

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 21 Feabhra 2019

Thursday, 21 February 2019

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 Jonathan O'Brien,
Deputy David Cullinane,	Deputy Kate O'Connell.
Deputy Alan Kelly,	

DEPUTY SEAN FLEMING IN THE CHAIR.

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

Business of Committee

Chairman: We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness to the committee. He is joined by Ms Mary Henry, deputy director of audit.

We will hold over the minutes of the last meeting until the next meeting as I just have not had time to review them yet, and we will hold over matters arising.

There are three categories of correspondence. The first item concerns Nos. 1996A and 1997 from the Department of Education and Skills, dated 19 February 2019, which provide a briefing document and an opening statement for today's meeting. We will note and publish that. Is that agreed? Agreed.

Correspondence Nos. 1987 and 1995 are from Kildare Wicklow Education and Training Board, dated 15 February and 19 February, and provide a briefing document and an opening statement for today's meeting. We will note and publish these. Is that agreed? Agreed.

Correspondence Nos. 1978A and 1993 from the Irish Council for Social Housing, dated 14 February and 20 February, provide a briefing document and an opening statement for today's meeting. Is it agreed that we will note and publish these? Agreed.

Correspondence Nos. 1979 and 1994 from the approved housing body interim regulatory committee, dated 15 February and 19 February, provide a briefing document and an opening statement. Is it agreed that we will note and publish these? Agreed.

We will move on to the B category of correspondence, which is from Accounting Officers and Ministers, and follow-up to previous meetings of the Committee of Public Accounts. The first item of correspondence is No. 1965 from Mr. Seán Ó Foghlú, Secretary General of the Department of Education and Skills on our meeting with Kildare Wicklow Education and Training Board today. The committee was made aware of this item at last week's meeting and we are formally noting it now. It is important to stress, and we have to be very conscious today when we have the ETB in, that the Thorn report and, I think, the report by the Comptroller and Auditor General have been referred to the Garda Síochána. Mr. Seán Ó Foghlú has made it very clear, and I will read one sentence:

Having regard to the ongoing investigation ... with An Garda Síochána and the Department's legal advice, at the planned meeting, we are in a position to provide the Committee with information and answers on matters in both Dr. Thorn and the C & AG reports, without providing a level of detail which could identify individuals or companies or their activities.

We are not going to compromise a Garda Síochána investigation here today, or any potential legal cases that could go from it. I think we all understand that but I have to just make that point clear. We will note and publish that.

The next correspondence is No. 1966 from Mr. Mark Griffin, Secretary General of the Department of Communications, Climate Action and Environment, providing a copy of the Analysys Mason report on pricing and access arrangements for the metropolitan area network.

We will note that was published the day before the last meeting. We are now noting this copy. We did discuss that particular report the last day so we are noting this. The Department already has published the actual report but we will publish the accompanying letter.

Deputy Catherine Murphy: Given that the publication of that report coincided with a significant reduction in the cost per metre of fibre, had it been published a year ago it would have or is likely to have brought that reduction at that point. We are owed an explanation as to why publication was delayed given that it had that impact. It would be well worthwhile to write back and ask them.

Chairman: We will write back and ask for a detailed explanation of the timing, from the time the report was completed, and the discussions they had with Enet last summer when Enet expected it to be published within weeks, and what was the particular reason for the delay. We want to come back to the broadband issue in our work programme as well.

Deputy Catherine Murphy: Yes.

Chairman: The Deputy is right on that. We are writing back to the Department on that specific issue.

The next item is No. 1968 from the Valuation Office and pertains to the Harold's Cross stadium. The Commissioner of Valuation has made it clear that there was no contact whatsoever with the Department of Agriculture, Food and the Marine during the process of valuing Harold's Cross. We have to accept that. He put it clearly in black and white when he said it would be outside its remit and inappropriate to do so. We will note and publish that.

The next item is No. 1972, which was provided by BT at our meeting last week - it is a copy - where BT refers to the Analysys Mason report. We will publish correspondence No. 1972, which we dealt with last week. As I said, we have already acknowledged that the Analysys Mason report was published by the Department. We will publish it on our website as people will want to follow it through our website.

The next item of correspondence is No. 1973 from the Secretary General of the Department of Agriculture, Food and the Marine stating there were no communications whatsoever between his office, and the Department, and the Valuation Office in relation to the sale of Harold's Cross stadium. We will note and publish this. The Department is saying there was no contact so we have to accept that.

The next item of correspondence is No. 1974 from Mr. Mark Griffin, Secretary General of the Department of Communications, Climate Action and Environment, which provides information on the legislative basis for amending the broadband tender, the decision to extract 300,000 households from the tender and the expert opinion relied on for this. We can note and we will publish this. I want to put that on our work programme as an item we want to deal with. I will make one comment about the letter that he actually sent to us. It is a detailed letter. We asked about the state aid issue. At this point in time we know there is only one tenderer still on the pitch - I will just call it that way - but it had not been formally categorised as the preferred tenderer at this point. We asked about state aid and I will quote from the second paragraph of page 6 of his letter:

A formal State aid notification has not yet been submitted to the EU Commission and a formal decision by the Commission in respect of the notified measure has not, therefore, been made, as this can only be done after preferred bidder stage of the procurement process.

In terms of the broadband issue, which we will come back to because I am putting it on the work programme, the state aid issue, the European Commission has not given its approval yet for this project because they got to see the details of the tender and the preferred bidder, and what is involved. So we are a little bit away, one way or the other. It still has to go to Europe after that stage. We will just park that and publish this because we want to deal with the broadband issue and the work programme in a few minutes.

Deputy Catherine Murphy: There is one further aspect to this on which it would be useful to have clarification and which arose on a number of occasions last week. I refer to the mapping process and the possibility of duplication. I think we can go back to them and ask them just exactly what has been mapped because there are public entities that have fibre like the ESB and Bord Gáis. We need to know if they have been included in the mapping process because after all, it would all be public money. As it is for the avoidance of duplication, that would be helpful.

Chairman: Fine and I thank the Deputy. An attachment came with the letter with the heading, national broadband plan state aid compliance update on the mapping of Eir's rural extension plan, dated 8 March 2017. There is a suggestion that we do not publish this because it is marked privileged and confidential. However, they have redacted sections of the report, produced by PwC, on pages 6, 7 and 8, obviously in relation to matters that could be commercially sensitive. I propose that we double check with them that we can publish the redacted form. We can deal with the redacted issues separately. From my reading of this report, they have obviously redacted the bits that they consider sensitive. We will get clearance to publish the redacted version of that appendix that came with that letter as well.

The next item is correspondence No. 1977 from the HSE, providing a note requested by the committee regarding the involvement of PricewaterhouseCoopers with BAM. The HSE advises that there is a framework in place for the provision of professional services to assist in the programme for health service improvement. The framework provides resourcing and expertise to be drawn down from PwC as required. So we will note and publish this letter. The HSE is saying that as far as it is concerned, there is no accounting. That is its position. We note and publish that.

No. 1980B is from the office of the Secretary General of Department of Finance stating that he is unavailable for a meeting on 7 March 2019. We now have Robert Watt, Secretary General of the Department of Public Expenditure and Reform, coming to that meeting. We will reschedule for the Department of Finance as soon as practicable thereafter. The cancellation suited the other meeting. That is noted and published.

No. 1981B is from the Broadcasting Authority of Ireland. It provides an update to a query raised by the committee on agreeing a contract for the position of chief executive of the authority. The authority advises that a contract has been concluded under terms and conditions approved by the Minister. We will note and publish that. We had a particular query on that.

No. 1983B is from Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform, on his attendance at a Committee of Public Accounts meeting to discuss the oversight and implementation of capital projects. Mr. Watt is making himself available to the committee on 7 March. He has drawn attention to three other invitations from other Oireachtas committees. He has also drawn attention to Standing Order 84(2), an internal Oireachtas Standing Order. Members will be aware of this and should keep it in mind in terms of how we proceed. While we all agree duplication should be avoided, the committee has never relied on Standing Order 84(2).

We should deal with the other letters. Essentially, I want to make one thing clear. We have already discussed - it was noted at our previous meeting - the position when we decided to invite Robert Watt before the committee. We specifically framed the invitation around oversight and implementation of capital projects. We want to know the governance and oversight arrangements. We made no reference to the children's hospital. That would have been specific to the Joint Committee on Health and a different Accounting Officer. It is the case that major capital projects will be asked about on the day he comes in, including broadband, Luas lines, light rail, schools and so on. Our invitation was not specific to the children's hospital. He is coming before the committee to discuss oversight and implementation of capital projects. He has asked our committee to notify the other three committee chairmen of this issue even though they were copied with the correspondence.

At this stage - I appeal to committee members to bear with me - we have received letters from two other committees on this issue. I want to note No. 1990B. It is a copy of a letter from Deputy Colm Brophy, Chairman of the Committee on Budgetary Oversight, to Robert Watt. His letter to us says his committee invitation predated our invitation. I note in that letter of invitation to Robert Watt he discussed twice the issue of health expenditure and the national children's hospital. He was specifically asking about the children's hospital. We did not ask about that. We asked about overall capital project oversight and implementation and governance of capital projects. I can understand that he might not want to talk on a matter that is specific to one Department. That is a matter between him and the Committee on Budgetary Oversight.

There is also a letter on file from Deputy John McGuinness, Chairman of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. He also says in a letter to Mr. Robert Watt dated 19 February that he accepts the prospect of meeting all four committees on different issues or different aspects of the national children's hospital might be regarded as unduly onerous. He accepts there should not be duplication. However, I want to make it clear that we never invited Robert Watt specifically on the national children's hospital. It is not right to suggest that we were asking about the children's hospital.

I propose to notify the other committees that our meeting is going ahead. We note their specific references to the national children's hospital. That is a different issue from what our meeting is about. The purpose of the meeting of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach in particular is different. I imagine Mr. Watt is accountable to that committee. That committee can deal with Mr. Watt in due course.

We will not get into political argy-bargy with other committees but we have letters and we are proceeding. The wording of the invitation from other committees to Mr. Watt is a matter for them. Our invitation is different and he is coming before this committee. Other committees can take it up with Mr. Watt in due course in their manner.

Deputy Catherine Murphy: I remember well the context because I proposed the approach. It was in the context of discussing the national children's hospital overrun that we considered how the process could lead to a repeat of the difficulties in other projects if we did not have some understanding of what happened. It was surely around process. In fact, it was not only the Secretary General we invited. We also specifically made the request to the person who headed up the procurement section. Essentially, it appeared that there was quite rigorous oversight on procurement from that section when it came to purchasing things. We need to understand that role from the point of view of big capital projects. There appears to be a gap in our scrutiny from an institutional point of view, and the idea is to tease out that particular aspect. It is critical not only that Mr. Watt comes before the committee but that we understand this from

the broader perspective. We also need to understand it from the perspective of the head of the procurement office. If there is an institutional gap, then there is a process failure and it cannot but repeat itself. It is both.

Chairman: For housekeeping purposes at this stage we will note and publish the letter from Robert Watt, No. 1983B and the letter from Paul Quinn, chief procurement officer, No.1984B. We also note the letter from the Committee on Budgetary Oversight, No. 1990B and the letter from the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, No. 1991B. We will note and publish those.

Deputy David Cullinane: I wish to make a wider point. I realise we are dealing with the letter from the Secretary General of the Department of Public Expenditure and Reform. I will deal with that in a moment. I raised this matter at the last meeting and I need your guidance, Chairman, on how we will proceed with it now. When we first dealt with this we discussed the matter with the Secretary General of the Department, his officials and members of the board. At the time, we did not have any of the minutes of the board meetings or the sub-committee meetings. We got those after the fact. We did not have the reports from the independent examination carried out. As it happens, they shed some light on some of the issues. Again, we had a false meeting whereby we had the Accounting Officer and the board before the committee but we did not have the information we now have. That would have enabled us to put the questions that we can now put. I suggest we get them back in again, because we are now armed with the information.

It may serve as an example to other Accounting Officers in the sense that when this happens we are not going to accept being kept in the dark about reports or accept having to drag information out of people. They come in and we do not get a chance to put questions that we should be able to put because we do not have the information. We need to think about this. Many of these issues centre around boards making decisions on information they do not have. The Committee of Public Accounts ends up in exactly the same position. Even after the fact, we do not get information to allow us to do our work. That is a strong point that we should make in response to the correspondence.

Mr. Watt will come before the committee. I realise there are sectoral committees. I have no inclination, nor do other members of the committee, to step on the toes of any sectoral committee. However, if we are to be honest, there is an element of jockeying for position from some of the committees. Those sectoral committees have a job to do and good luck to them. They can bring in Ministers. We do not seek to bring in any Ministers.

Chairman: They can bring in Secretaries General too.

Deputy David Cullinane: Yes, but primarily the Minister is responsible to the sectoral committees. The Accounting Officer, who is the Secretary General, is accountable to the Committee of Public Accounts. We are dealing with issues to do with process failures, systems failures and procedural failures, all of which fall under the remit of the Committee of Public Accounts. There are times of course when they also fall under the remit of sectoral committees but let the Minister come before those committees with his or her officials and deal with them. We have to do our job as well. I do not think we should accept that.

I wish to make another point. I am not criticising you, Chairman, but I learned in the media at the weekend that there was an invitation or offer being made to other committees to sit with us to discuss some of these issues. I believe that was a mistake because it devalues the Com-

mittee of Public Accounts in some respects. This committee has a separate function from the sectoral committees. I understand the context in which the Chairman made that offer. He was trying to be helpful. However, it would have been better if that had been discussed here. That is not a criticism, because I know the Chairman was trying to do the right thing.

Chairman: Yes.

Deputy David Cullinane: It was done for the right reasons.

In regard to the responses from Mr. Watt and Mr. Quinn, it is not acceptable for Mr. Quinn to simply say that the Accounting Officer, that is, the Secretary General, is coming in so that covers him. The Accounting Officer did not sit on the board, Mr. Quinn did and he is the person who must answer the questions. How can the Accounting Officer answer questions for somebody who sat on the board? That is not going to happen. We should write back to Mr. Quinn, thanking him for his response but insisting that we want him here along with the Accounting Officer. We should set a session aside for the board to appear again with the Secretary General of the Department so we can put the questions we should have been able to put to them the last time. If anything, we should do this as an example of what happens if they do not give us the information that they should before they come before the committee.

Deputy Alan Kelly: I concur. I have a couple of observations. Obviously, these letters from Mr. Quinn and Mr. Watt are co-ordinated. We asked Mr. Quinn specific questions. He writes: "I refer to your letters of 8 and 12 February. I will respond to the issues raised therein in due course." It is a bit worrying that he has not responded already. He should be able to answer these questions pretty quickly. I would have thought they are pretty basic questions. Why has it taken so long?

I want to emphasise that as a committee we do not bring Ministers before us. I think that has only happened once. Dealing with this issue is definitely within our remit. Mr. Watt's letter reads:

I understand that you have also invited Mr. Paul Quinn, Chief Procurement Officer, Office of Government Procurement, which is a Division of my Department, to appear before the Committee of Public Accounts. As is normal, I will notify the Committee secretariat of the departmental officials attending with me in advance of the meeting.

To whom is it "normal"? It is not normal to us. When we invite certain Departments and Accounting Officers, they can bring whoever they want. On many occasions, however, we have asked specifically for certain officials. This is not just about the national children's hospital. The gentleman in question is head of the Office of Government Procurement, OGP. While the OGP is within the Department of Public Expenditure and Reform, it is an office in its own right. Mr. Quinn is the most senior procurement officer in the country. We are concerned with issues about the children's hospital and how it was dealt with, but there is a wider issue concerning processes which we need to investigate. If what has happened with the children's hospital is in any way exemplary, there are wider process issues in the way major contracts are awarded, dealt with and managed.

Mr. Watt will appear before the committee. We must specifically insist that the head of the Office of Government Procurement appears as well. I do not mind whether he appears with Mr. Watt or in a separate session. In fact, appearing in a separate session might be a good thing. It is for this committee to decide which sessions we want people to attend, not for anybody else.

We decide the format of our meetings.

In addition, as part of this discussion we need to hear from the Department of Public Expenditure and Reform and the Office of Government Procurement. We will obviously ask questions concerning the hospital, but we should also ask about the process that is followed with all other projects.

It is the full-time job of several officials in the Department of Health to manage the health Vote. I would also like those officials to attend, along with their Secretary General.

Chairman: Is the Deputy referring to officials of the Department of Health?

Deputy Alan Kelly: They are officials in the Department of Public Expenditure and Reform who manage the health Vote.

Chairman: The Deputy said the Department of Health when he meant the Department of Public Expenditure and Reform.

Deputy Alan Kelly: Sorry, yes. There are officials in the Department of Public Expenditure and Reform whose full-time job is to manage the health Vote, one of the largest Votes in the Government. I am specifically requesting that the committee invite them to appear if we can find out who they are. I think there are two of them, but there may be one. I am open to correction.

I agree with the previous speaker. Members of the National Paediatric Hospital Development Board appeared before this committee. We need to question its members again, along with the Secretary General, in the very near future. Given the volume of information that has since entered the public domain, the questions we asked and the answers we were given are no longer the totality of what we need to know. We need to go back there again.

Chairman: Mr. Watt writes “As is normal”. Usually when we issue an invitation to a Secretary General, he or she picks the staff who will also attend. Equally, we sometimes invite specific people to attend.

Deputy Alan Kelly: That is especially the case in relation to the Department of Health.

Chairman: We regularly do that because it is such a big Department. We are specifying that we want Mr. Paul Quinn to attend. I am sorry to ask the Comptroller and Auditor General-----

Deputy Alan Kelly: We should also invite the officials in charge of the health Vote.

Chairman: Yes. They would often be here. In what year was the Office of Government Procurement established?

Mr. Seamus McCarthy: It was established in 2013.

Chairman: Our issue with Mr. Quinn, which he has not dealt with in the two weeks since it was raised, is that he never informed us in his previous letter that he was a member of the National Paediatric Hospital Development Board. I found it disconcerting that he was involved and he never told us. He still has not told us two or three weeks later. That is the first issue. When he was appointed to that board-----

Mr. Seamus McCarthy: That was in 2013.

Chairman: Had that office been established at that stage?

Mr. Seamus McCarthy: It was established on an administrative basis first and-----

Chairman: The Comptroller and Auditor General might be able to clarify this for us, though not necessarily at this moment. Perhaps he can send us a note tomorrow. When Mr. Quinn was first appointed to the board, was he an official of the Department of Public Expenditure and Reform or was he in a separate body?

Mr. Seamus McCarthy: My understanding is that he was the head of the OGP at the time.

Chairman: He had just got the post - that is fine. We are agreed on Mr. Watt's appearance here. We are specifying that we wish for Mr. Paul Quinn to attend, because we have written to him separately. We also want to hear from the officials who will be the liaisons between his Department and the health Vote, who would often be here in any event. In relation to the comment, I made a suggestion at the weekend of not pursuing it. It was just a suggestion on the day. That was an effort to prevent unnecessary duplication.

Deputy Catherine Connolly: There is no need for any duplication. There should be more collaborative work. There is very limited time for us to ask questions here, and whatever comes up in other committees can be delved into more deeply. If we bring something up, it can be delved into more deeply on the relevant committee. There is absolutely no need for the type of letters that are coming in. The committee should be grasping the opportunity to delve-----

Chairman: Does the Deputy mean the other committees?

Deputy Catherine Connolly: Yes. The other committees should be free to delve more deeply if they want to. We have very limited time here, and there are vast volumes-----

Chairman: We have recently received letters from the Joint Committee on Justice and Equality asking us to look at matters. We have heard from the Joint Committee on Health. I am making it clear, as Chairman of the Committee on Public Accounts, that each of those committees had an opportunity to deal with these issues long before they ever came before the Committee on Public Accounts. They deal with these matters at their Estimates hearings. There was nothing preventing those committees from dealing with the prison Vote or the capital plan for the HSE as it relates to the children's hospital when they were discussing their Estimates in recent years. I do not know what level of discussion they had, but the issues have now landed on our desk. They all had the opportunity to raise these matters long before they landed on our desk, had they chosen to do so.

Deputy David Cullinane: At some point, we will report on the initial hearing we had with the Department and the board. I cannot sign off on that report because I do not think we were able to do our job. Furthermore, as was said by Deputy Kelly, whatever discussions we had are almost insignificant now because of all the information that emerged afterwards. We have to have that meeting again. The contributions made by Teachta Kelly and I were not dealt with. I cannot sign off on any periodic report dealing with the national children's hospital unless the Department and the board come back to the committee.

Chairman: To be very clear, we are going to deal with the work programme shortly and will definitely discuss that aspect as part of it. The correspondence is noted and will be published. We have decided on the appropriate action to be taken.

Item No. 1990, correspondence received from the Committee on Budgetary Oversight, and item No. 1991, correspondence received from the Committee on Finance, Public Expenditure and Reform, and Taoiseach, are noted, as is item No. 1984, correspondence received from the Chief Procurement Officer.

Item No. 1985 is correspondence received from Mr. Robert Watt, Secretary General of the Department of Public Expenditure and Reform, providing an update on the review by the OECD of valuing capital assets and moving to accrual accounting. We will note and publish the correspondence. In addition to it, there is an attachment, item No. 1985(2)B that deals with the report on employer contributions under the single public service pension scheme which some people will find interesting. Now that the public service has moved to the single public service pension scheme there are issues as to whether some State bodies are included in the scheme. The report confirms that relevant authorities - confirmed as being authorities mainly financed directly or indirectly from the Central Fund - do not have to make employer PRSI contributions. The report lists various bodies in the schedule, Appendix No. 1, which we will publish. Appendix No. 2 deals with 24 bodies which have been confirmed as mainly self-financing but which are liable for the making of single scheme employer contributions. The 24 bodies include the National Milk Agency, the Personal Injuries Assessment Board and the National Standards Authority of Ireland. The Comptroller and Auditor General reported that they should have been making contributions since the Act was passed in 2013. Some of the bodies have made provision for the contributions, but the last paragraph on page 4 is disconcerting. It reads:

In total, 20 bodies have agreed to remit arrears in respect of prior years. However, there are four public service bodies that did not provide an employer contribution for pre-existing public service pension schemes, but are deemed liable for employer contributions under the Single Scheme. These bodies did not set aside amounts to meet the Single Scheme employer contributions. These are the Residential Tenancies Board (RTB), the Health Products Regulatory Authority (HPRA), the Dental Council and the National Standards Authority of Ireland (NSAI). Issues arising in respect of the payment of arrears of employer contributions by these bodies are currently under consideration.

The committee will ask that the issue be dealt with and finalised in the current year. Will the Comptroller and Auditor General like to comment on it?

Mr. Seamus McCarthy: That is exactly the concern I had - that some bodies were likely to have a liability but were not providing for it or they were collecting the funds and passing them on.

Chairman: Might it be significant in terms of a draw on resources in 2018?

Mr. Seamus McCarthy: It is an issue for them. They have to recover the money from their sources of income, in general fees or charges for services provided.

Chairman: We will note and publish the schedule also.

Deputy Catherine Murphy: I presume that is part of the reason this issue features very often when the committee looks at audit opinions and this aspect is highlighted for the relevant bodies. I picked out the same paragraph. What is the liability? Is it likely to have an impact on bodies' ability to deliver services - for example, the Residential Tenancies Board - and is there a repayment schedule for them? Have they even agreed to one?

Mr. Seamus McCarthy: I think that is the point made in the paragraph. They are in discus-

sions on how this matter will be resolved. They have not yet made decisions. In many cases, because they are recovering their costs from those who pay fees or charges, one would expect to see an increase in fees or charges in order to make the repayments.

Chairman: For the purposes of clarification, the National Standards Authority of Ireland and the Residential Tenancies Board have agreed to make the repayments, but the amounts have not yet been finalised. The Dental Council of Ireland has not yet finalised its agreement - I think of all the orthodontic treatment being provided - while the Health Products Regulatory Authority has agreed to remit an amount which has not yet been finalised. It will have to be finalised as part of this year's audit.

Deputy Catherine Murphy: I want to get my head around an aspect of the issue. The bodies have to recover an amount from external sources. On the expected liability on those who purchase the services, for want of a better description, is it the case that the bodies will have to go back to service users to ask them to pay more than they had expected to pay?

Mr. Seamus McCarthy: It is because it goes back to 2013, but it was only determined in 2016 that the moneys needed to be collected. However, the matter has not yet been resolved. In the individual audits of the agencies we were picking up that there was a matter in dispute. As the quantum had not been determined, provision was not made in the financial statements. We did not know how big the problem was because the full scope was not clear. The fact is business continued from 2013 without the collection being made.

Deputy Catherine Murphy: Let me go back a little. Who, for example, are the clients of the Residential Tenancies Board? From whom will it recover the amount?

Chairman: The clients are the landlords who must register with the RTB which is in part State funded and in part privately funded.

Deputy Catherine Murphy: Does the RTB have to go back to all of the landlords?

Chairman: No. They just have to find it.

Deputy Catherine Murphy: I am sorry-----

Chairman: They do not specifically have to go one by one. It might be helpful to members if I indicated the scale of the moneys to which we are referring. The lowest amount I can see on the list is for the Teaching Council of Ireland, for which the figure is €60,000, whereas the Commission for Communications Regulation had to make arrears payments totalling €1.13 million. The repayments for the organisations can be in the hundreds of thousands of euro or less, but they will have to fund them and it is an issue for them.

Deputy Catherine Murphy: I have a further query for the purposes of clarification. For example, the income of the Residential Tenancies Board comes from landlords' registration fees. Landlords who registered paid the registration fee and were legally right in what they did; it is the landlords who do not register are the problem. The ones who registered were told that the fee was €150 or whatever it was. Now the RTB has to go back and state the fee should have been €155 or €160. That is a highly unusual position for an organisation to find itself in. Essentially, in the absence of the RTB being able to do so, I am concerned that it may affect its ability to deliver in its gigantic body of work, the volume of which is greater than it is currently able to carry out in a timely way.

Chairman: Would the Deputy like the committee to write to each of the four organisations to ask what its plans are, what the implications are and proposals it has to deal with the issue?

Deputy Catherine Murphy: I would.

Chairman: We will write to each of the boards. Is that okay?

Deputy Catherine Murphy: Yes.

Chairman: We will not just leave it at that. We will follow through and write to the four groups mentioned in the schedule about the issue. I thank the Deputy for following through on the point.

Item No. 1969 is correspondence sent to An Garda Síochána by the organisation Former Local Authority Members Éire, FLAME, about the winding up of the Association of Municipal Authorities of Ireland. We note the correspondence which is extensive and was copied to us. The committee needs to take no action on the matter.

Item No. 1970 relates to property purchase and a decision made by the Property Registration Authority. The individual is unhappy with the outcome. However, the matter is not within the remit of the committee. The person concerned had an issue with how the Property Registration Authority had dealt with title deeds and took the case to the Ombudsman. She wrote to the Ombudsman seeking assistance on the matter but because the Property Registration Authority of Ireland, PRAI, had said in its response that she could appeal to the courts it looks as if the Ombudsman said she still has an option. However, that is not an option in the public service. What I want to do is write to the Ombudsman to ask not about the particular case but to set out the process on how it deals with cases from the PRAI. I will ask what the office deems a case it can take up or whether it requires people to go to court before coming back to the Ombudsman. That should not be the case. We will write to the Ombudsman for a general note on how it deals with cases in that organisation, but we are not dealing specifically with the case at hand. We will note that.

No. 1986C is from Deputy Jonathan O'Brien in relation to the national paediatric hospital development board. The paediatric hospital will be on our work programme so we will note it and agree to discuss it in our work programme.

No. 1988C is a copy for the committee of correspondence with the solicitors disciplinary tribunal. That is not under any circumstances within the remit of the committee so we will note the item.

Next, we will deal with statements and accounts received since the last meeting. We will move quickly through that.

Deputy Alan Kelly: I wrote to the committee regarding an issue that has been going on since Adam was a boy. It relates to a report on companies in Cork Institute of Technology, CIT. I have requested on numerous occasions a report on the CIT companies on which a commitment was given at the committee. We have written a number of times. I have again written to the committee asking for the report because it is outstanding for so long it is ridiculous. It did not come up under correspondence.

Chairman: No. I have not seen that letter.

Deputy Alan Kelly: I wrote to the committee yesterday week. I have a copy which I can

provide to the Chairman.

Chairman: I am advised that the secretariat, on receipt of the letter, followed it up directly with the Higher Education Authority, HEA. I am told the report is almost finalised. Next week, we will formally give a deadline of two weeks to have it on our desk.

Deputy Alan Kelly: No, I must insist. This could be going on for up to a year. It is going on at least six months. It is strange that it did not come up in correspondence. The report has been promised on a number of occasions and there has been a number of deadlines. There should not be a major delay with the report and it is deeply concerning to me that it is taking this amount of time. Could we please write a final letter to CIT saying we want the report by next week's meeting?

Chairman: We will write to CIT and say we want the report. Is that agreed? Agreed.

Deputy Alan Kelly: We want the report next week. Otherwise, we will have to take further action.

Deputy Marc MacSharry: Does that relate just to CIT?

Deputy Alan Kelly: Yes, CIT companies.

Chairman: Yes.

Deputy Marc MacSharry: I have an interest in pursuing the companies in the University of Limerick, UL.

Chairman: We got the full list.

Deputy Marc MacSharry: What is the situation with UL? Are we going to have a further discussion with it? One of the companies has jumped out at me, as it were.

Chairman: We got the full list and list of subsidiaries, all of which are consolidated into the financial statements that we get. None of them stands outside. We will come back to the issue when discussing our work programme.

Deputy Marc MacSharry: All right, so the work programme is the appropriate place to discuss the matter.

Chairman: Yes, we will do so in a moment.

Deputy Marc MacSharry: Okay.

Chairman: Next, we will discuss the accounts received since the last meeting and then we will go on to the work programme. We had the Commission for the Regulation of Utilities, which got a clear audit opinion. Athlone Institute of Technology got a clear audit opinion. Blanchardstown Institute of Technology got a clear audit opinion. The national Economic and Social Development Office got a clear audit opinion. The Local Loans Fund, which is winding down, got a clear audit opinion. The Adoption Authority of Ireland got a clear audit opinion. The Travellers Protection Fund Investment Account got a clear audit opinion.

The main purpose of our meeting is to deal with the Kildare Wicklow Education and Training Board, KWETB, 2015 accounts. We will deal with the comments about lapses in controls and non-compliance with procurement in a moment in the public session.

Galway-Mayo Institute of Technology got a clear audit opinion, but attention is drawn to the fact that the institute has incurred deficits in each of the past six years and had an accumulated deficit of €3.9 million at 31 August 2017. That is worrying.

Mr. Seamus McCarthy: Could it possibly be noted that the deficit is reducing and I would expect that it is moving to a surplus position into the future?

Chairman: Okay, that is good to hear.

Tote Ireland Limited got a clear audit opinion. Tote Arena Limited got a clear audit opinion. Irish Thoroughbred Marketing Limited got a clear audit opinion. HRI Racecourses Limited, which is an investment holding company, it is not trading and with no turnover, got a clear audit opinion. Fairyhouse Club Limited got a clear audit opinion. Leopardstown Club Limited got a clear audit opinion. Cork Racecourse Limited got a clear audit opinion. Navan Races Limited got a clear audit opinion. Tipperary Race Company got a clear audit opinion. Mr. McCarthy must be an expert on the horse trade after all those audits.

Mr. Seamus McCarthy: Absolutely. These are subsidiaries of Horse Racing Ireland.

Chairman: I say that in jest.

Deputy David Cullinane: Does Mr. McCarthy have any tips?

Mr. Seamus McCarthy: Stay away from it.

Chairman: That is a good idea.

Deputy David Cullinane: That is good advice.

Chairman: The National Museum of Ireland got a clear audit opinion. The Legal Services Regulatory Authority was established on 1 Oct 2016 and this is its first set of financial statements covering the 15 months to 31 December 2017. It got a clear audit opinion. The Law Reform Commission got a clear audit opinion. Oifig Chomisinéir na dTeangacha Oifigiúla got a clear audit opinion. Mary Immaculate College got a clear audit opinion but attention is drawn to non-compliant procurement of €524,000. The Comptroller and Auditor General refers to the matter at the end of the financial statement.

Next, we will discuss the work programme. Today, we have the Kildare Wicklow ETB financial statements and the Comptroller and Auditor General's special report and also the Thorn report. The witnesses will come in shortly. The matter is subject to Garda investigation and we must be careful in that regard.

In the afternoon session we will deal with housing issues. We will have representatives from the Irish Council for Social Housing and the Approved Housing Body Interim Regulatory Committee.

Next week, on 28 February, we will deal with housing matters again. We will have the Secretary General before the committee in the morning to discuss housing matters and in the afternoon we will deal with the remainder of the Vote concerning the Local Government Fund. At that point we will conclude this section of the work on housing and we will include it in our next interim report. We had a meeting with them some time ago, today's meeting is helpful, and we will conclude then after that with our interim report.

On 7 March we will have Robert Watt, Paul Quinn and others to discuss oversight and implementation of capital projects. Paul Quinn will specifically discuss the role of the Office of Government Procurement, and officials in relation to the national paediatric hospital development board.

On Thursday, 14 March we have a small matter we did not get to include in the discussion on the Vote for the Department of the Taoiseach on the previous occasion, relating to the Central Statistics Office, CSO. I propose on that day we finish our work on broadband and have the Department back in. We had it in on 6 December and we had the private individuals in. We have received correspondence outlining the position in regard to state aid and we will ask for further information. There is no point in us closing the stable door after the horse has bolted in the sense that the tender has been out there since-----

Deputy David Cullinane: What date is that?

Chairman: It is proposed for 14 March. The CSO is coming in for one slot and then we will try to complete our examination of the broadband programme, insofar as we can. I do not want it dragging on. Time is of the essence and there are moves afoot.

The week of 23 March is a non-sitting week. The only other matter we have formally on the agenda, with a provisional date of 4 April, is the Department of Justice and Equality. That is the work programme for the next couple of weeks. We will meet with the national paediatric hospital development board on 28 March.

Deputy David Cullinane: Will the meeting be with the Department and the hospital board?

Chairman: Yes. We will slot that topic in and perhaps next week we will confirm the exact topics. We will pencil in 28 March for the national paediatric hospital. In case there is any doubt, that contract was signed in 2017 so it is part of the audited statements before this committee and it is 100% within our remit. That is not a new item, it is an existing item. That is generally the work programme for the next couple of weeks.

Deputy Mac Sharry mentioned two points.

Deputy Marc MacSharry: I have a few points on the work programme and I have another business matter so the Chairman can tell me when it is appropriate to bring that in.

I see the speaking schedule here-----

Chairman: Yes, we will revisit that to make it fairer.

Deputy Marc MacSharry: Back three years ago it was the case that members could indicate and say they had done a lot of work on a particular issue and would ask if they could lead on that issue. Somewhere along the line, a good while ago, we decided that it was strictly turnabout so I sat back then and just waited for my name to pop up. Sure enough it has not been popping up and that just occurred to me but I got a call last week to ask if I would be second speaker on a particular matter so I agreed and I asked the member of secretariat who called me what way that works now. I was informed that some members had expressed a special interest in a particular matter so they were the leads on that. I said that I did not really realise that rule had been reintroduced and if that is the rule that is fine, we will all be up early in the morning and pick the meetings that we want to be leads on. I certainly would have had an interest in the Irish Prison Service, for example, and I stayed on that evening to get extra time and that is

fine. However, funnily enough I was told at that meeting that I was pencilled in to lead on the meeting of 7 March and I noticed that two colleagues are in for 7 March, ironically from the same party as me but I am sure that is coincidental. The identity of the witness for that meeting is not being lost on me and it is probably appropriate to mention the contents of a newspaper article last Sunday about a report being commissioned by two other committees which seemed to be about this committee and something of a co-ordinated effort to question the Committee of Public Accounts, its remit, its performance, the styles of individuals and all of that kind of stuff. Is the Chairman aware of-----

Chairman: There are two matters. What I will definitely come back with is-----

Deputy Marc MacSharry: I did not finish yet.

Chairman: I am sorry, I thought the Deputy asked me a question.

Deputy Marc MacSharry: I have no difficulty with anybody doing a report on it yet. I think one of the committees in question is the Business Committee. I understood that the Business Committee sets the business for the House and determines that there will be statements on X on such a day and on Y on such a day, that this speaker will have two minutes and lead spokespeople will have ten minutes etc. so I wonder what remit it has in procuring a report on the Committee of Public Accounts and what terms of reference were laid out on that? I know the Committee on Procedures and Privileges may have a remit in that regard but as a committee we are entitled to know what is going on, what terms of reference are being used, who prepared the report and what is the *modus operandi* here. That is an aside and I am finished with that issue.

On lead speakers, let there be one rule or let there not be one rule and if it is turned about it is turned about or if we can express that we want to lead then tell us we can do so because I was phoned and told I was in on 7 March and I notice that I am not here now. I do not particularly have a problem with that but we should decide what we are doing and stick to it because we do not want the perception that lead speakers are being managed. I could be forgiven for thinking that might be the case.

Deputy Catherine Connolly: I want to support that and I would not normally but I actually look at it and I do not-----

Deputy Marc MacSharry: Deputy Connolly regularly supports me.

Deputy Catherine Connolly: The Deputy made his point and I do not need to add to it but on this occasion I will because I look at it and it is extraordinary to see what has happened. I do not appear anywhere on anything either as first, second or third lead. I have a particular interest in many issues but that is neither here nor there. The system of working in turn was very straight and just. Members take their turns and sometimes we have a particular interest in an issue and sometimes we do not but it makes us do the work anyway if we have a particular interest rather than picking and choosing.

