contacts with the An Garda Síochána, the Defence Forces, and the Departments of Defence and Justice and Equality allowed us to have the operational response anyway.

Mr. Mark Griffin: The whole issue of structures-----

Chairman: Who chairs that Cabinet committee? Is it a sub-committee?

Mr. Mark Griffin: The Cabinet committee is chaired by the Taoiseach.

Chairman: Is that chaired by the Taoiseach directly?

Mr. Mark Griffin: Yes.

Chairman: The witnesses will understand that most people are confused by the difference between and operator of an essential service, OES, and a digital service provider, DSP. The Department's notes state that the digital service provider includes cloud computing, online sales and search engines. I assume these are all in the private sector.

Mr. Mark Griffin: They are all in the private sector.

Chairman: On the other hand, quite a few of the operators of essential services might be in the public service.

Mr. Mark Griffin: Quite a few but there are others in the energy sector, for example, that are private sector companies as well. There are also private sector companies in the transport sector. It is a mix of public and private.

Chairman: Mr. Griffin listed some 60 entities as operators of essential services. Is the list published? Is it confidential? That is okay. How many of these entities are digital service providers?

Mr. Richard Browne: As I have said, we cannot designate DSPs, but where we can we have identified 61 or 62 entities that may be DSPs. We have written to them to let them know that they may wish to be aware of their obligations under the directive and under the regulations.

Chairman: With whom do they register to make it known they are a digital service provider?

Mr. Richard Browne: There is no formal requirement or ability for us to do so in the directive or the regulations, but we have offered the DSP community an opportunity to be on our mailing list so they can self-identify and we can contact them. It does not matter, however, if an entity is or is not in contact with us or on our mailing list. We will still police the directive with regard to them. For example, we have a register, or list, of our own of entities we believe to be DSPs. We monitor a number of different methods to check to make sure they have not had an incident.

Chairman: I take it most of those DSPs are, by definition, transnational and operate across Europe and other continents.

Mr. Richard Browne: Generally speaking most EU member states will have a relatively small number of DSPs given the nature of the sector. In our case we have a larger than usual number for our size.

Chairman: That is because of the multinational companies such as Google and so on.

Mr. Richard Browne: There are also some Irish companies that are likely to be DSPs. There are also some companies that are likely to be both a DSP and an OES.

Chairman: I am worried about the reputation of the State. If something happens with one of these companies that are headquartered in Ireland, will people say that cybersecurity was not up to the mark in Ireland? It might be the company's fault if there was a breach of its security system, but if its headquarters are in Ireland, the message can very easily travel the world - within an hour - that there is a problem in Ireland.

Mr. Richard Browne: Precisely. The Chairman said it himself. In the first instance, the responsibility for the security of these companies' systems and data is with them. The companies are responsible for their own systems with regard to the general data protection regulation, GDPR, and network and information security, NIS. Our only responsibility with regard to DSPs particularly is *post hoc* - after the fact. The directive is explicit that we cannot *ex ante* audit or assess anybody. There has to have been an incident. Our role is literally to go in and assess. In the regulations we have given ourselves express powers to do exactly that and to issue notices and compliance notices. We have also given ourselves powers and are in the process of procuring external auditors to conduct audits on our behalf in those companies. We are ready now to do assessments if we need to but we will have consultancy firms on hand very shortly to step in and engage with the companies directly on our behalf.

Chairman: I see in this report that the Minister is the competent authority in respect of the operators of essential services, which we spoke about, and the digital service providers. If there is an issue, there is some political and democratic accountability through the Minister. The document also says, however, that the Central Bank is the designated competent authority in respect of the financial and banking market. Given the importance of the financial sector, is there a representative from the Central Bank on the group? It would be a calamity if one bank, or every bank, went down and nobody could get their money out of the machine.

Mr. Richard Browne: I think this is where the situation gets more complex.

Chairman: I am sorry to introduce more complex issues at this hour of the evening, but we

are nearly there.

Mr. Richard Browne: Me too.

Chairman: We are just about there.

Mr. Richard Browne: The NIS is part of the solution to cybersecurity issues in the State. It gives us formal legal powers and is hugely important. It is not, by any manner or means, the only tool we have in our toolbox.

Chairman: Okay.

Mr. Richard Browne: In multiple different sectors, for example, we have ongoing working relationships with these entities. These are already constituents of ours and we already provide them with support and information on live and ongoing issues. We already work with them in dealing with risks that they see. Across the different sectors we work directly with the existing sector-specific stability or security mechanism. In the finance sector it is the financial stability group, FSG, which is led by the Department of Finance, the Central Bank and the National Treasury Management Agency. We work with them if there is a cybersecurity issue.

Chairman: The Central Bank is the designated authority.

Mr. Richard Browne: That is what I am coming to. With regard to cybersecurity incidents, there is a provision in the directive in article 1.6 around *lex specialis*. I am sorry for the complexity but the Chairman did ask. This means that if there is a sector specific piece of European Union legislation - in this case PSD 2 which is the payment services directive No. 2 - that imposes obligations on entities that are judged to be sufficient or in excess of NIS in this case, the competent authority can deem that the European Union sector-specific legislation applies in respect of those services. In financial services and credit institutions - those two out of seven - is that the Central Bank has designated entities where it has said an entity is now an OES but it has disapplied the security measures. The Central Bank already has PSD 2 in place and implemented, but the incident reporting obligation in NIS applies. Importantly, for the purpose of this conversation, the reporting obligation is to us, not to anybody else. The computer security incident response team, CSIRT, within the National Cyber Security Centre, NCSC, is the focal point for all incident reporting in the State. We receive incident reports from the financial services sector in the same way as we receive them from the aviation sector or the public sector. All those are centralised in the NCSC within the CSIRT in our database of, what we call, bad stuff. It is a collective intelligence framework of malware now seized and we can then act on that as if it were any other sector.