Deputy Alan Kelly: We have an issue here because if we call a spade a spade, 7 March is an important topic for us and an important topic for this country. There are two members from the same political alignment on that, and I am not referencing those individuals, but there are also members who rarely ever turn up here-----

Chairman: Sometimes, yes.

Deputy Alan Kelly: I am not finished. In fairness, we regularly get phone calls on this. I often get called and asked if I will step in and be first speaker or second speaker because a member is not going to turn up. That is not really fair because one has to prepare 24 hours beforehand. I have done it many times where I was not meant to be the first or second speaker and I am sure-----

Deputy Marc MacSharry: I myself was not asked very often.

Deputy Alan Kelly: The point is that when it comes to the way in which this is being scheduled, it does not seem to be fair or to work right.

Chairman: I am proposing for the next meeting, and we might discuss this in private session or in public session, to ask the secretariat for a list of every meeting since the Dáil resumed last September to see who was the first and second speaker. I want to see that. We had the view that it should be done by rotation so that everybody gets an equal opportunity. There will always be somebody who is in line for a meeting and they cannot make it so they phone in and somebody has to step in but they should really be swapping and moving back down the list. We have a job of work to do to get this end of it right.

Deputy Marc MacSharry: It is not rocket science.

Chairman: No, it is straightforward.

Deputy Marc MacSharry: I am very interested to know why they changed, when they changed and why, since last week, have I been relegated from 7 March to 4 April? There is obviously some reason for that and I am sure it is perfectly explainable but I am interested to know.

Chairman: The other point I will make which I am sure members will all agree with is that on no occasion should the first and second speaker be from the same party. That is logical. There should be rotation and no party should get the first two spots but they can come in later on. Do we get where we want to go with this? Let us not over analyse this because the secretariat probably just made a stab at it and it-----

Deputy Alan Kelly: Deputy Mac Sharry's question can be dealt with.

Chairman: We will come back on it next week.

Deputy David Cullinane: I do not see my name anywhere.

Deputy Catherine Connolly: Welcome to the club.

Deputy David Cullinane: I do not want to point the finger at any individuals but a lot of the names of members that I do see-----

Chairman: No, do not go there.

Deputy David Cullinane: -----do not come in and the members who are here are not down.

Deputy Alan Kelly: I will name them but I do not know what topic it is.

Deputy Catherine Murphy: I want to make the point that I am happy to go along with whatever rule so long as we all understand it but if, for example, it is a question that the Chairman will be looking back at rotation, one does not get a fair reflection if members have not

turned up and one is filling in.

Chairman: Correct.

Deputy Catherine Murphy: That aspect has to be captured if we are to have a fair system, not only just for now but for the future as well because we could all turn up for something for an hour and not do all of the work. That frequently happens and there is a sizable amount of work in the Committee of Public Accounts.

Deputy Bobby Aylward: We are astute people, we should be able to work it out.

Chairman: We will come back to it next week and we will work it through.

Deputy Marc MacSharry: That was just one of the three issues I wanted to raise. There was that issue and there was the issue of the reports being done on us which the Chairman might come back to us on. The third issue is the Irish Prison Service. We got the response last week and I raised some issues and further issues have arisen since. I wanted to respectfully ask that we pick a date for a meeting of decent length. I do not know if members will have the time and I know the schedule is tight but we need a dedicated meeting on issues that have emerged. The document that has come back falls well short of the sort of response that we need. I will not hold up the meeting and begin to list them because we would be here until 4 p.m. but we need a full day on the Irish Prison Service and we should not bury it within the appropriation accounts of the Department overall. It should not be on the day we are dealing the Department of Justice and Equality Vote because there are too many matters there. I ask that a date be scheduled for that in early course and that might be communicated to us.

Chairman: We can do that but the first step we would always take having got a letter where there are issues that are not adequately dealt with or not dealt with at all is that we would immediately write back. We always do that and then we go on from there.

Deputy Marc MacSharry: With respect, we can enter into an administrative merry-go-round and we will be here until next week. People's individual styles aside, there is nothing better than a good conversation to cut out six weeks of correspondence and toing and froing. While that is the norm, unfortunately, what we know of the Prison Service so far is well outside the norm and, in fairness to the secretariat, I would not expect it to begin to undertake to write a letter as long as would be required to reflect the issues that remain outstanding.

Chairman: We will come back to that in the work programme because it is not finished yet.

Deputy Catherine Murphy: I have two issues I want to raise and we may come back to them next week. Is there any update on the issue that Deputy MacSharry raised about the committee of oversight for IBRC? We are talking about a very large amount of money. Mr. McCarthy might remember there is a court issue and there was to be some consideration given to whether there could be a more satisfactory arrangement whereby we would look at this as opposed to it proceeding in the courts. Can we have an update on that?

Mr. Seamus McCarthy: Yes.

Deputy Catherine Murphy: This is the largest liquidation in the history of the State. The oversight of it is with the Department of Finance as opposed to being supervised by the courts. It is a big issue and sometimes we deal with issues that are relatively small, in monetary terms in comparison with something like this. This is a big item and I am unhappy that we have not

arrived at a conclusion at this stage about whether there should be an expansion, for example, in this committee having oversight or there being a committee of oversight.

The Comptroller and Auditor General confirmed to me that Irish Water was another case where a significant amount of assets, €11 billion worth, were transferred from the local authorities to Irish Water. There is a big capital budget. Mr. McCarthy told us before that negotiations are ongoing between the Department and his office about the extension of oversight by the Committee of Public Accounts of Irish Water. When does he think that will come to a conclusion? There is a gap there in a fairly significant organisation.

Mr. Seamus McCarthy: I did not call them negotiations. I said that we gave comments-----

Deputy Catherine Murphy: All right.

Mr. Seamus McCarthy: -----but the process belongs to the Department of Communications, Climate Action and Environment.

Chairman: And the Oireachtas.

Mr. Seamus McCarthy: And the Oireachtas, yes.

Chairman: It is for the Oireachtas to pass legislation.

Mr. Seamus McCarthy: Obviously, yes.

Chairman: The ball is in our court.

Deputy Marc MacSharry: I thought it would be helpful and to support-----

Chairman: We will write to the Department of Finance for the current and up-to-date position about the liquidation of IBRC. We will write immediately.

Deputy Marc MacSharry: To be helpful, I support what Deputy Murphy has said there. This committee formally recommended the establishment of a committee of inspection in one of our work reports. To my knowledge, that recommendation has never been responded to. I asked the Taoiseach in questions on promised legislation in the Dáil if he could give an update on that and if it has happened. He said he was not in a position to tell me but that he would ask the Minister to respond and we have heard nothing since. I support Deputy Murphy.

Chairman: We will do that.

Deputy David Cullinane: I meant to make an additional point when I earlier referenced the meeting we have agreed to have with the board of the national children's hospital and the Department. There are various sub-committees in place. We will have the board and Secretary General here but are there heads or chairs of those sub-committees? They should be here because some of them are very relevant. I meant to make that point earlier. It is not just the board. Is there a finance sub-committee?

Mr. Seamus McCarthy: There are three or four committees that are particularly relevant, I imagine, to the cost overruns.

Deputy David Cullinane: And there are chairs of those committees.

Mr. Seamus McCarthy: There are chairs of each which are listed in the financial state-

ments.

Chairman: I suggest that, for next week's meeting, members have a list and we will run through it. We have not time to-----

Deputy David Cullinane: We should make sure that is agreed now and does not fall through the cracks.

Chairman: It is agreed now.

Deputy Alan Kelly: I have two additional points and one new point. Following on from what Deputy Cullinane said, and to be clear, we need one session with Mr. Watt and, in the same session or another one, the head of procurement. We need the two individuals who are over health spending in the Department of Public Expenditure and Reform. We need the board to come back in and the chairs of the sub-committees, the Secretary General of the Department and the new chair. We also need the assistant secretary of the Department of Health who did all the work on this. I hope that is agreed. Is that agreed?

Chairman: Agreed.

Deputy Alan Kelly: I know we have a tight schedule but I want to say to Deputy MacSharry that the issues relating to the Irish Prison Service are pretty seismic. We need a session to deal with those and as soon as possible.

I was going to raise the following issue last week or the week before. This committee, through the secretariat, has done a whole range of periodic reports. This is more than a week's work but maybe by St. Patrick's weekend we can go through those reports and send letters to all the relevant Departments to follow up on the recommendations or actions in those reports. We do not know if they have ever been dealt with. I went through a number of them recently and I have no clue whether the recommendations or actions have been taken on board or acted upon. Is it a case of drift with those reports? We need to do a piece of forensic work in following up on the actions and recommendations of the hundreds of hours that have gone in here to bring those recommendations and actions about.

Chairman: For the benefit of the Deputy, some work has been done on that. We have got a detailed response from the Department of Public Expenditure and Reform on each point of every report we have issued so far with however many recommendations contained within across different Departments. I think we went through the recommendations in public session, point by point, as to whether they were accepted. We were not happy with the responses of the Department of Public Expenditure and Reform on several occasions.

Deputy Alan Kelly: I am aware of some of that.

Chairman: The only Department that noted our recommendations without agreeing to them was the Department of Housing, Planning and Local Government. Practically all other Departments have accepted and implemented the recommendations of this committee's reports. We need to do a summary on it and we will.

Deputy Alan Kelly: That is what I want.

Chairman: We need to do a summary.

Deputy Alan Kelly: We need to see which Departments are responding and which are not.

Chairman: We need to do a summary of those reports. That is agreed.

Deputy Alan Kelly: I thank the Chairman.

Chairman: The work is there but we need to summarise it.

Deputy Alan Kelly: We need to make sure it is being done.

Chairman: Yes, we need to follow through.

Deputy Catherine Connolly: Does the committee have the staff to do that? I agree there is a need for it, but have we the staff to do that?

Chairman: It will not happen between now and St. Patrick's Day. The next point is that the periodic report for the committee's work from September to December is due and the secretariat hopes to circulate its work on that electronically tomorrow to the members of committee. For people watching proceedings, that will not be a report of the Committee of Public Accounts that any committee member has an input on. Rather, it is the secretariat's summation of the work to date. That draft working document from the secretariat will be circulated tomorrow and we need to have a special meeting to discuss that which does not interfere with our Thursday meeting. The only available slot is next Tuesday at 11 a.m. It will take a second reading after that. We definitely have to publish that before we break for St. Patrick's week. We are telling everyone to get their reports in on time. This report runs to the end of December and we are not going away in March without our report on last year's activity completed. I ask committee members to pencil that in. I ask members to try to read the report when they get it.

Deputy Alan Kelly: What day is it?

Chairman: It is next Tuesday at 11 a.m. to discuss the periodic report from September to December. When we come to discuss it here with the working document from the secretariat, from then on it becomes the members' document, once we start giving our input, and there will be no further email versions of it issued until the day it is published because these documents have leaked in the past. Members who want an input into that report have to be physically here to give their input. The secretariat will then go away and draft the report and we will then finalise it. We will not be circulating any of our draft report until the day we publish. We will clear it in private session and then publish it as we have done for our most recent reports.

Deputy Bobby Aylward: Is the committee statutorily bound to make a report every three months?

Chairman: Not at the moment.

Deputy Bobby Aylward: Is that just-----

Chairman: The Chairman will take the blame on that one.

Deputy Bobby Aylward: Why is it every three months? Would twice a year not be enough?

Chairman: No. There are three Dáil terms.

Deputy Bobby Aylward: I am just asking.

Chairman: We do the three Dáil periods - from September to December, from January to about Easter and from Easter to the summer. It would be too far back if we let it run for six

months, the reports would be too large and people would not pay heed. It ties in with the Dáil's sitting period.

Deputy Catherine Connolly: My question was whether the committee has enough staff.

Chairman: No, we do not have a researcher either. We have many staff who are helping us draft the report.

Deputy Catherine Connolly: Many of us have raised the issue repeatedly.

Chairman: Okay, we need a researcher. We will return to it in private session.

Deputy Marc MacSharry: Given the situation with the Prison Service and the busy schedule, would members be prepared to sit on a Tuesday or Wednesday, for example, to deal with such issues if it helped with the schedule?

Chairman: Yes, possibly. It could be a matter for the members to discuss and agree on.

Deputy Marc MacSharry: I am conscious that the Comptroller and Auditor General might intend to start carrying out audits, for example, and that some work we could do as a committee might assist in focusing those audits.

Chairman: I note the suggestion and we will return to it.

Deputy Marc MacSharry: When will we decide on it?

Chairman: Next week.

Deputy Marc MacSharry: Do we need a week to mull it over or are people in a position-----

Chairman: Not everyone might agree to a Tuesday meeting immediately.

Deputy Marc MacSharry: I did not say it must be Tuesday specifically. Rather, we should have the witnesses appear as soon as possible. Is that agreed? Are there any dissenting voices?

Chairman: We have received a letter. If there are aspects of the letter that were not adequately addressed, I will examine them with the secretariat. Without looking at it, I know that answers to at least three questions indicated that information would follow. We want to receive that information, given that it has been indicated that we will receive it. We always write to witnesses to seek further information in advance in order that when we meet in public session, we will not ask for answers that could have been provided in advance. We have correspondence which we must tease out before taking the next step.

Deputy Marc MacSharry: Last week, I noted that one specific aspect of the correspondence was not credible. How many weeks do we need to mull it over? If we write back indicating we do not believe it is credible and asking the Prison Service to expand further, it will take another two weeks and we will receive a reply explaining that this is the information that was received.

Chairman: We can still schedule it and the correspondence-----

Deputy Marc MacSharry: One of the matters that was clear at the previous session was that the witnesses were not in a position to answer and they said they would convey the in-

formation to the committee, in fairness to their good intentions. The letter states that local management was contacted and this is the answer, namely, that all vehicles are accounted for. Part of the potential issue is that with the best will in the world, the Secretary General is the Accounting Officer, while the head of the Prison Service in County Longford is not, perhaps, fully up to speed with what is going on and he is dependent on local management which may not be as candid as it should be in answers to certain questions.

It would be useful for us to get on with a good exchange at the committee. I promise to try to temper my tone to keep the media and certain former witnesses happy-----

Deputy Alan Kelly: Do not do that.

Chairman: We will put the matter on the work schedule but before we do that, we have a duty. We have asked questions and received replies, and we have a duty to analyse those replies. The committee has always done that.

Deputy Marc MacSharry: I am a member of the committee and I have analysed the replies.

Chairman: I refer to the whole committee. I have stated that three items of information are to follow and we need to have them promptly. We must highlight any issues we consider inadequately addressed, even where replies have been given. Why wait three, five or six weeks until the Accounting Officer appears to tell him this? We want to have the information. We are replying to the Department of Finance.

Deputy Catherine Connolly: That is a sensible proposal.

Chairman: We will hold the meeting but we have a duty to examine the correspondence we have received before that meeting. It will not delay the meeting because that will be a few weeks away in any event. At the next session, there will be a date for the meeting, while the correspondence will be addressed in the interim.

I propose that we go into private session before we resume in public session and invite our witnesses.

The committee went into private session at 10.24 a.m., suspended at 10.36 a.m. and resumed in public session at 10.45 a.m.

Kildare and Wicklow Education and Training Board: Financial Statements 2015

Mr. Seán Ó Foghlú (*Secretary General, Department of Education and Skills*) and **Dr. Deirdre Keyes** (*Chief Executive, Kildare and Wicklow Education and Training Board*) called and examined.

Chairman: In this session we are dealing with the 2015 financial statements of Kildare and Wicklow Education and Training Board. In the afternoon we will look at housing issues in connection with the appropriation account of the Department of Housing, Planning and Local Government when we will be joined by representatives of the Irish Council for Social Housing and the approved housing body interim regulatory committee. First, we will examine the 2015 financial statements of Kildare and Wicklow Education and Training Board, as well as the supplementary report of the Comptroller and Auditor General and the Thorn report on that ETB. It

is very unusual for us to look at accounts that are more than three years old. We have been in correspondence with the Department of Education and Skills which has stated sets of accounts and the report have been sent to An Garda Síochána for its attention. I understand an investigation is ongoing. It is appropriate, therefore, that we proceed in a manner which will not undermine the investigation in any way. I ask for the co-operation of members and witnesses in that regard. The reports in their entirety have been referred to An Garda Síochána for investigation. What is being investigated by it is not for discussion here. I, therefore, ask members not to ask anything about the Garda investigation. Even if pressed, the witnesses are not to answer questions on matters subject to Garda investigation and should not feel pressurised to do so. I will intervene to make sure nothing happens here to compromise the investigation or proceedings that may follow from it. I will not allow the Committee of Public Accounts to compromise such proceedings. We will have to be quite strict in that regard, but I believe everybody understands the seriousness of the matter.

We are joined from the Department of Education and Skills by Mr. Seán Ó Foghlú, Secretary General; Mr. Hubert Loftus, Mr. Gary O Doherty, Ms Martina Mannion, and Mr. Phil O'Flaherty. From Kildare and Wicklow Education and Training Board we are joined by Mr. Noel Merrick, chairperson; Dr. Rory O'Toole, director of schools; Mr. Joe Kelly, director of organisation support and development; Ms Caitriona Murphy, director of further education and training; and Dr Deirdre Keyes, chief executive.

I remind members, witnesses and those in the Visitors Gallery to turn off all mobile phones fully. Merely leaving them in silent mode will not prevent them from interfering with the recording and broadcasting systems.

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. That sentence could not be more significant. They have absolute privilege which is not to be abused. That is very relevant in the light of the Garda investigation. Nobody should attempt to abuse the privilege attached to proceedings in the Oireachtas. If witnesses are directed by the committee 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. Again, I stress the importance of that sentence. I am not talking about names being mentioned, but I cannot allow lines of questioning that seek to identify a person or an organisation. We cannot go there. It is a standing rule, but we must be absolute and strict in applying it today.

Members are reminded of the provisions of Standing Order 186 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such policy or 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 now hear opening statements from the Comptroller and Auditor General, Mr. Ó Foghlú, and Dr. Keyes.

Mr. Seamus McCarthy: As members will recall, I have outlined to the committee on a number of occasions the broad events that gave rise to the delay in carrying out and completing

the audit of the financial statements for Kildare and Wicklow Education and Training Board for 2015. In the end, we were only able to complete the work in December last year. I have prepared a supplementary report on the relevant events, in addition to the normal format audit opinion, as provided for in section 7(4) of the Comptroller and Auditor General (Amendment) Act 1993. The report deals with serious lapses in controls over procurement of a number of capital projects and certain other expenses in KWETB during 2015. In that year, the ETB had receipts of over €111 million and expenditure of €109 million.

Some further context may be helpful to the committee. Members will recall that the ETBs were established in July 2013, usually involving the amalgamation of two, and in some cases three, of the previous vocational education committees, VECs. In addition, they took over the operation of training centres from the then FÁS. The first period of account for the boards covered 18 months to the end of 2014, but there were delays in agreeing the format of accounts, a matter that was not settled until around October 2015. In addition, new boards were appointed following the local elections held in May 2014 and there were further delays in some boards in appointing audit, risk and finance committees. A new code of practice for governance of the ETBs was only issued in March 2015. The combined result was a sector-wide delay in completion of the first cycle of audited financial statements, with knock-on delays for the 2015 statements.

We commenced the audit of the 2015 financial statements in January 2017. In the course of the audit testing, audit team members identified concerns about certain procurements, project cost overruns and propriety matters. A formal query on these matters was issued to the then chief executive of KWETB in June 2017. The information and supporting documentation provided by KWETB in response to the audit query were assessed as being inadequate. This was unsatisfactory, and so those matters of concern were brought directly to the attention first of the then chair and vice chair of the board and the chair of the audit committee of KWETB and, shortly thereafter, to the attention of the Department of Education and Skills. The audit of the 2015 financial statements was suspended pending the outcome of any action the board or the Department might take.

In October 2017, the Minister appointed a statutory inspector to investigate the matters raised from the audit and some other matters that the Department had been separately pursuing with KWETB. Arising from that inspection, a number of issues have been referred to An Garda Síochána and the Minister has issued a statutory direction to the board about the implementation of a corporate governance action plan developed on foot of the statutory inspector's report.

We recommenced the audit process in April 2018 and reissued the audit query. Fresh responses to the questions we raised were provided by the new chief executive, and these are reflected in the supplementary report and the statement on internal control.

Given the ongoing Garda investigation, I do not propose to recite the details of the specific instances of concern picked up by the audit. More generally, the report concludes that the board was unable to challenge the KWETB executive in an effective way during 2015. Underlying causes for this include incomplete information being provided to the board, delay in the establishment and functioning of statutory sub-committees and a lack of internal audit resources. An effective process for review of internal controls was not in place. Steps are being taken by KWETB to address these weaknesses.

It may also be useful to consider whether there are lessons to be learned generally for the ETB sector as a whole. For example, while a key function of the boards of ETBs is oversight

of their executives, they are heavily dependent on the same executives in the exercise of that function. It may be worth considering whether, and to what extent, boards should have operational independence of the executives. The committee will recall in recent months noting that, in issuing their 2017 financial statements, boards across the sector were critical of the level of resources available for internal audit and of the adequacy of the financial management systems they inherited from their predecessor VECs and with which they continue to operate.

Chairman: I thank Mr. McCarthy and call Mr. Ó Foghlú to make his opening statement.

Mr. Seán Ó Foghlú: I thank the committee for the invitation to attend. I will shorten my opening statement as I go. I am joined by colleagues who have already been introduced. My opening statement will focus on two areas, those being, the background to the circumstances of this audit report and the Thorn investigation, and the supports and oversight arrangements that the Department has put in place to support the sector in implementing good governance practices.

I advised the committee by way of correspondence in September 2018 that the Department was in receipt of the final report from Dr. Thorn, which was published last September. I also advised the committee of directions issued to the ETB.

When we received from the Comptroller and Auditor General the 2015 financial statements and this audit report on 15 January, we considered them and arranged for the laying of them before the Houses of the Oireachtas on 13 February. The Department intends to co-operate fully with the committee on issues contained with the report while also recognising, as the Chair has indicated, the ongoing investigation by An Garda Síochána. We trust that the committee understands that, while our commitment and willingness to be open and transparent on all matters relating to the issues, including the publication of the Dr. Thorn report in September, are clear, we are also required to give careful consideration to public engagement on the issues.

I wish to be clear - the issues that arise in KWETB are of serious concern to the Department. The responses that the Department received at the time of our initial engagement with the ETB in 2017 pointed to ineffective governance and accountability, particularly in respect of the use of public resources. For that reason, the Minister appointed an independent investigator under the Education and Training Boards Act 2013, signalling that this was something that we considered warranted a serious response from the Department and that, when conducted under the legislation that created the ETBs, also permitted the Minister to take necessary action and direct the ETB to take appropriate steps to rectify any issue of concern that may have been found.

The investigator was given terms of reference by the Department to investigate all matters relating to issues of concern. These broad terms of reference allowed the investigator to review any other matter that came to his attention in the course of the investigation.

Dr. Thorn made a number of findings. The committee will be aware that his report is included in an appendix to the Comptroller and Auditor General's report. In summary, Dr. Thorn found that, regarding the ETB's governance procedures, adequate arrangements to manage procurement and conflicts of interest were in place according to documented procedures. On an operative basis, however, the implementation of procurement processes and management of projects in several instances was found to be flawed or suboptimal. He further found that the board of the ETB should have been more proactive in ensuring oversight of its management of projects.

The Department issued his report to the board of the ETB. The board fully accepted the findings and set out an action plan. The Minister, acting under his powers by virtue of section 41 of the ETB Act, issued directions with which the board was required to comply. These directions included a request for the board to review the initial action plan presented to the Department in light of Dr. Thorn's findings and to implement a final action plan, to be agreed with the Department. The board was also required to review the measures in place in the ETB to prevent conflicts of interest and inappropriate interventions in processes relating to procurement, contract and project management, and to provide mandatory governance training to new and existing board members. The board was also required to conduct a self-evaluation with appropriately qualified external input and to provide regular updates to the Department.

Having actively engaged with KWETB since the Thorn report, the Department is aware that the board, the new chief executive and the executive staff are adopting a pro-active approach to improving governance arrangements and addressing matters of concern. The ETB has provided the Department and, I understand, the committee with an update on its corporate governance programme, which incorporates the updated action plan. This identifies a robust programme covering not just the directions issued by the Minister, but other governance matters considered by the board to support good governance. The ETB has indicated to the Department its intention to revise this plan further to take account of the recommendations of the Comptroller and Auditor General's report and the revised code of governance for the ETBs, which was updated and issued in January.

Regarding supports and oversight arrangements for the sector as a whole, the ETB sector has undergone significant reforms in recent years. The decisions to move from 33 VECs to 16 ETBs, to incorporate new responsibilities for training provision and to establish SOLAS have seen unprecedented change, with consequential structures and support mechanisms needed to support them. These changes include: a legislative reform programme; a governance reform programme; the placing of internal audit on a statutory basis; and the establishment of Education and Training Boards Ireland, ETBI, as the national representative body for the sector, which plays a critical role in the Department's reform programme for ETBs and the development and implementation of sectoral policies and arrangements for ETBs.

Another important change is the way in which the ETBs prepare financial statements. They are now on a calendar-year basis and use a common and agreed template to ensure consistency of reporting and layout in that presentation. The Department acknowledges that there had been delays in ETBs submitting their financial statements ahead of statutory deadlines, and significant progress has been made in recent years. In the case of ETBs the statutory deadline for accounts is 1 April. All ETBs submitted their draft statements for 2017 by that date in 2018. In respect of 2018, the Department has been engaging closely with the sector to continue to impress upon it the need for continued compliance regarding the submission and the monitoring of progress. The progress made since the establishment of the ETBs can also be assessed by the average time it took them to submit their accounts to the Comptroller and Auditor General, which has reduced significantly.

In more recent times the Department has focused on practical arrangements which support good governance in the sector, including the planned roll-out of shared payroll and financial services, the creation of a dedicated public service reform function in ETBI, putting in place a national procurement policy for the sector and enhancing supports on building and capital projects.

Regarding payroll and financial services, work is under way to move the ETB payroll and

finance systems to a shared services model. When the VECs were first amalgamated, work was undertaken to merge and stabilise existing payroll and finance systems in the newly established ETBs and to implement some interim projects to support them in the introduction of shared services. In tandem, business cases were prepared and signed off to support the investment required in implementing new payroll and finance shared services systems in the sector. The procurement phase for the payroll project was completed in 2018. Procurement for the ETB finance project is under way. The roll-out of the payroll project will commence in the second quarter of 2019 and is to be completed over the next two years. It is envisaged that the roll-out of the finance project will commence in 2020 and conclude the following year.

A reform function was established in ETBI in September 2010 with procurement as one of its key initiatives. Furthermore, a legal services unit based in ETBI was established in 2016. The unit has developed a legal services framework for the ETB sector in conjunction with the Office of Government Procurement, OGP. The unit has resolved approximately 130 queries from ETBs and has developed a log of legal queries which enables the provision of management information.

The ETB sector continues to have high levels of participation in national contracts and frameworks. In addition to individual ETBs utilising OGP contracts and frameworks, the sector has developed ETB-specific frameworks.

As for governance and compliance, a national procurement policy for ETBs was put in place in 2018. In addition, this year will see the roll-out of a new corporate procurement plan template for ETBs and the development of a sectoral multi-annual procurement plan, which will help identify goods and services that require public procurement due to aggregation thresholds. Upskilling of staff across the ETB sector is also being supported.

Another key area is better governance in capital and building projects. Better lead-in periods are important in the context of ensuring projects are delivered in a manner that is fully compliant with Department requirements. The summer works scheme is one example of this, and better lead-in times are now being provided.

The Department has established supports for the sector. The Department's technical guidance documents and design team procedures provide ETBs with clear guidance on how school building projects should be designed and delivered, including in respect of procurement; the Department's planning and building unit provides designated contact points to provide support, guidance and advice to ETBs; and the Department is facilitating ETBs with access to project managers.

Regarding control procedures, prior to a major project being devolved to an ETB, a service level agreement is put in place between the Department and the ETB. This agreement sets out in detail the governance arrangements for the project. As part of these arrangements, at least two separate meetings must take place between the Department, the ETB and their design teams. Through these meetings, and at other key decision points, both administrative and technical staff within the Department review the progress of the project. Under the service level agreement, SLA, the ETB is required to submit monthly project progress reports to the Department which must bring to the Department's attention any issues that have arisen with the project. The Department also sets limits for the ETB and its design team in respect of change orders. The final account for the project must also be sent to the Department to ensure that the final cost is in line with the tender outcome.

As for smaller-scale projects, new enhanced project control procedures were introduced in May 2016. These procedures require two additional interactions with the Department during project delivery. The first is a requirement to seek approval to lodge planning permission, and the second is a requirement to seek approval to place a contract for construction. These additional interactions with the ETBs provide additional oversight and assurance that individual projects are delivered in accordance with the project brief. Further strengthening of these procedures took place from January 2018 with the submission of tender reports for smaller-scale projects together with itemised pricing documents.

The Department carries out an annual programme of compliance checks among schools and ETBs of around 120 devolved projects. This involves visits to schools and ETBs and the checking of supporting documentation. While these checks can identify issues with individual projects, the overall feedback on compliance is positive. The outcome from this is made available to the Comptroller and Auditor General.

Change is ongoing and will take a number of years to embed; the new ETBs continue to develop as single entities, adapting organisational structures and practices accordingly and developing their response to their new responsibility for training. There is a demanding reform programme that is bringing measurable benefits to the sector and at the end of which we expect to have robust structures that will enable ETBs and SOLAS to benefit from the economies of scale generated by the reform programme and to deliver top-class education and training services to the public.

We also have a robust governance regime, which helps to support ETBs to embed good governance practice in the sector. However, we are conscious that, notwithstanding having codes, policies and tools to support good governance, both the Thorn and Comptroller and Auditor General reports provide broader lessons for the sector and the Department, particularly in areas of procurement and governance. We remain open and willing to learn from these issues and to adapt and enhance our existing reform and governance measures.

I am happy to answer any questions from the committee on matters arising.

Chairman: I thank Mr. Ó Foghlú. I note that his opening statement deals with Kildare and Wicklow ETB and goes on in the second half to developments in the sector which have occupied a lot of time in the Committee of Public Accounts in previous years. Some of the issues to which we referred have been dealt with in the opening statement, so it is good to get the feedback on the broader issue.

At this stage I call Dr. Keyes to make her opening statement. I think it is her first time before the Committee of Public Accounts.

Dr. Deirdre Keyes: I thank the Chairman and the members of the committee. Kildare and Wicklow Education and Training Board was established in 2013 under the provisions of the Education and Training Boards Act. Its primary function under this Act is the better co-ordination and delivery of education and training in counties Kildare and Wicklow. Equally, of no less importance is the regulation of that co-ordination and delivery in line with the statutory requirements of Government, in particular the Department of Education and Skills, SOLAS and the Department of Public Expenditure and Reform. The ETB Act of 2013, the code of practice for the governance of ETBs, formerly of 2015 but replaced by the current circular of January 2019, Department circulars and ministerial directions that apply from time to time provide the regulatory framework under which we are obliged to operate.

Regarding the co-ordination and delivery of our education and training services, KWETB in 2015 was in receipt of circa €111 million. In 2016 and 2017 the allocation to KWETB grew to €115 million and €130 million, respectively. In 2018 the total budget was €135 million. Almost 70% is allocated to salaries, with KWETB employing 2,572 staff, the majority of whom are teachers, tutors and support persons to our services and schools. Our learners are the centre of our work. We currently have 12,453 primary and post-primary students and circa 10,000 learners in further education and training. KWETB has been a leading and innovative provider of education and training and is integral to the fabric of the communities in Kildare and Wicklow, both rural and urban, through the presence of our 25 schools - primary and post-primary - and one institute of further education. Our further education and training is delivered in 25 centres and through various contracted training programmes, including apprenticeships. We are responsible for the provision of youth services and social inclusion projects in both counties, in addition to supporting many other initiatives and services - for example, music generation, school completion and outdoor education. We also provide a range of services to our schools and centres in the areas of human resources, corporate services and finance. We manage 70 buildings and premises both for ourselves and other patrons. Our capital programme in 2015 was in excess of €14.2 million and in 2018 this has increased to €15.7 million.

What we do is important and it is incumbent on us to take the responsibilities we have been given very seriously to ensure quality of delivery, support and progression for all our learners and importantly, value for money through propriety in our financial matters. It is therefore of regret that the Comptroller and Auditor General and Thorn reports which are before the committee today point to serious lapses and gaps in terms of our required regulatory, financial and propriety responsibilities. While the reports note there were arrangements and documented procedures to manage procurement and conflicts of interest in place, their findings highlight serious concerns and shortcomings on an operative basis in the implementation of procurement and other processes during the period of the investigation. We accept these findings.

I am here today as the Accounting Officer of KWETB to give account to the committee of its general administration, in particular to respond to the Comptroller and Auditor General 2015 audited accounts and supplementary report, and indeed any other matters the committee may wish to raise.

While it is my intention to fully engage with the committee, there are a number of matters that have been referred to the National Economic Crime Bureau. A criminal investigation of these matters is currently under way and as such, there might be topics that I and the other representatives from KWETB are not in a position to discuss. I can confirm that we are co-operating in full with An Garda Síochána to ensure that this investigation can reach its conclusion in as efficient and timely a manner as possible. Considerable resources and time have had to be diverted to this investigation. Despite this, our core work has continued and I am indebted to our teachers, tutors, leaders and support staff who are committed to the service of teaching and learning in our ETB.

While acknowledging and accepting the seriousness of the findings of both reports, I hope that I can provide assurances to the committee that KWETB has set out to build a robust culture of corporate governance, building on the policies and controls that had previously been in place but strengthening them in areas of oversight and internal control in, but not limited to, the key areas as identified in both reports. Our current corporate governance programme reflects the requirements of ETBs with regard to our internal practices and reporting to our board, our external oversight and reporting requirements to Government, committees of the Oireachtas,

respective Departments, and the Minister, as well as other agencies and funders. Particular attention has been paid to procurement processes and oversight, document retention and control, risk management, management of conflicts of interest, and other matters of propriety. This programme now needs to be advanced in line with the additional requirements as set out in the new code of corporate governance for ETBs as issued in January 2019 by the Department of Education and Skills.

We are also working closely with the other statutory reporting and auditing authorities of the state as relevant to ETBs. The office of the Comptroller and Auditor General is currently conducting the 2016 audit. The ETB internal audit unit, IAU, has concluded its ICT and youth-reach audit work. The ICT opinion report has been sent to the Department and we are currently working on the management response to the youthreach audit. The IAU have commenced a full internal audit of KWETB's procurement processes, procedures and internal controls. This audit is both timely and welcome. In line with any findings and recommendations of the IAU audit work and related reports we are committed to adapting our corporate governance programme, internal controls and risk registers.

The corrective and immediate actions that have taken place in the light of both the Thorn and Comptroller and Auditor General reports are of particular importance. While the final Thorn report, "Investigation into Certain Matters in Kildare and Wicklow Education and Training Board", was not issued for the attention of the board and executive of KWETB until 12 September, it was noted by Dr. Thorn that the response of KWETB had been both comprehensive and constructive in the manner in which the executive and board committed to dealing with its recommendations and findings. On the issuing of the report, the Minister, in accordance with section 41(3) of The Education and Training Board Act 2013, gave a number of directions to the board on the performance of its functions. The board accepted the directions in full. In addition to these directions, the Secretary General of the Department of Education and Skills also directed the chief executive, that is, myself, on a number of matters. Those matters related to a range of actions to which KWETB had committed as part of the recommendations made by Dr. Thorn, the expectations of the Department in terms of the delivery of these actions and the reporting and oversight arrangements that were to be put in place.

During the period from September to November 2018, the executive worked on its action plan for presentation and agreement of the board at its December meeting. A final corporate governance programme was presented and approved by the board on 13 December 2018. A full report was issued to the Department in January 2019. An updated report has been prepared for the Committee of Public Accounts by way of a briefing paper. A steering group comprising the chairperson, vice chairperson and members of the executive has been constituted to have oversight of this programme and to report to the board on its progress.

During what has been a very difficult period for KWETB, it is important to assure the committee that both the board and executive have worked hard to ensure that we continue to deliver on our legislative responsibilities. We achieve this by delivering a quality service for all our learners; this at all times remains at the core of what we do. All of our actions under our corporate governance programme are to ensure the best quality of experience for our learners, proper learning environments, physical spaces, adequate resources, both financial and human and ultimately value for money for the Exchequer. We are fully committed to this and are fully mindful of the governance responsibilities that go with that.

As chief executive of KWETB, I wish to formally confirm my commitment to the highest standards of propriety and good practice to the learners, staff, communities of Kildare and

Wicklow, Minister for Education and Skills and the members of the Committee of Public Accounts.

Chairman: I thank Dr. Keyes. I will call Deputy Peter Burke, who has 20 minutes, and then Deputy Aylward, who has 15 minutes. The subsequent speakers each have 10 minutes so that everyone gets in before the block of voting in the Dáil and I will call them in the following sequence: Deputies Connolly, Cullinane, Catherine Murphy, MacSharry and Jonathan O'Brien.

Once again, I remind everyone that a Garda investigation is ongoing. I do not want anyone trespassing on that. I will be obliged to stop them if they do. That also applies to the witnesses.

Deputy Peter Burke: That is noted. I have some brief questions for the Comptroller and Auditor general to begin. First, he issued a supplementary report. Is that very unusual? Second, on the ETB structure, are they registered for PAYE? For what taxes are they registered? Do they have charitable status? The third question relates to properties that may have been on the register for ETBs. What work, if any, is undertaken by the Comptroller and Auditor General to ascertain value for money in relation to rental income to the ETBs and whether it stacks up with normal valuation standards for the annual rent roll in terms of what the property cost, and so on?

Mr. Seamus McCarthy: The production of a supplementary report is very unusual. From memory, there have only been three or four in more than 20 years. A point worth drawing to the attention of the committee is that there was a previous supplementary report in relation to Kildare Vocational Education Committee, again picking up on points in relation to difficulties with substantiating the procurement, the development of a school and the sale of property. I am sorry but I did not hear the beginning of the second question the Deputy asked.

Deputy Peter Burke: In terms of taxation numbers, for what taxes would an ETB be registered? Would ETBs have charitable status?

Mr. Seamus McCarthy: They would obviously have tax numbers. As to charitable status, I am not aware of the position but maybe the chief executive would be able to answer. I know that charitable status does arise in relation to third level bodies, where there would obviously be substantial philanthropic funding. It would not be that usual with-----

Mr. Hubert Loftus: They are used.

Mr. Seamus McCarthy: They are used. That is a correction from the Department.

Chairman: I did not hear what Mr. Loftus said.

Mr. Hubert Loftus: The ETBs are registered with the Charities Regulator. They are required to be registered with it given that there is an educational purpose. That is one of the issues within the charities legislation.

Mr. Seamus McCarthy: The third matter was in relation to property, value for money and so on. We would not normally be doing as described as part of the financial audit. It is really a matter in the first instance for any State body to establish that it is acquiring, holding and using property in a way that delivers value for money.

Deputy Peter Burke: I thank the witnesses for those responses.

Could the chief executive set out the various tax numbers that the ETB has and confirm that

it has charitable status?

Dr. Deirdre Keyes: It has charitable status. I did not understand the second question.

Deputy Peter Burke: For what taxes would an ETB be registered? For what taxes is the ETB in question registered? I presume it is registered for PAYE because it obviously pays wages.

Dr. Deirdre Keyes: Yes.

Deputy Peter Burke: Is there any other tax it is registered for? Is there somebody from finance here?

Dr. Deirdre Keyes: There is someone from finance who would probably be able to answer that question.

Chairman: When the Deputy says “finance”, does he mean finance within the ETB?

Deputy Peter Burke: I am sure someone should know what taxes the ETB is registered for. I am looking for basic information.

Chairman: Information is being provided.

Dr. Deirdre Keyes: It is registered for VAT, PAYE, RCT-----

Chairman: I ask the head of finance to be on hand.

Dr. Deirdre Keyes: Yes. The ETB is registered for VAT, PAYE, RCT-----

Chairman: What is RCT?

Dr. Deirdre Keyes: Relevant contracts tax.

Chairman: I want it spelled out for the public watching.

Dr. Deirdre Keyes: Withholding tax.

Deputy Peter Burke: Are all the tax returns up to date? Are there any issues with the Revenue Commissioners regarding any of those tax heads currently?

Chairman: I ask Ms Catherine Doran, the head of finance, to respond.

Ms Catherine Doran: All our tax returns are up to date. Currently there are no issues with those tax returns.

Deputy Peter Burke: Why would an ETB be registered for relevant contracts tax?

Ms Catherine Doran: It is the principal contractor for RCT purposes. When we engage contractors, we end up having to pay the VAT and the relevant contracts tax on behalf of those contractors. We get an invoice in from a contractor without the VAT. We pay the VAT over and then we pay the contractor tax at the relevant rate. When the contract is first signed, we register it on the Revenue Online Service site. When the payment is made, that is registered on the site as well. Then we pay over the tax at the end of each month, or bimonthly in some cases.

Deputy Peter Burke: Typically, what would the payments be for?

Ms Catherine Doran: Any building works. It is really just building works. It is anything that is classed as works by subcontractors. There is a percentage and one is told what amount to pay-----

Deputy Peter Burke: I understand. The witness stated that taxation heads are up to date. With regard to various references in some of these reports to subsistence payments being inaccurate and to potential BIK issues that may arise over no log regarding where vehicles were parked, etc., how can we be sure there is no additional PAYE liability on foot of those issues?

Mr. Joe Kelly: With regard to BIK, we no longer have pool cars in our register of assets. We did have in the past?

Deputy Peter Burke: How can we be sure that we did not have a liability?

Mr. Joe Kelly: We did have a log of vehicles and their use. It was being used and its use was strongly encouraged but there are or were some gaps in its use.

Deputy Peter Burke: It states in the report that KWETB did not maintain an accurate log of vehicle use or location. Is that correct?

Mr. Joe Kelly: That is correct but we did have a log; it just was not updated and as accurate as we would like it to have been.

Deputy Peter Burke: Essentially, it was not enforced.

Mr. Joe Kelly: It was not used in the way we were presenting it to be used.

Deputy Peter Burke: Whose responsibility is it to ensure it is kept up to date and accurate?

Mr. Joe Kelly: The responsibility would ultimately be with the corporate services manager but each individual would have responsibility for registering the use of a vehicle any time he or she uses it.

Deputy Peter Burke: At the end of the day, however, someone has to check, presumably weekly or monthly, that it is filled in and up to date. Obviously, one cannot rely on the individual using the equipment or motor vehicles to do that. Someone has to oversee it and have responsibility to ensure it is carried out correctly.

Mr. Joe Kelly: That is true but we would not always be aware who has or has not used a vehicle.

Deputy Peter Burke: If it were brought home for personal use, it would not be known either.

Mr. Joe Kelly: Not always. Correct.

Deputy Peter Burke: Has that changed?

Mr. Joe Kelly: It has changed because we no longer have pool vehicles.

Deputy Peter Burke: How is subsistence paid? Normally sheets that are presented are signed or co-signed and safeguards are built in to ensure the correct rate is paid and that the details on each charge sheet stack up. Looking at the report, I believe there seems to be a suggestion that some of the subsistence payments made were not correct. Whose responsibility

is it? What process does the ETB undergo when making subsistence payments to employees?

Mr. Joe Kelly: The first responsibility is with the individuals who sign the form and put in a subsistence request. Second, it is signed off by a manager, who is also responsible for overseeing that the correct information is included. It then goes to the finance department, which is also responsible for ensuring the information-----

Deputy Peter Burke: Is there a head of finance in the ETB?

Mr. Joe Kelly: Yes. It is Ms Doran.

Deputy Peter Burke: So it is Ms Doran's responsibility to approve subsistence payments.

Mr. Joe Kelly: It is the line manager, not Ms Doran, who is responsible for signing off on any subsistence requests that are made.

Deputy Peter Burke: When it gets to Ms Doran's desk, she would have to have some form of documentation signed or co-signed indicating a payment of value X may be authorised for a certain employee.

Mr. Joe Kelly: Correct. She would have that and she would also have the authority to question any subsistence requests about which she may have concerns.

Deputy Peter Burke: I presume that has not happened in the past.

Mr. Joe Kelly: Again, I-----

Deputy Peter Burke: It will probably get to a stage when it is cited specifically in the report. Subsistence payments comprise one of many issues. If we are outlining the processes in place and that people are accountable at each link in the chain of command, how was it that the payments were made in 2015? I admit it was nearly four years ago.

Mr. Joe Kelly: I joined the organisation in the summer of 2017 so I am reliant on information of which I may be aware from other members.

Deputy Peter Burke: Can anyone tell me how it would happen?

Chairman: How many witnesses were in their current positions in 2015, the year pertaining to the audited accounts?

Ms Catherine Doran: I was not in my current position, but I was-----

Chairman: Ms Doran was an employee at that stage.

Dr. Deirdre Keyes: Maybe if I came in on that as current lead-----

Chairman: It is just to understand who is in front of us.

Dr. Deirdre Keyes: Obviously, the Comptroller and Auditor General's report has identified an issue around subsistence which we are currently pursuing. We have analysed those subsistence claims for 2016 and 2017. I assure the committee of that. We are pursuing those subsistence claims which were outside the subsistence bands as prescribed. We have prescribed travel and subsistence rates from the Department of Education and Skills in line with Department of Public Expenditure and Reform regulations for all public servants. Our travel and subsistence log is presented to the line manager. There are internal controls over that and internal checks

are made by finance. They are only paid after that process has taken place.

Deputy Peter Burke: It must be a new thing that those controls are in place.

Mr. Seamus McCarthy: To clarify, we would normally do a test on a random basis of travel and subsistence claims. We did not find a general problem here. We also test travel and subsistence payments of senior managers in organisations specifically. In this case, our examination of the travel and subsistence claims of the chief executive found a specific problem.

Deputy Peter Burke: If an incorrect payment has been issued, do the rules mean that is a re-grossed stop and could result in a Revenue liability?

Mr. Seamus McCarthy: That is something that would obviously have to be examined. If the moneys cannot be recouped, there may be a liability on the part of the organisation. As I recall it, the difficulty here was that there was no counter-checking and no authorisation was done of the travel and subsistence of the chief executive. In many organisations, there is a process where the chief executive discusses his or her expenses with the chairman of the board, but that was not happening in this case.

Dr. Deirdre Keyes: It is the current practice that the chairperson authorises the expenses of the chief executive and the head of finance carries out an additional check on any claims by the chief executive to ensure they are in line with the agreed rates.

Deputy Peter Burke: To continue in that vein of discussing safeguards and ensuring adequate internal controls are in place, it is difficult to understand, against the backdrop of 2015, which I realise is going back four years and is not ideal, how a body with charitable status could authorise a trip, around which there is very little detail, to a five star hotel at a cost in excess of €10,000. How is something like that authorised? Surely, someone within the organisation would know about it. I am sure it was discussed widely within the organisation. What internal controls were in place? I would have thought something like that would have been stamped out decades ago.

Dr. Deirdre Keyes: As I said in my opening statement, there were lapses in internal controls in relation to a number of matters. The Comptroller and Auditor General's report outlines that fully. In terms of going forward-----

Deputy Peter Burke: What I am not understanding-----

Dr. Deirdre Keyes: Some things have remained unexplained in relation to certain matters.

Deputy Peter Burke: This may just be the tip of the iceberg if matters had gone so far that expenses like that could be authorised without question. Is there anyone else who was around at that stage who could shed some light as to how the process worked?

Dr. Deirdre Keyes: Perhaps I am not clear on the question.

Deputy Peter Burke: How was it authorised?

Dr. Deirdre Keyes: The accounts have been audited and these are the irregularities that have been put forward.

Deputy Peter Burke: Normally, there is a requisition or some document that is signed and co-signed if there is a trip away or where taxpayers' money is being spent under any heading.

Usually, there is detailed paperwork that is checked and safeguards are in place to ensure money is not being misappropriated and the reason for a trip is clear and documented. I do not understand how this happened. Someone has to sign the cheque and someone has to press the button to pay the money. There must be checks along the way and I do not understand how something like this could happen in 2015.

Mr. Seamus McCarthy: We had an invoice with just the name of the hotel and the amount to be paid. We did not have any details on it. The explanation we were given at the time was that the event was in a local five-star hotel and that it was a residential course of two days for a strategic planning meeting provided to the principals of the ETB schools, deputy principals and senior administrative staff to review the outcomes of the previous year.

Deputy Peter Burke: However, there is no detail of that.

Mr. Seamus McCarthy: No. This is the explanation we were given afterwards. We did not have a schedule of who attended, any further details or a breakdown of the charges from the hotel. There was no detail around the number of rooms, meals taken or conference facilities used.

Deputy Peter Burke: Whose job is that? Who is going to take responsibility for the lack of procedures or controls? Was Mr. Merrick the chairperson at that time?

Mr. Noel Merrick: No. I only became chair a year ago. I joined the board at the end of 2014 but we were not aware of these issues at that time.

Dr. Deirdre Keyes: Currently, that would not happen as we have a very clear travel and subsistence policy and internal controls on the use of hotels.

Deputy Peter Burke: But we are still not sure how it happened.

Dr. Deirdre Keyes: That happened at that time, but I assure the committee that it is not the practice now.

Deputy Peter Burke: I refer to the different buildings we lease or occupy. At page 23 of the financial statements at A, B and C, there is a list of the various buildings that are occupied. The rents on some of them seems very high. The further education centre in Arklow costs €250,000 in annual rent which seems like a huge sum. Can I have a bit of background to a sum of that magnitude? Are there independent valuations to certify that this is the market rate for such a building? From what entity is it being rented?

Dr. Deirdre Keyes: I hope I have the full question on that. This is a very important question in relation to leases. Our finance committee is currently reviewing all our leases and the expenditure on them and hopes to present a report to our full board at its next meeting. It is a very significant area of expenditure and is primarily in the area of adult and further education and training where, unlike schools, we do not have permanent buildings and are in rented property situations. That is being reviewed by the board and it is a significant cost in rent terms.

Deputy Peter Burke: Is the ETB satisfied with it?

Dr. Deirdre Keyes: Anywhere we can reduce costs or consolidate rental properties in any one area, that is an objective we have.

Deputy Peter Burke: If we come back and start answering.

Dr. Deirdre Keyes: Maybe some detail of the amount that relates to significant activities-----

Deputy Peter Burke: My time is running out and I would like answers to the specific questions, if possible. To take the example of the building in Arklow, do we occupy the full space?

Ms Caitríona Murphy: We do. We have a number of different programmes.

Deputy Peter Burke: How big is it?

Ms Caitríona Murphy: It is a multiplex centre and it caters for all our vocational training and all our adult education. Hundreds of learners go through the centre.

Deputy Peter Burke: Do we have an independent valuation on file to certify it is a market rent?

Ms Caitríona Murphy: I believe so. There was a competition in 2012, albeit I would have to get the exact date. Deputy Burke is right that it is one of the higher rents, but valuations were done at the time and we have a fairly stringent process in place when a lease comes up for renewal or-----

Deputy Peter Burke: When were the valuations done?

Ms Caitríona Murphy: I will have to double-check the building on our property register. It is relatively new. Our further education and training students moved into the multiplex a number of years ago.

Deputy Peter Burke: It still seems an extraordinary amount of money.

Ms Caitríona Murphy: It is a higher-----

Deputy Peter Burke: The commitment is until 2031. Has the lease been signed until 2031?

Ms Caitríona Murphy: It is a signed lease.

Deputy Peter Burke: The ETB has committed to that rent until that date.

Ms Caitríona Murphy: There are various clauses built in for reviews of rent. I will check the exact detail for the start and finish dates and will get back to the Deputy.

Deputy Peter Burke: I presume there are valuations to back them up for all of the buildings being rented.

Ms Caitríona Murphy: It is part of the process that valuations are done and re-evaluations are done-----

Deputy Peter Burke: It may be part of the process but does Ms Murphy have them?

Ms Caitríona Murphy: I cannot commit on every one of them but we will be able to find that out for the Deputy.

Deputy Peter Burke: Is there somebody who could commit on every one of them?

Dr. Deirdre Keyes: I could not commit to every one of them but it is something that is being reviewed. There was a very clear circular on licences and leases of premises. There is a

very clear process on this in terms of what is required and with regard to the role of the board in the area of compliance and oversight. At this point, we are looking at a number of them and we hope to be able to provide a full report to our board with all of the accurate information and we will be happy to supply it to the Deputy once it is done. At this point, we could not say all of it is in place.

Deputy Peter Burke: With regard to related party transactions, is it not basic common sense that they are disclosed in accounts with regard to buildings sublet to other parties? Why would accounts be produced in an ETB or any organisation in this day and age that do not disclose related party transactions?

Dr. Deirdre Keyes: Perhaps I do not understand the question. Will the Deputy repeat the question and I can-----

Deputy Peter Burke: In terms of disclosure of related parties, there was an issue with Postbrook Limited. This is one of the entities that was-----

Mr. Seamus McCarthy: It was not so much in the context of the financial statements as in an obligation on an official not to be involved in something where there is a connected person.

Deputy Peter Burke: So the financial statements would not have to be disclosed.

Mr. Seamus McCarthy: Certainly if there were related party disclosures, but I think it is not something that typically arises in ETBs.

Deputy Peter Burke: I have to say as-----

Mr. Seamus McCarthy: I would expect to see related party disclosures if there was a board member who was a related party to a contractor or to the provision of a contract to the ETB. I would expect to see that disclosed.

Deputy Peter Burke: Has the template model for these accounts changed since 2015 with regard to the presentation? It is very difficult to get information from the accounts. It is extraordinary to read them. They are absolutely-----

Mr. Seamus McCarthy: It is very bespoke-----

Deputy Peter Burke: There is no information.

Mr. Seamus McCarthy: -----and it is a matter for the Department.

Deputy Peter Burke: Issues such as related parties can get out through a vacuum. There seems to be no exact model such as there is for a company's set of accounts. In the corporate world there is an obligation to disclose all of these items. It is very hard to read these accounts. Tax is not mentioned and neither is PAYE. Basic items we would see in a normal set of accounts are not mentioned in this model. It seems extraordinary.

Chairman: The Deputy has gone well over the time.

Deputy Peter Burke: Would the Secretary General like to comment on this? Is he satisfied with the model in which the accounts are presented? With regard to disclosure of documents and board members disclosing their interests, does the Department follow up robustly to ensure this information is presented in a timely manner?

Chairman: I ask Mr. Ó Foghlú to give a quick response.

Mr. Seán Ó Foghlú: On the second issue, disclosures of interest are not made to us. They are made-----

Deputy Peter Burke: The Department is paying the money to the ETBs.

Mr. Seán Ó Foghlú: Disclosures of interest are made within the ETB structure.

Deputy Peter Burke: So the Department does not follow up on them.

Mr. Seán Ó Foghlú: Disclosures of interest are not made to us. We are not-----

Chairman: Perhaps the chairman of the board would like to comment.

Deputy Peter Burke: What I find extraordinary is that a number of individuals did not disclose exactly what they had. The Secretary General is paying all of this money to this entity and he says it is not his problem really.

Mr. Seán Ó Foghlú: I did not say it was not my problem.

Deputy Peter Burke: That is what it sounds like.

Mr. Seán Ó Foghlú: We must be careful that we are speaking in general rather than in specifics.

Deputy Peter Burke: We are talking in general. The report states there were a number of instances.

Mr. Seán Ó Foghlú: That is not the general I am talking about. I am talking about a higher general. I am not talking about disclosures referred to in the Comptroller and Auditor General's report.

Deputy Peter Burke: I am talking basically-----

Mr. Seán Ó Foghlú: The manner of disclosures is a matter for the ETB to manage in its business.

Deputy Peter Burke: The Secretary General is happy to pay money when disclosures are not fully made. He is okay with that.

Mr. Seán Ó Foghlú: I did not say that.

Deputy Peter Burke: He is passing the buck.

Mr. Seán Ó Foghlú: It is a matter for the board to take responsibility for managing it. I am not happy to pay money when disclosures are not fully made. It is a matter for the board to manage the payments-----

Deputy Peter Burke: The Secretary General has no issue with doing so.

Chairman: I will ask the chairman of the board to comment. Is there a uniform set of accounts for all of the ETBs?

Mr. Seán Ó Foghlú: There is a uniform set of account for the ETBs, which we have up-

dated through building on those of the VECs and we will be updating them further.

Chairman: Does the standardised version apply to 2018?

Ms Martina Mannion: The template for the accounts is updated yearly. The template is cumbersome, unfortunately, as a result of the financial management systems in use in the ETBs from which the data are collected. We are engaging with the ETBs and the Comptroller and Auditor General on making the template as user-friendly as possible. I hope the shared service for the financial management systems will allow better quality data which, in turn, we can use to update the template.

Chairman: We have two accountants in the room who have difficulty with the accounts, so there is a problem with them.

Deputy Peter Burke: They are incredible to look at. There is no-----

Chairman: It is one of the first set of financial statements we have seen from the ETBs, and if this is the format of all of them, I do not know how members who do not have a financial qualification will understand them. I am saying to the Department and whoever is over the ETBs that this structure and presentation format is Victorian and we need a current up-to-date format. The witnesses can take the point. I will not labour it. We find them extraordinarily cumbersome.

Ms Murphy has indicated in respect of the property that Deputy Burke asked about and I now ask Mr. Merrick to speak on it.

Mr. Noel Merrick: Leases, licences and property are ultimately the responsibility of the board. They are a reserved function of the board. The finance committee has taken a particular interest in all of these licences and leases and is systematically beginning to go through them. Particularly at renewal time or if there is a new lease, they are examined in detail by the finance committee, which makes a recommendation to the board. The board must then make its own decision because it is the ultimate authority.

Deputy Peter Burke: It looks like that did not happen in the past.

Mr. Noel Merrick: I take that point.

Deputy Peter Burke: It is great saying it now.

Chairman: Ms Murphy has indicated.

Ms Caitríona Murphy: I want to clarify that the building in Arklow the Deputy asked about was built in 2008. We took out the lease in 2010 and not in 2012, which is what I said first.

Deputy Peter Burke: Thinking back to that time, and I apologise for interrupting, but the period from 2008 to 2010 was a very tough time economically and €250,000 seems an extraordinary amount of rent to pay annually. If a commercial valuation basis was used to purchase it, and I know this is not a model that is often used-----

Ms Caitríona Murphy: There were valuations and it is for 20 years. I wanted to clarify that there is a 21 year lease. I also want to state that hundreds of students are in the further education and training centre. We must go to our funding agency every time we need to look

for a building or change a building.

Deputy Peter Burke: How many independent valuations do we have for the building?

Chairman: From that time.

Ms Caitriona Murphy: I will have to double-check.

Deputy Peter Burke: This is very important. We should have this information. It is very hard to get answers.

Deputy Jonathan O'Brien: I have a very quick question. Can we be provided with the valuation report for the building?

Chairman: Is it possible for somebody here to get it?

Deputy Jonathan O'Brien: I will also be looking for some details on the lease for block E of Bray Civic Centre, which I believe was taken up in 2017.

Chairman: Is it possible for this information to be emailed to the committee within the next hour or so?

Deputy Bobby Aylward: I welcome the witnesses. For the public in general, the audit we are scrutinising today is for 2015. That is four years ago. Since then we have had 2016, 2017 and 2018 and we are now in 2019. Why are we scrutinising 2015? What is the status of 2016, 2017 and 2018? The public should know why we are four years behind. Who will answer the question?

Mr. Seamus McCarthy: I will answer in part. I explained the audit of the 2015 financial statements in my opening statement. There were difficulties with the first sets of financial statements for the ETBs in settling the format of the financial statements for them, and there were a number of other issues. That caused a knock-on delay so we were starting the audit of this at the beginning of 2017. The difficulties that were uncovered in the course of the audit obviously delayed the completion of the 2015 financial statements and that has had a knock-on effect for 2016, 2017 and 2018. We are currently doing the audit of the financial statements for 2016. I expect we will do 2017 as well this year. We will have to do 2018 and 2019 next year. It is very unsatisfactory but the circumstances were quite unusual.

Deputy Bobby Aylward: It seems strange. One would not run a private business that way.

Mr. Seamus McCarthy: No, one would not.

Deputy Bobby Aylward: I read the Comptroller and Auditor General's report last night. There was complete dysfunction in governance and oversight control. Everybody was asleep at the wheel. We cannot talk about what happened as we have been warned it is not allowed, but there are issues and concerns. Where was everybody when this was happening? It seems to have been controlled by individuals and executives. Where was the Department of Education and Skills, the Secretary General, the governing board and the audit committee while all this was happening? Somebody has to answer questions. There was the Thorn report and the witnesses are telling us today that everything is hunky-dory, they have learned their lessons and nothing will ever happen again from now on. How can we assure the public that this is not happening elsewhere? There are many ETBs around the country. Can the Secretary General comment on that? The witnesses used lovely words, referring to robust governance, regime

codes, policies and tools to support good governance, but where were those words in the last few years?

Mr. Seán Ó Foghlú: I used other words as well-----

Deputy Bobby Aylward: I know. I heard them all but I picked out the ones I mentioned.

Mr. Seán Ó Foghlú: That is for the future. That is what they have indicated they have put in place. We are obviously very concerned about the findings of the reports. We were concerned when the Comptroller and Auditor General approached us about issues arising in Kildare and Wicklow ETB. We also had a number of other issues ourselves. When we put those together we had a concern. We asked the ETB for responses and we were not satisfied with them. That is the reason we advised the Minister and the Minister decided to put the statutory review in place. Obviously the Comptroller and Auditor General paused his audit until that was complete and then took account of it. Clearly, there are matters of concern, as Dr. Thorn indicated, about the effective operation-----

Deputy Bobby Aylward: At what stage did the Department become aware of problems or concerns and what was the immediate reaction of the Department?

Mr. Seán Ó Foghlú: We were aware of concerns about two major buildings and we were following up on those individually, but when the Comptroller and Auditor General approached us about other issues in another major building and across a number of other areas we immediately met with the chair and the then CEO of the ETB. We asked for responses to the issues and when we were not satisfied with the responses we instigated the review.

Deputy Bobby Aylward: What did the Department do then?

Mr. Seán Ó Foghlú: We instigated the review, which is a statutory review. It has the response of a plan from the ETB as part of it. The ETB engaged with the outcome of the review and agreed to put an action plan in place. We are working closely-----

Deputy Bobby Aylward: Who asked Dr. Thorn to do a report? At what stage was he brought in?

Mr. Seán Ó Foghlú: He was brought in during October 2017, three months after we learned initially but after we had given the ETB a chance to respond.

Deputy Bobby Aylward: I have not read Dr. Thorn's report. I presume it was scathing about what happened. The outcome of his report has brought us to where we are now.

Mr. Seán Ó Foghlú: As I indicated in my opening statement, he was clear that the procedures were there but that they were not being implemented.

Deputy Bobby Aylward: What is Mr. Ó Foghlú's conclusion about the procedures and what happened in Kildare and Wicklow ETB? What is his opinion now? Can it happen again and could it be happening somewhere else in the country?

Mr. Seán Ó Foghlú: I am very concerned. We have sought to update governance arrangements to ensure it does not happen again. We have put a number of elements in the code of practice, in particular the code of governance, to deal with issues that have come up in this regard and we will continue to do so. We did that before the Comptroller and Auditor General's review was complete. We will listen to the views of this committee and we might seek to up-

date the code of governance further. We have amended procedures on minor, small devolved projects and on big devolved building projects as a result of, among other things, the lessons we have learned in this regard. We have not seen anything that would cause concerns that there might be similar activities elsewhere in the ETB sector but that does not mean we can take absolute assurance from that. We are seeking to develop the role of the independent internal audit service for the ETBs further and we have a number of arrangements in the code of governance to examine issues. We will be considering different types of thematic reviews within the sector to see if we have learned from the lessons.

The biggest lessons for me are: how can we ensure that members of ETBs have an oversight, and how can we ensure that the culture within an ETB, both members and staff, allows for people to look at other people's behaviour and where there are difficulties in that behaviour there are arrangements in place for a culture of challenge? That is an overall governance challenge, and that is what we must examine. The training we are putting in place on the code of governance will hopefully assist in that regard. Obviously, however, the findings are very strong in both the Thorn report and the Comptroller and Auditor General's report.

Mr. Hubert Loftus: To add to that, we have put a significant effort into enhanced supports for ETBI which helps to ensure a consistency of approach in terms of strengthened governance across the sector. In the buildings area we carry out compliance checks. We have an annual programme of compliance checks of 120 devolved projects across schools and ETBs. That is a programme where we get down to school level-----

Deputy Bobby Aylward: That seems to have failed where this investigation is taking place from what I have read. That is my opinion.

Mr. Seán Ó Foghlú: Again, we did compliance checks. We have 120 compliance checks across the schools and ETB sector.

Mr. Hubert Loftus: That is annually since 2013.

Mr. Seán Ó Foghlú: For example, there were two compliance checks on small devolved projects in Kildare and Wicklow ETB in 2014 and there was no difficulty with those.

Mr. Hubert Loftus: The compliance checks involved a visit to the school and checking the supporting documentation.

Deputy Bobby Aylward: I have two questions. Poor contract management practices contributed additional costs of €483,000 regarding the construction of Arklow community college. Given what the witness has said, why did the Comptroller and Auditor General include that comment? That is the opposite of what Mr. Loftus is saying. The €483,000 is almost €0.5 million. It is in the report in black and white. What the witnesses are saying and what is in the report are contradictory.

Mr. Seán Ó Foghlú: This matter is covered in detail in the Thorn report. There is a disagreement recorded in the Thorn report about how the contractor was asked-----

Deputy Bobby Aylward: There was a systems failure

Mr. Seán Ó Foghlú: Will the Deputy let me answer? There is a disagreement recorded in the Thorn report about how the contractor was asked to speed up the construction. The ETB is required to come to us with such a request and it did not. We only learned about it when the

bill came in.

Deputy Bobby Aylward: Who is responsible? Can we identify who is responsible for the overrun?

Chairman: You are not to identify any individual.

Deputy Bobby Aylward: Yes, but the public needs to know why there is an additional cost of €483,000.

Mr. Seán Ó Foghlú: Can I make a further comment? If the ETB had approached us we do not know whether we would have agreed. We might have agreed because there was an urgent need for school places. However, the fact is that the ETB did not approach us.

Deputy Bobby Aylward: Can Dr. Keyes comment on that?

Dr. Deirdre Keyes: This is one of the projects that is currently under investigation by the Garda. We have had the Dr. Thorn report to ascertain the answers to those questions. The role of the employer representatives is relevant in terms of the acceleration of that project and the public works contract. We have tightened our internal controls in respect of that issue to ensure there can be no acceleration outside the contract without going through the employer representative. In turn, the employer representative will go to the Department and we get authorisation to do that.

Deputy Bobby Aylward: That did not happen in this case.

Dr. Deirdre Keyes: As the Secretary General has explained, the Department was not aware that the acceleration project had taken place. The Thorn report outlines the dispute and the difference of view in how that happened. That particular issue has been referred by Dr. Thorn to the Garda for further investigation.

Deputy Bobby Aylward: There is €500,000 with a question mark over it.

There is another figure for national school costs to install modular classrooms at €206,000. These classrooms were relocated to a new post-primary school three months later at a cost of €73,000. Is that under investigation as well? This is big money.

Dr. Deirdre Keyes: No, I think the appointment of the contractor is an issue but in our response to the report of the Comptroller and Auditor General we gave an explanation of how that happened in the context of the information available to us. Obviously, we have accepted the findings. Obviously, the committee will note from my statement that they are of regret. Deputy Aylward is correct about some of the expenditures incurred.

Deputy Bobby Aylward: Why were the modular classrooms purchased in April 2015 at a cost of €206,000? Three months afterwards they were relocated at a cost of €73,000. Why were they put in place in April when three months later they were relocated?

Dr. Deirdre Keyes: There was a need. My director of schools can give the background to that.

Deputy Bobby Aylward: Someone has to answer these questions.

Chairman: I have got a message from the Oireachtas broadcasting system. Please put all devices on airplane mode. Silent mode is not enough. You cannot be sending text messages in

the committee room. It is interfering with the recording system. That is across the board and applies to everyone in the room and those in the Visitors Gallery.

Mr. Seán Ó Foghlú: Before Mr. Loftus comments I wish to say one thing. We do not think it is appropriate to comment on or indicate in respect of a matter that has arisen and that is under investigation. This is partly because we do not know. We have referred everything to the Garda. The full reports have gone to the Garda. I am not commenting in any sense.

Deputy Bobby Aylward: I make no apology for raising this. It is about taxpayers' money. It is before us in black and white from the report of the Comptroller and Auditor General. I make no apology to anyone for raising the matter on behalf of the general public.

Mr. Seán Ó Foghlú: I am not asking Deputy Aylward to apologise. I am simply saying that I am not commenting on what may or may not be under investigation. We are going to have a go at answering Deputy Aylward's question now as best we can. What I am saying is that we cannot comment on whether any particular matter is under investigation, because we do not know.

Chairman: That is a matter for the Garda. Let us be clear. The Comptroller and Auditor General produced this report. In normal circumstances we would look at this situation. In the interim the matter has been referred to the Garda. One could make the case that we should not be discussing the matter because it is before the Garda, but we decided to discuss the matter within very limited strictures. In fact no one in this room can say what is or what is not being investigated by the Garda and we cannot presume anything. Some of the questions being asked at the committee today will not be answered today or should not be answered today. It will be up to the Garda to deal with the matter in due course. Some of the questions cannot and should not be answered today. I have to be strict on that point.

Deputy Bobby Aylward: We should not be kept away from what we want to ask about. These are blatant problems. I do not know whether it amounted to a waste of taxpayers' money but it is money that has gone astray anyway.

Mr. Seán Ó Foghlú: We will seek to answer Deputy Aylward's question.

Mr. Hubert Loftus: Deputy Aylward asked a question about Arklow. The Department was already aware of the issues and was following up with the education and training board on the matter prior to the issue coming to the attention of the Comptroller and Auditor General as part of the audit. We explained our position on the matter.

Reference was made to temporary accommodation for Naas community national school. This was a school in prefabs. It had demographic needs. Two additional prefabs were approved to cater for those needs. Separately, the original, older prefabs in the school incurred some damage in storms. Emergency approval was granted to make repairs but there were concerns among the parental group about the suitability of the full school to be in operation at that location. A decision was made at the time to temporarily locate the school at a vacant permanent building that the Department had built in Craddockstown. We had earmarked that as an advance building for Naas community college. That was a temporary move. The prefabs were provided in the original location for Naas community national school but because of parental concerns the school did not go back to the original prefabs. Those prefabs were then vacant and the education and training board had a demographic need for two prefabs in Maynooth. They were relocated there.

The overall context when looking at this issue is the scale and extent of demographic growth in the Kildare area at the time. During the past decade primary enrolments in Kildare have grown by approximately 20% while post-primary enrolments have grown by close enough to 35% or 40%. There were extraordinary demographic pressures and it was not easy to manage and cater for these at the time. That is the context.

The question of most pertinence in the report of the Comptroller and Auditor General was the procurement process for the removal of the prefabs from Naas to Maynooth.

Deputy Bobby Aylward: Are there any consequences for the building projects while the investigation is going on? Will there be any problems for the education and training board in Wicklow and Kildare because of this? Will it hold up projects? Will it have any effect on teaching staff? Will there be effects across the board because of what is happening? Is everything okay in that sense? Is everything in order?

Mr. Seán Ó Foghlú: We have not pulled back from allowing Kildare and Wicklow Education and Training Board to proceed with arrangements relating to advancing school building projects as a result of this. Obviously, we are working closely with the board. Clearly, a matter as big as this has an impact on KWETB as a whole and on the head office in particular. The board has to manage through all these issues and deal with the Thorn report and the report of the Comptroller and Auditor General as well as supplying information for the Garda investigation. That has an impact on the capacity of the organisation. We have supported the organisation by allowing for additional staff at head office to engage with that. That is a challenging issue for any organisation to work its way through.

From our point of view it is a question of devolving projects to the education and training board or advancing with the currently devolved projects that have proceeded.

Deputy Bobby Aylward: It is probably one of the fastest growing areas in the country in the sense of the population.

Mr. Hubert Loftus: We are conscious that the board is at the coalface of that. We have put in place additional controls for projects and service level agreements. We have made clear to the education and training board that we will be providing additional project management support to help the board during this difficult time, bearing in mind the urgent need within the county for additional accommodation.

Deputy Bobby Aylward: I wish to go back to Dr. Keyes again. I want to come back to the question of governance within the system and what happened. What role does the board play now and what role did it play then? It needs to be defined.

Dr. Deirdre Keyes: The role of the board is set out in the Act in terms of its statutory and reserved functions. There are particular decisions that can only be made by the board and that have to be referred to the board. Moreover, the code of governance and oversight arrangements of the board and the respective committees of the board are set out. The audit and finance committees are of particular importance but all the other committees are relevant too, including boards of management of schools and youth committees, etc. These are the structures in place to allow the board to have oversight. Perhaps I might talk to the chairperson about it.

Deputy Bobby Aylward: How often does the board meet?

Dr. Deirdre Keyes: The board meets every two months. A given number of meetings is

required. Again, that is set out in the Education and Training Boards Act. The required number of meetings is set out for the finance committee and the audit committee. Each of the committees has terms of reference. The finance committee reports to the board. The audit committee reports to the board. That reporting arrangement is set out. I know that in our case the finance committee reports more regularly to our board. It is probably an area that we need to address in terms of the link between the audit committee and the reporting relationship to the board.

Deputy Bobby Aylward: During the time concerned, when the investigation was ongoing, was the board meeting every two months?

Dr. Deirdre Keyes: I was not there so I cannot confirm that for definite. I know that since I came in, the board has met its statutory requirements by way of meeting, in addition to which it has had a number of special meetings. It is worth saying that during the course of this investigation, the board had a number of additional and special meetings and worked really hard in terms of co-operating with the various investigations and also in terms of working with the executive on the delivery of the roadmap for the future which is our action plan.

Deputy Bobby Aylward: Were the audit committee and the finance committee meeting regularly as well?

Dr. Deirdre Keyes: I have the exact details but I will refer this to Mr. Merrick who is on the finance committee. I have the exact number of times they met.

Mr. Noel Merrick: We are required to meet four times per year but we usually meet more often than that. We have met 16 or 17 times since we were set up in late 2015. The audit and finance committees were appointed in May 2015 but they did not start meeting until October 2015, which was two thirds of the way through the year in question in these accounts. I gather we have had 16 full meetings and we have made 15 reports. Typically, after each meeting we make a chairperson's report back to the main board on the work we have been doing and our findings, etc.

Deputy Bobby Aylward: Was the finance committee aware that there were concerns within the ETB at that stage?

Mr. Noel Merrick: No.

Deputy Bobby Aylward: Was the board, the audit committee, the finance committee or any section aware that there were ongoing concerns with the executive?

Mr. Noel Merrick: I was an ordinary board member and a member of the finance committee and I had no inkling whatsoever until I received a letter in August 2017 that an investigation was taking place.

Deputy Bobby Aylward: I want to ask straight out if they were sound asleep at the wheel?