Mr. Mark Griffin: If the committee would like a note on that, we can forward one, as I will probably need a note on it at the end of all that.

Deputy Catherine Connolly: We would need a translation as well as a note.

Chairman: It states in the Comptroller and Auditor General's report that the Department published draft security measures and incident reporting guidelines in 2017 for the groups we mentioned for consultation. It is intended that these will be finalised following transposition of the directive. Has that been done or at what stage of preparation is that?

Mr. Richard Browne: Those guidelines were published-----

Chairman: Last year.

Mr. Richard Browne: -----last year. Prior to that we had identified and written to the 60 operators of essential services, OES, that we thought they would eventually be, so people have had a year to be ready for this. This was done on a non-statutory basis. We were trying to prepare the ground so people had some warning. Since then we have revised those guidelines on the basis of international experience and commentary received in that process. We will be publishing those very shortly for further consultation, as required under regulation 25 of our regulations. The reason they will be published shortly is that they have to be translated into Irish because that is now a statutory requirement.

Chairman: Into Irish?

Mr. Richard Browne: Yes.

Chairman: How many of these multinationals will be reading the Irish version?

Mr. Richard Browne: I am not sure but we are still bound by the-----

Deputy Catherine Connolly: B'fhéidir go bhfuil sé níos éasca iad a thuiscint trí Ghaeilge.

Chairman: The chairperson of the Irish committee is sitting beside me. I am letting myself down badly here.

We mentioned the national call centre earlier. It was stated that 50% of calls to the ambulance service last weekend could identify the exact location of the mobile phone used or, in some cases, the motor vehicles from which the call was made. We will get the details with respect to the motor vehicles in due course. Would the national call centre be listed as an operator of an essential service?

Mr. Richard Browne: The mode of transposition we used was the European Communities Act 1972, which does not allow us go beyond what is in the directive. At the back of the directive, we have a list of entities we can consider an OES and emergency call answering service systems, ECAS, are not included among them. Currently, it is not considered as such. The ECAS is on our list of people with whom we speak.

Chairman: Who is the ECAS?

Mr. Richard Browne: The emergency call answering service. The contract is held by the Department, therefore, we are very familiar with its systems.

Chairman: That is a concern I noted from the discussion this morning. This is an organisation run on a contract basis by the public service. The minute a call is received the service can identify the physical location of the person by way of the mobile phone and in that way it would be possible to identify the location of the entire population. Mr. Browne is advising that this service does not come under the directive. I would consider it to be a breach of cyber security if that information were to fall into the wrong hands in that it would be possible to identify the physical location of everybody in the country just like that.

Mr. Richard Browne: To explain that-----

Chairman: Explain that.

Mr. Seamus McCarthy: It is a data protection issue.

Chairman: I know but data-----

Mr. Richard Browne: I think the Chairman is misreading how the system works and I can speak with respect to both sides of this. The ECAS system works around the automated location system, AML, and around eCall and the data are not shared on an autonomic basis. The ECAS does not always know where everybody is.

Chairman: Continue.

Mr. Richard Browne: The way it works is that when somebody calls ECAS the carrier signal on the GSM, the system the person is using, sends an encoded message - it is encrypted - to the ECAS as part of the call, and that encrypted message includes the GPS co-ordinates in a file hash. When the ECAS gets that file hash it can decrypt what is in that and then it sends that to the relevant emergency service. The ECAS system, under the operator's template, has the GPS co-ordinates and the Eircode, if applicable, and that is then passed to whoever. In some cases people have the facility to utilise that and to give it to the handset in the ambulance as it happens. The Garda and the fire service are slightly further behind but that will happen in respect of those also. The contract for the ECAS takes due diligence from both data protection and the security of the individual's data as handed to them. The ECAS is subject to the GDPR, as are we, so the data protection issues are fully comprehended in the contract also.

Chairman: If there is a cyber security breach in the ECAS they will be able identify the physical location-----

Mr. Richard Browne: No, they cannot.

Chairman: Tell me why they cannot.

Mr. Richard Browne: Because it only passes the data once. It only passes the data to the ECAS when one makes the call. One pushes the button to make a 112 call and it punts that data up to the ECAS, but it is not doing that live.

Chairman: It is not being stored by the ECAS.

Mr. Richard Browne: It stores the location of the call at the time it was made.

Chairman: At the point in time. If the person moves on-----

Mr. Mark Griffin: The person may be taken to hospital.

Mr. Richard Browne: Once the call ends, it is gone.

Chairman: Mr. Browne has answered that question. When we were told this morning the physical location of everybody can be identified by the ECAS through a person's mobile phone. Mr. Browne is saying that is only while the person is in a location and once the call ends, that is over. He will understand my following through on that question.

Mr. Mark Griffin: I do.

Mr. Seamus McCarthy: The security risk would be some kind of an interception that would prevent anybody from contacting the emergency response service.

Chairman: In truth, we were dealing with the chapter on cyber security but, with the day that was in it, the broadband debate required extended time. That is life and we all understand that.

PAC

I thank all the witnesses from the Departments of Communications, Climate Action and Environment, Public Expenditure and Reform and Defence and from the Garda Síochána for their attendance and the material provided. I thank also the Comptroller and Auditor General and his staff. We look forward to receipt of the information in writing about which we spoke in due course.

The meeting is adjourned until Thursday, 13 December, when we will meet with Department of Education and Skills with a representative from the Department of Transport, Tourism and Sport to consider the Comptroller and Auditor General's special report on the provision of school transport.

The committee adjourned at 5.37 p.m. until 9 a.m. on Thursday, 13 December 2018.