Mr. Noel Merrick: If the Deputy looks at the Comptroller and Auditor General's supplementary report, it talks about incomplete information being provided. Part of information gathering is that the information should be tested. There should be a very strict internal control and then that goes to the audit committee to be checked and the audit committee reports to the main board. The finance committee has done its work on the finances. I do not think the Comptroller and Auditor General has found any want in the actual finances, as distinct from the procurement procedures and all of these matters. As well as that, there is an internal audit unit, IAU. My best

information is that the audit committee did ask the internal audit unit to test the procurement procedures back as far as 2016 or 2017, but the IAU had other needs at that stage and that did not happen. It is happening now.

Deputy Bobby Aylward: What was the relationship between the board and the executive? Was it a good relationship and was the executive always at the meeting of the board?

Mr. Noel Merrick: The executive is at all meetings. The relationship is very good. There should be a regular tension between a board and its executives so that there are tests on what is going on but the relationship is excellent.

Chairman: I am moving on to Deputy Connolly because Deputy Aylward has taken 23 minutes in a 15 minute slot.

Deputy Bobby Aylward: Will I get a second turn? Most of the talking was done over there.

Deputy Catherine Connolly: That is not a cost overrun, it is an underestimation.

Chairman: It is a time overrun and a cost overrun.

Deputy Catherine Connolly: Cuirim fáilte roimh na finnétithe a bhí anseo cheana agus go n-éirí leis na finnétithe nua. I have limited time. I have read the documentation and it does not make for good reading. I am addressing the chief executive officer, CEO, and the chairperson.

Dr. Deirdre Keyes: We accept that.

Deputy Catherine Connolly: The witnesses do not have any choice but to except that. When I see that sentence or hear about reassurance it does not help me in any way because what really jumps out from all of the reports was the confirmation in the Secretary General's opening statement that Dr. Thorn found that governance procedures were adequate and that adequate arrangements were in place. That is deeply troubling. Much of the opening statements from the Kildare and Wicklow Education and Training Board and the Department are about the recent changes. While these are very welcome, they were in place and this happened. I have never seen this in the almost two and a half years I have been a member of the committee. Page 9 of the Comptroller and Auditor General's supplementary report sets out key audit concerns. I will not read them out but I counted 11. It refers to incomplete documentation, documentation being held off site, inadequate information being provided to the audit team when it asked questions, including when it returned with further questions. Before I ask my questions, the Comptroller and Auditor General said this is one of four special reports in the past 20 years.

Mr. Seamus McCarthy: It is one of a very small number of supplementary reports.

Deputy Catherine Connolly: Two of them applied to Kildare and Wicklow.

Mr. Seamus McCarthy: Those were on Kildare Vocational Education College in one instance and Kildare and Wicklow ETB after the amalgamation.

Deputy Catherine Connolly: Mr. Merrick is the new chairman of the board. Is that correct?

Mr. Noel Merrick: Yes, I was on the board.

Deputy Catherine Connolly: I know that. When did Mr. Merrick become the new chairman?

Mr. Noel Merrick: The former chairman and vice chairman resigned.

Deputy Catherine Connolly: When?

Mr. Noel Merrick: In December of 2017.

Deputy Catherine Connolly: Mr. Merrick has been the new chairman since then?

Mr. Noel Merrick: For a year, yes.

Deputy Catherine Connolly: Where does the board hold its meetings and are they public?

Mr. Noel Merrick: The meetings are held in public.

Deputy Catherine Connolly: Good.

Mr. Noel Merrick: We rotate between Áras Chill Dara, which is the council chamber in Naas, and Wicklow.

Deputy Catherine Connolly: Very good. Are they always held there? They are not held in hotels at short notice or anything.

Mr. Noel Merrick: They have been held in hotels.

Deputy Catherine Connolly: Why?

Mr. Noel Merrick: That was when chambers were not available and largely for special meetings, not for routine meetings.

Deputy Catherine Connolly: How many times have meetings been held in hotels at short notice because I am interested in governance and accountability? That is what we are here for so this is a very practical application of it. If Mr. Merrick does not have the information, I ask him to revert to me before the end of the meeting with the details of how many times the board has met in hotels, the reasons therefor and what notice was given to members. Are the minutes being published online and how many sets of minutes have been published online?

Mr. Noel Merrick: I believe all of them.

Deputy Catherine Connolly: These are just very quick practical questions. We are here as a result of a special report which followed a previous special report, as well as Dr. Thorn's report and a current Garda investigation. The scope of our questions has been limited and I am just asking practical questions on governance. I am a great admirer of what I still call the vocational education committees. I served ten years on one of them and they do wonderful work. The whole principle and ethos behind them is wonderful. I place them right up there with the universities. They do tremendous work and I know many people, including in my family, who have benefitted from the VEC system. Today is about governance, how something so shocking could happen and how it will be prevented in the future. How many times have meetings been held in hotels?

Mr. Noel Merrick: I could not give the Deputy the exact number.

Deputy Catherine Connolly: Mr. Merrick should be able to tell me exactly how many times the board stepped outside of the regular-----

Mr. Noel Merrick: I should explain that we would typically have six meetings per year but

in the last year and since December 2017, we have had 12 meetings. We have had many special meetings to deal with various reports and directions from the Minister, etc. On occasion, where it was not possible because the chambers were not available in Kildare or Wicklow-----

Chairman: Explain the chambers for the benefit of the public.

Mr. Noel Merrick: I apologise. I am referring to the council chambers that we typically meet in.

Chairman: The board normally meets in the council chambers.

Mr. Noel Merrick: Yes, we meet in Áras Chill Dara in Kildare and the Wicklow County Council offices.

Deputy Catherine Connolly: What is Áras Chill Dara?

Mr. Noel Merrick: Áras Chill Dara is the county council offices in Kildare.

Deputy Catherine Connolly: The board meets in one or other of the county council offices?

Mr. Noel Merrick: Yes, the council office is the meeting place under standing orders.

Deputy Catherine Connolly: The VEC does not have premises that can facilitate meetings of the board.

Mr. Noel Merrick: No, we do not. Very often, I would have preferred a particular room. I do not know if council chambers are the best place as there is space for 40 or 50 people and the meeting only has 12 people and people have microphones, etc. Under standing orders, Áras Chill Dara is the main meeting place. We agreed that we would rotate the meetings between Wicklow and Kildare-----

Deputy Catherine Connolly: I understand all that. My question was on-----

Mr. Noel Merrick: -----but because of the necessity to have special meetings, we met in whatever was available.

Deputy Catherine Connolly: Will Mr. Merrick come back to me through the Chairman to tell me exactly how many times the board met in hotels?

Mr. Noel Merrick: I can supply that information. I just do not have it today.

Deputy Catherine Connolly: What notice was given to members of the board that the venue of a meeting had been changed to a private hotel?

Mr. Noel Merrick: We have never switched on purpose or anything like that.

Deputy Catherine Connolly: I asked a question to which I did not get a satisfactory reply. I will wait for that information to be provided through the Chairman. I will now move onto the next matter, namely, the resignation of the chairperson of the audit committee. That occurred in September 2018. Is that correct?

Mr. Noel Merrick: Yes, 2017. My apologies, the audit committee was in September 2018.

Deputy Catherine Connolly: Was the chair of that audit committee a member of the

board?

Mr. Noel Merrick: No. The chair of the audit committee must be an external member.

Deputy Catherine Connolly: Was there a reason that-----

Mr. Noel Merrick: His term of office had come to an end and he decided that he did not wish to-----

Deputy Catherine Connolly: Is a new chair in place?

Mr. Noel Merrick: We have an interim chair in place and we have advertised for a new chair.

Deputy Catherine Connolly: When did the interim chair go in?

Mr. Noel Merrick: A member of the existing audit committee became the interim chair.

Deputy Catherine Connolly: How was that decided?

Mr. Noel Merrick: At the board.

Deputy Catherine Connolly: How long has that interim chair been in place?

Mr. Noel Merrick: Since December 2018, I think. It was the next meeting after the event.

Deputy Catherine Connolly: Has the audit committee met regularly?

Mr. Noel Merrick: There were gaps but-----

Deputy Catherine Connolly: Why were there gaps?

Mr. Noel Merrick: It has met four times per year.

Deputy Catherine Connolly: Why were there gaps?

Dr. Deirdre Keyes: I have the dates. In 2018, the audit committee met on 15 March, 16 May, 27 November and 5 December. I understand that it is due for a meeting in the next week or so.

Deputy Catherine Connolly: Does the audit committee report to the finance committee?

Mr. Noel Merrick: The finance committee typically reports to the audit committee. It is back and forth to a degree.

Deputy Catherine Connolly: And then back to the board.

Mr. Noel Merrick: When it comes to the annual accounts, the audit committee reports to the finance committee. The finance committee then signs off on its part and it then goes to the full board for the annual accounts.

Deputy Catherine Connolly: Have issues come up in the last year separate to what we are discussing today? Have the witnesses identified other risks and issues?

Mr. Noel Merrick: From the committees or from the board?

Deputy Catherine Connolly: Have risks been identified by the finance committee and audit committee?

Mr. Noel Merrick: No risk has been identified by the finance committee. As I said earlier, we are looking at the leases and being very careful about those. In law, our job is to look at the service plan for the year, which is the budget for the year. We work on the budget through the finance people and present that to the main board. Our job is to monitor the service plan, which we do at every meeting-----

Deputy Catherine Connolly: Mr. Merrick should listen to me for a second. We had the former chair and vice chair before us. We had all these investigations. I have looked at all of this and the lovely language but it does not take away from the fact that that language was in place at the time and all of this still happened. One thing that jumps out is that the board was passive. I am not sure if I agree with that but that is what Dr. Thorn said. How does Mr. Merrick feel about that as chair of the board? He was a member of the board at the time. Can he help us with that conclusion and finding from Dr. Thorn?

Mr. Noel Merrick: Board training is essential at the commencement of a board cycle with an understanding of roles and responsibilities of board members.

Deputy Catherine Connolly: Was Mr. Merrick a passive member of the board?

Mr. Noel Merrick: I joined the finance committee on the first day.

Deputy Catherine Connolly: I was on a board. It is extremely difficult for ordinary members to query things. Passiveness is somewhat mitigated by saying that the board was not getting enough information. Would Mr. Merrick accept that the board was passive?

Mr. Noel Merrick: I have to accept Dr. Thorn's findings on it. I thought we were doing our best in the circumstances. We had no inkling of this situation. I accept completely that that is the difficulty.

Deputy Catherine Connolly: As chair, has Mr. Merrick gone back to ordinary board members in a meeting and said "look at what has happened under our watch"? What prevented this from coming out at board level? Has he gone back and carried out such an exercise?

Mr. Noel Merrick: We have a board evaluation under way. All of that is being taken on board. We have brought in the Institute of Public Administration, IPA, for a board evaluation. We have had surveys, a workshop and face-to-face interviews. A complete report will be available in the next month.

Deputy Catherine Connolly: That is good and I welcome it.

Mr. Noel Merrick: That will show up many discrepancies.

Deputy Catherine Connolly: What would really show up something would be if Mr. Merrick went back to the board and asked what stopped it in the last number of years. I gather that some people spoke out.

Mr. Noel Merrick: The IPA did that.

Deputy Catherine Connolly: Some people tried to raise issues but such a culture was created that they just could not persist with their queries or, if they did, they did so at great cost.

Would Mr. Merrick accept that some people tried to raise issues on that board?

Mr. Noel Merrick: People raise various issues all the time.

Deputy Catherine Connolly: Was there a culture to reward a person and say that a question is good and that it should be dealt with in an open way? Did the board hold the CEO to account?

Mr. Noel Merrick: I believe the CEO was held to account in the-----

Deputy Catherine Connolly: Clearly not.

Mr. Noel Merrick: We depended on the information we got back.

Deputy Catherine Connolly: Reading all of these reports, the CEO was clearly not held to account. Does the CEO attend for the whole meeting?

Mr. Noel Merrick: Yes.

Deputy Catherine Connolly: Is that good practice?

Mr. Noel Merrick: We do not do that at the finance committee. The finance people from the office are excellent in supporting the finance committee but we always have a meeting on our own too. I appreciate that point. The board should do that.

Deputy Catherine Connolly: I am asking that. The board has not done that.

Mr. Noel Merrick: No.

Deputy Catherine Connolly: CEO is a very important job. I wish Dr. Keyes the best of luck in her new job. When did she take up the position?

Dr. Deirdre Keyes: June 2018.

Deputy Catherine Connolly: Dr. Keyes has not done a year yet.

Mr. Noel Merrick: Ideally, there should be internal controls, audit reports and finance reports coming to the board and they should be tested. There is a balance in these things. The internal audit unit should be reporting. As an ordinary member, sometimes identifying the questions is the problem.

Deputy Catherine Connolly: I agree with Mr. Merrick totally. It is very difficult for ordinary members on a board. They are there voluntarily. There is no backup or training. I agree with all of that. That is a failure on the part of the system and the Department of Education and Skills in not ensuring that. I appreciate that the amalgamation went through too quickly, without any backup. I know the shared services, which I probably will not have time to get to, are probably not up to scratch yet. It has been brought to our attention that in Athenry, in Galway, it is extremely difficult and the staff are working under significant pressure. I want to get back to the board because I cannot get away from the fact that everything was in place to stop this from happening and it did not stop it. That is the kernel of it for me.

The board got legal advice. Was it clear to Mr. Merrick as an ordinary member, and is it clear to him now, how legal advice works? Who gets that? I understand the chairperson got the legal advice. Was that brought to the board's attention? Did the board sanction that? What

would happen now if the board needed legal advice?

Mr. Noel Merrick: What happened then is that the board of members was seeking independent legal advice as distinct from the chief executive in the normal course of events.

Deputy Catherine Connolly: Will Mr. Merrick listen to my question to be helpful to him? Did the previous chair seek legal advice without Mr. Merrick being aware of it?

Mr. Noel Merrick: That is true. In 2017, when the Comptroller and Auditor General contacted the then chair, vice chair and the chair of the audit committee, they were, to my knowledge, advised to take legal advice.

Deputy Catherine Connolly: Listen to me.

Mr. Noel Merrick: That is the truth, Deputy.

Deputy Catherine Connolly: Mr. Merrick was not aware that they sought legal advice. He was a member of the board.

Mr. Noel Merrick: They sought legal advice-----

Deputy Catherine Connolly: Mr. Merrick was not aware of it as a member of the board.

Mr. Noel Merrick: If I was asked to get legal advice as chair, I would have to go to the board and get agreement of the board to do so.

Deputy Catherine Connolly: Who would pay for that legal advice?

Mr. Noel Merrick: I presume that the code covers it and it would be covered by the ETB, provided it is done properly.

Deputy Catherine Connolly: Was the board not aware that the chairperson sought legal advice? That was not discussed or approved.

Mr. Noel Merrick: That is true but the Deputy understands the circumstances-----

Deputy Catherine Connolly: I do not.

Mr. Noel Merrick: Let me explain what happened.

Deputy Catherine Connolly: Mr. Merrick might take the Chairman's time to explain.

Mr. Noel Merrick: The Comptroller and Auditor General and Department of Education and Skills contacted the chair and vice chair and, to my best knowledge, advised them to immediately get legal advice on the matter and report to the board.

Deputy Catherine Connolly: Did they report to the board?

Mr. Noel Merrick: There was a delay on that. They came to the board but we were informed that they had received legal advice. Ideally, under the code, one has to get the sanction of the board before seeking legal advice.

Deputy Catherine Connolly: Did I see somewhere that the internal audit is not fit for purpose? What is the role of the Department? Is there an internal audit centrally?

Chairman: That is a national issue now.

Mr. Seán Ó Foghlú: There is a shared, internal audit service which is run on behalf of the education and training board, ETB, sector on an agency basis by the ETB in Cavan-Monaghan.

Chairman: And there are staffing recruitment and retention issues?

Mr. Seán Ó Foghlú: Exactly. We covered that in the background document.

Deputy David Cullinane: I have sympathy for the current chair and the current chief executive officer, CEO. The CEO has a difficult job and I wish him well. He has done a good job in difficult circumstances since he took over, given the history of some of the issues. He cannot be held to account for the actions of any predecessors who held different roles and we all accept that.

I want to first come to Mr. McCarthy because he said earlier that it is quite unusual that there would be a supplementary report to audited accounts. There were maybe two or three of them over the course of the past-----

Mr. Seamus McCarthy: It is a specific provision that has been in place since 1993-----

Deputy David Cullinane: I understand that.

Mr. Seamus McCarthy: -----in relation to the vocational education committees, VECs, and education and training boards. It is not generally available to me in other sectors.

Deputy David Cullinane: It is quite unusual.

Mr. Seamus McCarthy: It is quite unusual, yes.

Deputy David Cullinane: Would it be fair to say that the genesis of some of these issues goes back much further? Mr. McCarthy has done this supplementary report on the back of the 2015 accounts and an audit he was doing which was suspended at one point which I will get to later.

Mr. Seamus McCarthy: That is correct.

Deputy David Cullinane: The genesis of this goes back to the 2010 accounts of the Kildare VEC.

Mr. Seamus McCarthy: Kildare VEC, yes. My predecessor issued a report about that.

Deputy David Cullinane: I have the report here and we can get it up on the screen. Mr. McCarthy's predecessor, Mr. John Buckley, was the then Comptroller and Auditor General.

Mr. Seamus McCarthy: That is correct.

Deputy David Cullinane: That report was of 17 January 2012.

Mr. Seamus McCarthy: That is correct.

Deputy David Cullinane: That raised issues about procurement.

Mr. Seamus McCarthy: It did.

Deputy David Cullinane: Who was the CEO of the VEC at the time?

Mr. Seamus McCarthy: Can I name them?

Deputy David Cullinane: No. Was it the same-----

Mr. Seamus McCarthy: It was the same CEO-----

Chairman: The then chief executive officer.

Mr. Seamus McCarthy: -----who was there in 2015.

Deputy David Cullinane: In the-----

Mr. Seamus McCarthy: Yes, in 2010.

Deputy David Cullinane: Okay.

Mr. Seamus McCarthy: The outgoing CEO of the VEC-----

Deputy David Cullinane: Who appointed him in his role as the CEO of Kildare-Wicklow ETB? Who appointed him?

Mr. Seán Ó Foghlú: A redeployment process was entered into to assign the CEO-----

Deputy David Cullinane: Who signed off on the appointment?

Mr. Seán Ó Foghlú: The Department ran the process following discussion with trade unions and there also may have been a technical sign-off by the ETB. Obviously the Department signed off on the assignment.

Deputy David Cullinane: The Department signed off. So, notwithstanding issues and concerns that had been raised about the VEC which led to a supplementary report which the Comptroller and Auditor General says was quite unusual, the individual came through an interview process that was signed off on by the Department?

Mr. Seán Ó Foghlú: No, it was a redeployment process.

Deputy David Cullinane: It was redeployment. Having said that, he was redeployed into the role.

Mr. Seán Ó Foghlú: Yes.

Deputy David Cullinane: Does that concern Mr. Ó Foghlú?

Mr. Seán Ó Foghlú: I think we are entering into territory about an individual here and that is a concern. The process was an appropriate one to put in place for the ETB sector as a whole. All of the CEOs had rights and entitlements to continue at their salaries. We had a surplus of CEOs and we had to put in place a process to assign them elsewhere. There were approximately 19 or 20 CEOs for 15 spots because one was continuing-----

Deputy David Cullinane: In terms of the 2012 supplementary report based on the 2010 accounts of the Kildare VEC, Mr. McCarthy examined the 2015 accounts of the Kildare-Wicklow ETB. He carried out an audit, found that there were issues and had to suspend the audit in June of 2017. Is that right?

Mr. Seamus McCarthy: That is correct. Our assessment was that we could not continue and complete the audit without the matters being raised with people other than the chief executive and that is who we were engaged with at the time. We had to take it further.

Deputy David Cullinane: Is it the case that Mr. McCarthy had to go above-----

Mr. Seamus McCarthy: That is correct. That was our feeling.

Deputy David Cullinane: -----the CEO? Okay. I imagine that took Mr. McCarthy to the board. Is that right?

Mr. Seamus McCarthy: Yes. When we realised that there was a problem that would create a difficulty for us in completing the audit, we took legal advice which was to approach the chair of the board in the first instance and also to consider-----

Deputy David Cullinane: The chair of the board was approached?

Mr. Seamus McCarthy: The chair, the vice chair and the chair of the audit committee were approached.

Deputy David Cullinane: Were any of them aware of any of the concerns or issues that Mr. McCarthy had?

Mr. Seamus McCarthy: The issues that we were bringing were a significant surprise to them.

Deputy David Cullinane: A significant surprise?

Mr. Seamus McCarthy: Yes.

Deputy David Cullinane: They were a surprise to the chair, the vice chair and the head of the audit committee.

Mr. Seamus McCarthy: Yes. I do not want to speak for them and I was not at the meeting.

Deputy David Cullinane: No, but they were surprised?

Mr. Seamus McCarthy: My sense of it was they were surprised and shocked with what they heard.

Deputy David Cullinane: How could they be surprised and shocked if some of these issues overlapped with issues of procurement that happened in 2010? That brings me to Mr. Merrick who sat on the finance committee for a time. The Office of the Comptroller and Auditor General contacted the chair of board. Mr. Merrick said he first became aware of this in July or August 2017 and all of this was a surprise. How was it a surprise? It strikes me that the external State auditor identified the weaknesses and not the internal controls within Kildare-Wicklow ETB. The audit committee was surprised, the finance committee and the board were surprised and knew nothing, and yet the Comptroller and Auditor General's office identified these weaknesses. How did that happen?

Mr. Noel Merrick: I do not think the finance committee would be involved in procurement issues, for instance. That would not be its role.

Deputy David Cullinane: Who signs off on the spending on credit cards, booking hotels

and subsistence? Who has oversight of spending in those areas?

Mr. Noel Merrick: That would be an internal function.

Deputy David Cullinane: Would the finance committee have any role in any of that?

Mr. Noel Merrick: I do not think so, no.

Deputy David Cullinane: Why not? What does the finance committee do?

Mr. Noel Merrick: As I said earlier, we look at the service plan which is the budget for the year and annual accounts. We oversee the monthly returns to the Department of Education and Skills on financial expenditure and income.

Deputy David Cullinane: Who signs off on spending? We heard of meetings in the K Club and concerns were raised in the Comptroller and Auditor General's report. There were issues about the incurring of significant expenditure with certain hotels without a competitive procurement process. There were subsistence claims by the then chief executive that did not comply with regulations. Who signed off on those claims and that spending? Was that Mr. O'Toole, or his office, or whose office would that be?

Dr. Rory O'Toole: Typically, final sign-off would be by the chief executive.

Deputy David Cullinane: Who would have oversight?

Dr. Rory O'Toole: In some cases it can be the director with responsibility in a particular area. Other than that, the final authorisation level for significant expenditure like that, at that time, would have been at the level of chief executive officer.

Deputy David Cullinane: The chief executive officer signs off on his or her own spending?

Dr. Rory O'Toole: Are we talking about subsistence here?

Deputy David Cullinane: Did Mr. O'Toole not hear the two points I raised earlier? The Kildare-Wicklow ETB incurred significant expenditure with certain hotels without a competitive procurement process and subsistence claims by the then chief executive did not comply with regulations. If that was the case and there were issues about a chief executive's spending, there has to be somebody other than the chief executive watching how that money is spent. In Mr. McCarthy's view, who should have been watching it? We cannot get a clear answer as to who was watching it. Other than the chief executive, who should have been doing it?

Mr. Seamus McCarthy: I make a distinction between claims made by the chief executive and the authorisation of expenditure on behalf of the VEC where, effectively, the chief executive is fully empowered to authorise any payment that is lawful and proper. One would not expect that anybody would oversee an authorisation of payment by the chief executive for, let us say, payment to a supplier. He or she is the chief officer and that would be normal.

They would obviously be subject to subsequent checking by, let us say, an internal audit or if my office carries out an audit. In the normal way, if there is a supply of service-----

Deputy David Cullinane: I am looking at Mr. McCarthy's supplementary report which shows there are governance and financial control weaknesses that were uncovered by his work. Almost none of those issues were uncovered by either the finance committee, the audit committee or the board. Is that fair?

Mr. Seamus McCarthy: Yes.

Deputy David Cullinane: That brings me to the role and responsibility of the board and the CEO and how ETBs are governed. We talked about how unusual it is to have two supplementary reports. We also have the Thorn report and a Garda investigation and the committee has examined the matter. All of these issues are highly unusual when one considers the totality of all of that. It is the Education and Training Boards Act that underpins the ETBs. Is that correct?

Mr. Seán Ó Foghlú: The role of the chief executive, yes.

Deputy David Cullinane: Is Mr. Merrick the current chair of the board?

Mr. Noel Merrick: I chair the board, yes, since-----

Deputy David Cullinane: Has Mr. Merrick read the Act?

Mr. Noel Merrick: Yes.

Deputy David Cullinane: Is Mr. Merrick familiar with all of the provisions?

Mr. Noel Merrick: I am generally familiar with them, yes.

Deputy David Cullinane: Did Mr. Merrick get any training on the provisions of the Act?

Mr. Noel Merrick: Not specifically, no. I would reiterate the need for training.

Deputy David Cullinane: I do not need Mr. Merrick to reiterate something that I did not ask. That was raised by a previous questioner.

Mr. Noel Merrick: Yes, sorry.

Deputy David Cullinane: This is the Act-----

Mr. Noel Merrick: Yes.

Deputy David Cullinane: -----that governs Mr. Merrick's roles, responsibilities and duties and he has read it

Mr. Noel Merrick: Yes.

Deputy David Cullinane: Is he familiar with all of the provisions?

Mr. Noel Merrick: I am. There is a code of practice as well that elaborates on them.

Deputy David Cullinane: There is a code of practice. I did not ask about the code of practice.

Mr. Noel Merrick: I know the code of practice inside out.

Deputy David Cullinane: I am asking about the Act.

Mr. Noel Merrick: Yes.

Deputy David Cullinane: One of the provisions of the Act, which can be found in Part 2, deals with the suspension and removal of chief executive by board.

Mr. Noel Merrick: Yes.

Deputy David Cullinane: That is the duty and the responsibility of the board.

Mr. Noel Merrick: Yes.

Deputy David Cullinane: Why was this provision never applied? The board, in my view, never sought to remove any individual. I am not naming anybody specifically. The board never sought to remove any individual despite all of the issues that have been raised. The legislation is meant to ensure there are checks and balances and provides powers to the board. Where issues emerge, the board has the authority to deal with them. Perhaps the Comptroller and Auditor General will enlighten me based on his examination of this matter but, as far as I am aware, the board did not once make an effort to use its powers under the Act to suspend or remove the chief executive?

Mr. Noel Merrick: There are very strict-----

Deputy David Cullinane: I am asking Mr. McCarthy first and then I will come back to Mr. Merrick.

Mr. Seamus McCarthy: I would not be aware of any discussions at that level within the organisation.

Deputy David Cullinane: Can Mr. Merrick enlighten me on that?

Mr. Noel Merrick: There was some talk at board level in relation to that area. The procedures are very strictly laid out in the Act.

Deputy David Cullinane: I ask Mr. Merrick to define what he means by the term “some talk”. It is very loose so he should be more specific if he can.

Mr. Noel Merrick: We had legal advice at a meeting one day - a private meeting.

Deputy David Cullinane: Can Mr. Merrick be more specific about the date?

Mr. Noel Merrick: It was probably in October or November 2017. The advice that day was that we are not in that area of going down that road. However, the procedures were there and it was up to anybody on the board-----

Deputy David Cullinane: Did the board ever-----

Mr. Noel Merrick: -----to propose and second those things. That never happened.

Deputy David Cullinane: Was a motion ever put before the board?

Mr. Noel Merrick: I do not believe there was any motion that was proposed, seconded-----

Deputy David Cullinane: Can that be clarified for us?

Mr. Noel Merrick: -----and heard because it needs a 75% vote. There was never such a formal discussion, no.

Deputy David Cullinane: Is Mr. McCarthy satisfied that the provisions of the relevant section of the Act are robust enough in the first instance? Is he satisfied with the internal audit controls in ETBs? We have heard that internal audit committees are also in place. Is he satisfied

that their powers, resources, capacity of the board and the provisions of the Bill are sufficient to ensure that we have a robust oversight of the activities of the ETBs?

Mr. Seamus McCarthy: In general, I am reluctant to comment on legislation. I would say that this is a complex process. In any situation where there is discussion of taking an action against an official it has to be done with legal advice. It is a very tricky situation.

Audit committees and internal audit capacity in an organisation are absolutely vital to the effective control of the organisation. It is something that many of the boards have now, if one likes, come to see that for 2017 they were insufficiently supported in terms of internal audit and capacity.

Deputy David Cullinane: Given that the Comptroller and Auditor General compiled a supplementary report on this matter, one of the things that struck me was the relationship between the executive and the board. To be fair to the board, a board can only work, as far as I can see, on information that it is given. If information is withheld from or not given to a board or any of its subcommittees, the board does not work. Was it the case that the board was not able to do its job sufficiently because it was not given sufficient information on many of the issues that the Comptroller and Auditor General dealt with in his report?

Mr. Seamus McCarthy: There are references throughout the report to places where the board did not appear to have relevant information. Obviously, there is an expectation that boards can ask questions. Boards have an obligation to identify what information they need and to specifically seek information. The fact that there had been difficulties throughout the years in respect of internal audit and, if one likes, the functioning of audit committees is systemically important and something that we must increasingly have an eye to.

Deputy David Cullinane: I have two final questions. Teachta Aylward mentioned the speeding up of the construction of a school that may have led to a cost of €483,000. Why was construction speeded up?

Mr. Seamus McCarthy: Explanations have been given and I can only tell the Deputy what those were. They are set out in the report.

Deputy David Cullinane: Is it puzzling to the Comptroller and Auditor General that the construction was speeded up?

Mr. Seamus McCarthy: Yes. Because we saw the settlement and the arbitration agreement resulting in additional expenditure, we wanted an explanation for the additional expenditure on that specific project. It is worth making the point that, according to the board minutes, there was discussion of the speeding up but there is no evidence that anyone considered that this could result in additional cost. That is an example of where, if information was not forthcoming that speeding it up will result in an additional cost, it would be perfectly reasonable for a board member to ask the board before agreeing to it whether the speeding up would have a cost implication. There are learning points on both sides.

Deputy David Cullinane: I thank Mr. McCarthy. My final question is to Mr. Ó Foghlú and relates to the Act, which underpins the work of the ETBs. I imagine he would agree with the observations made by the Comptroller and Auditor General and me in this matter. There were two supplementary reports, one of which related to the VECs, although there was some crossover with the issues that emerged at the Kildare and Wicklow ETB in 2015. Dr. Thorn, who was appointed by the Department, published a report that made findings that were of con-

siderable concern to the Department and the Committee of Public Accounts. There was also the Comptroller and Auditor General's report and a criminal investigation, which we obviously cannot discuss. Through all of that process, how did an individual get redeployed and why were the powers of suspension and removal never acted on? Notwithstanding the criminal investigation that is ongoing, is that a reasonable question to ask given that the Act was designed to ensure that power was available?

Mr. Seán Ó Foghlú: Let us take the first Comptroller and Auditor General report and the hearing of the Committee of Public Accounts in early 2012. It was a matter for the VEC at the time to consider any disciplinary process for the CEO. I am not aware that a disciplinary process was considered and the Department certainly did not raise a disciplinary process with the VEC at the time.

There are some parallels between the issues but it is not an exact continuation. It is important to note that there was follow-up after 2012. There was an internal audit review of procurement in the VEC that was subsequently given to the ETB when it was established. That was one of the reasons the ETB's internal audit service decided not to have a further procurement audit. It had effectively just done a procurement audit. There were management findings which would be considered by the audit committee in terms of their effective implementation. The Department did not conclude a view on this matter until the Thorn report was completed. That report was completed and published after the former CEO had retired. There was no necessity for the ETB or the Department to consider, nor would it have been possible, to consider. I do not think there was enough of an outcome. I think it was only after the Thorn report and the follow-on Comptroller and Auditor General report that the issue could possibly have been considered, whatever that consideration might have been but that is a matter for the ETB.

Deputy David Cullinane: The provisions of the Act are pretty meaningless if they were not invoked in this instance. The Act is there but it is not much use.

Chairman: Mr. Ó Foghlú said he had to wait for the reports.

Deputy David Cullinane: I heard what he said.

Mr. Seán Ó Foghlú: It would be appropriate for the ETB to wait for the report and for any conversation to take place after the report.

Deputy Catherine Murphy: I welcome the witnesses. I have not met the new CEO. We have been in correspondence but we have not formally met. I wish him well. I realise he is accounting for things that happened before his time. I acknowledge the huge demographic pressures in both Kildare and Wicklow. A very sizeable staff is employed by the Kildare and Wicklow Education and Training Board, KWETB, and the education value of what it does is not in question. In fact some exemplary work is being done and I acknowledge that.

The witnesses are essentially answering for the previous board and previous chairpersons. Would Mr. Merrick accept that when any inkling of these issues came to light, there was a circling of the wagons with respect to how they were handled? Mr. Merrick was there at the time.

Mr. Noel Merrick: I would not accept that at all. We were very shocked by it. It all happened very quickly. By October 2017 Dr. Thorn had been formally appointed to his position, so an investigation was ongoing very quickly. We awaited his draft report, which we got at Christmas, and we acted on it immediately.

Deputy Catherine Murphy: One of the big changes that must be demonstrated is a change in culture. Being very open to criticism of the organisation itself is part of that. It certainly seemed that there were efforts by some members of the board to raise issues. These issues were calmed down or the wagons were circled. That appeared to me to be the case. I hope very much that there is now a very open culture in regard to receiving points of concern. Is that the situation?

Mr. Noel Merrick: Corporate governance demands that a certain process is in place at meetings etc.-----

Deputy Catherine Murphy: I understand that.

Mr. Noel Merrick: -----and that there is a collective response to things. Once that procedure is adhered to and there is respect for one another's positions, absolutely. That is why we are there.

Deputy Catherine Murphy: That includes being open to criticism from within.

Mr. Noel Merrick: Absolutely.

Deputy Catherine Murphy: That has to be part of the culture. I know we are going to be very short of time. I want to go back to some of the points that have been made on the 2012 report and expand on them. Was Mr. Ó Foghlú in the Department in 2012 when that report was issued by the Comptroller and Auditor General?

Mr. Seán Ó Foghlú: I was in the Department but I was not the Accounting Officer.

Deputy Catherine Murphy: At what point did Mr. Ó Foghlú become the Accounting Officer?

Mr. Seán Ó Foghlú: Seven years ago, in February 2012.

Deputy Catherine Murphy: As such it was just after that. Was Mr. Ó Foghlú in the role when the redeployment was signed off on?

Mr. Seán Ó Foghlú: I was.

Deputy Catherine Murphy: Was he aware of the 2012 report's findings on the Kildare Vocational Education Committee, VEC, at that point?

Mr. Seán Ó Foghlú: Of course.

Deputy Catherine Murphy: As such, he made the redeployment in the knowledge that the report existed, and knowing that there were shortcomings.

Mr. Seán Ó Foghlú: The redeployment was arranged for CEOs in the knowledge of the history of the VECs, including that report, which had identified some shortcomings. We have to be very careful here. Shortcomings in governance do not necessarily mean there were shortcomings in the performance of the chief executive officer. That is an important distinction. I do not want that understanding to come from me. We must be careful on that point.

Deputy Catherine Murphy: I will mention a couple of things from that report. There was €1.9 million of expenditure on ICT equipment. Somebody who had previously worked on the VEC on a short-term basis got that contract. A second issue I want to pick up comes under the

report's statement of the views of the Department of Education and Skills. The report stated that the Department would continue to insist on adherence to proper procurement practices in VECs. It went on to remind the VECs of this.

There was a code of governance and an understanding that proper procurement practices would have to be in place. Special attention was to be given to Kildare VEC. Some of the same points and some of the same language appeared in the 2012 report as appears in the report that has just recently been issued. How does Mr. Ó Foghlú account for that? Where is this code of governance? It is only as good as its implementation.

Mr. Seán Ó Foghlú: Following the report prior to the 2012 appearance before the Committee on Public Accounts, there was a follow-up report on the part of what was then called the vocational support services unit, VSSU, the internal audit unit for the VECs at the time. That went into detail on the initial establishment of the ETB and the procurement arrangements in place. There was a management response. We encouraged the internal audit unit to undertake that follow-up review. It was very important. There was a management response to that. I assume that was considered by the internal audit committee of the ETB. That is where the most disappointment has arisen. We have also undertaken a follow-up audit of devolved programmes, which we also talked about. We put a code of governance in place, which was not in place in 2010, and we have updated the code of governance in 2019.

Deputy Catherine Murphy: Did it make any difference? Some of the same issues have emerged around procurement and the code of governance. Would Mr. Ó Foghlú accept that it did not make a difference? The most recent report has resulted in some of the issues not being open to discussion by the committee, by virtue of the fact a Garda investigation is ongoing.

Mr. Seán Ó Foghlú: I do not think the difference is in the Garda investigation. Practice has developed significantly in the sector as a whole as a result of the various elements we have put in place, including working under procurement with Education and Training Boards Ireland, ETBI, and so on. However, there are clearly severe shortcomings in this particular ETB, which have given rise to the Thorn report and that of the Comptroller and Auditor General.

Deputy Catherine Murphy: Should we have confidence in the Department's ability not only to issue codes of practice, but follow up on them? When we look at this example, what should give us confidence that any new code of practice will be adhered to any better?

Mr. Seán Ó Foghlú: It is about having a range of different supports for governance. The primary role is with the executive and oversight by the board. It is supported by an independent internal audit service, and a range of other supports are in place-----

Deputy Catherine Murphy: It is supported by an internal audit service. In our deliberations last week that was seen to be inadequate. There are several-----

Mr. Seán Ó Foghlú: I am trying to go through the range of supports and come round to answering the Deputy's question on whether the committee should have confidence. I will answer it in steps, if that is all right. The Department is supported by an internal audit service that has had challenges. It has engaged staff, but staff have moved on to other careers in the buoyant labour market for accountants. It is engaging external supports at the moment and seeking to recruit further. It is supported by the role of ETBI in procurement and training. Should that be an absolute assurance? I do not think so. As the Accounting Officer I am equally concerned. I have to work further to ensure that the governance is in place and is tested appropriately and we

are still looking at ways of doing that. I have talked through, in the background statement and the opening statement, a range of additional changes we put in place. The question is, when we do all of those, are they still going to add to it.

The internal audit service is, again, following up on procurement in the ETB. Would I have absolute confidence?

Deputy Catherine Murphy: The inadequate internal audit in terms-----

Mr. Seán Ó Foghlú: It has-----

Deputy Catherine Murphy: I mean inadequate not in terms of the individuals, but in terms of the capacity.

Mr. Seán Ó Foghlú: It has procured external capacity. I would not argue that it is inadequate in its capacity.

Deputy Catherine Murphy: How important is internal audit?

Mr. Seán Ó Foghlú: It is very important.

Deputy Catherine Murphy: Would Mr. Ó Foghlú say it is critical?

Mr. Seán Ó Foghlú: Absolutely.

Deputy Catherine Murphy: In spite of this, there have been shortcomings - let us not put it any stronger than that - in terms of the capacity.

Mr. Seán Ó Foghlú: Yes. Measures have been taken to seek to address those shortcomings. The internal audit service itself, and its independent chair and board, would recognise that.

Deputy Catherine Murphy: Has Mr. Ó Foghlú a round figure for the spend of the VEC sector?

Mr. Seán Ó Foghlú: It is €1.9 billion.

Deputy Catherine Murphy: It is not an inconsiderable amount of money.

Mr. Seán Ó Foghlú: That includes the money on SUSI, etc.

Deputy Catherine Murphy: There were amalgamations which bring their own issues in terms of the bedding in. I refer to the amount of training that is given to board members on understanding their role in terms of them being there to not-----

Mr. Seán Ó Foghlú: That is one of the changes.

Deputy Catherine Murphy: -----agree with people but to conflict sometimes.

Mr. Seán Ó Foghlú: I agree that is very important. It was a matter for boards to organise themselves previously and we have changed that. ETBI is stepping in to organise that training for board members now to ensure that there is a standardised board training put in place.

Deputy Catherine Murphy: What statutory role does the ETBI have?

Mr. Seán Ó Foghlú: It does not have a statutory ETBI.

Ms Martina Mannion: I might assist the Deputy. The ETBI is the body recognised in the legislation which has a role in supporting the sector. They are really a critical piece of infrastructure in the sector to support the 16 ETBs.

There are two other points the Deputy had raised that I might just assist on. The first relates to the roll-out of the training. There is training available on the new code through ETBI which will be in existence for the existing boards in the knowledge that the boards will be refreshed following the local elections later on this year and there will be further, more robust, training rolled out in the autumn in relation to board chairs, audit committees, executives. This is part of the lessons learned and the additional supports that we are making available.

The other issue which might assist the Deputy is on the internal audit unit. The Secretary General has already explained regarding the resourcing issue but, separately, since 2015, of 75 audit opinions from the internal audit unit, only nine indicated inadequacies in controls, and of those, many related to the ICT issues.

Deputy Catherine Murphy: I will ask Dr. Keyes about the risk register for the Kildare-Wicklow ETB. Is that public?

Dr. Deirdre Keyes: It is available to the board. It is public, is it not? We have a risk policy which is public and then we have our risk registers. Currently, we have three risk registers. Our organisation support and development, OSD, which is our operational administrative register, is complete. We are working on our schools risk register and we have commenced work, and are progressing, on our further education and training risk register.

Deputy Catherine Murphy: I can understand that there are different matters that would present as a risk in terms of the educational aspect and the internal governance of schools, etc. Specifically, on the administration of the ETB, what would typically crop up as a risk?

Dr. Deirdre Keyes: I will pass to my director of organisation because he would have detailed knowledge of that. He oversees that particular register.

Mr. Joe Kelly: We have developed a very comprehensive-----

Deputy Catherine Murphy: I am only looking for a highlight, that is, three or four different matters. We are short on time.

Mr. Joe Kelly: Okay. First, we have 31 risks there altogether. Seven of those are red, 24 are amber. There are a number of areas that we have identified as risk areas, for example, professional-managerial, contractual, business continuity, legislative, physical, legal, social, and financial, and underneath each of those headings we would have a number of risks identified.

Deputy Catherine Murphy: Mr. Kelly would have gone through that risk register with the board. He would have teased out all of those issues. Is Mr. Kelly satisfied that is a working document?

Mr. Joe Kelly: It absolutely is a working document. It has to be a working document because we are working on some of those areas and we have plans in place to mitigate against those risks. There are other things that we will come across or will be brought to our attention that will be put into this plan as well and will be organised in terms of ensuring that somebody is accountable for putting a mitigating plan against each one of those as well.

Deputy Catherine Murphy: In terms of the code of governance, is non-adherence to it

something that was identified as a risk?

Mr. Joe Kelly: It is not as general as that. In fairness, the code of governance is relatively new to us. It is an area that we need to invest a lot of time in to ensure that we fully appreciate the differences between the previous one and the new one.

Deputy Catherine Murphy: Reputational risk has been the biggest risk to the ETB. I would have thought that was almost top of the agenda. In 2010, the accounts led to a special report on what I accept is a different organisation, but a constituent part of this. There is now a special report on the 2015 accounts. We are talking about 2015 accounts in 2019 and we do not know what has happened and how the organisation has functioned in the interim. The last thing this ETB can sustain is yet another shortcoming in the accounts and the running of the board. In terms of risk, I would have thought that would be something both the Department and the ETB would have as top of the agenda. Is it something that appears on the agenda every month? Is it something for a special meeting? How is it handled?

Mr. Joe Kelly: We would not have a general risk like that because it is too broad for us to be able to manage but there would be specifics underneath it that would be relevant. What I can help the Deputy with is that one of the 21 projects that we have as part of the KWETB corporate governance programme is the new code of governance, and that is very much part and parcel of that governance programme that we are trying to drive within the organisation itself.

Deputy Catherine Murphy: Dr. Keyes committed, as CEO, to address issues in relation to matters such as conflicts of interest and protected disclosures. Is that work ongoing? It is complete? Where are we at with that?

Dr. Deirdre Keyes: As part of our roadmap forward, the whole area of procurement, internal controls around procurement, conflicts of interest *vis-à-vis* procurement and disclosures are all part of one very important picture. We have prioritised the area of procurement in terms of our responses to the Thorn report and also as part of, as the director of schools has referred to, our corporate governance programme.

On our procurement process, we have adopted, since 2018, the ETB sectoral policy on procurement which is very, very robust. Within that there are internal controls about a number of things that relate to procurement. There would be procurement authority, financial authority, etc., and then the conflict of interest management is integral to the internal control around the procurement process and other processes.

We have our conflict of interest management procedure and I suppose that is in line with the ethics of public office where people declare. We are very mindful of the fact that, in the context of the history and in the context of creating a culture of corporate governance, we must have a system for emerging conflicts of interest. Therefore, that is inserted at various stages of the procurement process, and also the opportunity to disclose. Staff are mindful of that.

Mr. Joe Kelly: On the protected disclosure policy, we have been reviewing that and we have a draft document available on which we are looking for input from various stakeholders. The expectation is that it will be on the agenda of the next board meeting in March.

Deputy Catherine Murphy: What metrics and markers are used to determine progress on change?

Dr. Deirdre Keyes: Mr. Kelly might comment as he oversees it. We have 21 particular ar-

eas and a roadmap. There are timeframes and deliverables. We provide that report to the board on a regular basis, as one will see in the submission I gave to the committee. While the code of governance is operational, it is equally important that it is embedded in the organisation, that there is an understanding of what is good practice and that there is a support programme for all staff at all levels, not just in head office but in schools and centres, etc. There are still objectives to be met within our code of governance programme but we have commenced considerable work and achieved a lot underneath it to date, particularly in the nine or ten areas of concern that the Comptroller and Auditor General's report highlighted. We have prioritised those actions. We are monitoring it. The project very much focuses on deliverables. Mr. Kelly might confirm if that is correct.

Mr. Joe Kelly: Yes. We are determined not to just tick boxes and do things for the sake of it. We are focused on the things that have real impact. We have started by trying to identify what exactly we are trying to achieve and we work backwards from that on the plan itself. There are a number of important items that are relevant to project governance to try to ensure that we deliver on the plan and that it is not just something nice that we put forward in front of people. The first thing is that we have a steering group that is made up of executives, the chair and the vice chair of the board. They will provide leadership, direction and project management governance for us. We are working closely in collaboration with the Department to develop the programme in the first place and we will have quarterly review meetings with it in respect of progress. We will also appear before the audit and risk committee for regular reviews of where we are and seek some input and value-add on areas on which the committee believes we might need to focus. The board itself will be given regular updates and will have been very much involved in the creation and development of the programme. We also use best project management methodology, which includes an internal project manager within our team, we have a sponsor from the executive team, we have weekly project meetings and we have a process that is important to manage the core and secondary project deliverables. We also have a sign-off process to ensure we do what we said we would.

Chairman: Would Mr. Merrick, as chairman of the board, like to comment briefly?

Mr. Noel Merrick: The chair has a particular interest in the conflicts of interests of members, etc. Item 1 of all of our meetings relates to conflicts of interest. If there is any issue, it will come up at that meeting. I take a particular interest in all the declarations of interest that come in at this time of the year. I have been in the head office twice since January checking how many declarations have come in and how many more I have to chase.

Chairman: Mr. Kelly referred to the audit. As we know, the internal audit function is facing challenges and there is external support based in County Cavan. It is a nationwide service although Dublin has yet to be included. Who decides what particular aspect of the organisation an internal audit should examine? If the team travels from County Cavan, how does it know what it is coming to do? What is the mechanism if an internal audit report is needed on a particular item?

Mr. Seán Ó Foghlú: There is a steering group with an independent chair and nominees of the sector. It has a national programme.

Chairman: If there is a specific issue in counties Wicklow or Kildare that is not an issue everywhere else, how do the people in County Cavan know what the issue is?

Mr. Hubert Loftus: As part of the remit of the steering committee, there is an opportunity

for issues in individual ETBs to be recommended for audit as part of the work plan for the overall shared service.

Chairman: In the ETB.

Mr. Hubert Loftus: Yes. As part of that, the audit committee in each of the ETBs has an opportunity to put forward suggestions for that work plan. There is a steering group that manages that-----

Chairman: The internal audit group, however, is fairly external to the organisation. There is an opportunity for the ETB audit group to make a suggestion but it seems to be fairly external to the board.

Mr. Hubert Loftus: The approach the Department has taken to internal audit is to operate a shared service facility. We regard that as a more efficient way of operating the business rather than having 16 individual internal audit units.

Chairman: A shared service, however, is not internal to each specific ETB.

Mr. Seán Ó Foghlú: If an internal auditor was located for each ETB, there would be risks that the ETB would be the only business that the auditor sees in a narrow way. What the internal audit service can do is look at an issue across a number of ETBs.

Chairman: That is my point exactly. If an issue that emerges in an ETB does not emerge across the board, there does not seem to be a mechanism for that to be identified. We need to examine these three issues nationally but there might be specific issues in an ETB that are not captured by the national audit. If the group does an internal audit in an ETB, there could be a significant problem but it might not be subject to the audit. When the audit committee makes a suggestion at local level, that is based on the flow of information. The committee is discussing the matter, however, because there was not a flow of information into the audit committee. I do not know how the Department can know if the audit committee does not receive the information about what it should be auditing.

Ms Martina Mannion: There were a number of themed issues running across the reports on the 2017 accounts that were received over the last period, as has been noted at the committee. The issues included the adequacy of the internal audit service, in respect of, for example, ICT and procurement. Those are examples where the centralised internal audit unit has the capacity, because the issues were common across the ETBs, to bring that sectoral learning to ensure that what is learned in one ETB is carried across for other ETBs. The terms of reference of the internal audit unit allow it to do specific audits of ETBs where specific issues have arisen. To date, one of the potential challenges has been capacity, as we have spoken about. At the moment, however, the audit committee with the five additional external auditors has nine members of staff between audit and support staff. Even when its recruitment process has finished, it will have nine. The challenges with capacity that were faced in the previous years will, hopefully, see an improvement following the recruitment process of the additional auditors. Notwithstanding parts of the issues and the reason that it had to seek external support was the challenging environment of securing auditors, the internal audit unit has identified the recruitment difficulties, including the length of time it has had to advertise without getting responses. The Department has given over €300,000 to the internal audit unit in support.

Chairman: I can see the value of the national internal audit unit. The problem, however, is the issue that may emerge in an individual ETB due to something going wrong. If the audit

committee does not receive the flow of information from an ETB, how does it know something is going on? If it spots something for which it would like internal support, I am sure it would take two years before somebody has the opportunity to address it. If the internal audit committee believes there is an issue with an aspect of what is happening in an ETB, is there a facility for it to inform the chief executive or the board and commission its own external audit at whatever cost on an area of activity within the organisation? If not, the Department has taken the ETBs' ability to respond to local programmes entirely out of their hands. Does that facility exist and has such a situation ever happened in an ETB?

Mr. Seán Ó Foghlú: We will look at that in the context of whether the audit group can do it. We understand the question.

Chairman: If it is the case, the Department has taken the ability from the hands of the local ETBs. If an ETB believes there is a particular problem, what can it do?

Mr. Seán Ó Foghlú: It was not the intention to remove their ability but we will look at the issue that the Chairman has raised.

Chairman: The Department understands my concern. I feel there is a gap in regard to the matter.

Deputy Jonathan O'Brien: I will be very brief. Are there buildings or lands previously owned by Kildare and Wicklow Education and Training Board which are now being leased by it?

Dr. Deirdre Keyes: For the purposes of clarification, is the Deputy asking if there premises owned by the ETB that are being leased?

Deputy Jonathan O'Brien: Is the board leasing any building or land that it previously owned and sold?

Dr. Deirdre Keyes: I am not aware of any, but perhaps I can find out and get the information to the committee.

Dr. Rory O'Toole: We can confirm that there are some school buildings that are being used by Gaelscoileanna. I do not know the details of the leasing arrangements, but, for example, the old building at St. Patrick's vocational school is being used by a Gaelscoil and we may have another such example. I will clarify what the leasing arrangements are.

Dr. Deirdre Keyes: We will get the information to the committee.

Deputy Jonathan O'Brien: Perhaps I can be of help. I am trying to obtain information on the building on George's Street in Newbridge and whether it was previously owned by-----

Dr. Rory O'Toole: On which street?

Deputy Jonathan O'Brien: George's Street. Was the building previously owned by the board, sold and leased back?

Dr. Deirdre Keyes: If the Deputy will bear with me, I want to be able to give the exact information to the committee.

Chairman: We will let the witnesses consult for a few moments.

Deputy Jonathan O'Brien: While they are trying to figure out if there are buildings or lands which the board previously owned which it sold and then leased back, perhaps I might move to my other questions because I do not want to waste time.

I believe it was said legal advice had been obtained by individual board members but without the sanction of the board. Will Mr. Merrick confirm if that is correct?

Mr. Noel Merrick: It is.

Deputy Jonathan O'Brien: Will Mr. Merrick say who obtained the independent legal advice?

Mr. Noel Merrick: The chairman and the vice chairman had been contacted by the Office of the Comptroller and Auditor General and advised that there had been issues. They were subsequently contacted by the Department of Education and Skills.

Deputy Jonathan O'Brien: The former chairman.

Mr. Noel Merrick: The former chairman and the vice chairman. As the vice chairman had been the previous chairman, they were very close since one of them had taken over the office. They were advised to seek legal advice because-----

Deputy Jonathan O'Brien: Who advised them to do so?

Mr. Noel Merrick: My understanding is that when the Office of the Comptroller and Auditor General made contact, they were advised to seek legal advice on how the situation should be managed.

Deputy Jonathan O'Brien: I presume the Office of the Comptroller and Auditor General meant that the board should seek legal advice, not an individual member.

Mr. Noel Merrick: Of course, it would have been on behalf of the board.

Mr. Seamus McCarthy: I was not at the meeting, but I understand we brought the concerns to the attention of the chairman, the vice chairman and the chairman of the audit committee and they asked what they should do next. We said we could not advise them, that we were not legal advisers and that they needed to seek their own advice on the matter. That was the extent of our suggestion.

Deputy Jonathan O'Brien: That was on behalf of the board, not as individuals.

Mr. Noel Merrick: For the board.

Deputy Jonathan O'Brien: I presume independent legal advice was obtained by the former chairman on behalf of the board, even though it was obtained without its approval.

Mr. Noel Merrick: Yes.

Deputy Jonathan O'Brien: Okay. Did the board see that legal advice?

Mr. Noel Merrick: We have since seen all of the legal advice.

Deputy Jonathan O'Brien: How long did it take the board to see it?

Mr. Noel Merrick: It took some time. A particular company was employed to provide

ongoing legal advice at the time. The Dr. Thorn investigation then commenced. That piece of legal advice ended at that stage and the firm was stood down. The ETB was then entitled to seek another set of legal advice because an investigation had been started and under its insurance policy, the board was entitled to draw down the advice of a different company. It took a while before all of the advice was available. We asked for it early on and it was subsequently released in six or seven big folders.

Deputy Jonathan O'Brien: I will try to be a little clearer. With regard to the legal advice the former chairman obtained, I am going to say it was in a personal capacity, even though in his opinion he was seeking it on behalf of the board but without its approval. When I say "in a personal capacity," I am not suggesting he went off and just obtained legal advice for himself.

Mr. Noel Merrick: Yes.

Deputy Jonathan O'Brien: When did he obtain that legal advice in a personal capacity on behalf of the board?

Mr. Noel Merrick: I would say within days of being notified.

Deputy Jonathan O'Brien: Roughly when?

Mr. Noel Merrick: In July 2017.

Deputy Jonathan O'Brien: When did the board see that legal advice?

Mr. Noel Merrick: The stages were calling a meeting of the board when we heard that there was an issue. We received a letter on 11 August stating there was an issue, that the former chairman was seeking legal advice and that we would respond. Subsequently a meeting of the board took place.

Deputy Jonathan O'Brien: When?

Mr. Noel Merrick: We were due to have a meeting in early September, it did not go ahead. A second meeting was held, I believe, on 27 September. We also had meetings in October and December-----

Deputy Jonathan O'Brien: I do not mean to be blunt - sometimes people think I am - but this is just my manner.

Mr. Noel Merrick: No problem.

Deputy Jonathan O'Brien: I am not interested in meetings that did or did not go ahead. I just want to know when the board saw the legal advice after it had been obtained.

Mr. Noel Merrick: To clarify for the Deputy, at the early meetings the legal framework presented was to give legal advice and discuss the issues with-----

Deputy Jonathan O'Brien: I presume the independent legal advice obtained by the former chairman was in written form and presented to the board at some stage.

Mr. Noel Merrick: We did not receive the written advice until much later. It was well after that, into 2018.

Deputy Jonathan O'Brien: Was it the legal advice the former chairman had obtained?

Mr. Noel Merrick: All communications with the legal firm were released.

Deputy Jonathan O'Brien: Was this five or six months later?

Mr. Noel Merrick: It probably was before we saw all of the advice which was then made available to all of the board members.

Deputy Jonathan O'Brien: Would it have been presented to the board in January 2018?

Mr. Noel Merrick: Yes, maybe, at the earliest. I do not have a date, but it was not straight-away.

Deputy Jonathan O'Brien: What were the recommendations made in the particular legal advice?

Mr. Noel Merrick: The main recommendations were that the board be informed of the situation and that advice be given on how it might deal with the issue. However, this was before Dr. Richard Thorn was appointed as an investigator. When that step was taken, the general advice was that at that stage the board could not set up its own investigation and that the important thing was to let Dr. Thorn get on with it. The initial advice had been that the board be informed and that the best way forward was to set up a sub-committee of the board to investigate on behalf of the board.

Deputy Jonathan O'Brien: I hope the Chairman will not jump in, but he may do so. Was there a recommendation that anyone be suspended, pending the outcome of an investigation?

Mr. Noel Merrick: I have never seen that recommended in the advice.

Deputy Jonathan O'Brien: That is okay. That is why I am asking. No recommendation was presented in legal advice to the board that anyone be suspended.

Mr. Noel Merrick: No.

Mr. Seán Ó Foghlú: On legal advice in general, there may be times when a chairman needs to seek several advices on his or her role. The

Office of the Comptroller and Auditor General approached the chairman. I am not aware of the details of the case, but there was an issue for a chairman in seeking advice on his or her role as chairman of an ETB, given that the Office of the Comptroller and Auditor General had made an approach. That is different from the advice that may be sought for the board as a whole.

Deputy Jonathan O'Brien: I believe Mr. Merrick said no motion or proposal was brought to the board for anyone to be suspended, pending the outcome of an investigation.

Mr. Noel Merrick: No. I will clarify that matter. A certain person gave notice of retirement very early in the process.

Deputy Jonathan O'Brien: While I know that the witnesses are trying to get the information on lease contracts for which I asked previously, are they aware of any contract entered into without board approval in respect of property or land?

Mr. Noel Merrick: Is that question to me?

Deputy Jonathan O'Brien: It is to anyone who was on the board at the time.

Mr. Noel Merrick: We have one issue about Bray Institute of Further Education. I am not sure about the lease for block E, but I do not think the board can find a reference in the minutes to it being agreed to. I will let the chief executive clarify the matter.

Dr. Deirdre Keyes: I am aware that the lease on block E did not come before the board.

Deputy Jonathan O'Brien: That is Bray Civic Centre.

Dr. Deirdre Keyes: Yes. I have brought the matter to the attention of the board.

Deputy Jonathan O'Brien: When was it signed?

Dr. Deirdre Keyes: In 2017.

Deputy Jonathan O'Brien: Who signed it?

Chairman: Approached on behalf of the ETB, it is a contractual obligation.

Dr. Deirdre Keyes: The chief executive and the vice chairman at the time signed it.

Deputy Jonathan O'Brien: Can I ask who or is it limited to titles?

Dr. Deirdre Keyes: I do not know. Can I say? It would be normal. The lease was signed by Mr. Brendan Weld who was vice chairman of the board and the chief executive.

Deputy Jonathan O'Brien: Who was?

Chairman: They had the legal authority to do so.

Dr. Deirdre Keyes: It was the previous chief executive.

Deputy Jonathan O'Brien: Who was Mr. Seán Nash.

Dr. Deirdre Keyes: Yes.

Deputy Jonathan O'Brien: Is that the only case of which the witnesses are aware in which a lease was signed without board approval?

Dr. Deirdre Keyes: I am particularly aware of that one which I brought to the attention of the board. I cannot be 100% certain until we do the piece of work under way to look at all of the leases and the background information on them. I cannot be certain and say "all leases".

Deputy Jonathan O'Brien: That piece of work is ongoing.

Dr. Deirdre Keyes: The finance committee is doing that work and has already met to consider it. It is meeting again and we hope to provide a full report for the board on licences and leases.

Deputy Jonathan O'Brien: Does the Secretary General want to come in? I am trying to get to the legal difficulties that may present where a contract is signed on behalf of the education and training board which has not been approved by the board. Did the lease receive board approval subsequently? Was it presented to the board?

Dr. Deirdre Keyes: No. There was another issue under discussion, but the lease has not, as of yet, been presented to the board for approval. However, it has been signed.

Deputy Jonathan O'Brien: What is the amount of the lease?

Dr. Deirdre Keyes: The lease is for Bray Civic Centre which is being used as part of Bray Institute of Further Education and VTOS provision. It is a 20-year lease.

Deputy Jonathan O'Brien: For how much?

Dr. Deirdre Keyes: I have the exact amount in my file. It is €286,000, exclusive of VAT, annually.

Deputy Jonathan O'Brien: Is that sum being paid?

Dr. Deirdre Keyes: Yes. We are currently paying it.

Deputy Jonathan O'Brien: We have €286,000, plus VAT, being paid under a contract which has not received board approval.

Dr. Deirdre Keyes: Correct.

Deputy Jonathan O'Brien: I ask the Comptroller and Auditor General whether that is good practice.

Mr. Seamus McCarthy: No.

Chairman: Let me ask a question.

Deputy Jonathan O'Brien: How is it being allowed to happen? I note to the Accounting Officer for the Department that we have just been told that we are paying out €286,000, plus VAT. I do not know how much that comes to, but it is approximately €350,000 a year under a contract which did not receive prior approval from the board and which has still not received approval. Nevertheless, we are paying out that sum. Has anyone sought legal advice on whether we can get out of the contract? It is a lot of money. For how long is the lease?

Dr. Deirdre Keyes: It is for 20 years.

Deputy Jonathan O'Brien: We could pay out approximately €7 million under a contract which the board has not even approved. That is nuts. My difficulty with it is-----

Dr. Deirdre Keyes: It is since 2017. I want to make that clear. I have asked the Comptroller and Auditor General to have a look at it.

Deputy Jonathan O'Brien: I agree that it is since 2017, but it is very difficult to say lessons have been learned. Has legal advice been sought on whether the contract is binding on the education and training board?

Dr. Deirdre Keyes: At this point, it has not.

Deputy Jonathan O'Brien: If it was me, I would seek legal advice. I would not simply take it as read that I was going to pay out €7 million of taxpayers' money under a contract which had not even been approved by the board. Do the witnesses know whether there are other leases where contracts have been signed by individuals; perhaps even the same individuals?

Dr. Deirdre Keyes: I need to make it clear that the signing of the contract is simply that. I do not want to give the impression that it is simply a contractual issue. The issue about which the Deputy is speaking is bringing it to the attention of the board for approval. My apologies.

Deputy Jonathan O'Brien: When-----

Chairman: The Deputy should be quick.

Deputy Jonathan O'Brien: I have two small questions.

Deputy Kate O'Connell: We break at 2 p.m. and there are two external people who want to speak.

Deputy Jonathan O'Brien: When is it proposed to bring the lease to the board?

Dr. Deirdre Keyes: It is ongoing.

Deputy Jonathan O'Brien: How much did it cost to fit out the building under a contract that has not been approved?

Dr. Deirdre Keyes: The exact cost of the fit-out of block E is in the file, if the Deputy bears with me.

Deputy Jonathan O'Brien: Dr. Keyes can come back to me with it. I believe it is in excess of €2 million. As such, we are talking about nearly €10 million of taxpayers' money under a contract that has not received board approval.

Mr. Seán Ó Foghlú: We were getting this checked, but my understanding is the ETB approached us and that we approved the lease. It may not be that there is a value for money or an appropriate use question. We also understand there is a buy-out option included in the lease. That is my understanding, but I am checking because I was not aware of this detail. We can come back to the committee on the matter, but, obviously, the ETB needs the approval of the Department to enter into a lease. Whether it is an issue of value for money having worked it through with the Department and the board, we will come back with the information.

Chairman: It is a reserved function.

Mr. Seán Ó Foghlú: Yes.

Deputy Kate O'Connell: Following on from that question, a break clause was mentioned, which is normal in a lease. What is the penalty? Has Dr. Keyes looked at the break clause in this lease and, if so, what is the penalty in a 20-year lease which is costing the taxpayer €7 million, plus VAT? Following on from Deputy Jonathan O'Brien's questions, we are not even sure about the legal standing of the lease technically. What would be the payout if the lease was stopped prematurely? Can we have that figure, please? What would be the percentage of the total cost of the €7 million? It is not a difficult question.

Mr. Noel Merrick: There is no break clause.

Deputy Kate O'Connell: What did Mr. Ó Foghlú say?

Mr. Noel Merrick: It is a buy-out clause.

Deputy Kate O'Connell: It is the same idea. If one takes a lease for 20 years, it is worth €7 million, give or take, plus VAT. If one was to stop the lease prematurely, there would be a price of doing so. What would it be? It is not a difficult question, or is it? I ask the Comptroller and Auditor General that question.

Mr. Seán Ó Foghlú: The amount is €3.2 million, as I outlined. We are in contact with the planning and building unit in Tullamore to get this information.

Deputy Kate O'Connell: At what point does this kick in? At what period into the clause does it begin? It seems like a very good deal.

Mr. Seán Ó Foghlú: This is an ETB lease. It is a reserved function, and is a matter-----

Deputy Kate O'Connell: Perhaps Dr. Keyes can answer. At what point does a lease that was worth €7 million provide a payout of €3.2 million for a building that is no longer being occupied? When does that clause kick in? This is a very simple question. If the lease of 20 years is stopped after five years, is the €3.2 million paid then? Is it after six or seven years? Is it six months or 15 years? This is not complicated.

Dr. Deirdre Keyes: I do not-----

Mr. Noel Merrick: I understood that the buyer clause kicked in after ten years, but I am going on memory.

Dr. Deirdre Keyes: It is set out in the lease, but I do not have the lease in front of me. I can get it.

Deputy Kate O'Connell: It is very important.

Dr. Deirdre Keyes: Yes, this lease is very important.

Deputy Kate O'Connell: If somebody leasing a building to the State is going to benefit to the tune of €3.2 million if the lease is prematurely terminated, that is a very important matter. That is a lot of money.

Dr. Deirdre Keyes: Yes.

Deputy Kate O'Connell: Dr. Keyes is in charge of that area. Who owns the building? Am I allowed to ask that?

Chairman: Of course.

Deputy Kate O'Connell: Who is the lease with?

Dr. Deirdre Keyes: Sorry, I have my briefing note and a lot of papers in front of me

Deputy Kate O'Connell: Looking at the fit-out it would seem that the people who did the NTMA building may have got the deal on the interiors. Sorry, that was a Committee on Public Accounts joke.

Dr. Deirdre Keyes: Rent invoices were received from Dot-Opportunities Nominees 3 limited.

Chairman: It is a nominee company.

Deputy Kate O'Connell: Perhaps the committee could be furnished with the directorship of this company. It would be very useful if we received it in a timely fashion so that we could have a look at it. From the knowledge of the witnesses to date, is there any suggestion that there may be a conflict of interest with the ownership of that building and anyone else involved?

Dr. Deirdre Keyes: To date I have no knowledge of that, but-----

Deputy Kate O'Connell: Does anybody in the room have any knowledge of that?

Dr. Deirdre Keyes: -----we are currently going through our 2016-2017 audit, and I have brought this to the attention of the Comptroller and Auditor General.

Deputy Kate O'Connell: That is fine. Dr. Keyes has no knowledge of it. Does anybody in the room have knowledge of any conflict of interest between the company that holds the lease for the €7 million and anybody else involved with this? No.

Following on from Deputy Jonathan O'Brien's questions on the legal standing of the lease if the procedure was breached, if a contract was signed for this amount of money without board approval, what would the result be? This is a very difficult situation to be in. Taxpayer moneys have been committed without due process, as far as I can see. We have heard Ms Mannion refer to lessons learned, which is a new term that must have arisen from a think tank or focus group somewhere. I have looked at a lot of retrospective governance at this committee recently. Mr. Kelly mentioned that he was very focused on ensuring that this did not become a box-ticking exercise. Is it his opinion that most of our corporate governance structures until now have been box-ticking exercises? For all the governance structures, rules and boards in place, at the end of the day we have a problem in front of us. I take from Mr. Kelly's commentary that it would be his opinion that up to now most things have been box-ticking exercises and that he is trying to change things.

Mr. Joe Kelly: I would not agree with the Deputy. Like everything else there is always room for improvement and ways in which we can work better. That is what we are trying to do.

Deputy Kate O'Connell: There is no room for disimprovement here.

Mr. Joe Kelly: Since joining the organisation, I have concluded that we have very committed and honourable employees working in the organisation. We are working very hard to try to fix those weaknesses and enhance some of the processes, procedures and practices we have had in the past. I would not say that this has been a box-ticking exercise up to now. I would admit that there have been weaknesses.

Deputy Kate O'Connell: Does Mr. Kelly believe the governance structures have been fit for purpose up to now? The reason for governance structures is so that there can be accountability, but if the structures are in place and nobody is adhering to them, then to my mind they are box-ticking exercises.

Mr. Joe Kelly: It is always important to drive the culture of governance within an organisation. There can be many practices, procedures and policies, but it has to be ensured that they are embedded within the organisation and become part and parcel of how we do business. It is fair to say, from what we have heard today and previously, some of those areas have not been as strong as we would like them to be. The cultural piece is very important to us, and it is at the top of our list in terms of our governance programme.

Deputy Kate O'Connell: Do we know if any key money was paid on the lease? In 2010 a commercial property could not be given away. Do we know the rent-free period for this €2 million fit-out? This committee has seen the issue of large rent-free periods arise with other organisations.

Ms Catherine Doran: As far as I am aware there was a six-month rent-free period. We can check that, but there was-----

Deputy Kate O'Connell: I would appreciate it if that could be checked. What about the key money?

Ms Catherine Doran: I am not aware of any key money having been paid.

Deputy Kate O'Connell: Is there any indication on the accounts of any key money being paid to get into here?

Ms Catherine Doran: Not that I am aware of.

Deputy Kate O'Connell: Mr. Ó Foghlú was just about to speak to his absolute confidence in response to Deputy Catherine Murphy's question before he got sidetracked. Does he have absolute confidence in the situation here today-----

Mr. Seán Ó Foghlú: I have-----

Deputy Kate O'Connell: I am not finished. Mr. Ó Foghlú is the Accounting Officer for a budget of €1.9 billion for the ETBs. Does he have confidence in the situation we are discussing today?

Mr. Seán Ó Foghlú: It is clearly the case, as I indicated to Deputy Murphy, that I have serious concerns about what has happened in the ETB. I have confidence in the governance structure as a whole, but that does not mean it is perfect or that mistakes are not made.

Deputy Kate O'Connell: I am conscious of the time, and that two external members have sat here-----

Chairman: The Deputy knows the rules of the committee. No member other than members of the committee can speak. It is above my pay grade to deal with that.

Deputy Kate O'Connell: They are not allowed to speak. That is fine. I will allow someone else ask questions.

Chairman: I do not mean to be insulting, but I cannot allow into the debate someone who is not a member of the Committee on Public Accounts.

Deputy Catherine Connolly: Was the first special report by the Comptroller and Auditor General brought to Mr. Merrick's attention?

Mr. Noel Merrick: If the Deputy is referring to the 2012 report, no, we did not discuss it at all.

Chairman: That report related to the Kildare Vocational Education Committee, VEC.

Deputy Catherine Connolly: I know that, but the following year there was an amalgamation of the two VECs. Was that report on an agenda to be discussed?

Mr. Noel Merrick: No.

Deputy Catherine Connolly: Why was that not the case?

Mr. Noel Merrick: I do not know, but we were a new organisation then. A new board was

set up in 2014. To my memory there was no discussion of it.

Deputy Catherine Connolly: Mr. Ó Foghlú was aware of that report. What mechanism was in place to bring it to the attention of the new board shortly afterwards so that it could be discussed and lessons could be learned from it?

Mr. Seán Ó Foghlú: It is quite obvious that the report was in the public domain and was well known, and board members would have been well aware of it. Notwithstanding that, the internal audit service carried out a follow-up audit and brought it to the attention of the internal audit committee of the ETB.

Deputy Catherine Connolly: I am asking about the new board which was formed in 2013.

Mr. Seán Ó Foghlú: There was widespread public awareness of that report. It did not have to be formally brought to the board's attention by the Department. Notwithstanding that, the internal audit service carried out a follow-up procurement audit in the VEC, which it brought to the attention of the internal audit committee of the ETB.

Deputy Catherine Murphy: I will pick up on that point. Mr. Ó Foghlú told me earlier that because the report was done, the Department was paying particular attention. How was that the case? The Department was relying on it being in the media, it was relying on it being in the public -----

Mr. Seán Ó Foghlú: No. We do not write to every new organisation that is established on amalgamation and draw attention to things in the past. It is really obvious and something that anyone in education and training in that area would be aware of.

Deputy Catherine Murphy: I asked about confidence earlier. I was referring to confidence in the Department in relation to the 2010 accounts and the 2012 special report. The Thorn report after that repeated some of the failures and shortcomings from the 2010 report. I was asking about confidence in the Department's role regarding this. It is not a disinterested party. There is a lot of money channelled through the Department. It issues codes of governance. It issues circulars to say how things should be done. It would be a great difficulty for me to say that I have confidence in the Department in the context of that sequence of events. It should not have repeated itself. The meeting has heard some additional information. We have not had sight of the 2016, 2017 or 2018 accounts. We are still in trouble on this as a consequence of that.

Mr. Seán Ó Foghlú: Sorry, does the Deputy have a question?

Deputy Catherine Murphy: Yes it is about confidence. Can Mr. Ó Foghlú say that he can express confidence in his role as Accounting Officer? Is he confident that he did everything that he could possibly have done to avoid this? Is he confident that the special observation that was happening did occur and, if so, and it was the case that a special eye was being kept on an area where there had been failings in the past, how did the events which transpired occur?

Mr. Seán Ó Foghlú: We all have shortcomings in the approaches that we took. It is unfortunate that there was not a fully functioning expanded internal audit unit for the sector. It is unfortunate that the governance of the ETB did not manage the work of the ETB, notwithstanding the likes of the internal audit follow-up report on the 2012 audit be completed. We have a series of detailed follow ups with the ETB on major projects and minor projects. We followed up on the major projects and we spotted a number of the things that arose here before they were brought to the attention of Comptroller and Auditor General and brought them to the attention

of the Comptroller and Auditor General.

Deputy Catherine Connolly: My question which my colleagues picked up on was how was it not discussed at the new board of 2013. I asked Mr. Ó Foghlú and he gave his answer. Can Mr. Merrick tell me how this report was not discussed? The Secretary General of the Department of Education and Skills said that everybody knew about it and that it was being followed up. How did it not land on the agenda of the board in 2013?

Mr. Noel Merrick: I cannot answer that question. Presumably it is a rhetorical question.

Deputy Catherine Murphy: It is a what?

Mr. Noel Merrick: A rhetorical question in that it did not come up.

Deputy Catherine Connolly: No, it is not, it is a very specific question. It is not rhetorical.

Chairman: In case anyone leaves, the meeting will stop at 2 p.m. and the question arises as to when we will resume. There are other witnesses coming before the committee but there are quite a few votes in the Dáil. It may have to resume at 3.30 p.m.

Deputy Jonathan O'Brien: I presume that when the meeting resumes after the Dáil votes that we will begin a new session.

Chairman: Yes. We will be discussing housing.

Deputy Jonathan O'Brien: I want to be clear about the two things that I am looking for. First, is a list of all properties and lands which the ETB is currently leasing which the ETB had owned and sold. Second is a list of all leases and contracts which have been signed which have not been approved by the board or which may have been approved subsequently after the fact.

Mr. Ó Foghlú said that the Department had signed off on the contract.

Mr. Seán Ó Foghlú: Yes.

Deputy Jonathan O'Brien: What exactly does that mean? Does it mean that the Department is now responsible if there is an issue with the contract?

Mr. Seán Ó Foghlú: No, it means that we give the ETB permission to go ahead, including that it would mean that it would require the ETB board to be aware of it as a reserve function. The executive has to pursue with us entering into a lease and we approve that lease.

Deputy Jonathan O'Brien: Therefore the Department gave the ETB permission to start paying the lease.

Mr. Seán Ó Foghlú: No, we gave them permission to enter into the lease.

Deputy Jonathan O'Brien: But the ETB had already entered into the lease.

Mr. Seán Ó Foghlú: No, we gave them permission to enter into the lease. They would have had to go into their internal processes to enter into the lease. It is not a replacement for the internal processes.

Deputy Jonathan O'Brien: Can Mr. Ó Foghlú help me out? Two individuals sign a contract and I presume once it has been signed that is it.

Mr. Seán Ó Foghlú: Again, that is a legal matter. Whoever it has been leased from has legal entitlements. A legal engagement is needed. We approved this so obviously we agreed with the intention of it. Therefore, the question is what would be the reason not to proceed? I am not aware of the detail.

Deputy Jonathan O'Brien: Some of the reason may be a conflict of interest or it might be a cost issue. I do not know. Was any analysis done on whether it was good value for money? I do not know because none of this came before the board.

Mr. Seán Ó Foghlú: It was a process that the engagement on value for money would have been a part of.

Chairman: We will cut to the chase. Can Mr. Ó Foghlú send the Department of Education and Skills' file in which it examines the ETB's case and gives approval? That is, will the Department send the committee the file containing both sides?

We will conclude. The meeting will resume on the housing issue at 3.30 p.m. rather than 2.30 p.m.

I have one question. There were various issues including the Comptroller and Auditor General being unable to complete the 2015 audit. We had the Thorn report. I have a simple question that this committee asks. Has anyone quantified the loss or potential loss to the taxpayer as a result of all these issues? It is one of the first meetings of the Committee of Public Accounts where no one has tossed out a figure for a potential loss. Has it been quantified? I will ask the three witnesses individually.

Mr. Seamus McCarthy: No, there are still questions open as to whether there has been loss and its quantum. That is still not determined as far as I am concerned.

Chairman: I ask the ETB the same question, was there a loss either to the taxpayer or to the ETB?

Dr. Deirdre Keyes: We do not have it at this point.

Chairman: I ask the same question of the Department.

Mr. Seán Ó Foghlú: We are following up on each of the majors.

Chairman: What does that mean?

Mr. Seán Ó Foghlú: We are following up on each of the three major building projects.

Chairman: But there are other non-procurement issues.

Mr. Seán Ó Foghlú: Sorry, I was getting there. We are following up on each of the three major building projects with the ETB where they are not completed to complete out. Whether there is a loss as a result of anything that has arisen will emerge then. The work which is being undertaken by the Garda would be necessary before we would know whether there was a loss in the other areas.

Chairman: The ETB, the Department of Education and Skills and the Comptroller and Auditor General are here about a big issue. I have asked the three organisations if there was a loss to the taxpayer and they are saying that maybe the Garda can answer that.

Mr. Seán Ó Foghlú: No, we are saying that we will have to look at it further following the work done by the Garda. We do not know yet whether there was a loss.

Chairman: That is interesting. The ETB, the Department of Education and Skills and the Comptroller and Auditor General are saying that they do not know if there is an actual loss. Nobody is saying there is a loss. I am just asking the question.

Mr. Seán Ó Foghlú: Given the circumstances judgment should be reserved on the matter.

Chairman: So nobody can say whether there was a loss, if there was a loss, or state the quantum of the loss.

Mr. Seamus McCarthy: I cannot indicate that at this stage.

Chairman: Can I just ask the obvious question? Over 2015, 2016, 2017, 2018 and 2019, nobody has asked it.

Mr. Seán Ó Foghlú: We have asked the question but we have not been able to answer it.

Chairman: Who has been asked? What is the mechanism so far?

Mr. Seán Ó Foghlú: We have asked that question in relation to the three major projects. Bearing in mind the Thorn report, the appointment of a facilitator to come to a conclusion in relation to demands of contractors regarding buildings has not come through yet. We do not know yet what it will result in. When it concludes, we-----

Chairman: In what years did the three big building projects arise?

Mr. Hubert Loftus: They would date back to 2014-15 or that sort of period.

Chairman: It is now 2019 and maybe in 2020 we might get an answer to this question about something that happened. It will be so historic. From the perspective of a Chairman of a Committee of Public Accounts, justice delayed is justice denied. The taxpayer will be denied if there is a loss. It has already taken six years and nobody has been able to put a figure on the loss, if there is a figure. In another few years, we might have a figure, or we might not. I believe there is something wrong with the whole process if, six years after an issue arises, we do not even know if there is a loss. The witnesses can understand my position. They do not have an answer. I suppose they will say to me it is a rhetorical question but they get where I am coming from. I am surprised at the position we are in if these issues were so serious as to take up so much time. Even when Mr. Thorn was sent in, why did somebody not try to deal with this? Why did the finance committee not check whether we were out of pocket? If the organisation is out of pocket, it is the front-line services, including the youth services and all the other great services provided, that are affected. If there was less money in the organisation and something else got cut, that is what we are here to know about. Six years after some of these issues arising, people are just beginning to ask the question. The answer is that we will wait until the Garda completes its work and look at it at that stage. I find that delay-----

Mr. Seamus McCarthy: Frustrating.

Chairman: More than frustrating. It is frustrating but not good enough that it has taken so long. I am not even talking about the old VEC, just this one. I will leave it at that. I thank the witnesses for attending. It is a difficult kind of meeting when there is a report that has gone to the Garda but I am satisfied the meeting was conducted properly. Nothing was said there that

could compromise any investigation by the Garda or any case, if it arises in due course. That was the important concern I had. We have probably asked questions to which we have not got answers so we ask that the information sought be sent on to the committee as soon as possible. We look forward to receiving the accounts for 2016, 2017 and 2018 in due course. That is a little bit away yet but we will wait and see.

The witnesses withdrew.

Sitting suspended at 2.05 p.m. and resumed at 3.30 p.m.

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

Vote 34 - Housing, Planning and Local Government

Dr. Mary Lee Rhodes (*Approved Housing Body Interim Regulatory Committee*) and **Dr. Donal McManus** (*CEO, Irish Council for Social Housing*) called and examined.

Chairman: We are dealing with matters relating to housing, planning and local government in respect of Vote 34 of the Appropriation Accounts. Before we proceed I wish to make one remark about our work programme. The Secretary General of the Department of Public Expenditure and Reform had written to us saying he was available for 7 March. We confirmed this morning that he will attend the meeting on that day. I understand the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach is also seeking his attendance before it. No doubt he will be able to attend both committees at a suitable time interval. We look forward to seeing him on 7 March.

In terms of Accounting Officers, recently we had the Secretary General of the Department of Health before the committee dealing with the children's hospital and he also went to the Oireachtas Joint Committee on Health on another day. It is normal that Secretaries General should attend their line committees and the Committee of Public Accounts. It is not a case of one or the other. We are proceeding on the basis of his letter indicating that he will attend on 7 March.

This afternoon we have representatives from the Irish Council for Social Housing and the approved housing bodies interim regulatory committee to help our consideration of the housing Vote, which we will be examining next week. Neither of the bodies are accountable to the Committee of Public Accounts but are here to help our understanding in our examination of the Department's vote. I stress the point that they are here voluntarily to assist us in our understanding of the housing issue.

We are joined by the Comptroller and Auditor General, Mr. Seamus McCarthy, who is a permanent witness to the committee. He is joined by Ms Deirdre Quaid, deputy director of audit. From the Irish Council for Social Housing we have Dr. Donal McManus, chief executive officer, who is joined by Ms Tina Donaghy, Mr. John Hannigan and Ms Karen Murphy.

From the approved housing body interim regulatory committee we are joined by Dr. Mary Lee Rhodes and she is accompanied by Ms Susanna Lyons and Mr. Pat Fitzpatrick.

I remind members, witnesses and those in the Public Gallery that all mobile phones must be switched off entirely. That means putting them on airplane mode, as merely putting them on silent mode will still interfere with the recording system.

I wish to advise the 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 this committee. If they are directed by the committee to cease giving evidence in relation to a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise nor make charges against any person or entity, by name or in such a way as to make him, her or it identifiable.

Some of those present may have time commitments so we will take the two opening statements and then we will allow committee members to ask questions. I invite Dr. Mary Lee Rhodes to make her opening statement, followed by Dr. Donal McManus.

Dr. Mary Lee Rhodes: We are pleased to be here this morning to assist the committee in its review of the oversight and regulation of approved housing bodies. I am accompanied by my colleagues, Ms Susanna Lyons, head of regulation and Mr. Pat Fitzpatrick, approved housing body services.

The interim regulatory committee was set up in 2014 by the then Minister of State, Deputy Jan O’Sullivan, as a non-statutory committee to oversee the implementation of the voluntary regulation code for the approved housing body sector and to advise the Department on the development of statutory regulation. The regulation office was established to implement the code, pending enabling legislation. It sits within with Housing Agency and is overseen by the interim regulatory committee. After five years of development and operation of the voluntary code, we have a robust regulatory framework to which a large number of AHBs have voluntarily signed up and which is being applied transparently, effectively and with meaningful consequences for non-compliance.

For brevity, I will henceforth refer to approved housing bodies as AHBs and the interim regulatory committee as the IRC. As members will be aware, there are four statutory agencies with relevant oversight responsibility for various aspects of AHBs. These are local authorities, the Residential Tenancies Board, the Charities Regulator and, for some AHBs, the Health Information and Quality Authority. However, as pointed out by the Comptroller and Auditor General in his recent annual report, the AHBs nevertheless “function as arms-length bodies with their own legal status and with the capacity to transact business in accordance with their own constitutional arrangements”.

Until the establishment of the voluntary regulation code, there was no active, centralised oversight of these organisations following their approval as AHBs. The voluntary regulatory code was launched in 2013 and set out key requirements relating to governance, financial viability and performance management to which all AHBs signed up to the code are required to adhere. The regulatory framework has developed over the past five years, with the establishment of the governance, finance and performance standards and related protocols.

Oversight has increased significantly through the regulation office and the IRC, and the AHB sector has demonstrated advancement relating to best practice and compliance across all areas of the regulatory requirements. The current framework provides for an open, trans-

parent, proportionate, and risk-based regulation based on the principles of comply or explain. Larger AHBs and those planning significant growth are subject to more rigorous regulation than smaller ones.

Each year the regulation office issues an annual report and sectoral analysis with detailed information on housing stock, funding and finance, staffing, assets and performance management, thereby providing an important overview of the AHB sector. More importantly, each year the regulation office reviews the annual returns provided by the AHBs and issues an assessment report and assessment outcome. The assessment outcome is linked to eligibility for Government funding and is required by the Housing Finance Agency in order to approve loan finance.

In the 2017 to 2018 cycle, 83% of AHBs signed up to the code demonstrated substantial compliance, with 9% requiring additional written clarification. Where areas of non-compliance relating to governance, financial viability or performance management were identified, organisations were required to enter into a process of engagement with the regulation office. A total of 14 AHBs were deemed to require ongoing engagement to bring them into compliance. Following due process and due diligence, three AHBs were deemed unsatisfactory due to significant non-compliance and the Department was informed of these. As of September 2018, the IRC also provides a list of all AHBs in engagement to the Department. Circular 15/2016 states that only those AHBs having received a satisfactory assessment will be eligible for funding from the Department.

However, a statutory regulatory body would have investigation and enforcement powers which are currently absent from the existing voluntary framework. The absence of these powers and the existing terms of reference of the IRC limit the ability of the regulation office to go beyond deeming an AHB to be unsatisfactory. In addition, the lack of a statutory basis for the regulator impacts on the ability of other Government agencies to enter into memoranda of understanding regarding protocols, a situation that can delay appropriate follow-up on significant issues.

That brings us to the other subject of this invitation, on the nature of the interactions between the IRC and the Department of Housing, Planning and Local Government. I have already outlined the interaction in relation to the voluntary regulation code and note that an official from the Department is a member of the IRC. As stated in the introduction, the IRC has two main objectives, the second of which is to advise the Department on the development of statutory regulation. That was a substantial element of the IRC's work to June 2017. After that date, the ongoing work to bring legislation to the Government has largely been in the hands of the Department, with the IRC providing input on an as-requested basis. A new draft of the proposed legislation has recently been provided to members of the IRC and discussion of same will be on an upcoming agenda.

At the request of the Department, the IRC is reviewing its terms of reference and protocols between the Housing Agency, the regulation office and the Department of Housing, Planning and Local Government. Those are being reviewed in light of questions around the sustainability of the existing framework in advance of the introduction of a legislative framework. In conclusion, the establishment of the voluntary regulation code and the regulatory framework developed by the IRC and the regulation office has provided proactive centralised oversight of organisations following their approval as AHBs. This ensures public investment in AHBs signed up to the code is safeguarded. It also provides assurance to key stakeholders, lenders and investors that the AHB sector is well governed, well managed and financially viable. The regulatory framework established has been successful to date. It has, however, a number of

limitations, as highlighted above. It is important that the framework advances to a statutory footing, with the appropriate independent powers and functions, as soon as possible. A statutory regulatory body will be of significant benefit to tenants, the AHB sector itself, the Government, local authorities, lenders and, in future, investors. I thank the committee and I will endeavour to answer any questions.

Chairman: I thank Dr. Rhodes. I call Dr. McManus to give the opening statement on behalf of the Irish Council for Social Housing.

Dr. Donal McManus: I thank the committee for the invitation to address it today. The Irish Council for Social Housing, ICSH, is the national representative federation for housing associations. Accompanying me are my colleagues, Ms Tina Donaghy, vice president of the ICSH and head of development with Fold Ireland, Mr. John Hannigan, ICSH council member and CEO of the Circle Voluntary Housing Association, and Ms Karen Murphy, ICSH director of policy. We have supplied the committee with a number of background papers which I hope will provide members with further understanding of the sector. I refer to two aspects in particular, the role of the sector and its engagement with other stakeholders.

The ICSH was established in 1982 by a number of voluntary, non-profit and co-operative housing associations that believed non-profit housing associations working together could play a more significant role in meeting the housing needs of specialist groups, such as older people, people with disabilities and formerly homeless households, as well as the housing needs of low-income families, using new housing management approaches. These housing associations had witnessed social housing being provided throughout the rest of the EU by a range of not-for-profit housing associations and co-operatives. That was in addition to housing provided by the public housing authorities. It was felt Ireland was missing out in not providing additional options for those households in need of social housing.

The ICSH has almost 260 members. These comprise a small number of larger, tier 3, organisations, many active throughout the country, as well as a large number of smaller community or regionally-based organisations that have provided a specific type of housing service in a local community. Approved housing bodies also work in partnership with local authorities in the refurbishment, rejuvenation and management of local authority estates, in urban and rural local authorities, towns and cities. As well as providing and managing social housing, AHBs have provided supports to tenants to improve their quality of life. In some cases, that has involved providing supported housing, and ensuring older people do not have to move to nursing or care homes prematurely, or providing supports to vulnerable families and children.

Some ICSH members have been active providing rental housing for families since the 1890s, such as the Iveagh Trust in Dublin, and still continue to deliver new housing today. The sector, therefore, has a long-term commitment to providing housing and investing in local communities. By the 1980s, it was estimated that non-profit housing associations owned and managed around 2,000 homes throughout the country. Much of that early success was achieved by local voluntary effort, such as raising finance and securing the donation of sites and properties. ICSH members, also known as housing associations or approved housing bodies, have a social mission and purpose and assist local authorities in addressing housing needs. The recent expansion of the sector from the 1980s, in providing homes and new types of housing services to address gaps in housing provision, was facilitated by the introduction of two State capital funding schemes by the then Department of the Environment. They were the capital assistance scheme, CAS, in 1984 and the capital loan subsidy scheme, CLSS, in 1991.

These schemes yielded over 27,000 new homes, with CAS comprising over 60% of the total. As well as being supported by central government and local authorities through the subsidised sites scheme, as well as Part 8 schemes, approved housing bodies also sourced sites locally themselves. Those have delivered an estimated 6,500 new homes. Output figures for the sector, contained in the background paper, show that delivery of homes by housing associations increased from a few hundred in the 1980s to more than 2,000 homes in 2009. That was before the property crash and Government cutbacks in social housing expenditure. During the 1990s and 2000s, it is estimated that housing associations provided between 20% and 30% of all new social housing annually.

Currently, within the commitments under the Government action plan on housing and homelessness, Rebuilding Ireland, the sector is earmarked by Government to provide one third of the total 50,000 social rented homes. In 2018, approved housing bodies delivered approximately 38% of social rented homes via build, acquisition and long-term leasing. In 2017, approved housing bodies delivered 2,330 homes, the highest ever total, through new build, acquisition and long-term leasing, more than 1,000 of which came through new construction. This is a significant increase in delivery since 2013-14 when only a few hundred homes were delivered due to the reduction in capital expenditure and the elimination of the capital loan and subsidy scheme.

Since 2010, there has been a significant change in the capital financing of approved housing bodies. A mixed funding scheme has been introduced comprising a capital advance leasing facility, CALF, and payment and availability agreements. This includes a maximum of 30% State capital loan, with the remaining finance of 70% being raised either through the option of the Housing Finance Agency, HFA, or private financial institutions. This new approach of taking on more risk through borrowing loan finance has necessitated significant organisational change and upskilling within approved housing bodies wishing to increase their capacity to provide more homes. This transition to mixed funding for the sector occurred incrementally over 34 years in EU member states, whereas in Ireland we have fast-tracked it within five to ten years.

Since the economic crash, AHBs have been working with private sector developers. An example is completing unfinished estates to make them available for social housing. Alongside these new capital funding arrangements, there has been a range of new statutory, regulatory and compliance requirements for AHBs. AHBs now come under the remit of the Residential Tenancies Act, the Charities Act and HIQA in some cases, as well as the requirements of the voluntary regulation code, VRC, and various covenants of financial institutions, to name a few. These are in addition to the contractual requirements with local authorities comprising the terms and conditions of the capital funding schemes.

Importantly, there are a number of strategic issues which the sector is encountering and will be encountering in coming years. These include continued access to sites to meet targets for delivery, the reclassification of AHBs as part of the local government sector, which is a particular focus for those developing approved housing bodies with significant delivery plans and that wish to reverse classification, access to affordable and cost rental schemes, the new statutory regulation framework and increased delivery of supported housing particularly for older people.

The delivery of housing for people with specific needs remains challenging, particularly given the current restricted nature of homes available. Different approved housing bodies within the sector have different ambitions and capacities. A number of larger approved housing bodies are focusing on significant scaling up of social housing delivery using loan finance, as well as seeking to deliver additional forms of intermediate rental housing. Others approved

housing bodies are focusing on consolidation and succession planning. Although approved housing bodies will develop in different ways, the sector will still rely on a coherent policy framework on finance and regulation from the Government to enable the AHBs to play its part in meeting housing needs. We look forward to any questions.

Chairman: I thank Dr. McManus. I call Deputy Cullinane.

Deputy David Cullinane: I thank the witnesses for appearing before us on a voluntary basis. I also thank them their opening statements and for being in a position to help us with our work in this area. I will start with Dr. McManus and develop some of the points he made in this opening statement on how approved housing bodies are funded. He spoke of the changes in 2010, I think it was, to a mixed funding. AHBs, however, are funded first of all by a 30% upfront capital loan. That is the capital allowance loan facility, CALF, which comes from the State. The other 70% is then financed by the approved housing bodies themselves. That can come from other borrowings, the Housing Finance Agency or a combination of both. How does it work normally or what is the popular model?

Dr. Donal McManus: The dominant form at the moment is accessing loan finance from the Housing Finance Agency. As the report of the Comptroller and Auditor General mentioned a few years ago, there was very little finance coming in compared with the Housing Finance Agency. Mr. Hannigan will comment further on that aspect.

Mr. John Hannigan: It is predominantly from the Housing Finance Agency at present but these models of operation are very new. Although the AHBs have been in operation for 30 years, given this classification, it is effectively a new sector. There has been a ramping up of seeking to attract other funders to come into the market in the past five or six years. We in the Circle Voluntary Housing Body, for example, have just undertaken a loan with Allied Irish Bank. Other AHBs have utilised other pillar banks in Ireland and there have also been those AHBs that have used special purpose vehicles, SPVs, with foreign banks now coming into the market. The reality is that classification has changed the way we look at things. We need a broader base of funders in this sector to meet the classification requirements. We are progressing that very quickly. At this point, probably 90% of the funding is coming from the HFA, but over the next two to three years there will be a dilution of that through other borrowers coming into the market.

Deputy David Cullinane: There is some element of it, and it is quite small, that might come through banks or private investment.

Mr. John Hannigan: Quite a significant amount will in the next two to three years.

Deputy David Cullinane: Okay. Where does the Housing Finance Agency finance come from?

Mr. John Hannigan: My understanding is that it comes from the issuing of Exchequer stocks by the State or borrowing from the wholesale markets by the HFA. The HFA goes to the markets behind the banking system.

Deputy David Cullinane: In that case the dominant funding model would be 30% upfront loan, the capital advanced leasing facility, CALF, payment as it is called, and more often than not the majority of the 70% has come from the Housing Finance Agency.

Mr. John Hannigan: That is right.

Deputy David Cullinane: The State pays the approved housing body a monthly payment for 25 years. Is that correct?

Mr. John Hannigan: It is up to 25 years. It can be shorter. There have been some that have been as little as 15 years and others are up 25 years.

Deputy David Cullinane: The approved housing body would then pay down the loan, and when that is done it would repay the State the 30%. Is that correct?

Mr. John Hannigan: Yes.

Deputy David Cullinane: Who owns the property then?

Mr. John Hannigan: The AHB.

Deputy David Cullinane: Is there any issue there with regard to State ownership? Much of this started in 1991 so the first stream of housing from that process will be coming into the ownership of the approved housing bodies. Since 1991 these schemes have been funded primarily through State funding, yet the approved housing bodies will end up owning the properties. While it might be illogical that they could decide to do something else with them or one might say that would not happen, essentially the State has no guarantee that these properties will remain as social housing. Would that be a concern? Has Dr. McManus's organisation explored or examined that or is it aware of any debate on this?

Dr. Donal McManus: We have had debate in the sector. A number of mortgages have come out of the period, especially the capital assistance scheme, CAS-----

Deputy Catherine Connolly: Mortgages?

Dr. Donal McManus: Mortgages under the CAS, for example, are mortgages where the contract is between the approved housing body and local authorities. Where there is a mortgage in place for 20 years, initially with the capital assistance scheme, there are certain requirements the local authority housing has with the approved housing body for 20 years. Some of those have come out of mortgage. Where they have come out of mortgage with the local authority, the housing associations continue to provide the rental housing to the people on the waiting list. By and large there has been no change for those organisations in terms of their *raison d'être*. It is also because they are charities. They are not in the business of selling off properties to make gain. Their social mission is to provide social rented housing.

Deputy David Cullinane: I asked because it is an issue that has been dealt with in the Committee on Housing, Planning and Local Government. A special committee on housing was established after the previous general election and it examined a range of issues relating to housing. One of the main issues was that we do not have enough public or social housing. In fairness to the approved housing bodies, they do not see themselves as filling that gap for the State, but given that the State has not built a large amount of public housing, they fell into providing perhaps more of the social housing that the State provides or has some influence over than was intended. The witness is correct that in some cases it might be unlikely that they would change the use, but there was some discussion in the committee as to whether there would be guarantees built into the contracts, given that the majority of funding is coming from the State, that the properties would remain for public or social housing, and if it was the case that an approved housing body was of a mind to vary the use, sell or whatever it is for whatever purpose, the State would have the first opportunity to buy through the local authorities. How-

ever, there is no conditionality in it. Notwithstanding what the AHBs may or may not do or the logic of what they might do, the fact is that there are no guarantees. Once they have repaid the loan and they own the properties, they can do what they wish with them. Is that the position?

Dr. Donal McManus: In theory, yes, but because-----

Deputy David Cullinane: It is not a theory. It is the case.

Dr. Donal McManus: It is the case, but they do not anything with it in terms of selling it. The new regulation coming into place will help as well from that point of view. It is a new regulation being brought in under statute. That will help the process of keeping a link with the social housing by AHBs in the longer term. We would be keen to have those options explored.

Deputy David Cullinane: That brings me to Dr. Rhodes. Will she expand on that point? What role will the regulation play in terms of ownership of the properties, given that the State played a significant part in making sure these properties were funded and then they are in the full ownership of the approved housing bodies? What protections are there to ensure those properties remain in use for public and social housing?

Dr. Mary Lee Rhodes: Currently, there are no protections that those properties will remain in State ownership. The legislation went deeply into that point and I believe a great deal of information was provided to this committee in another report regarding the disposal of assets. How to deal with that in the regulation remains a key question for members of the committee and the Department. On the other side, that specific point created issues around classification in other jurisdictions. We do not have an ability to control that now and we could if it is written into regulation, but writing it into regulation has issues as well.

Ms Karen Murphy: There is an additional safeguard. Each company is a company limited by guarantee and has charitable status. As such it must have within its memorandum and articles of association that it is providing housing for vulnerable people or people in disadvantage or wording to that effect. To get approved status in the first place, the bodies must have that in their memorandums and articles of association, and having it in the memorandums and articles of association is what gives them their charitable status. It is an additional safeguard that exists already in charity law.

Deputy David Cullinane: That might be the case for some. How many approved housing bodies are there?

Ms Karen Murphy: There are 270 in our membership organisation and they would all have companies.

Deputy David Cullinane: They are very diverse. My point is that some of them might have an ethos but we just do not know-----

Ms Karen Murphy: No. Under charity legislation they are guided by their memorandums and articles of association.

Deputy David Cullinane: If at some point they owned the properties, the charities legislation would not prevent them from using the properties for a different purpose.

Mr. John Hannigan: Yes it would. They would have to change the memorandum and articles and also seek permission from the Charities Regulator to be able to do something different with the properties. There is a degree of protection around that. In theory, they could

change it but the process to go through would be quite convoluted and would require the Charities Regulator to give approval of it too.

Deputy David Cullinane: My next question is about the notion that funding for approved housing bodies could go off-balance sheet. Am I correct that it is the stated intention of the Department, or at least its desire, that this would be the case?

Dr. Donal McManus: We have heard that it wants it off-balance sheet. One of the key players in that is the Department of Finance. It has to give direction on that and on how it wants to go. The Department of Housing, Planning and Local Government would like to do that but we need a commitment from the Department of Finance for it to happen.

Mr. John Hannigan: Language is important on this because it is quite a technical issue. Off-balance sheet does not mean off-balance sheet. It means it is off the State's balance sheet but it would still remain on the balance sheet of one of the bodies associated with or part of a-----

Deputy David Cullinane: I should have been more specific. I meant off the State's balance sheet. That is the stated intention of the Department but it would have to get approval from EUROSTAT for that to happen.

Mr. John Hannigan: Absolutely.

Deputy David Cullinane: Do the witnesses know the position with that at present? The Central Statistics Office, CSO, would have a role and EUROSTAT would have the final say. What opinion do the witnesses have on that as an ambition? Do they know the position with it?

Dr. Donal McManus: We are not quite sure where it sits at present. I believe there is a working group to be set up in the Government to progress it. We have made submissions both to the Department of Housing, Planning and Local Government and a working group set up under the Department of Finance on this. I am not quite sure of the position with that. In terms of the process, we looked in detail through the reasons for the classification. In some of them the issues can be addressed fairly easily. We thought some were probably more spurious issues. Some are quite challenging issues in terms of the level of finance. Mr. Hannigan mentioned the need to spread the level of finance to other financial options. There are also controls around lettings and allocations.

Deputy David Cullinane: That is really why I wanted to tease out the first part as to how they are funded. The second part concerns the ambition to get it off the State's balance sheet. I imagine the mixed funding model of 30% CALF funding, and then a bigger portion of the 70% of funding that comes from the Housing Finance Agency at present coming from the private sector, is in part, driven by the ambition to get it off the State's balance sheet. Is it a factor?

Mr. John Hannigan: Yes, it is, but it is not the defining factor. The requirement is from a business perspective. They are businesses as well as charities. The requirement is to spread the risk in terms of having a single funder. At this time, a large proportion of the funding comes from a single funder. It is and operates as a bank. Therefore, it has all of the same risks as any other bank might have, even though it is State-backed. I have worked in the UK and Irish markets in respect of social housing for a long time and there are other mechanisms by which funding can be obtained at a much lower rate, which would be beneficial in the delivery of social housing in Ireland. These models are different from using HFA moneys. Getting it off the balance sheet is a factor. It was off the State's balance sheet, but it is now back on it. It

used to be that for every euro the State invested in social housing, the AHBs could generate €3 to deliver three times the amount. This may be more restricted in the future. It is not definite yet, but the signs are that it is likely to be restricted, particularly when there are potential over-runs on one particular type of project versus another on the State's balance sheet and given the longer-term impacts this may have.

Deputy David Cullinane: Do the AHBs charge market rents?

Mr. John Hannigan: No, they are below them. In the majority of cases referred to in one of the supplementary papers provided-----

Deputy David Cullinane: I imagine it would be an impediment in trying to take it off the State's balance sheet. If they are not market rents, EUROSTAT might have a concern. It would also have a difficulty with the fact that, at present, it is predominantly State funded. Who allocates the properties?

Mr. John Hannigan: They are 100% allocated by the local authorities.

Deputy David Cullinane: The State.

Mr. John Hannigan: Yes. The rental side is not that much-----

Deputy David Cullinane: Are increases in the sector driven by market rents?

Mr. John Hannigan: Yes. The issue is not that they are at market rent - there is a subtle issue here - but that they are linked to a market mechanism. If rents are charged that are 40% to 60% below market rates but are dependent on market movements, as they are at this time under the payment and availability agreement, every three to four years they will be marked to the market and whatever is happening in the consumer price index or the market index-----

Deputy David Cullinane: Are rents charged by the approved housing bodies based on similar models to that used by councils-----

Mr. John Hannigan: There are two types and two elements.

Deputy David Cullinane: -----the differential rent system?

Mr. John Hannigan: There is the differential rent system and the P and A agreement element linked with it.

Chairman: For the people watching, will Mr. Hannigan explain what he means by the "P and A agreement"?

Mr. John Hannigan: The payment and availability agreement.

Chairman: Will Mr. Hannigan explain what it is?

Mr. John Hannigan: It is the element that is agreed to and approved by the Department for the repayment of debt over a period. It is linked with market rents in a particular area, based on the local authority's understanding of what rents in that area look like. It is usually marked below them, at 80% or 92% of current market rents.

Deputy David Cullinane: I do not really have a strong opinion on it either way but my point is that if the ambition is to get these off the State's balance sheet, EUROSTAT will look at

issues such as how they are not based on market rents, how it is the local authorities that allocate homes and how the rents charged are based somewhat on differential rents and the model Mr. Hannigan has outlined. Is there then the potential that the ethos of the approved housing bodies must change to suit the ambition to take the approved funding for such bodies off the balance sheet? In other words, how do we get to the point where we take the approved housing bodies off the State's balance sheet without having an impact on what they do at present?

Mr. John Hannigan: It is complex, about which there is absolutely no doubt. It is based on a number of elements that must be market related, not market based. In other words, it fluctuates with the market in some shape or form. That does not mean that we need to change the ethos of the organisations to deliver it. What we need is a change to the mechanisms they operate. For example, Circle, Fold and many other AHBs have been in existence for many years and are charities by nature. They want to continue as charities and will do so. A body does not have to be a non-charity to meet the requirements of the new mechanisms to receive funding. What they have to do is change the mindset about how the mechanisms work. It is complex. As Dr. McManus pointed out, we need to work with Departments to influence the right people in the CSO and EUROSTAT to see that some of what has been said does not add up in some cases. There may be other elements that may require to change or be marked differently for the facilitation.

Deputy David Cullinane: Mr. Hannigan's responses are helpful and I thank him for them. He may have answered my next question. From his organisation's perspective, does he support the ambition that approved housing bodies be taken off the State's balance sheet? Having listened to what he said, is he confident that this can be done, if it is something he supports, without having a significant impact on how approved housing bodies are funded and deliver and how homes are allocated? Does Dr. Rhodes have a view on the matter from a regulatory perspective?

Dr. Donal McManus: On the policy side, our objective is to get them off the balance sheet.

Mr. John Hannigan: On the financial side, we are going to have to change the mechanisms by which we access finance, about which there is absolutely no doubt. On how it might be allocated, we would like to see the very strong partnership we have at present with local authorities continue. My understanding is that it can continue. There are other mechanisms to support rents in the private sector-----

Deputy David Cullinane: The problem is that in other areas outside housing where EUROSTAT has come into conflict with an ambition of the State, certainly where there is a heavy State influence, it is not as simple as that. A few tweaks will not always do it.

Mr. John Hannigan: No.

Deputy David Cullinane: While I need not raise some of the bigger challenges the State has faced, we have seen this. I hear what Mr. Hannigan is saying-----

Mr. John Hannigan: I am not underestimating the challenge but I do not think it will impact on the nature of the ethos of the organisations involved or the partnership arrangements in place, particularly for the allocation. Even in the private landlord sector, under the housing assistance payment scheme and the rental accommodation scheme, there is still a 100% allocation from the local authorities. That will continue and we want to see it continue in terms of the partnership in place.

Deputy David Cullinane: In order that the people who are listening are clear, what is the big advantage in taking it off the State's balance sheet?

Mr. John Hannigan: It is gearing up to be able to provide more social housing. It is as simple as that.

Dr. Mary Lee Rhodes: Mr. Hannigan and Mr. McManus have covered the ground ably. From a regulatory perspective and specifically the interim regulatory committee's perspective, we were established at a time when the AHBs were off-balance sheet and much of the regulation process was taking place on the assumption that the sector would be off-balance sheet. It came as a bit of a blow to the committee when this occurred.

Deputy David Cullinane: In what year did it occur?

Dr. Mary Lee Rhodes: At the end of 2017.

Deputy David Cullinane: Was it as a consequence of EUROSTAT's ruling?

Dr. Mary Lee Rhodes: Yes. It has been a year since it happened and the initial draft of the regulation was completed in June of that year. It has created some uncertainty in the environment. I have been a member of the committee for five years. One of the main contributions the regulation could make is creating a stable, well regulated and well financed sector that could access private funds to deliver more houses without using Government assets.

Deputy Catherine Connolly: I welcome the witnesses and thank them for coming before the committee. It is very helpful to have a discussion with them before we meet officials from the Department. There is a major housing crisis but we have so many agencies involved which is difficult to understand. When I began to list them, I gave up. How many approved housing bodies are there? We also have the Housing Agency, the Housing Finance Agency, the Land Development Agency, 34 local authorities and the land aggregation scheme. That is just the beginning of the list. Coming from Galway in particular, where people have been waiting on the list since 2002, it beggars belief. There is plenty of land in public ownership, including Ceannt Station, the docks and Dyke Road. It is mind-boggling. How many approved housing bodies are there in total?

Ms Susanna Lyons: There 547 approved housing bodies registered on the Department's website.

Deputy Catherine Connolly: Approved housing bodies registered.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: How many come under Ms Lyons' organisation?

Ms Susanna Lyons: As of today, 260 organisations have signed up voluntarily to the voluntary regulatory code.

Deputy Catherine Connolly: Is that 260 of the 547 bodies?

Ms Susanna Lyons: Yes.

Deputy Catherine Connolly: I thank Ms Lyons for her clear answers. Why have the others not signed up?

Ms Susanna Lyons: It is a voluntary environment, number one.

Deputy Catherine Connolly: Yes.

Ms Susanna Lyons: Number two, the organisations may have already been dissolved and no longer exist. We can identify organisations that are no longer registered with the Companies Registration Office. Organisations may have been set up in order to develop. However, they never developed but they did not de-register.

Deputy Catherine Connolly: Yes, but 260 organisations out of a total of 547 is a sizeable proportion.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: Can Ms Lyons tell me if her organisation has analysed the situation? How many organisations have fallen by the wayside or just decided not to proceed?

Ms Susanna Lyons: We know that 42 AHBs that are registered today on the Department's website actually are dissolved. We also understand, via the Benefacts database, that 200 AHBs that are not registered with us have approximately €572 million of assets.

Deputy Catherine Connolly: Is that €572 million?

Ms Susanna Lyons: Yes, that is correct.

Deputy Catherine Connolly: They have not signed up.

Ms Susanna Lyons: That have not signed up.

Deputy Catherine Connolly: Yes.

Chairman: Which organisation have they signed up with?

Deputy Catherine Connolly: For the voluntary code.

Ms Susanna Lyons: With us.

Chairman: With the regulatory committee.

Ms Susanna Lyons: Under the voluntary regulatory code.

Chairman: So there are 260 organisations. How many of the organisations have signed up with the regulatory committee?

Ms Susanna Lyons: Two hundred and sixty organisations.

Chairman: How many bodies have signed up with the other organisation? That is where I am getting confused.

Dr. Donal McManus: We have around 270 organisations and a majority of those would have been signed up to the voluntary code.

Chairman: Are most of the people who have signed up with Dr. McManus's organisation?

Dr. Donal McManus: Are members. Just to give nuance to Deputy Connolly on the issue about "active". Each-----

Deputy Catherine Connolly: Ms Lyons was in the middle of answering my questions. Can I hear her complete response first and then I will get back to Dr. McManus?

Ms Susanna Lyons: I was just saying that there are 547 in total.

Chairman: Yes.

Deputy Catherine Connolly: I have that, yes.

Ms Susanna Lyons: Two hundred and sixty are signed up to us.

Deputy Catherine Connolly: Yes, I saw that.

Ms Susanna Lyons: I was saying that we have visibility-----

Deputy Catherine Connolly: That means 287 organisations are not signed up.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: Forty-two have fallen by the wayside.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: If one subtracts 42 from 287 leaves 245.

Ms Susanna Lyons: Yes. That is correct.

Deputy Catherine Connolly: What did Ms Lyons say about those bodies? Does 200 of those bodies-----

Ms Susanna Lyons: Two hundred of those-----

Deputy Catherine Connolly: -----account for €572 million?

Ms Susanna Lyons: I am just going to give the Deputy a sense of the size and scale of them.

Deputy Catherine Connolly: Please.

Chairman: Yes.

Ms Susanna Lyons: They have approximately €575 million in assets.

Deputy Catherine Connolly: Yes.

Ms Susanna Lyons: However, the assets signed up to the voluntary regulatory code account for €1.9 billion. We estimate that we have approximately 82% of the social housing stock covered under the voluntary code.

Deputy Catherine Connolly: Does Ms Lyons think her organisation is doing well with 82% coverage? What is the ambition? What target has been set for the voluntary code?

Ms Susanna Lyons: From a voluntary perspective, it is actually quite a high percentage in relation to the number of housing units.

Deputy Catherine Connolly: Yes.

Ms Susanna Lyons: Obviously, it would be much more beneficial to have all organisations

under the remit of a statutory regulator providing the State with full visibility in relation to their investment, the number of homes-----

Deputy Catherine Connolly: Presumably, that is what we are moving to when we get the legislation through.

Ms Susanna Lyons: That is what we moving to.

Deputy Catherine Connolly: It will no longer be voluntary and everybody will have to sign up.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: What have the bodies signed up to? What do the bodies that have not signed up find so difficult?

Ms Susanna Lyons: We look at three areas, namely, governance, financial viability and performance management. Each year organisations sign a charter of commitment and in that charter of commitment they agree to comply with the requirements of the code.

Deputy Catherine Connolly: Yes.

Ms Susanna Lyons: They submit, on an annual basis, details in respect of their governance, finance and performance management, at which point the regulation office conducts a detailed assessment of the information submitted alongside their financial statements and any other available information. We issue a regulatory assessment report or outcome statement to each AHB that is signed up. In that statement, it provides them with an outcome such as “satisfactory” or “satisfactory with key recommendations”. More importantly, the outcome is tied into the eligibility for funding. In other words, that the State-----

Deputy Catherine Connolly: A body will not get funding if it does not pass.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: A small percentage has not passed. What number has not passed the test?

Ms Susanna Lyons: We have only deemed three organisations to be “unsatisfactory”, which represents 1%.

Deputy Catherine Connolly: Whatever about the 1%, how many people in houses do they represent?

Ms Susanna Lyons: Eight hundred and forty-three homes.

Deputy Catherine Connolly: Eight hundred and forty-three accommodation units, to use the terrible jargon that they use now.

Ms Susanna Lyons: Correct. Unfortunately, they use that jargon.

Deputy Catherine Connolly: Yes.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: So 843 homes come under that body that has not-----

Dr. Mary Lee Rhodes: There are three bodies.

Ms Susanna Lyons: There are three bodies.

Deputy Catherine Connolly: There are three bodies that account for the 843 homes. What risks are involved?

Ms Susanna Lyons: As the Deputy will appreciate from this morning, we identified a number of governance issues in terms of the organisations.

Deputy Catherine Connolly: Was that for the three organisations?

Ms Susanna Lyons: Yes.

Deputy Catherine Connolly: Plus the IRC could not give them the “A” or “B” mark.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: What are the risks for the 843 homes?

Ms Susanna Lyons: The risk is that the organisations, as assessed by the voluntary regulator, are unsatisfactory in relation to the operation.

Deputy Catherine Connolly: In what way are they unsatisfactory?

Ms Susanna Lyons: Their governance or financial viability.

Deputy Catherine Connolly: Would it be wrong to say there are serious concerns?

Ms Susanna Lyons: We have concerns, Deputy, yes.

Deputy Catherine Connolly: Are they concerns about governance or financial viability?

Ms Susanna Lyons: Financial viability. Each organisation has slightly different-----

Deputy Catherine Connolly: I understand. I want to hear about the general issues for these ones. This is separate from other ones, which would have issues but would pass.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: But they would still have issues.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: Are the issues so serious that the organisations cannot pass the test?

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: I am sorry for interrupting Ms Lyons when she was discussing governance.

Ms Susanna Lyons: This is where the three organisations represent organisations with substantial non-compliance issues, and they are complex and varied. They stem from governance. They stem from related party exposures-----

Deputy Catherine Connolly: What does that mean?

Ms Susanna Lyons: -----non-functioning boards-----

Deputy Catherine Connolly: Non-functioning is very serious.

Ms Susanna Lyons: It is. That is why we must follow due process and due diligence before we deem an organisation unsatisfactory.

Deputy Catherine Connolly: Yes.

Ms Susanna Lyons: Within the terms of reference of the IRC, we are only allowed deem an organisation unsatisfactory.

Deputy Catherine Connolly: I understand the organisation has no power until we-----

Ms Susanna Lyons: No power, correct.

Deputy Catherine Connolly: Which is terrible.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: That is the big lacuna. What should go into the legislation?

Dr. Mary Lee Rhodes: We were set up five years ago with the idea that it was in anticipation of statutory legislation.

Deputy Catherine Connolly: On an interim basis.

Dr. Mary Lee Rhodes: Yes.

Deputy Catherine Connolly: And interim has become long term.

Dr. Mary Lee Rhodes: Yes, exactly. We are operating now to the point where we are a pseudo regulator, in fact, and we are finding issues.

Deputy Catherine Connolly: Without power the IRC is like a toothless tiger.

Dr. Mary Lee Rhodes: But we have no real-----

Deputy Catherine Connolly: Yes.

Dr. Mary Lee Rhodes: There are consequences. The funding is the main consequence but there is no way to follow it up.

Deputy Catherine Connolly: Has funding been withdrawn from the 843 units?

Ms Susanna Lyons: Eligibility for funding. Under circular 15/2016, they are now deemed ineligible by the Department. That means that-----

Mr. Seamus McCarthy: Deputy, just maybe to make a distinction. Capital funding, which is for new units-----

Deputy Catherine Connolly: Yes, and revenue.

Mr. Seamus McCarthy: -----or new homes to be acquired would perhaps not be the regular

thing. They would not be getting recurrent funding so that issue does not arise. There is not a scheme in the Vote. It is for new acquisitions that it would be in question.

Deputy Catherine Connolly: I thank the Comptroller and Auditor General for his clarification. At the same time, for these units of accommodation, serious concerns have been identified. To where have the regulatory committee's concerns about the units gone?

Dr. Mary Lee Rhodes: Multiple places.

Deputy Catherine Connolly: Yes.

Dr. Mary Lee Rhodes: As for the terms of reference, the first thing we do is report it to the Department and the Department acts, based on the circular.

Deputy Catherine Connolly: What does the Department do?

Dr. Mary Lee Rhodes: The Department acts on the circular.

Deputy Catherine Connolly: Forgive me, it is getting late in the day.

Dr. Mary Lee Rhodes: I am sorry about that.

Deputy Catherine Connolly: No, it is me. It is getting late in the day.

Dr. Mary Lee Rhodes: Yes, there is a little bit of an echo. The funding is the first thing. We also inform other statutory bodies that we believe need to be informed.

Deputy Catherine Connolly: In terms of the units, how many entities have been informed? Have Departments been informed?

Dr. Mary Lee Rhodes: Yes. The Department, the CRA, and the Ombudsman.

Ms Susanna Lyons: We would have informed the Department and two statutory regulatory bodies.

Deputy Catherine Connolly: Which bodies?

Ms Susanna Lyons: The CRA and the Ombudsman.

Deputy Catherine Connolly: Does the approved housing body interim regulatory committee anticipate that action will be taken? Has there been any feedback?

Ms Susanna Lyons: No, because they are statutory bodies and they must act according to their own legal status.

Deputy Catherine Connolly: I appreciate the work done on the ground by the voluntary housing associations. I come from a background of thinking that local authorities should provide housing at all times. The AHBs should be additional. Housing should not be based on charity. Charity should have no role anywhere. That is just my personal preference on public housing. In regard to tenure, I always understood that AHBs had discretion on the allocation of housing to tenants. Our guests are shaking their heads. I am delighted, but I did not understand that and I spent a long time at council level, much to my regret. They have no discretion. Is it correct that all the bodies signed up with our guests' organisations take 100% of the names from the local authority lists.

Dr. Donal McManus: There are one or two issues. I mentioned the CAS in our submission. It started with 25% discretion to house people-----

Deputy Catherine Connolly: That is from where I got the idea.

Dr. Donal McManus: That is probably from where the Deputy got it. That still applies if a body does not use 100% of the finance from the State. If it brings its own assets to the table, it can still use that 25% discretion. Flexibility is also allowed for the Safe Home Ireland scheme.

Deputy Catherine Connolly: I did not catch that.

Dr. Donal McManus: Safe Home Ireland is a scheme to repatriate elderly Irish people to Ireland. Housing associations and local authorities have been involved, and there is a 25% flexibility in respect of that scheme. Participants in the capital loan subsidy scheme generally draw all their tenants from the waiting list. They are assessed by the local authority-----

Deputy Catherine Connolly: Dr. McManus used the word “generally”. Are all the tenants drawn from that list? Not generally-----

Dr. Donal McManus: Yes.

Deputy Catherine Connolly: I might follow up on that.

Mr. John Hannigan: It is 100% based on the waiting list.

Deputy Catherine Connolly: If it is not 100%, it is because of a specific scheme with discretion over a certain percentage such as the 25% discretion attaching to the CAS.

Mr. John Hannigan: Yes, but it is important to say that the proportion of the homes that are built under that is now very small. It is tiny compared to the other schemes, where 100% of the allocation comes from the local authority list.

Deputy Catherine Connolly: In the context of tenure, I always understood that AHBs were exactly parallel with local authorities. Controlled rent is not quite the same. There are two schemes. First there is differential rent, as with local authorities. The second scheme concerns tenure for life. Is it still tenure for life?

Mr. John Hannigan: It certainly is in the end.

Deputy Catherine Connolly: That is great. Again, I see that some housing associations acquire assets through the NAMA or in some other way. Tenure seems to have been reduced. It is for five or ten years, but there is no guarantee of life tenure. What percentage is that?

Mr. John Hannigan: Again, it is very small. A defined number of properties were under the NAMA scheme.

Deputy Catherine Connolly: The NAMA scheme is just one. There are other ways of acquiring assets.

Ms Tina Donaghy: There was 19 years’ tenure under the leasing scheme.

Deputy Catherine Connolly: I might follow up on that later. Mr. Hannigan is stating that there is life tenure in the vast majority of cases. There is no difference.

Mr. John Hannigan: No. Moreover, under the payment and availability, PA, agreement

pertaining to the HAP scheme, which is the predominant scheme at this point, it is for life.

Deputy Catherine Connolly: I understand the reclassification has divided approved housing bodies into tiers 1, 2 and 3, depending on their size. What percentage is accounted for by tier 3?

Ms Susanna Lyons: It accounts for 73%.

Deputy Catherine Connolly: That is the only tier that was reclassified, is that correct?

Ms Susanna Lyons: Some 14 of the AHBs in tier 3 were classified in December 2017.

Mr. John Hannigan: The committee should also know that this was the first tranche of work done by the CSO. The latter has started the second tranche of work on tier 2 and will eventually look at tier 1 as well. Whatever opportunity there might be for tier 3 bodies to return to where they were or to acquire a different classification, as a result of how the others are set up, if they are to be designated as on the State balance sheet, the likelihood is that they will never be removed.

Deputy Catherine Connolly: Mr. Hannigan has already clarified the problem with that. It restricts how housing bodies borrow. Due to changes in funding, housing associations will rely on funding from the private market in future, from whatever source. Is that correct?

Mr. John Hannigan: Certainly we hope to expand borrowing from that area, as opposed to purely from the HFA.

Deputy Catherine Connolly: How will the loans be paid back if the differential rent is maintained?

Mr. John Hannigan: This is where the payment and availability agreement comes into play. That is the largest part of the repayment process, even with the HFA. The tenant only pays the differential rent. The local authority pays the amount set in the payment and availability agreement.

Deputy Catherine Connolly: This is the HAP scheme under another name.

Mr. John Hannigan: One could say it is similar, but it is not the same.

Deputy Catherine Connolly: What is the difference?

Mr. John Hannigan: The HAP scheme tends to be short-term. It is in the private sector and is linked directly to the market rent. It is also a different percentage.

Deputy Catherine Connolly: This is different in the sense that the housing associations offer tenure for life.

Mr. John Hannigan: Yes.

Deputy Catherine Connolly: That is very good. This is also linked to the market, but the proportion is a bit smaller.

Mr. John Hannigan: Yes, it can be.

Deputy Catherine Connolly: However, Government policy is to house people through the HAP scheme or via housing associations. That is, it relies on getting money through the market

and plays around with the rent a little bit. Is that right? The gap between what the tenant pays and the market rent, which is not sustainable, is paid by the taxpayer.

Mr. John Hannigan: Through the CALF.

Deputy Catherine Connolly: Absolutely. As such, this is the HAP scheme under another name, albeit with a little bit more protection for tenure.

Mr. John Hannigan: I would suggest there is a lot more protection.,

Deputy Catherine Connolly: I agree. I take that back. There is certainly a lot more protection for tenure, but not where rents are concerned.

Mr. John Hannigan: Actually, the rent protection for the individual is the same as that offered by local authorities.

Deputy Catherine Connolly: I am talking about the gap, which has to be paid for by the taxpayer.

Mr. John Hannigan: Yes.

Deputy Catherine Connolly: The maximum HAP rent for a certain category in Galway is €1,000. There is no way a tenant could get property in Galway for that, so he or she has to come up with €500 out of their own pocket. These used to be recognised as under the limit. Now they are over the limit and that is encouraged.

Mr. John Hannigan: That does not happen in our sector, absolutely not.

Deputy Catherine Connolly: What happens in Mr. Hannigan's sector?

Mr. John Hannigan: In our sector everything to do with finance is based on what can be afforded under the payment and availability agreement, which is State-backed and paid by the local authority, and the differential rent. If the model does not deliver the property in that envelope it does not get delivered. We do not actually deliver it.

Deputy Catherine Connolly: A tenant in this sector does not have to pay anything like the HAP contribution. That is a big difference.

Mr. John Hannigan: No, absolutely not. He or she will only pay the differential rent. That is based on the local authority whose area the property is in. Depending on what part of Galway it was in, for example, the property the Deputy referred to would be under the Galway scheme. The contribution would be based on the percentages that the local authority charged.

Dr. Mary Lee Rhodes: To come back to a question the Deputies asked earlier, there is another very large difference between the HAP scheme and what is going on with the payment and availability agreements and the CALF. The funding that comes via the payment and availability agreement is being used to build up an asset base owned by charitable organisations, whereas the HAP goes to private landlords. That is not a public asset. The model of the CALF and the PA agreements creates a charitable asset that can only be used for charitable purposes. The HAP goes directly to private landlords, for the use of private assets and for private gain.

Deputy Catherine Connolly: What is the overall debt of the voluntary bodies?

Ms Susanna Lyons: The social housing assets are worth €1.9 billion and the deferred in-

come, that is, Government grants, is €1.3 billion, with long-term loans raised through private finance amounting to €281 million.

Deputy Catherine Connolly: Is that €281 million for all of the-----

Ms Susanna Lyons: I want to preface that. We only have that level of detail for the large tier 3 organisations. The numbers I have quoted there are for just 15 tier 3 organisations which represent most of the stock we see.

Chairman: Can Ms Lyons go through those again? She mentioned €1.9 billion.

Ms Susanna Lyons: That is the value of the social housing assets.

Chairman: That figure refers to assets. The question was about debts, but Ms Rhodes threw in the assets figure.

Dr. Mary Lee Rhodes: The debt is the second figure, €1.3 billion, plus €281 million.

Deputy Catherine Connolly: I thought the figure of €1.3 billion was the value of the grants.

Ms Susanna Lyons: Correct.

Deputy Catherine Connolly: What is the €281 million?

Ms Susanna Lyons: That is the outstanding value.

Deputy Catherine Connolly: The figure of €281 million is the outstanding loans for the-----

Ms Susanna Lyons: The €281 million is the private financing lent to those 15 AHBs.

Deputy Catherine Connolly: That is debt.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: It is €281 million in debt in respect of those 15 organisations that account for most of the housing in tier 3.

Ms Susanna Lyons: That is correct.

Mr. Seamus McCarthy: For clarification, most of that lending is from the HFA; it is not private lending.

Deputy Catherine Connolly: The AHBs are, however, striving to get finance from private institutions.

Mr. John Hannigan: Absolutely, we are.

Deputy Catherine Connolly: That would allow the organisations to borrow more.

Mr. John Hannigan: It would and also allow us to generate more social housing assets.

Deputy Catherine Connolly: I would love to hear the words “public housing as of right” used.

Mr. John Hannigan: I am happy to use “public housing”.

Deputy Catherine Connolly: I would like some details on the sinking funds that were mentioned earlier.

Dr. Mary Lee Rhodes: Is Deputy Connolly asking me to explain what a sinking fund is?

Deputy Catherine Connolly: Yes, I am.

Dr. Mary Lee Rhodes: A sinking fund is an account built up by an AHB for future use. It is usually for future maintenance of the assets. There would be depreciation of the houses on one hand, taking away value from the ability to save up, a sinking fund-----

Deputy Catherine Connolly: Does that come under the remit of the approved housing body interim regulatory committee?

Dr. Mary Lee Rhodes: We would look at the numbers.

Deputy Catherine Connolly: What has been found in respect of the sinking fund? Is it adequate?

Ms Susanna Lyons: We are only advancing that. As I stated, in respect of designated sinking funds for the 15 organisations, there is €57 million on the consolidated balance sheet. That is very close to the cash recorded as well, which is about €60 million. On performance and sinking funds, we are very aware that organisations need to invest in their housing stock. They will have planned maintenance, reactive maintenance and major repairs. In December just gone, we released the performance standard. In that context, the regulator expects AHBs to have a sinking fund provision in place. That means a stock condition survey has been completed. That will inform the executive and the board as to what needs to be planned in respect of cyclical reactive maintenance over the next 25 to 30 years.

Deputy Catherine Connolly: The plan is necessary for the physical maintenance of the housing and the money needed for that is the sinking fund.

Ms Susanna Lyons: That is correct.

Deputy Catherine Connolly: The role of the approved housing bodies interim regulatory authority is to monitor that and ensure there are sufficient moneys in the sinking fund. Where does that monitoring stand?

Ms Susanna Lyons: We have seen a significant improvement in the provision of sinking funds over the past two years.

Deputy Catherine Connolly: Will Ms Lyons spell out the practicalities? I am sure it is improving because that is why she is there. She comes across as very competent and professional. Where did the approved housing bodies interim regulatory authority start? What did it find out? Where are the sinking funds at now and what is required?

Ms Susanna Lyons: That is a very good question. We started out with about 40% of organisations reporting they had a sinking fund in place-----

Deputy Catherine Connolly: Of some sort.

Ms Susanna Lyons: Of some sort. What some organisations were not able to tell us was

whether the amount within the sinking fund was in any way, shape or form adequate to maintain homes to an appropriate standard.

Deputy Catherine Connolly: There were 40% of organisations reporting sinking funds in place to begin with. This means that 60% had no such funds.

Mr. John Hannigan: I think it is important to point out, and I do not think that my colleague will mind me saying this as a former finance director, that in the early days a sinking fund is probably not needed. That is because the properties are new. Sinking funds are needed, though, as time passes and, normally, they are ratcheted up over time.

Deputy Catherine Connolly: I have another question for the approved housing bodies interim regulatory committee. Regarding the 60% of organisations with no sinking funds in place, where do matters in that regard stand? When was it found out that the number in compliance was 40%? What is the approved housing bodies interim regulatory authority's target?

Ms Susanna Lyons: According to the annual report, 94% of tier 3 organisations now have a sinking fund in place or are able to demonstrate they are generating enough income to provide for those funds. Some 73% of tier 2 organisations have stated that they now have a sinking fund in place, as do 72% of tier 1 organisations. Over the four years that the regulation has been in place, we have seen an improvement. This does not mean we can state that all of the moneys in place are adequate. The next step is to ensure those organisations complete stock conditions surveys. Those surveys will provide organisations with a full and detailed schedule of planned and cyclical maintenance over a period of 25 or 30 years.

Deputy Catherine Connolly: We have 94% with a sinking fund in tier 3. Is it an adequate sinking fund? Are there any issues there?

Ms Susanna Lyons: I cannot identify an organisation at the moment that we would state we have a concern over regarding the provision of the sinking fund or the ability to generate funds.

Deputy Catherine Connolly: That is good and that is in tier 3 where 94% of the organisations have a sinking fund in place. Will there be follow up with the 6% of organisations that do have a sinking fund in place?

Ms Susanna Lyons: Absolutely, we work very much with the organisations.

Deputy Catherine Connolly: In tier 2, 73% of organisations have a sinking fund. Where are we at with the adequacy of those sinking funds and the follow up?

Ms Susanna Lyons: At the moment, only 64% of tier 2 organisations have conducted a stock condition survey.

Deputy Catherine Connolly: Only 64% have done the survey.

Ms Susanna Lyons: Only 64% of the organisations have completed a stock conditions survey. Until we have the results of those surveys, we will not be able to definitively state to Deputy Connolly that those organisations have enough money in place.

Deputy Catherine Connolly: When will that be in place? Does Dr. Rhodes wants to come in?

Dr. Mary Lee Rhodes: I want to clarify that there are two things going on. One is the

sinking fund-----

Deputy Catherine Connolly: I understand that.

Dr. Mary Lee Rhodes: -----and one is the stock conditions survey. Those two aspects together will give us the requisite information.

Deputy Catherine Connolly: They are interrelated.

Ms Susanna Lyons: They are.

Deputy Catherine Connolly: Regarding the 64% of organisations that have done the stock survey, is there a target for the remainder? When will it be done?

Ms Susanna Lyons: It is a voluntary code, so we can only persuade and influence. The issuance of the performance standard in December allows time for organisations to become compliant. It is scheduled over a period of two or three years.

Dr. Mary Lee Rhodes: We are aiming for 100%.

Deputy Catherine Connolly: I am extremely critical of local authorities. I am concerned with holding them to account and all of the public service. This is a body that went unregulated. Charity is good and I know the work on the ground. The philosophy is good. The work of the Comptroller and Auditor General and his staff, however, in identifying that this was an unregulated area means we now have the approved housing bodies interim regulatory authority in place. Fault also rests with us in Government for not having legislation. The AHBs did not come under the Private Residencies Tenancies Board for a long time. How long have the AHBs been covered by that body?

Dr. Donal McManus: Since 2017.

Deputy Catherine Connolly: Since 2017, which meant there was a huge gap. There was no regulation either. The regulation in place now is voluntary, and even within that code only a certain number of organisations are doing what is necessary. Human rights did not come into it. At least local authority tenants had the benefit of housing as a right until fairly lately. That did not apply in this case. The AHBs were in a limbo land in respect of tenant disputes, etc.

Dr. Donal McManus: Deputy Connolly mentioned the lack of regulation. There was regulation of different functions within AHBs at different times. Local authority contracts were almost regulation by contract. We now have a helicopter view being taken by the approved housing bodies interim regulatory authority. Different functions, therefore, were being regulated but not in the form of oversight of the sector. I am just clarifying that point.

Deputy Catherine Connolly: The Chair is being very generous. The turnover rate for houses going back into stock is about six to eight weeks.

Ms Karen Murphy: The average is about eight weeks.

Deputy Catherine Connolly: What is the maximum time a house would remain empty?

Chairman: One of the our guests has a commitment and is obliged to leave. The rest of are okay to remain a little longer. They should feel free to go. We were late starting and we understand they might need to leave.

Dr. Mary Lee Rhodes: Are there any other questions for me?

Deputy Catherine Murphy: I imagine that the colleagues of Dr. Rhodes will be able to answer our questions.

Chairman: I apologise for the late start because it threw out the schedule. I hope approved housing bodies interim regulatory committee will be a full regulated body one of these days. I call Deputy Catherine Murphy.

Deputy Catherine Connolly: My final question was on the turnover of houses and I had asked it before there was an interruption. What is the maximum time a property is empty?

Ms Karen Murphy: There would not be a maximum time set.

Mr. John Hannigan: The Deputy is asking what is the longest time in practice.

Ms Karen Murphy: The average is 8.3 weeks. In general, the sector tends to turn houses over.

Deputy Catherine Connolly: I congratulate the AHBs on that. They might talk to the local authorities about their methods. We have 60 to 80 such houses empty in Galway and we have lost the information as to when they became empty. As the crisis worsened, we lost the date on which they became empty. Some of those houses, however, have been empty for two years and some for five or six. Well done on the turnover time.

Ms Susanna Lyons: We do have some figures in our annual report that give the average length of voids. It is 11 weeks-----

Deputy Catherine Connolly: I saw six weeks, eight weeks and a variation. Anyway, I thank the witness.

Chairman: Did we get a copy of the annual report?

Mr. Seamus McCarthy: It is the document that is on screen at the moment.

Chairman: I have it in front of me.

Deputy Catherine Murphy: I thank the witnesses for their attendance. I am sorry for the delay in getting started. I remember the debate on the voluntary code. Some of us were very enthusiastic about making it a statutory code and being much more ambitious and quicker in doing that. I understand there is a bedding-in period but I refer to the ability at the time this was debated to get European Investment Bank money and other moneys. We were in the middle of a crash and it was early in the term of the then Government and it was becoming obvious that there was going to be a housing shortage. Maybe three or four years before it became very obvious in some parts of the country, it certainly had become very obvious early on in the area I represent. It was a lesson on where money can be got, rather than a matter of being told there is no money. The European Investment Bank had significant funds.

One of the impediments at the time - it is still an impediment - was that because approved housing bodies are governed by the charities regulations, they were precluded from making a loss. That was the impediment to being able to leverage the funds. The witnesses have said the Department of Finance will have to be involved when the code becomes statutory. Reference was also made to the ability to draw down finance. How will the impediment associated with

charitable status be overcome? Does it involve a co-guarantor of the loan? How will it work practically?

Mr. John Hannigan: Most funders, when lending, require one to make a degree of surplus so there will be what they call “interest cover”. Thus, if one defaults, there is an amount of money large enough to allow the funder to take its interest, at least in terms of the year or period question. There is a covenant requirement. In the majority of cases, the funder does so much due diligence in respect of the organisations that the chances of a body to which it is lending making a loss should be reduced significantly. Where a loss is made, the circumstances are normally considered over a period of time. The Charities Regulator has also got to the point where, in any particular year, it does not allow the organisation to budget for a loss. It does not like the organisation to plan for a loss. If it makes a loss, regard is had to how it has performed over a period and whether it has reserves that can cover it for the period in question. Obviously, if an organisation continued to make losses over a longer period, it would probably go into a default situation. The regulator would be asking why that is occurring and whether it is down to poor governance, poor management or financial viability issues. Our colleagues behind us are expert in this area, as they have already demonstrated.

Overcoming the problem involves consideration of the value of the assets. If one defaults, the bank, regardless of whether it is a State bank, the HFA, or another, will take possession. That has never happened in this sector in Ireland. Actually, it has never happened in the sector in the United Kingdom either. That sector has been in existence for roughly the same time, but on a much bigger scale and involving much bigger figures. At this point, we have a very well-run sector. Very shortly, I hope, it will have a statutory regulation. There is still quite a lot of oversight by local authorities and the Department in terms of each scheme that we have to go through. There is a significant amount of due diligence work done by both local authorities and the State in terms of each scheme that we provide at this point in time. The circumstances are also examined by the relevant third-party bank, be it the HFA, EIB or a private lender such as Allied Irish Banks or Bank of Ireland. Therefore, there is a significant amount of due diligence done that I hope will mean we will not see a default that would put the assets at risk.

Deputy Catherine Murphy: Obviously, there are significant amounts of money on deposit in credit unions and pension funds. Personally, I do not have any issue with public housing or housing that comes from the public waiting list being delivered through voluntary housing bodies, approved housing bodies or others so long as there is security of tenure and the rents are regulated and affordable. Can we have more of it, please? That would probably be my call on it.

I am aware it was going to be tier 3 in the first instance, and then tiers 2 and 1. In my constituency, I have quite a bit of experience right across the spectrum in this regard. The bigger organisations tend to be the ones that run into fewer problems. It might just be in my area but I certainly have come across serious problems with some of the organisations further down the food chain. There have been cases where rents were not collected, insurance was not paid and there were very significant risks. What is the timeline for the regulation of tiers 2 and 1 to give some guarantees? There are problems and I suspect the regulators will run into serious problems with some organisations.

Ms Susanna Lyons: We have oversight of quite a substantial number. There are 179 tier-1 organisations and 50 tier-2 organisations regarding which we have visibility. I mentioned earlier that we have a premise of governance and financial viability. One of the key tasks of the regulation office is to ascertain whether organisations are operating with a surplus or deficit,

whether they are operating with a deficit for more than two or three years in a row, what their liquidity looks like, and whether they are generating positive cashflows. When we talk to the organisations, we indicate they will not make it in the long term if they are not able to pay in the short term. We have come across organisations that have struggled in regard to financial viability for reasons that the Deputy identified. Maybe they did not collect rents in the most effective or efficient way, or maybe they had a percentage of voids or had to pay a large maintenance bill. When we are speaking to the tier-1 organisations, we speak in that language and ask them to ascertain whether they are sustainable, where the risks lie, how the risks are managed and how their financials are managed. Regulation is not just about compliance; it is also about education and putting in place some management tools to help the organisations reach their objectives.

Deputy Catherine Murphy: So there is oversight.

Ms Susanna Lyons: There is.

Deputy Catherine Murphy: But just not to the extent that will eventually be the case.

Let us consider the asset base. Let us say there is a fairly decent asset base and 30 houses built in the 1990s that are coming towards the point where there will no longer be a mortgage on them. I have come across cases where bodies have quite a bit of money on deposit, more than they would require for a sinking fund, and where they are functioning very well, collecting the rents and all the rest of it. What is the position on the reinvestment of that money? The bodies cannot keep accumulating where the asset could be beneficially used for the same purpose.

Ms Susanna Lyons: This is the balance between being a regulator and overstepping. These are independent legal entities. It is up to the boards and executive to decide how and when they are going to reinvest. Certainly, when we sit down with organisations and we see very high cash balances, we ask if that is the most effective use of resources, whether they be charitable resources or housing resources. For the larger organisations, it would be asked if that fits with its treasury management policy. There seems to be no benefit to an organisation just holding on to such moneys and not reinvesting and providing more homes where that type of money is available to invest in a community or parish to deliver more. In some cases it may be that they do not have the capacity to do so themselves. They may in fact be run by volunteers.

Deputy Catherine Murphy: As we go down to the tier 1 organisations, that is typically what will be found.

Dr. Donal McManus: In more recent years organisations have merged together and are using their former organisation to help deliver another. Progress is slow. Fewer than 20 organisations have merged but the trend now is that more boards, for succession planning purposes, have decided to finish and to transfer to another AHB. That has happened in a few cases. It is small at the moment but we think that is a trend going forward to manage the assets over the long term.

Deputy Catherine Murphy: The allocations are made from the housing waiting list but there is a difference in how that happens. For example, typically, the local authority sends a list of names that can be selected from. Some organisations will do courses such as tenancy courses. One criticism of the sector is that there can be a degree of cherry-picking and that the local authority will perhaps not do the tenancy courses and end with people who have more difficulties, and that is a more difficult situation to manage. How would the witnesses respond to that?

Ms Tina Donaghy: If I may respond, I disagree. If we do receive large numbers of nominations at a time, it is because we probably have a new development to let. If a development of 20, 30 or 40 units at a time is being let, a level of refusals is being planned for various reasons. That is the reason, on occasion, that we would be sent a list of names to allow for any slippage or refusals. We work in partnership with the local authority. We work, not only to house people but also to meet their needs, not only now but into the future. We look at tenancy sustainment issues and whether people are best placed to create a new community, so to speak, so that there will be cohesion within the community and rather than putting people together who are going to cause conflict. We work in partnership with the local authority. I have examples from my own organisation where we have saved nominations that we thought possibly might not be able to sustain a tenancy in an environment independently. We work with the local authority, accept the nomination and the referral, and work with it to sustain tenancies. Sometimes they do not succeed but we work with the local authority as well to find an alternative that will succeed.

Deputy Catherine Murphy: Okay, I thank Ms Donaghy for her response. In terms of a social mix, where there is a very big development, although we do not have many obvious examples of that, as rather than hundreds of units, a big development would be perhaps 100, where does that fit in with the allocations policy? I had understood initially that when those were set up, the 25% was to allow for us to get to a point where it is almost a cost rental, but that was not the case.

Ms Tina Donaghy: I think there was an aspiration to get to those mixed sustainable communities both in terms of economic and other measures. However, within my organisation we have larger numbers. We will have a development coming up at the end of this year involving 103 units. The intention is that they will all be aimed at older people, those aged 55 and older. I do not think we have any big examples where we have delivered mass housing accommodation for families.

Deputy Catherine Murphy: Is it sometimes in conjunction with other components within the same development?

Ms Tina Donaghy: Yes, and we work with other organisations and providers to ensure that we are investing in the community as well to make sure there are other community facilities there and buy-in from other community organisations to create community cohesion.

Deputy Catherine Murphy: I thank Ms Donaghy.

Mr. John Hannigan: In terms of the cost rental situation, as it were, the 25% was never aimed at that because the 25% would have been on the same rent calculations as everybody else, so it would have still been a differential rent or a fixed rent based on the delivery of the capital assistance scheme, CAS, for example. It would have been at a very set level. It was never to bump up the potential income streams, as it were, or even the types of tenancies that might be there, and it was more to do with the social cohesion element of it, where there may be individuals who cannot live with others for a particular reason or who were not able to. That element of the 25% is gone. It is now 100% in the vast majority. In our programme at the moment, we have about 350 houses which will be delivered in 2019. Of that, probably about 60 properties come under CAS, so the kind of differentials there would be in terms of the numbers under that scheme can be seen. Under CAS, we still take 100% from the local authority as well.

Deputy Catherine Murphy: I know the witnesses are looking at another draft of the legislation. Is there any indicative timeline the organisations are working towards? Have they been

given any indicative timeline?

Ms Susanna Lyons: I cannot really answer the question. We were given a number of different timelines and it might be best to ask the Department about that. The interim regulatory committee was furnished with a copy recently, which is due for discussion at our next board meeting on Thursday. We are not able to answer the question on exact timelines. That question is probably best answered by the Department.

Deputy Catherine Murphy: Okay. Three approved housing bodies were deemed unsatisfactory. That is a pretty serious situation for it to be without a consequence. That is with the tier 3 organisations. Even with the current oversight, what kind of percentage are we looking at with the tier 1 and 2 organisations? Would a significant number or a small number fall into that category? I accept the committee does not have full oversight.

Ms Susanna Lyons: Of the 247 that were assessed last year, and it should be remembered that it is in a lagged environment, the three unsatisfactory organisations were not just for tier 3 but for the entire sector.

Deputy Catherine Murphy: Right, I misunderstood that.

Ms Susanna Lyons: We have full visibility. There are 14 AHBs in engagement, which only works because the AHBs work with us, given that it is still only voluntary. We put action plans in place and the AHBs want to ensure compliance and improve aspects that have been identified as weak. I do not envisage another organisation moving into the unsatisfactory category unless within this current assessment cycle we identify something that we have not seen before.

Deputy Catherine Murphy: Okay. Let us assume, for example, within the next year that this legislation is in place, what advance work has been done or can be done to figure out whether private money will be attracted to the approved housing bodies? Would that scale up the output in a significant way? It takes several years to get houses from the point of concept to delivery. I am sure Mr. Hannigan can tell me more about that than I can tell him. What would we be looking at in that context?

Mr. John Hannigan: I can give the Deputy some concrete information on that. A number of tier 3 groups have been working with the ICSH to examine creating mechanisms by which private finance can be generated. We have gone through several phases, the first phase was examining the feasibility of a special purpose vehicle which was worked through the PwC and the ICSH members. We are now effectively into phase 3 where we have gone out to the market. We have had term sheets back from private banks outside the HFA, and I can say that without a doubt we have had offers of nearly €2 billion to €3 billion worth of funding overall from that. There is a huge appetite to work with the public housing sector in Ireland. That is based on the fact that it is now part of a global market. Investors from other countries, pension schemes and large equity investors, as well as our own pillar banks, see that there is a return that can be made which is reasonable spread over quite a long period of time, has good security behind it and, most importantly, that there is a professional group of people involved in the delivery and management of that public housing.

Deputy Catherine Murphy: The organisation could not take up all the money that is available.

Mr. John Hannigan: If we were successful with the level of planning we have currently, we probably could. The intention at this time is to meet, at a minimum, the requirement of Re-

building Ireland, which is the 15,000 properties we have to produce, but we suspect the larger associations in the tier 3 group could probably exceed this over that period.

Deputy Catherine Murphy: Is the lack of a statutory code an impediment?

Mr. John Hannigan: It is not an impediment but we have been told that if there was a statutory regulation, it would help with the pricing of it. It has not stopped us being offered money at reasonable rates under the voluntary code, but a statutory code would probably make that a little cheaper and it would also give much more security to the funders as well, so it is an important element. It is something for which the sector has been asking for quite a time.

Deputy Catherine Murphy: Mr. Hannigan said that a statutory code would make that a little cheaper. Is he referring to interest rates or the duration of loans?

Mr. John Hannigan: It is more the interest rates and the cost of repayment.

Deputy Catherine Murphy: Does Mr. Hannigan have any indication of what that difference might be?

Mr. John Hannigan: Not particularly at this time but it is a discussion we have been having with the funders in respect of it.

Deputy Catherine Murphy: That might be commercially sensitive.

Mr. John Hannigan: It might well be.

Dr. Donal McManus: When we did this project a number of years ago, one of the issues was that if we had the units ready, we could put the money into the scheme. If we are waiting for a new build, that takes a while, but initially our project was to have the finance and also the vacant units and properties to deploy the money into those properties. That is still there. If the money and properties are there, we can do that more quickly than going through the construction process. That is where we started off the project from, that is, with vacant properties, institutions that wanted to transfer their properties, and having finance at the other side. It is not always neat how that happens but certainly that is the objective.

Deputy Catherine Murphy: There is a significant amount of State land that could be used. We could get to a position where we could have an affordable housing stream that has been ramped up considerably within a reasonable time.

Mr. John Hannigan: If there was a scheme at this time that was financially viable and which allowed the land usage to be delivered at a reasonable pace, I have no doubt that funding would not be an issue.

Deputy Kate O'Connell: I thank all the witnesses for coming in. Dr. Rhodes, who left when I was out of the room, made the comment that the funding was going towards a charitable asset, whereas with the HAP scheme it is for a private gain. Following on from that, we hear that private funds have been invested. What I heard an hour ago is slightly different from what is being said now. On the one hand, we have a charity and, on the other hand, we have billions being invested in it. We have headroom in terms of accounts and cash assets. I had not intended speaking on this but I had a problem with this recently when I noticed an approved housing agency has an office in a very expensive part of Dublin and I wondered who was paying for it. In terms of auditing, I know we cannot have full insight but I always get concerned when I hear the description "not-for-profit" mentioned because I find no profits will be made if

people are paid enough to get rid of them. On one hand, we have this charitable asset and, on the other hand, we have this private gain, but when we drill down into this, private people will gain from this in terms of investment. In terms of security of investment, if there is a reduction in the interest rate, this is a good place to invest money because it is, excuse the pun, as safe as houses. I do not like speaking about a witness who has left but it would have been helpful if Dr. Rhodes had stayed in order that we could have teased out this issue of a charitable asset versus private gain. To my mind, there are many private hands in the bucket here. Mr. Hannigan might comment on that.

Mr. John Hannigan: The point that was made was the fact that the organisations in the AHB sector are predominantly charities. Almost all of them that are registered both with the regulator and through the ICSH are charities. The asset is managed-owned by that organisation. It is not owned by anybody else. It is funded in different ways. Some of it is funded through the State, some of it is funded through the Housing Finance Agency, which we should bear in mind is a State body, and some of it is funded through banks. There are different types of funding institutions that are similar to banks. Pension funds are similar, there are private equity firms that operate across the world, and there are other international banks such as Nordbank and so on.

Deputy Kate O'Connell: We hear of real estate investment trusts, REITs, being the big bad wolf that is coming into the market, but I put it to Mr. Hannigan that his organisation is not much different.

Mr. John Hannigan: They each have a significantly different ethos. The REITs are there to-----

Deputy Kate O'Connell: I ask Mr. Hannigan for the top five differences between them.

Mr. John Hannigan: Yes. First, the REITs are there to make money, and unashamedly so.

Deputy Kate O'Connell: Do these people who want to give Mr. Hannigan's organisation €2 billion to €3 billion not want to make money?

Mr. John Hannigan: They want to get a return on their investment-----

Deputy Kate O'Connell: Yes. That is making money.

Mr. John Hannigan: -----but they have to compete to give us that money whereas the REITs are doing something.

Deputy Kate O'Connell: They are just throwing it in.

Mr. John Hannigan: They are buying it up.

Deputy Kate O'Connell: Yes.

Mr. John Hannigan: They are also dealing with charities. Our members are charities. What we do is charitable in nature and the ethos of what we do is regulated by the charities regulator as well as the AHB regulator.

Deputy Kate O'Connell: Can we have a breakdown of the salaries and rents? Are we allowed to have that?

Mr. John Hannigan: Most of the organisations would publish them in their accounts at this time because they are required to do so under the financial reporting standards, FRS, 1 and 2

and other accounting-----

Deputy Kate O'Connell: They are. In terms of having offices in Dublin 2, I do not see why anything would need to be discharged from Dublin. I am sure one of witnesses in the room is in that office but I cannot understand how a charity that is providing housing at a time like this could justify having an office in-----

Mr. John Hannigan: There are many charities in Dublin 2 that are discharging quite a lot of-----

Deputy Kate O'Connell: Yes. All of them concern me, to be honest.

Mr. John Hannigan: Much of it probably has to do with historical reasons as to why they are there.

Deputy Kate O'Connell: This is a new office.

Mr. John Hannigan: A new one.

Deputy Kate O'Connell: It is newish.

Mr. John Hannigan: I am not sure what the Deputy is talking about and I cannot talk about somebody else. The reality is that being close to where decisions are being made is also something is that a very important-----

Deputy Kate O'Connell: It is a common excuse.

Mr. John Hannigan: Okay. That may be the Deputy's perception but it is a reality in terms of delivery of operations as well. It is also important to be able to make contact with respect to relevant decisions being made in Departments, which are all mostly located in Dublin. There are differences between these organisations. Organisations that are established for charitable purposes are in place to provide a social service, and that is what they do.

Dr. Donal McManus: The Deputy mentioned REITs, and obviously they make a return-----

Deputy Kate O'Connell: We could talk about this all evening but I just wanted the top five differences between the two.

Dr. Donal McManus: One fundamental issue is that the REITs make a return for their shareholders who run their organisations and their target group would not be low to middle-income people primarily from that point of view. The REIT model may not be targeted at low to middle-income households in terms of delivering housing-----

Deputy Kate O'Connell: Okay. Mr. McManus is talking about that aspect.

Dr. Donal McManus: -----and they have to make a return to their shareholders. With respect to the shareholders in the housing associations, there is a prohibition on any surplus or dividend, and any surplus or dividend that is made is in the public interest and it goes back into the organisation, so it is ring-fenced from that point of view.

Deputy Kate O'Connell: It goes back into the pot.

Dr. Donal McManus: That is the big difference in the target group, namely, the motivation and the return that is put back into the public housing sector in the public interest.

Deputy Kate O'Connell: At the end of it, when one leaves the house that the AHB has provided for them because they have moved on to the next world or whatever, does the AHB own that asset at the end?

Mr. John Hannigan: Yes.

Deputy Kate O'Connell: The AHBs' business model is to provide social housing at the minute. Are there plans to expand that remit into affordable housing and perhaps even accommodation for the ageing population? Are the AHBs looking at that aspect or is it purely social housing? Perhaps that has been answered while I was not here.

Ms Tina Donaghy: It is social housing and maybe public housing as Deputy Connolly mentioned earlier. Fold Ireland provides housing for older people and we promote independence to enable people to live in well designed, quality accommodation for as long as possible, to lessen the burden on the State, to keep people in their homes and to be able to bring services to them to enable people to remain healthy and independent for as long as possible. Our markets changed here significantly and the private rented sector is on the increase because people cannot afford to access affordable accommodation or to purchase accommodation. We need to look at getting people who need quality accommodation to live in at affordable rents into public housing. That is where we all need to be aiming towards because our economy needs that. As was said, the people who do those jobs need somewhere to sleep and we need affordable accommodation for people to live in from across all sectors. Our accommodation is not affordable at this time if one is not in public housing.

Mr. John Hannigan: It is important to say that doing it would be on the basis of charity. It is not for profit. I know the Deputy is saying that we pay ourselves enough money and then there are no profits-----

Deputy Kate O'Connell: I know but I am just trying to get to the-----

Mr. John Hannigan: -----but it is from a charitable perspective as well that we are set up as charities.

Deputy Kate O'Connell: I am hypersensitive about charities to be honest.

Mr. John Hannigan: I can understand why but the reality is that although it is on a charitable basis - I know one of the members said earlier that she does not like the fact that it is done on a charitable basis - it is done on a professional basis as well. We have professional people providing a charitable approach but something that is beneficial for the State overall.

Deputy Kate O'Connell: I get concerned when charities refer to people as markets. To me there is a contradiction there. That is it, I have found out enough. I thank the witnesses for their time.

Chairman: I want to put a few questions to follow through on a few points that were made. Deputy Connolly touched on it earlier that decades ago all of the public housing was provided by local authorities. What is the need for the AHBs? Why are the local authorities not doing it? Why are the AHBs here and why do they exist?

Ms Tina Donaghy: If I can answer, I can take that question.

Chairman: I am asking the big question because in every local authority in Ireland this question gets asked every time they have a housing plan. It is all being done by the AHBs and

local authorities are getting no look at building the houses and they have the proven track record for decades. Maybe it is public policy to not let them do it anymore, I do not know. Why are the AHBs here? What went wrong with the system that the AHBs had to come in and take over?

Ms Tina Donaghy: I am here because housing is my profession. It is the only profession I have ever worked in. If I worked in a local authority I might be working in housing for a couple of years but I could be moved to roads, planning or-----

Chairman: Or parks or whatever.

Ms Tina Donaghy: Housing is what I do. I am a housing professional. That is what my career has been to date and I have only ever worked in the delivery of social or public housing.

Chairman: I did not mean Ms Donaghy personally. I mean why-----

Ms Tina Donaghy: But that is why we are here.

Chairman: -----do AHBs exist?

Ms Tina Donaghy: We complement what the local authority does , especially in the downturn. A lot of the local authorities had their housing sectors decimated and there were not many people left. During the downturn we continued to grow and to provide accommodation for people from the local authority waiting list. We work in this sector to complement what they do and to deliver purely housing. That is our only remit.

Chairman: I understand the question gets asked at every council meeting around Ireland every year.

Dr. Donal McManus: On why we are here, there were gaps in the housing system back in the Chairman's time, even as local-----

Chairman: That is not very long ago.

Dr. Donal McManus: There were gaps in the housing system and the sector responded on the special needs side. It could bring support on housing in the Chairman's area as well. There was a lot of local activity carried out by voluntary organisations. Initially we majored on special needs and then we moved into more family type housing because housing management added value. The Chairman is asking why we are providing family housing and we are doing so because people in the sector such as Ms Donaghy and others were housing professionals who provided a house management service and assisted the local authorities, even in rejuvenation and rehabilitation schemes so there is added value there. The first early social housing was in the sector by The Iveagh Trust prior to the formation of the State and they were big blocks of 300 to 400 units which were successful. Local authorities took over but the sector majored on special needs and then moved in where it felt it could add something. We are not trying to take over local authorities. We are trying to add value to the local authorities to offer choice for people on the waiting list. There was a very limited choice for people in housing in Ireland. One either went to council housing and got housed, bought a house out in ten years or bought one's own house. There were no real options for people outside of standard type housing. We are here because we address gaps in the housing system and then we thought the sector was adding value and local authorities feel they can work with us to add value. We are not trying to replace them but we can add value and this is 2018, not 1973.

Chairman: I understand but I am asking the question that-----

Ms Karen Murphy: I want to add that there is a perception there-----

Chairman: There is.

Ms Karen Murphy: -----that it is all AHBs but looking at the Rebuilding Ireland targets, we are one part of it, we are one third of the targets and the local authorities are two thirds so we are very much just part of the response.

Chairman: I know and I understand from my own knowledge that the management of housing units is where the local authorities really fell down. They built their estates and the only guy who went in was to collect the rent and that was it, he came out again and did not care what happened after. I understand that. We have the Irish Council for Social Housing but is there any other organisation representing AHBs? The ICSH represents 260 bodies but is there somebody out there representing another 50?

Mr. John Hannigan: No.

Chairman: That is OK, I am just curious about that. The ICSH is the main operator in that area. The State balance sheet has been mentioned here as has EUROSTAT and it is a bit above the control of the AHBs. It is above the Minister's control because EUROSTAT will call this and it does not even matter what the Minister for Finance says because EUROSTAT will make those decisions. Can Mr. Hannigan clarify again what happened at the end of 2017? Were they looking at large bodies?

Mr. John Hannigan: Yes, it was the end of 2017. The process had started prior to that but at the end of 2017, the CSO made a decision that it would recommend to EUROSTAT that 14 of the tier 3 organisations should be on the balance sheet of the State.

Chairman: Why only 14?

Mr. John Hannigan: There were two or three where the income from housing was below a certain threshold level because they were bigger organisations that had other service incomes such as special needs income etc. They were not included within it. The Chairman was saying it is above the Minister and I agree that it is above any single Minister. In fairness to some of the Ministers, the Taoiseach, the Minister for Finance and the Minister for Housing, Planning and Local Government have all come out in public with support for getting reclassified and that is what is actually needed. An all-of-Government approach is required in order to deal with it.

Chairman: It is EUROSTAT.

Mr. John Hannigan: Yes, but if the Government does not back the process through the CSO as well, and help us to make the recommendations, then EUROSTAT will not hear it at all.

Chairman: That is fine. The only point to make is that they made a big case through the CSO on an all-of-Government level for Irish Water. I am just saying that it is all well and good domestically so that the witnesses understand where I am coming from.

Mr. John Hannigan: We appreciate the difference.

Chairman: It is a big issue. The AHBs mention all of these billions of euro that are potentially available to them but then that competes with the Government in terms of the borrowing space.

Mr. John Hannigan: One of the things that we are spending much time on as AHBs is looking at how we can make that work for both the State and for the AHB sector in terms of it not being off balance sheet so there will be new mechanisms that will have to be facilitated.

Chairman: Mr. Hannigan was talking about the borrowing and making it more attractive, professional and sustainable for the long term and he mentioned security being available but in his earlier comments he said that none of this security has ever been called in in the history of the State so it cannot be as big a selling point.

Mr. John Hannigan: The more complex matters get, and they will have to get more complex in order for us to be able to borrow at the scales we are talking about, at that point the legislation and the regulator become a key part of the oversight. I am sure my colleague from the regulation group would want to have a say on that too.

Chairman: My next question relates to borrowings. When are they paid back? I have not looked at this closely but I get the impression that housing bodies are servicing debt and making provision for maintenance but that the debt will still be on their balance sheets 20 years from now.

Mr. John Hannigan: There are two different elements. There is the cap element, which is the State loan-----

Chairman: Yes.

Mr. John Hannigan: That gets paid after 30 years, with interest but-----

Chairman: Is it like a balloon payment?

Mr. John Hannigan: Yes, exactly.

Chairman: That is no way to run anything. When people buy cars with balloon payments we wonder what they were thinking. We know of people who warehouse part of their debt and pay interest only and then all of a sudden, they are facing huge bills. The idea of storing up a balloon payment goes against the grain in terms-----

Mr. John Hannigan: I understand but the reality is that we are paying off the other debt over the period of the life. It gets paid on a monthly basis or a quarterly basis, depending on the agreement. When we get to the end of that debt, we have the value of the asset, which is very significant compared to the 30% plus interest that was lent. We have the opportunity to borrow again. It is a bit like the car loan. We have the opportunity to borrow again to make that payment and deliver more.

Chairman: It is a bit like a two generation mortgage for the organisations. The first one can take 30 years and then they start with the next one.

Mr. John Hannigan: That is not a bad analogy.

Chairman: I have reservations about a scheme that is based on not paying back debt for at least 20 years. I understand that is the model but I would not invent such a model if I was starting from scratch.

Ms Tina Donaghy: It gives the State a hold on the asset for longer than 30 years because it still has an investment in terms of that balloon payment. Unless we pay that, the State still has

first dibs on the asset.

Chairman: Yes, but I am sure the witnesses understand the point I am making. In terms of practical issues, I am interested in transfers. We are talking now about people rather than houses, bricks and mortar. If there are issues with tenants of approved housing bodies and those tenants need a transfer, how easy is that to accomplish? Transfers are probably relatively easy for the larger housing bodies or for local authorities, although the latter do not like transferring tenants. Can approved housing bodies transfer tenants back to local authorities, for example? I ask the witnesses to outline the process involved in transfers between housing bodies and other bodies like local authorities, if that happens.

Ms Tina Donaghy: Yes, it has happened. Sometimes as tenants age, they need to move to another area where there is greater family support. We would engage with their local authority and also with the local authority in the area to which they want to move to see if there are any opportunities available. Obviously, when we are operating in very high demand areas, we find that a lot of people want to come in. It is a matter of working in partnership with the other providers, which can be other approved housing bodies or local authorities. We will facilitate transfers where needed. I have seen it in the past as well where we used the website of the Irish Council for Social Housing to advertise opportunities to move to more rural areas, back when there was a lot more accommodation available.

Chairman: I ask the witnesses to outline their procurement processes when they want to develop a housing scheme of 20 to 40 houses, for example. Are they subject to the same procurement rules as local authorities?

Ms Tina Donaghy: Yes. We use public procurement guidelines and operate to the same standard as local authorities.

Chairman: I have heard complaints that approved housing bodies have their own shortlists of preferred tenderers and that some just go to them-----

Ms Tina Donaghy: Unless they have been procured in that way and one has a framework-----

Chairman: Let us just say an approved housing body has a greenfield site for the development of 30 to 50 houses. Does it place an advertisement on eTenders?

Ms Tina Donaghy: It would go on eTenders and on the *Official Journal of the European Community*, OJEC, if necessary, depending on the value of the project. My organisation would carry out internal audits and we have also had audits on procurement. When we submit our applications to the Department for approval, to the HFA for funding approval or to a private entity, they also seek copies of tender reports and all of that would have to be externally validated to make sure that we followed the prescribed procurement process to procure the services of consultants and contractors.

Chairman: What is the total number of staff working for the 547 bodies involved?

Ms Susanna Lyons: The total staff for those organisations is just over 10,000.

Chairman: No, I asked about staff----

Ms Susanna Lyons: There are 10,000 staff. The staffing numbers highlight the diversity of the sector because-----

Chairman: How many people are housed?

Ms Susanna Lyons: I will break it down for the committee. That figure is what they report as the number of people employed but that is because tier two organisations are predominantly care and support organisations which would have much higher levels of front-line staff. When we saw these very high numbers, we asked specifically how many people the tier two and tier three organisations employed directly in the provision of housing and the total reported was 1,236 employees. It is important to point out that 44% of tier one organisations are voluntary bodies and they have no staff. Those people make an extraordinary contribution-----

Chairman: They are not included in the 10,000 figure.

Ms Susanna Lyons: Correct.

Chairman: That means that there are approximately 9,000 staff providing-----

Ms Susanna Lyons: Support services.

Mr. John Hannigan: I can give an example, if I may. I used to work for an intellectual disability organisation which was a tier two AHB. We had about 165 houses in total but we actually employed 560 people because we provided direct one-to-one support for a large number of people with intellectual disabilities. That is where the figures get muddled a little. There can be four times the number of staff for the number of houses-----

Chairman: I suggest that it would be in the interests of the approved housing bodies to produce figures for the staff dealing with housing and accommodation and those that are dealing with disability or elderly service provision. When a single figure gets thrown around, people say that the approved housing body sector is an industry in itself. I have also heard from local authorities that when an AHB housing development is proposed, there might be one or two people from the local authority involved but that four or five people from the AHBs arrive into meetings in fine suits and cars. Various local authorities have said that to me in the last 12 months. Maybe they are not talking about the organisations represented here today but they have said to me that they cannot understand it when all of these suits arrive. They would argue that there is a complete imbalance in terms of the running of their housing department versus the various member organisations. The witnesses must have heard that criticism.

Mr. John Hannigan: No, we have not heard that kind of criticism.

Dr. Donal McManus: That is a new one. We have heard a lot of criticism, but that is a new one. In terms of tier three organisations, the ratio of staff to units is still quite low.

Chairman: I ask the witnesses to send the committee a note on this issue. As I said, these things get bandied about at public meetings of local authorities on a regular basis. It is in the interests of the AHBs for the committee to see the situation from their perspective too.

I wish to focus now on the last annual report of the ICSH. Reference is made to the mortgage to rent scheme in 2017 and a total of 87. That is a hopeless figure. I can imagine the amount of work, training and so on that has gone into that in the local authorities and in the approved housing bodies, as well as the paperwork involved but the outturn is only 87. That is abysmal. The setting up of this scheme probably involved as much work as the setting up of much bigger schemes but the return is very small. Why is that the case? Why are there so few mortgage to rent arrangements? Where is the blockage?

Dr. Donal McManus: The number has moved from what it was a couple of years ago. It is now probably 200 or 300, which is still quite low. There are a lot of moving parts in the mortgage to rent scheme, including financial institutions and banks. One of the issues is we are not able to predict how quickly we will get schemes over the line. Transferring one unit involves almost the same amount of work as transferring a scheme of 30 or 40 units. It is labour intensive.

Chairman: I understand. It is slow.

Dr. Donal McManus: We are trying to assist people with a genuine housing need. In many cases, the moving parts have meant that the sector has not been able to deliver. We are better at delivering when we can control the process. If we involve third parties, we are not able to control it.

Chairman: Now that the scheme is up and running, the Irish Council for Social Housing must have some recommendations. I have heard that in the small print it is stated that where someone is in negative equity, nobody talks about it and that it is technically parked, but it can come back and bite him or her at a later date. When banks agree to transfer under the scheme, is there an absolute write-off where someone is in negative equity? I know that the problem is diminishing as prices increase, but is the issue of negative equity dealt with?

Mr. John Hannigan: To be quite honest, I do not think we can answer that question which is really one for the banks. When we take on a debt or a property, it is at the value agreed to with the bank.

Chairman: This is where I am going to be a little critical of the Irish Council for Social Housing. I ask the witnesses to take it in a positive way because we are all here to help people with a housing problem that needs to be dealt with. I will make up a figure. Let us say a house is worth €300,000 and the Irish Council for Social Housing takes it over for €160,000. That is figure with which it deals. I do not believe the bank formally writes off the negative equity of the person in question who is the meat in the sandwich. Constituents have spoken to me about the massive sting in the tail about which nobody had told them. What is most worrying is that the Irish Council for Social Housing which has dealt with all of these cases is telling me that it cannot answer on this fundamental aspect of the scheme because it is confidential between the bank and the person who is participating in it. The Irish Council for Social Housing is a fundamental link in the chain. Everybody sitting around the table should know what is involved. I am telling the witnesses that they need to be aware of the full financial implications of any arrangement in which the Irish Council for Social Housing is involved, not just from its point of view because that is a silo mentality. Where will it be down the road if the bank in my example comes back to the person concerned to ask for the other €140,000? I am disappointed that the position is not clear cut. The Irish Council of Social Housing should know the full picture of the entire financial arrangement, not only the bit that affects it. The people who have been on to me are probably right in what they have said.

Mr. Seamus McCarthy: The Department has a view on this issue. We must remember that the funding for the mortgage-to-rent scheme which goes to the housing bodies comes from the Department's Vote. It should have a more holistic view of what it is achieving.

Chairman: We will ask it the next day. I have read about this issue in the Comptroller and Auditor General's annual report. We mentioned credit union lending. The Central Bank has given approval. Has any of it started to come through?

Dr. Donal McManus: There are two separate issues. There is the issue of Central Bank consent for the credit unions to have a vehicle and there is also the issue of large approved housing bodies in the sector. Rebuilding Ireland contains a commitment to support the sector in developing its own off-balance-sheet vehicle to draw off-balance-sheet finance into the sector. The credit unions received approval from the Central Bank to set up their own vehicle to move money out of them into a vehicle to lend for social housing. They are two slightly different issues and sometimes they are confused-----

Chairman: Yes, I am confused.

Dr. Donal McManus: We have seen this in parliamentary questions. There is the work being done on the vehicle the sector is establishing to draw private finance into it. There are also the credit unions and perhaps other institutions. The credit unions could consent to establishing a vehicle to take money from them. The Central Bank has certain requirements and regulations for moving money.

Chairman: We are back to a special purpose vehicle before anything can happen.

Mr. John Hannigan: To confirm the point, in the phases about which I spoke regarding the work we were doing in setting up a special purpose vehicle, the credit unions were asked to issue terms and they did. There is a consideration about which I cannot speak about because it is commercially sensitive. One of the conditions for the credit unions to be able to do this is that they do it using their own vehicle. The problem is that it has not been set up. The credit unions have been allowed by the Central Bank to do this, but they have not done so yet.

Chairman: I am still looking at some of the results. Will the Irish Council for Social Housing send us a note explaining it in layman's English? Phrases have been tossed around and the public is lost. Even the majority of Members of the House get lost. Acronyms such as CAS, SHCEP and CLSS are used all the time by everyone.

Mr. Seamus McCarthy: There is an annex to the chapter - Annex 10A on page 130. It includes a very brief summary of each of the schemes.

Chairman: Then that question is answered. I do not have it in front of me. I will go back to the practical stuff because Deputies run into these issues all of the time. On anti-social behaviour and removing tenants, some of the organisations are slow in that department.

Ms Tina Donaghy: I can only speak from personal experience.

Chairman: I ask Ms Donaghy not to speak only about her own experience. We are speaking about the sector.

Ms Tina Donaghy: We are now within the remit of the Residential Tenancies Board, RTB. As part of the process to deal with tenant disputes or anti-social behaviour, we can go through a two-stage mediation process. The RTB provides a mediation service in seeking a resolution, if all parties engage. Seeking a resolution is always the first course of action. On occasion, if someone is beyond this and creating havoc and being very difficult and unsafe or there are unsavoury circumstances for the neighbours, we will have to move to-----

Ms Karen Murphy: Since we were brought under the RTB we have an obligation to deal with anti-social behaviour, or else we will be held liable for third party complaints. As the landlord, we can be taken to the RTB if we do not deal with anti-social behaviour.

Chairman: Have many members of the Irish Council for Social Housing been brought to the RTB for not dealing with these issues?

Ms Karen Murphy: In the almost three years we have been under the RTB the number of cases is lower than the average figure in the private sector. The cases go through our processes first to try to deal with issues as quickly as possible. On average, fewer cases are referred for either adjudication or mediation than what we would see in the private sector. In saying this we have to act if there is continuous anti-social behaviour or we will be held equally liable under the Act for failing in our duty to maintain a peaceful estate.

Chairman: Are the local authorities governed by the RTB?

Ms Karen Murphy: No.

Dr. Donal McManus: I will add one figure. The note we sent-----

Chairman: I am voicing issues about which I hear. It does not necessarily mean that I am promoting them; rather, I am raising them.

Dr. Donal McManus: The Chairman mentioned people who were not given notice. The figure we have from our HMP survey-----

Chairman: What survey?

Dr. Donal McManus: The housing management performance, HMP, survey of the sector. We sent it to the committee to provide figures. One of the figures we have is that 130 notices were issued in 2017 out of a total of 20,000 tenancies. The figure is very low. It is less than 0.5% where notices of termination were issued.

Chairman: Was the figure 5%?

Dr. Donal McManus: No, 0.5%. We are slow at issuing notices; we have a history of not issuing them lightly. We go through the housing management process with the bodies involved. It is a very small number.

Mr. John Hannigan: I emphasise that this is the number of notices which were issued, but the number who have been prosecuted is less than that again. We are looking at a figure of 0.5%, which is very small number of notices issued. An even smaller proportion were actually-----

Chairman: What type of notice? The phrase has been used.

Mr. John Hannigan: Notice to terminate.

Chairman: My point is that where there are issues and there is a process, people will be advised and several will leave before the notice arrives. That is the final recorded figure for the number of people who got to that point. There are probably far more in the system. Not all people wait until they receive a notice before leaving the property. If they see the writing on the wall, they might make the decision themselves. Is that the case?

Dr. Donal McManus: No.

Chairman: They stick it out. Those who leave the properties are back on the doorstep of the local authority. That leads into the issue of approved housing bodies being able to cherry pick, while local authorities cannot do so. I am not saying that is the case, but it is the percep-

tion in certain quarters.

Ms Karen Murphy: Some homeless organisations which also function as AHBs are working as part of our sector and-----

Chairman: For the record, are many homeless organisations also approved housing bodies?

Ms Karen Murphy: Yes, they are all members of the Irish Council for Social Housing.

Dr. Donal McManus: They are all members. The most active of them such as the Peter McVerry Trust in Dublin which provides between 200 and 500-----

Chairman: Simon is another such organisation.

Ms Karen Murphy: As is Focus Ireland.

Dr. Donal McManus: Organisations such as the Peter McVerry Trust, Simon and Focus Ireland are moving from the area of advocacy into housing. In a sense, they cherry pick some of the most difficult clients. They are moving into the provision of long-term housing. There is a significant spread in the sector, involving large providers and specialist-----

Chairman: It is important that the ICSH make the public aware of that. Many people have a certain perception of approved housing bodies. The ICSH should make it clear that its members also deal with front-line homelessness because many people forget that is the case, even though it is obvious when it is pointed out.

I ask that the committee be sent a note on payment and availability agreements. I do not know if that issue was addressed by the Comptroller and Auditor General as I do not have the details in front of me. It is the payment and availability scheme.

Mr. Seamus McCarthy: I did not deal with it.

Chairman: Will Mr. McCarthy send the committee a note on the scheme and how it works.

Mr. Seamus McCarthy: Yes.

Chairman: Are there differing rates under the payment and availability scheme for different local authorities, or is it the case that within a local authority there could be several payments based on local-----

Ms Tina Donaghy: It is based on the property and the market or target rent identified by the local authority for that size property in the particular area.

Chairman: It is in the interests of the approved housing body that the target rent be relatively high in order to guarantee a good income. I am being pragmatic about it.

Mr. John Hannigan: Yes.

Chairman: People pay the equivalent of a differential rent. The approved housing body receives the payment. Is it paid through the local authorities? What is the payment structure?

Ms Tina Donaghy: It is paid on a monthly or quarterly basis into a designated account.

Chairman: I ask that the committee be sent a note on how the scheme works. Mr. Hannigan has stated the rents are linked with market rates. The rent might be 20% or a similar figure

below market rates.

Ms Karen Murphy: The rent paid by tenants-----

Chairman: I am referring to the payment and availability payment to AHBs. When an AHB develops 30 or 50 houses, for example, for what period is the level of the payment and availability payment fixed? When is it renewed?

Ms Tina Donaghy: It depends on the outturn of the model. some years ago the ICSH developed a financial model which is accepted by the Department, the Housing Agency and us for use as an assessment tool. Recently, with the increase in market rents, the terms of the agreements are sometimes far shorter than was previously the case and the percentage of market rent payable may also be far lower. In the early days of the model, the AHB may have received 90% or 95% of market rent, but it may now receive 80% or 85%. Under the model, the percentage of market rent AHBs can claim has dropped. That keeps the level of investment by the State on a more even keel.

Chairman: That is exactly the point I was coming to: the cost to the State.

Mr. John Hannigan: Under the model, the rent is fixed for a certain period of time.

Chairman: That was my next question. For how many years is it fixed?

Mr. John Hannigan: It is fixed for three to four years.

Chairman: I refer to a typical three to five-year contract.

Mr. John Hannigan: It is fixed for between three and five years. Most are currently fixed for four years. It is reviewed at that point and, depending on what has happened with the index-----

Chairman: In terms of AHBs drawing down long-term finance, is it short term such as over four years? I am sure an organisation borrowing money would prefer to have the agreement guaranteed for a longer period.

Mr. John Hannigan: It is a 25-year agreement which is reviewed every four years. It is fixed for each of the four-year periods.

Chairman: I am putting on my hat as Chairman of the Committee of Public Accounts which looks after State funds. If the issue of housing supply is sorted out to some extent and rents start to drop, will the State be caught paying a high rent to AHBs based on an agreement that will be-----

Mr. John Hannigan: No.

Chairman: I noted that when the Department was working on affordable housing sites, there was a presumption that the market would continue to rise and the opposite was not contemplated.

Mr. John Hannigan: Under the agreements, the rent may be reviewed downwards or upwards.

Chairman: I do not want the State to be caught out. How many properties have been provided by AHBs?

Ms Susanna Lyons: Approximately 33,000.

Chairman: How many of the AHBs for which payments are approved ensure their financial statements are published and audited within six months of year end? Can any of the witnesses answer that question?

Ms Susanna Lyons: I do not have the exact percentage.

Chairman: Does the Department have that information?

Ms Susanna Lyons: I can provide it for the 260 organisations which have signed up to the voluntary regulation code.

Chairman: I ask Ms Lyons to do so.

Ms Susanna Lyons: No problem.

Chairman: Some years ago the committee dealt with the HSE which was paying out money to section 38 and section 39 organisations for health services provided. The organisations were all brought into line and told that they would not receive a full allocation until their audited accounts were submitted. It would be dreadful not to have those controls in place from the beginning in this growing sector. The State could be paying money to organisations that have not presented audited accounts for two years. I want to head off this issue at the pass.

Mr. John Hannigan: There is a legal requirement for us under the Companies Act 2014 to produce our accounts within nine months.

Chairman: Who must produce accounts within nine months?

Mr. John Hannigan: All AHBs.

Chairman: That was also a requirement in the case of section 38 and section 39 companies. No one is knocking on the door of businesses. Given that taxpayers' money is being spent, I want control at the point where the money is going out. The Companies Registration Office will follow its own procedures, but I am here to look after taxpayers' money. It will probably take some time to provide that information.

Ms Susanna Lyons: We probably already have it.

Chairman: Great.

Ms Susanna Lyons: I do not know the exact percentage.

Chairman: I want to know, out of the 260-----

Ms Susanna Lyons: The Chairman wishes to know how many do not meet the CRO requirement.

Chairman: What is the CRO requirement?

Mr. Seamus McCarthy: The Companies Registration Office requires that the accounts be produced.

Chairman: I know that. Within how many months must they be produced?

Mr. Seamus McCarthy: They must be produced nine months after the end of the period of account.

Chairman: I wish to know how many of the AHBs meet that requirement. I would be worried if there were outliers. The witnesses can understand from where I am coming.

Mr. Seamus McCarthy: There could be a situation where an AHB is compliant with the CRO requirement, but it may not have submitted accounts to the regulator.

Chairman: Ms Lyons will be able to find out.

Ms Susanna Lyons: Absolutely.

Mr. Seamus McCarthy: When does Ms Lyons receive the accounts is the question.

Chairman: Once they are audited and available. Do AHBs pay local property tax?

Dr. Donal McManus: Properties that provide family-type housing or special needs accommodation with supports are exempt from payment of the local property tax. Special needs units provided under the capital assistance scheme, for instance, which involve the provision of supports in the property, were exempt. Most AHBs, particularly the larger ones, pay a flat rate based on a certain valuation.

Chairman: Is it the lowest value?

Dr. Donal McManus: Yes.

Chairman: Therefore, the annual local property tax level per property is €90.

Dr. Donal McManus: Exactly, yes.

Chairman: I ask that the committee be provided with a brief note on the issue.

I have probably taken enough of the witnesses' time at this stage. I decided to hold my questions over until the end and allow other members to contribute first. I thank the representatives for their attendance. I apologise for the late start, but our morning session ran late. We had an engagement with the Department some time ago and thought it would be useful to obtain the views of representatives of the AHB sector. How many houses have been built by approved housing bodies? I am looking at page 9 of the financial statement for 2017. It notes that in 2017 AHBs built 550 properties and acquired 975. For 2018, there was a target of 1,500 new builds, while the number of acquisitions decreased, which is probably to be welcomed. How many properties were built in 2018?

Ms Karen Murphy: Approximately 3,200 units were delivered by the sector in 2018.

Chairman: How many of them were new builds?

Ms Karen Murphy: That figure includes approximately 1,700 new builds.

Chairman: Perhaps Ms Murphy could send those figures on to us. The Department of Housing, Planning and Local Government last appeared before the committee in the autumn. It only collects statistics every three month, and the results might not be released for a couple of months. We might not know how many houses were built five months ago. I am putting the same question to Ms Murphy, and I hope she can send on some information on the builds,

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acquisition or revolving funds, as she described it. We would appreciate a breakdown of what was achieved in 2018 and the targets for 2019.

I thank our witnesses for attending. Our next public meeting will be on Thursday, 28 February, when the Department of Housing, Planning and Local Government will be before us. We will look at the local government fund, the Comptroller and Auditor General's report from 2017 and the central funding of local authorities. We will be joined on the day by officials from the Department and representatives from the County and City Management Association to discuss public housing.

The witnesses withdrew.

The committee adjourned at 6.10 p.m. until 9 a.m. on Thursday, 28 February 2019.